



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ROBERT E. HUGHEY, COMMISSIONER
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(SOMERSET COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION OF APPROVAL OF THE
AUGUST 6, 1985 AMENDMENT
TO THE SOMERSET 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 July 31, 1980 the Department approved, with modification, the Somerset 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 Somerset County Board of Chosen Freeholders completed such a review and on August 6, 1985 adopted an amendment to its approved district solid waste management plan. The amendment incorporates the site of the Carmine Forgione & Sons, Inc., transfer station in Bernardsville Borough, a countywide composting policy, and the formal inclusion of six composting facilities located in Bound Brook Borough, Green Brook Township, Somerville Borough, Branchburg Township, Warren Township and Bernardsville Borough into the district plan as outlined in Section C. of this document. The amendment was received by the Department of Environmental Protection on August 30, 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 Somerset County District Solid Waste Management Plan, and has determined that the amendment adopted by the Somerset County Board of Chosen Freeholders on August 6, 1985 is approved 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 Somerset 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 August 6, 1985 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 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 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, the New Jersey Turnpike Authority and the Office of Recycling. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Divisions of Environmental Quality, Parks and Forestry, Green Acres and Fish, Game and Wildlife; the State Departments of Transportation, Agriculture, and Health; the N.J. Turnpike Authority, the Board of Public Utilities, and the N.J. Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comment: the N.J. Departments of the Public Advocate, and Community Affairs; the U.S. Environmental Protection Agency; and the N.J. D.E.P. Divisions of Coastal Resources and Water Resources. Only the Office of Recycling submitted substantive comments concerning the plan amendment which are addressed below.

The Office of Recycling commented that transfer stations should incorporate recycling into their operation, particularly for the commercial waste stream, and advocated adoption of the state goal to recycle 25% of mixed solid waste. The Office of Recycling also stated that the transfer station operator should consider a separate rate structure for customers who deliver separated materials to encourage recycling. Such considerations may be placed before the BPU during their hearing on tariff proposals. The Department of Environmental Protection has noted in Section C. of this certification that the Somerset County Plan remains deficient with respect to the implementation of the State goal of 25% recycling. As a result, the county has been ordered to remedy this and other noted plan deficiencies outlined in Section C. as soon as possible. Also, a copy of the Office of Recycling's comments will be forwarded to the county for their consideration and possible implementation.

C. Certification of Somerset 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 August 6, 1985 amendment to the Somerset County District Solid Waste Management Plan and certify to the Somerset County Board of Chosen Freeholders that the August 6, 1985 amendment is approved as further specified below.

1. The inclusion in the plan of the site of the existing Carmine Forgione & Sons, Inc., transfer station on Block 100, Lot 2, in Bernardsville Borough for waste types 10,13,23 and 27 collected only by Carmine Forgione & Sons Inc., is approved. On April 8, 1985, the Enforcement Element of the Division of Waste Management issued a cease and desist order to the owners of the Carmine Forgione & Sons Inc., transfer station for operating without an approved registration and engineering design permit as required by law. The amendment in question represents the facility owner's first step in obtaining a facility permit to operate from the DEP. The operation of this 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.
2. The inclusion in the plan of the following Somerset County compost policy is approved:

"Policy Statement - It is the policy of the Somerset County Solid Waste Management District that any application for composting of residential leaves and grass clippings, vegetative waste from farms,

plant nurseries and green-houses produced from the raising of plants which includes such crop residue as plant stalks, hulls, leaves and tree wastes processed through a wood chipper (I.D. #23) is consistent with the approved Somerset County District Solid Waste Management Plan and no further plan modification is required to include the facility or site, provided that:

1. The host municipality and the solid waste management district are notified in writing (by the applicant) of the proposed application and each receive a full copy of the complete application submitted to the DEP including all engineering designs, reports, maps, etc., which DEP requires of the applicant.
2. The applicant publish two (2) notices of the proposed application, once each week for two (2) consecutive weeks, in a newspaper of general circulation within the host municipality. A notice shall set forth:
 - a) the nature of project.
 - b) the block and lot number of the site location.
 - c) the generally recognized address of the site.
 - d) the location of the depositories (which in all cases, shall be the municipal building and the Office of the Solid Waste Management District) for inspection of the complete application and supporting documents, and
 - e) a statement that written comments on the proposed application will be accepted by the Office of Solid Waste Management for a period of 30 days from the date of the first notice.
3. No objections to the site location are raised by the host municipality, the solid waste management district, or any other person; provided further, however, that if any such objection be raised, the proposed site and facility must be subject to the formal plan amendment process pursuant to N.J.S.A. 13:1E-23 and 24 including notice, public hearing, freeholder board approval, and subsequent DEP approval prior to construction of the facility, N.J.S.A. 13:1E-26, or to the issuance of any Certificate of Approved Registration and Engineering Design pursuant to N.J.S.A. 13:1E-4 or 5."
3. The inclusion in the plan of the following municipal compost sites is approved: Bound Brook Borough compost facility on Block 13, Lot 5; the Branchburg Township compost facility on Block 59, Lot 24; the Green Brook Township compost facility on Block 56, Lot 15; the Somerville Borough compost facility on Block 124, Lot 1; the Bernardsville Borough compost facility (DEP# 1803B) on Block 101, Lots 4 and 5; and the Serina compost facility (DEP# 1820A) on Block 602, Lot 1 in Warren Township. The construction or operation of any new facilities at these sites 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 Somerset 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 Statewide Solid Waste Management Plan, which incorporates the State Recycling Plan, states that a goal of 25% recycling shall be achieved by 1986 for all districts. To date, Somerset County has not amended its plan to include this recycling goal or to propose methods of reaching the goal. Also, Somerset County has not implemented the resource recovery element of its plan, and has not selected a resource recovery facility site. Further, Somerset County has not amended its plan to include specific uses of terminated landfill disposal sites. While the plan contains a listing of various proposed uses for each land disposal facility, the plan does not include a specific and final use for all of the terminated landfills located within Somerset County.

Therefore, I find the Somerset County District Solid Waste Management Plan deficient in that the district has not adequately addressed its role in recycling or developed specific plans for using terminated landfill disposal sites.

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.

On July 7, 1983 Somerset County adopted an amendment to the plan to designate a specific site in Bridgewater Township for a regional baler/balefill disposal facility. Following review of that amendment, the Commissioner of DEP issued a Certification of Approval on November 14, 1983 approving the selection of the Bridgewater Township site. To date, Somerset County has failed to implement the provisions of this approved amendment, and on October 15, 1985, adopted a separate amendment to the district plan to delete this proposed facility without identifying suitable alternative sites. Currently, this amendment is under review by the Department.

In addition, the Certification of Approval with Modification of the Somerset County District Solid Waste Management Plan issued by the Commissioner of DEP on July 31, 1980 approved the county's schedule for implementation of five decentralized resource recovery facilities. The modular facilities were proposed to handle a total of 650 tons per day of solid waste and be operational by 1985. To date, Somerset County has not implemented the resource recovery element of its plan or amended its plan to include the site(s) of these or other resource recovery facilities.

Therefore, I find that the Somerset District Solid Waste Management Plan remains deficient in that the plan has not designated sufficient available suitable sites for disposal of Somerset County's solid waste.

3. N.J.S.A. 13:1E-21b(4) requires procedures for coordinating all activities related to the collection and disposal . . . within the Solid Waste Management District, which procedures shall include the agreements entered into as provided herein between the Board of Chosen Freeholders . . . and every such person, and the procedures for furnishing the solid waste facilities contained in the Solid Waste Management Plan.

Somerset County does not presently have available existing solid waste disposal facilities within its borders to provide for the solid waste disposal needs of each of its municipalities now or in the near future. Further, despite continued reliance upon an out-of-county disposal facility, the Somerset District has not entered into an approved interdistrict agreement with Middlesex County or any other entity to provide for its disposal needs prior to the development of regional disposal facilities within Somerset County.

Therefore, I find that the Somerset County Plan remains deficient in that the plan does not include formal waste flow agreements to accommodate the disposal of waste outside of the Somerset District.

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

Since the Somerset Plan does not include a survey of proposed collection districts and transportation routes with projected transportation costs from collection districts to existing or available suitable sites for solid waste disposal facilities, I find that the Somerset Plan remains deficient with respect to these requirements.

5. 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.

Somerset County has not developed a detailed plan for financing solid waste management. Therefore, I find that the plan remains deficient in that it does not address the requirements of this section.

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 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 this 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 provisions and penalties of N.J.S.A. 13:1E-9, 10, and 12 and all other applicable laws.

3. Types of Solid Waste 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) which are part of the Somerset 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 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.

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 amendment to the Somerset County District Solid Waste Management Plan contained herein shall take effect immediately.

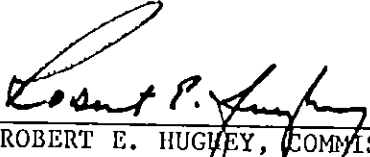
7. Reservation of Authority

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 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 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 6, 1985, and further direct the Somerset County freeholders to remedy those deficiencies outlined in Section C. of this certification as soon as possible.

12/11/85
DATE



ROBERT E. HUGHEY, COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION