



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)
(ATLANTIC COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION OF THE JULY 17, 1989
AND THE JULY 25, 1989 AMENDMENTS
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 July 17, 1989 and July 25, 1989 adopted amendments to its approved district solid waste management plan. The July 17, 1989 amendment sites a transfer station/baling facility in Egg Harbor Township and includes the district's solid waste contingency plan, which calls for the utilization of the transfer station until an interim/bypass landfill becomes operational. The July 25, 1989 amendment includes a temporary recycling facility in Egg Harbor Township.

The July 17, 1989 amendment was received by the Department of Environmental Protection on July 26, 1989 and copies were distributed to various state level agencies for review and comment, as required by law. The July 25, 1989 amendment was received by the Department of Environmental Protection on August 11, 1989, and copies were distributed to various state level review 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 these amendments adopted by the Atlantic County Board of Chosen Freeholders on July 17, 1989 and July 25, 1989 are 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 Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I, Christopher J. Daggett, Commissioner of the Department of Environmental Protection have studied and reviewed the July 17, 1989 amendment and the July 25, 1989 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 the plan amendments are consistent with the Statewide Solid Waste Management Plan.

1. July 17, 1989 Amendment

The Division of Solid Waste Management circulated the plan amendment to nineteen 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 Military and Veteran's Affairs, the Department of Transportation, the New Jersey Turnpike Authority, the Federal Aviation Administration and the U.S. Department of Agriculture. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Division of Parks and Forestry, Water Resources and Fish, Game and Wildlife; and the State Departments of Agriculture and Community Affairs. 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 N.J.D.E.P. Divisions of Solid Waste Management, Environmental Quality, and Coastal Resources, as well as the Board of Public Utilities, the Pinelands Commission, the Department of Military and Veteran's Affairs, the Federal Aviation Administration and the United States Department of Agriculture submitted substantive comments which are further addressed below.

The Division of Environmental Quality commented that transfer stations are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." Transfer stations are also subject to N.J.A.C. 7:27-8.2(a)16 which requires air pollution control permits for any equipment which vents a solid waste facility directly to control odors and other air contaminants. In response, by copy of this certification, the county is notified of these requirements.

The Division of Coastal Resources commented that the site in question is currently in the initial review stage of C.A.F.R.A. permit application Number 89-1132-5. In response, by copy of this certification, the county is informed of this status.

The Board of Public Utilities commented that it urges the ACUA to pursue its disposal alternatives with alacrity. Since Pinelands Park has only eight months of capacity left, the county will need a transfer station in operation and out-of-county disposal contracts in place by January 1990. Also, the ACUA should be aware of the fact that should they choose to have a private sector owner/operator of a transfer station handle the county's waste, that operation would be considered a public utility subject to regulation by the BPU. In response, by copy of this certification, the county is notified of these concerns and requirements.

The Pinelands Commission commented that with respect to the contingency plan's schedule of implementation, it should be noted that when Pinelands Park Landfill reaches the capacity approved by the Pinelands Commission, it must close. Therefore, although the amendment indicates that the transfer station will be operational by August 1990, it should instead be operational by January 1990 since Pinelands Park has accepted more waste than anticipated. In response, the Department acknowledges that the Pinelands Park Landfill is rapidly reaching capacity and is investigating means to prolong its operational life until August 8, 1990. Nevertheless, the Department urges the county to move ahead quickly in developing this facility.

The Department of Military and Veterans' Affairs commented that the site of the transfer station is inconsistent with the safe operations of their aircraft and other aircraft operations in and out of the F.A.A. Technical Center. In response, the Department believes that the transfer station can be designed to minimize impacts to airport operations. Therefore, the project is being approved at this, the planning stage. However, these issues must be addressed in detail by the applicant as part of the technical phase of the Department's permit process.

The Federal Aviation Administration commented that they are concerned about any putrescible waste activity at this site and remains against any activity which would increase the percentage of birds hazardous to aircraft operations above the existing levels. Further, the contingency plan and Atlantic County Amendment No. 22 of 1989 (the transfer station amendment) do not include the plans, design and operations of the proposed transfer station and do not establish whether or not it is the transfer/baling facility as described in the bird deterrent plan and supplemental operations plan. Therefore, this transfer station could be an open air or open facility with no bird deterrence measures; and, as such, could create a

significant bird hazard to which the F.A.A. would object. In response, the Department concurs that an open air operation could have significant impacts. However, as this is the planning stage, and since the Department believes that F.A.A.'s concerns can be resolved through a properly designed facility, the project is approved, from a planning perspective. These issues must be addressed in detail by the applicant as part of the technical phase of the Department's permit process.

The United States Department of Agriculture commented that it is opposed to any form of a transfer station which accepts putrescible waste. In the past, this agency has received reports of problems with gulls entering and feeding on trash at a New Jersey trash transfer station. The birds were entering the buildings in numbers sufficient to cause a hazard during equipment operations due to reduced visibility. The operator then tried grid systems and received some complaints from the public about birds being injured by the wires. Further, electrified grid wires are hazardous to many migratory bird species which may encounter them and be electrocuted. It is the opinion of the U.S. Fish and Wildlife Service, which this agency has contacted, that the individual/agency responsible for nets, grids, electric fencing and other man made features that can entrap/tangle birds with the resultant demise of the bird may be deemed liable for their actions under the Migratory Bird Treaty Act. Therefore, any use of grids and other such bird deterrent systems should proceed with caution. In response, the county is informed of the potential harm to migratory birds through the use of a grid system. Again, these issues must be addressed in detail by the applicant as part of the technical phase of the Department's permit process.

The Division of Solid Waste Management commented that due to the proximity of the Atlantic City International Airport to the planned transfer station, a potential bird hazard exists. Specifically, the acceptance of municipal waste (ID #10) at the facility has the potential for bird attraction which will create a potential hazard to approaching aircraft. A facility located in a similar geographic location (Cape May County transfer station in Burleigh) has experienced bird problems since the beginning of operations.

The Division also commented that the contingency plan amendment lacked adequate details. Specifically, the plan lacks an adequate assessment of the existing solid waste stream within Atlantic County. To adequately size the transfer station, this data is necessary. In addition, a specific schedule noting important milestones is necessary to ensure that that transfer station will be expeditiously completed.

Further, the Division commented that due to the number of vehicles that will be using the facility, a comprehensive traffic analysis shall be required which includes a mitigation plan for any adverse traffic impact. The division also commented that the waste projections used in the contingency plan assume 25% recycling. Since Atlantic County has not yet achieved 25% recycling, the ACUA should have used lower recycling rates. It seems unlikely that Atlantic County could leap to 25% recycling in less than one (1) year and should anticipate a larger rather than a smaller waste stream. Also, the county fails to recognize all solid waste types in their estimated waste stream. Repeatedly, waste types 23 and 25 are not included. This potentially leaves their projections significantly deficient.

Finally, the Division commented that while the contingency plan recommends out-of-county disposal rather than out-of-state disposal, it should be noted that if Atlantic County is unable to enter into an agreement with another New Jersey county and is forced to use out-of-state facilities, both Resource Recovery Investment Tax revenues and Solid Waste Services Tax revenues will be lost.

In response, Atlantic County is informed of the Division of Solid Waste Management's comments. Specific generation numbers and traffic impact analyses must be presented during the permitting stages of the project. While the Department is concerned with the possible hazard a solid waste facility could pose located in close proximity to an airport, it also believes that the potential bird problem can be mitigated through a variety of deterrent activities embodied within the structural design of the facility and appropriate operational measures to be employed by the county. The bird deterrent issue must be addressed during the technical review phase of the Department's permit process. Specifically, the engineering documents must demonstrate that the operations of the transfer station will not cause a bird attraction problem and, therefore, adversely impact upon the nearby Atlantic City Airport.

2. July 25, 1989 Amendment

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 N.J.D.E.P. Divisions of Fish, Game and Wildlife, Water Resources, Parks and Forestry, and Solid Waste Management, the Departments of Community Affairs, Transportation, and Agriculture, the Pinelands Commission, and the Board of Public Utilities. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Divisions of Coastal Resources and Environmental Quality, the Green Acres Program, the New Jersey Advisory Council on Solid Waste Management, the Departments of Health and the Public Advocate, the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. None of the agencies provided substantive comments.

C. Certification of Atlantic County District Solid Waste Management Plan Amendments

I, Christopher J. Daggett, 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 July 17, 1989 amendment and the July 25, 1989 amendment to the approved Atlantic County District Solid Waste Management Plan and certify to the Atlantic County Board of Chosen Freeholders that these amendments are approved as further specified below. Please note that the construction and operation of such facilities shall be preceded by the acquisition of all necessary permits and approvals as per 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.

1. July 17, 1989 Amendment

- a. The site for the transfer station/baling facility located on Block 397-A, Lot 1 in Egg Harbor Township is approved.
- b. The solid waste contingency plan, which specifies the implementation of a transfer station until such time that an interim/bypass landfill is operational, is approved.

2. July 25, 1989 Amendment

The site for the temporary recycling facility located on Block 36A, Lot 4 in Egg Harbor Township is approved.

Finally, 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 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 and an ash landfill on Doughty Road, Egg Harbor Township, has achieved a large step toward providing sufficient solid waste management disposal. However, the county has not amended their plan to include a suitable interim/bypass landfill until the resource recovery facility commences operation. 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 suitable sites for solid waste disposal facilities.

The Department has previously determined in an April 23, 1985 certification to a November 20, 1984 amendment to the Atlantic County District Solid Waste Management Plan that Atlantic County has complied with N.J.S.A. 13:1E-21b(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 was to have completed a transportation survey to this new resource recovery site. However, no adequate transportation study has been forthcoming. Further, a suitable landfill site for all Atlantic County's waste has not been selected. Therefore, I find that the Atlantic County District Solid Waste Management Plan 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 Department 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 Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with the within amendments to the Atlantic County District Solid Waste Management 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 of Environmental Protection and operating pursuant to a contract as herein described, shall be deemed to be in violation of these amendments 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 these amendments contained herein shall operate in compliance with these amendments 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 Amendments

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 amendments contained 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 Amendments

The amendments to the Atlantic County District Solid Waste Management Plan contained herein shall take effect immediately.

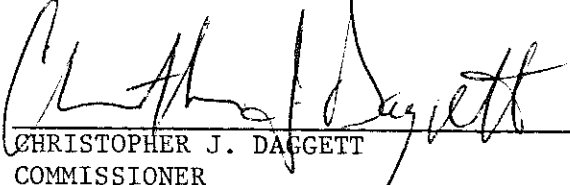
7. Reservation of Authority

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 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 July 17, 1989 and the July 25, 1989 amendments as outlined in Section C. of this certification to the Atlantic County District Solid Waste Management Plan which were adopted by the Atlantic County Board of Chosen Freeholders. I also direct Atlantic County to resolve the remaining plan deficiencies as enumerated in Section C. of this certification in an expeditious manner.

OCTOBER 5, 1989
DATE


CHRISTOPHER J. DAGGETT
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION