

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 4, 1986
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.)

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 completed such a review and on December 4, 1986, adopted an amendment to its approved district solid waste management plan. The amendment proposes inclusion of the South Plainfield transfer and recycling center, to be located in South Plainfield Borough, within the district plan.

The amendment was received by the Department of Environmental Protection on December 12, 1986, and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire Middlesex County District Solid Waste Management Plan, and has determined that the amendment adopted by the Middlesex County Board of Chosen Freeholders on December 4, 1986, is approved as provided in N.J.S.A. 13:1E-24. With regard to the district plan, while the requirements of the Act concerning the report have been met, the district's plan remains deficient in some important ways.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the December 4, 1986, 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 I find and conclude that this plan amendment is consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendment to sixteen review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24a(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. Also among these agencies were the Department of Community Affairs, the Department of the Public Advocate, the Department of Health, the Office of Recycling, the Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Divisions of Fish, Game and Wildlife, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture, Health, and Community Affairs, the New Jersey Turnpike Authority, and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the State Department of the Public Advocate, the Green Acres Program, and the U.S. Environmental Protection Agency. The Department of Transportation, Division of Environmental Quality, Division of Water Resources, the Office of Recycling and the Board of Public Utilities submitted substantive comments which are further addressed below.

The Department of Transportation commented that the proposed facility indicates a dependency upon the state highway system for the transport of waste materials. However, no mention is made concerning the compliance with regulations governing the use of state highways. In response, this issue will be addressed during the technical phase of the Department's permit process.

The Division of Environmental Quality commented that N.J.A.C. 7:27-8.2a(16) requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly to the outdoor atmosphere. In response, this issue will also be addressed during the technical phase of the Department's permit process.

The Office of Recycling commented that the proposed facility is planned to recycle aluminum, corrugated, metals and glass. However, no indication is made as to the amount of materials to be recycled or if markets have been secured to accept these materials. In response, under the April 20, 1987 recently enacted Mandatory Recycling Act, on or after July 1, 1987, the Department shall not issue a registration statement or engineering design approval for any new or expanded solid waste facility in any county unless the person or party proposing to construct or operate the facility submits written documentation and any other evidence the Department may require demonstrating to the Department's satisfaction that the goals of the relevant district recycling plan have been incorporated into the plans for the proposed facility. Therefore, the Department may not issue a permit after July 1, 1987 to construct and operate the South Plainfield transfer station unless the applicant demonstrates conformance with the Middlesex County District Recycling Plan. If the district recycling plan has not been approved by the Department at the time a permit to construct and operate is ready for issuance, then conformance with the district recycling plan shall be made a condition of operation of the transfer station.

The Board of Public Utilities (BPU) commented that the amendment contains no economic or ownership data. Specifically, if the planned transfer station is for the facility operator's own use, then the BPU will have no jurisdiction over the facility. If, however, the facility will be used by other collector/haulers and/or the general public, then it will be subject to BPU regulations. In response, the applicant has informed the Department that the facility will be open for public use and, therefore, will be registered with the BPU.

The Division of Water Resources commented that the proposed facility must be consistent with state of the art technologies to eliminate, contain, and/or monitor all potential discharges to ground water from the facility. In response, this issue will be addressed during the technical phase of the Department's permit process.

The Division of Solid Waste Management has conducted a field survey of the proposed transfer site and notes the proximity of homes to the facility. The applicant, in preparing the Environmental and Health Impact Statement as required by the permitting process, must demonstrate that the proposed project will meet daytime noise standards as specified in N.J.A.C. 7:29. Also, the applicant is hereby informed of the Department's transfer station program whereby the private sector is anticipated to site, construct, and operate transfer stations within Passaic, Morris, Somerset, and Union Counties. All solid waste generated from within these counties shall be directed to the aforementioned transfer stations prior to out-of-state disposal. If the applicant plans to transport solid waste generated from outside Middlesex County to the proposed South Plainfield facility, a prohibition on such waste flow will be likely in the near future pursuant to the above mentioned transfer station program. Therefore, the applicant should not plan to accept any solid waste generated from within the aforementioned counties for the next three to five years which is the anticipated time frame of the Department's transfer station program.

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 4, 1986 amendment to the approved Middlesex County District Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the December 4, 1986 amendment is approved as further specified below.

The inclusion into the district plan of the South Plainfield transfer and recycling center located on Lot 1, Block 299, in South Plainfield Borough, is approved. The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals under the 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.

The Department has reviewed the entire Middlesex County District Solid Waste Management Plan, including this amendment, 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:

The certification of the September 4, 1986 Amendment to the Middlesex County District Solid Waste Management Plan which was issued by Commissioner Dewling on February 9, 1987 noted that the Middlesex plan remained deficient with respect to the requirements of:

1. N.J.S.A. 13:1E-21b(3) which requires a site plan which shall include all existing solid waste disposal facilities located within the Solid Waste Management District . . . and sufficient additional available suitable sites to provide solid waste facilities to treat and dispose of the actual and projected amounts of solid waste contained in the report accompanying the plan.
2. N.J.S.A. 13:1E-21b(4) which 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.
3. N.J.S.A. 13:1E-21b(5) which requires procedures for coordinating all activities related to the collection and disposal . . . within the Solid Waste Management District, which procedures shall include the agreements entered into as provided herein between the Board of Chosen Freeholders . . . and every such person, and the procedures for furnishing the solid waste facilities contained in the Solid Waste Management Plan.
4. N.J.S.A. 13:1E-21b(6) which requires a method or methods of financing solid waste management in the Solid Waste Management District pursuant to the Solid Waste Management Plan.

Until a plan amendment designating sites for a landfill and a resource recovery facility are approved by the Department, the Middlesex County District Solid Waste Management Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21(b) (3), (4), (5) and (6).

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 the within 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 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).

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.

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 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 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 4, 1986. I further direct the Middlesex County Board of Chosen Freeholders to remedy those deficiencies referenced in Section C. of this certification as soon as possible.

May 8, 1987
DATE



RICHARD T. BEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION