



State of New Jersey
Department of Environmental Protection and Energy

Office of the Commissioner

CN 402

Trenton, NJ 08625-0402

Tel. # 609-292-2885

Fax. # 609-984-3962

Scott A. Weiner
Commissioner

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

CERTIFICATION OF THE
APRIL 17, 1991 AND JUNE 5, 1991
AMENDMENTS TO THE BERGEN 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 (HMDC) develop comprehensive plans for waste management in their respective districts. On October 31, 1980, the Department of Environmental Protection approved, with modifications, the Bergen 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 plan at any time and, if found inadequate, a new plan must be adopted. The Bergen County Board of Chosen Freeholders (County Freeholders) completed such a review and on April 17, 1991 and June 5, 1991 adopted amendments to its approved County Plan.

April 17, 1991 Amendment

1. Incorporates Bird Compost Management, Inc. located in Franconia Township, Pennsylvania into the Bergen County district recycling plan, pursuant to N.J.S.A. 13:1E-21, to be utilized as an out-of-district leaf and grass clippings composting facility and market;
2. Provides for an expansion of the Bergen County Utilities Authority's (BCUA) enforcement authority to administer fines and penalties directly to the residential and commercial sectors for noncompliance with the district recycling plan;
3. Requires transfer stations, materials recovery facilities and recycling centers that provide for the recovery of recyclable material to document their recycling efforts on a quarterly basis utilizing BCUA forms;
4. Provides revisions to the Bergen County "Request for Exemption from Municipal Recycling Plan" form that, pursuant to N.J.A.C. 13:1E-99.16d, allows commercial and institutional establishments an exemption to the source separation requirements if their waste is taken to a permitted transfer station that recycles;
5. Provides updated recycling and waste composition figures for Cliffside Park, Moonachie, Ridgewood, River Vale, Rutherford and Wyckoff;
6. Provides for expanded leaf composting operations at the Kingsland Park Sanitary Landfill.

June 5, 1991 Amendment

1. Proposes to incorporate the Riverside Cemetery leaf composting facility located in Saddle Brook, Bergen County into the County Plan.

The amendments were received by the Department on May 24, 1991 and June 7, 1991 respectively and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments, as well as the entire County Plan, and has determined that the amendments adopted by the County Freeholders on April 17, 1991 and June 5, 1991 are approved as provided in N.J.S.A. 13:1E-24. While the immediate plan amendments have been approved, deficiencies in the County Plan have been identified within Section C. of this certification.

B. Findings and Conclusions with Respect to the Bergen County District Solid Waste Management Plan Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I, Scott A. Weiner, Commissioner of the Department of Environmental Protection and Energy (Department), have studied and reviewed the April 17, 1991 and June 5, 1991 amendments 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan.

In conjunction with the review of the amendments, the Department circulated copies to fifteen 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 and divisions within the Department as well as the Board of Public Utilities (Board) which merged with the Department on August 26, 1991. In this regard, comments from the Board's Division of Solid Waste have been included under the Division of Solid Waste Management's (DSWM) comments. The following are the review agencies.

Division of Environmental Quality, DEPE
Division of Water Resources, DEPE
Division of Coastal Resources, 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 April 17, 1991 Amendment

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

Division of Water Resources, DEPE
Division of Coastal Resources, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Green Acres Program, DEPE
New Jersey Turnpike Authority
Department of Agriculture

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

New Jersey Advisory Council on Solid Waste Management

Department of Health
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

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

Division of Solid Waste Management, DEPE
Division of Environmental Quality, DEPE
New Jersey Department of Transportation

2. Agency Participation in the Review of the June 5, 1991 Amendment

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

Division of Solid Waste Management, DEPE
Division of Parks and Forestry, DEPE
Division of Water Resources, DEPE
Green Acres Program, DEPE
Department of Agriculture
Department of Community Affairs
U.S. Environmental Protection Agency
New Jersey Advisory Council on Solid Waste Management

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

Division of Coastal Resources, DEPE
Division of Fish, Game and Wildlife, DEPE
New Jersey Turnpike Authority
Department of Health
Department of Transportation
Department of the Public Advocate

The following agency provided substantive comments which are further addressed below:

Division of Environmental Quality, DEPE

3. Comments Received for the April 17, 1991 and June 5, 1991 Amendments

Issue: Permitting Requirements

Comment: The Division of Solid Waste Management (DSWM) commented that on September 12, 1990 the Division issued a Temporary Certificate of Authority to Operate (TCAO) for a compost facility atop the Kingsland Park Sanitary Landfill located in Lyndhurst and North Arlington, New Jersey. The TCAO stipulated that the facility could accept up to 38,000 cubic yards of leaves provided that composting operations were confined to certain areas of the landfill and frequent monitoring of inclinometers around the site would not indicate excessive movement. Since that time, the monitoring program has indicated that the landfill is capable of

accommodating a larger volume of leaves. Therefore, the County's proposal to increase operations to a volume of approximately 50,000 cubic yards may be approved from a planning standpoint subject to obtaining necessary permit modifications from the DSWM prior to the acceptance of leaves at this expanded capacity.

Comment: The Division of Environmental Quality (DEQ) commented that composting facilities 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. Furthermore, composting facilities 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.

Comment: The Department of Transportation (DOT) commented that if a facility requires ingress or egress to a state highway, the applicant must file for an Access Permit and may be required to file a Drainage Application.

Response: By copy of this certification, the County Freeholders and the BCUA are notified of the above mentioned comments and regulatory provisions of the DSWM, DEQ and DOT.

Issue: Enforcement

Comment: The DSWM commented that if an enforcement proceeding is instituted by a local board of health or county health department under the Solid Waste Management Act, the Commissioner of the Department must be notified and the Department may intervene as a matter of right in the proceeding. Further, the enforcement activities outlined within the County's proposed amendment of April 17, 1991 are consistent with the Department's enforcement goals and objectives.

Response: By copy of this certification the County Freeholders and the BCUA are notified of the comments of the DSWM regarding the County's enforcement capabilities as addressed in Section C. of this certification insofar as they remain consistent with the Department's solid waste management enforcement objectives.

C. Certification of the Bergen County District Solid Waste Management Plan Amendments

I, Scott A. Weiner, Commissioner of the Department, 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, have reviewed the April 17, 1991 and June 5, 1991 amendments to the approved County Plan and certify to the County Freeholders that the April 17, 1991 and June 5, 1991 amendments are approved as further specified below.

1. April 17, 1991 Amendment

- a. The inclusion within the County Plan of Bird Compost Management, Inc. located in Franconia Township, Pennsylvania for use as an out-of-district leaf and grass clippings compost facility and market for Bergen County consistent with the laws and regulations of Pennsylvania is approved.
- b. The proposed modifications to the Bergen County district recycling plan that: (1) expand the BCUA's enforcement authority to provide for the administering of fines and penalties by the BCUA directly to commercial establishments and residential premises for noncompliance with the district recycling plan; (2) require transfer stations, materials recovery facilities and recycling centers that provide for the recovery of recyclable material to document their recycling efforts on a quarterly basis utilizing BCUA approved forms; (3) provide revisions to the Bergen County "Request for Exemption from Municipal Recycling Plan" form to allow commercial and institutional establishments an exemption to the source separation requirements; and, (4) provide updated recycling and waste composition figures for Cliffside Park, Moonachie, Ridgewood, River Dale, Rutherford and Wyckoff, are approved. However, with respect to item number 1, that the BCUA may expand its enforcement capabilities for noncompliance with the district recycling plan, any enforcement activities must be consistent with the County Environmental Health Act N.J.S.A. 26:3A2-21 et seq., and Solid Waste Management Act N.J.S.A. 13:1E-1 et seq., which authorize solid waste districts to provide enforcement activities. Furthermore, with respect to item number 2, that transfer stations, materials recovery facilities and recycling centers must document their recycling efforts to the BCUA on a quarterly basis, the county is hereby advised that this form may require modification at a later date so that the information to be reported is consistent with the information required by the Department in its data collection programs.
- c. The expansion of leaf composting operations at the Kingsland Park Sanitary Landfill on Block 236, Lots 1A and 1B in the Township of Lyndhurst, and Block 192, Lot 4; Block 193, Lot 1; Block 194, Lot 1; Block 195, Lot 1; Block 197, Lot 1; and Block 198, Lots 1, 2, and 3 in the Borough of North Arlington for the acceptance of approximately 50,000 cubic yards of leaves annually for use as a regional leaf composting facility for Bergen County is approved.

The construction or operation of any solid waste 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 other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the Attorney General to

be deserving of licensing under the provisions of N.J.S.A. 13:1E-126. Specifically, the Kingsland Park Sanitary Landfill compost facility is not authorized to accept the increased amount of leaves until complying with the aforementioned permit requirements.

2. June 5, 1991 Amendment

The inclusion within the County Plan of the Riverside Cemetery leaf composting facility, located at 12 Market Street, Saddle Brook, on Block 301, Lot 1, is approved.

The construction or operation of any solid waste 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 other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the Attorney General to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

3. Bergen County District Solid Waste Management Plan Deficiencies

The entire County Plan has been reviewed to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21 as well as the recommendations of the Emergency Solid Waste Assessment Task Force Final Report accepted by the Governor on November 16, 1990. In this regard, the County is again reminded that the June 6, 1991 certification of its November 7, 1990 and December 19, 1990 plan amendments addressed detailed deficiencies which the County was required to address within 180 days of that certification, or by December 2, 1991, in a subsequent plan amendment.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with the within amendments to the County Plan and which was executed prior to the approval of these amendments 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 these amendments contained herein shall operate in compliance with these amendments 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.

4. Certification to Proceed with the Implementation of the Plan Amendments

This document shall serve as the certification of the 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 these amendments 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 and N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of the Amendments

The amendments 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 Amendments by the 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 amendments, as outlined in Section C. of this certification, to the Bergen County District Solid Waste Management Plan which were adopted by the Bergen County Board of Chosen Freeholders on April 17, 1991 and June 5, 1991. This certification memorializes the determinations made by me on or before October 20, 1991.

10/20/91

DATE



SCOTT A. WEINER
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND ENERGY