

Let's protect our earth



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
CN 402
TRENTON, N.J. 08625
609 - 292 - 2885

(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(OCEAN COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE OCTOBER 21, 1987
AMENDMENT TO THE
OCEAN 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 31, 1980, the Department approved, with modifications, the Ocean 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.)

Amendments to the Act found in N.J.S.A. 13:1E-1 et seq. specifically N.J.S.A. 13:1E-99.11 et seq. requires that counties amend their district solid waste management plan to include a

district recycling plan. The Ocean County Board of Chosen Freeholders adopted an amendment on October 21, 1987, to its approved district solid waste management plan.

The amendment proposes to incorporate the district recycling plan into the approved district solid waste management plan as per the requirements of the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq. (herein referred to as the "Recycling Act").

The amendment was received by the Department of Environmental Protection on October 28, 1987, 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 Ocean County District Solid Waste Management Plan, and has determined that the amendment adopted by the Ocean County Board of Chosen Freeholders on October 21, 1987, is approved with modification as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Ocean County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1) and N.J.S.A. 13:1E-99.11, I, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the October 21, 1987, amendment to the Ocean County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and N.J.S.A. 13:1E.99.11 et seq. and I find and conclude that this plan amendment is consistent in part and inconsistent in part with these requirements.

In addition, the Division of Solid Waste Management circulated the plan amendment to eight 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 and the Department of Community Affairs. In addition, a memo identifying the amendment as a district recycling plan was distributed to various agencies, bureaus, and divisions within the DEP as well as the Department of the Public Advocate, the Department of Health, the Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. These agencies were notified of the opportunity to examine a copy of the plan upon request to the Office of Recycling. Of these agencies, the following did not object to the proposed plan amendment: N.J.D.E.P. Division of Solid Waste Management, Bureau of Solid Waste and Resource Recovery Planning, Division of Water Resources, Bureau of Ground Water Quality Management; N.J. Department of Community Affairs, Division of Local Government Services; Board of Public Utilities; 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. Divisions of

Fish, Game and Wildlife, Coastal Resources, and Parks and Forestry; the Pinelands Commission; the State Departments of Agriculture, Health, Transportation and the Public Advocate; the Green Acres Program, the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. N.J.D.E.P. DEQ's Bureau of Air Quality Planning and Evaluation, DSWM Bureau of Resource Recovery, DWR's Bureau of Ground Water Quality Management, and DSWM's Office of Recycling submitted substantive comments which are further addressed below.

N.J.D.E.P. Division of Environmental Quality, Bureau of Air Quality Planning and Evaluation commented that certain regulations apply to recycling centers and composting facilities. In response, a copy of these comments will be forwarded to Ocean County.

The DSWM's Bureau of Resource Recovery submitted the following comments:

1. The document indicates that recovery targets for recyclables, which are found in table 2 on page 16, may be revised upon completion of an ongoing waste composition and generation study. To date, Ocean County has failed to provide this Division with accurate waste generation and composition data. On November 20, 1987, the Department issued a PEHIS approval for Ocean County's proposed resource recovery facility. However, this approval was conditioned on Ocean County obtaining accurate waste generation and composition data by conducting these studies in accordance with N.J.A.C. 7:26-2B.4(a)14. The Bureau recommends that Ocean County be required to demonstrate that the percentage of recyclables in the county's municipal waste stream are sufficient to reach the minimum 25% recycling goal.

2. In addition, the 25% goal should apply to the total municipal waste stream. However, this recycling goal is applied in the Ocean County Recycling Plan to only the baseload waste and ignores the seasonal waste. Since seasonal waste is a significant portion of the total municipal waste stream in Ocean County, the recycling requirement should apply to it as well.

In response to item #1, the Office of Recycling requires submittal of the waste composition and generation study within 30 days of the certification of this plan amendment. Based upon the results of the waste composition and generation study, Ocean County must adjust its recycling targets to meet the minimum 15% and 25% recycling goals if it is found that the present targets are too low. In reference to item #2, seasonal waste increases shall be included in the minimum 15% and 25% recycling targets.

The DWR, Bureau of Ground Water Quality Management had no objections to the plan, however, the bureau did comment that the proposed and existing recycling centers and leaf composting facilities may be required to obtain a NJPDES Discharge to Ground Water permit.

Recycling and leaf composting facilities which are located at landfills will be regulated under the NJPDES/DGW permit for that landfill: facilities owned and/or operated by agencies that do not currently have NJPDES/DGW permits will be required to obtain the necessary permit if such permits are applicable.

In response, Ocean County is hereby notified of the above mentioned requirements.

The DSWM, Office of Recycling, submitted the following comments:

1. In designating the materials to be source separated in the residential, commercial, and institutional sectors, the plan designated aluminum cans, glass containers, newspapers and tin cans to be source separated. The plan states on pages 7 and 8, "The above listed materials are those initially designated for source separated collection. As markets for other potentially recyclable materials develop or expand, and as the County's ability to process and market additional materials improves, the County will consider adding to the initial list of materials. Those materials which should be considered for designation as additional source separated recyclables include: 1. plastic, 2. office paper (commercial), 3. corrugated board (commercial and household)...Municipalities, organizations and private businesses currently collecting other materials for recycling encouraged to continue doing so but these efforts are considered to be in addition to the recycling effort operated by Ocean County." According to the Recycling Act, N.J.S.A. 13:1E-99.13, each district recycling plan is required to include, but not be limited to, "designation of the recyclable materials to be source separated in each municipality which shall include, in addition to leaves, at least three other recyclable materials separated from the municipal solid waste stream." The municipal solid waste stream, waste type 10, consists of residential, commercial and institutional waste. Therefore, Ocean County must also designate the materials to be recycled in the commercial and institutional sectors. The Office of Recycling recommends that Ocean County include the following recyclables, at a minimum, for the commercial and institutional waste streams: glass bottles and cans from bars, taverns and restaurants, mixed high grade office paper from institutions (offices, hospitals, etc.), and corrugated cardboard from commercial, retail or wholesale establishments.

The plan states on page 11 section 4.1, Commercial Recycling Transfer Facilities and similar private, commercial recycling facilities, "Many of these facilities generate quantities of waste, such as corrugated cardboard and office paper for which recycling markets may presently exist but which are not designated recyclable materials under this Plan." As per N.J.S.A. 13:1E 99.13 as stated in the paragraph above, recyclables such as corrugated cardboard and office paper should be designated as recyclable materials for the commercial and institutional sectors.

2. Pursuant to the requirements of N.J.S.A. 13:1E.99.14, within six months of the date of this certification, the two proposed recycling centers must be operational for use by the municipalities which have elected to deliver their recyclables to the recycling centers.

3. Appendix F, the Model Ordinance for Mandatory Recycling, Section 2, Definitions, defines commercial establishments as, properties used primarily for commercial purposes and those multiple dwelling residential buildings containing more than four dwelling units." Because the county did not mandate recycling for commercial establishments (see the DSWM, Office of Recycling's comment, item #1 above), as required by N.J.S.A. 13:1E-99.13, the plan does not require residents living in "multiple dwelling residential buildings containing more than four dwelling units" to recycle the designated recyclables, which, according to the Recycling Act, they must. The Model Ordinance for Mandatory Recycling should include a provision for residents living in "multiple dwelling residential buildings containing more than four dwelling units" to recycle the designated recyclables as other households are required in the county plan.

4. Appendix F, the Model Ordinance for Mandatory Recycling, Section 7, Collection by Unauthorized Person, states "Each such collection in violation of this Ordinance shall constitute a separate and distinct offense punishable as hereinafter provided." Specific minimum monetary penalties should be outlined in the Model Ordinance for Mandatory Recycling.

5. Appendix F, the Model Ordinance for Mandatory Recycling, Section 8, Enforcement and Administration, states "The (municipality, recycling coordinator, superintendent of public works) is hereby authorized and directed to establish and promulgate reasonable regulations detailing the manner, days and times for the collection of the recyclable materials designated in Section 3 of this Ordinance and such other matters as are required to implement this Ordinance." Each Ocean County municipality is required to include an enforcement provision in its adopted ordinance. The Model Ordinance for Mandatory Recycling should include a requirement for implementing enforcement actions.

6. The district recycling plan does not provide sufficient data to determine if Ocean County has enough permitted capacity for leaf composting. According to N.J.S.A. 13:1E-99.21, "Within 12 months of the effective date of this amendatory and supplementary act, all leaves collected by a municipality pursuant to the provisions of Section 14 of this amendatory and supplementary act shall be transported to a leaf composting facility. Each district recycling plan shall identify the leaf composting facility or facilities to be utilized by each municipality within the county." Ocean County has not met the above requirement, and shall provide the Office of Recycling with a list setting forth where each municipality will take its leaves.

7. The procedures described on page 18, section 8, Modification of District Recycling Plan, do not include a provision for public notice or comment. This section should be expanded to include a legal notice in a newspaper of general circulation. A period of 30 days should be allowed for comment on any proposed modification prior to incorporation into the county's district recycling plan. A methodology for addressing the comments received prior to incorporation into the county's district recycling plan shall also be incorporated into the procedures for the modification of the recycling plan.

C. Certification of Ocean 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 October 21, 1987, amendment to the approved Ocean County District Solid Waste Management Plan and certify to the Ocean County Board of Chosen Freeholders that the October 21, 1987, amendment is approved with modification. Ocean County is required to conduct a public hearing within forty-five (45) days of the date of this certification to address a subsequent solid waste management plan amendment which will remedy the deficiencies in the district recycling plan identified in Section B. of this certification.

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 this amendment to the Ocean 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 Ocean 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 Ocean County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Ocean County District Solid Waste Management Plan. Any solid waste 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 Ocean 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 recycling 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 Ocean 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 and N.J.S.A. 13:1E-99.12.

6. Effective Date of Amendment

The Amendment to the Ocean 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 Ocean 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 with modification 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 with modification the amendment as outlined in Section C. of this certification, to the Ocean County District Solid Waste Management Plan which was adopted by the Ocean County Board of Chosen Freeholders on October 21, 1987. I further direct the Ocean County Board of Chosen Freeholders to conduct a public hearing within forty-five (45) days of the date of this certification to address the deficiencies outlined in Section B. of this certification and to submit a plan amendment within thirty (30) days of the public hearing date to the Department which remedies the outlined deficiencies.

March 22, 1988

DATE


RICHARD T. DEWLING
COMMISSIONER