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Scott A. Weiner
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 AUGUST 1, 1991
AMENDMENTS TO THE MIDDLESEX 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 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 plan at any time and, if found inadequate, a new plan must be adopted. The Middlesex County Board of Chosen Freeholders (County Freeholders) completed such a review and on August 1, 1991, adopted amendments to its approved County Plan. Specifically, amendment 1990-1 proposed inclusion of Clayton Block, Inc., located at 1025 Route #1 on Block 198-L, Lot 39 in the Township of Edison as a recycling facility for block, concrete, and asphalt, including a stone crushing operation; amendment 1991-1 proposed inclusion of Reliable Computer Service, located on Block 18, Lot 9.011 in South Brunswick Township as a recycling facility which handles 55,000 pounds per day of office paper from Middlesex, Mercer, Monmouth and Somerset Counties; and amendment 1991-3 proposed inclusion of Resource Recycling Corporation located on Block 387, Lot 3 in South Plainfield Borough to process (shred, chip and crush) a maximum of 500 tons per day of ferrous and nonferrous metals, tires, wood waste and construction/demolition debris. Also, amendment 1991-2 proposed a County policy to clarify procedures for inclusion of major plan amendments and compost facilities into the County plan which are detailed in Section C.

The Department of Environmental Protection and Energy (Department or DEPE) has reviewed these amendments, as well as the entire County Plan, and has determined that the amendments adopted by the County Freeholders on August 1, 1991 are approved in part and rejected in part as provided in N.J.S.A. 13:1E-24. Also, deficiencies in the County Plan have been identified within Section C. of this certification.

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, Scott A. Weiner, Commissioner of the Department, have studied and reviewed the August 1, 1991 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 the approved portions of these plan amendments are consistent with the Statewide Solid Waste Management Plan.

In conjunction with the review of these amendments, the Department circulated copies to sixteen 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 as well as the Board of Public Utilities (Board), which merged with the Department on August 19, 1991. In this regard, comments from the Board have been included under the Division of Solid Waste Management's comments. The following are the review agencies.

Division of Environmental Quality, DEPE
 Division of Coastal Resources, DEPE
 Division of Parks and Forestry, DEPE
 Division of Fish, Game and Wildlife, DEPE
 Division of Solid Waste Management, DEPE
 Ground Water Quality Management Element, DEPE
 Water Supply Element, 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 August 1, 1991 Amendments

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

Division of Parks and Forestry, DEPE
Green Acres Program, DEPE
Groundwater Quality Management Element, DEPE
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Transportation

The following agencies did not respond to the Department's requests for comments:

Division of Coastal Resources, DEPE
Department of Health
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

The following agencies submitted substantive comments which are further addressed below:

Division of Fish, Game and Wildlife, DEPE
Division of Environmental Quality, DEPE
Division of Solid Waste Management, DEPE
Water Supply Element, DEPE

2. Issues of Concern Regarding the August 1, 1991 Amendments

Issue: Permitting Requirements

The Resource Recycling Corporation site is in close proximity to freshwater wetlands as indicated on the National Wetland Inventory Maps and the site should be scrutinized for wetlands avoidance and the maintenance of the buffer area according to the Freshwater Wetlands Regulations. Accordingly, the Resource Recovery Corporation should not expand its operation into the wetlands area and should maintain the buffer as commented above.

Additionally, if any of the recycling facilities diverts more than 100,000 gallons of water for operation of the facility, a water allocation permit is necessary.

Also, the recycling of asphalt may release organic substances into the air. The recycling equipment and any bituminous concrete plant which uses the recycled asphalt may need air pollution control apparatus to control organic substance emissions. Air pollution control permits for existing bituminous concrete plants would have to be revised to include recycled asphalt. Further, the use of shredders, chippers and crushers 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. Facilities that shred, chip and crush asphalt, brick, etc., must comply with the noise control code, N.J.A.C. 7:29.1. Also, wood waste, tires, or other noncommercial fuels may only be burned in equipment with efficient air pollution control apparatus, pursuant to air pollution control permits issued for the specific material being burned. Finally, recycling centers are subject to the provision of 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. Recycling centers are considered solid waste facilities, which are 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.

All solid waste facilities including composting facilities, must be included in the County Plan via formal plan inclusion or "blanket inclusion" policy prior to DEPE approval. Also, pursuant to N.J.A.C. 7:26-2.4, documentation must be provided establishing that a solid waste facility has been included in the applicable district solid waste management plan prior to submitting an application for a solid waste facility permit. In this regard, that portion of the County's amendment which indicates that certain compost facilities must receive DEPE approval, prior to plan inclusion, has been rejected. Further, Middlesex County's previously approved "blanket inclusion" policy certified by the Department on March 8, 1983 must be updated since it does not address public participation procedures. Proposed compost operations should be required to publish legal notice as part of the "blanket inclusion" policy. Comments received during the public comment period should provide an indication as to whether or not a public hearing, at the county level, is necessary. If the County determines a public hearing is not necessary, a streamlined "blanket inclusion" policy may be followed for plan inclusion. Finally, as noted in Section C., the County is directed to submit a subsequent plan amendment to the Department within 120 days of this certification to provide for a revised "blanket inclusion" policy.

By copy of this certification, the County is notified of the above comments, recommendations and requirements.

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

I, Scott A. Weiner, Commissioner of the Department, 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, have reviewed the August 1, 1991 amendments to the approved County Plan and certify to the County Freeholders that the August 1, 1991 amendments are approved in part and rejected in part as further specified below.

1. August 1, 1991 Amendments

- a. The inclusion of Clayton Block, Inc. located at 1025 Route #1 on Block 198-L, Lot 39, in the Township of Edison as a recycling facility for block, concrete and asphalt, including a stone crushing operation is approved.
- b. The inclusion of Reliable Computer Service located on Block 18, Lot 9.011 in South Brunswick Township as a recycling facility to handle up to 55,000 pounds per day of office paper from Middlesex, Mercer, Monmouth and Somerset Counties is approved.
- c. The inclusion of Resource Recycling Corporation located at Block 387, Lot 3 in South Plainfield Borough to process (shred, chip and crush) a maximum of 500 tons per day of ferrous and nonferrous metals, tires, wood waste, and construction/demolition debris (i.e. concrete) with no more than 8 tons per day of residual is approved.

The construction and 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 to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

- d. The procedures to amend the County solid waste management plan are approved as follows, subject to the requirements of N.J.S.A. 13:1E-1 et seq.
 - i. A proposed amendment must be critically reviewed by the County's Department of Solid Waste Management (DSWM) staff. Ordinarily a proposal will not be presented to the County Solid Waste Advisory Council (SWAC) until the DSWM staff is satisfied that the County's list of criteria, as set forth in the plan, are met.
 - ii. A presentation shall be given to the SWAC by the proposing agency or business and/or their consultants and advisors. Where a facility is involved, a map showing its location will be made available to the members.
 - iii. Following consultation with the SWAC on the proposed amendment, the County Freeholders may call a public hearing to obtain comment on the proposed amendment.

- iv. The County Freeholders will decide whether to place the call for a public hearing on the agenda for one of their meetings and will then decide whether or not to approve the call.
 - v. Legal notices of the public hearing will be published in newspapers of record. All mayors will be notified and requested to make the proposed plan amendment available to the public.
 - vi. The public hearing will be conducted at the scheduled time before the County Freeholders. A stenographer will prepare a record of the hearing. Attendees will be asked to sign an attendance list; speakers will sign a speakers list. The record will be kept open for written comments for a reasonable time after the hearing.
 - vii. The County Freeholders will receive the transcript, any letters and the text of the plan amendment before they consider whether to place an approval resolution on their agenda. If they adopt the plan amendment, copies of the resolution, the plan and map and the transcript and any letters will be forwarded to the DEPE for review and to obtain the Commissioner's certification. A response document will be prepared by the County's DSWM staff and mailed to all commenters who request same and to the DEPE.
- e. The "Blanket Inclusion" policy procedure to amend the County solid waste management plan to include composting facilities is rejected.

Middlesex County's proposed policy that municipal and commercial composting facilities for leaves, grass and other organic materials must obtain DEPE approval prior to plan inclusion is inconsistent with N.J.S.A. 13:1E-1 et seq. and N.J.A.C. 7:26-2.4. As noted in Section B. all solid waste facilities, including composting facilities, must be included in the County Plan via formal plan inclusion or "blanket inclusion" policy prior to DEPE approval. Furthermore, Middlesex County's previously approved "blanket inclusion" policy for municipal leaf composting facilities, certified by the Department on March 8, 1983, is no longer adequate since it does not address public participation procedures. Accordingly, the County Freeholders are directed to submit a subsequent amendment to the Department within 120 days of this certification to provide for a more detailed and comprehensive "blanket inclusion" policy for compost facilities which includes a public participation component. In this regard, the Department will assist Middlesex County towards development of an expanded "blanket inclusion" policy.

2. Middlesex County District Solid Waste Management Plan Deficiencies

I have reviewed the entire County Plan, including these amendments, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. The result of that review is as follows:

1. N.J.S.A. 13:1E-21b(4) requires a survey of proposed collection districts and transportation routes with projected transportation costs from collection districts to existing or available suitable sites for solid waste disposal facilities.

The County Plan does not include truck routes to the Edgeboro Landfill. Therefore, the County Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(4). The County is hereby directed to submit a subsequent plan amendment, as previously directed, addressing the truck routes to the district's landfill.

2. N.J.S.A. 13:1E-21b(6) requires a method or methods of financing solid waste management in the Solid Waste Management District pursuant to the Statewide Solid Waste Management Plan.

Although the March 7, 1991 plan amendment provided the method of financing for the construction of Edgeboro Landfill Phase II Expansion, the County Plan still does not include the method of financing for other components of the County's solid waste system. Therefore, the County Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(6).

The County is hereby directed to submit a subsequent plan amendment, within 120 days of the issuance of this certification, addressing the above noted deficiencies.

3. Middlesex County Response to the Solid Waste Task Force Final Report

I have also reviewed the County Plan to determine whether the plan fulfills the recommendations of the Emergency Solid Waste Assessment Task Force Final Report accepted by the Governor on November 16, 1990. Although response to the recycling component of the Task Force Final Report was part of a former plan amendment, the County was previously directed to submit a subsequent plan amendment within 180 days of the August 16, 1991 certification to address the provisions of source reduction, greater detail in the area of recycling, and regionalization as outlined in the Department's certification. While I recognize that Middlesex County has until February 11, 1992 to address the Task Force Report, I remind the County of this important requirement.

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 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.

4. Certification to Proceed with the Implementation of the Plan Amendments

This document shall serve as the certification of the 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 portion of the 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 and N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of the Amendments

The approved portion of 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 in Part and Rejection in Part of the Amendments and Notification of Deficiencies by the 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 in part and reject in part the amendments, as outlined in Section C. of this certification, to the Middlesex County District Solid Waste Management Plan which was adopted by the Middlesex County Board of Chosen Freeholders on August 1, 1991. I hereby also require, as noted in Section C., the Middlesex County Board of Chosen Freeholders to address the noted deficiencies within the timeframes specified.

12/24/91
DATE



SCOTT A. WEINER
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND ENERGY