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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)
(BERGEN COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE MAY 3, 1989 AMENDMENT
TO THE BERGEN 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 October 31, 1980, the Department approved, with modifications, the Bergen 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 Bergen County Board of Chosen Freeholders completed such a review and on May 3, 1989 adopted an amendment to its approved district solid waste management plan. The amendment proposed to include the existing regional leaf composting facility, located in the municipalities of Lyndhurst and North Arlington, and the bypass/non-processible waste landfill and access road planned for

North Arlington, within the Bergen County District Solid Waste Management Plan.

The amendment was received by the Department of Environmental Protection on June 2, 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 Bergen County District Solid Waste Management Plan, and has determined that the amendment adopted by the Bergen County Board of Chosen Freeholders on May 3, 1989 is rejected as provided in N.J.S.A. 13:1E-24. Continuing deficiencies in the district plan are outlined in Section C. below.

B. Findings and Conclusions with Respect to the Bergen County District Solid Waste Management Plan Amendment

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 May 3, 1989 amendment to the Bergen 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 inconsistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendment to fifteen 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 this proposed plan amendment: the State Department of Agriculture, the Board of Public Utilities and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Divisions of Coastal Resources and Fish, Game and Wildlife; the State Departments of Community Affairs, Health and the Public Advocate; the Green Acres Program, the New Jersey Turnpike Authority and the U.S. Environmental Protection Agency. The Divisions of Solid Waste Management, Water Resources, Environmental Quality and Parks and Forestry; and the Department of Transportation submitted substantive comments which are further addressed below.

The Division of Environmental Quality commented that landfills and composting facilities 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. The Division of Environmental Quality further commented that landfills and composting facilities 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 or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants. Also, stationary conveying equipment which causes fugitive emissions of air contaminants requires air pollution control permits pursuant to the provisions of 7:27-8.2(a)11. The Division of Parks and Forestry commented

that the potential for archaeological resources within the designated landfill areas have been described in previous reviews of the adjacent area and these concerns should be addressed in the Environmental and Health Impact Statement for the planned site in the permit application to the Department. The Department of Transportation commented that the applicant must file a formal access application since direct access to this site is from a State Highway. The Division of Water Resources commented that the proposed landfill must apply for New Jersey Pollution Discharge and Elimination System and Discharge to Groundwater permits. In response, since the projects are being rejected, these comments are not applicable.

The Division of Solid Waste Management (DSWM) commented that the regional leaf composting facility, Amendment 89-10, is technically unapprovable from an engineering standpoint due to slope stability problems. Accordingly, a letter of denial of the BCUA's February 15, 1989 permit application submission was sent on June 22, 1989, from the Division of Solid Waste Management to the Bergen County Utilities Authority. In response, the Department concurs with the DSWM comment concerning amendment 89-10 and it is the basis for certifying rejection of the regional leaf composting facility in Section C.

The DSWM commented on Amendment 89-12 by stating that a previous diking operation at the designated landfill area has been breached in a number of areas. The interior of the site experiences tidal exchange, both through these breaches in the dike and possibly through several tidal gates. The DSWM expressed concern that the designated area is wetlands, which are not suitable for landfilling. DSWM believes that filling this area would have a significant adverse impact since such wetland areas are of great importance in maintaining and improving water quality, and in providing a food source in the aquatic environment. In addition, since the county failed to evaluate whether sufficient suitable upland area exists within the site to be used for landfilling, the site should be rejected. In response, the Department concurs with this comment by DSWM, which forms the basis for rejection of the site in Section C. below.

C. Certification of Bergen County District Solid Waste Management Plan Amendment

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 May 3, 1989 amendment to the approved Bergen County District Solid Waste Management Plan and certify to the Bergen County Board of Chosen Freeholders that the May 3, 1989 amendment is rejected as further specified below.

1. The inclusion in the district plan of the bypass and non-processible solid waste landfill designated at Block 190, Lot 1A, and Block 191, Lot 1A; and inclusion of the access road to the site designated at Block 191, Lot 2; Block 192, Lots 1, 4, and 5; and Block 193, Lot 1 in the Borough of North Arlington is rejected. This site is contiguous with a residual landfill site designated as Block 192, Lot 1 and a portion of Block 191, Lot 1A in the Borough of North Arlington, which was previously certified by the Department on March 17, 1988. Also, note that Section 1 on page 2 of the Bergen County Ordinance adopting

this amendment incorrectly identifies one parcel as Block 190, Lot 1 instead of Block 190, Lot 1A. This inconsistency was confirmed by a representative of the BCUA during the Department's review of the subject plan amendment. The site is rejected on the basis that all or part of the site is located in wetlands, which are not suitable for landfill construction due to their ecological importance. The district is encouraged to reevaluate the site in question, and to submit a new plan that will utilize only suitable upland areas located on the parcel in question. Should the county choose to submit a new plan amendment, an interdistrict agreement with the HMDC authorizing the use by Bergen County of the site must also be submitted pursuant to N.J.S.A. 13:1E-21.

2. The inclusion of a regional leaf composting facility located at the Kingsland Park Sanitary Landfill on Block 236, Lots 1A and 1B in the Township of Lyndhurst, and Block 192, Lot 4; Block 193, Lot 1; Block 194, Lot 1; Block 195, Lot 1; Block 197, Lot 1; and Block 198, Lot 1 in the Borough of North Arlington is rejected. The compost facility is technically unapprovable based on the engineering review of the compost facility permit application which indicated unacceptable slope stability problems resulting from historical landfilling activities at this site. In this regard, a letter of denial was sent to the Bergen County Utilities Authority from the DSWM on June 22, 1989.

Finally, the Department has reviewed the entire Bergen 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.

Bergen County has sited a sanitary landfill for residual waste generated within Bergen County within its district plan pursuant to the March 17, 1988 certification of the October 7, 1987 plan amendment. However, while the county has attempted to site a bypass and non-processible landfill on a contiguous piece of property, that site has been rejected. Therefore, the siting of such a facility continues to be a deficiency in the district plan. Therefore, Bergen County is again hereby directed to develop an implementation schedule for the construction and operation of its residual landfill, as well as a new site plan and implementation schedule for a non-processible and by-pass waste sanitary landfill for submission to the Department for review and approval as soon as possible.

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 is presently in the process of reviewing the traffic report for the Bergen County Utilities Authority permanent baler/transfer station. Since the Department requires the establishment of mandatory truck routes within the district plan for district facilities, Bergen County is again hereby directed to develop mandatory truck routes for vehicles accessing and exiting the baler/transfer station for submission to the Department as a proposed amendment to the district plan, as soon as possible. Similarly, Bergen County is required to develop mandatory truck routes for vehicles accessing and exiting the residual landfill in North Arlington.

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 any approved portion of the amendment to the Bergen County District Solid Waste Management Plan and which was executed prior to the approval of any approved portion 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 any approved portion of this amendment and of the Bergen 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 Bergen County and affected by any approved portion of the amendment contained herein shall operate in compliance with any approved portion of this amendment and all other approved provisions of the Bergen 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 Bergen 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 the Approved Portion of the Plan Amendment

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Bergen 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 any approved portion of the amendment contained herein.

5. Definitions

For the purpose of any approved portion 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 Bergen County District Solid Waste Management Plan contained herein shall take effect immediately.

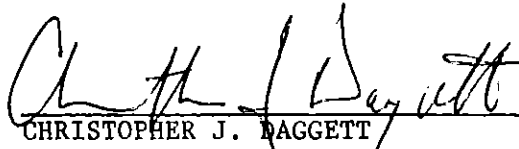
7. Reservation of Authority

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 Bergen 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 Rejection 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 reject the plan amendment which was adopted by the Bergen County Board of Chosen Freeholders on May 3, 1989, as outlined in Section C. of this certification. Furthermore, the Freeholders are directed to submit the necessary documentation to resolve the remaining deficiencies in the Bergen County Solid Waste Management Plan as outlined in Section C. as soon as possible.

October 30, 1989
DATE



CHRISTOPHER J. MAGGETT
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION