



State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RICHARD T. DEWLING, Ph.D., P.E.  
COMMISSIONER  
CN 402  
TRENTON, N.J. 08625  
609-292-2885

(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 MARCH 11, 1986  
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 March 11, 1986, adopted an amendment to its approved district solid waste management plan. The amendment proposes that Mercer County shall acquire and expand the existing Trenton-Ewing Transfer Station to receive all solid waste generated in Mercer County prior to out-of-state disposal.

The amendment was received by the Department of Environmental Protection on April 3, 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 Mercer County District Solid Waste Management Plan, and has determined that the amendment adopted by the Mercer County Board of Chosen Freeholders on March 11, 1986, 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 Mercer 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 March 11, 1986, amendment 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 this plan amendment is consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of 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 Water Resources, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture and Community Affairs, the Office of Recycling, and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the State Department of the Public Advocate; the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. The Divisions of Fish, Game and Wildlife and Environmental Quality, the Departments of Health and Transportation, the Board of Public Utilities and the Green Acres Program submitted substantive comments which are further addressed below.

The Division of Fish, Game and Wildlife commented on the importance of site containment and proper monitoring, collection and treatment of any leachate or surface runoff from the area and identified the need for an Army Corps of Engineers permit if wetlands are taken. The Department of Transportation indicated that they cannot comment on the proposal without receiving truck traffic data resulting from implementation of the proposed project. The Division of Environmental Quality commented that transfer stations are subject to the provisions of N.J.A.C. 7:27-5

(Prohibition of Air Pollution). The Green Acres Program expressed concern for the potential impact of the proposed project on the nearby Green Acres funded Stout Avenue playground. The concerns raised by the above four state agencies will be addressed by the county in its submission of an environmental and health impact study (EHIS) as part of the technical phase of the Department's permit process.

The Department of Health commented that the current transfer station is operating in a manner that has the potential for adverse environmental and public health impacts and that DEP should permit future operation of the facility only if remedial measures (install new fence, properly cover the old, adjacent landfill, and remove litter) are followed. The Department is aware of the operating conditions at the transfer station and has issued violations in the past to rectify these conditions. If the county does acquire and expand the facility, the Department will require proper operating conditions and appropriate violations will be issued if warranted.

The Board of Public Utilities questioned whether the transfer station will be operated as a public utility or as an exempt utility authority, and by what authority the Mercer County Improvement Authority is charging rates for current disposal at the GROWS Landfill. Mercer County has informally indicated to the Department that it is an exempt utility authority and it is through this exemption that it plans to operate the transfer station and presently charges rates for disposal at the GROWS Landfill. As part of the Department's certification within Section C., the county is required to state its position with respect to its continued operation as an exempt utility authority.

C. Certification of Mercer 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 March 11, 1986, amendment to the approved Mercer County District Solid Waste Management Plan and certify to the Mercer County Board of Chosen Freeholders that the March 11, 1986, amendment is approved as further specified below.

1. The inclusion into the district plan of the future expansion of the Trenton-Ewing Transfer Station to be located on Block 13, Lot 17, in Ewing Township, 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. 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.

2. This approval is limited to the March 11, 1986, amendment to the Mercer County District Solid Waste Management Plan and does not address any subsequent action taken by the Mercer County Board of Chosen Freeholders with respect to the Mercer County district plan. Any revision to this plan amendment must be submitted by Mercer County as a new plan amendment which will be reviewed accordingly by the Department.
3. Additionally, as stated in Section B. above, Mercer County is required to address the Board of Public Utilities (BPU) comment concerning the legal authority by which the Mercer County Improvement Authority operates as a utility authority exempt from BPU jurisdiction.
4. 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(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 Mercer County has no in-county disposal capacity and has no formal agreements to provide for out-of-district disposal after May 31, 1987, I find the Mercer County Solid Waste Management Plan to be deficient in this respect.

- b. N.J.S.A. 13:1E-21b(4) requires a survey of proposed collection districts and transportation routes with projected transportation costs from collection district to existing or available suitable 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 the Mercer County Solid Waste Management Plan to be deficient in this respect.

- c. 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.

Mercer County presently has a disposal agreement with the GROWS Landfill in Morrisville, Pennsylvania, through May 31, 1987. This amendment has been proposed to provide a county-owned and operated transfer station to receive waste generated in Mercer County prior to out-of-state disposal, should the GROWS agreement expire. To date, Mercer County has not signed an interdistrict agreement with any other New Jersey solid waste district or entered into a disposal agreement with another out-of-state disposal facility to receive the county's waste. Therefore, I find the Mercer County Solid Waste Management Plan to be deficient in this respect.

- d. 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 the Mercer County Solid Waste Management Plan to be deficient in this respect.

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 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 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 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 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 approved amendment to the Mercer County District Solid Waste Management Plan contained herein shall take effect immediately.

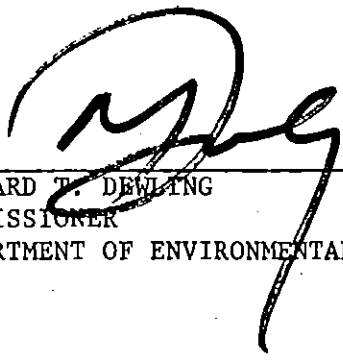
7. Reservation of Authority

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 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 Mercer County District Solid Waste Management Plan, which was adopted by the Mercer County Board of Chosen Freeholders on March 11, 1986, and further direct the Mercer County freeholders to remedy those deficiencies referenced in Section C. of this certification as soon as possible.

August 29, 1986  
DATE

  
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RICHARD T. DEWLING  
COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION