



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)
(BURLINGTON COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE FEBRUARY 22, 1989
AMENDMENT TO THE BURLINGTON 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 October 27, 1980, the Department approved, with modifications, the Burlington County District Solid Waste Management 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 the district in meeting the solid waste management needs of the district for the 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 the 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 Burlington County Board of Chosen Freeholders completed such a review and on February 22, 1989, adopted an amendment to its approved district solid waste management plan. This amendment clarifies the conditions under which the disposal of solid waste from Fort Dix and McGuire Air Force Base is diverted to the

Burlington County Landfill should Fort Dix decide to allocate capacity at its heat recovery incinerator (HRI) for the disposal of medical waste. Subsequent discussion with Burlington County has clarified this to mean regulated medical waste.

The amendment was received by the Department of Environmental Protection on March 27, 1989, and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment and has determined that the amendment adopted by the Burlington County Board of Chosen Freeholders on February 22, 1989 is approved as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Burlington County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I, Christopher J. Daggett, Commissioner of the Department of Environmental Protection have studied and reviewed the February 22, 1989 amendment to the Burlington County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that this plan amendment is consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendment to seventeen review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various agencies, bureaus, and divisions within the Department of Environmental Protection as well as the Board of Public Utilities. Also among these agencies were the Department of Community Affairs, the Department of the Public Advocate, the Department of Health, the Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Divisions of Environmental Quality, Fish, Game and Wildlife, and Parks and Forestry; the State Departments of Agriculture and Community Affairs; the Board of Public Utilities and the Green Acres Program. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Divisions of Water Resources and Coastal Resources; the State Departments of Health; Transportation and the Public Advocate; the New Jersey Turnpike Authority, the New Jersey Advisory Council on Solid Waste Management; and the U.S. Environmental Protection Agency. The Pinelands Commission and Divisions of Environmental Quality and Solid Waste Management submitted substantive comments which are further addressed below.

The Pinelands Commission commented that N.J.A.C. 7:50-2.11 defines development for which an application for Pinelands Commission approval is required. Any change of use or expansion of existing use would constitute development, and an application for such development would be necessary. Incineration of medical waste in lieu of solid waste may represent a change of use. Prior to implementation of plans to incinerate medical waste, Fort Dix should provide the Commission with sufficient information to enable a determination by the Commission of whether a formal development application is required. Also, N.J.A.C. 7:50-6.77(a) indicates that hazardous waste may

not be stored, discharged or disposed of within the Pinelands. This policy does apply, and if the waste to be incinerated is ascertained to be hazardous, it could not be incinerated within the Pinelands. Such determinations must be reviewed by the Pinelands Commission prior to the issuance by that agency of any approval for the specified changes of use. In response, the Department notes that the Fort Dix H.R.I. has, in line with its authority to burn type 10 institutional waste, been accepting medical waste and regulated medical waste from on base facilities such as the Walston Army Hospital since operations began in 1986. Further, it is noted that by definition, regulated medical waste is not hazardous waste. By copy of this certification, Burlington County is notified of the comments of the Pinelands Commission. The county and Fort Dix are hereby requested to contact the Pinelands Commission regarding these possible requirements.

The Division of Solid Waste Management commented that the proposed amendment to the solid waste management plan references that an increased quantity of medical waste (as viewed in proportion to the overall waste stream originally evaluated) would be directed to the permitted disposal facility, the Fort Dix HRI. Before such a redirection is allowed to occur, Fort Dix must demonstrate that the facility is capable of effectively handling this modified waste flow while remaining within permit parameters. The demonstration should be definitive in assessing the environmental affects and consequences that would result, as evaluated against permit limitations. Please note that the Fort Dix incinerator is permitted to handle waste identified as ID Type #10 which includes medical waste. However, due to definitional and programmatic changes resulting from the New Jersey Comprehensive Regulated Medical Waste Management Act of March 6, 1989, should the facility desire to receive regulated medical waste for processing, a modification to the solid waste facility permit will be required, the application for which must include the evaluations discussed above. Further, if the waste flow exceeds 90 tons/day, a new permit may be necessary pursuant to N.J.A.C. 7:26-2.7(a)(2).

Also, the Division commented that the source(s) of the incoming medical waste stream to be incinerated at the Fort Dix HRI has not been specified in the amendment. Burlington County must adopt a subsequent plan amendment which provides for the modification of the waste flow rules and, if out-of-county waste is involved, enter into interdistrict agreements prior to accepting this waste at the Fort Dix HRI. Any amendment adopted by the county will be subject to formal rulemaking by the Department and the Board of Public Utilities pursuant to N.J.A.C. 7:26-6.6

Finally, the Division of Solid Waste Management commented that the Fort Dix HRI does not currently operate as a commercial facility since it handles only on site generated waste materials as well as waste generated at the McGuire AFB. Since the amendment as proposed is being approved by the Department, Burlington County and Fort Dix are directed to contact the Board of Public Utilities for the purpose of assessing the appropriate tariffs as per N.J.A.C. 7:26-3A.1 through 34.12 in the event that the facility desires to operate commercially. By copy of this certification, Burlington County and Fort Dix are notified of the comments of the Division of Solid Waste Management.

The Division of Environmental Quality commented that the Fort Dix HRI currently has mercury emissions exceeding those allowed by the permit. Fort Dix is currently removing batteries from the waste stream to reduce the mercury. If regulated medical waste is introduced into its waste stream, mercury emissions may increase. A new air pollution control permit application including modeling would have to be submitted to burn additional quantities of medical waste. By copy of this certification, Burlington County and Fort Dix are notified of the comments by the Division of Environmental Quality.

C. Certification of Burlington County District Solid Waste Management Plan Amendment

I, Christopher J. Daggett, Commissioner of the Department of Environmental Protection, in accordance with N.J.S.A. 13:1E-1 et seq. and N.J.S.A. 13:1E-21, which established specific requirements regarding the contents of the district solid waste management plans, have reviewed the February 22, 1989 amendment to the approved Burlington County District Solid Waste Management Plan and certify to the Burlington County Board of Chosen Freeholders that the February 22, 1989 amendment is approved as further specified below.

The inclusion within the district plan of the concept to allow solid waste generated at Fort Dix and McGuire Air Force Base to be disposed of at the Burlington County Landfill if Fort Dix determines to allocate capacity at its heat recovery incinerator for disposal of regulated medical waste is approved. The direction of any regulated medical waste to the Fort Dix heat recovery incinerator will be subject to the waste flow rules pursuant to formal rulemaking by the Department of Environmental Protection and the Board of Public Utilities in accordance with N.J.A.C. 7:26-6.6. Therefore, prior to implementation of this concept, Burlington County is hereby directed to adopt and submit to the Department an amendment designating specific regulated medical waste flow to the Fort Dix H.R.I. The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq., and all other applicable laws.

D. Other Provisions Affecting the Plan Amendment

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with the within amendment to the Burlington County District Solid Waste Management Plan and which was executed prior to the approval of this amendment 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 of Environmental Protection and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment

and of the Burlington County District Solid Waste Management Plan if such renegotiation is not completed within 90 days of the effective date of this amendment; provided, however, that any such registrant may, upon application to the Department of Environmental Protection, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and collector/haulers registered with the Department of Environmental Protection and operating within Burlington County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Burlington County District Solid Waste Management Plan. Any facility operator or collector/hauler 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 of Environmental Protection 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 Plans

The provisions of the Burlington County District Solid Waste Management 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. Also, all non-hazardous 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 (N.J.A.C. 7:26-6).

4. Certification to Proceed with the Implementation of Plan Amendment

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Burlington County Board of Chosen Freeholders and pursuant to N.J.S.A. 13:1E-24c. and f., the county shall proceed with the implementation of the approved amendment contained herein.

5. Definitions

For the purpose of this amendment 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 N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of Amendment

The amendment to the Burlington County District Solid Waste Management 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 of Environmental Protection pursuant to its authority under the law. The Burlington County District Solid Waste Management 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 and rules, regulations, and orders of the Department, including the 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 Amendment 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 amendment as outlined in Section C. of this certification to the Burlington County District Solid Waste Management Plan which was adopted by the Burlington County Board of Chosen Freeholders on February 22, 1989.

24 AUG 1989

DATE

/s/ Christopher J. Daggett

CHRISTOPHER J. DAGGETT
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION