



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)
(GLOUCESTER COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE MARCH 5, 1986
AMENDMENT TO THE GLOUCESTER 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 September 26, 1980, the Department approved, with modifications, the Gloucester 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 Gloucester County Board of Chosen Freeholders completed such a review and on March 5, 1986 adopted an amendment to its approved district solid waste management plan. The amendment incorporated for plan inclusion a compost facility located in Clayton Borough and the adoption of a county policy which would preclude the in-county disposal of solid waste generated outside of Gloucester County.

The amendment was received by the Department of Environmental Protection on June 16, 1986 and copies were distributed to various state level agencies for review and comment, as required by law. On September 2, 1986, the Department received correspondence from the Gloucester County Board of Chosen Freeholders requesting separate processing of this amendment. This request was made in order to allow for expedited plan inclusion for the Clayton Borough compost site in order to accommodate facility operation during the fall of 1986. Based on this reasoning, the Department agreed to this request and has subsequently approved the plan inclusion of a compost facility located in Clayton Borough in an earlier certification. The Department has reviewed this amendment, as well as the entire Gloucester County District Solid Waste Management Plan, and has determined that the waste importation policy component of the amendment adopted by the Gloucester County Board of Chosen Freeholders on March 5, 1986 is rejected as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Gloucester 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 March 5, 1986 amendment to the Gloucester 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 the waste importation policy component of the plan amendment is inconsistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Waste Management circulated the plan amendment to seventeen 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. Divisions of Environmental Quality, Fish, Game and Wildlife, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture, Community Affairs, Health and Transportation; the Office of Recycling, the New Jersey Advisory Council on Solid Waste Management, New Jersey Turnpike Authority, and the Pinelands Commission. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Division of Water Resources; the State Department of the Public Advocate; the Green Acres Program, and the U.S. Environmental Protection Agency. The Board of Public Utilities submitted substantive comments which are further addressed below.

The Board of Public Utilities commented on the county's policy concerning the disposal of solid waste generated outside of the county. Specifically, they indicated that this policy determination by Gloucester County does not preclude the Board of Public Utilities and the Department of Environmental Protection from exercising their jurisdiction over waste flows as identified in the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26-6.1 et.seq.), with specific reference to A. A. Mastrangelo, Inc. vs. Department of Environmental Protection, 90 N.J. 666 (1982). The Department shares the

Board's concern in this matter. It is the policy of the Department not to redirect solid waste from non-performing districts to counties that are actively developing long term disposal facilities. The Department fully recognizes the comprehensive efforts of the Gloucester County Board of Chosen Freeholders to develop a model solid waste management program through the siting and development of landfill and resource recovery facilities, to be used in conjunction with recycling programs. Based on these efforts, and in recognition of the noted policy, the Department has no plans to redirect out-of-district solid waste to the Gloucester County landfill and/or resource recovery facility when operational. Further, as owner/operator of the landfill facility, the county does have additional authority over the facility above and beyond the delegated district solid waste management powers. However, the Department of Environmental Protection and the Board of Public Utilities cannot waive their jurisdiction in the area of waste flow control pursuant to N.J.A.C. 7:26-6.1 et. seq. As a result, the proposed Gloucester County policy under consideration has been rejected for those reasons enumerated in Section C.1. of this certification.

C. Certification of Gloucester 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 waste importation policy component of the March 5, 1986 amendment to the approved Gloucester County District Solid Waste Management Plan and certify to the Gloucester County Board of Chosen Freeholders that this portion of the March 5, 1986 amendment is rejected as further specified below.

1. The policy developed by Gloucester County which prohibits the disposal of solid wastes generated outside of the county at Gloucester County solid waste disposal facilities is rejected from inclusion in the plan.

As noted in Section B. above, the policy determination, as written, precludes the authority of the Board of Public Utilities and the Department of Environmental Protection to exercise jurisdiction over the control of interdistrict waste flows. Moreover, the county policy could raise concerns with respect to the Commerce Clause of the United States Constitution.

The Department's rejection of this policy in no way requires Gloucester County to accept out-of-county waste and does not otherwise limit the county's authority thereto.

D. Other Provisions Affecting the Plan Amendment

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

The provisions of the Gloucester 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).

2. 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.

3. 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 Gloucester 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 Rejection 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 reject the waste importation policy component of the March 5, 1986 amendment as outlined in Section C. of this certification, to the Gloucester County District Solid Waste Management Plan, which was adopted by the Gloucester County Board of Chosen Freeholders on March 5, 1986.

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DATE



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION