



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
SEPTEMBER 27, 1988 AND THE
OCTOBER 25, 1988 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 reviews and on September 27, 1988 and October 25, 1988 adopted amendments to its approved district solid waste management plan. The September 27, 1988 amendment proposed that all Atlantic County landfills located in the Pinelands shall

close on or before August 8, 1990; that no landfills located within the Pinelands in Atlantic County shall expand, with the exception of Pinelands Park; nor will any new landfills be sited in the Pinelands. The October 25, 1988 amendment proposed the designation of an ash residue landfill site in Egg Harbor Township.

The September 27, 1988 amendment was received by the Department of Environmental Protection on October 19, 1988, and copies were distributed to various state level agencies for review and comment, as required by law. The October 25, 1988 amendment was received by the Department of Environmental Protection on November 10, 1988, and copies were distributed for review and comment.

The Department has reviewed these amendments, as well as the entire Atlantic County District Solid Waste Management Plan, and has determined that the amendments adopted by the Atlantic County Board of Chosen Freeholders on September 27, 1988 and October 25, 1988 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, Acting Commissioner of the Department of Environmental Protection have studied and reviewed the September 27, 1988 amendment and the October 25, 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan.

1. The September 27, 1988 Amendment

The Division of Solid Waste Management circulated the plan amendment to sixteen (16) 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 Water Resources, Fish, Game and Wildlife and Parks and Forestry, the Green Acres Program, the State Department of Agriculture 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 State Departments of Health, Community Affairs, Transportation and the Public Advocate; the New Jersey Turnpike Authority, the New Jersey Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The Pinelands Commission and the Division of Solid Waste

Management submitted substantive comments which are further addressed below.

The Pinelands Commission commented that the September 27, 1988 amendment is consistent with the plans and programs administered by that agency. Also, it fulfills the obligation the commission put forth in the Executive Director's report on an Application for a Waiver of Strict Compliance, dated June 6, 1988 and June 7, 1988. In response, the Department commends Atlantic County for fulfilling the agreement thus far, and expects the county to continue to honor its terms in a timely fashion.

The N.J.D.E.P. Division of Solid Waste Management reviewed the amendment and commented that while landfills located within the Pinelands continue to operate, this operation shall be in conformance with the adopted and approved Atlantic County District Recycling Plan. Also, the Division commented that unless another in-county landfill is constructed, Atlantic County will receive less money in its McEnroe Tax Programs due to the closure of Pinelands Park. Further, expansion of and landfilling in Pinelands Park Landfill shall occur only in cells 6, 7 and 8. Finally, landfilling in those landfills in Atlantic County located within the Pinelands shall be permitted to continue until August 8, 1990 or until those landfills have reached their design capacity, as set forth in their approved engineering designs, whichever occurs first. However, with regard to the Pinelands Park Landfill, that landfill is planned to operate until August 8, 1990. Beginning August 8, 1990, Atlantic County anticipates to have a new interim/bypass landfill operational and ready to accept waste that was previously accepted at those landfills located within the Pinelands. Prior to the acceptance of solid waste at the new interim/bypass landfill, the Department and the Board of Public Utilities must amend their waste flow regulations, which amendment must itself be preceded by a plan amendment to the Atlantic County District Solid Waste Management Plan specifying the waste flows for the county. By way of this certification, Atlantic County is notified of the comments of the Division of Solid Waste Management.

2. October 25, 1988 Amendment

The Division of Solid Waste Management circulated the October 25, 1988 plan amendment to sixteen (16) 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. Division of Fish, Game and Wildlife, the Departments of Agriculture and Community Affairs, the New Jersey Turnpike Authority 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 Water Resources and Coastal Resources; the Green Acres Program, the State Departments of Health, Transportation and the Public Advocate; the New Jersey Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The

N.J.D.E.P. Divisions of Environmental Quality, Parks and Forestry and Solid Waste Management, as well as the Pinelands Commission, submitted substantive comments which are further addressed below.

The Division of Environmental Quality commented that landfills are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution". This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life or property. Also, new and closed landfills should be equipped with positive ventilation systems, which direct landfill gases to air pollution control devices. These vents and devices require air pollution control permits pursuant to N.J.A.C. 7:27-8.2(a)1 and 16. These regulations require permits for all stationary equipment used to ventilate a solid waste facility directly or indirectly to the ambient atmosphere. In response, these issues shall be addressed during the Department's permitting process for the landfill.

The Division of Parks and Forestry commented that archeological surveying may be necessary at the proposed ash residue landfill site, although no historical or archeological sites have been identified within the facility site. In response, these issues should be addressed during the Department's permitting process for the landfill.

The Pinelands Commission commented that although the proposed site for the ash landfill is not within the New Jersey Pinelands Area, or the Pinelands National Reserve, it is near the boundary of both areas. Also, nearby areas are likely to develop extensively in the future and additional wells could create a cone of depression that could alter the direction of groundwater flow. Therefore, the Department should take sufficient steps to ensure that the direction of groundwater travel does not transport leachate from the landfill into the Pinelands Area. In response, it is the responsibility of the permit applicant to demonstrate in the permitting process that any adverse impacts on the Pinelands area will be sufficiently mitigated to insure compliance with all applicable environmental laws and consistency with the public health and safety.

The Division of Solid Waste Management expressed concern with the past use of this site as a possible location for disposing hazardous materials. By copy of this certification, the county is notified that further investigation of the site should be detailed during the Department's permitting process.

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

I, Christopher J. Daggett, Acting 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 September 27, 1988 and October 25, 1988 amendments to the approved Atlantic County District Solid Waste Management Plan and certify to the Atlantic County Board of Chosen Freeholders that the September 27, 1988 and October 25, 1988 amendments are approved as further specified below.

1. The inclusion within the district plan that all Atlantic County landfills located within the Pinelands will close on or before August 8,

1990; that no landfills within the Pinelands will expand, with the exception of Pinelands Park which shall close prior to August 8, 1990; and that no new landfills will be sited within the Pinelands is approved.

2. The inclusion within the district plan of a county ash residue landfill on Block 13A, Lot 8; Block 17A, Lot 9; Block 18A, Lots 1, 2, 3, 4, 5 and 6; Block 19A, Lots 1 and 2; Block 20A, Lot 1; and Block 21A, Lots 1, 2 and 3 on the Tax Map of the Township of Egg Harbor 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.

The Department has also reviewed the entire Atlantic County District Solid Waste Management Plan, including these amendments, 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 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 landfill. With the selection of the resource recovery and landfill sites in Egg Harbor Township, the county must now complete the truck routings for these facilities. Since this has not been performed, 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).

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 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 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 these amendments; 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 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 Acting 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 Acting 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 Atlantic County District Solid Waste Management Plan which were adopted by the Atlantic County Board of Chosen Freeholders on September 27, 1988 and October 25, 1988. I hereby further direct the Atlantic County freeholders to expeditiously resolve those deficiencies identified in Section C. of this certification.

DATE

2/16/89

Michael L. Cottana for
CHRISTOPHER J. DAGGETT

ACTING COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION