



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
MIDDLESEX COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE JULY 1, 1993
AMENDMENTS TO THE MIDDLESEX COUNTY
DISTRICT SOLID WASTE MANAGEMENT PLAN**

BY ORDER OF THE ACTING 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 July 29, 1980, the Department of Environmental Protection approved, with modifications, the Middlesex 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 Middlesex County Board of Chosen Freeholders (County Freeholders) completed such a review and on July 1, 1993 adopted amendments 1993-1, 1993-2, and 1993-3 to its approved County Plan.

Amendment 1993-1 proposed inclusion of additional parcels of land at the existing Middlesex County Landfill (Edgeboro) site located in East Brunswick Township which will be used primarily for support facilities. Amendment 1993-2 proposed inclusion of Enviro-Pak Systems, Inc. located at 92 Baekeland Avenue, Borough of Middlesex, as a recycling center for Class A materials. Amendment 1993-3 proposed inclusion of Enviro-Pak Systems, Inc. located at 140 Baekeland Avenue, Borough of Middlesex, as a recycling center for Class B materials.

These amendments were received by the Department of Environmental Protection and Energy (Department or DEPE) on August 5, 1993 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments and has determined that the amendments adopted by the County Freeholders on July 1, 1993 are approved as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Middlesex County District Solid Waste Management Plan Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the July 1, 1993 amendments 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders and the applicants are also notified of the issue of concern relative to the July 1, 1993 amendments which are included in Section B.2. below.

In conjunction with the review of the amendments, 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
Land Use Regulation Element, DEPE
Wastewater Facilities Regulation Element, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Division of Solid Waste Management, DEPE

Green Acres Program, 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 July 1, 1993 Amendments

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

Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Green Acres Program, DEPE
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Community Affairs

The following agencies did not respond to our requests for comment:

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

The following agencies provided substantive comments as shown in Section B. of the certification document:

Office of Air Quality Management, DEPE
Land Use Regulation Element, DEPE
Division of Solid Waste Management, DEPE
Wastewater Facilities Regulation Element, DEPE

2. Issues of Concern Relative to the July 1, 1993 Amendments

Issue: Regulatory Requirements

With regard to Amendment 1993-1 and the Middlesex County Landfill site, if activities take place within 500 feet of the Mean High Water Line, a Waterfront Development Permit will be required. Also, should activities take place within Coastal Wetlands, Flood Plain Areas, or Freshwater Wetlands Transition Areas, permits from the DEPE's Land Use Regulation Element will be required. Further, concerning the proposed two recycling centers of Enviro-Pak Systems, Inc., there are mapped Freshwater Wetlands in the vicinity of both sites. Therefore, if work takes place in Freshwater Wetlands or their Transition Areas, permits will also be required from the DEPE's Land Use Regulation Element.

Landfills and recycling centers are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution," which prohibits odors and other air contaminants which interfere with the enjoyment of life or property. New and closed landfills should be equipped with positive ventilation systems, which direct landfill gases to air pollution control devices. These vents and devices require air pollution control permits pursuant to N.J.A.C. 7:27-8.2(a)1 and 16. Recycling centers are considered solid waste facilities and are also subject to N.J.A.C. 7:27-8.2(a)16 which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants. Further, the use of crushers, chippers and shredders will necessitate the control of particulate emissions to the air. Pursuant to N.J.A.C. 7:27-8.2(a), 7, 11, 15 and 16, air pollution control permits to construct, install or alter control apparatus or equipment are required. Additionally, facilities which crush asphalt, concrete and brick must comply with the noise control code, N.J.A.C. 7:29.1. Finally, the recycling of asphalt may release organic substances to the air. The recycling equipment and any bituminous concrete plant which uses the recycled asphalt may need an air pollution control apparatus to control organic substance emissions.

Finally, if any of the proposed operations will discharge pollutants as defined in N.J.A.C. 7:14A-1.9, these operations may be required to secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollutant discharges prior to construction or operation.

C. Certification of the Middlesex County District Solid Waste Management Plan Amendments

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 July 1, 1993 amendments to the approved County Plan and certify to the County Freeholders that the July 1, 1993 amendments are approved as further specified below.

a. 1993-1 Amendment

The inclusion of additional parcels of land, identified as Block 834, Lots 4.01, 4.02, 4.05, 4.07, 4.09, 4.11, 4.12, 24, 27, and 28, located outside the cut-off wall of the Middlesex County Landfill (Edgeboro) site in East Brunswick Township is approved. These parcels of land will be used primarily for support facilities including an administration building and entrance facilities for the landfill. These parcels are not intended for solid waste disposal. The solid waste disposal area located inside the cut-off wall of the Middlesex County Landfill, specifically, Block 834,

Lots 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 7.02, 8.02, 3.01, 4.13, 5.02, and 34.02, was previously included in the County Plan through the Department's November 20, 1987 Certification of the County's August 20, 1987 plan amendment. Amendment 1993-1 also corrects a typographical error in the County's August 20, 1987 plan amendment as follows: Lot "34.02" should read "34.04." Finally, recent information obtained from the County indicates that Lot 34.04 has been subdivided into Lots 34.04, 34.05, and 34.06 by the Township of East Brunswick.

Therefore, Amendment 1993-1 revises the August 20, 1987 plan amendment and incorporates within the County Plan the entire Middlesex County Landfill (Edgeboro) site, located inside and outside the cut-off wall surrounding the landfill, comprising Block 834, Lots 3.01, 4.01, 4.02, 4.05, 4.07, 4.09, 4.11, 4.12, 4.13, 5.03, 7.02, 8.02, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 34.04, 34.05, and 34.06, located in East Brunswick Township, Middlesex County.

However, it must be noted that the amendment specified that the Middlesex County Landfill is to be used exclusively for the disposal of solid waste generated only within Middlesex County. While the DEPE respects the primacy of the County in establishing waste flows to the landfill, please be advised that the DEPE reserves the right to redirect waste to the Middlesex County Landfill in an emergency situation.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the Attorney General of the State of New Jersey to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126. Further, this certification shall not be construed as an expression of the Department's intent to issue a solid waste facility permit.

b. 1993-2 Amendment

The inclusion of Enviro-Pak Systems, Inc., located at 92 Baekeland Avenue, Block 352, Lot 1B, in the Borough of Middlesex as a recycling center for Class A materials is approved. This recycling center will handle mixed office paper, corrugated cardboard, newspaper, plastic containers, aluminum containers, and glass containers at maximum throughput capacity of 200 tons per day.

c. 1993-3 Amendment

The inclusion of Enviro-Pak Systems, Inc., located at 140 Baekeland Avenue, Block 352, Lot 3, in the Borough of Middlesex as a recycling center for Class B materials is approved. This recycling center will operate at a maximum throughput capacity of 350 tons per day and will process Class B materials including wood, concrete, asphalt, brick, roofing materials, and tires.

Recycling centers which will be handling only Class A recyclable materials, as defined at N.J.A.C. 7:26A-1.3, require no approval from the Department prior to operation. However, such recycling centers must comply with the regulations at N.J.A.C. 7:26A-4. Recycling centers that will be handling Class B recyclable materials, as defined at N.J.A.C. 7:26A-1.3, must obtain a recycling center approval from the Department pursuant to N.J.A.C. 7:26A-3 prior to operation.

Pursuant to N.J.A.C. 7:26A-4.1(a)1.iii, Class A recyclable materials may be commingled only with other Class A recyclable materials. Class B recyclable materials may be commingled only with other Class B recyclable materials and only to the extent authorized in the general approval. Any residue generated as a result of the operation of the recycling centers shall be disposed of pursuant to the County Plan and the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26 et seq.). The construction or operation of a recycling center which receives, stores, processes or transfers Class B recyclable materials, as defined at N.J.A.C. 7:26A-1.3, shall be preceded by the acquisition of the necessary approvals pursuant to N.J.A.C. 7:26A-3 et seq., and shall be in conformance with Departmental regulations and guidelines, including N.J.A.C. 7:26A-4.

This certification shall not be construed as an expression of the Department's intent to issue a recycling center approval to any recycling center for Class B recyclable materials. A recycling center approval shall only be granted where the applicant has submitted an administratively complete application, as per N.J.A.C. 7:26A-3.5, where all substantive criteria for approval set forth in N.J.A.C. 7:26A-3.2, 3.3 and 3.4 are satisfied, where a fee has been paid in accordance with N.J.A.C. 7:26A-2, and where none of the criteria for denial of a recycling center approval are met, as per N.J.A.C. 7:26A-11 and 12.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with these amendments to the County Plan and which was executed prior to the approval of these amendments 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 these amendments and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of these amendments 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 amendments contained herein shall operate in compliance with these amendments 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 Amendments

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 amendments certified herein.

5. Definitions

For the purpose of these amendments 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 Amendments

The amendments 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 Amendments 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 amendments, as outlined in Section C. of this certification, to the Middlesex County District Solid Waste Management Plan which were adopted by the Middlesex County Board of Chosen Freeholders on July 1, 1993.

December 29, 1993
DATE

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