

Let's protect our earth



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)
(CAPE MAY COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE MAY 22, 1990
AMENDMENT TO THE CAPE MAY 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 February 4, 1981, the Department approved, with modifications, the Cape May 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 Cape May County Board of Chosen Freeholders completed such a review and on May 22, 1990 adopted an amendment to its approved district solid waste management plan. The amendment includes the Bob Dougherty and Sons Recycling, Inc. mobile tire shredder for operation in Cape May County and the Future Mining and Recycling, Inc. recycling facility in Middle Township, as well as establishes a procedure for the review and incorporation of non-site specific recycling projects into the Cape May County Plan.

The amendment was received by the Department of Environmental Protection on June 26, 1990. 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 Cape May County Board of Chosen Freeholders on May 22, 1990 is approved with modifications as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I, Judith A. Yaskin, Commissioner of the Department of Environmental Protection have studied and reviewed the May 22, 1990 amendment to the Cape May 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 as modified with the Statewide Solid Waste Management Plan.

The Division of Solid Waste Management 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 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 and the Green Acres Program; the Board of Public Utilities; the State Departments of Agriculture, Community Affairs and Transportation; and the New Jersey Turnpike Authority. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Division of Environmental Quality; the State Departments of Health and the Public Advocate, the Pinelands Commission, the New Jersey Advisory Council on Solid Waste Management, and the U.S. Environmental Protection Agency. The N.J.D.E.P. Divisions of Water Resources, Coastal Resources, Fish, Game and Wildlife and Solid Waste Management submitted substantive comments which are further addressed below.

The Division of Water Resources commented that the Division's Bureau of Industrial Discharge Permits should be contacted regarding the need for NJPDES-DGW permits pursuant to N.J.A.C. 7:14A-1 et seq. Also, to determine consistency for these projects in relation to the Division's

Water Quality Management Plan, further information is needed. The Division's assessment includes review of the method of wastewater treatment, the location of the treatment and the flow calculations. In response, by copy of this certification, the county is notified of these requirements.

The Division of Coastal Resources commented that a Freshwater Wetlands Permit, Stream Encroachment Permit, Water Quality Certificate, and/or a CAFRA permit may be required for these operations. In response, by copy of this certification, the county is notified of these requirements.

The Division of Fish, Game and Wildlife commented that they have concerns about the Future Mining and Recycling, Inc. site. The Division has information that shows two endangered species, the Southern Gray Treefrog and the Tiger Salamander, which are known to occur in the immediate vicinity of the site. If suitable habitat for these species exists on-site, they can be expected to occur there. Prior mining operations may have created such habitat, particularly if a water source was exposed. Surveys to determine species presence are highly recommended and needed for any future evaluation of the proposal. In response, by copy of this certification, the county and the applicant are notified of these requirements and this issue will be considered during the Department's approval process.

The Division of Solid Waste Management commented that Future Mining and Recycling, Inc. stated it would use Waste Origin/Waste Disposal Forms pursuant to the Solid Waste Management Regulations, N.J.A.C. 7:26-2.13(d)4. Recycling facilities are exempt from complying with the Waste Origin/Waste Disposal provisions. Furthermore, the county has stated that no more than 1000 tons per year of out-of-county recyclables be processed at the Future Mining and Recycling, Inc. facility. However, recyclables are exempt from the solid waste flow regulations. Therefore, there is no limit to the amount of out-of-county recyclables which may be accepted at any recycling facility. In response, by copy of this certification, the county and Future Mining and Recycling, Inc. are notified of these exemptions to the solid waste regulations.

The Division also made comments regarding the proposed procedure for the review and incorporation of proposed non-site specific recycling projects into the Cape May County Recycling Plan. The Division commented that Cape May County cannot set a 15% residue limit. The legal authority for recycling center approval is granted to the Department as per N.J.S.A. 13:1E-99.34. This authority extends to conditions that may be placed on a facility such as maximum allowable residue percentages. This determination will be accomplished during the Departmental review of a facility's plans. In response, the Department concurs with the comments of the Division and modifies the amendment accordingly in Section C. of this certification.

Further, the Division noted that with the exception of sections 7 through 9 of the plan amendment, the proposed procedure for non-site specific recycling projects directly parallels Cape May's procedure for stationary recycling facilities. That procedure was approved in the May 25, 1988 certification of the December 8, 1987 amendment to Cape May County's solid waste management plan, as an interim procedure, pending the adoption of

regulations governing the review and operation of recycling centers throughout the State. Such regulations were proposed in the October 1, 1990 edition of the New Jersey Register at 22 N.J.R. 3088(a). The procedures contained in regulations formally adopted would supersede those contained in this amendment, where the plan is inconsistent with or contrary to the Department's regulations. Therefore, Cape May County should be advised that the procedures adopted in this amendment may be subject to change upon adoption of the above referenced regulations. In response, the Department agrees with the Division's comment and hereby notifies Cape May County of the possible effect of the Department's rulemaking actions on the county program. The amendment is modified below to reflect that the program may be superseded by this rulemaking as appropriate.

Finally, the Division notes that the sequence of events leading up to county approval of the recycling project is unclear. According to the plan amendment, certain information, as described in section 5, numbers 7a through 7c (certification pg. 6, C.3.g.i-iii), is to be provided to the county. Number 8 (certification pg. 7, C.3.h.) then discusses steps to be taken once the non-site specific recycling project is incorporated into the recycling plan. The county should clarify whether the information discussed in number 7 of the plan amendment is to be provided to the county before or after plan inclusion. In response, by copy of this certification, the county is notified of the need to clarify this issue in writing with the Department.

C. Certification of Cape May County District Solid Waste Management Plan Amendment

I, Judith A. Yaskin, 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 May 22, 1990 amendment to the approved Cape May County District Solid Waste Management Plan and certify to the Cape May County Board of Chosen Freeholders that the May 22, 1990 amendment is approved with modifications as further specified below.

1. The district plan inclusion of the Bob Dougherty and Sons Recycling, Inc. mobile tire shredder as a recycling facility is approved. The shredder shall receive whole tires, shred the entire tire, and transport the shredded tires to an end user. When not in use, the tire shredder shall be stored at the site of Coach Auto Parts, Monroe Township, Gloucester County. The operation of this equipment shall be in conformance with Departmental guidelines and regulations, and the Cape May County non-site specific recycling operational requirements as modified in C.3. below.
2. The district plan inclusion of the Future Mining and Recycling, Inc. recycling facility located at Block 94, Lot 7 in Middle Township, to process up to 95 tons per day of source separated asphalt, concrete, bricks, stumps and tree parts is approved. The operation of this facility shall be in conformance with Departmental regulations and guidelines.

3. The district plan inclusion of a procedure for the review and incorporation of non-site specific recycling projects into the Cape May County Recycling Plan is approved with modifications. Specifically, the Department and not Cape May County shall determine the allowable maximum residue percentage from a recycling operation. The maximum allowable residue percentage will be determined during the Departmental review of a facility's plans. These modifications are final and subsequent action by the freeholders is not required. The Department also notifies Cape May County that on October 1, 1990, the Department proposed regulations at 22 NJR 3088(a) regarding recycling facilities. These regulations, if adopted, will supersede the county's program to the extent that the program is contrary to or inconsistent with any regulations adopted by the Department. The operation of any recycling 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 and regulations.
 - a. To be incorporated into the Recycling Plan, all proposed non-site specific recycling projects must satisfy the definition of a Recycling Center as contained in Section 2 of the Mandatory Recycling Act, and must be operated to accommodate only those source separated, non-putrescible or source separated commingled non-putrescible materials as defined in Section 41a of the Act. Proposed non-site specific projects for recycling and/or reusing source separated materials such as, but not limited to, used tires, or mixed vegetative waste (tree stumps, large limbs and brush, etc.) may also be incorporated into the County Recycling Plan. All proposed non-site specific projects which cannot meet these definitions should not be incorporated into the Recycling Plan.
 - b. To be incorporated into the Recycling Plan, all proposed non-site specific recycling projects should be operated to accommodate additional types and/or increased quantities of recyclable materials not coincidentally recycled at facilities/centers previously included in the Plan and for which market contracts have been established between such existing facilities and County municipalities and/or the CCMUA.
 - c. In recognition of the light industrial nature of non-site specific recycling project operations, all proposed recycling projects to be incorporated into the Cape May County Recycling Plan should be located in light industrial, commercial or other similar zoning classifications which permit such activities. Such facilities should also meet all other relevant requirements of adopted municipal and land use plans and zoning ordinances which may apply to light industrial type activities. To properly accommodate any increased truck traffic produced by such recycling operations and services, such non-site specific projects should also be served by County and State owned highways with minimum reliance on local municipal roads.

- d. To maintain conformance with the County Recycling Plan, all proposed non-site specific recycling projects which receive over 300 tons per month of designated recyclable materials shall be operated to meet the following technical criteria:
- i) The minimum amount of materials processed by a non-site specific recycling operation that should be converted into secondary products or materials which have a readily identifiable market and/or reuse shall be determined by the Department during the review of that facility's plans.
 - ii) The maximum allowable residue from the operations of a non-site specific recycling operation shall be determined by the Department during the review of that facility's plans.
- e. All non-site specific recycling projects shall meet and maintain compliance with all relevant State, Federal and local public health and safety regulations, standards and procedures, all relevant occupational health and safety statutes and regulations, and all relevant State and Federal statutes and regulations affecting the environmental safety and protection of recycling operations.
- f. Detailed records of the source community, type and weight and/or volume of all recyclable materials processed by the proposed non-site specific recycling operation shall be kept by the operator, and periodic reports containing this information provided (at least annually) to the CMCMUA and to all municipal governments in Cape May County which have been reported to be the source community(ies) of all recyclable materials processed at the facility. Such reporting is necessary to support the application of participating communities for "Tonnage Grants" pursuant to the Mandatory Recycling Act.
- g. At least 30 days prior to beginning physical operations, all proposed non-site specific recycling projects must provide the following information to the Cape May County Municipal Utilities Authority and the NJDEP:
- i) Evidence, in the form of a purchase order or lease agreement, that all required equipment is being procured.
 - ii) Letters of intent (or contracts) from markets which plan to utilize the processed end products, including an estimate of the annual quantities to be used.
 - iii) Evidence of any other State, County or local approvals and permits which have been received.

- h. Once incorporated into the Cape May County Recycling Plan, non-site specific recycling projects must take the following steps at least two weeks prior to initiating a recycling operation in Cape May County:
 - i) The operator must complete and submit an "Application to Operate" to the Cape May County Municipal Utilities Authority (Exhibit #1). This application must be approved prior to beginning operations.
 - ii) The operator shall notify, in writing, the following agencies:
 - * The Cape May County Department of Health; and
 - * The Municipal Clerk, Fire Department and Police Department in the community where processing operations are to occur.
- i. Failure of the operator to maintain consistency with the criteria listed above, the County Recycling Plan or conditions of approval issued by any local or State agency on three (3) or more occasions may result in the revocation of their approval following a hearing to review the matter. In the event of such revocation, the non-site specific recycling project shall be considered as a solid waste facility operating without a permit.

All non site specific recycling projects to be incorporated into the County Recycling Plan are included as a non-major modification as provided for in Section VII, pages VII-35 and VII-36 of the adopted County Recycling Plan, and must follow the procedures as set forth below:

- i) Preparation and distribution, by the CMCMUA staff, of a "Recycling Plan Modification Report" containing the specific proposed plan amendment(s), together with appropriate explanatory information to the SWAC, all County municipalities and libraries and the County Board of Chosen Freeholders at least twenty-one (21) days prior to the proposed date for adoption of the non-major modifications by the CMCMUA.
- ii) Publication of a "Recycling Plan - Non-major Amendment Notice" in at least one newspaper of general circulation in the County not less than fourteen (14) days prior to the proposed adoption date.
- iii) Conduct an open public hearing by the CMCUA at a regularly scheduled meeting to receive and respond to public comment on the proposed non-major plan amendment(s).

- iv) Preparation of and adoption by the SWAC of written comments and recommendations on the proposed non-major amendment(s) and submission of these SWAC comments and recommendations to the CMCMUA at least ten (10) days prior to the proposed adoption date.
- v) Adoption, modification, deferral or disapproval by the CMCMUA of the proposed non-major recycling plan amendment(s) by resolution of the CMCMUA based on a review of the "Recycling Plan Modification Report", and on the result of public comments received at the public hearing or in writing and on the comments and recommendations received from the SWAC.
- vi) Distribution by the CMCUA of the final non-major recycling plan amendment(s) adopted by the CMCMUA to the SWAC, County municipalities and libraries, the County Board of Chosen Freeholders and all persons offering verbal or written comments on the proposed amendment(s) within fourteen (14) days of adoption by the CMCMUA. All non-major amendments to the recycling plan should take effect immediately upon adoption by the CMCMUA.

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 Cape May 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 Cape May 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 Cape May County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Cape May 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 Plan

The provisions of the Cape May 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 Cape May 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 as modified to the Cape May 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 Cape May 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 Modifications 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 with modifications as outlined in Section C. of this certification to the Cape May County District Solid Waste Management Plan which was adopted by the Cape May County Board of Chosen Freeholders on May 22, 1990.

11/14/90
DATE

JUDITH A. YASKIN
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION