



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)  
(MERCER COUNTY SOLID WASTE)  
(MANAGEMENT DISTRICT)

CERTIFICATION OF THE JANUARY 24, 1989  
AND THE FEBRUARY 14, 1989 AMENDMENTS  
TO THE MERCER 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 July 31, 1980, the Department approved, with modifications, the Mercer 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 Mercer County Board of Chosen Freeholders completed such reviews and on January 24, 1989 and February 14, 1989 adopted amendments to its approved district solid waste management plan. The January 24, 1989 amendment proposed to include within the district plan 12 existing small scale incinerators. The February 14, 1989 amendment proposed to designate the existing Trenton sludge lagoon

as a back-up landfill for non-processibles and bypass waste and for ash generated by the planned Mercer County Resource Recovery Facility.

The amendments were received by the Department of Environmental Protection on February 27, 1989 and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed these amendments, as well as the entire Mercer County District Solid Waste Management Plan, and has determined that the amendments adopted by the Mercer County Board of Chosen Freeholders on January 24, 1989 and February 14, 1989 are 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 Mercer County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I, Christopher J. Daggett, Commissioner of the Department of Environmental Protection, have studied and reviewed the January 24, 1989 and February 14, 1989 amendments to the Mercer 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendments to fifteen 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 Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. The results of these requests for comments are as follows:

1. The January 24, 1989 Amendment

The following agencies did not object to the January 24, 1989 plan amendment: the N.J.D.E.P. Divisions of Fish, Game and Wildlife, Parks and Forestry, and the Green Acres Program; the State Departments of Agriculture and Transportation; and the New Jersey Turnpike Authority. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Division of Coastal Resources; the State Departments of Health, Community Affairs, and the Public Advocate; the New Jersey Advisory Council on Solid Waste Management, and the U.S. Environmental Protection Agency. The Board of Public Utilities and the Divisions of Water Resources, Environmental Quality, and Solid Waste Management submitted substantive comments which are further addressed below.

The Board of Public Utilities commented that if any of the incineration facilities burn other than self-generated waste, they need to be registered with the Board. By copy of this certification, Mercer County shall inform the applicants of this requirement.

The Division of Environmental Quality (DEQ) commented that the inclusion of small scale medical and certain industrial waste incinerators is consistent with programs which they administer, as long as the incinerators comply with all air pollution control requirements. However, DEQ also indicated that the policy of directing solid waste to small apartment house incinerators and other small scale incinerators when a state-of-the-art resource recovery facility is available to process such waste is generally not consistent with air pollution control plans. In response, by copy of this certification, Mercer County is informed of this comment. Furthermore, Mercer County should consider establishing a policy of whether existing small scale incinerators shall remain operable when the district resource recovery facility commences operation.

The Division of Water Resources commented that if any wastewater is generated as part of the incineration process of any of the 12 incinerators, a water quality plan amendment may be necessary for that proposed incinerator. In response, Mercer County by copy of this certification is informed of this comment by the Division of Water Resources.

Finally, the Division of Solid Waste Management commented that each incinerator approved for inclusion within the Mercer County plan is required to obtain a solid waste facility permit pursuant to N.J.A.C. 7:26-2 and 7:26-2B, prior to the expiration of the facility's current air pollution control permit which is issued by the Division of Environmental Quality pursuant to N.J.A.C. 7:27. Also, the Division commented that on March 6, 1989, Governor Kean signed into law the "Comprehensive Regulated Medical Waste Management Act", P.L. 1989, c. 34. This legislation provides a distinction between a commercial facility and a non-commercial facility and imposes a ban of up to one year on Departmental approval of any new commercial medical waste incinerator. The Act defines a non-commercial facility as one "which accepts regulated medical waste from other generators for on-site disposal for a cost based fee not in excess of the costs actually incurred by the facility or on-site generator for the treatment or disposal of the regulated medical waste." By copy of this certification, the county is notified of the comments of the Division of Solid Waste Management.

## 2. February 14, 1989 Amendment

The following agencies did not object to the proposed plan amendment: the N.J.D.E.P. Divisions of Environmental Quality and Parks and Forestry; the State Departments of Agriculture and Transportation; the Board of Public Utilities, and the New Jersey Turnpike Authority. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Divisions of Coastal Resources and the Green Acres Program; the State Departments of Health, Community Affairs, and the Public Advocate; the New Jersey Advisory Council on Solid Waste Management, and the U.S. Environmental Protection Agency. The Divisions of Fish, Game and Wildlife, Water Resources and Solid Waste Management submitted substantive comments which are addressed below.

The Division of Water Resources commented that any leachate generated and collected from the planned landfill should be treated at the City of Trenton Sewage Treatment Plant. By copy of this certification, Mercer County is informed of this comment.

The Division of Fish, Game and Wildlife commented regarding the use of the proposed Trenton lagoon site as an ash and bypass waste landfill. The Division's primary concerns are for the suitability of the site for landfill activities relative to stability as well as the protection of the groundwater and proximal surface waters (i.e. Delaware River, Crosswicks Creek - Watson Creek - Duck Creek complex) from contamination. The lagoon site is presently classified as openwater, emergent/scrub-shrub wetlands as a result of prior sludge operations pursuant to the National Wetlands Inventory Map. New development may require freshwater wetland mitigation, particularly if the site was originally a wetland. Wetland areas are generally poor sites for landfill activities. Sealing/lining the site can become problematic. In addition, the site may also be in the floodplain of the Delaware River and, therefore, may be subject to the requirements of the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50.1 and regulations adopted pursuant thereto, N.J.S.A. 7:13. In response, the Department notes that the activities conducted in Freshwater Wetlands and adjacent transition areas are regulated pursuant to the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq. Authorization of activities may require mitigation as part of a permit. The certification addresses site identification as the initial planning stage of facility development. The Department emphasizes that prior to any construction or operation, all necessary permits must be obtained. By copy of this certification, Mercer County is informed of these comments.

The Division of Solid Waste Management commented that sludge lagoons require clean-up as approved by the Department prior to development as a landfill area. The Division also noted that the Mercer County Improvement Authority has entered into a 25 year license agreement with the owners of the GROWS and Tullytown Landfills in Falls Township, Pennsylvania, for the disposal of the county's solid waste commencing May 1, 1988. Furthermore, upon commencement of operations of the district's resource recovery facility, ash, non-processibles and bypass waste from this facility shall be disposed of at these two landfills. The Department has a policy that each county be self-sufficient regarding solid waste disposal by December 31, 1992. To comply with this policy, each county must have an in-state facility capable of handling that county's waste after this date. Therefore, at least the first cell of the Trenton sludge lagoon landfill must be constructed by December 31, 1992 to allow for out-of-state disposal after that date. By copy of this certification, Mercer County is informed of these comments.

C. Certification of Mercer County District Solid Waste Management Plan Amendments

I, Christopher J. Daggett, 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 January 24, 1989 and February 14, 1989 amendments to the approved Mercer County District Solid Waste Management Plan and certify to the Mercer County Board of Chosen Freeholders that the January 24, 1989 and February 14, 1989 amendments are approved as further specified below.

1. January 24, 1989 Amendment

The inclusion into the district solid waste management plan of the 12 small scale incinerators listed below is approved.

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| a. American Cyanamid Co.<br>P.O. Box 400<br>Princeton, N.J. 08611                    | e. Hamilton Hospital<br>Whitehorse-Hamilton Sq. Rd.<br>Hamilton, N.J. 08690    |
| b. Cateret Arms Apt.<br>333 West State Street<br>Trenton, N.J. 08618                 | f. Helene Fuld Medical Center<br>750 Brunswick Avenue<br>Trenton, N.J. 08638   |
| c. P.F. Cosgriff, V.M.D.<br>186 Pennington Harbourton Road<br>Pennington, N.J. 08534 | g. Highgate Apts.<br>1 Highgate Drive<br>Trenton, N.J. 08638                   |
| d. Meadow Lakes<br>Box 70<br>Hightstown, N.J. 08520                                  | h. Medical Center of Princeton<br>253 Witherspoon St.<br>Princeton, N.J. 08540 |
| i. Regency House Co-Op Apts.<br>1315 West State St.<br>Trenton, N.J. 08618           | k. Rider College<br>2083 Lawrenceville Rd.<br>Lawrenceville, N.J. 08648        |
| j. David Sarnoff Research Center<br>CN 5300<br>Princeton, N.J. 08543                 | l. E.R. Squibb & Sons<br>Route 206 - P.O. Box 4000<br>Princeton, N.J. 08543    |

As noted in Section B. of the certification, under the Comprehensive Regulated Medical Waste Management Act (P.L. 1989, c. 34) signed by Governor Kean on March 6, 1989, a moratorium or a ban of up to one year is imposed on Departmental approval or consideration of any new commercial medical waste incinerators. Therefore, the plan inclusion approval of new facilities which were not in operation and accepting regulated medical waste on or prior to March 6, 1989 is restricted to non-commercial use.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all applicable laws. The 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 pursuant to the provisions of N.J.S.A. 13:1E-126 et seq.

2. The February 14, 1989 Amendment

The inclusion into the district plan of the existing Trenton sludge lagoon, located at Block 80, Lots 1 and 10, in the City of Trenton, as a landfill for bypass and non-processible waste and for ash generated by the planned Mercer County Resource Recovery Facility, is approved. Such ash acceptance at the facility is contingent upon the results of the EPA toxicity test. If the ash is determined to be hazardous, it must be disposed of at a licensed hazardous waste landfill. The Department notes that Mercer County is

developing a resource recovery facility in Hamilton Township, Mercer County, for long term disposal of Mercer County's solid waste. The Mercer County Improvement Authority (MCIA) has entered into a license agreement with Geologic Reclamation Operations and Waste Systems (GROWS), WMI Properties, Inc. and Waste Management, Inc., for the use of certain landfill space at the GROWS and Tullytown Landfills in Falls Township, Bucks County, Pennsylvania, for a period of 25 years which began on May 1, 1988. The Board of Public Utilities has reviewed and approved this agreement and the Department deems this agreement to be part of the Mercer County District Solid Waste Management Plan. Presently, all Mercer County solid waste is disposed of at the GROWS and Tullytown Landfills after processing at the Mercer County Transfer Station in Ewing Township, Mercer County. Upon commencement of operations at the resource recovery facility, MCIA plans to utilize these landfills for the disposal of ash, bypass and non-processibles. The Department has a policy that each county be self-sufficient regarding its solid waste disposal by December 31, 1992. To comply with this policy, there must be an in-state facility capable of handling the county's solid waste should out-of-state waste become unavailable by that date. Although this certification approves the sludge lagoon as that landfill, please be advised that at least the first cell of the landfill must be constructed by December 31, 1992 in order to allow for continued out-of-state disposal after that date. Therefore, it is incumbent upon Mercer County to proceed with the permitting, acquisition and construction of the landfill as soon as possible. The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all applicable laws. The 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 pursuant to the provisions of N.J.S.A. 13:1E-126 et seq.

The Department has reviewed the entire Mercer 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(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.

Mercer County has submitted to the Department a study summarizing transportation costs to the proposed resource recovery facility site. However, a similar study to the proposed landfill site has not been received. Therefore, I find the Mercer County Solid Waste Management Plan to be deficient in this respect.

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

Mercer County has not specified a method for financing solid waste facilities within the district. Therefore, I find the Mercer County Solid Waste Management Plan to be deficient in this respect.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with the within amendments to the Mercer County District Solid Waste Management Plan, and which was executed prior to the approval of these amendments 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 these amendments and of the Mercer 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 Mercer County and affected by these amendments contained herein shall operate in compliance with these amendments and all other approved provisions of the Mercer 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 Mercer 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 Amendments

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Mercer 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 amendments contained herein.

5. Definitions

For the purpose of these amendments 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 Amendments

These amendments to the Mercer 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 Mercer 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 Amendments 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 these amendments as outlined in Section C. of this certification to the Mercer County District Solid Waste Management Plan which were adopted by the Mercer County Board of Chosen Freeholders on January 24, 1989 and February 14, 1989. Also, Mercer County is hereby directed to correct the noted deficiencies in the district plan.

July 26, 1989  
DATE

  
CHRISTOPHER J. DAGGETT  
COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION