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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
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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 AUGUST 12, 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 August 12, 1986, adopted an amendment to its approved district solid waste management plan. The amendment includes within the district plan the lots and blocks that are planned to comprise the site of the access road to the Trenton-Ewing Transfer Station. The county has previously adopted, on March 11, 1986, and the Department has previously certified, on August 29, 1986, the

inclusion of the expanded Trenton-Ewing Transfer Station site within the district plan. On June 6, 1986, the county submitted the Environmental and Health Impact Statement and engineering designs for acquiring and expanding the transfer station. This amendment to include the site of the access road is submitted as a planning requirement necessary prior to permit approval.

Although the amendment was adopted a year ago, a misunderstanding over the initial submission delayed the amendment being considered complete. The amendment was finally considered complete by the Department of Environmental Protection on September 10, 1987, 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 August 12, 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 August 12, 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 Solid Waste Management circulated the plan amendment to nineteen 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, the New Jersey Turnpike Authority, the New Jersey Water Supply Authority and the Delaware and Raritan Canal Commission. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Divisions of Fish, Game and Wildlife, Parks and Forestry, Water Resources, Hazardous Waste Management, and Coastal Resources; the State Departments of Agriculture, Health, Community Affairs, and Transportation; the Board of Public Utilities, 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 Department of the Public Advocate, the New Jersey Water Supply Authority, and the U.S. Environmental Protection Agency. The Delaware and Raritan Canal Commission, Green Acres Program, and Division of Environmental Quality submitted substantive comments which are further addressed below.

The Delaware and Raritan Canal Commission (DRCC) commented that if the planned project involves the construction of more than one (1) acre of new impervious surface, a DRCC Certificate of Approval will be required. The Green Acres Program expressed concern for the potential impact of the planned project on the nearby Green Acres funded Stout Avenue Playground. 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). In response, the concerns expressed by the aforementioned state agencies must be addressed by the county during the technical phase of the Department's permit review process which is ongoing. By way of this certification, Mercer County is so advised.

The Division of Solid Waste Management has reviewed the amendment and is concerned with the traffic impact of the proposed facility expansion upon local roads, and the suitability of traffic accessibility to the site. These concerns were addressed in a January 21, 1987 letter to the applicant. To date, these deficiencies have not been addressed by the applicant. Until a satisfactory resolution of these issues and the above mentioned state agency comments is achieved, issuance of a permit will not be forthcoming.

Finally, Mercer County's primary intention to acquire and expand the Trenton-Ewing Transfer Station is to facilitate out-of-state disposal until its planned resource recovery facility is operational. Recent actions by neighboring states to restrict out-of-state disposal raise questions regarding the viability of long-term dependence on out-of-state disposal. In particular, Pennsylvania has recently imposed waste flow restrictions on landfills which has the affect of curtailing increased use of these facilities by New Jersey counties. By January 1, 1988, the Department estimates that close to 50% of all solid waste generated within New Jersey will be disposed of at out-of-state facilities. In light of this, the Department has established a firm position that dependence upon out-of-state disposal is tenuous and uncertain. Therefore, our goal is to eliminate all out-of-state arrangements and achieve statewide self sufficiency by 1992.

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 August 12, 1986 amendment to the approved Mercer County District Solid Waste Management Plan and certify to the Mercer County Board of Chosen Freeholders that the August 12, 1986 amendment is approved as further specified below.

The inclusion into the district plan of the site for an access road to the Trenton-Ewing Transfer Station, to be located on Block 13, Lots 3, 10, 17 (partial), 19(partial), and 21(partial), within the Township of Ewing, is approved. The construction or operation of this facility expansion, however, 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.

The Department has also reviewed the entire Mercer County District Solid Waste Management Plan to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. As noted in the certification of the December 9, 1986 amendment to the Mercer County District Solid Waste Management Plan, which I signed on June 5, 1987, the Mercer Plan is deficient with respect to the requirements of:

1. N.J.S.A. 13:1E-21b(3) which 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.
2. N.J.S.A. 13:1E-21b(4) which 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.
3. N.J.S.A. 13:1E-21b(5) which 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.
4. N.J.S.A. 13:1E-21b(6) which requires a method or methods of financing solid waste management in the Solid Waste Management District pursuant to the Solid Waste Management Plan.

Until a plan amendment including either an in-county site for a landfill, certifying failure to identify an in-county landfill, or reaching an interdistrict agreement with another New Jersey county is approved by the Department, the Mercer County Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(3). In addition, since the landfill disposal issue has not been resolved, the plan remains deficient with respect to transportation and financial planning, and in the area of interdistrict agreements as set forth in N.J.S.A. 13:1E-21b (4)(5) and (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 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 Authority

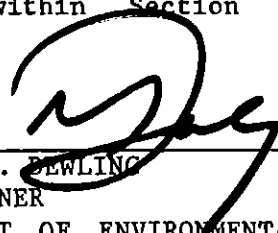
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Mercer County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide Solid 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 August 12, 1986.

I hereby further direct the Mercer County Board of Chosen Freeholders to remedy those deficiencies enumerated within Section C. of this certification in a expeditious manner.

December 22, 1987
DATE



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION