

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

In the Matter of:

Florida Municipal Solid Waste
Landfill, Florida, Puerto Rico.

Municipality of Florida, Puerto
Rico,


Respondent.

Proceeding Under Section 7003 of
the Solid Waste Disposal Act, as
amended.

AMENDMENT
of
ADMINISTRATIVE ORDER ON CONSENT

Docket No. RCRA-02-2013-7302

I. PRELIMINARY STATEMENT

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1. This is an Amendment (the "Amendment") of the Administrative Order On Consent, Docket No. RCRA-02-2007-7305 (the "Consent Order"). The Amendment is authorized by paragraph 109 of the Consent Order. The Docket No. of the Amendment is RCRA-02-2013-7302.
 2. The provisions and obligations of the Consent Order remain fully in effect, except as they may be modified by this Amendment.
 3. The purposes of the Amendment are to revise portions of the work and obligations under the Consent Order, to revise deadlines, and to establish a recycling and composting program that will reduce the volume of waste disposed of at the Facility, in accordance with policies of the Commonwealth of Puerto Rico and the United States Environmental Protection Agency ("EPA").

II EPA FINDINGS OF FACT

4. On or about April 11, 2012, EPA representatives inspected the Facility. Operations at the Facility have improved since the Consent Order became effective, but the currently active part of the landfill is near full capacity. The Facility receives approximately 10,000 tons of solid waste annually for disposal, which represents substantial reduction of the annual volume of waste disposed of at the Facility. The Puerto Rico Solid Waste Management Authority ("SWMA") previously estimated that the Facility will reach maximum capacity in 2014.

5. In the 2012 inspection, the EPA representative observed that daily cover was not provided for the operating portion of the Facility, that waste was exposed on its side slopes, and that there had been lateral expansion of the Facility. In addition, the Facility did not have storm water runoff management control. Leachate from the Facility was not managed and leachate ponding was observed during the inspection. An EPA engineering consultant accompanied the EPA representative at the inspection of the Facility on or about April 11, 2012.

6. Respondent informed EPA it intends to take specific actions with respect to waste management at the Facility. These actions will include: (a) planned reduction in waste receipt, and corresponding off-site disposal of waste, which will lead to complete cessation of waste receipt at the Facility within thirty-three (33) months; (b) installation of necessary improvements; and (c) provision for municipal recycling and composting to reduce waste volume, and the prohibition of disposal of certain materials at the Facility during the period when the Facility is still receiving waste.

7. The Municipality of Florida has severe financial constraints due to low annual household incomes and property values, which restrict its financial capacity. The Municipality's financial situation has become more difficult during the current economic recession in Puerto Rico.

III REQUIREMENTS AND PROVISIONS

8. Respondent shall perform actions and meet obligations pursuant to both the provisions of this Amendment and the provisions of the Consent Order to the extent such provisions of the Consent Order are not changed by this Amendment.

9. Landfill Survey: To the extent not already performed, Respondent shall complete an engineering ground survey of the facility to provide the basis for completion of necessary planning for storm water control, and slope stabilization parameters. The survey shall be completed and submitted to EPA no later than within thirty (30) calendar days after the effective date of this Amendment. The survey shall:

- a. be referenced to Puerto Rico Vertical Datum of 2002;
- b. report the Facility topography at one meter contour intervals;
- c. report the topographic information for at least twenty five (25) meters beyond the Facility's boundaries;
- d. delineate the extent of waste deposition; and,
- e. be submitted to EPA in both AutoCAD Drawing format (.dwg) and Adobe Systems Portable Document format (*.pdf).

10. Waste Receipt: Paragraph 42. b., c., and d. of the Consent Order are deleted and replaced with this paragraph. Within no later than one hundred twenty (120) calendar days after the effective date of the Amendment, Respondent shall initiate off-site disposal of part of Florida's municipal solid waste to a landfill facility approved in writing by EPA. Initially, at least twenty (20) percent of the solid waste per month shall be diverted. The Landfill Plan described below

shall contain a timetable, for decreasing the volume of such municipal solid waste disposed of at the Facility culminating in the cessation of all waste receipt at the Facility within thirty-three (33) months after the effective date of this Amendment.

11. Landfill Plan: Paragraph 43 of the Consent Order is deleted and replaced with this paragraph. Respondent has informed EPA that it will systematically carry out actions that will be set forth by EPA to improve conditions at the Facility, including phased reduction in waste receipt, in order to achieve intermediate landfill closure to be followed by final closure. The actions to achieve these objectives will be contained in a Landfill Plan (the "Plan"), described below, which will be prepared by a professional engineer, and accepted by EPA. After consultation with Respondent, EPA within one hundred twenty (120) calendar days of the effective date of this Amendment, or by such revised date as EPA may determine to be appropriate, will transmit the Plan to Respondent, which, after any necessary further consultation, shall carry out the provisions of the Plan in accordance with its implementation timetable. The Plan will set forth: (a) a requirement for phased reduction in waste receipt at the Facility; (b) a requirement that Respondent contract for off-site disposal of Florida's municipal solid waste at an EPA approved facility; (c) measures to implement a grading plan and storm water runoff management; (d) measures to provide adequate cover material for the Facility, including its side slopes; (e) appropriate measures to monitor ground water (f) other specified improvements; (g) an implementation timetable; and (h) appropriate reporting and certification requirements.

12. Paragraph 45 of the Consent Order is deleted.

Recycling and Composting Program

13. Within ninety (90) calendar days after the effective date of this Order, Respondent shall submit to EPA for review and approval a plan for a Recycling and Composting Program ("Recycling Plan"), which shall be consistent with all Commonwealth of Puerto Rico regulations and/or requirements. The Recycling Plan will include all the definitions and requirements that are set forth in Appendix 1, and shall include an implementation schedule covering each component of the Program.

Stipulated Penalties

14. The introductory paragraph of paragraph 58 and paragraph 58. a. of the Consent Order and the Table it contains are deleted and replaced with this paragraph, and the Tables, below. Unless Respondent is excused under the "Force Majeure and Excusable Delay" provisions of the Consent Order, Respondent shall pay a stipulated penalty for failure to comply with requirements of Consent Order and this Amendment, as follows:

a) Failure to timely complete and submit the Survey as required by paragraph 9 of this Amendment; failure to initiate off-site waste disposal within 180 days after the effective date of this Amendment, as required by paragraph 10 of this Amendment; failure to cease receipt of all waste at the facility within 33 months after the effective date of this Amendment, as required by paragraph 10 of this Amendment; failure to implement the following actions in accordance with the provisions and implementation timetable contained in the "Landfill Plan" submitted by



EPA to Respondent pursuant to paragraph 11 of this Amendment: (1) a grading plan and storm water runoff management; (2) failure to provide adequate cover material for the Facility, including its side slopes; (3) failure to provide ground water monitoring. The stipulated penalty for each act of non-compliance is as follows:

<u>Period of Failure To Comply</u>	<u>Penalty per Calendar Day</u>
1 st through 60 th day	\$100.00
61 st through 120 th day	\$200.00
121 st through 180 th day	\$500.00
181 st day through 365 th day	\$1000.00
366 th day and thereafter	\$2000.00

b) Failure to comply with any other requirement, term, or condition set forth in or required by the Consent Order or this Amendment. The stipulated penalty for each act of non-compliance is as follows:

<u>Period of Failure To Comply</u>	<u>Penalty per Calendar Day</u>
1 st through 90 th day	\$100.00
91 st day and thereafter	\$ 200.00

c) Stipulated penalties shall be made by cashier's or certified check or by Electronic Fund Transfer (EFT). If the payment is made by check, then the check shall be payable to the "Treasurer, United States of America", and shall be mailed to:

U. S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979077
St. Louis, Mo 63197-9000

The check shall be identified with a notation thereon listing the following: **IN THE MATTER OF: Florida Municipal Solid Waste Landfill, Florida, Puerto Rico** and shall bear thereon the **Docket Number RCRA-02-2013-7302** .

If Respondent chooses to make the payment by EFT, then Respondent shall provide the following information to its remitter bank:

- Amount of Payment
- SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- Account Code for Federal Reserve Bank of New York receiving payment:
68010727
- Federal Reserve Bank of New York ABA routing number: 021030004
- Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"
- Name of Respondents: Municipality of Florida, Puerto Rico
- Case Number: RCRA-02-2013-7302

Whether the payment is made by check or by EFT, the Respondent shall promptly thereafter furnish reasonable proof that such payment has been made to:

Robert G. Hazen
Assistant Regional Counsel
U. S. Environmental Protection Agency, Region 2
290 Broadway, Room 1648
New York, New York 10007-1866

Dispute Resolution

15. Paragraph 79 of the Consent Order is hereby amended by adding the following sentence. Notwithstanding the foregoing, Respondent may not invoke the dispute resolution procedures for: (1) the deadline for ceasing waste receipt at the Facility as specified in paragraph 10 of this Amendment; and (2) the contents of the Landfill Plan, nor may Respondent invoke the dispute resolution procedures concerning which EPA official is designated by EPA as the official to make a determination concerning any dispute.

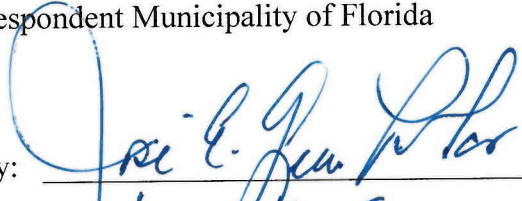
Termination

16. Paragraph 81. b. of the Consent Order is deleted, and replaced by this paragraph. When EPA issues to Respondent a Notice of Termination that states that all activities concerning off-site waste disposal, cessation of waste receipt, and implementation of the Landfill Plan called for by the Consent Order and this Amendment have been completed, EPA will notify the Puerto Rico Environmental Quality Board ("EQB") in writing concerning the termination Notice so that EQB can continue supervision of the Facility and its permanent closure and post-closure care.

Effective Date

17. Pursuant to paragraph 75 of the Consent Order, this Amendment shall be effective as of the date it is signed by the EPA Region 2 Regional Administrator.

Respondent Municipality of Florida

By: 
Name: JOSE E. GERRENS POLONCO
(PRINT)

Title: MAYOR

Date: SEPT XIX / 2013

It is So Ordered:

A handwritten signature in blue ink that reads "Judith A. Enck". The signature is written over a horizontal line.

Judith A. Enck
Regional Administrator
U. S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007-1866

Date: 9/26/13

Appendix 1

Recycling and Composting Program

1. Recycling Management Program Development

- 1.1. Within ninety (90) calendar days after the effective date of this Order Amendment, the Municipality of Florida shall submit to EPA for review and approval a plan for a Recycling and Composting Program ("Recycling Plan"), which shall be consistent with all applicable Commonwealth of Puerto Rico regulations and/or requirements. Respondent shall carry out the approved Recycling Plan in accordance with its implementation schedule, and pursuant to the terms of this Order Amendment.
- 1.2. The Recycling Plan shall include all the definitions and requirements that are set forth below, and shall include an implementation schedule covering each component of the Program. The Recycling Plan, which shall be implemented by the Municipality, shall have the goal of eliminating the disposal of "Recyclable Material," "Scrap Tires," "Auto Shredder Residue" ("ASR"), "White Goods," and "Compostable Material," as those terms are defined in Section 5 below, at the municipal solid waste landfill located in the Municipality ("Landfill") or at any other solid waste landfill or incinerator. The Recycling Plan shall also have the goal of eliminating these materials from loads of waste brought to the Landfill from other municipalities.
- 1.3. The Municipality shall designate and retain a Qualified Municipal Recycling Manager who shall have the responsibility of implementing the approved Recycling Plan and submitting any required reports.
- 1.4. The Recycling Plan shall include the following:
 - 1.4.1. The development and implementation of a Collection Plan to ensure that all Recyclable Material, Scrap Tires, ASR, White Goods, Agricultural Waste and Yard Waste¹ generated in locations throughout the Municipality are placed in bins or other suitable receptacles for collection, on a regularly scheduled basis, in order to be transported to approved/permitted locations for proper disposition. The

¹ Agricultural and Yard Wastes are Compostable Materials subject to the pilot program for composting materials referenced below in Section 1.4.5. However, because Agricultural and Yard Wastes can be collected immediately, they may be collected and managed under either the: Recycling Plan as referenced in Section 1.4.1; or the pilot and approved composting programs referenced in Sections 1.4.5 and 4.2., respectively. In no instance, however, shall agricultural and/or yard waste be discarded in the Landfill.

Municipality may collect and transport these materials itself and/or enter into agreements with licensed haulers to do so.

- 1.4.2. The Recycling Plan shall cover residences, apartment buildings, schools, hospitals, businesses and governmental establishments (hereafter, “covered entities”), and shall contain provisions to ensure that collection bins, or other suitable receptacles approved by EPA, are utilized by the covered entities for the curbside collection of Recyclable Material and Compostable Material.²
- 1.4.3. The Recycling Plan shall provide for curbside collection at all residences and businesses in urban areas. Additionally, it shall provide for curbside collection at all apartment buildings, schools, hospitals, businesses and governmental establishments in all urban and rural areas.
- 1.4.4. A program to recycle Recyclable Material, Scrap Tires, ASR and White Goods collected in the Municipality, or agreements with a MRF(s), or other facility(ies), to process these collected materials. All facilities processing these materials must have any permits/authorizations required by the Commonwealth for recycling.
- 1.4.5. A pilot program for composting material. The composting pilot program shall involve: a) increasing the use of Compostable Materials to create compost in residences, government and/or businesses; and/or b) the bulk collection of Compostable Materials for composting by the Municipality or by other entities that have entered into an agreement with the Municipality to collect and/or compost the Compostable Material pursuant to the program.
- 1.4.6. The development and implementation of disposal restrictions to ensure that Recyclable Material, Scrap Tires, ASR, White Goods and Compostable Materials are not disposed of at the Landfill. The program shall include routine documented inspections of loads coming into the Landfill, and shall also include the prohibition by local ordinance or regulation of the disposal of these materials in the Landfill if Respondent determines such an ordinance or regulation to be necessary to achieve compliance with the disposal restrictions.
- 1.4.7. The identification of a specific area at the Landfill to temporarily store, pending the proper disposition of, any Recyclable Material, Scrap Tires, ASR, White Goods and/or Compostable Materials detected in, and removed from, incoming loads of waste. (This area shall only be used when the truck that delivered the material to the Landfill is not able to transport the material from the Landfill to another

² EPA believes that there are at least 3,689 households and 45 government or private establishments that should be subject to the Municipality of Florida Recycling and Composting Program.

destination for proper handling.) The Plan must further ensure that these materials are removed from the temporary location and sent to designated facilities to be recycled and/or composted within seven (7) days of receipt.

- 1.4.8. The establishment of Recycling and Composting Collection Centers in rural areas for covered entities not receiving curbside collection pursuant to Section 1.4.3 above. The Recycling Plan must indicate the location of these centers, the size of the population being served, and the process for collecting materials at, and transporting materials from, the centers for proper disposition.
- 1.5. An educational and community outreach program, including community workshops, to educate the community regarding recycling and composting, their benefits, and guidelines for household and/or commercial implementation. Outreach must be extended to households, schools, industries, municipal and other government facilities, businesses, hospital and clinics, farms, and other establishments within the Municipality that generate solid waste.
- 1.6. Respondent shall develop a suitable enforcement program to address non-compliance with the municipality's approved Recycling Plan, including such actions or procedures as it may determine are suitable to help achieve compliance with the Recycling Plan.
- 1.7. When any compliance obligation under the Recycling Plan requires the Municipality to obtain a Commonwealth or local permit or approval, the Municipality shall submit timely and complete applications and take all other actions necessary to obtain such permits or approvals. Nothing in the Recycling Plan shall be interpreted to relieve the Municipality of any requirements imposed by Commonwealth law governing recycling or composting.
- 1.8. The Municipality may apply for federal or Commonwealth grants in connection with the implementation of the Recycling Plan. However, the Municipality shall be obligated to implement the Recycling Plan regardless of whether it is successful in obtaining any such grants.
- 1.9. Upon request and as EPA resources allow, EPA will provide technical assistance to the Municipality in the development of recycling and composting strategies, including identification of potential funding sources.

2. Recycling Plan Implementation

- 2.1. Within 30 days after EPA approval of the Recycling Plan or by such other date as is approved by EPA, the Municipality shall begin implementation of the Recycling Plan.
- 2.2. Within 30 days after EPA approval of the Recycling Plan, the Municipality shall initiate its inspection program of incoming loads at the Landfill to ensure that Recyclable Material, Scrap Tires, ASR, White Goods and Compostable Materials are not being disposed of in the Landfill.
- 2.3. Within 90 days of EPA's approval of the Recycling Plan, and on an annual basis thereafter, the Municipality shall implement its educational and outreach program concerning recycling and composting.
- 2.4. For one full year, beginning 30 days after EPA approval of the Recycling Plan, the Municipality shall:
 - 2.4.1. Perform waste characterization, with respect to Recyclable Material and Compostable Material to determine material quality, quantity, and percentage composition in order to assist in identifying potential markets; and
 - 2.4.2. Conduct a community survey to measure Recycling participation rates.

3. Recycling Plan Reports

- 3.1. The Municipality shall submit biannual reports to EPA, on or before April 15 and October 15 of each year, summarizing the efforts undertaken during the prior six months to implement the requirements of the Recycling Plan. The first such report shall be submitted on April 15, 2014. The Municipality may submit supplemental reports to EPA to inform EPA of any information concerning market conditions, Commonwealth regulations, or other factors that may affect the Recycling Plan.
- 3.2. The Biannual reports must include, without limitation, the following information for the prior six month period:
 - 3.2.1. The number of households serviced with Curbside Collection;
 - 3.2.2. The number and type of other locations serviced with Curbside Collection;
 - 3.2.3. The tons of waste material generated in the Municipality that were recycled under the Recycling Plan, including a breakdown of the amount of Recyclable and Compostable Materials obtained using Curbside Collection; and the amount of

Recyclable and Compostable Materials obtained at Recycling and Composting Collection Centers (referenced in Section 1.4 above);

- 3.2.4. Tons of waste material generated in the Municipality that were sent to the Landfill or other solid waste landfills or incinerators for disposal;
- 3.2.5. The Recycling Rate of the Municipality;
- 3.2.6. The material quality, quantity, and percentage composition of each type of Recyclable and Compostable Material collected under the Recycling Plan;
- 3.2.7. To the extent the Municipality contracts with MRFs, the amount charged by MRFs to take Recycled Materials; and
- 3.2.8. The status of the Composting Program.

3.3. In any of the biannual or supplemental reports, the Municipality may submit to EPA, for review and approval, proposed changes to the Recycling Plan based on the information obtained during operation of the Recycling Plan prior to the submission of the report, in order to improve the efficiency of the recovery efforts or to vary the quantity, quality, and diversity of Recyclable Material collected. Such reports may include a request to temporarily exempt certain materials from the list of Recyclable Material based on market conditions.

4. Expansion of the Pilot Composting Program

- 4.1. On or before March 15, 2015, the Municipality shall submit to EPA (a) a report describing the results of its pilot composting program, and (b) for EPA's review and approval, a plan addressing areas of potential improvement and/or expansion of the pilot composting program.
- 4.2. The Municipality shall begin implementation of the approved revised municipal composting program within 30 days of EPA's approval of the revised program.

5. Definitions

The following definitions apply to recycling and composting conducted under this Order Amendment. To the extent, however, applicable regulations promulgated by the Commonwealth define these terms to include a wider range of materials, those materials are hereby incorporated by reference into the definitions below.

- 5.1. "Agricultural Waste" shall mean plant waste generated by residential sources, commercial sources and/or from agricultural activities including, but not limited to,

bean, nut and grain hulls and chaff, sugar cane bagasse, orchard pruning, and coffee bean hulls and ground.

- 5.2. "Auto Shredder Residue" or "ASR" shall mean the residues, after removal of metals, from the shredding of automobiles and major household appliances. ASR consists of glass, fiber, rubber, automobile liquids, plastics and dirt.
- 5.3. "Compostable Material" shall mean Agricultural Waste, Yard Waste, food waste, and other biodegradable material not otherwise included in the definition of Recyclable Material.
- 5.4. "Composting" shall mean the controlled biological aerobic decomposition of organic material that is sanitized through the generation of heat and stabilized to the point that it is beneficial to plant growth in that it has the unique ability to improve the chemical, physical, and biological characteristics of soils or growing media.
- 5.5. "Curbside Collection" shall mean regular collection of Recyclable and/or Compostable Material directly from households and other establishments.
- 5.6. "Material Recovery Facility" or "MRF" shall mean a permitted facility where Recyclable Material is sorted into specific categories and processed, or transported to processors, for re-manufacturing (*i.e.*, making the recycled material into new products).
- 5.7. "Qualified Municipal Recycling Manager" shall mean one or more individuals who are certified as a *Manager of Recycling Systems* by the Solid Waste Association of North America ("SWANA") or an equivalent independently-proctored exam. The Qualified Municipal Recycling Manager(s) must maintain the *Manager of Recycling Systems* certification.
- 5.8. "Recyclable Material" shall mean glass, paper, cardboard, metals, plastics, electronics, batteries, and other material that may be identified by EPA as economically recyclable in Puerto Rico.
- 5.9. "Recycling" shall mean the separation, collection, processing, and sale or distribution of Recyclable Material as a precursor to making the recycled material into new products.
- 5.10. "Recycling Rate" shall be 100% multiplied by the tons of waste generated in the Municipality that were recycled divided by the total tons of waste material generated in the Municipality.
- 5.11. "Scrap Tires" shall mean motor vehicle, truck or heavy equipment tires that are discarded.

5.12. "Yard Waste" shall mean vegetation waste, such as grass, bushes, shrubs, trees and associated clippings, generated by residential and/or commercial sources through the maintenance of private or public lands.

5.13. "White Goods" shall mean refrigerators, stoves, washers, dryers, sinks or other such objects that are discarded.

