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THE NEW JERSEY
HAZARDOUS WASTE
FACILITIES SITING COMMISSION



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R E P O R T

1991



State of New Jersey
HAZARDOUS WASTE FACILITIES
SITING COMMISSION

COMMISSIONERS:

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Gordon Millspaugh
Chairman
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The Honorable James J. Florio
New Jersey Legislators
State of New Jersey
State House
Trenton, New Jersey 08625

Dear Governor Florio and New Jersey Legislators:

Submitting the New Jersey Hazardous Waste Facilities Siting Commission's (Commission) 1991 Annual Report is a pleasure.

The siting process administered by the Commission continued to move forward in 1991. On February 1, 1991 the Commission forwarded to the Office of Administrative Law (OAL) the application submitted by GAF Chemicals Corporation to site a 150 ton per day incinerator in Linden. The testimony in this case began on September 10, 1991, the tenth anniversary of the enactment of the Major Hazardous Waste Facilities Siting Act. GAF, the City of Linden, plus the City and State of New York are parties to the hearing. Pending the OAL judge's recommendations (anticipated May, 1992), the Commission has been isolated from these proceedings.

The Commission continued to facilitate the public evaluation process for the expansion of Du Pont's hazardous waste facility in Carneys Point, New Jersey. A public meeting in June, 1991 was held by the Commission in Carneys Point specifically to address complex environmental issues raised by the Township's review of the Environmental and Health Impact Statement.

Continued participation of the Commission and the New Jersey Department of Environmental Protection and Energy (Department) in the Northeast States Capacity Assurance Plan (CAP) project has resulted in an increased understanding of the complexity and difficulty inherent in managing the region's hazardous waste. Several important issues have impacted the CAP process, including federal land ban restrictions and efforts on the part of individual states that are outside the northeast to influence the flow of hazardous waste with fees or bans. Currently, interstate commerce is protected by the federal constitution.

Waste minimization and pollution prevention are major endeavors that the Commission continues to support actively. A grant from the Commission enabled the New Jersey Technical Assistance Program (NJTAP) to give small businesses technical assistance in managing their hazardous waste streams through reduction, recycling, and reuse. NJTAP will assist the Department's Office of Pollution Prevention in providing technical assistance to three volunteer companies working to develop facility wide permits.



In December, the Hazardous Waste Advisory Council (Council) issued its first report to the New Jersey Legislature detailing the results of a mandatory audit, analysis, and evaluation of the New Jersey hazardous waste site remediation program. The report included recommendations for improving the financial operations and management of this remediation program. The Council's review of the 1990 reports by the Office of Management and Budget and the Office of the State Auditor found that the Department has been successful in obtaining federal money for cleanups and in negotiating with responsible parties. There appears to be sufficient bonding authority to complete all current cleanup projects and those initiated between now and 1994.

The Commission has a constructive working relationship with various state agencies, especially the Attorney General's Office and the Department. The Commission needs the continued support of the administration as it works to develop and implement a comprehensive hazardous waste management strategy for New Jersey.

Sincerely,



Gordon A. Millspaugh
Chairman

1 9 9 1 A N N U A L R E P O R T

 N E W J E R S E Y
H A Z A R D O U S W A S T E F A C I L I T I E S
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A. OVERVIEW

The Hazardous Waste Facilities Siting Commission (Commission) continued its analysis of New Jersey's hazardous waste treatment and disposal needs and the evaluation of potential sites for the location of necessary new, major commercial hazardous waste facilities, pursuant to the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq. The GAF Chemicals Corporation's (GAF) application to site a hazardous waste incinerator on a portion of its property in Linden was sent to the Office of Administrative Law (OAL) on February 1, 1991.

The Commission also continued to facilitate the public review of the E.I. Du Pont de Nemours and Co., Inc. (Du Pont) proposal to expand its existing hazardous waste facility.

In 1991, Commission and New Jersey Department of Environmental Protection and Energy (Department) personnel continued to participate in the Northeast States Capacity Assurance Plan (CAP) Project. This cooperative effort explores the opportunities for regional waste management and for safe siting of facilities to make up the region's hazardous waste treatment shortfalls. New Jersey's continued participation in this work is crucial to achieving an adequate balance of demands and capacities for effective hazardous waste management. In 1991, the northeast states completed an analysis of the economic viability of siting a land disposal facility under current market conditions versus changed conditions due to the possible legal outcomes of a number of challenges being filed by states with private, commercial landfills that are currently managing a portion of the region's waste.

New Jersey's ongoing promotion of responsible waste minimization was enhanced dramatically by the enactment of the Pollution Prevention Act (N.J.S.A. 13:1D-35 et seq.) in August, 1991. The Commission continued its cooperative effort with the Department by agreeing to administer a grant for pollution prevention guidance to the New Jersey Technical Assistance Program (NJTAP), housed at the New Jersey Institute of Technology. NJTAP provides technical assistance on waste reduction to interested small and mid-sized firms that generate hazardous waste.

The Commission, in conjunction with Department's Divisions of Science and Research and Solid Waste, concluded a contract with Syracuse University's Technology and Information Policy Program for an analysis of the locations and operations of small quantity generators in seven New Jersey counties. A technical assistance demonstration of a computerized truck routing system was given to the solid waste coordinators from New Jersey's 21 counties in 1991.

The Hazardous Waste Advisory Council (Council) released its first review of New Jersey's Hazardous Waste Site Remediation Program, as required by P.L. 1989, c. 243. In addition, the Council and an in-house task force of Department personnel initiated a review of New Jersey's siting criteria.

Early in 1991, the Commission was brought to its full complement of nine members with the appointment of James Ferris and Abigail Studdiford. Mr. Ferris, an industry representative on the Commission, is Vice President of PMK, Ferris and Perricone, Inc., specializing in construction material engineering and asbestos management. He holds a B.S. degree in Geology and is a registered Professional Engineer in New Jersey and Florida. Ms. Studdiford serves as an environmental organization representative on the Commission. She is the Director of Library Services for Middlesex County College and a Ph.D. candidate in Library Science at Rutgers University. Ms. Studdiford serves as a member on the Bridgewater Environmental Commission.

New appointments to the Hazardous Waste Advisory Council in 1991 included: three environmental, public interest or community organization appointments, Kathryn Becker (League of Women Voters), Carlos Murawczyk (Gibbs and Hill, Inc.), and William Librizzi (Water Pollution Control Association); two municipal official appointments, Raymond Di Francesco (Ewing-Lawrence Sewerage Authority) and Joseph Foy (Mayor, Burlington Township); and two hazardous waste industry appointments, Asim Ray (F.W. Enviroresponse, Inc.) and Randall Vieser (Chemical Waste Management, Inc.).

With the assistance of these new members, the Commission, the Council, and staff remain dedicated to carrying out and improving the hazardous waste policies of this state.

B. SITING ACTIVITIES

Introduction

New Jersey's hazardous waste facility siting process actually provides three distinct, equally valid alternative routes for locating new hazardous waste facilities in this state: Commission selected sites; new sites proposed by industry; or expansions of existing major commercial hazardous waste facilities. Each alternative has been actively pursued since the mid-1980's.

By 1989, the Commission eliminated the eleven potential sites that it had proposed for consideration in 1986. During the same year, the Commission also proposed for site designation a section of GAF's former manufacturing site in Linden, New Jersey. The company's application calls for a 150 ton per day state-of-the-art hazardous waste rotary kiln incinerator. A substantial grant for the completion of a Municipal Site Suitability Study (MSSS) pursuant to N.J.S.A. 13:1E-59 a.(1) was then provided to Linden in 1990. The funding for the MSSS was \$395,000, the first \$250,000 of which was supplied by the Commission. GAF then issued an additional \$145,000 to the Commission for the City's preparation of MSSS.

In 1989, the Commission also submitted the preliminary Environmental and Health Impact Statement (EHIS) on the Du Pont proposed incinerator and landfill expansion in Carneys Point, New Jersey to the Department, triggering the formal registration and engineering design approval process. In 1990, Carneys Point Township completed part of its site plan review mandated by the Siting Act with \$15,000 received from Du Pont. In addition, Carneys Point was awarded a grant of \$75,000 voluntarily from Du Pont for the purpose of reviewing the EHIS and the permit applications with an independent consultant hired by the Township. The Township submitted its EHIS review to the Commission in December, 1990.

1991 Accomplishments

GAF Chemicals Corporation Linden, New Jersey

- o February 1, 1991: the Commission transmitted the GAF case to the Office of Administrative Law (OAL), pursuant to N.J.A.C. 1:1-8.2.
- o February 19, 1991: Linden's MSSS was transmitted to the Commission and OAL.

- o March 20, 1991: the Commission authorized \$50,000 to the City of Linden for its use in the OAL hearings in response to a request from its Mayor.
- o September 10, 1991: oral arguments before the OAL began on the tenth anniversary of the enactment of the Siting Act. In addition to GAF and Linden, the City and State of New York are intervenors in the hearing.
- o June through October, 1991: the Commission reviewed and acted upon four requests for interlocutory review.
 - * June 30, 1991: the Commission rejected two requests: GAF's appeal regarding the pre-filing of testimony; and the City of Linden's appeal regarding the introduction of the MSSS for the truth contained therein.
 - * September 23, 1991: request of the City of New York for reversal of a ruling regarding the applicability to the hearing of the issue of facility operation by GAF was denied by the Commission.
 - * October 25, 1991: City of Linden's request regarding the applicability of the issue of need was denied by the Commission.
- o September 16, 1991: the Commission wrote the governing bodies of the City of Linden and Union County of their obligation to appoint a voting member to the Commission.
- o October, 1991: the Commission was notified that the appointments had been made.

The Commission decided in 1991 not to be a party to the GAF hearing and adopted a policy that no representative of the Commission would attend the hearing. The Commission believes that this policy will assure that its final decision in 1992 is based only on the hearing record as required by the Siting Act.

E.I. Du Pont de Nemours and Co., Inc.
Carneys Point, New Jersey

- o June 26, 1991: the Commission held a public meeting on the EHIS in Carneys Point.
- o August, 1991: conditional approval was granted by the Carneys Point Advisory Committee for the Du Pont proposal.
- o October, 1991: the Township Committee transmitted its full municipal review of the proposed facility to the Department as required by the Siting Act.
- o December, 1991: Du Pont agreed to compensate the Township an additional \$25,000 for the Township's independent review of the EHIS and permit documents.

The Commission's submittal of the EHIS to the Department concluded its statutory obligation for the proposed expansion. The decision to issue the appropriate permits in 1992 rests solely with the Department and the United States Environmental Protection Agency (USEPA).

C. PLANNING

The Commission and the Department continued in 1991 to participate actively in an USEPA sponsored northeast states regional hazardous waste facility planning effort. The region contains the District of Columbia and all states from Maine to West Virginia, with the exception of New York State. The Commission continues to provide leadership in this regional planning process, especially in the assessment of the need for land disposal capacity for the region.

A major land disposal facility (LDF) development study for the northeast region was completed by the group's technical consultant in September 1991. It identifies factors affecting facility development and assesses whether a LDF would be market justifiable. A survey of over 80 landfill users throughout the region and a meeting with major facility owners and operators were conducted. Conclusions include:

- o Landfill users, owners, and operators generally agree that there is a sufficient supply of RCRA "C" and industrial "D" type wastes in the northeast region to support a commercial hazardous waste landfill.
- o The 13 state northeast region is an artificial market that lacks the authority to control waste flows and is treated as a geographical area for CAP planning purposes only.
- o Landfill users indicated that liability and compliance are the most important factors that a generator considers when deciding which LDF to use. Only a few users considered price the most important factor.
- o There is widespread concern in regard to differential fees, taxes, and bans. These factors could change the current market and therefore influence landfill users' choice of facilities, thus creating uncertainty and complicating LDF developers' siting decisions.
- o Facility operators want states to provide technically rational, politically neutral siting and permitting processes that focus on technical siting and permitting criteria only.

The northeast states continue to work cooperatively in two areas:

- o Examination of siting and permitting, and
- o Targeting land disposal wastes for minimization efforts.

Regional commitment exists to improve the CAP process so that it is as meaningful and useful as possible. To that end, the Commission's Executive Director was appointed to two USEPA CAP workgroups--one on waste minimization and one on economic projections. These work groups are providing guidance to the agency for the October, 1993 CAP submittal.

D. GROSS RECEIPTS TAX

The Siting Act requires every major hazardous waste facility located in New Jersey to file each year with the municipality in which the facility is located a statement of the gross receipts collected from all charges for the treatment, storage, or disposal of hazardous waste in the previous year. The facility is required to pay to the municipality five percent of those gross receipts.

1991 Tax Payments

<u>COMPANY NAME/MUNICIPALITY</u>	<u>AMOUNT</u>
Chemical Waste Management/City of Newark	\$223,197.48
E.I. Du Pont de Nemours & Co., Inc./ Carneys Point Township	\$1,723,681.00
Marisol, Inc./Borough of Middlesex	\$3,452.06
Rollins Environmental Services/ Logan Township	\$1,076,982.82
Safety-Kleen Corp./Borough of Clayton	\$3,188.60
SRSNJ-Safety Kleen/City of Linden	\$5,760.35

TOTAL	\$3,036,262.31

In 1991, the Commission contacted major waste oil recyclers informing them of their obligation to pay the gross receipts tax. These facilities are now in the process of negotiating agreements with the municipalities in which they are located:

Petroleum Recycling, Inc./
Borough of Clayton

Standard Tank Cleaning Co./City of Bayonne

Remtech Environmental Group/City of Camden.

E. HAZARDOUS WASTE ADVISORY COUNCIL

The Hazardous Waste Advisory Council (Council) consists of representatives from environmental or public interest organizations, municipal and county elected or appointed officials, community organizations, fire fighters, and various hazardous waste facility users and operators. The Council's membership was expanded from 13 to 15 in 1989 to also include a representative from academia and a representative from the private sector who possesses public finance experience. (There are currently three vacant positions on the Council). The State Auditor and the Director of the Office of Management and Budget (OMB) are also now included as ex-officio members.

Site Remediation Report

In 1991, under the direction of Chairman John Liskowitz, Ph.D., the Council reported on the first fiscal analysis and evaluation of the Department's hazardous waste site remediation program, pursuant to P.L. 1989, c. 243.

The Council found that the Department has been successful in obtaining federal money for cleanups and in negotiating with responsible parties. Both of these efforts have reduced the need to spend bond monies. The Department appears to have sufficient bonding authorization to complete all cleanup projects currently underway and planned to be initiated between now and 1994.

One major recommendation of the Council was that the Department, in cooperation with OMB, accelerate and broaden its work to establish better means to measure the effectiveness and progress of the hazardous waste site remediation program. A national workshop organized by the Council was suggested to aid the Department.

As part of next year's analysis, the Council also committed itself to re-examine the state's procurement process for remediation work. Contractor insurance liability, public hearing and meeting requirements, and the technical requirements of the federal Superfund law concerning the use of alternative remedies will also be examined by the Council.



Reexamination of Siting Criteria

The Council is also actively involved in the reexamination of New Jersey's hazardous waste facility siting criteria for future siting applications. The siting criteria, developed between 1981 and 1983 by the Council and the Department, were used by the Commission in the mid-1980's for its statewide site search. This experience indicated the tendency of the various hydrogeologic criteria to conflict with one another and with other criteria. The conflicts among the ground water criteria are essentially that the standards set, while each individually attainable, become increasingly difficult to meet at a common location as they are considered two or more at a time. In addition, the criteria were not developed to be consistent with Department's current or proposed regulations. This conflict was the principal obstacle to identifying hazardous waste land disposal facility sites and confirming through on-site testing that sites meet the criteria.

New Jersey has taken the opportunity to apply the knowledge gained during the Commission's site search to improve the criteria for the future. The Council works with Department task force to analyze, clarify, and update the criteria. The group has been meeting since August, 1991 and will continue through 1992. It is expected to recommend adjustments to criteria for future siting efforts, differentiating between statutory and regulatory criteria and stressing consistency between Department's regulations and the criteria. The group will recommend a strategy for making any needed revisions, including a public involvement process.

F. COMMISSION SUPPORTED ACTIVITIES

1. Pollution Prevention

With the establishment of the Department's Office of Pollution Prevention and the signing into law by Governor Florio on August 1, 1991 of the Pollution Prevention Act (N.J.S.A. 13:1D-35), New Jersey is solidly in the forefront of a comprehensive hazardous waste management strategy that stresses prevention and source reduction. Pollution prevention planning and facility wide permitting are identified as the two main provisions of the Pollution Prevention Act. Facilities are also required by the Act to establish five year goals to reduce the use or generation of hazardous substances by 50 percent.

Pollution prevention receives continued support from the Commission. The Executive Director will serve on the Pollution Prevention Advisory Board. In addition, the Commission will request the assistance of the Office of Pollution Prevention to help design the regional waste minimization effort for the CAP.

2. New Jersey Technical Assistance Program

The New Jersey Technical Assistance Program (NJTAP) for Industrial Pollution Prevention, funded in part by a grant from the Commission, continued its efforts in 1991. NJTAP is designed to protect the environment by assisting small companies to reduce the volume of hazardous and other wastes generated.

NJTAP is a free, confidential program addressing single and multiple media (air, water and land) industrial pollution sources. Services include evaluating existing operating conditions and recommending practical, economically feasible options to enhance production while, at the same time, providing source reduction and recycling of hazardous wastes. In addition, NJTAP will assist the Office of Pollution Prevention in providing technical assistance to three volunteer companies working with the Department to develop facility wide permits. In November, 1991 the Commission granted a contract extension for the NJTAP to continue work in this area of pollution prevention.

One innovative outgrowth of the NJTAP effort is the Burlington County Industrial Technology Transfer Program (BITT), which opened its doors in 1991. BITT is a free, non-regulatory program providing technical assistance to businesses and schools to minimize waste production within Burlington County.



This program is sponsored by the Burlington County Board of Chosen Freeholders - Office of Waste Management, the New Jersey Institute of Technology, and Burlington County College. The goal of the BITT program is to prepare and discuss with local businesses and schools waste minimization and pollution prevention strategies that are cost effective and environmentally sound.

3. Analysis of Small Quantity Generator Locations

In 1991, Syracuse University completed for the Commission its second study to further delineate and categorize firms that generate small quantities of hazardous waste. The first study

- o estimated the number and types of firms that generate small amounts of waste, and
- o identified and projected the variety and amounts of wastes generated now and expected in the future.

The 1991 study went on to:

- o assess these firms' ability to meet current hazardous waste regulations, and
- o recommend improved waste management procedures for the small quantity generators.

As part of its recent work, Syracuse University developed a computerized routing application using the Geographic Information System (GIS) technology. County-wide routing scenarios move vehicles over a given route from the points of generation to the nearest treatment facility to effectively collect the wastes from

- o pesticide applicators
- o photography labs, and
- o printing and publishing firms

in each of the following counties

- | | |
|-------------|-----------|
| o Bergen | o Morris |
| o Essex | o Passaic |
| o Middlesex | o Union. |
| o Monmouth | |

Based on the study results, the Commission staff provided technical assistance to the twenty-one county solid waste coordinators who are designing collection programs for small quantity generator and household hazardous waste.

G. PUBLIC PARTICIPATION AND EDUCATION

Outreach programs to universities, colleges and organizations interested in hazardous waste management and treatment are provided by the Commission. Lectures are given annually at Rutgers University, Stockton State College, and the New Jersey Institute of Technology. In 1991, the Commission also made presentations before the New Jersey Alliance for Action, the HazMat Conference, Mercer County College, and the Governor's Capital Investment Infrastructure Task Force.

The Commission continues to receive public comment on all business conducted at its monthly meetings. Transcripts of these meetings and formal minutes are available for public review.

Response to public requests for information is a high priority. Copies of the Siting Act, the Hazardous Waste Facility Siting Criteria, the Hazardous Waste Facilities Plan Update, New Jersey's Capacity Assurance Plan, and various documents describing incineration technology, industrial pollution prevention activities, and small quantity generator practices are available upon request from the Commission office.

APPENDIX 1:
FINANCIAL STATEMENT

COMMISSION OPERATING AND FINANCIAL STATEMENT
HAZARDOUS WASTE FACILITIES SITING COMMISSION
SUMMARY OF GENERAL FUND APPROPRIATIONS, EXPENDITURES, AND ENCUMBRANCES - (BUDGETARY BASIS)
FOR THE FISCAL YEAR ENDED JUNE 30, 1991

EXHIBIT I
(in \$000)

<u>By Fund</u>	<u>Available Appropriations</u>	<u>Expended</u>	<u>Encumbrances</u>	<u>Lapsed</u>	<u>Continuing Appropriations</u>
<u>Fiscal Year 1991</u>					
Direct State Services	\$1,287.4	\$330.7	\$ 89.8	\$ 9.3	\$857.6
State Aid	50.0	-	-	50.0	-
Dedicated Funds	315.0	-	315.0	-	-
Federal Funds	225.0	50.0	175.0	-	-
	<u>1,877.4</u>	<u>380.7</u>	<u>579.8</u>	<u>59.3</u>	<u>857.6</u>
<u>Prior Year Obligations</u>					
Direct State Services	144.7	126.2	18.5	-	-
Dedicated Funds	468.1	144.3	323.8	-	-
	<u>612.8</u>	<u>270.5</u>	<u>342.3</u>	<u>-</u>	<u>-</u>
Total	<u>\$2,490.2</u>	<u>\$651.2</u>	<u>\$922.1</u>	<u>\$ 59.3</u>	<u>\$857.6</u>
<u>By Program</u>					
<u>Fiscal Year 1991</u>					
Siting Commission Administration	\$ 785.3	\$248.4	\$ 66.4	\$ -	\$470.5
Advisory Council	15.0	3.6	2.1	9.3	-
Review Applications	75.5	28.7	21.3	-	25.5
Site Review and Evaluation	61.6	50.0	-	-	11.6
Land Emplacement Facility Site	350.0	-	-	-	350.0
Training	50.0	-	-	50.0	-
Environmental & Health Impact Statements	115.0	-	115.0	-	-
Source Reduction & Technical Assistance	225.0	50.0	175.0	-	-
Municipal Site Suitability Study	200.0	-	200.0	-	-
	<u>1,877.4</u>	<u>380.7</u>	<u>579.8</u>	<u>59.3</u>	<u>857.6</u>
<u>Prior Year Obligations</u>					
Siting Commission Administration	98.5	81.5	17.0	-	-
Review Applications	1.1	-	1.1	-	-
Site Review and Evaluation	35.0	35.0	-	-	-
Management Plan Update	9.6	9.6	-	-	-
Hazardous Research - Improved Methods	.4	-	.4	-	-
Environmental & Health Impact Statements	468.1	144.3	323.8	-	-
Advisory Council	.1	.1	-	-	-
	<u>612.8</u>	<u>270.5</u>	<u>342.3</u>	<u>-</u>	<u>-</u>
Total	<u>\$2,490.2</u>	<u>\$651.2</u>	<u>\$922.1</u>	<u>\$ 59.3</u>	<u>\$857.6</u>

Hazardous Waste Facilities Siting Commission

Gordon Millspaugh, Chairman
Ann Auerbach
James Ferris
Joseph E. Gilson, Jr.
Roy T. Gottesman, Ph.D.

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Louis R. Matlack, Ph.D.
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Maryann Farfalla.....Administrative Assistant

