



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(CUMBERLAND COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE OCTOBER 15, 1987
AMENDMENT TO THE
CUMBERLAND 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 March 4, 1981, the Department approved, with modifications, the Cumberland 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. 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 plan to include a district recycling plan. The Cumberland County Board of

Chosen Freeholders completed such a review and on October 15, 1987, adopted an amendment 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 19, 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 Cumberland County District Solid Waste Management Plan, and has determined that the amendment adopted by the Cumberland County Board of Chosen Freeholders on October 15, 1987, is approved, as modified as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Cumberland 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 15, 1987, amendment to the Cumberland 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: the N.J.D.E.P. Division of Parks and Forestry, Division of Coastal Resources, Division of Water Resources (DWR), Bureau of Groundwater Quality Management; the New Jersey Advisory Council on Solid Waste Management and the Department of Community Affairs. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Division of Fish, Game and Wildlife; the State Departments of Agriculture, Health, Transportation and the Public Advocate; the Board of Public Utilities, the Green Acres Program, the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. N.J.D.E.P. Division of Environmental Quality (DEQ), Bureau of Air Quality Planning and Evaluation, Division of Solid Waste Management (DSWM), Bureau of Solid Waste and Resource Recovery Planning, Bureau of Resource Recovery, and the 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 prohibiting the release of odors and other air contaminants apply to recycling centers and composting facilities. The Office of Recycling will forward a copy of these comments to the Cumberland County Utilities Authority for their information and use as may be applicable.

The Division of Solid Waste Management (DSWM), Bureau of Solid Waste and Resource Recovery Planning commented that the use of a 4.23 (cubic yds. per ton) conversion factor rather than the state's standard 3.33 reduces the tonnages that must be recycled. In this regard, they also expressed an interest in seeing the basis of the breakdown in table 4-1 (available amounts by category) of the October 15, 1987 amendment since scales do not exist at any of the current landfills.

In response, it is recognized that a 3.3 (cubic yds. per ton) conversion factor is the standard number used for the State of New Jersey. However, Cumberland County's consultant's report, Waste Flow Analysis and Projections (June 1987) prepared by Camp, Dresser & McKee, Inc. for the Cumberland County Improvement Authority, documents the use of a 4.23 conversion factor.

Accordingly, the use of the 4.23 conversion factor and the resulting recycling recovery targets listed in Table 4-1 are accepted for this purpose. However, Cumberland County will be required to verify the use of a 4.23 cubic yds. per ton conversion factor based on actual experience at the Cumberland County landfill within one year of operation.

Solid waste generation rates in Cumberland County shall be verified at the Cumberland County landfill within one year of operation. At the end of one full year, recycling targets shall be adjusted to meet the 15% and 25% recycling goal, if necessary.

The DSWM, Bureau of Resource Recovery made the following comments:

1. The design of the Material Separation Facility (MSF) indicates that the non-recyclable materials (glass fines and trash) will fall into a roll-off container for removal to a landfill. Because the waste generated by this operation is strictly incidental, the transfer station registration requirements of this Bureau shall not apply. This operation is viewed as a recycling facility and, therefore, requires only designation in the county plan as well as any local approvals that may be required.

2. It was noted that food waste was identified as a designated material to be source separated by the commercial/institutional sector. Facilities proposing to accept or process food wastes, or other putrescibles, may require permitting by this Division. This does not apply to swine producers licensed by the State Department of Agriculture.

Facilities proposing to accept or process food wastes source separated at the point of generation, other than swine producers licensed by the State Department of Agriculture, must be identified.

3. The Plan indicates that provisions for the collection and composting of leaves shall take effect in April, 1988. Adequate time should be allowed for the proper permitting of any proposed leaf composting facilities. This Bureau requires a minimum review period of 60 days. Also, with regard to leaf composting, it is suggested that the Model Municipal Ordinance be amended at Section 10(a) and (c) to specify... NJDEP approved composting facility.

The Model Municipal Ordinance shall be amended at Section 10(a) and (c) to specify "a New Jersey Department of Environmental Protection approved composting facility".

4. Item #4 in the section entitled Policy Statement (last page of document) appears incorrect, in that it states, "The Department may issue the compost facility permit prior to approval of the Amended Plan by the Commissioner."

In response, the plan shall be modified in accordance with points 1, 2 and 3.

In response, to point 4 it is stated that an Amendment to the Cumberland County Solid Waste Management Plan referred to as Amendment #3, which was certified by the NJDEP on October 9, 1986, includes a blanket policy regarding the inclusion of compost facilities that meet certain criteria without need to further modify the Cumberland County Solid Waste Management Plan.

The DSWM, Office of Recycling has the following comments:

1. According to Cumberland County's District Recycling Plan, municipalities are responsible for the collection of source separated recyclables from the residential sector. This is consistent with "the Recycling Act" N.J.S.A. 13:1E-99.16, which requires municipalities to "provide for a collection system for the recycling of the recyclable materials designated in the district recycling plan in those instances where a recycling collection system is not otherwise provided for by the generator or the county, interlocal service agreement or joint service program, or other private or public recycling program operator".

However, page 33 and 34 contains specific language which suggests that commercial businesses, and institutions in the county are directly responsible for the collection of their recyclables. Specifically, page 34 states that "the arrangement for collection of designated recyclables for disposition hereunder shall be the responsibility of the establishment which generated the recyclables (generator) or the establishment contractually obligated to the generator to arrange for the collection and disposal of its solid waste." This is inconsistent with N.J.S.A. 13:1E-99.16.

Cumberland County shall develop a strategy for the collection and disposition of designated recyclables in the commercial and institutional sectors that is consistent with N.J.S.A. 13:1E-99.13.

2. Page 45 of the district recycling plan states that "the County hopes local recycling businesses will continue to purchase, process (shred, flatten, bale) and market the metal and PET-plastic containers and the newspaper." N.J.S.A. 13:1E-99.14 states that "each county shall within six months of the adoption and approval by the department of the district recycling plan...solicit proposals from, review the qualifications of, and enter into contracts or agreements on behalf of municipalities with persons providing recycling services or operating recycling centers for the collection, storage, processing, and disposition of recyclable materials designated in the district recycling plan." This shall include those designated recyclable materials generated in the industrial sector. The county shall conform with the requirements of the Recycling Act outlined above.

3. The procedures described on page 50 for the modification of recycling plans does not include a provision for public notice, comment or review of comments received. This section shall be expanded to include a legal notice in a newspaper of general circulation with a 30 day comment period on any proposed modification. 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.

4. Using the data presented in the section on leaf composting facilities (pages 59-61), the Office of Recycling has determined a permitted capacity short fall for leaf composting facilities. As per N.J.S.A. 13:1E-99.21, "each county plan shall identify those operating and proposed leaf composting facilities for use by each municipality." Municipalities are required as per N.J.S.A. 13:1E-99.22 to adopt an ordinance which requires persons occupying residential premises within its municipal boundaries to source separate leaves from solid waste generated at those premises unless leaves are stored or recycled for composting or mulching by the generator. The Office of Recycling recognizes that Cumberland County is a rural county with pockets of urban areas surrounding its larger cities. Due to the calculated short fall in leaf composting facilities, the Office of Recycling is left to assume that residents generating leaves in rural areas will store or recycle leaves through composting or mulching on the premises. Leaf composting facility capacity shall be outlined in greater detail by Cumberland County.

5. Page 55 of the district recycling plan indicates that "commercial or institutional establishments will be exempt from the source separation requirements of the municipal ordinance if those establishments have otherwise provided for the maximum practical recycling of designated recyclable materials, or materials unique to the operation of the establishment, separate from solid waste generated at those establishments." N.J.S.A. 13:1E-99.16 states that "the governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries from the source separation requirements of the ordinance" not that they shall.

Language on page 55 of the district recycling plan shall be changed from "commercial or institutional establishments will be exempt from the source separation requirements..." to "commercial or institutional establishments

may be exempt by the municipality from the source separation requirements..."

C. Certification of Cumberland 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 15, 1987, amendment to the approved Cumberland County District Solid Waste Management Plan and certify to the Cumberland County Board of Chosen Freeholders that the October 15, 1987 amendment is approved with modification. Cumberland 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 Cumberland 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 Cumberland 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 Cumberland County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Cumberland County District Solid Waste Management Plan. Any solid waste facility operator or collector/haulers 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 Cumberland 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 Cumberland 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 and N.J.S.A. 13:1E-99.12.

6. Effective Date of Amendment

The amendment to the Cumberland 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 Cumberland 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 Cumberland County District Solid Waste Management Plan which was adopted by the Cumberland County Board of Chosen Freeholders on October 15, 1987. I further direct the Cumberland County Board of Chosen Freeholders to conduct a public hearing within forth-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 to the Department as per N.J.S.A. 13:1E-24 e(2), which remedies the outlined deficiencies.

March 14, 1988

DATE


RICHARD T. DENTING, COMMISSIONER

Recycling Centers

Recycling centers 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.

Recycling centers are considered solid waste facilities, which are 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.

The combustion of used oil, and mixtures of used oil and other oil are subject to the provisions of N.J.A.C. 7:27-8.2(a)13 which requires the combustion of such oil only be done in controlled devices with air pollution control permits specific to the combustion of used waste oil.

Composting Facilities

Composting Facilities are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution". This regulation prohibits odors and emissions of other air contaminants which interfere with the enjoyment of life or property. Additionally, air pollution control permits are required for equipment used to vent a solid waste facility to the ambient atmosphere (N.J.A.C. 7:27-8.2(a)16).

Stationary conveying equipment which causes fugitive emissions of air contaminants requires air pollution control permits pursuant to the provisions of 7:27-8.2(a)11.