



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(ATLANTIC COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE MARCH 8, 1988
AMENDMENT TO THE ATLANTIC 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 June 24, 1982, the Department approved, with modifications, the Atlantic 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 Atlantic County Board of Chosen Freeholders completed such a review and on March 8, 1988 approved an amendment to its district solid waste management plan, which includes the proposed expansion of the Galloway Township-Oak Avenue Landfill beyond its present design capacity.

The amendment was received by the Department of Environmental Protection on May 3, 1988, 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 Atlantic County District Solid Waste Management Plan, and has determined that the amendment adopted by the Atlantic County Board of Chosen Freeholders on March 8, 1988 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 Atlantic 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 March 8, 1988 amendment to the Atlantic 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 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: N.J.D.E.P. Division of Water Resources, the State Departments of Agriculture and Community Affairs, the Board of Public Utilities and the Pinelands Commission. The following agencies failed to respond to our requests for comments: the State Departments of Health, Transportation and the Public Advocate, the Green Acres Program, the New Jersey Turnpike Authority, the New Jersey Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The Divisions of Fish, Game and Wildlife, Parks and Forestry, Coastal Resources and Environmental Quality submitted substantive comments which are further addressed below.

The Division of Fish, Game and Wildlife commented that they conceptually support the expansion of existing landfills rather than cause other open space areas to be lost to landfill activities. However, the amendment does not illustrate the direction/location of the 6.5 acre expansion of the Oak Avenue site. They note that wetlands are present adjacent to the site and are inhabited by several verified endangered/threatened species. In addition, site containment of leachate/run-off is essential due to the downstream areas of drainage. In response, the issues must be addressed in the Environmental and Health Impact Statement (EHIS) submitted to the Department as part of the landfill expansion application. The Department will perform a technical review of the application to ascertain that adequate environmental safeguards are maintained.

The Division of Parks and Forestry (DP&F) commented that it is likely that prehistoric sites exist within the area of the proposed landfill expansion, although none are yet listed in the State or National Registers of Historic Places. The DP&F also commented that the project area drains south directly into wetlands which support habitat for a globally rare plant species, the curly grass fern (*Schizaea pusilla*). It is recommended that special precautions be taken to insure that the proposed landfill will not impact the hydrology or water quality of the critical wetland habitat for this species. In response, these issues must be addressed in the Environmental and Health Impact Statement as part of the landfill expansion application. The Department will perform a technical review of the application to ascertain that adequate environmental safeguards are maintained.

The Division of Coastal Resources commented that a CAFRA permit is required for the facility. In response, by copy of this certification, Atlantic County is informed of this requirement. Also, acquisition of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq. and all other applicable laws would be a condition of the permit for expansion.

The Division of Environmental Quality commented that landfills should be equipped with air pollution control devices, which require permits for all stationary equipment. In response, by copy of this certification, Atlantic County is informed of this requirement. Again, obtaining of all necessary permits is a condition within the permit.

The Division of Solid Waste Management (DSWM) commented that the amendment is inconsistent with the N.J.S.A. 13:1E-99.30, which states that ... "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 goals of the relevant district recycling plan ... have been incorporated into the plans for the proposed facility." Therefore, the following points are required to be addressed by the permit applicant at such time as an application is made for a solid waste facility permit:

1. An incoming waste inspection plan, approved by the Department, shall be established to insure that the materials designated to be recycled as per the Atlantic County District Recycling Plan and N.J.S.A. 13:1E-99.11 et seq. shall not be disposed of as solid waste at the facility.
2. Vegetative waste is identified, on page 2 of the amendment, as one of the waste types presently being disposed of at the Oak Avenue Landfill in Galloway Township. The acceptance of leaves at the landfill will be in direct violation of N.J.S.A. 13:1E-99.21, which states that "no sanitary landfill facility in this State shall accept for final disposal truckloads composed primarily of leaves at any time, except that leaves source separated from solid waste may be accepted by a sanitary landfill facility in those instances where the facility has provided and maintains for that purpose separate leaf composting facilities, and the composted leaves are utilized as part of the final vegetative cover for the landfill, or for other uses as a soil conditioning material."

3. Bulky waste is also identified, on page 2 of the amendment, as one of the waste types presently being disposed of at the Oak Avenue Landfill in Galloway Township. The potential for recycling bulky items such as white goods, wood stumps, tires and concrete should be examined prior to disposal in the Oak Avenue Landfill.

The DSWM also stated that the Atlantic County Recycling Plan has been submitted to the Department for review and is scheduled to be certified by September 14, 1988. The recycling program in Atlantic County must be implemented by April 14, 1989.

Further, the DSWM noted that many of the solid waste generation projections made for the expansion may be inaccurate. The Division recommends that the applicant closely review all methodology and sources used as a basis for this landfill expansion in the EHIS. Also, the Division noted that the proposed landfill expansion must be in full compliance with all Department regulations for a state-of-the-art facility. The proposed liner system may have to be revised to conform with the standards of the current regulations.

C. Certification of Atlantic 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 March 8, 1988 amendment to the approved Atlantic County District Solid Waste Management Plan and certify to the Atlantic County Board of Chosen Freeholders that the March 8, 1988 amendment is approved as further specified below.

The inclusion within the district plan of a landfill expansion on Block 1171, Lot 17, in the Township of Galloway is approved. 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.

The Department has reviewed the entire Atlantic 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:

1. N.J.S.A. 13:1E-21b(3) requires "A site plan which shall include all existing solid waste 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."

Atlantic County, by selecting a resource recovery site on Doughty Road, Egg Harbor Township, has achieved a large step toward providing

sufficient solid waste management and disposal. However, the county has not formally adopted into the Atlantic County plan any strategy to provide interim landfill capacity until the resource recovery facility commences operation. In addition, the county has still not identified a residual ash landfill site. Also, the county has fallen far behind the milestones specified for development of a resource recovery facility as called for in the November 20, 1984 Administrative Consent Order signed by the Department and Atlantic County. Therefore, I find that Atlantic County has not complied with N.J.S.A. 13:1E-21b(3) and that this section of the Atlantic County District Solid Waste Management Plan is deficient.

2. 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 sites for solid waste disposal facilities.

The Department has previously determined in an April 23, 1985 certification to a November 20, 1984 amendment of the Atlantic County District Solid Waste Management Plan that Atlantic County has complied with N.J.S.A. 13:1E-2b(4) with the completion of transportation surveys to two resource recovery sites under consideration and four sites considered for a landfill. However, none of these sites were selected as either a resource recovery facility or a landfill. With the selection of a resource recovery site in Egg Harbor Township and the preparation of a Preliminary Environmental and Health Impact Statement for this site, the county has completed a transportation survey to this new resource recovery site. However, since a landfill site has not been selected, I find that the Atlantic County District Solid Waste Management is once again deficient with respect to N.J.S.A. 13:1E-21b(4).

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

Atlantic County has not submitted to the DEP a specific plan for financing solid waste management within the district. Therefore, I find that Atlantic County has not complied with N.J.S.A. 13:1E-21b(6) and that this section of the Atlantic County District Solid Waste Management Plan is deficient.

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 Atlantic 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 Atlantic 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 Atlantic County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Atlantic 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 Atlantic 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 Amendment

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Atlantic 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 -2.13.

6. Effective Date of Amendment

The amendment to the Atlantic 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 Atlantic 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 Atlantic County District Solid Waste Management Plan which was adopted by the Atlantic County Board of Chosen Freeholders on March 8, 1988. I hereby further direct the Atlantic County Board of Chosen Freeholders to rectify those deficiencies specified in Section C. of this certification as soon as possible.

August 1, 1988

DATE


 RICHARD T. DEWLING
 COMMISSIONER
 DEPARTMENT OF ENVIRONMENTAL PROTECTION