



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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**IN THE MATTER OF CERTAIN AMENDMENTS
TO THE ADOPTED AND APPROVED SOLID
WASTE MANAGEMENT PLAN OF THE
SOMERSET COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION OF THE
OCTOBER 2, 1990 AND OCTOBER 16, 1990
AMENDMENTS TO THE SOMERSET COUNTY
DISTRICT SOLID WASTE MANAGEMENT PLAN**

BY ORDER OF THE COMMISSIONER:

A. Introduction

The New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) established a comprehensive system for the management of solid waste in New Jersey. The Act designated all twenty-one (21) of the state's counties, and the Hackensack Meadowlands District, as Solid Waste Management Districts, and mandated that the Boards of Chosen Freeholders and the Hackensack Meadowlands Development Commission develop comprehensive plans for waste management in their respective districts. On July 12, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Somerset County District Solid Waste Management Plan (County Plan).

The Act requires that all district plans be based on and accompanied by a report detailing the existing waste disposal situation in the district, and a plan which includes the strategy to be followed by a district in meeting the solid waste management needs of the district for a ten-year planning period. The report must detail the current and projected waste generation for the district, inventory and appraise all facilities in the district, and analyze the waste collection and transportation systems which serve the district. The disposal strategy must include the maximum practicable use of resource recovery techniques. In addition to this strategy, the plan must designate sufficient available suitable sites for the disposal of the district's waste for a ten-year period, which sites may be in the district or, if none are available, in another district. (The Act provides procedures for reaching any necessary interdistrict agreements.)



The Act further provides that a district may review its plan at any time and, if found inadequate, a new plan must be adopted. The Somerset County Board of Chosen Freeholders (County Freeholders) completed such a review and on October 2, 1990 and October 16, 1990, adopted amendments to its approved County Plan. The October 2, 1990 amendment would include the Ortho Pharmaceutical Corporation small-scale incinerator in Raritan Borough and the October 16, 1990 amendment would include the Princeton Nurseries leaf composting facility in Franklin Township within the County Plan.

The amendments were received by the Department on March 8, 1991 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments, as well as the entire County Plan, and has determined that the amendments adopted by the County Freeholders on October 2, 1990 and October 16, 1990, are approved as provided in N.J.S.A. 13:1E-24. While the immediate plan amendments have been approved, deficiencies have been identified within Section C. of this certification which pertain to lack of sufficient available suitable sites, the lack of a transportation plan, the lack of a description of its methods of financing, and the need to address the recommendations of the Governor's Emergency Solid Waste Assessment Task Force Final Report.

B. Findings and Conclusions with Respect to the Somerset County District Solid Waste Management Plan Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I, Scott A. Weiner, Commissioner of the Department, have studied and reviewed the October 2, 1990 and October 16, 1990 amendments to the County Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that these plan amendments are consistent with the Statewide Solid Waste Management Plan.

In conjunction with the review of the amendments, the Department circulated the plan amendments to sixteen administrative review agencies and solicited their review and comment. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various bureaus, divisions, and agencies within the Department as well as the Board of Public Utilities. These agencies were the following:

Division of Environmental Quality, DEP
Division of Water Resources, DEP
Division of Coastal Resources, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Solid Waste Management, DEP
Green Acres Program, DEP
Board of Public Utilities
New Jersey Turnpike Authority

New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Health
Department of Transportation
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the October 2, 1990 and October 16, 1990 Amendments

The following agencies did not object to the proposed plan amendments:

Division of Water Resources, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Department of Transportation
Department of Agriculture
Department of Community Affairs
Board of Public Utilities

The following agencies did not respond to our request for comments:

Green Acres Program, DEP
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of the Public Advocate
U.S. Environmental Protection Agency

The following agencies provided substantive comments which are further addressed below:

Division of Solid Waste Management, DEP
Division of Environmental Quality, DEP
Division of Coastal Resources, DEP

2. Comments Received for the October 2, 1990 and October 16, 1990 Amendments

Comment: The Division of Environmental Quality (DEQ) commented that incinerators are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life or property.

Incinerators are also regulated under N.J.A.C. 7:27-11, "Incinerators." This subchapter defines the construction, operation, and emission standards for all incinerators. Additionally, incinerators are subject to the provisions of N.J.A.C. 7:27-8.2(a)14, which require permits and certificates for any incinerator.

New and modified equipment which emits air contaminants must incorporate advances in the art of air pollution control. For incineration, this usually includes scrubbing for hydrochloric acid control, a baghouse for particulate control, and burners in a secondary combustion zone for hydrocarbon control.

The DEP had previously accepted less stringent control for incineration facilities under 800 pounds per hour charging capacity, but tightened its guidelines in June 1989. At this time, DEP requires that, at a minimum, scrubber air pollution control shall be installed achieving less than 0.03 grains of particulates per dry standard cubic feet (gr/dscf), adjusted to 7% oxygen, and at least 90% reduction in hydrochloric acid emissions. If feasible, new incineration facilities are required to install more advanced control technologies, such as spray driers and baghouses, to achieve 0.015 gr/dscf at 7% oxygen. Also, after issue of EPA guidance, the DEP will be proposing a regulation to require retrofit for better air pollution control of existing waste incinerators.

At this time any permit application for waste incineration should include:

- a. Air quality modelling and an evaluation of downwash, which demonstrate sufficient stack height;
- b. Cancer risk assessment for metals and dioxin, demonstrating low cancer risk on and off site;
- c. Continuous emission monitoring and recording for carbon monoxide, oxygen, and secondary chamber temperature;
- d. Extensive stack testing after construction;
- e. Compliance with the Department's "Air Pollution Control Guidelines for Resource Recovery Facilities and Incinerators" March 1983, Amended November 1, 1984, Amended April 1987, if over 800 pounds per hour.

Also, the DEQ noted that the inclusion of small-scale medical and certain industrial waste incinerators in solid waste management plans is consistent with the plans and programs administered by this division if these incinerators comply with all air pollution control requirements. The inclusion of small apartment house incinerators, and other incinerators for which the waste could be directed to a better controlled resource recovery facility, is generally not consistent with air pollution control plans.

For municipal solid waste which could be directed to a better controlled larger incinerator, the Department would subject a small incinerator to the same standards as new large incinerators. A consequence of this is that permits for apartment house incinerators which do not achieve such standards would likely be disapproved. Other specialty incinerators such as for hospital waste or sewage sludge can be permitted consistent with the above guidelines. Existing apartment house and other small incinerators should be phased-out as better controlled resource recovery facilities become operational.

The DEQ further commented that composting facilities are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits odors and emissions of other air contaminants which interfere with the enjoyment of life or property. Additionally, air pollution control permits are required for equipment used to vent a solid waste facility to the ambient atmosphere in accordance with N.J.A.C. 7:27-8.2(a)16. Also, stationary conveying equipment which causes fugitive emissions of air contaminants requires air pollution control permits pursuant to the provisions of N.J.A.C. 7:27-8.2(a)11.

Response: The issue of which relevant permits are required for each planned solid waste facility is more appropriately addressed during the Department's technical phase of the permit review process. Specifically, the Engineering Element of the Department's Division of Solid Waste Management (DSWM) will be apprised of these comments and will review applications for permits for the various projects planned within Somerset County and will circulate these applications to the DEQ for more detailed review and comment. By copy of this certification, the County Freeholders and the affected applicants are also notified of these requirements and the DEQ of this response.

Comment: The DEP's Division of Coastal Resources (DCR) commented that the Princeton Nurseries leaf composting facility application was submitted to the Franklin Township Planning Board on July 3, 1990 and received preliminary site plan approval from the planning board on October 3, 1990. The submission to the municipality was after the June 8, 1987 deadline as required for an exemption under the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A-2.7(d)2, and the preliminary site plan approval on October 3, 1990 was after the deadline of July 1, 1988 as required for an exemption under N.J.A.C. 7:7A-2.7(d)1. Further, the preliminary site plan approval date was past the deadline of July 1, 1989 date required for an exemption to the Transition Area under the regulations for the Freshwater Wetlands Protection Act of 1987.

Therefore, in accordance with the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A-1 et seq., permits will be required from the DCR before any construction within wetlands, state open waters or transition areas can commence. A preapplication meeting should be arranged with DCR's Raritan Region Regulatory Element, which can be reached at (609) 633-6754, to apprise the applicant of the options to pursue.

Response: Princeton Nurseries is requested to contact the DEP office listed above to determine which permits from the DCR may be required. By copy of this certification, the County Freeholders and Princeton Nurseries are notified of this request and the DCR of this response.

Comment: The DEP's DSWM commented that the October 2, 1990 amendment proposes to include within the district plan the Ortho Pharmaceutical Corporation small-scale incinerator. As stated in the plan amendment, the Ortho Pharmaceutical Corporation operates two (2) incinerators at its Raritan Borough site and intends to replace one with a new state of the

art incinerator. The replacement incinerator would primarily be used to incinerate a small amount of municipal solid waste generated on site, as well as off-specification or outdated products generated at or returned to the facility. Also, the Raritan Borough incinerator would accept about .8 tons per day of off-specification products generated at an Ortho manufacturing plant in Puerto Rico. The other incinerator, not addressed in the plan amendment, is a regulated medical waste incinerator grandfathered within the district plan.

The Division was apprised by letter on May 10, 1991 from the Somerset County Office of Solid Waste Management that representatives of Ortho Pharmaceutical Corporation have indicated that, due to increased recycling and internal process changes, sufficient excess capacity will exist in the new state of the art incinerator to allow for the elimination of both older incinerators provided the new incinerator will be allowed to accept the combined waste stream.

The Division further commented that the combustion of the regulated medical waste has been an ongoing process at this site. The elimination of the old regulated medical waste incinerator and the combining of the waste stream for incineration at the new state of the art incinerator is consistent with the goals of the Department of reducing the potential for pollution discharge by the modernization of combustion equipment. Therefore, the DSWM recognizes that the new incinerator will be a replacement unit for the two existing incinerators and that a separate plan amendment to reflect this combined use will not be needed. The waste stream to the new incinerator, should this facility receive all the necessary approvals, will consist of a small amount of municipal solid waste generated on site, off-specification or outdated products generated at or returned to the facility from other Ortho Pharmaceutical Corporation facilities including the manufacturing plant in Puerto Rico, and regulated medical waste from on site laboratories.

Finally, all subsequent permit application submissions to the Department concerning this Ortho Pharmaceutical Corporation incinerator must identify the combined waste stream as outlined above.

Response: The revised waste stream for the Ortho Pharmaceutical Corporation small-scale incinerator is noted and the DSWM's Engineering Element, which will review the facility's permit application, is apprised of this waste stream change. By copy of this certification, the County Freeholders and Ortho Pharmaceutical Corporation are notified of these comments and this response.

C. Certification of the Somerset County District Solid Waste Management Plan Amendments

I, Scott A. Weiner, Commissioner of the Department, in accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-21, which establishes specific requirements regarding the contents of the district solid waste management plans, have reviewed the October 2, 1990 and October 16, 1990 amendments to the approved County Plan and certify to the County Freeholders that the October 2, 1990 and October 16, 1990 amendments are approved as further specified below.

1. October 2, 1990 Amendment

The district plan inclusion of the Ortho Pharmaceutical Corporation small-scale incinerator located on Block 31, Lot 4, in Raritan Borough, is approved as a noncommercial facility only as defined at N.J.S.A. 13:1E-48.3.

The incinerator will have a capacity of eight tons per day, although the capacity will be the subject of a more detailed review when a permit application is submitted to the Department. Materials to be incinerated shall be restricted to a small amount of municipal solid waste generated on site, off-specification or outdated products generated or returned to the plant from other Ortho Pharmaceutical Corporation facilities, and regulated medical waste from on site laboratories. In addition, approximately 10% of the facility's capacity or 1,600 pounds a day of off-specification products from an Ortho Pharmaceutical Corporation manufacturing plant in Puerto Rico will be incinerated in the proposed facility. Under no circumstances may Ortho Pharmaceutical Corporation incinerate recyclable materials mandated by Raritan Borough or the County, and the company must submit quarterly recycling reports to both entities. Ortho Pharmaceutical Corporation shall dispose of its nonprocessable waste pursuant to the County Plan and furnish proof of said disposal to the County.

Under the Comprehensive Regulated Medical Waste Management Act (P.L. 1989, c. 34) a moratorium, until the new state plan is completed, is imposed on DEP approval or consideration of any new commercial medical waste incinerator. Therefore, the plan inclusion approval of new facilities which were not in operation and accepting regulated medical waste on or prior to March 6, 1989 is restricted to facilities limited to noncommercial use. The Ortho Pharmaceutical Corporation incinerators have been operating for several years. The Department notes that such operation was for noncommercial use and entailed the incineration of wastes generated on site at the Raritan Borough plant.

Nevertheless, Ortho Pharmaceutical Corporation must submit to the Department a certified affidavit verifying the noncommercial status of the new facility. This affidavit, a sample of which may be obtained by contacting the DEP, DSWM, Bureau of Special Waste Planning, must be submitted within 45 days of the date of this certification. In addition, by copy of this certification, the applicant is hereby directed to contact the DEP, DSWM, Bureau of Resource Recovery, to obtain a solid waste facility permit and to contact the DEP, DEQ, Bureau of Air Quality Planning and Evaluation, to obtain an air pollution apparatus permit. The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the Attorney General to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

2. October 16, 1990 Amendment

The district plan inclusion of the Princeton Nurseries leaf composting facility located on Block 5.02, Lot 119.03, in Franklin Township, is approved.

The proposed operation will be for noncommercial use. Anaerobic leaves, bagged leaves, or leaves with twigs will not be accepted. The majority of the leaves to be composted will be used as a soil additive at the nursery. The maximum limit for the farm facility site will be 20,000 cubic yards which is six acres on a 93 acre site. Approximately 500 thirty cubic yard trucks will use the site over a three month period. The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws.

3. Somerset County District Solid Waste Management Plan Deficiencies

I have reviewed the entire County Plan, including these amendments, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. In previous Departmental certifications dated February 6, 1991 and November 22, 1988, deficiencies relative to N.J.S.A. 13:1E-21b(3), (4) and (6) were identified. These deficiencies refer to lack of sufficient available suitable sites, a transportation plan, and a description of its methods of financing, respectively. Due to the longstanding nature of these deficiencies, the County Freeholders are hereby directed to address these deficiencies within 90 days in a subsequent plan amendment submission. Further, the County Freeholders were directed in the February 6, 1991 certification of the August 7, 1990 amendment to the County Plan to submit to the Department a plan amendment which indicates how the County shall achieve the 60% recycling rate by December 31, 1995 and, also, how it will achieve source reduction through implementation of the programs called for by the Emergency Solid Waste Assessment Task Force Final Report of August 6, 1990. The County Freeholders were given a deadline of 120 days from the February 6, 1991 certification or until June 5, 1991. However, subsequent time periods for similar submissions from other counties was 180 days. To equalize the time periods given for these submissions, the County Freeholders are hereby given an extension of 60 days for the required submission noted above. Finally, I am also directing the County in its response to the Task Force Final Report to address to what extent it can undertake long-term regionalization of its solid waste facilities and programs with other districts to provide regional solutions to all its solid waste management needs.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with these amendments to the County Plan and which was executed prior to the approval of these amendments and subsequent to the effective date of the Solid Waste Management Act (July 29, 1977), and which shall further be for a term in excess of one year, shall immediately be renegotiated in order to bring same into conformance with the terms and provisions herein set forth. Any solid waste collection operation or disposal facility registered by the

Department and operating pursuant to a contract as herein described, shall be deemed to be in violation of these amendments and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of these amendments, provided, however, that any such registrant may, upon application to the Department, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and transporters registered with the Department and operating within the County and affected by these amendments contained herein shall operate in compliance with these amendments and all other approved provisions of the County Plan. Any facility operator or transporter who fails to comply with the provisions contained herein shall be deemed to be in violation of N.J.S.A. 13:1E-1 et seq., in violation of N.J.A.C. 7:26-1 et seq., and in violation of their registration to operate a solid waste facility or a collection system issued thereunder by the Department and shall be subject to the provisions and penalties of N.J.S.A. 13:1E-9 and 12 and all other applicable laws.

3. Types of Solid Wastes Covered by the District Solid Waste Management Plan

The provisions of the County Plan shall apply to all solid wastes defined in N.J.S.A. 13:1E-3 and N.J.A.C. 7:26-2.13 and shall not apply to liquid wastes, sewage sludge, septage, and hazardous wastes. All nonhazardous materials separated at the point of generation for sale or reuse are excluded from the waste flows designated in the Interdistrict and Intradistrict Solid Waste Flow Rules set forth at N.J.A.C. 7:26-6.

4. Certification to Proceed with the Implementation of the Plan Amendments

This document shall serve as the certification of the Commissioner of the Department to the County Freeholders and pursuant to N.J.S.A. 13:1E-24c and f, the County shall proceed with the implementation of the approved amendments certified herein.

5. Definitions

For the purpose of these amendments and unless the context clearly requires a different meaning, the definitions of terms shall be the same as those found at N.J.S.A. 13:1E-3 and -99.12 and N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of the Amendments

The amendments to the County Plan contained herein shall take effect immediately.

7. Reservation of Authority


Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan. The Department has published a Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, interdistrict and intradistrict waste flow rules, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval of the Amendments and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve the amendments, as outlined in Section C. of this certification, to the Somerset County District Solid Waste Management Plan which were adopted by the Somerset County Board of Chosen Freeholders on October 2, 1990 and October 16, 1990. I hereby also require, as noted in Section C., the Somerset County Board of Chosen Freeholders to address the noted deficiencies within the timeframes specified.

8-5-91

DATE


SCOTT A. WEINER
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION