



STATE OF NEW JERSEY
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 OFFICE OF THE COMMISSIONER
 CN 402
 TRENTON, N.J. 08626
 609 - 292 - 2885

(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
 FEBRUARY 7, 1985 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 modification, 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 February 7,

1985, adopted an amendment to its approved District Solid Waste Management Plan. The amendment was received by the Department of Environmental Protection on February 20, 1985 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 is approved in accordance with N.J.S.A. 13:1E-24. While the requirements of the Act concerning the report have been met, the district's plan still remains deficient in several important ways.

B. Certification of Middlesex County District Solid Waste Management Plan Amendment

I, Robert E. Hughey, 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 February 7, 1985 amendment to the approved Middlesex County Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the February 7, 1985 amendment is approved as further specified below.

The inclusion within the plan of the St. Pius X High School Municipal Leaf Composting facility located on Lots 5 and 5A, Block 495 in Piscataway Township, the South River Public Works Center Municipal Leaf Compost facility located on Lot 1, Block 380 in South River Boro and the South Plainfield Municipal Leaf Compost facility located on Blocks 373,374 and 375 in South Plainfield Boro, is approved. The construction or operation of any facilities at these sites shall 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. 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.

The inclusion within the plan of the redirection of all type #10 solid waste generated from within South Brunswick Township and formerly disposed of at the South Brunswick Municipal Landfill (DEP facility #1221B) prior to its closure in December 1984, to the Edgeboro Landfill (DEP facility #1204A) located in East Brunswick Township, Middlesex County, is approved.

As previously noted, the Department has reviewed the entire Middlesex County District Solid Waste Management Plan, including the amendment, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. Several deficiencies, enumerated below, have been identified.

1. N.J.S.A. 13:1E-21b(2) requires a statement of the solid waste disposal strategy to be applied . . . which strategy shall include the maximum

practicable use of resource recovery procedures and a plan for using terminated landfill disposal sites . . . in the Solid Waste Management District.

The recycling/source separation element of the district's plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(2), since it is inconsistent with the New Jersey Recycling Plan's goal of recycling 25% of the waste stream by 1986.

2. 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.

While Middlesex County is currently considering a number of proposals to site one or more resource recovery facilities within the district, the Middlesex Plan must still be amended to include the specific resource recovery site(s) when a final determination is made. In order for the Department to certify the proposed facility site(s) as an approved part of the Middlesex Plan, the Board of Chosen Freeholders must adopt a plan amendment formally including this facility(ies) in the district plan and designate the location by specific block(s) and lot(s).

Therefore, the plan is still deficient with respect to the requirements of N.J.S.A. 13:1E-21b(3) in that Middlesex County has not designated sufficient suitable resource recovery sites for long term disposal capacity.

3. N.J.S.A. 13:1E-21b(5) requires procedures for coordinating all activities related to the collection and disposal of solid waste by every person . . . 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 Solid Waste Management Act requires all districts which import or export waste to reach formal interdistrict agreements. No such agreements exist between the Middlesex district and the Morris, Union or Somerset districts. Therefore, the Middlesex Plan is deficient with respect to the requirements of N.J.S.A. 13:1E-21b(5).

4. 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.

While the Middlesex district plan indicates that the overall method of financing a proposed resource recovery facility in Middlesex County will be through private financial arrangements, the amendments do not provide a detailed plan for financing solid waste management.

Therefore, I find the Middlesex Plan deficient with respect to the requirements of N.J.S.A. 13:1E-21b(6), in that the plan does not provide the method(s) of financing solid waste management.

C. 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, 10, 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) which are part of the Middlesex County District Solid Waste Management Plan.

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, as provided for by N.J.S.A. 13:1E-24f., to 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 approved 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.

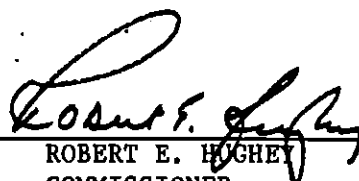
D. Certification of Approval of the Amendment and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve the amendment, as outlined in Section B of this certification, to the Middlesex County District Solid Waste Management Plan which was adopted by the Middlesex County Board of Chosen Freeholders on February 7, 1985.

In accordance with N.J.S.A. 13:1E-24, I previously directed that a public hearing be conducted by the Middlesex County Board of Chosen Freeholders within forty-five (45) days of the date of the certification of the October 4, 1984 amendment to the Middlesex Solid Waste Management Plan which I signed on March 7, 1985. To date, Middlesex County has not held the required public hearing or amended its plan to address existing plan deficiencies. The county has, however, requested an extension of the public hearing date until such time as it holds a public hearing relative to the adoption of its resource recovery site plan amendment. Therefore, I am directing that the public hearings be conducted concurrently by the Middlesex County Board of Chosen Freeholders within 30 days from the date of this certification. The single hearing shall be conducted pursuant to the procedures contained in N.J.S.A. 13:1E-23. The purpose of the hearing shall be to inform the public of the deficiencies identified in the plan, identify the county's plans for addressing these deficiencies, solicit public comment on these matters and present its resource recovery site plan amendment for public comment. Further, Middlesex County is directed to amend its plan to address the deficiencies identified above and include the site of its resource recovery facility. This amendment shall be adopted by the county and submitted to the Department of Environmental Protection within forty-five (45) calendar days from the date of this certification.

7/12/85

DATE



ROBERT E. HOGHEY
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL
PROTECTION