

The amendment was received by the Department of Environmental Protection on January 20, 1988, 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 Somerset County District Solid Waste Management Plan, and has determined that the amendment adopted by the Somerset County Board of Chosen Freeholders on August 4, 1987 is conditionally approved as provided in N.J.S.A. 13:1E-24. With regard to the district plan, while the requirements of the Act concerning the report have been met, the district's plan remains deficient in some important ways.

B. Findings and Conclusions with Respect to the Somerset 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 August 4, 1987 amendment to the Somerset 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 with the Statewide Solid Waste Management Plan, provided the conditions outlined in Section C. are met.

In addition, the Division of Solid Waste Management circulated the plan amendment to fourteen 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. Also among these agencies were the Department of Community Affairs, the Department of the Public Advocate, the Department of Health, 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: N.J.D.E.P. Divisions of Environmental Quality, Solid Waste Management, Water Resources, and Parks and Forestry; the State Departments of Agriculture, Community Affairs, and Transportation; the Board of Public Utilities, the Green Acres Program, 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 U.S. Environmental Protection Agency. The N.J.D.E.P. Division of Fish, Game and Wildlife submitted substantive comments which are further addressed below.

The Division of Fish, Game and Wildlife commented that an alternate site for the balefill facility should be found prior to the removal of an approved site, as the replacement site could impact the environment to a greater degree than the previously selected site.

In response, the balefill facility was originally incorporated into the Somerset County Solid Waste Management Plan as a site for the disposal of all solid waste generated within Somerset County. Somerset County's solid waste management strategy has changed considerably since the balefill facility was initially proposed. On April 18, 1988 the Department issued a certification of a Somerset County plan amendment which designated the site for a residual/bypass landfill in Montgomery Township. Somerset County has

also made significant progress toward siting a resource recovery facility. As such, a balefill facility is no longer consistent with the current solid waste management strategy of Somerset County. Therefore, the balefill facility removal is being approved, conditionally in part upon Department approval of a replacement facility. The Division of Fish, Game, and Wildlife was given the opportunity to review the residual landfill site and will be able to review Somerset County's site selection for its proposed resource recovery facility in Bridgewater Township.

C. Certification of Somerset 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 August 4, 1987 amendment to the approved Somerset County District Solid Waste Management Plan and certify to the Somerset County Board of Chosen Freeholders that the August 4, 1987 amendment is conditionally approved as further specified below.

1. Somerset County's August 4, 1987 plan amendment which proposes the deletion from the Somerset plan of Lot 15, Block 6401 in Bridgewater Township, Somerset County, as the designated site for a district balefill facility is approved, provided the following conditions are met.

A. Somerset County must receive Departmental approval of their May 3, 1988 plan amendment which designates Lots 2, 3, and 3A, Block 6101 in Bridgewater Township, Somerset County, as the designated site for a resource recovery complex. In the event that such Departmental approval is received and that this siting decision is legally challenged, Somerset County must also receive judicial affirmation of their resource recovery complex designation.

B. Somerset County must receive judicial affirmation of the decision to site a residual/bypass landfill on Lot 33, Block 4001 in Montgomery Township, Somerset County. The Department's April 18, 1988 certification of approval of this site is currently being challenged in the Appellate Division of New Jersey Superior Court.

A similar plan amendment was rejected by the Department in a January 23, 1986 certification due to the lack of an approved, alternate in-county solid waste disposal facility. However, the solid waste management situation in Somerset County has improved considerably since the time of the Department's original rejection. Somerset County has made significant progress toward meeting the Department's goal of self sufficiency by 1992 by siting both a residual/bypass landfill and a resource recovery complex as mentioned above. Nonetheless, the Department has not yet made a decision regarding the County's resource recovery complex siting decision, and legal challenges could threaten the siting of both the landfill and resource recovery facility. The conditions outlined above are therefore necessary, as the Department cannot justify the removal of an approved site from the

Somerset County plan without the assurance that other sufficient in-county disposal facilities will be available to replace the balefill facility.

The Department has also reviewed the Somerset County District Solid Waste Management Plan pursuant to N.J.S.A.-13:1E-20 and has determined that the recycling component of the Somerset County Solid Waste Management Plan is inadequate for the purposes for which it was intended as further specified below:

1. Pursuant to N.J.S.A. 13:1E-99.21, each district plan shall identify the leaf composting facility or facilities to be utilized by each municipality in the county. The county has failed to identify these facilities as required above. Therefore, Somerset County shall, within forty five days of the date of certification of this amendment, adopt and submit for Department approval, a plan amendment setting forth the above. In order to ensure the collection and transport of source separated leaves to permitted leaf composting facilities, the county shall, if necessary, contract for the separate collection and composting of source separated leaves for all Somerset County municipalities unable to secure said services in sufficient time to execute the necessary agreements no later than September 1, 1988.

2. Pursuant to N.J.S.A. 13:1E-99.13, the county shall hold a public hearing regarding its district solid waste management plan within forty five days of the date of the certification of this amendment to officially designate recyclable materials in the commercial and institutional sectors. Said material designation shall conform, at a minimum to the requirements of N.J.S.A. 13:1E- 99.13b(4). Said plan amendment shall further direct each municipality in Somerset County to prepare an inventory of the generators of commercial and institutional waste and the recycling services currently in place to collect and market said designated recyclables within sixty days of the adoption by the county of this subsequent plan amendment. The municipalities shall furthermore indicate where recycling services are lacking for generators of said designated recyclables, and indicate what steps will be taken to insure that all generators of designated recyclable materials are provided with recycling collection services. These steps may include, but are not limited to: municipally sponsored curbside collection of designated recyclable materials; or municipally sponsored or contracted receipt of designated recyclable materials at a recycling center.

Should any municipality fail to provide said inventory, or should any of the municipal inventories thus established be considered incomplete, the county shall, within six months of the due date of the municipal inventories described above, solicit proposals from, review the qualifications of, and enter into contracts or agreements on behalf of municipalities with persons providing recycling services or operating recycling centers for the collection, storage, processing, and disposition of designated recyclables.

3. In addition to the above requirement, the district solid waste plan amendment required pursuant to item #2 above, shall include specific municipal requirements for the enforcement of municipal recycling mandates. Said minimum requirements shall include, but not be limited to: the designation of the specific municipal agency empowered to enforce recycling

provisions; minimum civil penalties to be incorporated into each municipal recycling ordinance to be assessed against any person found to be violating said ordinances and the manner and frequency by which municipalities shall determine the extent of compliance with the municipal ordinances thus established.

4. Within 270 days after the adoption of the plan amendment described above, the county shall transmit to the Department a copy of each municipal recycling ordinance, which shall indicate the designated recyclable materials to be source separated in the residential, commercial, and institutional sectors. The county shall further transmit one copy of each municipal inventory required above, and one copy of each agreement executed by the county on behalf of any municipality to the Department.

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 Somerset 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 Somerset 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 Somerset County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Somerset 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 Somerset 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 Somerset County Board of Chosen Freeholders and pursuant to N.J.S.A. 13:1E-24c. and f., the county shall proceed with the implementation of the approved amendment contained herein, subject to the conditions specified in Section C. of this certification.

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 amendment to the Somerset County District Solid Waste Management Plan contained herein shall take effect immediately, subject to the conditions specified in Section C. of this certification.

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 Somerset 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 conditionally approve the amendment as outlined in Section C. of this certification, to the Somerset County District Solid Waste Management Plan

which was adopted by the Somerset County Board of Chosen Freeholders on August 4, 1987.

I also hereby notify the Board of Chosen Freeholders of the existing deficiencies in the district plan as outlined in Section C., and urge that these deficiencies be resolved within the timeframes indicated.

10/15/88
DATE

Richard T. Dewling for
RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION