



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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**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 20, 1990 AND MARCH 7, 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 County 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 (DEP or Department) 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 December 20, 1990 and March 7, 1991 adopted amendments to its approved district solid waste management plan.

Pursuant to N.J.S.A. 13:1E-21(b)(4), the December 20, 1990 amendment proposed to include in the district plan the Middlesex County Utilities Authority's (MCUA) plan of finance for the Edgeboro Landfill Phase II Expansion, which will be utilized as the County's long-term disposal site. This plan calls for financing construction of Phase II through the sale of bonds. The December 20, 1990 amendment (1989-10) was originally received by the Department on January 7, 1991. However, the amendment was deemed administratively incomplete at that time since the entire plan amendment adopted by the County Freeholders was not included in the submission. Subsequently, pursuant to the Department's request of February 13, 1991, the County submitted the required information on March 7, 1991. Following review of the additional information by the Attorney General's Office, the plan amendment was deemed administratively complete on March 20, 1991. Copies of the complete amendment were distributed to various state level review agencies for review and comment, as required by law.

The March 7, 1991 amendments (1990-3, 1990-4 and 1990-5) proposed various administrative changes to the County Recycling Plan, included the Tower Recycling Company into the County Plan and proposed a goal of recycling 60% of the County's total waste by December 31, 1995. The March 7, 1991 amendments were received by the Department on March 20, 1991 and copies of both amendments were distributed to various state level review agencies for review and comment, as required by law.

The Department has reviewed the December 20, 1990 and March 7, 1991 amendments, as well as the entire County Plan, and has determined that the amendments adopted by the County Freeholders on December 20, 1990 and March 7, 1991 are approved as provided in N.J.S.A. 13:1E-24. With regard to the County Plan, while the immediate plan amendments have been approved, deficiencies in the County Plan have been identified within Section C. of the 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 December 20, 1990 and March 7, 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan.

In addition, the Department circulated the plan amendments to sixteen review agencies and solicited their review and comments. Pursuant to

N.J.S.A. 13:1E-24a(2) and (3), these agencies included various agencies, bureaus, and divisions within the Department as well as the Board of Public Utilities. These agencies were the following:

Division of Environmental Quality, DEP
Division of Water Resources, DEP
Division of Coastal Resources, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Solid Waste Management, DEP
Green Acres Program, DEP
Board of Public Utilities
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 December 20, 1990 Amendment

The following agencies did not object to the plan amendment:

Division of Environmental Quality, DEP
Division of Water Resources, DEP
Division of Coastal Resources, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Green Acres Program, DEP
Department of Agriculture
Department of Transportation

The following agencies did not respond to our request for comments:

New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

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

Division of Solid Waste Management, DEP
Board of Public Utilities

2. Agency Participation in the Review of the March 7, 1991 Amendments

The following agencies did not object to the plan amendments:

Division of Coastal Resources, DEP
Division of Parks and Forestry, DEP

Green Acres Program, DEP
Department of Agriculture
Department of Transportation
Department of Community Affairs

The following agencies did not respond to our request for comments:

Division of Fish, Game and Wildlife, DEP
Board of Public Utilities
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of the Public Advocate
U.S. Environmental Protection Agency

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

Division of Environmental Quality, DEP
Division of Solid Waste Management, DEP
Division of Water Resources, DEP

3. Comments Received for the December 20, 1990 Amendment

Comment: The Division of Solid Waste Management (DSWM) commented that the originally proposed plan of finance contained within the plan amendment of September 5, 1989 specified that Edgeboro Landfill was to be purchased. However, after a public hearing, in which the citizens of Middlesex County expressed concern regarding the County's financial responsibility if Edgeboro Landfill was purchased, the County Freeholders modified the plan amendment by replacing the word "purchase" with the words "obtain rights" and making other associated linguistic changes to the amendment, and updating some of the included dates. The County Freeholders adopted the modified amendment during their regularly scheduled meeting of December 20, 1990. The December 20, 1990 amendment was received by the Department on January 7, 1991. However, not all the documents from the September 5, 1989 and the December 20, 1990 public hearings were submitted to the Department, thus rendering the amendment administratively incomplete at that time. On February 13, 1991, the Department requested the County to submit both the September 5, 1989 amendment in its original form and the modified December 20, 1990 amendment.

On March 7, 1991 the Department received copies of the requested information including a letter from Mr. Robert McCarthy, former Solid Waste Coordinator/Director for Middlesex County, which was forwarded to the Attorney General's Office for a determination of administrative completeness. This letter states that the plan amendment and plan of finance concern only the Authority's intention to develop an expansion of the Edgeboro Landfill as the County's long-term disposal site, and that references in the amendment to the resource recovery facility and a proposed transfer station are background information. The letter also refers to testimony given at the September 5, 1989 Public Hearing by

Ms. Barbara Bisgaier, consultant to the MCUA, and Mr. McCarthy that the plan amendment relates only to the Edgeboro Landfill. Upon review, the Attorney General's Office determined that as of March 21, 1991, Plan Amendment 1989-10, adopted December 20, 1990, was administratively complete. The public notices concerning the amendment, dated August 18, 1989 and August 25, 1989 specified that the amendment contains only the plan of finance for the Edgeboro Landfill.

Response: Only the construction of the Edgeboro Landfill Phase II Expansion has been considered at this time. Thus, while the plan amendment refers to the resource recovery facility and transfer station proposals, these elements were not considered as part of my review of this amendment and will need to be considered as the subject of a future solid waste management plan amendment. By copy of this certification, the County, MCUA and DSWM are notified of this response.

Comment: The Board of Public Utilities (BPU) initially commented that certain issues concerning the financing plan needed to be resolved prior to planning approval. Specifically, these included the intended use of funds collected from tipping fees at the Edgeboro Landfill and a demonstration by the MCUA that the method of finance was the most cost effective for Middlesex County residents. Subsequently, the BPU commented that, if the plan of finance relates only to Edgeboro Landfill Phase II, it was acceptable, provided the County and the MCUA did not expend any funds collected from tipping fees at Edgeboro Landfill for the proposed resource recovery facility. The BPU also indicated that the lease agreement between Edgeboro Disposal Incorporated and the MCUA is subject to BPU review.

Response: Tipping fees may not be expended for the proposed resource recovery facility since the County's plan amendment relates only to the financing of construction of the Edgeboro Landfill Phase II Expansion. In addition, the lease agreement between Edgeboro Disposal Incorporated and the MCUA is subject to BPU review. By copy of this certification, the County, MCUA and BPU are notified of this response.

4. Comments Received for the March 7, 1991 Amendments

Comment: The Division of Environmental Quality (DEQ) commented that the use of crushers may 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 may be required. Crushers must also comply with the noise control code, N.J.A.C. 7:29.1. Recycling centers are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits odors and emissions of other air contaminants which interfere with the enjoyment of life or property. Additionally, air pollution control permits are required for equipment used to vent a solid waste facility to the ambient atmosphere. Stationary conveying equipment which causes fugitive emissions of air contaminants require air pollution control permits pursuant to the provisions of N.J.A.C. 7:27-8.2(11).

Similarly, the Division of Water Resources (DWR) commented that if the new aluminum can processing facility will discharge pollutants as defined in N.J.A.C. 7:14A-1.9, said facility must secure a New Jersey Pollutant Discharge Elimination System permit and/or a Treatment Works Approval for pollutant discharges prior to operation. Further, since there is a sewer connection ban in effect in the City of Perth Amboy, a ban exemption may also be required pursuant to N.J.A.C. 7:14A-12.22 prior to construction and operation of the aluminum can processing facility. Contact should be made with the DWR's Bureau of Construction and Connection Permits regarding sewer connection ban exemptions.

Response: The applicant must receive all approvals required by law, including those referenced above. By copy of this certification, the County, MCUA, DEQ and DWR are notified of this response.

Comment: The DSWM commented with respect to the "Supporting Statement and Strategy" section of this amendment. The County did not provide for a detailed strategy to implement a 50% recycling rate of the municipal waste stream, including yard waste, and a 60% recycling rate of the total waste stream by December 31, 1995. In addition, initiatives the County will embark upon regarding increased municipal waste (type 10) recycling include encouraging municipal enforcement of recycling ordinances. As it is the responsibility of each municipality to enforce its duly adopted municipal recycling ordinance, as set forth at N.J.S.A. 13:1E-99.16(b), the DSWM recommends that the County require that each municipality stringently enforce its respective municipal recycling ordinance.

Response: Within Section C. of this certification, the County is directed within 180 days of the issuance of this certification, to submit a subsequent plan amendment to address in detail the specific measures which will be undertaken by the district to achieve the 50% and 60% recycling rates by December 31, 1995. Also, with regard to municipal enforcement of recycling ordinances, I concur with the DSWM's recommendation that each municipality enforce its respective recycling ordinance. By copy of this certification, the County and DSWM are notified of this response.

C. Certification of 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 December 20, 1990 and March 7, 1991 amendments to the approved County Plan and certify to the County Freeholders that the December 20, 1990 and March 7, 1991 amendments are approved as further specified below.

1. December 20, 1990 Amendment

The method of financing the Edgeboro Landfill Phase II Expansion through the utilization of revenue bonds is approved. The Department has limited its review pursuant to N.J.S.A. 13:1E-21b(6) to the appropriateness of financing the construction of the Edgeboro Landfill Phase II Expansion through the sale of bonds and notes that the Local Finance Board within the Department of Community Affairs must conduct a review of the MCUA budget, including the appropriateness of its financing plans and of any proposed bond resolutions, pursuant to N.J.S.A. 40A:5A-1 et seq. Accordingly, since that review is required, this approval in no way supports or rejects the amount of said bonding specified within the amendment. Further, as noted in Section B., no portion of the tipping fees collected at the Edgeboro Landfill may be used for the County's proposed resource recovery facility. Finally, as referenced by the BPU, the lease agreement entered between Edgeboro Disposal Incorporated and the MCUA is subject to review by the BPU.

2. March 7, 1991 Amendments

a. County Recycling Goal:

The expansion of the County's overall goal for recycling 60% or more of the total solid waste stream consistent with the recommendations of the Governor's Emergency Solid Waste Assessment Task Force Final Report is approved. However, as noted within Section C.4., the County is required to address in detail the specific measures which will be undertaken by the district to achieve the 50% municipal solid waste and 60% total waste stream recycling rates by December 31, 1995.

b. Administrative changes to the County Recycling Plan:

The administrative revisions to Sections 3, 7, 9, 10 and 11 of the County Recycling Plan are approved. These include: Section 3 - Authority of the approved plan; Section 7 - Compliance of the County and Responsibilities of the County and Municipalities; Section 9 - Minor Modifications pursuant to the Department's October 1988 Certification; Section 10 - Specifying violations at the landfill and reporting of recycling quantities to the municipalities; and Section 11 - Revisions to the procedure for granting exemptions to source separation for commercial/institutional generators.

c. The inclusion of Tower Recycling Company, at Block 428, Lots 1A and 1B, in Perth Amboy, with an estimated daily processing capacity of 800-1,000 pounds is approved. The facility will collect aluminum cans from local in-county businesses to be crushed, recycled and shipped to Alcoa Recycling. 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 to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

3. Middlesex County Solid Waste Management Plan Deficiencies

I have reviewed the entire County 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:

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, within 180 days of the issuance of this certification, 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 this County plan amendment provides the method of finance for the construction of Edgeboro Landfill Phase II Expansion, the County Plan still does not include the method of finance 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).

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

Finally, I have 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 the County Plan has generally addressed the recycling component of the Task Force Final Report, the County is hereby directed to submit a subsequent plan amendment within 180 days of this certification to address the following provisions of source reduction, recycling and regionalization:

- a. Source Reduction: The December 20, 1990 and March 7, 1991 amendments did not adequately address source reduction. Therefore, the County shall determine what source reduction measures can be taken at the County level to eliminate the

trend of increased per capita solid waste generation. For each noted source reduction measure, the County shall estimate its potential impact upon total solid waste generation within the district.

- b. **Recycling:** Although Middlesex County's policy to recycle 60% of the solid waste stream by December 31, 1995 is approved, the County must still address what specific measures will be taken by the district to achieve at least a 50% recycling rate for the municipal waste stream and a 60% recycling rate for the total waste stream by December 31, 1995. This determination shall address, at a minimum, what additional facilities will be needed within the district; what sites already exist or under what procedure the Middlesex district will select necessary sites; and under what schedule the district feels that each necessary facility can be brought into operation.

Also, for each component of the recycling strategy, the district shall outline estimates of the tonnages which can be recycled in a mass balance format taking into consideration the total projected solid waste generation in the County. Further, based upon the minimum 50% and 60% recycling rates, the district must outline the amount of solid waste still requiring disposal.

- c. **Regionalization:** The County shall determine the extent to which it can undertake long-term regionalization of its solid waste facilities and programs with other districts to provide regional solutions to solid waste management.

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

transporters who fail 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. Also, 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 (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 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 N.J.A.C. 7:26-1.4 and -2.13.

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 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 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 December 20, 1990 and March 7, 1991. I hereby also require, as noted in Section C., the Middlesex County Board of Chosen Freeholders to address the noted deficiencies and requirements within the timeframes specified.

8/16/91
DATE


SCOTT A. WEINER
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION