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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(MONMOUTH COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE FEBRUARY 10, 1987
AMENDMENT TO THE MONMOUTH 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 August 31, 1980, the Department approved, with modifications, the Monmouth 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 Monmouth County Board of Chosen Freeholders completed such a review and on February 10, 1987, adopted an amendment to its approved district solid waste management plan. The amendment includes a mandatory recycling plan within the district plan which requires the mandatory recycling of paper, glass, aluminum, and leaves by all municipalities effective October 1, 1987.

The amendment was received by the Department of Environmental Protection on March 6, 1987 and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire Monmouth County District Solid Waste Management Plan, and has determined that the amendment adopted by the Monmouth County Board of Chosen Freeholders on February 10, 1987, is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the February 10, 1987, amendment to the Monmouth 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 sixteen 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 Office of Recycling, 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, Water Resources, Fish, Game and Wildlife, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture, Health, Community Affairs, and Transportation and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the State Department of the Public Advocate, the Green Acres Program, and the U.S. Environmental Protection Agency. The Board of Public Utilities and the Office of Recycling submitted substantive comments which are further addressed below.

The Board of Public Utilities (BPU) commented that the amendment specifies that the Monmouth County Reclamation Center Landfill will be obliged to deny access to any public or private haulers of solid waste originating in any municipality not having implemented a county approved recycling program by the required date. Monmouth County must file a petition with the Board of Public Utilities to amend the standard terms and conditions of the Monmouth County Reclamation Center tariff to reflect this action. In response, by copy of this certification, Monmouth County is notified of this tariff adjustment requirement.

The Office of Recycling has submitted comments which are as follows:

1. The proposed plan amendment does not establish recycling recovery rates for each municipality, as required in section 3.b.(4) of the Act. Inasmuch as Monmouth County has not submitted as part of their plan amendment a strategy for future modification of their recycling plan pursuant to Section 3.d. of C. 102, PL 1987, the county shall correct the above noted deficiency within

forty-five days of the date of this certification through the submission of a subsequent plan amendment.

2. The recycling strategy indicated in the proposed amendment places the primary burden for the marketing of materials on the municipalities. Information supplied by the county indicates that most municipalities have been able to execute agreements for the disposition of the designated recyclable materials from the residential, commercial and institutional waste streams. In addition, the plan indicates that the county will provide these services, at a center to be built at the Monmouth County Reclamation Center, for those municipalities unable to comply with this requirement. In line with this, the county is to complete a survey of municipal progress indicating which municipalities have provided for the marketing of materials and plan to continue to provide their own marketing. Further, the county is to establish a properly sized, operational recycling facility no later than October 1, 1987 to accommodate those municipalities which have not arranged for markets for materials pursuant to the implementation schedule outlined within the Second Amended Consent Judgment between Monmouth County and the Department.

3. For those municipalities unable to execute agreements for recycling collection services, the county shall execute such agreements on behalf of those municipalities by October 1, 1987 pursuant to the Second Amended Consent Judgment noted above.

4. Monmouth County has indicated that enforcement of the source separation requirements of the plan shall begin at the Monmouth County Reclamation Center no later than January 1, 1988 for residential sector designated recyclables, and July 1, 1988 for commercial and institutional sector designated recyclables. The county has also indicated that said enforcement shall, after due notification, consist of the refusal to accept designated recyclables at the center for disposal and a penalty schedule shall be established for persons transporting designated recyclables to the center for disposal. In order to implement the above enforcement strategy, Monmouth County should consider the establishment of a penalty schedule of not less than \$500 for the first offense and not less than \$1000 for each offense thereafter. It is recommended that this be addressed through the same plan amendment required pursuant to B.1. above.

5. Monmouth County is to forward to the Office of Recycling a municipal compost facility status report no later than October 1, 1987. Said status report shall indicate the facility to be used by each municipality for the composting of leaves, and the status of any pending permit applications for said facilities.

In light of the comments of the Office of Recycling, Monmouth County has been directed to adhere to the above requirements as further specified in Section C. of this certification.

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

I, Richard T. Dewling, 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 10, 1987, amendment to the approved Monmouth County District Solid Waste Management Plan and certify to the Monmouth County Board of Chosen Freeholders that the February 10, 1987 amendment is approved as further specified below.

The inclusion within the district plan of the Monmouth County Mandatory Recycling Plan is approved. This approval is contingent upon implementation of those requirements specified by the Office of Recycling which are enumerated within Section B. of this certification.

The Department has reviewed the entire Monmouth County District Solid Waste Management Plan, including this amendment, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. The result of that review is as follows:

The certification of the November 25, 1986 Amendment to the Monmouth County District Solid Waste Management Plan which was issued on May 7, 1987, noted that the Monmouth County Plan remained deficient with respect to the requirements of:

1. N.J.S.A. 13:1E-21b(1) which requires the designation of a Department, unit, or committee of county government . . . to supervise the implementation of the County's Solid Waste Management Plan.
2. N.J.S.A. 13:1E-21b(2) which requires a statement of the solid waste disposal strategy to be applied . . . which strategy shall include the maximum practicable use of resource recovery procedures and a plan for using terminated landfill disposal sites . . . in the Solid Waste Management District.
3. N.J.S.A. 13:1E-21b(6) which requires a method or methods of financing solid waste management in the Solid Waste Management District pursuant to the Solid Waste Management Plan.

On July 6, 1987, representatives of the Department and Monmouth County met to discuss the above cited deficiencies in the Monmouth County Plan. It was agreed at the meeting that the county would submit to the Department written clarification of the county's prior efforts to correct each of these deficiencies. On July 14, 1987, the county submitted this additional information and the Department's review of this information follows.

Within the certification of the November 25, 1986 amendment, the Department had determined that Monmouth County failed to designate an implementation agency to address the daily supervision of solid waste planning, including landfilling activities, for the district. The county, in its recent letter, clarified its policy that the Monmouth County Planning Department is responsible for long and short-term planning for solid waste management issues. Furthermore, the Monmouth County Reclamation Center is the county department responsible for landfilling activities. Based upon this clarification of a previously submitted plan amendment, the Department no longer finds Monmouth County deficient with respect to the requirements of N.J.S.A. 13:1E-21b(1).

Historically, the Department had also determined that Monmouth County failed to develop a suitable plan for using terminated landfill disposal sites within the district. In its July 14, 1987 letter, the county detailed its terminated landfill disposal sites strategy. In its initial 1979 Monmouth County District Solid Waste Management Plan, the district adopted a general policy of recommending active or passive recreational uses for terminated disposal sites. Since then, the county has compiled specific data on each terminated landfill disposal site. Furthermore, the county planning department has disseminated the county's policy to the nine health agencies which oversee the activities of all 53 municipalities comprising the county. In addition, the county planning department has established a mechanism by which it is informed of and may comment upon development activities at all potential terminated landfill disposal sites. Based upon the county's clarification of the historical integration of all components of the district's terminated landfill disposal sites plan, which were previously adopted in plan amendment form, the Department has determined that Monmouth County is no longer deficient with respect to the requirements of N.J.S.A. 13:1E-21b(2).

The Department had also previously determined that Monmouth County is deficient with respect to requiring methods for financing solid waste management (N.J.S.A. 13:1E-21b(6)). The Department has interpreted the financing provision of the Solid Waste Management Act to encompass financial planning related to both existing and planned solid waste facilities. In its July 14, 1987 letter, the county has demonstrated that it has developed an appropriate financial plan with respect to existing solid waste facilities and activities. However, the county also acknowledged that because the technology and vendor for the planned resource recovery facility have not yet been selected, it would be premature to develop a resource recovery financial plan at this time. Therefore, until such time as a resource recovery financial plan is developed by the county, the Monmouth County Plan remains deficient with respect to the long-term financial planning requirements of N.J.S.A. 13:1E-21b(6).

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 Monmouth 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 Monmouth County District Solid Waste Management Plan if such renegotiation is not completed within ninety (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 Monmouth County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Monmouth 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 Monmouth 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 Monmouth 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 N.J.A.C.7:26-2.13.

6. Effective Date of Amendment

The amendment to the Monmouth 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 Monmouth 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 Monmouth County District Solid Waste Management Plan, which was adopted by the Monmouth County Board of Chosen Freeholders on February 10, 1987. Furthermore, I direct the county to correct the deficiencies noted in Section B. of this certification through the submission of a subsequent plan amendment within forty-five days of the date of this certification.

DATE

8/3/87

Michael J. Citarone for
RICHARD T. DEWLING

COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION