



State of New Jersey
Department of Environmental Protection and Energy
Office of the Commissioner
CN 402
Trenton, NJ 08625-0402

Jeanne M. Fox
Acting Commissioner

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 DECEMBER 22, 1993
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 of Environmental Protection approved, with modifications, the Morris County District Solid Waste Management Plan (County 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 a 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 a 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 County Plan at any time and, if found inadequate, a new County Plan must be adopted. The Morris County Board of Chosen Freeholders (County Freeholders) completed such a review and on December 22, 1993, adopted an amendment to its approved County Plan. The amendment proposed County Plan inclusion of the September 21, 1993 Agreement (Agreement) between Morris County, the Morris County Municipal Utilities Authority (MCMUA), the Morris County Transfer Station, Inc. (MCTS) and the Chambers New Jersey Land, Inc. (CNJL). The September 21, 1993 Agreement is an amendment to a Settlement Agreement dated October 24, 1989, and later amended on February 27, 1991. The principal components of the September 21, 1993 Agreement are:

- * the MCMUA will purchase the Parsippany-Troy Hills and Mt. Olive transfer stations and properties by December 31, 1993 for \$9.5 million;
- * MCTS will operate the transfer station facilities following closing of title and until termination. Termination will occur upon the earlier of December 31, 1996 or the date upon which the new County solid waste management system becomes operational;
- * the 1994 per ton rates will be reduced, subject to DEPE review and approval, to \$110.00 for solid waste types 10, 13, 23, and 25, and \$147.00 for solid waste type 27 from the previous rates of \$131.75 and \$172.00, respectively;
- * after January 1, 1995, MCTS will transport the solid waste to the Tullytown Landfill and the rates for the transfer operations and transportation to the landfill will be \$30.00 and \$17.00 per ton, respectively;
- * the solid waste franchise will shift from MCTS to the MCMUA; and
- * the MCMUA will assume administrative and billing responsibilities as of January 1, 1995.

The December 22, 1993 amendment was received in draft form by the Department of Environmental Protection and Energy (Department or DEPE) on November 23, 1993 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment, and has determined that the amendment adopted by the County Freeholders on December 22, 1993 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 have studied and reviewed the December 22, 1993 amendment to the County 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 this regard, the County Freeholders and the applicant are notified of the issues of concern relative to the December 22, 1993 amendment which are included in Section B.2 below.

In conjunction with the review of the amendment, the Department circulated copies to fifteen administrative review agencies and solicited their review and comment. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various bureaus, divisions, and agencies within the Department. These agencies are the following:

Office of Air Quality Management, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Division of Solid Waste Management, DEPE
Green Acres Program, DEPE
Land Use Regulation Element, DEPE
Wastewater Facilities Regulation Element, DEPE
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Health
Department of Transportation
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the December 22, 1993 Amendment

The following agencies did not object to the proposed plan amendment:

Division of Parks and Forestry, DEPE
Green Acres Program, DEPE
Land Use Regulation Element, DEPE
New Jersey Turnpike Authority
Department of Agriculture
Department of Community Affairs

The following agencies did not respond to the Department's requests for comments:

Office of Air Quality Management, DEPE
Division of Fish, Game and Wildlife, DEPE
Wastewater Facilities Regulation Element, DEPE
New Jersey Advisory Council on Solid Waste Management

Department of Health
Department of Transportation
Department of the Public Advocate
U.S. Environmental Protection Agency

The following agency submitted substantive comments which are further addressed below:

Division of Solid Waste Management, DEPE

2. Issues of Concern Regarding the December 22, 1993 Amendment

Issue: Regulatory Approvals

While Section C. of this certification approves the County Plan inclusion of the Agreement, which is the first step in the regulatory approval process, separate approvals are necessary for the revised tariff rates and facilities sale, and the issuance of a solid waste franchise, a Certificate of Public Convenience and Necessity, and a Temporary Certificate of Authority to Operate to the MCMUA. Therefore, the approval of the County Plan inclusion of the Agreement does not relieve Morris County and/or MCMUA from obtaining all these required regulatory approvals. It should be noted, however, that these submissions have been received and are under review.

Issue: Out-of-State Landfill Contract Approval

The Agreement contains provisions for Morris County to use out-of-state landfills under a long-term contract with Waste Management of Pennsylvania, Inc. (WMPA) effective January 1, 1995. The long-term out-of-state disposal strategy and the WMPA arrangement were the subject of the March 10, 1993 Morris County Plan amendment certified by the DEPE on August 25, 1993. The August 25, 1993 certification stated that it would be contrary to the goals of the DEPE to approve a long-term out-of-state disposal strategy. Accordingly, that portion of the March 10, 1993 amendment which designated a WMPA landfill as the County's future disposal site was modified so that its submission to the DEPE for certification is contingent upon the County also submitting a more comprehensive long-term disposal strategy by February 21, 1994. This strategy is to include specific milestones for siting and developing in-county disposal facilities or entering regional agreements for the shared use of planned or existing in-state disposal capacity. Also, Morris County was required to submit to the DEPE by September 8, 1993 the WMPA contract for technical review. To date, the DEPE has received neither submission from Morris County. Therefore, while Section C. of the certification approves the September 21, 1993 Agreement, the provisions for the long-term use of WMPA out-of-state landfills and the WMPA contract are still subject to the submission requirements contained in the August 25, 1993 certification.

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

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-21, which establishes specific requirements regarding the contents of the district solid waste management plans, I have reviewed the December 22, 1993 amendment to the approved Morris County Plan and certify to the County Freeholders that the December 22, 1993 amendment is approved as further specified below.

The County Plan inclusion of the September 21, 1993 Agreement between Morris County, the MCMUA, the MCTS and CNJL is approved. The principal components of the September 21, 1993 Agreement were previously outlined in Section A. of this certification. In addition, as noted in Section B.2. of this certification, the approval of the County Plan inclusion of the September 21, 1993 Agreement does not represent an approval of a tariff rate adjustment, facilities sale, solid waste franchise shift, issuance of a Certificate of Public Convenience and Necessity and a Temporary Certificate of Authority to Operate, or long-term contract for out-of-state disposal which are subject to separate regulatory approvals. Further, Morris County is once again reminded of the provisions set forth in the Department's August 25, 1993 certification which required the submission of the County's long-term disposal strategy and WMPA contract.

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 this amendment to the County 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 and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment and of the County 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, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and transporters registered with the Department and operating within the County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the County Plan. Any facility operator or transporter 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 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 County 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. All nonhazardous 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 set forth at N.J.A.C. 7:26-6, but are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

4. Certification to Proceed with the Implementation of the Plan Amendment

This document shall serve as the certification of the Acting Commissioner of the Department to the County Freeholders and pursuant to N.J.S.A. 13:1E-24c and f, the County shall proceed with the implementation of the approved amendment certified 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 -99.12, N.J.A.C. 7:26-1.4 and -2.13, and N.J.A.C. 7:26A-1.3.

6. Effective Date of the Amendment

The amendment to the County 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 pursuant to its authority under the law. The County 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, rules, regulations, orders of the Department, 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 Acting Commissioner of the Department of Environmental Protection and Energy

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 December 22, 1993.

December 29, 1993
DATE

Jeanne M. Fox
JEANNE M. FOX
ACTING COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND ENERGY

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