

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 AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(MIDDLESEX COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE DECEMBER 3, 1987
AMENDMENT 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 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.

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.)

Amendments to the Act found in N.J.S.A. 13:1E-1 et seq. specifically N.J.S.A. 13:1E-99.11 et seq. require that counties amend their district solid waste management plans to include a district recycling plan. The Middlesex County Board of Chosen Freeholders adopted an amendment on December 3, 1987 to its approved district solid waste management plan.

The amendment proposes to incorporate the district recycling plan into the approved district solid waste management plan as per the requirements of the

New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq. (herein referred to as the "Recycling Act").

The amendment was received by the Department of Environmental Protection on December 22, 1987, and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment and has determined that the amendment adopted by the Middlesex County Board of Chosen Freeholders on December 3, 1987 is approved with modification 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 Amendment

Pursuant to N.J.S.A. 13:1E-24.a.(1) and N.J.S.A. 13:1E.99.11 et seq. I, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the December 3, 1987 amendment to the Middlesex County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and N.J.S.A. 13:1E-99.11 et seq., and I find and conclude that this plan amendment is consistent in part and inconsistent in part with these requirements.

In addition, the Division of Solid Waste Management circulated the plan amendment to eight review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24.a.(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 and the Department of Community Affairs. In addition, a memo identifying the amendment as a district recycling plan was distributed to various agencies, bureaus, and divisions within the DEP as well as the Department of the Public Advocate, the Department of Health, the Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. These agencies were notified of the opportunity to examine a copy of the plan upon request to the Office of Recycling. Of these agencies, the following did not object to the proposed plan amendment: N.J.D.E.P. Division of Parks and Forestry, Division of Solid Waste Management, Bureau of Solid Waste and Resource Recovery Planning, Division of Water Resources, Bureau of Municipal Waste Management; N.J. Department of Community Affairs, Division of Local Government Services; Board of Public Utilities; and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Divisions of Fish, Game and Wildlife, Coastal Resources, Parks and Forestry and Financial Management; the State Departments of Agriculture, Health, Transportation and the Public Advocate; the Green Acres Program, the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. N.J.D.E.P. DEQ Bureau of Air Quality Planning and Evaluation, DSWM Bureau of Resource Recovery, and DSWM Office of Recycling submitted substantive comments which are further addressed below.

N.J.D.E.P. Division of Environmental Quality, Bureau of Air Quality Planning and Evaluation commented that certain regulations prohibiting the release of odors and other air contaminants apply to recycling centers and composting facilities. A copy of these comments are attached for Middlesex County's information and use as may be applicable.

The DSWM, Bureau of Resource Recovery submitted the following comments:

1. Section 5F. of the district recycling plan, Responsibility of Municipalities, states that collectors of recyclables (private scavengers/volunteer groups) must register with the municipality and provide data on the results. Middlesex County is advised that facilities which, as a result of this activity, transport residue to the landfill require permitting by the Bureau of Resource Recovery.
2. The plan indicates that the county will assist municipalities in their responsibility for developing plans for leaf disposal. Middlesex County is advised that composting facilities require permitting by the Bureau of Resource Recovery.

In response, Middlesex County is hereby notified of the above mentioned requirements.

The DSWM, Office of Recycling submitted the following comments:

1. Pursuant to N.J.S.A. 13:1E-1 et seq. section 7 of the district recycling plan, Provision for Changes in the Plan, shall be amended to include a listing of major and minor plan modifications. Those considered minor would then be included in the plan upon the recommendation of the Middlesex County Solid Waste Advisory Council at a meeting for which a public notice has been published once in a newspaper of general circulation no less than ten days prior to the meeting, and upon affirmative resolution of the Middlesex County Board of Chosen Freeholders. Those modifications considered major would be considered solid waste management plan amendments and shall follow the standard procedure established for solid waste management plan amendments set forth at N.J.S.A. 13:1E-1 et seq. A period of time should be allowed for comment on any proposed modification prior to incorporation into the County's district recycling plan. A methodology for addressing the comments received prior to incorporation into the County's district recycling plan shall also be incorporated into the procedures for the modification of the district recycling plan.
2. Pursuant to N.J.S.A. 13:1E-99.16.b., Middlesex County shall review existing municipal mandatory recycling ordinances and shall amend the district recycling plan to require that the municipal mandatory recycling ordinances be consistent with, but shall not be limited to, the materials designated in the district recycling plan.
3. Pursuant to N.J.S.A. 13:1E-99.21.a., "Within 12 months of the effective date of this amendatory and supplementary act, all leaves collected by a municipality pursuant to the provisions of Section 14 of this amendatory and supplementary act shall be transported to a leaf composting facility. Each district recycling plan shall identify the leaf composting facility or facilities to be utilized by each municipality within the county." Middlesex County has not met the above requirement, and pursuant to N.J.S.A. 13:1E-99.21.a., the district recycling plan shall be amended to include a list setting forth the leaf composting facilities to be utilized by each Middlesex County municipality.

4. Section 4., Designated Materials, of the district recycling plan states, "In addition to required recycling of the designated materials, this Plan urges additional recycling and/or diversion from landfill disposal as follows...Corrugated cardboard generated in small amounts by citizens and stores (to commercial or municipal collection centers or programs.)" Pursuant to N.J.S.A. 13:1E-99.13.b.(2), the district recycling plan shall be amended to delete the word "stores" because the district recycling plan designates commercial, industrial, and institutional generators of corrugated cardboard to recycle this material.
5. Pursuant to N.J.S.A. 13:1E-99.13.b.(3), Middlesex County shall amend the district recycling plan to include an alternative strategy for the collection, marketing and disposition of the designated recyclables in the event that the municipalities do not reach the recovery targets outlined in N.J.S.A. 13:1E-99.13.b.(3).
6. Pursuant to N.J.S.A. 13:1E-1 et seq. the district recycling plan shall be amended to state the minimum enforcement requirements of the municipal ordinances. The district recycling plan shall be amended to provide specific details of specific actions the county will take regarding enforcement. It is the Office of Recycling's understanding that the Edgeboro landfill has hired an inspector. The district recycling plan shall be amended to include this fact, and to outline the inspector's duties for enforcing the district recycling plan.
7. Section 9 of the district recycling plan on page 12 states, "Companies and others who have been actively recycling for a year or more before approval of this plan can be exempted from provisions of this plan or provisions of municipal recycling plans which would otherwise apply if they inform the municipality and the Department of Solid Waste Management of their reasons and request the exemption. Such companies must provide full information to their municipality and the County about the recycling which they carry out under their own systems." N.J.S.A. 13:1E-99.16.d. states, "The governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries from the source separation requirements of the ordinance..." Pursuant to N.J.S.A. 13:1E-99.16.d., the district recycling plan shall be amended to clarify what the County means by "full information", "others", and to incorporate the provisions of N.J.S.A. 13:1E-99.16.d.
8. Section 5, F. Responsibilities of Municipalities, of the district recycling plan requires municipal education programs to notify all citizens at least two times per year of the municipality's recycling program. Pursuant to N.J.S.A. 13:1E-99.16.f., the district recycling plan shall be amended to require municipal education programs to notify all persons occupying residential, commercial, and institutional premises at least once every six months of the local recycling opportunities and the source separation requirements of the ordinance.
9. Pursuant to N.J.S.A. 13:1E-99.11 et seq. the district recycling plan shall be amended to describe how the Middlesex County Utilities Authority will comply with the requirements of the district recycling

plan to ensure that the designated recyclable materials are not disposed of in any solid waste facility under the jurisdiction of the Middlesex County Utilities Authority.

In response, Middlesex County is hereby notified of the above mentioned requirements.

C. Certification of Middlesex 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 December 3, 1987 amendment to the approved Middlesex County District Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the December 3, 1987 amendment is approved with modification. Middlesex County is required pursuant to N.J.S.A. 13:1E-24.e. to conduct a public hearing within forty-five (45) days of the date of this certification to address a subsequent solid waste management plan amendment which will remedy the deficiencies in the district recycling plan identified in Section B. of this certification and submit a plan amendment within thirty (30) days of the date of the public hearing to the Department which remedies the outlined deficiencies.

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 this amendment to the Middlesex County District Solid Waste Management Plan and which was executed prior to the approval of this amendment 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 amendment 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 amendment; 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 amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Middlesex County District Solid Waste Management

Plan. Any solid waste 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 recycling 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 Amendment

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 amendment contained herein.

5. 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 N.J.A.C. 7:26-2.13 and N.J.S.A. 13:1E-99.12.

6. Effective Date of Amendment

The Amendment 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 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 approval with modification of the Amendment and Notification of Deficiencies 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 approve with modification, the amendment 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 December 3, 1987. I further direct the Middlesex County Board of Chosen Freeholders to conduct a public hearing within forty-five (45) days of the date of this certification to address the deficiencies outlined in Section B. of this certification and to submit a plan amendment within thirty (30) days of the date of the public hearing to the Department which remedies the outlined deficiencies.

May 20, 1988
DATE


RICHARD T. DEWLING
COMMISSIONER