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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)
(MIDDLESEX COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE JULY 7, 1988
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 July 7, 1988, adopted an amendment to its approved district solid waste management plan. The amendment proposed the inclusion within the county plan of Block 400, parts of Lots 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, and 28, in Edison Township, Middlesex County for the purpose of the development of an

expansion to the Edison Landfill. The amendment also proposed the redirection of waste types 13 and 27 from the Edison Landfill to the Edgeboro Landfill, in order to reduce the waste received at the facility and to thereby extend the life of the landfill so that operations continue during the application review and permitting phase of the facility's expansion. The amendment was received by the Department of Environmental Protection on July 15, 1988, 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 July 7, 1988, is rejected 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, Acting Commissioner of the Department of Environmental Protection have studied and reviewed the July 7, 1988, 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 the plan amendment is inconsistent with the Statewide Solid Waste Management Plan.

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 the proposed plan amendment: N.J.D.E.P. Division of Parks and Forestry, the State Departments of Agriculture, Community Affairs, and Transportation; the Green Acres Program, 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. Division of Coastal Resources; the State Departments of Health, and the Public Advocate; the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. The N.J.D.E.P. Divisions of Environmental Quality, Fish, Game, and Wildlife, Water Resources, and Solid Waste Management, and the Board of Public Utilities submitted substantive comments which are further addressed below.

In reference to the proposed expansion of the Edison Landfill, the Division of Environmental Quality (DEQ) indicated that landfills are subject to regulations prohibiting odors and other air contaminants, and that the facility should be equipped with a positive ventilation system requiring air pollution control permits. While these comments are not applicable to this amendment, as it is being rejected, they do apply to ongoing operations at the facility and must be complied with.

The Division of Fish, Game & Wildlife (DFGW) commented that the information provided in the plan amendment was insufficient to allow for an assessment of the proposed expansion's impact on wetlands. DFGW is opposed to filling wetlands, particularly in instances where the fill is a solid waste material. DFGW also indicated that the amendment lacked information on water quality concerns and the affects on aquatic resources, and requested that habitat and wildlife survey information be obtained and evaluated prior to granting project approval. In response, the impact of the proposed expansion upon wetlands would have to be addressed in detail by the applicant. However, at this time, the Department has decided to reject the expansion proposal.

The Division of Water Resources (DWR) indicated that sampling results submitted to the Department as required by the Edison Landfill's New Jersey Pollutant Discharge Elimination System (NJPDES) permit revealed contamination in the ground water monitoring wells surrounding the existing facility. DWR informed Edison Township that they must comply with N.J.A.C. 7:14A-6.15(j) (the NJPDES regulations) by developing a compliance monitoring program to delineate the source and extent of contamination. Edison Township has not submitted the required plan, nor have they demonstrated to DWR's satisfaction that they are not a responsible party to the on-site groundwater contamination. The township is, therefore, out of compliance with their NJPDES permit. In response, the Department emphasizes that any groundwater contamination problems caused by the existing facility must be corrected, and is presently working to resolve all outstanding issues at the existing Edison landfill; which may include appropriate enforcement action.

The Board of Public Utilities (BPU) commented on the proposed redirection of waste types 13 and 27 from the Edison Municipal Landfill to the Edgeboro Landfill, stating that final approval of the redirection must comply with the provisions of N.J.A.C. 7:26-6.6, "Procedures for modification of waste flows pursuant to an amendment to a District Solid Waste Management Plan," and would therefore require modification of the waste flow regulations, specifically N.J.A.C. 7:26-6.5(m). BPU also noted that the county failed to address waste type 25. In response, because the Department is rejecting the portion of the amendment dealing with the proposed landfill expansion, the proposed redirection is no longer necessary and will also be rejected. The Department has thus far conformed with the applicable requirements of N.J.A.C. 7:26-6.6 in the review of the proposed waste flow redirection. However, in light of the Department's decision to reject the proposed redirection, further compliance with N.J.A.C. 7:26-6.6(c), (d), and (e) will not be necessary, and all solid waste types 10, 13, 23, 25 and 27 generated within Edison, Highland Park, and Metuchen will continue to be directed to the existing Edison Landfill.

The Division of Solid Waste Management (DSWM) raised a number of issues regarding both the proposed landfill expansion and the proposed waste flow redirection. With regard to the proposed expansion, DSWM indicated that the Department's November 20, 1987 Certification of the August 20, 1987 Amendment to the Middlesex County District Solid Waste Management Plan approved the inclusion of a site in the Borough of Sayreville for the district's resource recovery facility (RRF), and a portion of the Edgeboro Landfill for an expansion to provide for the district's landfill disposal

capacity. The July 7, 1988 amendment did not address the impact which continued use of the Edison Landfill would have on the development of the proposed RRF and the proposed landfill expansion at the Edgeboro Landfill site. These two facilities, in conjunction with the county's approved Recycling Plan, would be capable of providing for Middlesex County's long term solid waste disposal needs. Further, according to the Preliminary Environmental and Health Impact Statement (PEHIS) for the proposed resource recovery facility, sizing, although not finalized, has been based upon the assumption that all 25 Middlesex County municipalities would utilize the RRF. Continued use of the Edison Landfill could confuse current sizing studies and lead to a solid waste shortfall of as much as 25% at the proposed resource recovery facility. In addition, the EHIS for the proposed landfill expansion assumed all Middlesex County waste would be disposed at the Edgeboro Landfill as of 1990. Since an alternate disposal facility currently exists within Middlesex County and another is proposed, which not only have the capacity to accept the solid waste generated within Edison, Highland Park, and Metuchen, but have been designated in the Middlesex County Plan as district disposal sites, DSWM believes continued use of the Edison Landfill would be inconsistent with the county's approved strategy for long term solid waste disposal. Further, the expansion would be inconsistent with the Solid Waste Management Act's requirement that the district's disposal strategy make maximum use of resource recovery.

In reference to the proposed redirection of solid waste types 13 and 27 from the Edison Landfill to the Edgeboro Landfill, DSWM stated that other less disruptive means are available to decrease the amount of waste being received at the Edison Landfill. According to data submitted to the Department by solid waste disposal facilities, the three municipalities directed to use the Edison Landfill disposed of an average of approximately 585 tons per day of waste types 10, 13, 23, 25 and 27 in 1987. This rate was considerably higher than the 1986 disposal rate. Current reports submitted to the Department by the Edison Landfill state that the facility has received an average of approximately 970 tons of waste per day thus far in 1988. The unusually high increase in disposal rates and the fact that the Edison Landfill has one of the lowest tipping fees of any disposal facility in the state, suggests that much of the waste currently received at the landfill is generated in locations other than the three municipalities directed to use the Edison Landfill. Subdividing the waste flow within municipalities would also serve to further complicate enforcement efforts. Therefore, stricter enforcement of the waste flow rules is suggested.

In response, the Department concurs with DSWM's comments regarding the proposed expansion. The facility expansion's apparent inconsistency with the Middlesex County Plan and the statutory direction to maximize resource recovery were major factors in the Department's decision to reject the proposed expansion inclusion. The total failure of the July 7, 1988 proposed amendment to give any indication of the planned duration of the expansion also factored into the rejection decision.

In response to DSWM's comments regarding the waste flow redirection, the Department agrees that the increase in disposal rates indicates the possibility that waste, other than the waste from the three municipalities directed to the Edison Landfill is being disposed at the facility.

However, as indicated previously, the rejection of the portion of the plan amendment dealing with the landfill expansion would negate the need for a waste flow redirection at this time. Finally, increased enforcement of the waste flow is still recommended.

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

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 July 7, 1988, amendment to the approved Middlesex County District Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the July 7, 1988 amendment is rejected as further specified below.

1. The inclusion within the plan of Block 400, Lots 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, and 28, in Edison Township, Middlesex County, for the purpose of an expansion of the Edison Landfill is hereby rejected. As indicated in Section B., the inclusion of this expansion appears to be inconsistent with Middlesex County's current, approved long term solid waste disposal strategy and the statutory mandate to maximize resource recovery. The July 7, 1988 amendment did not address these impacts. Further, groundwater contamination has been detected at the existing landfill. Edison Township and the landfill operator have neither complied with the NJPDES regulations by submitting a compliance monitoring plan, nor have they demonstrated that they are not a responsible party to the contamination. In light of these considerations, and the fact that existing alternate disposal capacity (Edgeboro) is available that more closely meets the statutory goals, the Department cannot justify the inclusion of this proposed landfill expansion in the plan at this time.

However, if, in a subsequent plan amendment submission, Middlesex County can outline how an expansion of the Edison Landfill will complement the long term solid waste management strategy for the use of the Edgeboro Landfill and a resource recovery facility, the Department would reconsider its position. In addition, any subsequent submissions should include a discussion of activities to bring the facility into compliance with all Departmental regulations.

2. The proposal to redirect waste types 13 and 27 from the Edison Landfill to the Edgeboro Landfill is also hereby rejected. The proposed redirection was requested to preserve the existing capacity at the Edison Landfill in order to continue operations during the ~~stage~~ of the permitting and construction phase of the expansion facility. In light of the Department's decision to reject the inclusion of the proposed expansion, and based upon the fact that the Edgeboro Landfill is included in the Middlesex County plan to provide landfill capacity for Middlesex County generated waste and is therefore capable of accepting waste from Edison, Highland Park, and Metuchen when the Edison Landfill reaches its permitted capacity, the proposed redirection is unnecessary. However, as indicated in Section

B., increased waste flow enforcement is recommended, to ensure that out-of-county waste and unauthorized county waste is not being disposed at the facility.

The Department has also 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 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.

Since the Middlesex Plan does not include a project implementation schedule for either the resource recovery facility development or the Edgeboro Landfill expansion, nor does it include truck routes and specific waste flows to the proposed facilities, I find the Middlesex County plan 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.

Middlesex 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. 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.

5. Effective Date of Amendment

The amendment to the Middlesex County District Solid Waste Management Plan contained herein is rejected. This rejection shall take effect immediately.

6. Reservation of Authority

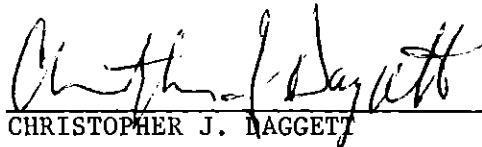
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Middlesex County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide 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 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 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 July 7, 1988, and further direct the Middlesex County freeholders to remedy the deficiencies outlined in Section C. of this certification as soon as possible.

December 12, 1988

DATE



CHRISTOPHER J. MAGGETT

ACTING COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION