Left protect our earth

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
(SUSSEX COUNTY SOLID WASTE
(MANAGEMENT DISTRICT

CERTIFICATION
OF THE NOVEMBER 12, 1986
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 Board 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 modifications, 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 November 12, 1986 adopted an amendment to its approved district solid waste management plan. The amendment generally represents a multifaceted update to the approved Sussex County Solid Waste Management Plan and proposes incorporation of the following: 1] a county-wide mandatory recycling policy; 2] an amended designation of Site 1E, Lafayette Township, adding Lot 38F, Block 14, and deleting Lot 33B and portions of Lots 33A, 34, and 35 for the development of

a county landfill and a resource recovery facility; 3] a plan for the of terminated landfills; 4] a provision stating interdistict agreements will not be permitted for disposal of out-of-county waste at the Sussex County resource recovery facility; 5] designation of the Sussex County Municipal Utilities Authority as the solid waste implementation agency; 6] a financial plan for solid waste management; 7] a county composting facility on Site 1E; 8] existing compost facilities in Sparta and Newton and a facility pending in Hopatcong; 9] a blanket policy for on-site disposal of vegetative waste generated by land clearance, and; 10] a blanket compost siting policy for new facilities. Further, the amendment 11] proposes a policy clarifying the status of the Hopatcong Borough Landfill in relationship to the proposed county solid waste facilities, and 12] indicates the county's intention to conduct a survey of transportation routes to the proposed facilities to be developed on Site 1E.

The amendment was received by the Department of Environmental Protection on November 25, 1986, 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 November 12, 1986, is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24.

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, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the November 12, 1986, 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 this plan amendment is consistent in part and inconsistent in part with the Statewide Solid Waste Management Plan. An explanation of the approved and rejected portions of this amendment are to be found in Section C.

In addition, the Division of Solid Waste Management circulated the plan amendment to sixteen 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. these agencies were the Department of Community Affairs, Department of the Public Advocate, the Department of Health, the Office of Recycling, the Department of Agriculture, the Department of Transportation. and the New Jersey Turnpike Authority. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Divisions of Water Resources, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture, Community Affairs and Transportation and the New Jersey Turnpike Authority. The following agencies failed to respond to our requests for comments: the State Departments of Health, and the Public Advocate, the New Jersey Advisory Council on Solid Waste Management and the Environmental Protection Agency. The N.J.D.E.P. Divisions Environmental Quality, Fish, Game and Wildlife, and Solid Waste Management,

the Office of Recycling, the Green Acres Program and the Board of Public Utilities submitted substantive comments which are further addressed below.

1. Comments Concerning A Policy for County-Wide Mandatory Recycling

a. The Office of Recycling has determined that, based upon the most recent documented tonnage grant requests, the county's overall waste reduction level is currently at 7% of the total municipal waste stream (MSW). This is considerably below the state's goal of 25% reduction in MSW. Although the proposed amendment requires mandatory recycling, it is not indicated what the scope of that mandate will be in terms of anticipated reduction in MSW; which waste generating sectors will be covered by the mandate; which collection, processing and marketing strategies are to be employed to implement the mandate, or what financial resources will be committed to implementation of the ordinances.

Compliance is necessary with respect to the Office of Recycling's recommendations for further clarification of the county's recycling policy regarding an anticipated percentage of the total waste stream to be recycled, which sectors should be covered by the policy, and what processing and marketing strategies will be provided by the county. Therefore, the county must address these issues in subsequent directives to the municipalities for inclusion in each municipal recycling ordinance. Quarterly progress reports on implementation of municipal ordinances must be submitted to the DEP as further specified in Section C.1. of this certification.

2. Comments Concerning the Amended Lot Designation of Site 1E for the County Landfill and Resource Recovery Facility

a. The Division of Environmental Quality emphasized that under N.J.A.C. 7:27-5, Permits and Certifications, air pollution control permits are required for vents on solid waste facilities or any waste treatment equipment which vents air contaminants. If the proposed county landfill will be vented, the vented gas must be controlled by some method, i.e. flaring or some absorbent system.

The Final Environmental and Health Impact Statement and engineering designs for the landfill addresses these requirements under N.J.A.C. 7:27-5, incorporating facility vents into the design for utilization after the landfill has reached a certain elevation.

b. The Green Acres Program expressed its ongoing objections to the development of Site 1E for solid waste disposal activities due to the potential for subsequent impacts on the nearby Great Blue Heron Rookery. It is the position of the Green Acres Program that landfilling at Site 1E, even with the incorporation of state-of-the-art control technology, may have adverse impacts on water quality and thereby impact the food chain which would result in a negative impact on the great blue heron population downstream and downgradient of the proposed facility.

The Division responds that the new county landfill will incorporate a state-of-the-art design, including a double liner secondary composite feature and a system with a leachate collection and leachate detection systems. The leachate management system is intended to collect generated leachate for proper treatment and discharge. The double liner and composite feature of the landfill allows detection of possible minor leakage and provides a complete backup system to collect any such leakage. Also, it should be noted that the former Hamms Landfill operated for many years with essentially no environmental controls in closer proximity to the Rookery than the proposed site. their review, the Green Acres Program did not present data to document any relationship between the virtually unprotected Hamms Landfill and any actual degradation of water quality resulting in impact on the great blue heron population. In the absence of any such documentation, it appears that a state-of-the-art landfill would not present an unreasonable level of risk to the Great Blue Heron Rookery. Most importantly, this issue has previously been addressed when the entire site was first designated. redesignation of the site parcel will not cause any additional environmental impact.

3. Comments Concerning the Solid Waste Financial Plan

a. The Office of Recycling requested a detailed breakdown of the projected \$1,350,000 designated for capital costs associated with the development of a leaf composting facility and a recycling/convenience disposal facility. In addition, the Office questioned whether or not consideration was given to waste volume reduction through recycling with respect to sizing the capacity for the 400 tpd resource recovery facility.

With regard to a breakdown of capital costs associated with the development of the compost facility on site 1E, such a budget will accompany the permit application and will be subject to a review by the Office of Recycling. Additionally, it should be noted that the sizing of the resource recovery facility is currently being evaluated, taking into consideration the population growth factor in the county and the potential of recycling to diminish the waste stream. According to county sources, Sussex County's growth rate has accelerated substantially due to widespread residential development. Waste flow is expected to increase from the currently projected volume of about 400 tpd to as much as 600 tpd over the next several years, depending on the rate of continuing development.

b. The Board of Public Utilities' (BPU) review of the solid waste financial plan with respect to the landfill, entailed a comparison of costs associated with another initial filing for a landfill. With regard to cost comparison, the Board indicated that several cost factors seemed high when compared to other landfill projects. These factors include engineering associated with the initial and Phase One capital costs, fencing, leachate collection and handling, weight scale, and roadway, parking and drainage. On the

other hand, the Board commented that the cost estimate for the landfill liner base was insufficient, and there is no indication of cost associated with leachate treatment, insurance, or for the intermediate and final covering for the landfill. Other monetary considerations raised by the BPU dealt with the escrow of appropriate monies for closure and post-closure, and disbursement of revenues generated by the marketing of recyclables. Further, with respect to costs, the BPU believes contingencies should be estimated at 10 percent, rather than 20 percent over the total development package. The BPU staff also questioned the estimated life of the landfill until the year 2019, particularly since no indication is offered for the potential impact of the addition or deletion of waste from the Hopatcong Municipal Landfill on the district waste flows to the facility.

In response, the Department points out that while a solid waste management financial plan is required at this juncture in the planning process, the Department recognizes that all cost estimates and figures are of a preliminary nature. While BPU's requests for more accurate and precise data are valid, certified cost estimates for the county's engineering consultants and staff will be provided at the time the operator applies for rate setting. At that point, either by application to the BPU for a tariff, or through county/vendor negotiation of the service contract (McEnroe procurement process), refined and much more specific data on costs and economic impact will be submitted for Alternatively, a similar financial assessment could evaluation. be incorporated at the county level, independent of the BPU and DEP, should the county choose to pursue rate setting through its municipal utility authority following compliance with specified public hearing requests. Also, a clarification of the status of the Hopatcong Landfill, as proposed through this amendment, will assist the county further in determining the amount of solid waste available.

4. Comments Concerning the Policy Regarding Composting Facilities

a. The Office of Recycling requested further information on the composting facility to be constructed on Site 1E, i.e. specifically, facility size, anticipated yearly volumes to be composted, district policy on municipal/residential access to the facility and an overall policy on inclusion of vegetative waste at the proposed disposal facility.

In response, such information would be part of the permit application as submitted by the county, and subject to review by the Office of Recycling as well as other state agencies.

b. The Division of Fish, Game and Wildlife requested that it review all proposed compost sites before final approvals are given. Concern was also expressed that the proposed compost facility at Site IE should not jeopardize any planned on-site mitigation areas as will be dealt with in the Final EHIS.

The Division notes that agency reviews are part of the permit application process required of each facility operator and, as such, the application would be submitted to the Division of Fish, Game and Wildlife for review and comment.

c. The Division of Environmental Quality pointed out that even if an air pollution control permit is not required for compost facilities, if an odor is generated by the facility, it will fall under the requirements of N.J.A.C. 7:27-5 and require mitigation measures.

The Division responds that the necessity for such mitigation measures to control odor will be indicated as a condition of an operating permit for compost facilities.

d. The Division of Solid Waste Management questions the lack of a due process review providing for a public participation component in the blanket compost facility policy. With respect to the on-site disposal of vegetative waste due to land clearance, the Division supports such sites if they are limited to clearing waste and tree stumps only, pursuant to N.J.A.C. 7:26-1.7(e)1.

5. Comments Concerning the Policy Clarifying the Status of the Hopatcong Landfill

a. The Division of Fish, Game and Wildlife noted that the Division should review relevant fish/wildlife resource information if the landfill continues to operate through an expansion.

The Division responds that an application for expansion would require a separate plan amendment, a new facility permit and a state level agency review involving the Division of Fish, Game and Wildlife, as well as a draft permit hearing.

Ъ. The Division of Solid Waste Management, while not fundamentally opposed to the expansion of the Hopatcong facility, affirms the necessity for landfill closure plans. The solid regulations, specifically, N.J.A.C. 7:26-2.9, require Hopatcong Borough to submit a closure and post-closure plan for their Thus far, Hopatcong has failed to submit the existing landfill. requisite plan. In order to facilitate the overall review process, the Division would be amenable to reviewing the closure and expansion plans concurrently. However, the Division will not be in a position to approve an expansion if the Borough fails to comply with the landfill closure regulations.

6. Other Comments

a. The Division of Environmental Quality pointed out that when a resource recovery facility is proposed, it is subject to the federal Prevention of Significant Deterioration (PSD) regulations. These regulations implicitly assume that it is necessary to take at least one year's collection of data for ambient air quality at the site prior to permit issuance. If there are other available

data collection stations gathering such statistics in the neighboring area, such data may be used for the necessary air quality simulation modeling needed to determine the effect of the facility on ambient air quality. Emissions offsets for volatile organic substance (VOS's) will be required under N.J.A.C. 7:27-18 if the VOS's are emitted at greater than 50 tons per year.

In response, the resource recovery facility is not dealt with in this amendment, except tangentially in the financial plan. However, the Department, by way of this certification, will advise the applicant of the necessity to initiate data collection at this time.

C. Certification of Sussex 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 November 12, 1986 amendment to the approved Sussex County District Solid Waste Management Plan and certify to the Sussex County Board of Chosen Freeholders that the November 12, 1986 amendment is approved in part and rejected in part as further specified below.

1. Approved Portions of the Sussex County Plan Amendment

a. \ County-Wide Mandatory Recycling Policy

The inclusion within the district plan of mandatory multi-material recycling programs to be enacted at the municipal level in conjunction with the development of the Sussex County landfill and resource recovery facility is approved.

Since the projected date of operation of the landfill is in early 1988, it is expected that all municipal recycling programs will be functional by that date, even if the landfill fails to begin operations by that time. In accordance with the county's policy, each municipality will be required to submit quarterly reports to the county documenting its recycling tonnages. To supplement municipal recycling efforts, the county will provide a material recycling facility for source separated recyclables, a household convenience center affording residents a designated area for disposal of bulky items, and a yard waste composting facility to further conserve landfill capacity. The county has also commissioned a report on a Materials Recovery Program to be integrated with each of the county's planned solid waste activities. In accordance with recommendations made by the Office of Recycling, the county should assist in the development of municipal recycling ordinances which incorporate specific waste stream percentages to be recycled, identification of the waste generating sectors which will be covered, i.e. glass, aluminum, paper and determination of which collection, processing and marketing strategies will be implemented. The Office of Recycling also stresses that county-wide recycling goals be established prior to program implementation. The Department hereby requires the county to submit a summary quarterly report detailing municipal separation, collection and processing activities, and the progress achieved in recycling tonnage goals.

b. Amended Lot Designation of Site 1E for the Landfill and Resource Recovery Facility

The inclusion within the county plan of the designation of Site 1E, Lafayette Township to include Block 14, Lot 38F and the deletion of Lot 33B and portions of Lots 33A, 34, and 35 from the prior site designation for Site 1E is approved. Site 1E has been previously designated for development of a county-owned landfill, a resource recovery facility and a transfer station. (The transfer station was not mentioned in the county's proposed amendment of November 12, 1986, but remains an approved component of the county's former siting decision.)

The October 16, 1985 Certification of Approval of the May 14, 1985 amendment to the Sussex County District Solid Waste Management Plan had previously approved the designation of Site 1E; located at Block 14, Lots 33A, 33B, 33E, 34, 35, 37 and 38A in Lafayette Township for such development. In addition, through this amendment of November 12, 1986, Lot 38F is now included because it has been determined that its use is necessary to provide a site for an access road to the landfill from Route 94, as proposed by the county. The addition of this parcel to the site design has no perceivable adverse environmental impact. Further, this property, Site 38F, is about two acres in size and would otherwise be surrounded on three sides by almost 200 acres of land which will support a sanitary landfill and resource recovery facility. This amendment deletes Block 14, Lot 33B and portions of Lots 33A, 34, and 35 from the prior designation since they are no longer necessary for the planned facilities site plan. Previously, Lot 33B and portions of Lots 33A, 34, and 35 were included to serve as landfill buffer areas.

The construction or operation 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. The 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.

c. Plan for the Utilization of Terminated Landfills

The inclusion within the county plan of a policy, as required by N.J.S.A. 13:1E-21b(2), for the closure/post-closure use of the proposed county landfill in Lafayette Township, as well as the Hardyston, Hopatcong, Newton, Sparta, Stillwater, Hamms Sanitary Landfill and Worthington landfills as passive recreational areas is approved.

The Division notes that such approval is granted to the conceptual framework of closure as indicated by the amendment. Such approval is not to be construed as superseding submission and substantive review of individual, site-specific closure/post closure care plans for consideration by the N.J.D.E.P.

d. Policy Prohibiting Interdistrict Agreements for Disposal of Outof-County Waste at the Sussex County Resource Recovery Facility

The inclusion within the plan of a policy stating, that the county will not enter into any interdistrict agreements for disposal of out-of-county waste at the Sussex County resource recovery Under the county's program, only Sussex facility is approved. County waste will be accepted for disposal at the proposed resource recovery facility. This policy determination by Sussex County addresses the county's authority with respect to entering into interdistrict agreements and does not expressly preclude the Board of Public Utilities and the N.J.D.E.P. from exercising their jurisdiction over waste flows through the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26-6.1 et seq.), as affirmed by A. A. Mastrangelo, Inc. vs. Department of Environmental-Protection 90 N.J. 666 (1982). Because the county's policy does not encroach upon this authority, the county's statement of policy is approved. It is to be noted that the policy of the Department is not to redirect solid waste from non-performing districts to counties that are actively developing long term The Department fully recognizes disposal facilities. comprehensive efforts of the Sussex County Board of Chosen Freeholders to develop a model solid waste management program through the siting and development of landfill and resource recovery facilities, to be used in conjunction with recycling Based on these efforts, and in recognition of the forementioned policy, the Department has no plans to redirect out-of-district solid waste to the Sussex County resource recovery However, the Department of Environfacility when operational. mental Protection and the Board of Public Utilities cannot waive their jurisdiction in the area of waste flow control pursuant to N.J.A.C. 7:26-6.1 et seq. and cannot anticipate all circumstances that could arise in the future.

e. <u>Designation of the Sussex County Municipal Utilities Authority</u> (SCMUA)

The inclusion in the county plan of the Sussex County Municipal Utilities Authority (SCMUA) as the unit of county government to supervise implementation of the Sussex County District Solid Waste Management Plan is approved.

While the county will finance initial expenses and site acquisition on an interim basis, the SCMUA will assume such responsibilities prior to the commencement of construction of the facility and will finance said construction and subsequent costs as required. The SCMUA will own and operate the Site 1E facilities under an agreement already approved by resolution of

the Sussex County Board of Chosen Freeholders. Until the SCMUA assumes these responsibilities, the Sussex County Planning Department will continue to supervise implementation of the county plan.

f. Submission of a Financial Plan for Solid Waste

The inclusion in the plan of a preliminary financial plan for the proposed county landfill and resource recovery facility as required by N.J.S.A. 13:1E-21b(6) is approved.

However, with reference to the caveats pointed out by the Board of Public Utilities and the Office of Recycling under Section B, the Department notes that all cost estimates and figures are of preliminary nature. Final, refined cost data will be developed at the time of rate setting, either through county rate setting, through operator application to the BPU for a tariff, or through county/vendor negotiation of the service contract under N.J.S.A. 13:1E-1 36 et seq. (A-1778), an Act concerning solid waste disposal and resource recovery.

g. County-wide Compost Facility

The inclusion into the district plan of a composting facility to be constructed at Site lE as an ancillary facility to the landfill and resource recovery facilities is approved. A subsequent plan amendment will identify lot and blocks for the county compost facility on Site lE.

The construction or operation 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. The 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.

h. Municipal Compost Facilities

The inclusion into the district plan of the municipal composting facilities currently located in Sparta and Newton, and one pending composting facility for Hopatcong is approved.

The construction or operation 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. The 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.

i. Policy Concerning On-Site Disposal of Vegetative Waste

Inclusion into the district plan of a policy which provides that any vegetative wastes which are generated and disposed or composted on-site (eg., land being cleared for conversion to

agricultural or other purposes), with the facility being terminated upon the completion of land clearance and disposal activities, is approved with modifications.

The temporary on-site disposal facilities shall be limited to tree stumps and clearing waste, pursuant to regulations under N.J.A.C. 7:26-1.7(e)1.

2. Rejected Portions of the Sussex County Plan Amendment

a. Policy Regarding Siting of Composting Facilities

Inclusion within the district plan of a policy providing that any new application for a municipal, private, regional or intracounty composting facility, permanent or temporary, for the disposal of vegetative wastes within the District is consistent with the approved District Solid Waste Management Plan is rejected.

The Department rejects this blanket composting facility policy inasmuch as the policy fails to establish any provisions for public notification, public hearing or public input prior to site designation. Whereas there does exist an opportunity for citizen input at the time of a draft permit hearing, such comment is reserved for the engineering design and site logistics, not the site itself. The county may wish to review recent blanket compost amendments from Cumberland and Somerset Counties, approved by the DEP, which offer more comprehensive and defined processes for citizen participation in site selection review, providing opportunities for both host community and citizen comment on site selection prior to authorization by the county.

b. Policy Clarifying the Status of the Hopatcong Borough Landfill

Inclusion of the policy that Hopatcong Landfill may continue to accept its own municipal waste until the proposed county resource recovery facility is operational is rejected.

The Borough of Hopatcong operates a municipal landfill for the disposal of borough solid waste, and has expressed interest in continuing operation of its facility through the end of its permitted life. The county has no objection to the continuance of the landfill until the proposed resource recovery facility is operational provided that several conditions are satisfied to ensure Hopatcong's compliance with environmental standards and waste flow planning. The county's policy states that the Borough of Hopatcong must submit an Environmental and Health Impact Statement, along with a design and permit application for a landfill expansion to the NJDEP no later than April I, 1987. The county further conditions their policy by stating that Hopatcong's application must be approved by NJDEP and an operating permit issued no later than January 1, 1988.

While the Department is not fundamentally opposed to the expansion of the Hopatcong facility, the county policy makes no reference to Hopatcong's submission of a closure/post-closure plan which must

precede or accompany any plans for possible expansion. The solid waste regulations, specifically, N.J.A.C. 7:26-2.9, require the borough to submit a closure and post-closure plan for the existing landfill. Although Hopatcong Borough has been advised, on several occasions of closure requirements, no plans have been submitted to the Department as yet. Accordingly, the Department would require a timeframe for the submission and subsequent review of the closure and post-closure plan. In order to facilitate the overall review process, the Department would be amenable to reviewing the closure and expansion plans concurrently, however, the Department will not be in a position to review a landfill expansion if the borough fails to comply with the landfill closure regulations.

Additionally, the target dates set forth in the proposed amendment appear unrealistic for two reasons. In the first place, the borough has not applied to the Division of Solid Waste Management concerning the requirements for either a closure or expansion plan, thereby making a submission of either plan highly unlikely by the county's established deadline. Secondly, the Division's review period for a landfill expansion can take up to twelve months since the review process is a function of the quality of the technical submission which is beyond the Department's control, and involves a number of permitting agencies within the Department, as well as participation by the public.

Until such time as the plan is further amended to include provisions that address the submission and review of a closure and post-closure plan for the Hopatcong Landfill, and a feasible schedule is developed, the county's policy concerning the continued operation of this landfill is unacceptable.

3. Other Portions of the Sussex County Plan Amendment

a. Survey of Transportation Routes to Proposed Landfill and Resource Recovery Facility

With respect to N.J.S.A. 13:1E-21b(4), 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 is required. The county's indication that a collection and routing transportation plan is under preparation to determine the impact of refuse collection and haul to the proposed resource recovery facility and landfill is acknowledged.

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 the within 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 the 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, 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).

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 N.J.A.C. 7:26-2.13.

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 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 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 November 12, 1987.

3/26/87

RICHARD T. DEWLING

COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION