

Let's protect our earth



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(MORRIS COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE JUNE 27, 1990
AMENDMENT TO THE MORRIS 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 January 29, 1981, the Department approved, with modifications, the Morris 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 Morris County Board of Chosen Freeholders completed such a review and on June 27, 1990 adopted an amendment to its approved district solid waste management plan. The amendment includes in the district plan the Ox Contractors Stump Processing Facility located in Roxbury Township.

The amendment was received by the Department of Environmental Protection on July 31, 1990, and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment, and has determined that the amendment adopted by the Morris County Board of Chosen Freeholders on July 27, 1990 is approved as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Morris County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I, Judith A. Yaskin, Commissioner of the Department of Environmental Protection have studied and reviewed the July 27, 1990 amendment to the Morris 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 Department of 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. Division of Parks and Forestry; the State Departments of Agriculture, Community Affairs and Transportation; the Board of Public Utilities, the Green Acres Program, the New Jersey Turnpike Authority, and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our request for comments: the State Departments of Health and the Public Advocate, and the U.S. Environmental Protection Agency. The Divisions of Environmental Quality, Water Resources, Fish, Game and Wildlife, Coastal Resources and Solid Waste Management submitted substantive comments which are further addressed below.

The Division of Environmental Quality commented that the use of chippers may necessitate the control of particulate emissions to the air. Pursuant to N.J.A.C. 7:27-8.2(a), 7, 11, 15 and 16, air pollution control permits may be required to construct, install or alter control apparatus or equipment.

The Division of Environmental Quality further commented that recycling centers are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life or property. Recycling centers are considered solid waste facilities, which are subject to N.J.A.C. 7:27-8.2(a)16, which require air pollution permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants.

The Division of Water Resources commented that the project site contains wetlands and, as such, the project is regulated in accordance with the Freshwater Wetlands Protection Act (FWPA). However, should the project be exempt from FWPA, there exists language in the Upper Raritan Water Quality Management Plan (WQMP) to which the project would be subject that restricts development in wetlands. If exempt from the Freshwater Wetlands Protection Act, the applicant should apply to the Division of Water Resources, Bureau of Water Quality Planning, regarding a consistency review with the Upper Raritan WQMP.

The Division of Water Resources further commented that in accordance with N.J.A.C. 7:14A-3.2(a)1, any person who discharges or proposes to discharge pollutants, including stormwater, as defined in N.J.A.C. 7:14-3.1, into the surface or groundwaters of the state and who does not have an effective permit, shall submit a complete application to the Department in accordance with N.J.A.C. 7:14A-2.1 or 3.3. and subchapter 7 and 8.

The Division of Fish, Game and Wildlife commented that they have no major objections to the proposal; however, two concerns exist. The first concern is the immediate proximity of wetlands to the active part of the facility. Conditions should be imposed upon the facility to prevent expansion, whether purposeful or inadvertent, to protect these wetlands. The second concern is that the facility is in the drainage of a FW-2 trout production stream, Ledgewood Brook, protected by the antidegradation policies of Category 1 Waters according to the provisions of N.J.A.C. 7:9-4.1 et seq. Run-off from the project operations must be properly handled and meet with the State's antidegradation criteria prior to any introduction to Ledgewood Brook or its tributaries.

The Division of Coastal Resources commented that based upon the submitted documentation and the site location project activity and drainage area of the stream, a Stream Encroachment Jurisdiction Determination letter will be required. The Ox Contractors Stump Processing Facility owner/operator must submit hydrologic calculations along with a cover letter requesting a Jurisdiction Determination to the Division of Coastal Resources, Bureau of Technical Services, CN 401, Trenton, New Jersey 08625.

The Division of Coastal Resources further commented that the applicant (Ox Contractors) obtained a Preliminary Site Plan approval from the Board of Adjustments of Roxbury Township on June 9, 1988; therefore, all activities as mentioned in the Preliminary Site Plan approval are exempt from the Freshwater Wetlands Protection Act according to the provision of N.J.A.C. 7:7A-2.7(d)1.

The Division of Solid Waste Management commented that per the requirements of N.J.S.A. 13:1E-99.34, "no recycling center shall receive, store, process or transfer any waste material other than source separated nonputrescible metal, glass, paper, or plastic containers, and corrugated and other cardboard without the prior approval of the Department." The Department's Office of Recycling has identified tires, wood waste and certain construction/demolition debris as materials which may be accepted at a Department approved recycling facility. A facility accepting source separated non-putrescible tires, wood waste, or construction/demolition debris must have the prior approval of the Department. The approval, in this case, is an approval from the Department's Office of Recycling based on a list of qualifying factors which is available from the Department. A Department solid waste facility permit is not required.

The Division also commented that although a solid waste facility permit is not required for the facility, district solid waste management plan consistency is required. Through this certification of the amendment to the Morris County District Solid Waste Management Plan, the Ox Contractors Stump Processing Facility is made consistent with the Morris County Plan.

Further, the Division of Solid Waste Management noted that this facility has been operational prior to receiving all the required approvals and permits from the various agencies and is now in the process of obtaining said permits. This certification approving the district plan inclusion of the facility does not alleviate the owner/operator of this facility from obtaining all other approvals and permits which may be necessary. In addition, approval of the Ox Contractors Stump Processing Facility within the Morris County Plan does not preclude the Division from initiating enforcement action for operation without necessary permits and approvals.

The Department responds that, as noted above, concerns were raised by some state level review agencies concerning the possibility of the project site containing wetlands. Engineering designs submitted by the applicant as required by the Department's Office of Recycling indicated that the site does not contain wetlands and that there is fifty (50) foot buffer zone from the wetlands area. Nevertheless, the facility owner/operator should contact the U.S. Army Corps of Engineers regarding possible permit requirements at the Federal level for wetlands involvement.

In response to other comments made by the various review agencies, the Department states that it is the facility owner/operator's responsibility to obtain and keep valid all necessary approvals and permits to operate the facility. Therefore, by copy of this certification, Morris County and the Ox Contractors Stump Processing Facility owner/operator are informed of these requirements, and Ox Contractors Stump Processing Facility is directed in Section E below to acquire all necessary Departmental permits or authorizations in an expeditious manner.

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

I, Judith A. Yaskin, 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 June 27, 1990 amendment to the approved Morris County District Solid Waste Management Plan and certify to the Morris County Board of Chosen Freeholders that the June 27, 1990 amendment is approved as further specified below.

The district plan inclusion of the Ox Contractors Stump Processing Facility, located at Block 16, Lot 7.1, in Roxbury Township, is approved. The facility shall only accept 100% natural land clearing debris including stumps, brush, branches, logs, roots, tree trunks, shrubberies and other wood items. Such materials shall be split into pieces of wood no larger than 14" X 14". The wood pieces shall then be stockpiled prior to marketing or transported to secondary and tertiary processors. Stockpiling shall be restricted to a defined 200 feet by 300 feet area and shall not exceed a maximum height of 30 feet. The facility shall have a maximum processing capacity of 500 tons per day. The operation of this facility shall be in conformance with Departmental regulations and guidelines. The operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et. seq., and all applicable laws and regulations.

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 Morris 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 Morris 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 Morris County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Morris 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 Plan

The provisions of the Morris 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 Morris 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 Morris County District Solid Waste Management Plan contained herein shall take effect immediately.

7. Reservation of Authority

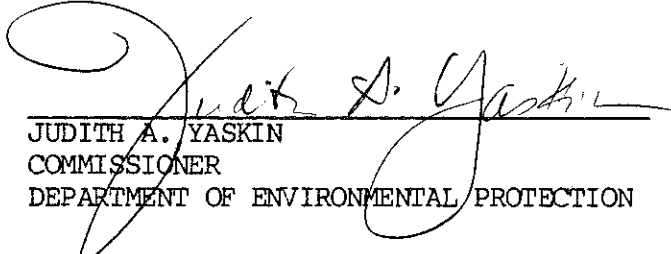
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Morris County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide Solid 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 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 Morris County District Solid Waste Management Plan which was adopted by the Morris County Board of Chosen Freeholders on June 27, 1990. I also hereby direct the owner/operator of the Ox Contractors Stump Processing Facility to acquire all applicable Departmental permits or authorizations in an expedient manner.

December 17, 1990
DATE



JUDITH A. YASKIN
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION