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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DIWILING, 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)
(CAPE MAY COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE SEPTEMBER 17, 1987
AMENDMENT TO THE CAPE MAY 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 February 4, 1981, the Department approved, with modifications, the Cape May 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 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 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 Cape May County Board of Chosen Freeholders completed such a review and, on September 17, 1987, adopted an amendment to its approved district solid waste management plan. The amendment proposes the designation of the district's resource recovery facility site in Woodbine Borough, Cape May County.

The amendment was received by the Department of Environmental Protection on October 22, 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 Cape May County District Solid Waste Management Plan, and has determined that the amendment adopted by the Cape May County Board of Chosen Freeholders on September 17, 1987 is approved as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Cape May 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 September 17, 1987 amendment to the Cape May 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 Office of Recycling, the Department of Agriculture, the Department of Transportation, the Pinelands Commission, and the New Jersey Turnpike Authority. Of these agencies, the following did not object to the proposed plan amendment: the State Department of Agriculture; the Board of Public Utilities, and the Green Acres Program. The following agencies failed to respond to our requests for comments: N.J.D.E.P. Division of Coastal Resources; the State Departments of Health, Community Affairs, 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 Divisions of Fish, Game, and Wildlife, Environmental Quality, Water Resources, and Parks and Forestry, the Office of Recycling and the Pinelands Commission submitted substantive comments which are further addressed below.

The Division of Fish, Game and Wildlife commented that the resource recovery facility (RRF) may impact some endangered species, such as: the southern grey treefrog, the Pine Barrens treefrog, and the tiger salamander. Also, the RRF may impact the threatened red-shouldered hawk. In response, this certification is an approval of the siting and planning stage for the RRF. As noted hereafter, construction and operation cannot begin until the Environmental and Health Impact Statement (EHIS) has been submitted and approved. The issue of endangered species, which will require more in depth study, is best addressed at the EHIS stage rather than the planning stage.

The Division of Environmental Quality commented that air pollution control permits may be required to operate the resource recovery facility. As noted above, this issue is also addressed in the technical phase of the Department's permit process, rather than during the initial phases of

project development. Acquisition of all applicable permits will be required prior to the initiation of construction or operation.

The Division of Water Resources commented that ground water permits may be required to operate the resource recovery facility. Also, an alternative process of using facility wastewater to handle bottom and fly ash was recommended for investigation. Again, these issues will be addressed in the technical phase of the Department's permit process.

The Division of Parks and Forestry commented that although no known cultural resources are being impacted, such potential exists, and this impact should be investigated. As noted above, this issue will also be addressed in the technical phase of the Department's permit process.

The Office of Recycling commented that Cape May County must address the issue of recycling as it pertains to its district recycling plan required pursuant to P.L. 1987, c.102, section 3. This office further stated that, as part of this responsibility, the county "shall provide an incoming waste inspection plan, submitted to and approved by the Department, which shall be used to insure that the material designated to be recycled in the approved county recycling plan shall not be disposed of as solid waste at the facility." The county was also advised to make provisions for informing the county enforcement agency of violations of the requirements. Finally, the Office of Recycling commented that the recyclability of the bypass waste must be determined. In response, the county will be subject to recycling provisions of P.L. 1987, c. 102, section 3, and the incoming waste stream will reflect those requirements. By copy of this certification, Cape May County is notified of this requirement.

The Pinelands Commission commented that a Waiver of Strict Compliance would have to be approved by the Pinelands Commission to permit the regular disposal of solid waste after August 8, 1990. It should be noted that Cape May County has already received a Waiver of Strict Compliance from the Pinelands Commission to landfill residual waste at the Cape May County Landfill after August 8, 1990. Also, an approval of the Pinelands Commission is required to withdraw water from the the Cohansey aquifer for use at the resource recovery facility (RRF). Finally, the Pinelands Commission is concerned about disposal of hazardous ash into the landfill and recommends the exploration of possible treatment strategies to render the ash generated by the RRF non-hazardous. In response, this amendment is approved, subject to the issuance of all necessary Waivers of Strict Compliance with the requirements of the Pinelands Comprehensive Management Plan. Further, the Department will continue to review the project's disposal features and will not permit the disposal of hazardous waste at the county's solid waste facility.

The Division of Solid Waste Management has reviewed the amendment and notes that an issue in the disposal of the bypass waste must be addressed. Specifically, in Section V, recommendation 10-h states that "The disposal of residue and/or by-pass waste produced at the Resource Recovery Facility from processing supplemental waste should not be disposed of in Cape May County." In section VI, page VI-22, the report states "All ash residue and bypass waste, resulting from processing Cape May County refuse at the Resource Recovery Facility will be disposed of on-site at the CMCMUA Sanitary

Landfill and not transported elsewhere for disposal." This issue must be addressed and clarified in the technical phase of the Department's permit review process, as solid waste permits cannot be issued without the designation of residual disposal sites. If waste is to be processed at the facility and not landfilled at the county landfill, then alternative disposal facilities must be specified in subsequent plan amendments and in the permit application. It is also important that the disposal needs of the county are efficiently met throughout the year by the RRF. If waste is to be imported to maintain plant efficiency, an interdistrict agreement will be necessary to provide sufficient waste to be burned during the winter months.

C. Certification of Cape May 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 September 17, 1987 amendment to the approved Cape May County District Solid Waste Management Plan and certify to the Cape May County Board of Chosen Freeholders that the September 17, 1987 amendment is approved as further specified below.

The inclusion within the district plan of the Cape May County resource recovery facility, located on Block 128.02, a portion of Lot 1 and Lot 3, and Block 131.02, Lots 1, 2, 3, 4, 5, 6, 7, 8, in the Borough of Woodbine is approved. 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 including the issuance of all necessary Waivers of Strict Compliance with the requirements of the Pinelands Comprehensive Management Plan. 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. 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 Cape May 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 Cape May 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 Cape May County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Cape May 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 Cape May 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 Cape May 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 Cape May County District Solid Waste Management Plan contained herein shall take effect immediately.

7. Reservation of Authority

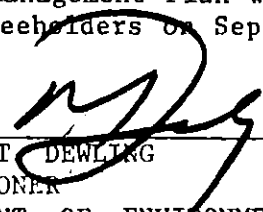
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Cape May County District

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 Cape May County District Solid Waste Management Plan which was adopted by the Cape May County Board of Chosen Freeholders on September 17, 1987.

3/17/88
DATE



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION