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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 OCTOBER 14, 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 Board 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 October 14, 1986, adopted an amendment to its approved district solid waste management plan. The amendment proposes inclusion of a recycling facility and a resource recovery facility on Duck Island, Hamilton Township.

The amendment was received by the Department of Environmental Protection on November 17, 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 October 14, 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 October 14, 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 eighteen 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. Division of Parks and Forestry; the State Departments of Agriculture and Community Affairs; the Board of Public Utilities, the Green Acres Program, the Office of Recycling, the New Jersey Turnpike Authority, the New Jersey Advisory Council on Solid Waste Management and the New Jersey Water Supply Authority. The following agencies failed to respond to our requests for comments: the State Departments of Health and the Public Advocate; and the U.S. Environmental Protection Agency. The Department of Transportation, the Divisions of Fish, Game and Wildlife, Environmental Quality, Coastal Resources, and Water Resources and the Delaware and Raritan Canal Commission submitted substantive comments which are further addressed below.

The Department of Transportation (DOT) commented that until completion of the Trenton Complex (the linking of State Route 29 and Interstate Routes 195 and 295), the proposed project will adversely impact upon local roads and a detailed analysis of this impact should be performed. Also, the DOT indicated that since the amendment was prepared, the estimated completion date of Interstate 195 and 295 has been revised to 1993 and the completion of Route 29 revised to 1998. Finally, DOT commented that trucks using the Trenton Complex to access the planned facilities must comply with the maximum weight and axle load criteria for the Interstate Highway System. In response, the Division of Solid Waste Management is also concerned with the potential traffic impacts of the proposed projects on local roads, particularly Lalor and Lamberton Streets. A detailed analysis of existing

and planned access routes which evaluates level of service impacts must be performed as part of the technical review phase of the Department's permit process.

The Division of Fish, Game and Wildlife commented that the applicant should conduct surveys to ascertain whether endangered/threatened wildlife species occupy the site of the proposed facilities. In response, this issue must be addressed during the Department's permit review process.

The Division of Environmental Quality (DEQ) commented that air pollution permits and a federal Prevention of Significant Deterioration Permit are required from the DEQ. In response, this issue must also be addressed and permits sought during the technical phase of the Department's permit process.

The Division of Coastal Resources (DCR) commented that the applicant should request a pre-application conference with the DCR to ascertain whether any permits are required from the Division. Through an interagency pre-application meeting held on February 6, 1987, Mercer County officials were notified of this requirement.

The Delaware and Raritan Canal Commission commented that the proposed projects appear to be inconsistent with the master plan and regulations of the commission. Specifically, the facilities are planned for a site defined as "rural environment" and, according to the master plan, destined for extensive historic restoration and recreational use. Also, based on the project's preliminary plans, existing commission regulations require set-backs greater than planned and height restrictions that the project will find impossible to meet. In response, by copy of this certification, Mercer County is informed that it must apply for and obtain a certificate of approval from the Delaware and Raritan Canal Commission.

The Division of Water Resources (DWR) commented that the site in question has been disturbed by previous landfilling activities. Therefore, a site assessment should be conducted by the applicant to ascertain the degree, if any, of existing groundwater and soil contamination. Also, the DWR indicated that New Jersey Pollutant Discharge Elimination System discharge to groundwater and discharge to surface water permits may be necessary. In response, these issues must also be addressed during the technical phase of the Department's permit process.

The Division of Solid Waste Management (DSWM) has reviewed the amendment and has numerous concerns that must be addressed within the submission of an acceptable environmental and health impact statement and engineering designs. In addition to the Division's concerns regarding traffic impacts as indicated above, the DSWM has concerns regarding the justification for sizing the resource recovery facility up to 2,000 tons per day, (1200 tons per day above current Mercer County generation estimates), past on-site disposal activities, and the lack of available utility service to the site. These issues must be adequately addressed prior to any authorizations from the Department to proceed with project development.

With specific reference to the capacity issue, Mercer County will be required to have adopted a plan amendment to incorporate an interdistrict

agreement(s) to account for the source of its proposed excess capacity prior to any action by the Department at the Preliminary Environmental and Health Impact Statement phase of project development. Lacking the necessary agreements, the county should notify the Department, at the earliest possible time within project development, of a downgraded capacity which more accurately reflects current generation estimates. While a reasonable level of over design is appropriate in the absence of detailed generation data, the county's proposal of a throughput capacity at 150% above current projected need is unacceptable in the absence of secured interdistrict agreements.

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 October 14, 1986, amendment to the approved Mercer County District Solid Waste Management Plan and certify to the Mercer County Board of Chosen Freeholders that the October 14, 1986 amendment is approved as further specified below.

The inclusion within the district plan of a resource recovery facility and a recycling facility on Block 484, Lots 17, 18, 20, 43, 53, 125, 126, 144, 145, 149, 150, 151, 155, and 156 in the Township of Hamilton are approved. In addition, the specific capacity for the facility is approved with modifications. This approval certifies development of an 800-1200 TPD facility which reflects current waste generation estimates for Mercer County. Based upon projected waste generation data found in the Mercer County Resource Recovery Siting Report, a capacity in excess of 800-1200 TPD will be determined to be consistent with the plan, if and only if, a plan amendment to incorporate an interdistrict agreement(s) to account for any excess capacity is adopted prior to action by the Department on a Preliminary Environmental and Health Impact Statement submitted pursuant to N.J.S.A. 13:1E-26. 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.

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(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 in-county site for a landfill has been selected. In addition, the Department does not consider out-of-state disposal arrangements, which are beyond the effective control of the State of New Jersey or its separate counties, to be a viable long-term disposal option. 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.

2. 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 as part of this amendment a study summarizing transportation costs to the proposed resource recovery facility site. However, a similar study to existing or available landfill sites has not been received. Therefore, I find the Mercer County Solid Waste Management Plan to be deficient in this respect.

3. 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. 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 should disposal privileges at the GROWS Landfill terminate. Therefore, I find the Mercer County Solid Waste Management Plan to be deficient in this respect.

4. 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 Waste 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 N.J.A.C. 7:26-2.13.

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 October 14, 1986. I hereby further direct the Mercer County Board of Chosen Freeholders to rectify those deficiencies specified in Section C. of this certification as soon as possible.

4/6/87
DATE



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION