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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)
(MORRIS COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE DECEMBER 15, 1987
AMENDMENT TO THE MORRIS 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 January 29, 1981, the Department approved, with modifications, the Morris 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 Morris County Board of Chosen Freeholders completed such a review and on December 15, 1987, adopted an amendment to its approved district solid waste management plan. Pursuant to N.J.S.A. 13:1E-21b(1), Morris County proposed to designate the Morris County Municipal Utilities Authority (MCMUA) to supervise the implementation of the county's solid waste management plan.

The amendment was received by the Department of Environmental Protection on January 6, 1988, 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 Morris County District Solid Waste Management Plan, and has determined that the amendment adopted by the Morris County Board of Chosen Freeholders on December 15, 1987, is approved 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 Morris 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 December 15, 1987 amendment to the Morris 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, Parks and Forestry, Water Resources and Fish, Game and Wildlife; the State Departments of Community Affairs and Agriculture; the Green Acres Program, 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 State Departments of Health, Transportation and the Public Advocate; the Board of Public Utilities and the U.S. Environmental Protection Agency. No agencies submitted substantive comments.

C. Certification of Morris 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 December 15, 1987 amendment to the approved Morris County District Solid Waste Management Plan and certify to the Morris County Board of Chosen Freeholders that the December 15, 1987 amendment is approved as further specified below.

Prior to this amendment, Morris County had designated the Morris County Planning Board to supervise the implementation of the district solid waste

management plan. That designation had been approved by the Department in the August 19, 1985 certification of the July 10, 1985 amendment to the Morris County plan. In 1987, the solid waste staff was removed from the planning board and reassigned to function under the direction and supervision of the county administrator. On September 23, 1987, the Morris County Board of Chosen Freeholders adopted resolutions which designated the Morris County Municipal Utilities Authority (MCMUA) as the solid waste implementation agency, expanded the MCMUA from five to nine members, and appointed new members. The MCMUA was initially created by the Morris County Board of Chosen Freeholders as a public body of the State of New Jersey to protect the county water supply and prevent further diversion to areas outside of the county. On October 29, 1987, the MCMUA reorganized their agency to establish the existing solid waste staff (including recycling personnel), previously in the Department of the Administrator, as a separate division within the authority.

The inclusion within the district plan of the Morris County Municipal Utilities Authority as the agency to supervise implementation of the Morris County District Solid Waste Management Plan is approved. As a condition of approval, the MCMUA is required to comply with the terms and conditions of the Administrative Consent Order entered between the Department and Morris County on January 9, 1985, and incorporated within the Morris County District Solid Waste Management Plan by a July 10, 1985 plan amendment.

Further, the Department has reviewed the entire Morris 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:

1. 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.

The former designation of the Morris County Planning Board as the implementation agency for the district's solid waste management plan, certified on August 19, 1985, has been superseded by the designation of the Morris County Municipal Utilities Authority as the supervisory agency. The county, thereby, maintains compliance with N.J.S.A. 12:1E-21b(1).

2. 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.

The county solid waste management plan still does not offer a specific plan for the utilization of each terminated landfill in the county. In its response to the county's April, 1987 contingency plan submission, the Department recommended that the county give further consideration to the identification and reuse on an interim basis of closed landfills within the county that have available airspace. The Department also recommended that appropriate closure plans be developed for these facilities as part of the contingency plan

submission. Until such a plan for the utilization of the terminated landfills is submitted, the Morris County Plan remains deficient with respect to N.J.S.A. 13:1E-21b(2).

3. N.J.S.A. 13:1E-21b(3) 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.

The July 10, 1985 amendment to the Morris County plan incorporated the January 9, 1985 Administrative Consent Order (ACO) within the district plan. The ACO called for schedules for the development of an in-county landfill and a resource recovery facility at sites to be designated by September 1, 1985. The July 10, 1985 amendment also designated site 6-1B in Rockaway Township as the district landfill site. The December 11, 1985 amendment to the Morris County plan designated site 6-1B for use as a resource recovery facility. The use of site 6-1B as a landfill was voided by the 1986 Superfund legislation leaving the county with no landfill site. A challenge to its use as a resource recovery facility site was rejected by the Appellate Division of the Superior Court and a review was denied by the New Jersey Supreme Court. The county cannot be expected to comply with the landfill schedule milestones established through the January 9, 1985 ACO due to the mandated deletion of the landfill from the county plan. However, the intent of the ACO is to move Morris County towards a revised ACO schedule for selection and implementation of a second landfill site. Further, the county has failed to comply with the resource recovery facility schedule of the ACO and is, therefore, deficient with respect to the requirements of N.J.S.A. 13:1E-21b(3).

4. N.J.S.A. 13:1E-21b(4) requires a survey of proposed collection districts and transportation routes with projected transportation costs from collection districts to existing or available suitable sites for solid waste disposal facilities.

The Morris County District Solid Waste Management Plan does not contain an updated survey of transportation costs from collection districts to the proposed resource recovery site on Site 6-1B in Rockaway Township. In addition, in the absence of a selected landfill site, the county is unable to survey proposed collection and transportation routes. Therefore, with the exception of the interim transfer station program and the routing information included in the July 27, 1987 plan amendment incorporating the transfer stations, the Morris County District Solid Waste Management Plan is deficient with respect to the requirement of N.J.S.A. 13:1E-21b(4).

5. N.J.S.A. 13:1E-21b(5) requires procedures for coordinating all activities related to the collection and disposal . . . within the solid waste management district, which procedures shall include the

agreements entered into as provided herein between the board of chosen freeholders . . . and every such person, and the procedures for furnishing the solid waste facilities contained in the solid waste management plan.

On July 27, 1987, the Department certified a plan amendment which selected sites nominated by the Morris County Transfer Station, Inc. (MCTS) for the operation of two transfer stations in Morris County, one in Mt. Olive and one in Parsippany-Troy Hills. The amendment also contained operational plans and waste flow directives to both stations. This strategy mandated that MCTS obtain long term contracts with specific out-of-state landfills for disposal. However, the Department's concern over the vulnerability of out-of-state disposal, even when supported by contractual arrangements, has prompted the requirement for county submission of contingency plans. Although the county has designated a site for a resource recovery facility, no contractual agreements have been entered into with any vendor for the design, construction and operation of said facility. Whereas the transfer station program satisfies N.J.S.A. 13:1E-21b(5) on an interim basis, since no contract or procedures exist for development of long-term facilities, the county is deficient in this regard.

6. 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.

With respect to the transfer station program, the initial costs for finance, development and construction of the transfer stations were borne by private investment. The Board of Public Utilities established disposal rates at the county transfer stations at \$113.35 per ton of solid waste. While disposal costs are definitely much higher than those previously incurred by Morris County residents, such costs are consistent with those of other transfer stations in the area.

Further, in the absence of a resource recovery facility or any designated landfill site, no other solid waste financial plan has been submitted by the county. Therefore, the Morris County Solid Waste Management Plan is 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 Morris 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 Morris 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 Morris County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Morris 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 Morris 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 Morris 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 Morris 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 Morris 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 Morris County District Solid Waste Management Plan which was adopted by the Morris County Board of Chosen Freeholders on December 15, 1987. I hereby further direct the Morris County Board of Chosen Freeholders to rectify those deficiencies specified in Section C. of this certification as soon as possible.

March 3, 1988

DATE



RICHARD T. DEWLING

COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION