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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 SEPTEMBER 1, 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 Board 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 September 1, 1988, adopted an amendment to its approved district solid waste management plan. The amendment would delete the proposed Browning Ferris Industries transfer station site in Cranbury Township, Middlesex County from the County Plan.

The amendment was received by the Department of Environmental Protection on September 8, 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 September 1, 1988, 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, Acting Commissioner of the Department of Environmental Protection have studied and reviewed the September 1, 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 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 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 Environmental Quality, Water Resources, Fish, Game and Wildlife, Parks and Forestry and Solid Waste Management; the State Department of Agriculture, the Board of Public Utilities, the Green Acres Program, the New Jersey Turnpike Authority 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, Community Affairs, Transportation and the Public Advocate, and the U.S. Environmental Protection Agency. None of the state level review agencies submitted substantive comments on the proposed amendment.

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 September 1, 1988 amendment to the approved Middlesex County District Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the September 1, 1988 amendment is approved as further specified below.

The deletion from the County Plan of the proposed Browning Ferris Industries transfer station site, which is located on Block 16, Lot 6, in Cranbury Township, Middlesex County, is hereby approved. The BFI transfer station site was originally included in the county plan at 200 cubic yards per week (approximately 11 tons per day) through the Certification of a September 16, 1982 plan amendment. Later, in 1986, an application for a permit to operate a 200 ton per day transfer station was submitted by the applicant. However, prior to the Department's review of the application, Middlesex County attempted to delete this site from the county plan by way of a May 21, 1987 plan amendment. The rationale provided for the proposed deletion was that the deletion was in the best interest of the county. No further justification was given. The Department rejected the proposed amendment due to the fact that the rationale for deletion was insufficient to justify such action and the Department believed the facility could be utilized in an emergency to facilitate out-of-state disposal, should in-county disposal sites become unavailable. However, the Department still withheld its review of the permit application due to the apparent inconsistency of the proposed facility's operational capacity with the County Plan. Since that time, Middlesex County has sited both a resource recovery facility and an expansion to the Edgeboro Landfill which will provide for the district's long term solid waste disposal capacity needs.

The September 1, 1988 plan amendment indicates this transfer station site is no longer an asset to the county's waste management strategy. In addition, since the proposed facility's location would be more convenient for Mercer County residents than for Middlesex County, the County is concerned that high out-of-state disposal costs could lead to the use of the transfer station as a vehicle for the illegal disposal of Mercer County waste at the Edgeboro Landfill. Middlesex County notified the applicant by certified mail of the proposed amendment to delete the site from the plan and of the public hearing on that issue. BFI did not attend the hearing or raise objections to the amendment. Further, the record does not indicate objections to the proposed deletion from any of the state level review agencies. In light of the above, and the fact that facility siting is a county's responsibility, the Department does not believe the proposed deletion would adversely affect Middlesex County's long-term solid waste disposal strategy. Therefore, the Department concurs with the county's amendment to delete this facility from the county plan.

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 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 a project implementation schedule for either the resource recovery facility development or the Edgeboro Landfill expansion, nor does it contain truck routes and specific waste flows to the proposed district 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.

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. 7:26-1.4 and 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 the Plan Amendment

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Middlesex 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 N.J.A.C. 7:26-2.13.

6. Effective Date of Amendment

The Amendment to the Middlesex County District Solid Waste Management Plan contained herein shall take effect immediately.

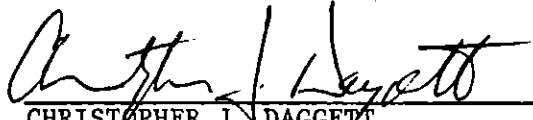
7. Reservation of Authority

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 September 1, 1988, and further direct the Middlesex County Freeholders to remedy the deficiencies outlined in Section C. of this certification as soon as possible.

February 1, 1989  
DATE

  
CHRISTOPHER J. DAGGETT  
ACTING COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION