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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)
(MONMOUTH COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE NOVEMBER 25, 1986
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 Board 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 November 25, 1986, adopted an amendment to its approved district solid waste management plan. The amendment proposed for inclusion the following: 1. the designation of the Monmouth County Planning Board and a Resource Recovery

Team as plan implementation agencies; 2. the deferring of action on a mandatory recycling plan; 3. a policy expressing the intent to proceed with resource recovery implementation; 4. the designation of land to be acquired for solid waste facilities in Tinton Falls; 5. a terminated landfill strategy; and 6. the amending of an existing compost facility siting policy.

The amendment was received by the Department of Environmental Protection on December 10, 1986, 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 November 25, 1986, is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24. With regard to the district plan, while the requirements of the Act concerning the report have been met, the district's plan remains deficient in some 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, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the November 25, 1986, 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 the parts of this plan amendment which have been approved are 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 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 State Departments of Agriculture, Community Affairs and Transportation; the Board of Public Utilities, the Office of Recycling, the New Jersey Turnpike Authority, and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Divisions of Water Resources, Parks and Forestry, and Coastal Resources; the State Departments of Health and the Public Advocate; the Green Acres Program and the U.S. Environmental Protection Agency. The Division of Environmental Quality, the Hazardous Waste Facilities Siting Commission and Division of Fish, Game and Wildlife submitted substantive comments which are further addressed below.

The Division of Fish, Game and Wildlife (DFG&W) commented on the proximity of the site for the proposed solid waste facilities to the headwaters of the Shark River and the potential for leachate/surface runoff. Also, DFG&W indicated that the site contains abundant wetlands which may be adversely impacted by the planned solid waste facilities. In response, these issues

must be addressed during the technical review phase of the Department's permit process.

The Division of Environmental Quality commented that solid waste facilities are subject to the requirements of N.J.A.C. 7:27-5, Prohibition of Air Pollution, and N.J.A.C. 7:27-8, Permits and Certificates. In response, these requirements also must be addressed during the technical review of the Department's permit process.

The Hazardous Waste Facilities Siting Commission commented that they are awaiting the Department's decision concerning the inclusion of specific lots and blocks to comprise the resource recovery and solid waste facility sites. Some of the lots and blocks in question also comprise an identified potential hazardous waste incinerator site and, under state law (N.J.S.A. 13:1E-81), the commission is prohibited from using its power of eminent domain to acquire property designated as a solid waste facility site. By copy of this certification, the commission is informed that the Department is approving the sites identified by Monmouth County for resource recovery and solid waste facility sites.

The Division of Solid Waste Management has reviewed the amendment and also has concerns regarding the abundance of wetlands located on the site of the planned solid waste facilities. After excluding wetlands and providing for required buffers, the amount of land available for development is significantly reduced. This concern, as well as those noted above, highlights the need for a pre-application conference to be held with the Department, at the earliest possible time in the project development process, to discuss the environmental and health impact statement and engineering design submission requirements.

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 November 25, 1986 amendment to the approved Monmouth County District Solid Waste Management Plan and certify to the Monmouth County Board of Chosen Freeholders that the November 25, 1986 amendment is approved in part and rejected in part as further specified below.

I. Approved Portions of the Monmouth County Plan Amendment

- a. The inclusion within the Monmouth County District Solid Waste Management Plan of the Project Team and the Monmouth County Planning Board as implementation agencies are approved. Specifically, the Project Team, comprising freeholder representatives, the Monmouth County administrator, the Monmouth County counsel, and Monmouth County department heads, is designated as the implementation agency for resource recovery in Monmouth County. The Monmouth County Planning Board is designated as the implementation agency for recycling and the terminated landfill strategy for the county. However, Monmouth County has

failed to designate an implementing agency to address the daily supervision of solid waste planning for the district. The Department has noted this deficiency in Section C.3.a. of this certification.

The solid waste strategy which expresses the intent to proceed with resource recovery, to increase recycling, and to reduce the dependency on landfilling, is approved for inclusion within the Monmouth County District Solid Waste Management Plan. The Department notes that Monmouth County has deferred the decision on the favored technology for resource recovery until further study is completed.

- c. The inclusion within the Monmouth County District Solid Waste Management Plan of a resource recovery site to be located on Block 131, Lots 12, 16 and 17, in the Borough of Tinton Falls, Monmouth County, is approved.

The inclusion within the Monmouth County District Solid Waste Management Plan of a site for proposed solid waste facilities (to comprise landfill expansion and regional recycling center) to be located on the following lots and blocks in the Borough of Tinton Falls, Monmouth County, is approved.

Block 130, Lots 1 and 2

Block 131, Lots 1, 2.01, 4, 6, 7, 8, 9, 10, 11, 12, 16, and 17

Block 132, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 17

Block 133, Lots 1, 14, and 15

Block 134, Lots 1, 2, 3, 4, 4B, 5, 6A, 6B, 7, 8A, 9, 10, 11, 11.01, 12, 13, 13A, 16, 17, and 18

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. 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 et seq.

- d. The inclusion within the Monmouth County District Solid Waste Management Plan of the revised compost facility siting policy is approved with modification. The amendment changes the existing policy of automatic inclusion of municipal or other non-profit agencies' composting sites to include any publicly or privately operated composting facility. Specifically, "any publicly or privately operated composting facility is consistent with the goals and objectives of the Monmouth County District Solid Waste Management Plan, provided it meets existing engineering, environmental and operational standards of the D.E.P. Division of Solid Waste Management."

However, this new county policy does not provide for a public comment process. Therefore, the policy is modified, as per

Departmental approval of previous district compost facilities inclusion policies for Cumberland County (certified on October 9, 1986) and Somerset County (certified on December 11, 1986), as follows.

Any publicly or privately operated compost facility is consistent with the approved Monmouth County District Solid Waste Management Plan and no further plan amendment is required to include the facility provided that:

1. The host municipality and the solid waste management district are notified in writing (by the applicant) of the proposed application and each receive a full copy of the complete application submitted to the DEP including all engineering designs, reports, maps, etc., which DEP requires of the applicant.
 2. The applicant publish two (2) notices of the proposed application, once each week for two (2) consecutive weeks, in a newspaper of general circulation within the host municipality. The district shall determine the contents of the notice which shall inform the public that this is their only opportunity within the planning phase of the permit process to raise comments to the proposal.
 3. No objections to the site location are raised by the host municipality, the solid waste management district, or any other person; provided further, however, that if any such objection be raised, the proposed site and facility must be subject to the formal plan amendment process pursuant to N.J.S.A. 13:1E-23 and 24 including notice, public hearing, freeholder board approval, and subsequent DEP approval prior to issuance of environmental impact statement approval pursuant to N.J.S.A. 13:1E-26, or to the issuance of any Certificate of Approved Registration and Engineering Design Approval pursuant to N.J.S.A. 13:1E-4 or 5.
- e. The deferring of further action of the mandatory recycling plan is approved. On March 6, 1987, the Department received a plan amendment which proposes inclusion of the mandatory recycling plan within the Monmouth County District Solid Waste Management Plan. This amendment will be addressed in a subsequent certification.

2. Rejected Portion of the Monmouth County Plan Amendment

- a. The inclusion within the Monmouth County District Solid Waste Management Plan of the terminated landfill strategy is rejected. N.J.S.A. 13:1E-21b(2) calls for each solid waste management plan to include a plan for using terminated landfill sites within the district. Moreover, in a Consent Order for Judgment of March 8, 1985, Judge Stephen Skillman ordered, among other things, that Monmouth County specify a strategy for the use of each terminated landfill in the county including but not limited to a mapping of all known terminated landfill sites, identification of proposed

uses for each site, and any legal or institutional measures necessary to implement the strategy. The county, in the amendment, indicates that the district plan cannot and should not stipulate specific uses for the numerous and varied former disposal sites. This decision, according to the district, rests with the individual property owner and the municipality in which the site is located. Also, the county has not indicated why it has failed to identify and map all known terminated landfill sites. The Department rejects the reasoning of Monmouth County for not identifying specific uses for each terminated landfill site and directs the district to abide by the March 8, 1985 Consent Order for Judgment.

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:

- a. N.J.S.A. 13:1E-21b(1) requires the designation of a Department, unit, or committee of county government . . . to supervise the implementation of the County's Solid Waste Management Plan.

As previously indicated in Section C. of this certification, Monmouth County has designated implementation agencies for resource recovery and recycling. However, no implementation agency has been designated to address the daily supervision of solid waste planning (including landfilling activities) for the district. Therefore, the Monmouth plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(1) and the Consent Order for Judgment which also specified the designation of an agency to supervise the implementation of the district's plan.

- b. N.J.S.A. 13:1E-21b(2) 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.

As previously indicated in Section C. of this certification, Monmouth County has failed to designate a plan for using terminated landfill disposal sites. Therefore, the Monmouth plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(2).

- c. N.J.S.A. 13:1E-21b(6) requires a method or methods of financing solid waste management in the Solid Waste Management District pursuant to the Solid Waste Management Plan.

Monmouth County has not provided a detailed plan for financing all solid waste management activities. Therefore, the Monmouth plan remains deficient with respect to the 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 the 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 portions of the 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 approved portions of 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 in Part and Rejection in Part 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 in part and reject in part 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 November 25, 1986. I hereby further direct the Monmouth County Board of Chosen Freeholders to remedy those deficiencies enumerated in Section C. of this certification as soon as possible.

May 7, 1987
DATE


RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION