



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
CN 402
TRENTON, N.J. 08625
609 - 292 - 2885

(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE) AMENDMENT TO THE MIDDLESEX COUNTY DISTRICT
(MIDDLESEX COUNTY SOLID WASTE) SOLID WASTE MANAGEMENT PLAN
(MANAGEMENT DISTRICT)

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 9, 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 20, 1987, adopted an amendment to its approved district solid waste management plan. The amendment proposed to include within the district plan the designation of a resource recovery facility site in Sayreville, the designation of that

portion of the Edgeboro Landfill located within the cut-off wall to provide district landfill disposal capacity, and the designation of the Middlesex County Utilities Authority as the district's implementing agency for these two projects.

The amendment was received by the Department of Environmental Protection on September 8, 1987, 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 20, 1987, 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, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the August 20, 1987, 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 nineteen 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 Office of Recycling, the Department of Agriculture, the Department of Transportation, the New Jersey Turnpike Authority, the New Jersey Water Supply Authority and the Delaware and Raritan Canal Commission. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Division of Parks and Forestry; the State Departments of Agriculture, Health, Community Affairs, and Transportation; the Board of Public Utilities, the Office of Recycling, the New Jersey Turnpike Authority, the New Jersey Advisory Council on Solid Waste Management and the Delaware and Raritan Canal Commission. The following agencies failed to respond to our requests for comments: the State Department of the Public Advocate, the Green Acres Program, the U.S. Environmental Protection Agency and the New Jersey Water Supply Authority. The N.J.D.E.P. Divisions of Water Resources, Environmental Quality, Fish, Game and Wildlife, Coastal Resources, and Hazardous Waste Management submitted substantive comments which are further addressed below.

The Division of Hazardous Waste Management commented that the construction of a resource recovery facility at the site of N.L. Industries in Sayreville may involve compliance with the Environmental Cleanup Responsibility Act (ECRA). Under ECRA law, industrial sites are not subject if

they were closed, transferred, or sold prior to the Act's effective date of December 31, 1983. It is not clear whether N.L. Industries has operated on the site in question since December 31, 1983. Once a decision of ECRA applicability has been made, the relevant parties will be informed. In response, by copy of this certification, Middlesex County is informed of the potential involvement of ECRA cleanup for the proposed resource recovery facility site.

The Division of Water Resources commented that all new resource recovery facilities must apply for a New Jersey Pollutant Discharge Elimination System (NJPDDES) Discharge to Ground Water Permit. In response, by copy of this certification, Middlesex County is informed of this permit requirement.

The Division of Fish, Game, and Wildlife commented on the potential impacts of the Edgeboro Landfill expansion and the siting of a resource recovery facility on wetland areas and endangered and threatened nongame species. In response, these issues will be addressed by the county in its submission of an environmental and health impact study as part of the technical phase of the Department's permit process.

The Division of Coastal Resources (DCR) commented that the resource recovery facility site in Sayreville may be located within the regulatory jurisdiction of the DCR. If so, the planned facility would require a waterfront development permit. In response, this issue will be addressed during the technical phase of the Department's permit process.

The Division of Environmental Quality (DEQ) commented on the siting of a resource recovery facility (RRF) in Sayreville. Specifically, DEQ stated that a RRF is subject to the prohibition of air pollution as defined in N.J.A.C. 7:27-5 and N.J.A.C. 7:27-8.2(a) 16, that a Federal Prevention of Significant Deterioration Permit may be required, and that air quality modeling will be required to determine the affect of the RRF on ambient air quality. In response, these issues will also be addressed during the technical phase of the Department's permit process.

The Division of Solid Waste Management has reviewed the amendment and has concerns, in addition to the above noted comments, that must be addressed in the technical phase of the Department's permit process regarding the designation of the resource recovery facility site in Sayreville. Specifically, the Division's comments relate to the impact the proposed project will have upon local roads and the suitability of traffic accessibility to the site, and the impact the construction of a resource recovery facility will have upon a previously landfilled area (identified as DEP registered landfill #1219D). Despite these concerns, which can be addressed during the permit process, it is appropriate to approve the plan amendment at this time so that Middlesex County may proceed with the technical document preparation necessary to address the county's solid waste disposal needs.

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

I, Richard T. Dewling, 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 20, 1987, amendment to the approved Middlesex County District Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the August 20, 1987 amendment is approved as further specified below.

1. The inclusion within the district plan of Block 257 A, Lot 1, and Block 257, Lots 3 and 4, in the Borough of Sayreville, as the site of the district's resource recovery facility, with capacity of up to 2250 tons per day, to incinerate Middlesex County generated solid waste only is approved. The construction or 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. 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.
2. The inclusion within the district plan of the area located inside the cut-off wall of the Edgeboro Landfill, specifically, Block 834, Lots 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, Lots 7-020, 8-020, 3-010, 4-130, 5-020, and 34-020, in the Township of East Brunswick, to provide district landfill disposal capacity for Middlesex County generated solid waste only is approved. The construction or 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. 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 provision of N.J.S.A. 13:1E-126 et seq.

While I herein approve the above Edgeboro Landfill designation and commend the Middlesex County freeholders for their positive action, considerable uncertainty exists as to the disposal of the county's generated solid waste as of January 2, 1988. Therefore, Middlesex County is herein ordered to either proceed with site acquisition of the Edgeboro Landfill and subsequent submission of a landfill expansion application as soon as possible, or to ensure through agreement with the landfill's present owners that capacity will be available to accommodate Middlesex County's solid waste as of January 2, 1988.

3. The inclusion within the district plan of the designation of the Middlesex County Utilities Authority as the implementing agency for the projects specified in 1 and 2 above is approved.

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:

On May 8, 1987, I certified a December 4, 1986 amendment to the Middlesex County District Solid Waste Management Plan. Within that certification, I noted that the Middlesex County Plan remained deficient with respect to N.J.S.A. 13:1E-21b(3), b(4), b(5), and b(6). Based upon the information submitted within this amendment, the Department's review of these deficiencies 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.

With the designation of a resource recovery facility site in Sayreville and the designation of the Edgeboro Landfill to provide landfill disposal capacity for Middlesex County solid waste only, Middlesex County has taken the necessary actions to provide suitable solid waste disposal sites. Therefore, the Middlesex Plan is no longer deficient with respect to the requirements of N.J.S.A. 13:1E-21b(3).

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.

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).

3. 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.

With the designation of suitable solid waste disposal sites to dispose of Middlesex County generated solid waste only, the Middlesex County Freeholders do not need to enter into interdistrict agreements to furnish the needed solid waste disposal facilities. Therefore, the Middlesex Plan is no longer 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.

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. 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.

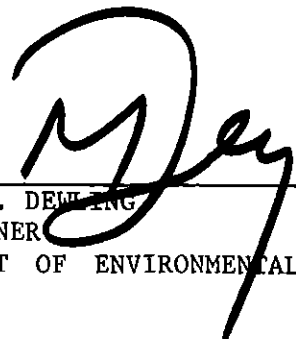
E. Certification of Approval of the Amendment and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection

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 August 20, 1987. I

hereby further direct the Middlesex County Board of Chosen Freeholders to address those deficiencies enumerated in Section C. of this certification as soon as possible.

November 20, 1987

DATE



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION