

Let's protect our earth



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
CN 402
TRENTON, N.J. 08625
609 - 292 - 2885

(IN THE MATTER OF CERTAIN MODIFICATIONS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(MIDDLESEX COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION OF MODIFICATION
ADOPTED AND PROMULGATED BY
THE COMMISSIONER
AND MADE AN APPROVED PART OF
THE MIDDLESEX COUNTY DISTRICT
SOLID WASTE MANAGEMENT PLAN

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 each Board 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 approved, with modifications, the Middlesex County District Solid Waste Management Plan.

After adoption of a plan in whole or in part by a district, the plan is then submitted to the Commissioner of the Department of Environmental Protection for review and final approval. The Commissioner has authority to modify, reject or approve such plans and, in the final analysis, the Commissioner is authorized to adopt and promulgate any modification or replacement he deems necessary with respect to the solid waste management plan.

B. Findings and Conclusions

1. On July 1, 1975, R.E. Etsch, Inc. was issued a certificate of registration. On August 2, 1978, R.E. Etsch, Inc. was issued an amended certificate of registration.
2. On April 16, 1980, R.E. Etsch, Inc. was issued an engineering design approval for the purpose of operating a sanitary landfill at parts of Lots Nos. 4 and 5 in Block No. 35 in the municipality of Monroe Township, Middlesex County, New Jersey.
3. On June 19, 1980, the Middlesex County Board of Chosen Freeholders formally adopted modifications which were necessary to complete the District Solid Waste Management Plan. Said plan failed to include R.E. Etsch, Inc. as a solid waste facility. The failure to include the

facility in the District Solid Waste Management Plan was inconsistent with N.J.S.A. 13:1E-4(b). On July 29, 1980, the Commissioner of the Department of Environmental Protection issued a Certification of Approval with Modification of the Middlesex County District Solid Waste Management Plan without reference to the Etsch facility.

4. On February 2, 1981, a Stipulation of Dismissal was filed in R.E. Etsch, Inc. v. State of New Jersey Department of Environmental Protection, Docket No. A118-80-T1, stating that the Department of Environmental Protection would "recommend to the County of Middlesex the inclusion of the Etsch facility in its solid waste management plan in accordance with the procedures outlined in N.J.S.A. 13:1E-20 et seq." In consideration, therefore, the appeal was dismissed.
5. On March 8, 1983, the Commissioner issued a Certification of Approval with Modifications of the September 16, 1982 amendments to the Middlesex County District Solid Waste Management Plan. Said modifications failed to include R.E. Etsch, Inc. as a designated solid waste facility to receive an assigned waste flow from the County of Middlesex.
6. On or about June 21, 1983, R.E. Etsch, Inc. v. Middlesex County Board of Chosen Freeholders, the County of Middlesex and the State of New Jersey, Department of Environmental Protection, Docket Number L-032827-83, was filed. On April 9, 1984, by order of the court, that case was transferred to the Appellate Division as Docket Number A-4158-83T5.
7. In settlement of R.E. Etsch, Inc. v. Middlesex County Board of Chosen Freeholders et al., Docket Number A-4158-83T5, the Commissioner of the Department of Environmental Protection has agreed to modify the Middlesex County Solid Waste Management Plan by including the R.E. Etsch facility in that plan pursuant to his powers under N.J.S.A. 13:1D-1 et seq. and N.J.S.A. 13:1E-1 et seq. Furthermore, the Commissioner has agreed to modify the Middlesex County Solid Waste Management Plan by assigning an appropriate solid waste flow to the R.E. Etsch, Inc. facility in an amount which would allow the facility to operate for at least 18 months from the date of commencement of operation. It was further agreed that said waste flow would be assigned as soon as reasonably feasible after R.E. Etsch has submitted a revised engineering design plan and received Departmental approval of said plans pursuant to the provisions of the Stipulation of Settlement (appended hereto).

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

I, Richard T. Dewling, Commissioner of the Department of Environmental Protection, in accordance with N.J.S.A. 13:1E-1 et seq., particularly N.J.S.A. 13:1E-4(b) and pursuant to the authority vested in me in N.J.S.A. 13:1E-24 (f), do hereby adopt and promulgate the following modification to the approved Middlesex County District Solid Waste Management Plan.

The incorporation of the R.E. Etsch, Inc. facility, located on Lots 4 and 5, Block 35, in Monroe Township, Middlesex County, for the development of a solid waste landfill, is approved. Said approval, which is mandated by N.J.S.A. 13:1E-4(b), relates only to the twelve acre portion of Block 35, Lots 4 and 5, referenced within the Engineering Design Approval issued to R.E. Etsch, Inc. on April 16, 1980. 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.

D. Other Provisions Affecting the Plan Modification

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with the within modification to the Middlesex County District Solid Waste Management Plan and which was executed prior to the approval of this modification 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 modification and of the Middlesex County District Solid Waste Management Plan if such renegotiation is not completed within ninety (90) days of the effective date of this modification; 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 Middlesex County and affected by the modification contained herein shall operate in compliance with this modification and all other approved provisions of the Middlesex 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 Plans

The provisions of the Middlesex 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. Certification to Proceed with the Implementation of Plan Modification

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Middlesex County Board of Chosen Freeholders and pursuant to N.J.S.A. 13:1E-24c. and f., the county shall proceed with the implementation of the approved modification contained herein.

5. Definitions

For the purpose of this modification 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 N.J.A.C. 7:26-2.13.

6. Effective Date of Modification

The modification to the Middlesex County District Solid Waste Management Plan contained herein shall take effect immediately.

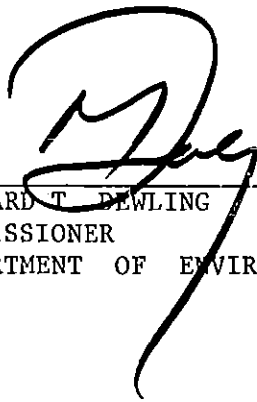
7. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Middlesex County District Solid Waste Management Plan, including any modification 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 modification as they are approved.

E. Certification of Approval by the Commissioner of the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq. and specifically N.J.S.A. 13:1E-4(b), I hereby approve the modification as outlined in Section C. of this certification, to the Middlesex County District Solid Waste Management Plan.

7-7-87
DATE



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION