



State of New Jersey
Department of Environmental Protection and Energy
Office of the Commissioner
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Trenton, NJ 08625-0402

Jeanne M. Fox
Acting Commissioner

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 2, 1993 AND OCTOBER 7, 1993
AMENDMENTS TO THE MIDDLESEX COUNTY
DISTRICT SOLID WASTE MANAGEMENT PLAN

BY ORDER OF THE ACTING 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 of Environmental Protection approved, with modifications, the Middlesex County District Solid Waste Management Plan (County 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 a 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 a 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 County Plan at any time and, if found inadequate, a new County Plan must be adopted. The Middlesex County Board of Chosen Freeholders (County Freeholders) completed such a review and on September 2, 1993 and October 7, 1993, adopted amendments to its approved County Plan.

The September 2, 1993 amendment proposed inclusion of a bulky waste recycling facility, a Countywide program for the curbside collection, processing, and marketing of commingled recyclables, and an interim yard waste management plan, as well as a modification to the use of and disbursement schedule for the Resource Recovery Investment Tax (RRIT) Fund. The October 7, 1993 amendment proposed to designate the existing Midco Waste Systems transfer station as a recycling center to handle Class A materials and to redesignate the facility from a transfer station to a transfer station and materials recovery facility.

The amendments were received by the Department of Environmental Protection and Energy (Department or DEPE) on September 28, 1993 and October 18, 1993, respectively, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments and has determined that the amendments adopted by the County Freeholders on September 2, 1993 and October 7, 1993 are approved in part and rejected in part as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Middlesex County District Solid Waste Management Plan Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the September 2, 1993 and October 7, 1993 amendments to the County Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that the approved portions of these plan amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the issues of concern relative to the September 2, 1993 and October 7, 1993 amendments which are included in Sections B.3 and B.4, respectively, as noted below.

In conjunction with the review of the amendments, the Department circulated copies to fifteen administrative review agencies and solicited their review and comment. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various bureaus, divisions, and agencies within the Department. These agencies are the following:

Office of Air Quality Management, DEPE
Land Use Regulation Element, DEPE
Wastewater Facilities Regulation Element, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Division of Solid Waste Management, DEPE
Green Acres Program, DEPE
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management

Department of Agriculture
Department of Health
Department of Transportation
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the September 2, 1993 Amendment

The following agencies did not object to the proposed plan amendment:

Office of Air Quality Management, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Green Acres Program, DEPE
New Jersey Turnpike Authority
Department of Agriculture

The following agencies did not respond to the Department's requests for comments:

Land Use Regulation Element, DEPE
Wastewater Facilities Regulation Element, DEPE
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Transportation
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

The following agencies submitted substantive comments which are further addressed below:

Division of Solid Waste Management, DEPE

2. Agency Participation in the Review of the October 7, 1993 Amendment

The following agencies did not object to the proposed plan amendment:

Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Green Acres Program, DEPE
New Jersey Turnpike Authority
Department of Agriculture

The following agencies did not respond to the Department's requests for comments:

Office of Air Quality Management, DEPE
Wastewater Facilities Regulation Element, DEPE
New Jersey Advisory Council on Solid Waste Management
Department of Health

Department of Transportation
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

The following agencies submitted substantive comments which are further addressed below:

Division of Solid Waste Management, DEPE
Land Use Regulation Element, DEPE

3. Issues of Concern Relative to the September 2, 1993 Amendment

Issue: Countywide Curbside Collection Program

The Department has substantive concerns regarding the curbside collection program. This program requires that materials be commingled with two source separations: paper separation consisting of commingled cardboard, newspaper, mixed paper, and textiles, and a container separation consisting of commingled steel, aluminum, glass, and plastic. Although the DEPE acknowledges that the intent of commingling paper and textiles within one container is to increase public participation in recycling (by lessening the amount of resident required separation of recyclables from the solid waste) and to assist the County in achieving the December 31, 1995 50% municipal waste stream and 60% total waste stream recycling goals, the Department is unaware of local, regional, or national materials recovery operations which are effectively sorting commingled newspaper, corrugated, mixed paper and textiles, or end markets which would accept potentially lower grade materials separated from such a commingled stream given the high probability of increased contaminants existing in such a mix. Additionally, the Department has concerns with the expenditure of large sums of public (RRIT Fund) moneys to finance this program given the marketing uncertainties inherent in the proposal. Also, the County has not provided any documentation within the amendment that commingling this range of paper grades with textiles within one container will foster increased recycling. Further, the Department has been informed by Middlesex County staff in a December 30, 1993 letter that the draft RFP/Bid being prepared for the program envisions the curbside collection of paper in three separate trains which is different from the commingled stream proposed within the amendment. Finally, the amendment does not describe in sufficient detail the overall program. For example, it is unclear whether the commingling of recycled paper types is a requirement for all municipalities to follow once existing contracts for source separated collection have expired. Without sufficient detail, the Department can not approve a program of such importance and magnitude as Middlesex's Countywide curbside collection program.

Issue: Garden State Paper (GSP) Objections

On November 2, 1993, the DEPE received a letter from GSP objecting to the County's September 2, 1993 amendment. Specifically, GSP objected to that portion of the amendment which pertains to the Countywide program for the curbside collection, processing, and marketing of commingled recyclables.

GSP maintains that no technology exists to mechanically separate commingled paper into discrete grades. The only way to accomplish this is with intensive manual sorting. Also, the amount of manual labor required for sorting increases at a geometric rate with the increasing amounts of contaminants. Further, GSP was concerned that the amendment did not specifically state that existing curbside collection contracts would be honored and 22 of the 25 Middlesex County municipalities have contracts with GSP. Finally, GSP indicated that the concept of including textiles in the paper stream is flawed. The company is not aware of any recycled paper mills which accept textiles, even in small quantities, since commingling of textiles with recovered paper could result in a wastepaper product which must be landfilled or incinerated rather than recycled.

Therefore, in consideration of the concerns expressed above, the certification within Section C. rejects that portion of the September 2, 1993 amendment pertaining to the Countywide curbside collection program. Further, as specified within Section C., the County is directed to submit within 180 days in a subsequent plan amendment an alternative collection, processing and marketing strategy for County-designated recyclable materials which addresses the Department's concerns.

Issue: Regulatory Requirements

The amendment proposes the development of a bulky waste facility. This facility will require County Plan inclusion, once a specific site has been identified, as well as the receipt of any necessary permits from the Department.

4. Issues of Concern Relative to the October 7, 1993 Amendment

Issue: Regulatory Requirements

Recycling centers and materials recovery facilities are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits the release of odors and other air contaminants which interfere with the enjoyment of life and property. Also, recycling centers and materials recovery facilities are considered solid waste facilities which are subject to N.J.A.C. 7:27-9.2 (a) 16 and require 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.

If any operation of the planned recycling center and materials recovery facility will discharge pollutants, as defined in N.J.A.C. 7:14-1.9, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

A Footprint of Disturbance was issued on August 2, 1990 for the Midco Waste Systems site in New Brunswick by the DEPE's Land Use Regulation Element. Any increase in the physical size of the facility or activities which would disturb or impact Freshwater Wetlands would require a Freshwater Wetlands Permit from the Department.

C. Certification of the Middlesex County District Solid Waste Management Plan Amendments

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-21, which establishes specific requirements regarding the contents of the district solid waste management plans, I have reviewed the September 2, 1993 and October 7, 1993 amendments to the approved County Plan and certify to the County Freeholders that the September 2, 1993 and October 7, 1993 amendments are approved in part and rejected in part as further specified below.

1. September 2, 1993 Amendment

- a. The County Plan inclusion of a Countywide program for the collection, processing, and marketing of commingled recyclables is rejected. As indicated within Section B., the DEPE has serious concerns regarding the implementation of this program which preclude Departmental approval. Therefore, the County is directed to submit within 180 days in a subsequent plan amendment an alternative collection, processing, and marketing strategy for County designated recyclable materials which addresses the concerns expressed by the DEPE.
- b. The County Plan inclusion of an interim yard waste management program is approved. The County will prepare a Request for Proposal/Bids and will hire a private contractor to manage and operate any County or municipal compost facility which agrees to participate in the program. The intent of this program is to relieve the County and municipalities of the responsibility for operating such sites and to ensure uniform, proper management. Municipalities will retain responsibility for the collection and transportation of both leaves and brush to a site.
- c. The County Plan inclusion of the concept of the County pursuing development of a bulky waste recycling facility which would handle corrugated cardboard, wood, metal, asphalt, concrete, soil, tires, and white goods is approved. As noted within Section B., once a specific site has been identified, facility plan inclusion will be required. Finally, once a vendor is selected (public or private), the DEPE should be so notified with a justification for that selection. Such selection should be made after discussions with other neighboring counties on the shared use of existing or proposed public or privatized bulky waste facilities.
- d. The County Plan inclusion of the modified use of and disbursement schedule for the County's RRIT Fund is approved in part and rejected in part. As proposed within the amendment, RRIT Fund moneys would finance the projects identified in C.a. through c. above. Since the Countywide program for the collection, processing, and marketing of commingled recyclables is rejected while the interim yard waste management program and the bulky waste recycling facility are approved, the disbursement of RRIT Fund moneys is approved only for the interim yard waste management and bulky waste recycling facility

uses. However, since some RRIT Fund activities (e.g. administration) are allocated among the three programs, the County is directed to readopt and submit to the DEPE a disbursement schedule for the two approved programs. Such submission need not be in plan amendment form but must be accompanied by a County Freeholder resolution.

2. October 7, 1993 Amendment

- a. The County Plan inclusion of Midco Waste Systems, located at 5 Industrial Drive, Block 597.02, Lot 4, in the City of New Brunswick as a recycling center for Class A materials is approved. This recycling center will process Class A materials including office paper, newspaper, cardboard, glass, aluminum, bimetal and plastic containers.

Recycling centers which will be handling only Class A recyclable materials, as defined at N.J.A.C. 7:26A-1.3, require no approval from the Department prior to operation. However, such recycling centers must comply with the regulations at N.J.A.C. 7:26A-4. Specifically, pursuant to N.J.A.C. 7:26A-4.1(a)1.iii, Class A recyclable materials may be commingled only with other Class A recyclable materials. Also, any residue generated as a result of the operation of a recycling center shall be disposed of pursuant to the County Plan and the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26 et seq.).

- b. The County Plan inclusion of the redesignation of the Midco Waste Systems transfer station, located at 5 Industrial Drive, Block 597.02, Lot 4, in the City of New Brunswick from a transfer station to a transfer station and materials recovery facility is approved. The Midco transfer station has previously been included within the County Plan and permitted by the DEPE as a transfer station to accept waste types 10 and 27 at a capacity of 250 tons per day. With the designation of both a transfer station and a materials recovery facility, the site will also accept both source separated and nonsource separated type 13 waste such as wood, concrete, masonry, metals, and tree stumps. The approval of the additional operations at the Midco Waste Systems site will not result in an increase in capacity beyond the existing permitted capacity as a transfer station of 250 tons per day.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Attorney General of the State of New Jersey to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126. Further, this certification shall not be constructed as an expression of the Department's intent to issue a solid waste facility permit or a recycling center approval.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with these amendments to the County Plan and which was executed prior to the approval of these amendments 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 and operating pursuant to a contract as herein described, shall be deemed to be in violation of these amendments and of the County 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, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and transporters registered with the Department and operating within the County and affected by the amendments contained herein shall operate in compliance with these amendments and all other approved provisions of the County Plan. Any facility operator or transporter 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 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 Plan

The provisions of the County 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. All nonhazardous 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 set forth at N.J.A.C. 7:26-6, but are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

4. Certification to Proceed with the Implementation of the Plan Amendments

This document shall serve as the certification of the Acting Commissioner of the Department to the County 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 amendments certified herein.

5. Definitions

For the purpose of these amendments 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 -99.12, N.J.A.C. 7:26-1.4 and -2.13, and N.J.A.C. 7:26A-1.3.

6. Effective Date of the Amendments

The approved portions of the amendments to the County 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 pursuant to its authority under the law. The County 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, rules, regulations, orders of the Department, 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 in Part and Rejection in Part of the Amendments by the Acting Commissioner of the Department of Environmental Protection and Energy

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve in part and reject in part the amendments, as outlined in Section C. of this certification, to the Middlesex County District Solid Waste Management Plan which were adopted by the Middlesex County Board of Chosen Freeholders on September 2, 1993 and October 7, 1993.

DATE January 14, 1994

Jeanne M. Fox
JEANNE M. FOX
ACTING COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND ENERGY