



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
JUDITH A. YASKIN, COMMISSIONER  
CN 402  
TRENTON, N.J. 08625-0402  
(609) 292-2885  
Fax: (609) 984-3962

*Re: Modification to the Recycling Plan*

(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  
MARCH 21, 1990  
AMENDMENT TO THE  
SALEM COUNTY 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 February 11, 1981, the Department approved, with modifications, the Salem 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., require that counties amend their district solid waste management plans to include a district recycling plan. The Salem County Board of Chosen Freeholders adopted the district recycling plan on November 16,

1988. The district recycling plan was approved with modifications by the Commissioner of the Department of Environmental Protection in his certification of June 4, 1989. The Salem County Board of Chosen Freeholders adopted an amendment to the approved district solid waste management plan on March 21, 1990 which addressed the modifications required pursuant to the June 4, 1989 certification. The March 21, 1990 amendment was not distributed for state level review because the only state level review agencies which commented on the November 16, 1988 district recycling plan, necessitating the March 21, 1990 plan amendment, were N.J. Department of Environmental Protection (NJDEP), Division of Environmental Quality, Bureau of Air Quality Planning & Evaluation, Division of Water Resources, Bureau of Water Quality Planning and Bureau of Pretreatment and Residuals, and the Division of Solid Waste Management, Office of Recycling. The comments of these agencies, with the exception of the Office of Recycling, were advisory in nature and did not require a response by Salem County in the March 21, 1990 plan amendment submitted to the Department.

The amendment proposes to incorporate modifications to 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.

The amendment was received by the Department of Environmental Protection on April 23, 1990. The Department has reviewed this amendment and has determined that the amendment adopted by the Salem County Board of Chosen Freeholders on March 21, 1990 is approved as modified herein, as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24f and N.J.S.A. 13:1E-99.13, I, Judith A. Yaskin, Commissioner of the Department of Environmental Protection have studied and reviewed the March 21, 1990 amendment to the Salem 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 as modified herein with these requirements:

1). Pursuant to N.J.S.A. 13:1E-99.13, each district recycling plan is required to include the "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 Salem County district recycling plan lists, in Section IV, the designated recyclable materials for the county, grouping these designated recyclables under the classification of "Primary

Materials". A second classification of recyclable materials is also included in the plan, which are not designated recyclables, but rather are "Secondary Materials" which "will not be recycled under this plan until further determination of feasibility by the N.J.D.E.P., or upon the establishment of a market and a determination of feasibility by the Salem County Utilities Authority."

The Salem County district recycling plan lists "certain HDPE and PET plastic containers" as both a Primary and Secondary recyclable material. The plan is amended, therefore, to designate "HDPE and PET plastic containers", as defined in the Salem County district recycling plan, as a Primary Material which must be separated from the waste stream and recycled in the Residential, Commercial, and Institutional Sectors of Salem County, and to delete the conflicting statements in the plan which designate "HDPE and PET plastic containers" as a Secondary Material in these sectors.

2). Section V B 3 of the Salem County district recycling plan states that "each municipal ordinance shall prohibit...haulers from collecting solid waste in which significant quantities of leaves have been mixed" (underline added). However, in accordance with N.J.S.A. 13:1E-99.21, "No solid waste facility in this State, other than a leaf composting facility, vegetative waste composting facility or recycling center, shall accept for final disposal truckloads containing leaves at any time, except that leaves source separated from solid waste may be accepted by a sanitary landfill facility in those instances where the facility has provided and maintains for that purpose separate leaf composting facilities, and the composted leaves are utilized as part of the final vegetative cover for the landfill, or for other uses as a soil conditioning material." The Salem County district recycling plan is amended, therefore, to read "each municipal ordinance shall prohibit...haulers from collecting solid waste in which leaves have been mixed".

3). Section XIV, subsection 2, of the Salem County district recycling plan states that "any waste load knowingly containing designated recyclable material shall constitute a violation (offense)" (underline added). The county is advised that the enforcement framework established in N.J.S.A. 13:1E-9 does not regard willfulness as an element of civil violation. Accordingly, the Salem County district recycling plan is amended, in all applicable sections, to reflect the fact that any waste load containing designated recyclable material shall constitute a violation of the Solid Waste Management Act.

4). Section XIV, subsection 2 (c) states that "for the third and any subsequent violations within any period of twelve months, a penalty notice complying with N.J.S. 13:1E-9 shall be issued to the vehicle owner and the municipality of waste origin, and, where applicable, the Salem County Utilities Authority...or the County Health Department, when appropriate, shall be entitled to

undertake a civil action in municipal or Superior Court to collect such penalty as provided in N.J.S. 13:1E-9" (underline added). The county is advised that while the Department does not regard this enforcement discretion, established in the Salem County district recycling plan, to be in violation of N.J.S.A. 13:1E-9, the Department is not bound by this restriction. Department of Environmental Protection enforcement personnel may enforce any violation of N.J.S.A. 13:1E-99.11 et seq., regardless of the county restriction. Violations of N.J.S.A. 13:1E-9, when enforced upon by the Department, are not considered expunged after twelve months.

5). Pursuant to N.J.S.A. 13:1E-99.21, "each district recycling plan shall identify the leaf composting facility or facilities to be utilized by each municipality within the county." However, the Salem County district recycling plan Appendix A, Approved Leaf Composting Facilities Within the Salem County Recycling District, is virtually void of information. Therefore, the Salem County plan is modified to require the county to prepare and submit to the Department, within 60 days of the date of this certification, a report which shall include the following:

A). A copy of each municipal ordinance which contains a prohibition against the placement of leaves for collection or disposal as solid waste, and which specifies that all persons occupying residential premises within municipal boundaries shall mulch or compost the leaves generated at those premises. Alternatively, the county shall submit a list setting forth the leaf composting facilities, vegetative waste composting facilities, leaf mulching operations, or registered recycling center to be utilized by each Salem County municipality. As a third option, the county shall specify that it will establish a leaf composting facility which shall commence operation by 10/1/90, to receive leaves from those municipalities whose ordinances do not specify that all persons occupying residential premises within its boundaries must mulch or compost the leaves generated at those premises.

B). A copy of the contract to be used by the county to obtain services on behalf of municipalities for the proper collection and transportation of source separated leaves to permitted or authorized leaf composting facilities, vegetative waste composting facilities, or to leaf composting facilities that engage in leaf mulching operations on agricultural or horticultural lands, as required by N.J.S.A. 13:1E-99.22, in those instances where the municipality has not instituted its own leaf collection and composting operation.

C). A written indication of the steps to be taken (with a timeline setting forth the dates associated with those identified steps) to execute B above.

C. Certification of Salem 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 March 21, 1990 amendment to the approved Salem County District Solid Waste Management Plan and certify to the Salem County Board of Chosen Freeholders that the March 21, 1990 amendment is approved as modified 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 Salem 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 Salem 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 Salem County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Salem 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 Salem 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 Salem 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 Salem 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 Salem 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 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 Salem County District Solid Waste Management Plan which was adopted by the Salem County Board of Chosen Freeholders on March 21, 1990.

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Date

original signed 5/22/90

Judith A. Yaskin  
Commissioner