



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ROBERT E. HUGHEY, COMMISSIONER
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609-292-2885

(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
AUGUST 8, 1985 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 modification, 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 August 8, 1985, adopted an amendment to its approved district solid waste management plan. The amendment was also in response to a Consent Order for Judgment which was issued by Judge Stephen Skillman on March 8, 1985 as a result of ongoing litigation concerning solid waste planning between the New Jersey Department of Environmental Protection and the Monmouth County Board of Chosen Freeholders. A major provision of this order required Monmouth County to consider adoption of a plan amendment to designate a specific resource recovery site and implementation schedule. The amendment which was received by the Department on August 19, 1985, provides a strategy and schedule for reaching a decision on resource recovery or landfill facility development in Monmouth County and revises the existing county compost policy. The Department has reviewed this amendment as well as the entire Monmouth County District Solid Waste Management Plan with respect to the requirements of the Solid Waste Management Act and Judge Skillman's March 8, 1985 Consent Order for Judgment, and has determined that the amendment adopted by the Monmouth County Board of Chosen Freeholders on August 8, 1985 is approved as provided in N.J.S.A. 13:1E-24. While the requirements of the Act concerning the report have been met, the district's plan still remains deficient in several important ways.

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, Robert E. Hughey, Commissioner of the Department of Environmental Protection have studied and reviewed the August 8, 1985 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 approved as further specified in Section C.

In addition, the Division of Waste Management circulated the plan amendment to sixteen review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24(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 Office of Recycling, 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 had no objections to the proposed plan amendment: the N.J.D.E.P. Divisions of Environmental Quality, Coastal Resources, Water Resources, Parks and Forestry, and Fish, Game and Wildlife; the State Departments of

Transportation, Agriculture, Health, and Community Affairs; the N.J. Turnpike Authority, the Board of Public Utilities, and the N.J. Advisory Council on Solid Waste Management. The following agencies failed to respond to the Department's requests for comment: the Department of the Public Advocate, the U.S. Environmental Protection Agency and the N.J.D.E.P. Division of Green Acres. Only the Office of Recycling submitted substantive comments concerning the plan amendment which are addressed below.

The Office of Recycling noted that it disagrees with the county's policy of requiring leaf composting facilities which would operate on a for-profit basis to seek formal plan approval. As adopted, the Monmouth County Plan Amendment states "any leaf and vegetative waste composting facility is consistent with the Monmouth County Solid Waste Management Plan, provided it meets existing engineering, environmental, and operational standards of the NJDEP Division of Waste Management and the site is operated on a non-profit basis". It is the Department's position that under the provisions of the Solid Waste Management Act, Monmouth County has the necessary authority to develop policies related to the review and approval of specific sites such as the leaf composting policy under consideration within this certification. Nonetheless, the Department has forwarded the Office of Recycling's comments to Monmouth County for the district's consideration.

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

I, Robert E. Hughey, 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 August 8, 1985 amendment to the approved Monmouth County Solid Waste Management Plan and certify to the Monmouth County Board of Chosen Freeholders that the August 8, 1985 amendment is approved as further specified below.

1. The resource recovery element of the Monmouth County amendment includes a development and implementation program for the district's proposed 1500 ton per day resource recovery facility. As adopted, the program/schedule includes a planning phase from June 1985 through May 1986; a decision/commitment point in May/June 1986 which would allow the district to either proceed with the development of its resource recovery facility based on information formulated during the planning phase, or continue reliance on landfilling and defer resource recovery development; a procurement phase from June 1986 through January 1988; a permitting phase from January 1988 through January 1989; and a construction phase from January 1989 through January 1992. The

Department approves Monmouth County's resource recovery development and implementation schedule as outlined above.

However, in the event that Monmouth County proposes to defer resource recovery development at the decision/commitment point in May/June 1986, then the Monmouth County Board of Chosen Freeholders shall prepare and submit a plan amendment to the Commissioner for his review, including the basis for the county's decision including all relevant documentation, as well as the district's alternate long term plan for disposal of its solid waste. This plan amendment shall be submitted to the Commissioner by August 1, 1986.

2. The inclusion within the plan of the revised Monmouth County leaf compost policy, which states "any leaf and vegetative waste composting facility is consistent with the Monmouth County Solid Waste Management Plan, provided it meets existing engineering, environmental, and operational standards of the NJDEP Division of Waste Management and the site is operated on a non-profit basis", is approved.
3. As previously noted, the Department has reviewed the entire Monmouth County District Solid Waste Management Plan, including the above 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 April 11, 1985 Amendment to the Monmouth County District Solid Waste Management Plan which was issued by Commissioner Hughey on September 16, 1985 noted that the Monmouth plan remained deficient with respect to the requirements of:

- a. 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.
- b. 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.
- c. N.J.S.A. 13:1E-21b(3), which requires a site plan which shall include all existing solid waste disposal facilities located within the Solid Waste Management District . . . and sufficient additional available suitable sites to provide solid waste facilities to treat and dispose of the actual

and projected amounts of solid waste contained in the report accompanying the plan, and

- d. 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.

The certification also directed Monmouth County to hold a public hearing within 45 days and adopt an amendment to the district plan within 90 days (N.J.S.A. 13:1E-24.d,e) to address these deficiencies. The August 8, 1985 amendment to the Monmouth County Plan did not correct any of these deficiencies and the county has not held the public hearing as directed. Therefore, the Monmouth Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(1), (2), (3), and (6) and the county is not in compliance with the provisions of the Commissioner's September 16, 1985 certification.

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, 10, 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) which are part of the Monmouth County District Solid Waste Management Plan.

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, as provided for by N.J.S.A. 13:1E-24f., to 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 approved amendment contained herein shall take effect immediately.

7. Reservation of Authority

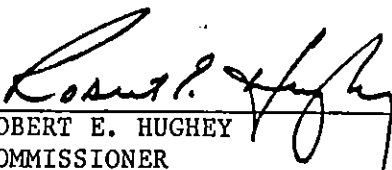
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental

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 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 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 August 8, 1985, and further direct the Monmouth County freeholders to remedy those deficiencies outlined in Section C. of this certification in accordance with the 90 day period designated in my September 16, 1985 certification of the April 11, 1985 Monmouth County Plan Amendment.

12/11/85
DATE


ROBERT E. HUGHEY
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION