



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 DECEMBER 27, 1989  
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 December 27, 1989, adopted an amendment to its approved district solid waste management plan.

The amendment proposed the designation of Site 15 in Roxbury Township as the site for the district resource recovery facility (RRF); the deletion of Site 6-1B in Rockaway Township as the site for the district RRF; the sizing of the RRF at 1340 TPD; the designation of a waste flow to the RRF; the designation of transportation routes to the RRF; and a description of RRF project activities and responsibilities.

The amendment was received by the Department of Environmental Protection on February 8, 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 December 27, 1989 is remanded for modification, as provided in N.J.S.A. 13:1E-24, consistent with the final report and recommendations of Governor Florio's Emergency Solid Waste Assessment Task Force, as may be modified for implementation by the Governor.

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 December 27, 1989 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 potentially inconsistent 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 State Department of Agriculture, the Board of Public Utilities and the Green Acres Program. The following agencies failed to respond to our requests for comments: the State Departments of Health, Community Affairs and the Public Advocate; the New Jersey Turnpike Authority, the New Jersey Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The Divisions of Environmental Quality, Water Resources, Coastal Resources, Parks and Forestry, Fish, Game and Wildlife and Solid Waste Management and the New Jersey Department of Transportation submitted substantive comments which are further addressed below.

These review agencies have made substantive comments based upon an assumption that the district solid waste management plan would include the proposed resource recovery facility. The Department notes that the modification of the plan amendment in question may preclude Morris County from including the facility in its solid waste management plan. The substantive comments of the review agencies shall not be construed as implying that the facility eventually will be included in the district plan. As stated above, the eventual inclusion of the facility in the district plan will depend upon the final report and recommendations of the Emergency Solid Waste Assessment Task Force, as such report and recommendations may be modified for implementation by Governor Florio.

The Division of Environmental Quality commented that resource recovery facilities (RRF) are subject to the general prohibition of air pollution as defined in 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. RRF's are subject to N.J.A.C. 7:27-8.2 (a)14 and 16. These regulations require air pollution control permits and certificates for any incinerators and for any equipment which ventilates a solid waste facility directly or indirectly into the ambient atmosphere. The vents may require devices to limit emissions of odors and other air contaminants. New and modified equipment which emits air contaminants must incorporate advances in the art of air pollution control. For incineration, this usually includes scrubbing for hydrochloric acid control, a baghouse for particulate control, and burners in a secondary combustion zone for hydrocarbon control. Add-on nitrogen oxide control may also be required. Also, the combustion of used oil and mixtures of used oil and other oil are subject to the provisions of N.J.A.C. 7:27-8.2(a)13 which requires the combustion of such oil only be done in controlled devices with air pollution control permits specific to the combustion of used waste oil.

Further, the operation of the RRF may not cause a contravention of the national or state ambient air quality standards, or exacerbate violations in an existing non-attainment area. If the proposed site for a RRF is located in an area which has been designated as attainment or unclassifiable for the national ambient air quality standards (NAAQS), a federal Prevention of Significant Deterioration (PSD) permit (issued by NJDEP under a delegation agreement) will be required. If the proposed site is located in a non-attainment area for any of the state or national ambient air quality standards, then the facility is subject to the provisions of N.J.A.C. 7:27-18, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rule)". The facility will be required to secure emission offsets and control the emissions of the relevant criteria pollutant to the degree that represents the lowest achievable emission rate (LAER) if certain emission rates are exceeded.

The Division further commented that air quality modelling will be required to determine the effect of the RRF on ambient air quality. The effect of all major sources of air contaminants near the proposed facility must be included in the modeling demonstrations. Additionally, the effect of traffic created by the construction and operation of the facility on ambient air quality must also be determined.

At this time any permit application for waste incineration with a charging capacity over 800 pounds per hour should include:

1. Air quality modelling.
2. Cancer risk assessment for metals, dioxin, and PAH demonstrating low cancer risk on and off site.
3. Continuous emission monitoring and recording for opacity, carbon monoxide, oxygen, secondary chamber temperature, nitrogen oxides, sulfur dioxide and non-methane hydrocarbons.
4. Extensive stack testing after construction.
5. Compliance with the Department's "Air Pollution Control Guidelines for Resource Recovery Facilities and Incinerators" March 1983, amended November 1, 1984, and again April 1987, if the charging capacity of the incinerator is over 800 pounds per hour.

In response, by copy of this certification, the county is notified of these requirements should the plan modification required hereby allow for the inclusion of the proposed resource recovery facility in the district plan.

The Division of Coastal Resources commented that a Stream Encroachment Permit will not be required as no defined waterway exists on site and the drainage area within the headwaters of Willis Brook appears to be less than fifty yards. The Division also commented that according to the National Wetlands Inventory Maps, wetlands (PF01) are located within the subject property. Therefore, the extent of wetlands needs to be determined. The applicant seeking a permit for the proposed resource recovery facility should obtain a Freshwater Wetlands Letter of Interpretation. Once the extent of wetlands are determined, it can then be determined if any Freshwater Wetlands Permits will be required. In response, by copy of this certification, the county is notified of these requirements should the plan modification required hereby allow for the inclusion of the proposed resource recovery facility in the district plan.

The Division of Parks and Forestry commented that while there are no identified cultural properties listed in or eligible for listing in the State Register of Historic Places at the proposed Roxbury site, no cultural resources surveys have been conducted in the area and there is a potential for archaeological resources within the designated facility and buffer zone site. The applicant seeking a permit for the proposed resource recovery facility should contact the Office of New Jersey Heritage for the specific requirements of archaeological investigations to identify and evaluate cultural resources within the project area. In response, by copy of this certification, the county is notified of these requirements should the plan modification required hereby allow for the inclusion of the proposed resource recovery facility in the district plan. The applicant will be required to address this concern in the Preliminary Environmental and Health Impact Statement submitted during the technical phase of the Department's permit process.

The Division of Fish, Game and Wildlife commented that they note the presence of palustrine forested wetlands on-site; the proximate location of trout maintenance (Willis Brook) and trout production category 1 waters (Turkey Brook, Flanders Brook); the presence of native brook trout (state threatened) in both Turkey Brook and Flanders Brook watersheds; and the possible occurrence of bog turtles (state endangered) at on-site wetlands. In response, by copy of this certification, the county is notified of these requirements should the plan modification required hereby allow for the inclusion of the proposed resource recovery facility in the district plan. The applicant will be required to address this concern in the Preliminary Environmental and Health Impact Statement submitted during the technical phase of the Department's permit process.

The Department of Transportation commented that access to the proposed facility is by way of Route 206 to Gold Mine Road, then to Eden Lane, and finally to the proposed facility. The plan amendment did not address traffic volumes generated by the facility. Also, off-site improvements to the Route 206/Gold Mine Road intersection may be required to mitigate adverse impacts due to the traffic generation by this facility. Further, any person who proposes to occupy or perform any work within the limits of state highway right-of-way must obtain a valid permit from the New Jersey Department of Transportation. In response, by copy of this certification, the county is notified of these requirements should the plan modification required hereby allow for the inclusion of the proposed resource recovery facility in the district plan. The applicant will be required to address this concern in the Preliminary Environmental and Health Impact Statement submitted during the technical phase of the Department's permit process.

The Division of Water Resources commented that the amendment indicates that a package treatment plant with subsurface disposal will be utilized for treatment of the sanitary wastewater flows from the resource recovery facility which are estimated to be 1500 gallons per day (gpd). The project site is located within the sewer service area of the Musconetcong Sewerage Authority. Any treatment works approvals for facilities with design capacities of 2000 gpd or larger will require amendment of the affected Water Quality Management Plan. In response, by copy of this certification, the county is notified of these requirements should the plan modification required hereby allow for the inclusion of the proposed resource recovery facility in the district plan. The applicant will be required to address this concern in the Preliminary Environmental and Health Impact Statement submitted during the technical phase of the Department's permit process.

The Division of Solid Waste Management commented that the truck routes to the resource recovery facility identified in the amendment are too general and the county must identify specific routes originating from and returning to each municipality. In response, as indicated in Section C. of the certification, the county is directed in either a subsequent amendment or in the Department's technical review phase to delineate specific routes to and from each municipality.

Also, the Division commented that the data used in estimating the amounts of waste to be processed at the resource recovery facility indicate that the facility may be oversized. Contained within the amendment are three different scenarios for the years 1988-2013 indicating the amounts of solid waste estimated to be generated, recycled, and disposed of, and that portion of the waste stream which is processible. The variable, in these scenarios, is different recycling/source separation rates of 29%, 34.6% and 37.6% which yield different amounts of processible solid waste. Assuming a base line tonnage of 415,500 tons per year which represents 85% of the actual throughput capacity of a 1,340 tons per day facility (489,100 tons) and a start-up of 1994, the county will achieve this baseline amount in years 8, 12, or 14 of operation of the resource recovery facility depending upon the scenario. Operating the facility in the early years at levels below full capacity will require further justification. In response, as indicated in Section C. of the certification, the Department may modify the size of the facility during the permit review process.

Finally, the Division of Solid Waste Management commented that on April 6, 1990 Governor Florio issued Executive Order #8. This order, among other things, prohibits Departmental approval of any amendment that sites or increases the capacity of a waste-to-energy resource recovery facility until August 4, 1990. Since the 150-day review period for the amendment ends on July 6, 1990, the Division of Solid Waste Management recommended that this amendment be remanded for modification consistent with the final report and recommendations of the Emergency Solid Waste

Assessment Task Force established pursuant to Executive Order #8, as such report and recommendations may be modified for implementation by Governor Florio. In response, the Department notes the Division of Solid Waste Management's comments, and in Section C. of this certification remands the amendment for modification consistent with the final report and recommendations of the Emergency Solid Waste Assessment Task Force established pursuant to Executive Order #8, as such report and recommendations may be modified for implementation by Governor Florio.

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 December 27, 1989 amendment to the approved Morris County District Solid Waste Management Plan and certify to the Morris County Board of Chosen Freeholders that the December 27, 1989 amendment is remanded for modification as further specified below.

On April 6, 1990, Governor James J. Florio signed Executive Order #8. This order created an Emergency Solid Waste Assessment Task Force and, among other things, temporarily prohibits the Department from issuing any final approval of any solid waste management plan that sites or increases the capacity of a waste-to-energy resource recovery facility. The prohibition extends for 120 days from the date of the order, and expires on August 4, 1990. Therefore, the Department remands the components of the plan listed in items 1, 3, 4, 5 and 6 below to the county, for modification consistent with the final report and recommendations of the Emergency Solid Waste Assessment Task Force, as such report and recommendations may be modified for implementation by Governor Florio. Upon such implementation, I will determine whether the county's board of chosen freeholders must hold a public hearing concerning the modification, based upon my determination that the modification is or is not minor, and that the modification may or may not be made without substantially modifying or altering other aspects of the district solid waste management plan.

1. The district plan inclusion of the site for the Morris County waste-to-energy resource recovery facility shall be modified as described above. The site is to be located on Block 38, Lots 15.2, 15.3, and 15 (portion) in Roxbury Township, Morris County. Furthermore, the buffer area is to include Block 38, Lots 8, 9, 10, 11, 12, 13 and 15 in Roxbury Township, Morris County, and Block 14, Lot 3, in Mt. Olive Township, Morris County. 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.

2. The district plan deletion of Site 6-1B in Rockaway Township located on Block 229, Lots 10 and 10-2 in Rockaway Township, Morris County, is approved.
3. The district plan inclusion of the sizing of the Morris County resource recovery facility at 1340 tons per day is remanded for modification as described above. If the district plan, as modified, includes the proposed resource recovery facility, the Department may modify the size of the facility during the permit review process.
4. The district plan inclusion directing all solid waste types 10, 13, 23, 25 and 27 generated within Morris County to the resource recovery facility upon commencement of operations is remanded for modification as described above. It should be noted that the amendment indicates that the Mt. Arlington Landfill (facility number 1426A) is expected to close in 1993, whereupon waste currently directed to the landfill will be redirected to the resource recovery facility. The Department has ordered the closure of the landfill in 1990, for reasons concerning the capacity of the landfill. Final disposition of this rule change to the Interdistrict and Intradistrict Solid Waste Flow Rules will be determined pursuant to formal rulemaking by the Department and the Board in accordance with N.J.A.C. 7:26-6.6.
5. The district plan inclusion of required truck routes to the Morris County resource recovery facility is remanded for modification as described above. Specifically, all vehicles must utilize U.S. Route 206, then use Gold Mine Road to ingress/egress the facility on Eden Lane. The county is directed in either a subsequent amendment or in the Preliminary Environmental and Health Impact Statement to delineate routes for each municipality to reach U.S. Route 206.
6. In addition to the modifications described above, the Department notes that if such modifications result in the inclusion of the resource recovery facility in the district plan, further amendments to the district plan may be necessary to provide specific requirements concerning service agreements, waste flow control, financing, landfill siting, and other issues.

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 certification 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. 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.

5. 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.

6. Modification Procedures

Pursuant to N.J.S.A. 13:1E-24d., remands for modification shall be accompanied by a statement indicating the reasons for the modification and the action to be taken thereon. That section of the Act indicates that if the Commissioner determines a modification is major, the freeholder board must hold an additional public hearing to enact the modification. If the modification is minor, no further public hearing need take place. The instant remand requires that the Morris County District Solid Waste Management Plan be amended to be consistent with the task force's report and final recommendations which should be issued on or around August 6, 1990. Until that report is issued, the Department is unable to ascertain the extent of modification necessary to be consistent. Therefore, subsequent to issuance of the task force's report, the Commissioner will contact the freeholder board in writing to notify it of her determination of whether the modification is major or minor in light of the content of the task force's report. Thereafter, the timing and procedures set forth in N.J.S.A. 13:1E-24e or 13:1E-24f shall apply as the case may be.

C. Certification of Modification of the Amendment by the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby remand for modification 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 27, 1989.

7/2/90  
DATE

  
JUDITH A. YASKIN  
COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION