



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.L., 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 A PORTION
OF THE MARCH 15, 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 15, 1988 adopted an amendment to its approved district solid waste management plan.

The amendment contained five parts including the redesignation of the location of the resource recovery facility site. To assist Atlantic County in meeting their goal of having their resource recovery facility

operational by 1992, the Department has agreed to expedite the review of this portion of the plan amendment. The proposed amendment also contained provisions to adopt a Recycling Plan for Atlantic County, to designate a site for the county recycling center, to designate the Atlantic County Utilities Authority as the implementing agency for the Atlantic County District Solid Waste Management Plan and the Recycling Plan, and to designate the use of the Resource Recovery Investment Tax Funds. Due to variety of subject matter, it was determined that they should be reviewed and certified separately. This certification will only address the redesignation of the lots and blocks comprising the resource recovery facility site. Additional certifications will address the remaining portions of the amendment.

The amendment was received by the Department of Environmental Protection on April 18, 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 portion of the March 15, 1988 amendment redesignating the lots and blocks for the resource recovery facility site 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 a portion of the March 15, 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 portion of the plan amendment, which redesignates the resource recovery facility site, 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: The State Department of Agriculture, the Board of Public Utilities, the Green Acres Program, the Pinelands Commission, 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 Departments of Health, Community Affairs, Transportation and the Public Advocate, and the U.S. Environmental Protection Agency. The N.J.D.E.P. Divisions of Water Resources, Environmental Quality, Coastal Resources, Fish, Game and Wildlife and Parks

and Forestry submitted substantive comments which are further addressed below.

The Division of Water Resources commented that more information on wastewater disposal is necessary before a final decision can be made regarding the consistency of the plan. Also, Discharge to Surface Water (DSW) and/or Significant Industrial User (SIU) permits may be required. In response, these issues must be addressed in detail by the applicant during the technical phase of the Department's permit review process.

The Division of Environmental Quality commented that air pollution control permits, which require devices to limit emissions, odors and other air contaminants are required for resource recovery facilities. Also, combustion of used oil and mixtures of used oil are subject to the provisions of N.J.A.C. 7:27-8.2(a)13. Also, if the proposed site for a resource recovery facility is located in an area which has been designated as attainment or unclassifiable for the National Ambient Air Quality Standards (NAAQS), a federal Prevention of Significant Deterioration (PSD) permit will be required. The Federal Land Manager from the U.S. Department of the Interior must be notified whenever a PSD permit is sought. If the proposed site is located in a non-attainment area for any of the state or national ambient air quality standards, then the facility is subject to the provisions of N.J.A.C. 7:27-18. Air quality modeling will be required to determine the effect of the resource recovery facility on ambient air quality. The effect of all major sources of air contaminants near the proposed facility must be included in the modeling demonstrations. Additionally, the effect of traffic created by the construction and operation of the facility on ambient air quality must also be determined. Finally, the Atlantic County resource recovery site is located approximately 5-7 km southwest of the Brigantine National Wildlife Refuge, which is within a Class I area, as defined by the Clean Air Act. Therefore, only a small degree of air quality deterioration will be permitted. This entails a visibility analysis to determine the effect on visibility in the refuge from the proposed source. Again, these issues must be addressed during the technical phase of the permit review process.

The Division of Coastal Resources commented that the resource recovery facility will require a CAFRA permit. This issue must be addressed during the technical phase of the permit review process.

The Division of Fish, Game & Wildlife commented that they note the proximity of the resource recovery site to Jarrets Run, Absecon Creek, Atlantic City Reservoir and the marshes of Absecon Bay. There is concern regarding site containment and protection of wetlands, wildlife and endangered species. In response, these issues must be addressed during the technical phase of the permit review process.

The Division of Parks and Forestry commented that there is a high potential for the existence of prehistoric resources within the project area. Since a CAFRA permit is required, an archaeological survey would be appropriate. In response, by a copy of this certification, the applicant is notified of this concern.

The Division of Solid Waste Management is concerned with the location of the proposed site with respect to the Atlantic City Airport. The Atlantic

City Airport is located approximately two (2) miles west of the Doughty Road site. This could pose a problem concerning the height of the emissions stack on the resource recovery facility. This issue must be addressed by the applicant as part of the Department's technical review. Additionally, the Division is concerned with the prior use of the site. It is the Division's belief that this site was previously used as a depository for solid waste. Therefore, site mitigation may be necessary. This issue must be addressed by the applicant during the technical phase of the review process. The Department will perform a review of the application at that time to ascertain that adequate environmental safeguards are maintained.

C. Certification of the 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 15, 1988 amendment to the approved Atlantic County District Solid Waste Management Plan and certify to the Atlantic County Board of Chosen Freeholders that a portion of the March 15, 1988 amendment is approved as further specified below.

The portion of the Atlantic County plan amendment of March 15, 1988 amending the designation of the resource recovery facility site to block 397-A, lot 1, and block 23-A, lots 1 and 16, in Egg Harbor Township 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 also 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 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.

Atlantic County, by selecting a resource recovery site, 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 or methods 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 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 a Portion of the 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 portion of the 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 approved portion of the amendment to the Atlantic County District Solid Waste Management Plan contained herein shall take effect immediately.

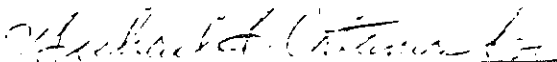
7. Reservation of Authority

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 a Portion 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 a portion of 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 15, 1988. I hereby further direct the Atlantic County Board of Chosen Freeholders to remedy those deficiencies noted in Section C. of this certification as soon as possible.

August 3, 1988
DATE


RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION