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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 AUGUST 17, 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 August 17, 1989, adopted an amendment to its approved district solid waste management plan.

The August 17, 1989 amendment included plan amendment 1989-6 which proposed inclusion of the Garden State Paper Company's Edison Salvage Recycling Facility in Edison as a recycling facility; amendment 1989-7 which proposed inclusion of the Alternate Disposal Systems, Inc., in Parlin, as a recycling facility; and amendment 1989-8 which proposed inclusion of the All-Container Recovery, Inc., (ALCORE) in Piscataway as a recycling facility. Also, plan amendment 1989-9 provided for an upgraded incinerator at the St. Peter's Medical Center in New Brunswick.

The August 17, 1989 amendment was considered complete for review by the Department of Environmental Protection on August 24, 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 August 17, 1989 is approved as provided in N.J.S.A. 13:1E-24. With regard to the district plan, while certain requirements of the Act concerning the report have been met, the district's plan remains deficient in an important way.

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, Judith Yaskin, Commissioner of the Department of Environmental Protection have studied and reviewed the August 17, 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 the 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 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 State Departments of Agriculture, Community Affairs, and Transportation; the Green Acres Program and the Board of Public Utilities. The following agencies failed to respond to our request 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, the U.S. Environmental Protection Agency and the New Jersey Advisory Council on Solid Waste Management. The N.J.D.E.P. Divisions of Environmental Quality and Solid Waste Management submitted substantive comments which are further addressed below.

The Division of Environmental Quality (DEQ) provided general comments with respect to Recycling Facilities and Small Scale Incinerators. With respect to the recycling facilities, DEQ noted that they are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." Additionally, recycling facilities are 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. Further, if the combustion of used oil will occur, the facility will be subject to the provisions of N.J.A.C. 7:27-8.2(a)13, which specifies that such combustion can only occur in controlled devices with air pollution control apparatus specific to the combustion of used waste oil. With respect to small incinerators, DEQ noted that incinerators are also subject to the provisions of N.J.A.C. 7:27-5 and are also regulated under N.J.A.C. 7:27-11, "Incinerators". This subchapter defines the construction, operation, and emission standards for all incinerators. Additionally, incinerators are subject to the provisions of N.J.A.C. 7:27-8.2(a)14, which requires permits and certificates for any incinerator. In response, the Department concurs with DEQ's comments and by copy of this certification notifies Middlesex County of these requirements.

The Division of Solid Waste Management commented that under the Comprehensive Regulated Medical Waste Management Act (P.L. 1989, c. 34) signed by Governor Kean on March 6, 1989, no proposed new commercial regulated medical waste disposal facility shall be included within a district solid waste management plan prior to submission of the Comprehensive State Regulated Medical Waste Management Plan to the Governor and legislature. Therefore, the plan inclusion approval of new facilities which were not in operation and accepting regulated medical waste on or prior to March 6, 1989 is not possible at this time. However, since this is an existing facility, it is included within the plan via this certification document. Should this facility desire to operate commercially, however, the Board of Public Utilities must assess the appropriate tariffs as per N.J.A.C. 7:26-3A.1 and 34.12. In response, the Department concurs with the Division of Solid Waste Management's comments and notifies Middlesex County of these requirements.

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

I, Judith Yaskin, 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 August 17, 1989 amendment to the approved Middlesex County District Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the August 17, 1989 amendment is approved as further specified below.

1. The inclusion within the county plan of Block 376, Lot 2.A2 in Edison Township, Middlesex County, for a waste paper sorting and baling recycling facility to be operated by Garden State Paper Company's Edison Salvage Recycling Facility is hereby approved.

2. The inclusion within the county plan of Block 5001, Lots 7.11, 7.13, and 10 in Old Bridge Township, Middlesex County, for a recycling facility to be operated by Alternate Disposal Systems, Inc., is hereby approved.
3. The inclusion within the county plan of Block 164, Lot 17 in Piscataway Township, Middlesex County, for a recycling facility to be operated by All-Container Recovery, Inc., (ALCORE), is hereby approved.
4. The inclusion within the county plan of Block 449, Lot 1, in New Brunswick, for installation of an upgraded incinerator to be operated by St. Peter's Medical Center, is hereby approved.

The construction and 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 and regulations. Pursuant to N.J.S.A. 13:1E-99.34, "No recycling center shall receive, store, process, or transfer any waste material other than source separated non-putrescible metal, glass, paper, plastic containers and corrugated and other cardboard without the approval of the Department." Issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the Attorney General to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126 et seq.

Finally, 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.

The Middlesex County Plan does not include truck routes to the district's proposed 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(4).

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 these amendments 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 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 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 Amendments

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 portions of the 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 Amendments

The approved portions of 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 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 Deficiency 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 August 17, 1989. I further direct the Middlesex County Freeholders to remedy the deficiency outlined in Section C. of this certification as soon as possible.

DATE

January 21, 1990

Judith Yaskin
JUDITH YASKIN
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION