

STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION ROBERT E. HUGHEY, COMMISSIONER

CN 402
TRENTON, N.J. 08625
609 - 292 - 2885

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

CERTIFICATION OF APPROVAL OF THE MAY 14, 1985 AMENDMENT
TO THE SUSSEX 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 June 1, 1981 the Department approved, with modification, the Sussex 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. The Sussex County Board of Chosen Freeholders completed such a review and on May 14, 1985 adopted an amendment to its approved district solid waste management plan. The amendment incorporates Site 1E, located at Block 14, Lots 33A, 33B, 33E, 34, 35, 37 and 38A in Lafayette Township for the development of a transfer station, "temporary sanitary landfill", a sanitary landfill, and a

resource recovery facility into the district plan as outlined in Section C. of the document. The amendment was received by the Department of Environmental Protection on May 22, 1985 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 Sussex County District Solid Waste Management Plan, and has determined that the amendment adopted by the Sussex County Board of Chosen Freeholders on May 14, 1985 is approved in part and rejected in part in accordance with N.J.S.A. 13:1E-24. While the requirements of the Act concerning the report have been met, the district's plan remains deficient as noted below.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I, Robert E. Hughey, Commissioner of the Department of Environmental Protection have studied and reviewed the May 14, 1985 amendment to the Sussex County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that the portion of this plan amendment that is approved is fully consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Waste Management circulated the plan amendment to 16 review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24(a)(2) and (3), these agencies included agencies, bureaus and divisions within the Department Environmental Protection as well as the Board of Public Utilities. addition, the plan amendment was also submitted to the Department of Community Affairs, the Department of the Public Advocate, the Department of Health, the Department of Agriculture, the Department of Transportation, the New Jersey Turnpike Authority and the Office of Recycling. Of these agencies, the following had no objections to the proposed plan amendment: the N.J.D.E.P. Divisions of Environmental Quality, Coastal Resources, Water Resources, and Parks and Forestry; the State Departments of Transportation, Agriculture, Health, Community Affairs, and the Public Advocate; the N.J. Turnpike Authority, the Board of Public Utilities, the N.J. Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The Green Acres Program, the Division of Fish, Game and Wildlife, and the Office of Recycling submitted substantive comments concerning the plan amendment which are addressed below.

The Green Acres Program commented that they are concerned with the potential impact of the proposal (Site 1E) on two proximate public open space conservation areas. The two areas established by Green Acres to protect one of the largest active great blue heron rookeries in the state are within approximately one mile of the northeast boundary of the existing Hamm's Landfill. Green Acres further commented that the potential impact of a landfill on Site 1E on the quality of ground and surface water resources of the area, especially marshlands, streams and rivers, should be carefully examined. The Department of Environmental Protection notes that these concerns will have to be addressed in the environmental impact statement which Green Acres will receive for comment as part of the Division of Waste Management engineering review process.

The Division of Fish, Game and Wildlife commented that site containment of leachate is their most important concern. Adequate groundwater monitoring, as well as a collection and treatment system for leachate/surface runoff, is essential in protecting the areas' fish and wildlife resources. The Division of Fish, Game and Wildlife further stated that they would expect to see at least the following issues addressed in any forthcoming environmental impact statement:

- 1) updated species inventories;
- expected impacts to the aforementioned species and updated listing;
- 3) measures taken to insure that the trout maintenance capacity of the Paulinskill and its tributaries are maintained, including meeting FW-2 trout maintenance criteria;
- 4) losses to the hunting/trapping resources;
- 5) lost habitat types, including wetlands;
- bio-accumulation of contaminants to top predators (e.g. great blue heron);
- 7) mitigation for impact associated with #'s 1 through 6 above.

The Department points out that the proposed landfill facility must comply with all the Department's rules and regulations to minimize any adverse impact upon the surrounding environment. Also, the county will be supplied a copy of these comments so that the issues raised by the Division of Fish, Game and Wildlife will be responded to as part of the environmental impact statement for the proposed facility.

The Office of Recycling commented that transfer stations should incorporate recycling into their operations and that the county should also consider accepting only solid waste containing negligible quantities of recyclable materials at the landfill. The Office of Recycling further commented that the permit application for the resource recovery facility should include a description of the material recycling programs and the impact of the energy recovery facility on existing recycling facilities. Also, the resource recovery facility should be sized with respect to district and state recycling goals and current district recycling rates. The Department of Environmental Protection encourages Sussex County to maximize all recycling efforts and a copy of these comments will be forwarded to the county for their consideration and possible implementation.

C. Certification of Sussex County District Solid Waste Management Plan Amendment

I, Robert E. Hughey, 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 Plan, have reviewed the May 14, 1985 amendment to the Sussex County District Solid Waste Management Plan and certify to the Sussex County Board of Chosen Freeholders that the May 14, 1985 amendment is approved in part and rejected in part as further specified below.

The inclusion in the plan of Site IE; located at Block 14, Lots 33A, 33B, 33E, 34, 35, 37 and 38A in Lafayette Township for the development of a transfer station, a county owned sanitary landfill, and a resource recovery facility is approved.

The May 14, 1985 district plan amendment proposes an updated landfill development schedule projecting the new district landfill to be operational by April, 1986. The district plan amendment also proposes an updated resource recovery development schedule projecting the resource recovery facility to be operational by January 1, 1989. Notwithstanding the fact that several of the milestone dates embodied within the plan amendment have already passed, the Department encourages Sussex County's expeditious development of the proposed facilities.

The inclusion in the district plan of Site IE for the development of a temporary landfill is rejected. This rejection is based upon the fact that temporary landfills will not meet the Department's engineering and environmental standards relating to the preparation of an environmental impact statement and unified engineering designs.

The construction of any solid waste facility shall be preceded by the obtainment of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq. and all other applicable laws. Issuance of construction and/or operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department to be fit and competent to manage such facilities.

The Department has reviewed the entire Sussex County District Solid Waste Management Plan, including this amendment, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. The result of that review is as follows:

1. N.J.S.A. 13:1E-21b(2) requires a statement of the solid waste disposal strategy to be applied...which strategy shall include the maximum practicable use of resource recovery procedures and a plan for using terminated landfill disposal sites...in the Solid Waste Management District.

The Sussex County district plan is deficient with respect to N.J.S.A. 13:1E-21b(2) in its failure to provide a plan for using terminated landfills.

2. N.J.S.A. 13:1E-21b(3) requires a site plan which shall include all existing solid waste disposal facilities located within the Solid Waste Management District . . . and sufficient additional available suitable sites to provide solid waste facilities to treat and dispose of the actual and projected amounts of solid waste contained in the report accompanying the plan.

The Sussex County district plan is deficient with respect to the requirements of N.J.S.A. 13:1E-2lb(3) due to the lack of formal interdistrict disposal agreements or existing short term in-county disposal capacity that will be required until the new district landfill becomes operational.

3. N.J.S.A. 13:1E-21b(4) requires a survey of proposed collection districts and transportation routes with projected transportation costs from collection districts to existing or available sites for solid waste disposal facilities.

The Sussex County district plan is deficient with respect to the requirements of N.J.S.A. 13:1E-21b(4) due to the lack of a survey of transportation routes with projected costs for existing and proposed solid waste facilities in the district plan.

4. N.J.S.A. 13:1E-21b(6) requires a method or methods of financing solid waste management in the Solid Waste Management District pursuant to the Solid Waste Management Plan.

The Sussex County district plan fails to provide a detailed plan for financing solid waste management. Until financial data is developed regarding the new district landfill and resource recovery facility and is incorporated into the approved district plan, the plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(6).

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 Sussex 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 Sussex 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 Sussex County and affected by this amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Sussex County District Solid Waste Management Plan. Any 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, 10, and 12 and all other applicable laws.

3. Types of Solid Wastes Covered by the District Solid Waste Management Plans

The provisions of the Sussex 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) which are part of the Sussex County District Solid Waste Management Plan.

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 Sussex 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 portions of the 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.

6. Effective Date of Amendment

The approved portions of the amendment to the Sussex 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 Sussex 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 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 in part and reject in part the amendment, as outlined in Section C. of this certification, to the Sussex County District Solid Waste Management Plan, which was adopted by the Sussex County Board of Chosen Freeholders on May 14, 1985, and further direct the Sussex County freeholders to remedy those deficiencies outlined in Section C. of this certification within ninety (90) days.

10/16/85

DATE

ROBERT E. HUCHEN

COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION