



State of New Jersey
Department of Environmental Protection and Energy
Office of the Commissioner
CN 402
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
BERGEN COUNTY SOLID WASTE
MANAGEMENT DISTRICT

CERTIFICATION
OF THE MAY 19, 1993
AMENDMENTS TO THE BERGEN 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 October 31, 1980, the Department of Environmental Protection approved, with modifications, the Bergen 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 Bergen County Board of Chosen Freeholders (County Freeholders) completed such a review and on May 19, 1993, adopted four amendments to its approved County Plan. As adopted, the amendments proposed inclusion of the Cilano Disposal Service Transfer Station in South Hackensack as a qualified private transfer station to participate in the County's Phase II program, inclusion of the Township of Teaneck recycling center for Class B materials, the Borough of Harrington Park leaf compost facility, and the Taylor Tree, Inc. vegetative waste compost facility and market in Montgomery, New York.

The May 19, 1993 amendments were received by the Department of Environmental Protection and Energy (Department or DEPE) on June 21, 1993 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 May 19, 1993 are approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the May 19, 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, the Bergen County Freeholders and the applicants are notified of the issues of concern relative to the amendments which are included below in Section B.2.

In conjunction with the review of the amendment, 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 May 19, 1993 Amendments

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

Division of Parks and Forestry, DEPE
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Health
Department of Community Affairs

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

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

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

Land Use Regulation Element, DEPE
Division of Solid Waste Management, DEPE
Division of Fish, Game and Wildlife, DEPE
Green Acres Program, DEPE
Office of Air Quality Management, DEPE
Waste Water Facilities Regulation Element, DEPE

2. Issues of Concern Regarding the May 19, 1993 Amendments

Issue: Cilano Disposal Service Transfer Station

On May 28, 1993, the Department certified approval of the Bergen County plan amendment of September 16, 1992 which incorporated the Phase II transfer operations program. At that time, five other qualified private transfer stations were allowed to participate in the direct haul arrangement provided as part of the solid waste system operated by the Bergen County Utilities Authority (BCUA). This included Phase II transfer operations at existing permitted capacities and waste flows to the Essex County incinerator and permitted out-of-state disposal facilities until March 1, 1994 as per the conditions of the Memorandum of Understanding between Bergen and Essex Counties.

The Cilano Disposal Service Transfer Station is currently operating under a Judicial Consent Order with permission to accept 75 tons per day of type 10 nonputrescible commercial and industrial solid waste pending issuance of a final solid waste facility permit. The DEPE has not issued a solid waste permit to the facility since the applicant recently requested to increase the processing capacity for the facility from 75 tons per day to 99 tons per day and to allow the acceptance of waste types 13 and 23.

Although the review of the request will be undertaken by the DEPE before a final draft permit is prepared and other regulatory procedures followed, the Cilano Disposal Service Transfer Station must operate at its current capacity and the approval of this facility under the Phase II program does not allow this transfer station to perform any operation which is inconsistent with the Judicial Consent Order. Further, consistent with the Department's May 28, 1993 certification, if the County Freeholders intend to allow the Cilano Disposal Service Transfer Station to operate beyond its existing capacity, they are directed to submit a subsequent amendment which addresses any expansion of the facility's operational capacity.

Finally, a condition precedent to approval of this plan amendment is the mandatory compliance of the Cilano Disposal Service Transfer Station with the pertinent provisions of the Department's May 14, 1993 rate setting order pertaining to private transfer station participation in the BCUA Phase II program. In this regard, Section C. notes that the Cilano Disposal Service Transfer Station must comply with this order.

Issue: Teaneck Recycling Center

Recycling centers 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 are considered solid waste facilities and are subject to N.J.A.C. 7:27-9.2(a)16 which requires 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 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.

Due to the location of the recycling site, the Township of Teaneck has received a Waterfront Development Permit and a Freshwater Wetlands Letter of Interpretation. However, if physical expansion of the facility's operation exceeds the limits of its Waterfront Development Permit or impacts Freshwater Wetlands or Transition Areas, additional permits will be required.

Issue: Harrington Park Leaf Compost Facility

The Harrington Park leaf compost facility is presently operating without DEPE approval. Therefore, inclusion of this facility within the County Plan will correct a historical planning deficiency and allow the applicant to apply for a DEPE solid waste facility permit or authorization to operate.

Compost facilities 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. Compost facilities are also subject to N.J.A.C. 7:27-8.2(a)16 which requires 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. Also, if the proposed compost operation will discharge pollutants as defined in N.J.A.C. 7:14A-1.9, it may be required to secure a New Jersey Pollutant Discharge Elimination System (NJPDES) Permit and/or a Treatment Works approval for pollutant discharges prior to its construction or operation.

There are mapped Freshwater Wetlands in the vicinity of the proposed compost facility site. If this composting activity impacts Wetlands or Transition Areas, appropriate Wetlands permits will be required.

The existing Borough of Harrington Park leaf compost facility is located on a Green Acres encumbered parkland. However, it is considered an acceptable preexisting use.

If the proposed facility needs to construct an access or egress road to a State highway, it is required to obtain a permit from the Department of Transportation prior to construction.

Issue: Taylor Tree, Inc. Vegetative Waste Compost Facility and Market

Taylor Tree, Inc. must operate in accordance with all regulatory rules, regulations, and statutes of New York State. Also, if the proposed operation which transfers materials to this out-of-state facility will discharge pollutants as defined in N.J.A.C. 7:14A-1.9, said operations may also be required to secure a NJPDES Permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

C. Certification of the Bergen 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 May 19, 1993 amendments to the approved County Plan and certify to the County Freeholders that the May 19, 1993 amendments are approved as further specified below.

May 19, 1993 Amendments

a. Cilano Disposal Service Transfer Station

The County Plan inclusion of the Cilano Disposal Service Transfer Station at 19 Ise Street, South Hackensack, on Block 24, Lots 28 and 31 and Block 20A, Lot 40 as a qualified private transfer station to participate in the direct hauling arrangement provided as part of the solid waste system

operated by the BCUA is approved. In this regard, five other privately qualified transfer stations were previously approved in the Phase II transfer operations program pursuant to the Department's May 28, 1993 certification of Bergen County's September 16, 1992 plan amendment.

The Cilano Disposal Service Transfer Station is currently operating under a Judicial Consent Order with permission to accept 75 tons per day of type 10 nonputrescible commercial and industrial solid waste pending issuance of a final solid waste facility permit. The DEPE has not issued a solid waste permit to the facility since the applicant recently requested to increase the processing capacity for the facility from 75 tons per day to 99 tons per day and to allow the acceptance of waste types 13 and 23. Although the review of the request will be undertaken by the DEPE before a final draft permit is prepared and other regulatory procedures followed, the Cilano Disposal Service Transfer Station must operate at its current capacity and the approval of this facility under the Phase II program does not allow this transfer station to perform any operation which is inconsistent with the Judicial Consent Order. Further, consistent with the Department's May 28, 1993 certification, if the County Freeholders intend to allow the Cilano Disposal Service Transfer Station to operate beyond its existing capacity, they are directed to submit a subsequent amendment which addresses any expansion of the facility's operational capacity. Finally, as noted in Section B., the applicant is notified that the within County Plan inclusion approval is contingent upon the Cilano Disposal Service Transfer Station complying with the Department's May 14, 1993 rate setting order pertaining to private transfer station participation in the BCUA Phase II program.

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-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 Department and 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. This certification shall not be construed as an expression of the DEPE's intent to issue a solid waste facility permit for the expansion of and revision of acceptable waste types to be received at the transfer station.

b. Teaneck Recycling Center

The County Plan inclusion of the Teaneck Township recycling center at Pomander Walk, on Block 201, Lot 11 in Teaneck Township to process Class B material limited to leaves only for transfer for off-site composting is approved. Also, as noted in Section B., in accordance with current recycling regulations this recycling facility site cannot be used to compost any of the leaves it accepts.

Since this recycling center will be handling Class B recyclable materials, as defined at N.J.A.C. 7:26A-1.3, it must obtain a recycling center approval from the Department pursuant to N.J.A.C. 7:26A-3 prior to operation. Further, 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. Class B recyclable materials may be commingled only with other Class B recyclable materials and only to the extent authorized in the general approval.

This certification shall not be construed as an expression of the Department's intent to issue a recycling center approval to any recycling center for Class B recyclable materials. A recycling center approval shall only be granted where the applicant has submitted an administratively complete application, as per N.J.A.C. 7:26A-3.5, where all substantive criteria for approval set forth in N.J.A.C. 7:26A-3.2, 3.3 and 3.4 are satisfied, where a fee has been paid in accordance with N.J.A.C. 7:26A-2, and where none of the criteria for denial of a recycling center approval are met, as per N.J.A.C. 7:26A-11 and 12. Further, a recycling center approval shall only be granted upon compliance with all outstanding Departmental enforcement actions.

Any residue generated as a result of the operation of this 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.).

The construction and operation of all recycling centers which receive, store, process or transfer Class B recyclable materials, as defined at N.J.A.C. 7:26A-1.3, shall be preceded by the acquisition of the necessary approval as per N.J.A.C. 7:26A-3 et seq., and shall be in conformance with Department regulations and guidelines, including N.J.A.C. 7:26A-4 et seq.

c. Harrington Park Leaf Compost Facility

The County Plan inclusion of the Borough of Harrington Park leaf compost facility located on Lot 16, Block 1001 in the Borough of Harrington Park is approved. However, as noted in Section B., if this operation impacts mapped Freshwater Wetlands on Transition Areas which are located in the vicinity, additional permits will be required including a Freshwater Wetlands Letter of Interpretation and due compliance with the Freshwater Wetlands Regulations. Also, as noted in Section B., while the Harrington Park compost facility site is on Green Acres encumbered parkland, it is considered an acceptable preexisting use. Finally, this compost facility has been operating without DEPE approval. Therefore, inclusion within the County Plan will correct a historical planning deficiency and allow the applicant to apply for a DEPE solid waste facility permit or authorization to operate pursuant to N.J.A.C. 7:26 et seq. However, this certification shall not be construed as an expression of the DEPE's intent to grant an approval to operate.

d. Taylor Tree, Inc. Vegetative Waste Compost Facility and Market

The County Plan inclusion of Taylor Tree, Inc. located at 172 Neelytown Road in Montgomery, New York as a vegetative waste compost facility and market to accept vegetative waste generated from within Bergen County is approved. However, as noted Section B., the Taylor Tree, Inc. compost

facility and market is only approved to the extent that its operation is consistent with all applicable New York State rules, regulations, and statutes.

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 these amendments 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 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 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 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 the amendments, as outlined in Section C. of this certification, to the Bergen County District Solid Waste Management Plan which were adopted by the Bergen County Board of Chosen Freeholders on May 19, 1993.

DATE

Oct 19, 1993

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