



STATE OF NEW JERSEY
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 ROBERT E. HUGHEY, COMMISSIONER
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 TRENTON, N.J. 08625
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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 THE OCTOBER 15, 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, 1985, the Department approved, with modifications, 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 October 15, 1985, adopted an amendment to its approved district solid waste management plan. The amendment proposes the removal from the plan of the site of the Somerset County baler/balefill facility, previously approved to be located at the Stavola Construction Materials Inc. (SCMI) quarry, in Bridgewater Township.

The amendment was received by the Department of Environmental Protection on October 21, 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 October 15, 1985 is rejected 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, Robert E. Hughey, Commissioner of the Department of Environmental Protection have studied and reviewed the October 15, 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 inconsistent with the Statewide Solid Waste Management Plan.

In addition, the Division of 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. Also among these agencies were the Department of Community Affairs, the 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 Environmental Quality, Water Resources, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture, Health, and Transportation; the Green Acres Program, the Office of Recycling, the New Jersey Turnpike Authority, and the Board of Public Utilities. The following agencies failed to respond to our requests for comments: the State Departments of Community Affairs, and the Public Advocate; and the U.S. Environmental Protection Agency. The N.J. Advisory Council on Solid Waste Management and the N.J.D.E.P. Division of Fish, Game and Wildlife submitted substantive comments which are further addressed below.

The N. J. Advisory Council on Solid Waste Management commented that the removal of Somerset County's proposed balefill site prolongs the district's status as a waste exporting county which is dependent upon other solid waste districts for disposal capacity. Also, the council commented that removing the balefill site from consideration while offering no alternative is inconsistent with the state policy of encouraging self-sufficiency in waste disposal by counties. The N.J.D.E.P. Division of Fish, Game and Wildlife commented that an alternate solid waste disposal facility should have been selected prior to the removal of an approved site and that a replacement site may impact the environment to a greater degree than the previously selected site. The Department shares these serious concerns and considered these comments as part of its determination to reject the Somerset County Plan Amendment.

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 plans, have reviewed the October 15, 1985 amendment to the approved Somerset County District Solid Waste Management Plan and certify to the Somerset County Board of Chosen Freeholders that the October 15, 1985 amendment is rejected as further specified below.

Somerset County's amendment which proposes removal from the Somerset Plan of the site of the county's baler/balefill facility to be located at the Stavola Construction Materials Inc. (SCMI) quarry on Lot 15, Block 6401 in Bridgewater Township, Somerset County, is rejected.

On July 7, 1983 Somerset County adopted an amendment to the plan to designate a specific site on Lot 15, Block 6401 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 Stavola quarry site following considerable legal challenges by Bridgewater Township. Since that time, Somerset County has not implemented the baler/balefill facility at the approved site or selected an alternate site for interim and long term disposal of the county's waste. In response to this situation, the Department of Environmental Protection filed suit against Somerset County (and six other counties for similar reasons) in November 1984. Now, after more than 2 years of inaction, Somerset County has proposed to remove its approved site from the district plan in the absence of any formal interdistrict waste disposal agreements and without having designated any alternative available suitable sites to provide disposal capacity for the district's solid waste. The rationale used by the county in its proposal to remove the approved Stavola quarry site from the Somerset Plan relates to the anticipated cost and difficulty in property acquisition and the prospect of lengthy legal challenges on any condemnation proceedings. The Department finds that these reasons, as outlined in the October 15, 1985 plan amendment, are not sufficiently compelling to justify the removal of the approved site from the plan.

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.

The certification of the October 15, 1985 Amendment to the Somerset County Plan noted that the plan remained deficient with respect to numerous requirements of the Solid Waste Management Act as detailed in that certification. The October 15, 1985 certification also directed Somerset County to adopt an amendment to the district plan to remedy these deficiencies as soon as possible. Since the October 15, 1985 amendment to the Somerset County Plan did not address the Department's noted concerns, the plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(2), (3), (4), (5), and (6) and the county is ordered to correct same in accordance with Section E. of this certification.

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 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, 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 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. 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.

5. Effective Date of Amendment

The amendment to the Somerset County District Solid Waste Management Plan contained herein is rejected and Somerset County is directed to immediately implement the baler/balefill facility in Bridgewater Township, which continues to be an approved part of the Somerset County Plan.

6. Reservation of Authority

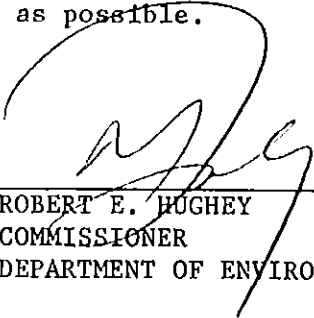
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Somerset County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide 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 Rejection 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 reject 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 October 15, 1985, and further direct the Somerset County freeholders to remedy those deficiencies outlined in Section C. of this certification as soon as possible.

DATE

1/23/86



ROBERT E. HUGHEY
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION