



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ROBERT E. HUGHEY, COMMISSIONER  
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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 JULY 10, 1985 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 July 10, 1985, adopted an amendment to its approved district solid waste management plan. The amendment was received by the Department of Environmental Protection on

July 19, 1985 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 Morris County District Solid Waste Management Plan, and has determined that the amendment adopted by the Morris County Board of Chosen Freeholders on July 10, 1985 is approved as provided in N.J.S.A. 13:1E-24. With regard to the district's 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 Morris County District Solid Waste Management Plan Amendment

On January 9, 1985 the Morris County Board of Chosen Freeholders and the Department of Environmental Protection entered into an Administrative Consent Order (A.C.O.). Provisions of the A.C.O. required Morris County to amend its district solid waste management plan to designate Site 6-1B in Rockaway Township or an alternative site for the development of a sanitary landfill, following the performance of an environmental analysis by the Department of Environmental Protection of the 6-1B site. The Department retained Woodward-Clyde Consultants to conduct the site analysis and their study results enabled the Department to conclude that Site 6-1B in Rockaway Township, if developed in accordance with applicable environmental standards, is a suitable site for the construction of a sanitary landfill.

On July 10, 1985, the Morris County Board of Chosen Freeholders amended their district solid waste management plan to include the Rockaway Township site. The plan amendment also contained other revisions to update the plan which are addressed in more detail in Section C. of this certification.

Pursuant to N.J.S.A. 13:1E-24a(1), I Robert E. Hughey, Commissioner of the Department of Environmental Protection have studied and reviewed the July 10, 1985 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 fully 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-24(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. In addition, the plan amendment was also submitted to 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. Three of these agencies, the Division of Fish, Game and Wildlife, the Green Acres Program and the Department of the Public

Advocate submitted comments adverse to the plan amendment. Prior to my decision on this plan amendment, Dr. Marwan M. Sadat, Director of the Division of Waste Management, and his staff were directed to prepare a memorandum analyzing the concerns raised by these state agencies. Dr. Sadat prepared a memorandum to Assistant Commissioner George Tyler. While I accept the findings and conclusions in this memorandum and attach a copy hereto, I also add the following: Essentially the adverse comments focus on two issues; possible degradation of the surrounding environment due to the development of the landfill and concern over competing land uses for the proposed landfill site. Pursuant to the Solid Waste Management Act, no solid waste facility may be constructed or operated until a detailed application for formal authorization is submitted to and reviewed by the Department. This application must include a specific engineering design sufficient to demonstrate that the facility will meet the standards and criteria set forth in the Solid Waste Management Act and its implementing regulations. Therefore, this permitting procedure will assure that construction and operation of any landfill facility at this site will not degrade the surrounding environment.

I also wish to comment with regard to the issue concerning the potential competing use of Site 6-1B for affordable housing. Although my obligation to consider low-income housing needs in reviewing this plan amendment is by no means clear, I have considered this competing concern. The consideration of this issue does not alter my decision to approve Site 6-1B for inclusion in the Morris County Solid Waste Management Plan. I have examined this issue and considered the aforementioned memorandum prepared by Dr. Sadat, and for the reasons expressed in the that memorandum, I conclude that the preferred use for this property is for a solid waste disposal facility, rather than for a housing development that includes a percentage of affordable housing units.

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

I, Robert E. Hughey, 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 10, 1985 amendment to the approved Morris County District Solid Waste Management Plan and certify to the Morris County Board of Chosen Freeholders that the July 10, 1985 amendment is approved as further specified below.

The inclusion in the plan of Site 6-1B in Rockaway Township as the designated site for the development of a sanitary landfill is approved. The removal of the borough of Butler, the borough of Kinnelon and the township of Pequannock from waste flows associated with the Lakeland Regional Solid Waste Authority is approved. The blanket compost facility siting policy which states that all compost facilities are consistent with the Morris County Plan, provided they meet existing environmental, design and operation standards of the N.J.D.E.P. is approved. The establishment of county-wide mandatory recycling for each municipality is approved. The incorporation of the January 9, 1985 Administrative Consent Order (A.C.O.) into the district plan is approved.

The construction or operation of any solid waste facility shall be preceded by the obtainment of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq. and all other applicable laws. The issuance of construction and/or operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department to be fit and competent to manage such facilities.

The Department has reviewed the entire Morris 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(1) requires the designation of a department, unit, or committee of county government . . . to supervise the implementation of the county's solid waste management plan.

Morris County has complied with the requirements of N.J.S.A. 13:1E-21b(1) by designating the Morris County Planning Board to supervise the implementation of the district solid waste management plan.

2. N.J.S.A. 13:1E-21b(2) requires a statement of the solid waste disposal strategy to be applied . . . which strategy shall include the maximum practicable use of resource recovery procedures and a plan for using terminated landfill disposal sites . . . in the Solid Waste Management District.

The Department considers Morris County's proposed terminated landfill policy an appropriate first step. The county plan still does not comply with the Act which requires a specific plan for using each terminated landfill in the county. Therefore, the Morris County Plan remains deficient with respect to N.J.S.A. 13:1E-21b(2).

3. 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.

The July 10 1985 Amendment incorporates the January 9, 1985 Administrative Consent Order which provides schedules for the development of an in-county landfill at site 6-1B in Rockaway Township or another suitable site and a resource recovery facility at a site to be designated by September 1, 1985. The incorporation of the January 9, 1985 Administrative Consent Order enables the Morris County plan to meet the requirements of N.J.S.A. 14:1E-21b(3).

4. 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 sites for solid waste disposal facilities.

With the designation of Site 6-1B in Rockaway Township for the development of a sanitary landfill, the Morris County plan is deficient in regard to the requirements of N.J.S.A. 13:1E-21b(4) due to the fact that a survey of transportation routes and projected costs has not been completed.

5. 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.

The solid waste management act requires districts which import or export waste to reach formal interdistrict agreements. No such agreements exist between Morris County and the districts to which Morris County exports its solid waste. Therefore, the Morris County Solid Waste Management Plan is deficient in meeting the requirements of N.J.S.A. 13:1E-21b(5).

6. 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.

Morris County has not submitted to the DEP a specific plan for financing solid waste management within the district. Therefore, Morris County has not complied with N.J.S.A. 13:1E-21b(6) and this section of the Morris County District Solid Waste Management Plan is deficient.

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, 10, and 12 and all other applicable laws.

3. Types of Solid Wastes Covered by the District Solid Waste Management Plans

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) which are part of the Morris County District Solid Waste Management Plan.

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, as provided for by N.J.S.A. 13:1E-24f., to 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 Morris County District Solid Waste Management Plan contained herein shall take effect immediately.

Final disposition of such proposed changes in the state waste flow rules will be determined pursuant to formal rulemaking by the Department and the Board of Public Utilities in accordance with N.J.A.C. 7:26-6.6.

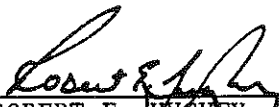
7. Reservation of Authority

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 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 B of this certification, to the Morris County District Solid Waste Management Plan which was adopted by the Morris County Board of Chosen freeholders on July 10, 1985, and further direct the Morris County freeholders to remedy those deficiencies outlined in Section C of this certification within 90 days of the date of this certification.

8/19/85  
DATE

  
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ROBERT E. HUGHEY  
COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION