



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
SALEM COUNTY SOLID WASTE
MANAGEMENT DISTRICT

CERTIFICATION
OF THE FEBRUARY 17, 1993
AMENDMENT TO THE SALEM 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 February 11, 1981, the Department of Environmental Protection approved, with modifications, the Salem 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 Salem County Board of Chosen Freeholders (County Freeholders) completed such a review and on February 17, 1993, adopted an amendment to its approved County Plan.

The February 17, 1993 amendment proposed inclusion of the South Jersey Agricultural, Inc. recycling center for Class B materials located in Upper Pittsgrove Township, Salem County.

The amendment was received by the Department of Environmental Protection and Energy (Department or DEPE) on March 5, 1993, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire County Plan, and has determined that the amendment adopted by the County Freeholders on February 17, 1993 is approved as provided in N.J.S.A. 13:1E-24. While the immediate plan amendment has been approved, a serious deficiency in the County Plan has been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the February 17, 1993 amendment 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 this plan amendment is consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders and the applicant are also notified of the issue of concern relative to the February 17, 1993 amendment which is included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to sixteen 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 Energy, DEPE
Land Use Regulation Element, DEPE
Groundwater Quality Management 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 February 17, 1993 Amendment

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

Division of Parks and Forestry, DEPE
New Jersey Turnpike Authority
Department of Agriculture
Department of Health
Department of Transportation

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

Land Use Regulation Element, DEPE
Groundwater Quality Management Element, DEPE
Green Acres Program, DEPE
New Jersey Advisory Council on Solid Waste Management
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

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

Division of Fish, Game and Wildlife, DEPE
Office of Energy, DEPE
Wastewater Facilities Regulation Element, DEPE
Division of Solid Waste Management, DEPE

2. Issues of Concern Regarding the February 17, 1993 Amendment

Issue: Regulatory Requirements

A Department review indicates the possible presence of wetlands on the site of South Jersey Agricultural, Inc. in Upper Pittsgrove Township, Salem County. Any expansion or clearing activity must comply with Freshwater Wetlands Regulations. Therefore, a Freshwater Wetlands Letter of Interpretation must be applied for by South Jersey Agricultural, Inc. from the DEPE's Land Use Regulation Element. Furthermore, due to the site's proximity to Tanners Run (Salem River Tributary), the DEPE is concerned with the protection of the watercourse from product/by product run-off as a result of the facility's operations (including operations in floodplain areas, if any). This concern must also be addressed within the Freshwater Wetlands Letter of Interpretation.

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 which 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.

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. Certification of the Salem County District Solid Waste Management Plan Amendment

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 February 17, 1993 amendment to the approved County Plan and certify to the County Freeholders that the February 17, 1993 amendment is approved as further specified below.

1. February 17, 1993 Amendment

The County Plan inclusion of the South Jersey Agricultural, Inc. recycling center to be located on Block 60, Lot 11, in Upper Pittsgrove Township, Salem County, New Jersey is approved. The proposed facility will accept source separated Class B recyclable materials such as stumps, tree trunks, and large limbs and reduce them into wood chips, mulch, compost and soil.

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 a recycling center which receives, stores, processes or transfers 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 pursuant to N.J.A.C. 7:26A-3 et seq., and shall be in conformance with Departmental regulations and guidelines, including N.J.A.C. 7:26A-4.

2. Salem County District Solid Waste Management Plan Deficiencies

I have reviewed the entire County Plan to determine whether it fulfills the requirements set forth in N.J.A.C. 13:1E-21, as well as the recommendations of the Emergency Solid Waste Assessment Task Force (Task Force) Final Report accepted by the Governor on November 16, 1990. In this regard, the County is reminded that the Department's letter, dated January 15, 1992, noted the failure of the County to address the Task Force Final Report and directed the County to address this deficiency by July 14, 1992 in a subsequent plan amendment submission.

To date, the required amendment has not been submitted and is 10 months late. This is a serious planning deficiency and Salem County remains one of only a few counties in the State which has failed to prepare and submit a Task Force plan amendment. Therefore, the County is directed to submit the required amendment as soon as possible to address this deficiency. Please be advised that the failure of the County to comply with this directive may result in withholding and reallocation of the County's Solid Waste Services Tax moneys, withholding of the County's Resource Recovery Investment Tax moneys, and/or initiating appropriate enforcement action.

The required submission should address the recommendations of the Task Force Final Report with respect to updated and expanded plans for source reduction, recycling and regionalization:

Source Reduction: The County shall determine what source reduction measures can be taken at the County level to eliminate the trend of increased per capita solid waste generation. For each source reduction measure, the County shall estimate its potential impact upon total solid waste generation within the district.

Recycling: The County shall determine what measures will be taken by the district to achieve at least a 50% recycling rate for the municipal waste stream, including vegetative waste, and a 60% recycling rate for the total waste stream by December 31, 1995. This determination shall address, at a

minimum, what additional facilities will be needed within the district; what sites already exist or under what procedure the district will select necessary sites; and under what schedule the district feels that each necessary facility can be brought into operation.

Also, for each component of the recycling strategy, the district shall outline estimates of the tonnages which can be recycled in a mass balance format taking into consideration the total projected solid waste generation in the County. Further, based upon the minimum 50% and 60% recycling rates, the district must outline the amount of solid waste still requiring disposal. Finally, the County should consider the establishment of blanket facility inclusion and plan modification procedures to enable the expedited development of needed capacity and approvals for yard waste composting facilities, recycling centers, materials markets and minor program policies.

Regionalization: As indicated above, the County shall determine the extent to which it can undertake long-term regionalization of its solid waste facilities and programs with other districts to provide regional solutions to solid waste management. At a minimum, consideration should be given to regional plans for materials processing, recycling, transfer and disposal facilities.

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 County 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 and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment and of the County 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, 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 amendment contained herein shall operate in compliance with this amendment 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 Amendment

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 amendment certified 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 -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 Amendment

The amendment 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 Amendment and Notification of Deficiency 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 amendment, as outlined in Section C. of this certification, to the Salem County District Solid Waste Management Plan which was adopted by the Salem County Board of Chosen Freeholders on February 17, 1993. I hereby also require, as noted in Section C., the Salem County Board of Chosen Freeholders to address the noted deficiency as soon as possible.

DATE

August 2, 1993

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