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STATE OF NEW JERSEY
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)
(ESSEX COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE JUNE 3, 1987
AMENDMENT TO THE ESSEX 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 August 13, 1980, the Department approved, with modifications, the Essex 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 Essex County Board of Chosen Freeholders completed such a review and on June 3, 1987, adopted an amendment to its approved district solid waste management plan.

The amendment proposed to incorporate into the district plan three emergency transfer station sites and associated waste flows to the transfer stations. The transfer stations will process Essex County solid waste prior to transport to out-of-state landfills for an interim period pending the operation of the planned Essex County resource recovery facility. The amendment also contains sections pertaining to Essex County's waste flow direction powers, and a policy for the acceptance of waste generated from outside Essex County at the proposed Essex County resource recovery facility.

The three transfer stations are:

- (1) Waste Management of New Jersey Transfer Station, located at 100 Avenue A., Block 1176, Lot 26, in the City of Newark, New Jersey;
- (2) Solid Waste Transfer and Recycling Transfer Station, located at 442 Frelinghuysen Avenue, Block 3516, Lot 24, in the City of Newark, New Jersey;
- (3) Solid Waste Transfer and Recycling Transfer Station, located at Hill Street, Block 94, Lot 19, in the City of Orange, New Jersey.

Following a public hearing attended by the Department, the Essex County Freeholders adopted the June 3, 1987 amendment to the Essex County District Solid Waste Management Plan to avert a solid waste disposal crisis in Essex County. As of July 31, 1987, Essex County will have no approved in-state solid waste disposal facility to use. To resolve this short-term disposal crisis, the Essex County Board of Chosen Freeholders have proposed the inclusion of the three above referenced transfer stations into the approved plan to process Essex County solid waste prior to transport to out-of-state landfills.

A draft of the amendment was received by the Department of Environmental Protection on May 20, 1986 and due to the potential for a solid waste crisis in Essex County, copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment and has determined that the amendment adopted by the Essex County Board of Chosen Freeholders on June 3, 1987 is approved as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Essex 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 June 3, 1987 amendment to the Essex 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 (DSWM) circulated the plan amendment to sixteen 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, 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 Parks and Forestry, Water Resources and Coastal Resources; the Green Acres Program, the Board of Public Utilities, the New Jersey Advisory Council on Solid Waste Management and the State Department of Transportation. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Division of Fish, Game and Wildlife; the State Departments of Agriculture, Health, Community Affairs, and the Public Advocate; the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. The Division of Environmental Quality and the Office of Recycling submitted substantive comments which are further addressed below.

The Office of Recycling has commented that pursuant to the Certificate of Approved Registration and Engineering Design Approval issued to American Ref-Fuel, Inc. for the Essex County Resource Recovery facility on December 10, 1985, Essex County must conform to an implementation schedule for recycling. One of the elements of the schedule was the adoption of an Administration and Enforcement Strategy by January 1, 1987, which was to require, among other things, that all transfer stations operating after January 1, 1987 incorporate recycling into facility design and operation.

The Office of Recycling further commented that assurance is needed that these proposed facilities will be operating in conformance with an, as of yet undeveloped, Essex County recycling plan pursuant to P.L. 1987, c.102, Section 3, which mandates plan adoption by October 20, 1987.

Also, the requirements of P.L. 1987, c.102, Section 14, state that these proposed facilities shall be prohibited from accepting leaves between September 1 and December 31 of each year, beginning September of 1988.

Lastly, the Office of Recycling commented that no contract issued, or tariff granted for the proposed facilities may inhibit the growth of recycling in Essex County, or require a minimum daily throughput of solid waste, or require any put or pay provisions regarding the receipt of municipal solid waste.

The Department responds to the comments of the Office of Recycling by stating that the action being proposed by Essex County is a result of the lack of any authorized in-state solid waste disposal facility after July 31, 1987. The proposed transfer stations with the transport of the solid waste to out-of-state landfills are an emergency response to the impending disposal crisis facing the county. Any requirement imposed upon the proposed transfer stations that would delay their implementation beyond July 31, 1987 must be weighted against the impact that such delay would cause. The Department greatly encourages Essex County to maximize its recycling efforts in response to the above comments of the Office of Recycling. In addition, despite efforts to avert a solid waste crisis in

the short-term, Essex County must comply with all applicable provisions of the mandatory Recycling Act.

The Division of Environmental Quality commented that transfer stations are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution". This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life or property. Also, N.J.A.C. 7:27-8.1(a)6 requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly to the outdoor atmosphere. Control devices to reduce odor and other air contaminants may be required on such vents.

The Division of Environmental Quality further commented that the Newark central business district is a non-attainment area for the pollutant carbon monoxide (CO). Trucks to and from the transfer facilities should avoid the Newark central business district, as well as the other county hot spots identified.

In response, these issues must be addressed during the technical review that will occur prior to operation of any of the transfer station facilities. Also, information provided by the Division of Environmental Quality will be forwarded to the transfer station operators for their consideration when submitting permit applications to the Department.

The Division of Solid Waste Management commented that the proposed plan amendment did not address the entire non-hazardous waste stream. Specifically, the solid waste types #23 (vegetative), 25 (animal and food processing) and 27 (industrial) were not individually identified and provided with a proposed waste flow. The certification document modifies the proposed plan amendment and provides a waste flow for all approved solid waste types. Further, the proposed plan amendment contained a policy concerning solid waste flow control that requires clarification. Therefore, Section C. of this certification clarifies the county's statement to reflect that Essex County has the power to initiate waste flow changes, and control waste flow, subject to DEP and BPU review and approval pursuant to the plan amendment and rulemaking processes established within the Solid Waste Management Act and the Non-hazardous Waste Regulations.

The Division of Solid Waste Management also reviewed the proposed plan amendment section concerning the acceptance of waste from outside Essex County at the proposed Essex County resource recovery facility. This section was determined to be consistent with the Statewide Solid Waste Management Plan. Finally, representatives of the Division visited and studied each of the proposed transfer station sites and have determined that they were all capable of development in an environmentally sound manner.

C. Certification of the Essex 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 June 3, 1987, amendment to the approved Essex County District Solid Waste Management Plan and certify to the Essex County Board of Chosen Freeholders that the June 3, 1987 amendment is approved as further specified below.

1. Transfer Stations

The inclusion into the district plan of the three transfer stations is approved. Specifically, the three transfer stations are:

- (a) Waste Management of New Jersey Transfer Station located at 100 Avenue A, Block 1176, Lot 26, in the City of Newark, New Jersey;
- (b) Solid Waste Transfer and Recycling Transfer Station located at 442 Frelinghuysen Avenue, Block 3516, Lot 24, in the City of Newark, New Jersey;
- (c) Solid Waste Transfer and Recycling Transfer Station located at Hill Street, Block 94, Lot 19, in the City of Orange, New Jersey.

2. Waste Flows

The proposed waste flows to the three transfer stations are modified and are approved as follows:

All solid waste types #10, 13, 23, 25, and 27 generated from within the Essex County municipalities of Irvington, Livingston, Maplewood, Millburn, and South Orange shall be directed to the Waste Management of New Jersey Transfer Station, located at Avenue A, Block 1176, Lot 26, in the City of Newark, Essex County, New Jersey.

All solid waste types # 10, 23, 25, and 27 generated from within the Essex County municipality of Newark shall be directed to the Waste Management of New Jersey Transfer Station, located at 100 Avenue A, Block 1176, Lot 26, in the City of Newark, Essex County, New Jersey.

All solid waste types # 10, 23, 25 and 27 generated from within the Essex County municipalities of Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Montclair, North Caldwell, Orange, Roseland, Verona, West Caldwell and West Orange shall be directed to the Solid Waste Transfer and Recycling, Inc. Transfer Station, located at Hill Street, Block 94, Lot 19, in the City of Orange, New Jersey.

All solid waste types # 10, 13, 23, 25, and 27 generated from within the Essex County municipalities of Belleville and Nutley shall be directed to the Solid Waste Transfer and Recycling, Inc. Transfer Station, located at 442 Frelinghuysen Avenue, Block 3516, Lot 24, in the City of Newark, New Jersey.

All solid waste type #13 generated from the Essex County municipalities of Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Montclair, Newark, North Caldwell,

Orange, Roseland, Verona, West Caldwell and West Orange shall be directed to the Solid Waste Transfer and Recycling, Inc. Transfer Station, located at 442 Frelinghuysen Avenue, Block 3516, Lot 24, in the City of Newark, New Jersey.

In the event that any of the transfer stations noted in Section C. 1. above are not operational by August 1, 1987, waste flows will be designated by the Department of Environmental Protection and the Board of Public Utilities through emergency waste flow directives.

3. Waste Flow Policy Statement

The inclusion into the district plan of the proposed policy pertaining to the powers of Essex County to control the flow of solid waste is approved, but must be clarified. As submitted, the waste flow policy statement fails to note that while the county has the power to initiate waste flow changes, and control waste flow, this action is subject to Department of Environmental Protection and Board of Public Utility review and approval pursuant to the plan amendment and rulemaking processes established within the Solid Waste Management Act and the Non-hazardous Waste Regulations.

4. Out-of-County Waste Policy

The inclusion into the district plan of the proposed policy pertaining to acceptance of solid waste generated from outside Essex County at the proposed Essex County resource recovery facility is approved. Specifically, the proposed policy stated that if American Ref-Fuel, Inc. proposes to obtain solid waste from another New Jersey solid waste management district, Essex County agrees, given state approval, to enter into reciprocal interdistrict waste flow agreements permitting deliveries of the solid waste. Also, if processible solid waste is not available from another New Jersey solid waste management district, American Ref-Fuel, Inc. may obtain processible solid waste from outside New Jersey after the county enters into interdistrict waste flow agreements and obtains state approval.

5. Routing Plan

The specific routing plan designating the transportation arteries to be used from each municipality to each of the three transfer stations is approved for inclusion within the district plan.

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 Essex 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 Essex 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 Essex County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Essex 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 Essex 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 Essex 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 N.J.A.C. 7:26-2.13.

6. Effective Date of Amendment

The amendment to the Essex 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 Essex 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 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 Essex County District Solid Waste Management Plan which was adopted by the Essex County Board of Chosen Freeholders on June 3, 1987.

6/8/87
DATE

Richard T. Dewling for
RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION