



STATE OF NEW JERSEY
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 OFFICE OF THE COMMISSIONER
 CN 402
 TRENTON, N.J. 08625
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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 FEBRUARY 26, 1985 AMENDMENT
 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 a review and on February 26, 1985, adopted an amendment to its approved District Solid Waste Management Plan. The amendment was received by the Department of Environmental Protection on February 27, 1985 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 Mercer County District Solid Waste Management Plan, and has determined that the amendment adopted by the Mercer County Board of Chosen Freeholders on February 26, 1985 is approved as provided in N.J.S.A. 13:1E-24. Regarding the district's plan, while the requirements of the Act concerning the report have been met, the plan remains seriously deficient in several important ways.

B. Certification of Mercer 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 February 26, 1985 amendment to the approved Mercer County District Solid Waste Management Plan and certify to the Mercer County Board of Chosen Freeholders that the February 26, 1985 amendment is approved as further specified below:

1. All #27 waste ash generated by Stony Brook Regional Sewerage Authority is directed to the Princeton Sewer Operating Committee Landfill (DEP #1110A) in Princeton Township, Mercer County.
2. All other #27 waste grit generated by the Stony Brook Regional Sewerage Authority is directed to a prearranged disposal site in Wayne, Michigan or such other out-of-state disposal sites as may be more economically advantageous to the Authority, at the expense of the Stony Brook Regional Sewerage Authority.
3. All state, county, municipal and political subdivisions of and within Mercer County which issue bid specifications and award bids, subject to the New Jersey State Local Public Contracts Law, for the collection and disposal of solid waste or sludge, must submit these bid specifications to the Mercer County Improvement Authority for review and obtain technical input to avoid any future crisis arising from the failure of private haulers to perform in an economical fashion.

This approval of the February 26, 1985 amendment provides an interim solution to the problem of disposal of ash and grit generated by the Stony Brook Regional Sewerage Authority. This approval does not relieve Mercer County of its statutory responsibility of providing a permanent solution to this disposal crisis as required by Judge Paul J. Levy of the Superior Court of New Jersey, Chancery Division, Mercer County, in the case of National Waste Disposal, Inc. vs. Stony Brook Regional Sewerage Authority et als, Docket No. C-0004-85, and is specifically disapproved to the extent that it may be intended by Mercer County to constitute a permanent solution within the context of that litigation.

It is also noted that at a hearing before Judge Levy on June 18, 1985 in the above litigation, Judge Levy found that the Mercer County Board of Chosen Freeholders and the Mercer County Improvement Authority had failed to comply with paragraph 10 of the Court's March 1, 1985 Second Order Granting Interim Relief and Order to Show Cause requiring Mercer County to

implement a long term solution for the disposal of the Stony Brook Regional Sewerage Authority's ash and grit and this failure by Mercer County constitutes "contumacious conduct" on the part of Mercer County.

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:

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. Mercer County has designated the Mercer County Improvement Authority to be the implementation agency to carry out the approved Mercer County Solid Waste Management Plan. Therefore, I find that Mercer County has complied with N.J.S.A. 13:1E-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 solid waste disposal strategy adopted by the county relies upon the construction and operation of a resource recovery facility to dispose of processable solid wastes, and upon an as yet undesignated landfill, for disposal of non-processable solid wastes and residues. In addition, the Mercer County Improvement Authority has encouraged local recycling programs in municipalities throughout the county. Therefore, I find that Mercer County has complied with 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.

With the exception of sole-source landfills, Mercer County has no operating solid waste disposal facilities. Furthermore, no site for a landfill has been selected and the site for the resource recovery facility (Trenton Freightyards) has not been developed. Since the waste generated in Mercer County is now disposed of at out-of-state facilities, the Department considers this arrangement to be tenuous and unacceptable. Therefore, I find this section of the Mercer County Solid Waste Management Plan to be deficient.

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 sites for solid waste disposal facilities.

Mercer County has submitted to the Department a study summarizing transportation costs to proposed resource recovery facility sites within the county. However, a similar study to existing or available suitable landfill sites has not been received. Therefore, I find this section of the Mercer County Solid Waste Management Plan to be deficient.

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 May 11, 1984, Commissioner Hughey signed a Certification of Approval of the December 13, 1983 Amendment to the Mercer County District Solid Waste Management Plan. This Certification approved the redirection of the county's waste to out-of-state facilities for disposal, but also directed the Mercer County Board of Chosen Freeholders within 45 days to either: (1) propose for adoption a plan amendment designating a landfill site located within the district; or (2) adopt a plan amendment jointly with another district to provide for the disposal of Mercer County's waste in that district; or (3) adopt a plan amendment certifying the absence of sufficient available suitable sites within the Mercer District and the failure to reach agreement with any other district. Mercer County failed to comply with this directive. Therefore, I find this section of the Mercer County Solid Waste Management Plan to be deficient.

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.

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

C. 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 Mercer 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 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 the amendment contained herein shall operate in compliance with this amendment 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, 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 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) which are part of the Mercer 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 Mercer 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 to the Mercer County District Solid Waste Management Plan contained herein shall take effect immediately.

7. Reservation of Authority

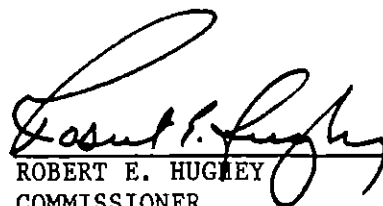
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Mercer County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide Solid 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 Solid Waste Flow Rules, and also includes the compilation of individual district plans and amendments as they are approved.

D. 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 B of this certification, to the Mercer County District Solid Waste Management Plan, which was adopted by the Mercer County Board of Chosen Freeholders on February 26, 1985.

In accordance with N.J.S.A. 13:1E-24, I am directing that a public hearing be conducted by the Mercer County Board of Chosen Freeholders within forty-five (45) days of the date of this certification. The hearing shall be conducted pursuant to the procedures contained in N.J.S.A. 13:1E-23. The purpose of the hearing shall be to inform the public of the deficiencies identified in the plan, and to identify the county's plans for addressing these deficiencies, and to solicit public comment on these matters. Further, Mercer County is directed to amend its plan to address the deficiencies identified above. This amendment shall be adopted by the county and submitted to the Department of Environmental Protection within ninety (90) calendar days from the date of this certification.

7/1/85
DATE


ROBERT E. HUGHEY
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION