



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 OCTOBER 26, 1988
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 October 26, 1988, adopted an amendment to its approved district solid waste management plan. The proposed amendment includes a replacement incinerator to burn medical waste generated at Columbus Hospital located in Newark, into the approved Essex County plan.

The amendment was received by the Department of Environmental Protection on April 11, 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 Essex County District Solid Waste Management Plan, and has determined that the amendment adopted by the Essex County Board of Chosen Freeholders on October 26, 1988 is approved as provided in N.J.S.A. 13:1E-24. Continuing deficiencies in the district plan are outlined in Section C. below.

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, Christopher J. Daggett, Commissioner of the Department of Environmental Protection have studied and reviewed the October 26, 1988 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 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 and Parks and Forestry; the State Departments of Agriculture, Community Affairs and Transportation; the Board of Public Utilities, the Green Acres Program 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 Departments of Health and the Public Advocate, the New Jersey Turnpike Authority and the U.S. Environmental Protection Agency. The Division of Solid Waste Management submitted substantive comments which are addressed below.

The Division of Solid Waste Management commented that pursuant to the Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.14a, the existing Columbus Hospital incinerator is grandfathered within the Essex County District Solid Waste Management Plan since its operation predated the effective date of the Act. Specifically, this citation states that "Every existing incinerator or facility in operation as of the effective date of this act that accepts regulated medical waste for disposal shall be incorporated within the relevant district solid waste management plan required pursuant to the provisions of the Solid Waste Management Act, P.L. 1970, c. 39, without regard to the provisions of sections 11, 14 and 15 of P.L. 1975, c. 326."

The Division also commented that although the Columbus Hospital intends to incinerate only pathological and infectious waste generated by the hospital,

should the Columbus Hospital choose to operate in the future as a commercial incinerator, it will be required to obtain a tariff from the Board of Public Utilities. Specifically, the Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.12b, states "The Board of Public Utilities shall have jurisdiction over rates or charges for the disposal of regulated medical waste received by any commercial incinerator or commercial facility in this state that accepts regulated medical waste for disposal."

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

I, Christopher J. Daggett, 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 October 26, 1988 amendment to the approved Essex County District Solid Waste Management Plan and certify to the Essex County Board of Chosen Freeholders that the October 26, 1988 amendment is approved as further specified below.

The inclusion into the district plan of the replacement incinerator at the Columbus Hospital, located at 495 North Thirteenth Street, Block 650, Lot 22, in the City of Newark, New Jersey, to incinerate medical waste generated at the hospital is approved. Waste not generated at Columbus Hospital may not be incinerated at the facility. 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 applicable laws. The 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 pursuant to the provisions of N.J.S.A. 13:1E-126 et seq.

The Department has also reviewed the entire Essex 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:

N.J.S.A. 13:1E-21b.(1) requires the designation of a department, unit, or committee of county Government. . . to supervise the implementation of the county's Solid Waste Management Plan.

Although Essex County is implementing the construction of its resource recovery facility, there has been no formal designation of an implementation agency to oversee the entire solid waste program. Therefore, Essex County is hereby directed to submit to the Department a plan amendment designating the solid waste management implementation agency for the district.

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.

It is the Department's understanding that Essex County has contracted with an out-of-state landfill to accept residual and non-processible waste when the county's resource recovery facility becomes operational. This disposal arrangement is inconsistent with the Department's policy that solid waste Districts must be self-sufficient with regard to solid waste disposal by

December 31, 1992. Therefore, Essex County is directed to submit a plan amendment designating an in-state landfill site.

N.J.S.A. 13:1E-21b.(4) requires every solid waste management plan to include a survey of proposed collection districts and transportation routes . . . to existing or available suitable sites for solid waste facilities.

As Essex County has not specified routes to and from its disposal facilities, the solid waste management plan is deficient in this respect.

As previously stated in the October 26, 1987, Certification of the April 29, 1987 Plan Amendment, Essex County was required to identify in a subsequent plan amendment, specific routes from certain municipalities to its resource recovery facility. The municipalities requiring further route identification were: Caldwell, Cedar Grove, Essex Fells, Fairfield, Montclair, North Caldwell, South Orange, Verona, and West Caldwell. While the plan amendment was to be submitted following a public hearing to be held within 45 days of the date of the certification, the plan amendment has not been received by the Department to date. When Essex County addresses this requirement, they are advised that certain solid waste vehicles are incapable of complying with federal weight limitations (Federal Bridge Formula) set forth for interstate roadways. Accordingly, if interstate routes are to be utilized, haulers must demonstrate their ability to comply with the weight limitations of the Federal Bridge Formula.

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 -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 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 Essex County District Solid Waste Management Plan which was adopted by the Essex County Board of Chosen Freeholders on October 26, 1988. I further direct the Essex County Board of Chosen Freeholders to remedy those deficiencies outlined in Section C. of this certification as soon as possible.

0 1 SEP 1989

DATE

/s/ Christopher J. Daggett

CHRISTOPHER J. DAGGETT

COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION