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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
CHRISTOPHER J. DAGGETT, COMMISSIONER
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(MIDDLESEX COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE JANUARY 19, 1989
AMENDMENT TO THE MIDDLESEX 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 July 29, 1980, the Department approved, with modifications, the Middlesex 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 Middlesex County Board of Chosen Freeholders completed such a review and on January 19, 1989 adopted an amendment to its approved district solid waste management plan. As adopted, the amendment proposed the inclusion within the county plan of Block 41C, Lot 3A, in Woodbridge Township, Middlesex County, for the purpose of constructing both a solid waste transfer station and a recycling separation center for commingled recyclables.

The amendment was received by the Department of Environmental Protection on January 27, 1989 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 Middlesex County District Solid Waste Management Plan, and has determined that the amendment adopted by the Middlesex County Board of Chosen Freeholders on January 19, 1989, 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 Middlesex 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 January 19, 1989, amendment to the Middlesex 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 fifteen (15) 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, the U.S. Environmental Protection Agency and the New Jersey Advisory Council on Solid Waste Management. 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, and Parks and Forestry; the State Departments of Agriculture, and Transportation; and the Board of Public Utilities. The following agencies failed to respond to our requests for comments: the State Departments of Health, Community Affairs, 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 NJDEP Divisions of Environmental Quality, Coastal Resources, Water Resources and Solid Waste Management submitted substantive comments which are further addressed below.

The Division of Environmental Quality (DEQ) provided the following general comments regarding the development of recycling centers and transfer stations. Both of these facilities would be subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution," which prohibits odors and other air contaminants which interfere with the enjoyment of life or property. These facilities will also be 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 atmosphere. Further, any on-site combustion of oil is subject to N.J.A.C. 7:27-8.2(a)13, which requires the use of controlled devices with air pollution control permits specific to the combustion of used waste oil.

In response, the proposed facility will be required to obtain all applicable permits and to comply with all applicable regulations and requirements prior to development. By copy of this certification, Middlesex County and Woodbridge Township are hereby notified of these comments and requirements. Further, a copy of DEQ's general comments regarding recycling centers will be forwarded to the Middlesex County Department of Solid Waste Management for their information and use as may be applicable.

The Division of Coastal Resources (DCR) commented that both the proposed transfer station and recycling separation center were located within the flood hazard area of the Raritan River and would, therefore, require the submittal of a stream encroachment permit application. Additionally, if the proposed facilities will involve the disturbance of any freshwater wetland or open water area, a permit application must be filed with DCR for approval of same. The area up to 150 feet adjacent to the freshwater wetlands will also be subject to regulation as of July 1, 1989. Finally, the project developer must determine the extent of areas subject to the Freshwater Wetlands Protection Act. In response, as noted above, acquisition of all applicable permits will be required prior to the commencement of project development. By copy of this certification, Middlesex County and Woodbridge Township are hereby notified of these comments and requirements.

The Division of Water Resources noted that their main concern about these types of facilities is the proper disposal of wastewater, and provided the following general comments. All waste processing areas must be enclosed, paved, and properly drained and diked to control washdown water runoff. All drains from the waste processing areas shall enter the sanitary sewer system. Under no circumstances shall trucks or equipment be washed or rinsed in areas where proper drainage to the sanitary sewer system is not provided. In response, the Department concurs with the comments provided by DWR. As indicated previously, the project developer will be required to obtain all applicable permits and to comply with all applicable regulations and requirements prior to facility development. Once again, Middlesex County and Woodbridge Township are hereby notified of these comments and requirements by copy of this certification.

The Division of Solid Waste Management (DSWM) commented that a discrepancy exists with regard to the expected operating rate of the transfer station. The plan amendment itself indicates that the facility will have a rated capacity of 400 tons per day and an expected operating rate of 250 tons per day. However, the backup information provided by Woodbridge Township refers to an operating rate of 200 tons per day. This discrepancy must be clarified in the permit application for the transfer station. Since the proposed transfer station will process more than 100 tons per day, it is considered a large scale facility subject to particular DSWM permit requirements. Further, the transfer station facility must adhere to all application procedural requirements as set forth at N.J.A.C. 7:26-2.4, 7:26-2.5, 7:26-2.8 thru 7:26-2.11 and 7:26-2B.5.

Issues such as noise, traffic, odors and air quality must be addressed during the permitting phase of the Department's review process. Documentation of the purported economic advantages of the proposed transfer station should also be included in the Environmental and Health Impact Statement submitted with the permit application. DSWM further indicated that the operation of both the transfer station and recycling separation center within a single enclosed facility must not in any way compromise the legal obligation of each generator of municipal solid waste to source separate those materials designated in the district recycling plan. The Department concurs with DSWM's comments.

C. Certification of Middlesex 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 January 19, 1989, amendment to the approved Middlesex County District Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the January 19, 1989 amendment is approved as further specified below.

1. The inclusion within the Middlesex County District Solid Waste Management Plan of Block 41C, Lot 3A, located at the Woodbridge Public Works Building, 225 Smith Street in Woodbridge Township, Middlesex County, for the purpose of constructing a solid waste transfer station is hereby approved. The operation is specifically approved for the transfer of Woodbridge Township municipally collected waste only, with a maximum capacity of 400 tons per day.

The construction or operation of the above referenced solid waste facility must be preceded by the obtainment of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of construction and/or operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department to be fit and competent to manage such facilities.

2. The inclusion within the Middlesex County District Solid Waste Management Plan of Block 41C, Lot 3A, located at the Woodbridge Public Works Building, 225 Smith Street in Woodbridge Township, Middlesex County, for the purpose of constructing and operating a recycling separation center is hereby approved. The purpose of this recycling separation center is to sort commingled, source separated recyclables collected within Woodbridge Township.

The Department has reviewed the entire Middlesex 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(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.

Middlesex County has not submitted to the Department a study of the transportation costs to the proposed resource recovery facility site. Therefore, the Middlesex Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(4).

2. N.J.S.A. 13:1E-21b(5) requires procedures for coordinating all activities related to the collection and disposal . . . within the Solid Waste Management District, which procedures shall include the agreements entered into as provided herein between the Board of Chosen Freeholders . . . and every such person, and the procedures for furnishing the solid waste facilities contained in the Solid Waste Management Plan.

The Middlesex County Plan does not include truck routes to the proposed district resource recovery and landfill facilities. Therefore, the Middlesex County Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(5).

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.

Although the Middlesex County plan includes an approved use and disbursement schedule for the Resource Recovery Investment Tax Fund, the County has not provided a detailed plan for financing all solid waste management activities. Therefore, the Middlesex Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(6).

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 Middlesex 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 Middlesex 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 Middlesex County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Middlesex 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 Middlesex 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 Middlesex 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 Middlesex 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 Middlesex 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 Middlesex County District Solid Waste Management Plan which was adopted by the Middlesex County Board of Chosen Freeholders on January 19, 1989, and further direct the Middlesex County Freeholders to remedy the deficiencies outlined in Section C. of this certification as soon as possible.

JUNE 5, 1989
DATE


CHRISTOPHER J. DAGGETT
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION