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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 JULY 25, 1989  
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 July 25, 1989, adopted an amendment to its approved district solid waste management plan.

The proposed amendment identified by the county as ordinance 89-18, includes additional Lots 53, 120C, 145, 150 and 156 to the Mercer County Resource Recovery and Recycling Facility site at Block 484 located at Duck Island in Hamilton Township.

The amendment was considered complete by the Department of Environmental Protection on August 18, 1989, 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 July 25, 1989, 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, Helen C. Fenske, Acting Commissioner of the Department of Environmental Protection have studied and reviewed the July 25, 1989 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 Solid Waste Management circulated the plan amendment 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 Public Advocate, the Department of Health, 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, Water Resources, Fish, Game and Wildlife, and Parks and Forestry; the State Departments of Agriculture and Community Affairs; the Board of Public Utilities and the Green Acres Program. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Division of Coastal Resources, the Departments of Health 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 Department of Transportation and the N.J.D.E.P. Division of Solid Waste Management submitted substantive comments which are further addressed below.

The Department of Transportation commented that subsequent to the comments previously offered concerning the October 14, 1986 amendment, NJDOT has slightly realigned the roadway known as the Lambertson Road Connector. As a result of this realignment, the roadway will now encroach onto a portion of Lots 18, 125, and 151, and will provide access to the Duck Island area as well as the Mercer County Resource Recovery Facility. In response, the Department herein advises Mercer County of this realignment.

The Division of Solid Waste Management (DSWM) noted that the CP-1 form for the Resource Recovery facility lists lots 18, 20, 44, 144, 151, and 155 on Block 484. Lot 44 has not been included within the Mercer County plan. Therefore, if this lot is intended to be used as part of the site, it must be included within the plan. In addition, if any of the new lots referenced in this plan amendment are to be utilized for the site of the Resource Recovery Facility, the CP-1 must be amended. In response the Department concurs with the DSWM's comments and through this certification notifies the county of these requirements.

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

I, Helen C. Fenske, Acting 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 July 25, 1989, amendment to the approved Mercer County District Solid Waste Management Plan and certify to the Mercer County Board of Chosen Freeholders that the July 25, 1989 amendment is approved as further specified below.

The inclusion within the county plan of additional parcels of land identified as Lots 53, 120C, 145, 150, and 156, within Block 484 on Duck Island, Hamilton Township, for the Mercer County Resource Recovery and Recycling Facility is hereby approved. In 1986, Mercer County proposed lots, 18, 20, 125, 144, 151 and 155 on Block 484 as the site for the Resource Recovery Facility and Recycling Center. The public notice and plan amendment referenced an additional 8 lots adjacent to the parcel, specifically, Block 484 Lots 17, 43, 53, 126, 145, 149, 150, and 156. The plan certification dated April 6, 1987 approved all 14 lots on Block 484 for inclusion in the plan. The present July 25, 1989 plan amendment formerly adopts four of the adjacent lots 53, 145, 150, and 156 thereby affirming the county's intent to include these lots as part of the Resource Recovery Facility and Recycling Center site. In addition, this certification provides an opportunity to clarify the status of the site included within the Mercer County Plan for the Resource Recovery Facility and Recycling Center. By way of clarification, I note that the following eleven lots on Block 484 represent the site for the Resource Recovery Facility and Recycling Center which have been included within the Mercer County plan to this date: Block 484, Lots 18, 20, 53, 120C, 125, 144, 145, 150, 151, 155, and 156.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals under the 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.

In addition, 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(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 routes and costs to the proposed resource recovery facility site. However, actions by Mercer County subsequent to the Department's certification of the October 14, 1986 amendment indicate that there will be modifications of some of these previously designated routes. Therefore, pending Mercer County's delineation of these final routes within an adopted plan amendment to be submitted to the Department for review, I find the Mercer County Solid Waste Management Plan to remain deficient with regard to N.J.S.A. 13:1E-21b(4).

2. 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.

Regarding the finance plan, the Division of Solid Waste Management has reviewed the documents that were submitted and has determined that although they satisfy the requirements of N.J.S.A. 13:1E-21b(6), the plan was never properly public noticed nor subjected to a specific state level review. Therefore, the district plan remains deficient in this regard, and a formal plan amendment should be adopted and submitted to the Department as soon as possible.

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 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 July 25, 1989. I further direct the Mercer County Freeholders to remedy those deficiencies identified in Section C. of this certification as soon as possible.

Original signed by  
HELEN C FENSKE

16 JAN 1990

DATE

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HELEN C. FENSKE  
ACTING COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION