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 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 SUSSEX)
 (COUNTY SOLID WASTE MANAGEMENT)
 (DISTRICT)

CERTIFICATION
 OF THE OCTOBER 11, 1983 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 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 October 11, 1983, adopted an amendment to its approved District Solid Waste Management Plan. The amendment was received by the Department of Environmental Protection on October 21, 1983 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 items included in the amendment adopted by the Sussex County Board of Chosen

Freeholders on October 11, 1983 are approved, however, the District's Plan is deficient in several important ways as discussed in Section B.

B. 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 Plans, have reviewed the October 11, 1983 amendment to the approved Sussex County District Solid Waste Management Plan and certify to the Sussex County Board of Chosen Freeholders that it is approved and hereby made a part of the Sussex County District Solid Waste Management Plan.

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.(1) requires the designation of a department, unit, or committee of County government . . . to supervise the implementation of the County's Solid Waste Management Plan and to report thereon at such times as may be required by the Board of Chosen Freeholders.

The Sussex County Board of Chosen Freeholders has designated the County of Sussex as the management unit to supervise the implementation of the County's Solid Waste Management Plan. The Sussex County Plan is deficient for not complying with the requirements of N.J.S.A. 13:1E-21b.(1) because the County failed to designate a specific department, unit, or committee of government to supervise the implementation of the County Plan.

- 2) N.J.S.A. 13:1E-21b.(2) and (3) 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 . . . and a site plan which shall include all existing solid waste 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.

Sussex County has developed a solid waste disposal strategy which consists of the continued use of the H.S.L., Inc. Landfill (facility #1913B) for a portion of 1984 until the facility is officially closed by court order or upon the opening and operation of a long-term solid waste disposal facility within Sussex County, whichever first occurs. The Department filed suit in Superior Court seeking closure of the H.S.L., Inc. facility due to its having exceeded its approved elevation and for its failure to implement in a timely fashion the conditions of its registration and engineering design. The Court has found that the landfill is in violation of the Solid Waste Management Act but ordered it to remain open until July 9, 1984 in violation of its registration and engineering design. Sussex County has not proposed an authorized expansion of the existing H.S.L., Inc. facility.

Sussex County proposes that in the event that H.S.L., Inc. Landfill (facility #1913B) is closed prior to the establishment of a long-term solid waste disposal facility within Sussex County, the County designates Grand Central Sanitary Landfill, Inc., located in Pen Argyl, Pennsylvania as the interim solid waste landfill disposal site for Sussex County.

These waste flow changes are approved for inclusion in the County Plan. Final disposition of such proposed changes in the State waste flow rules will be determined pursuant to formal rulemaking by the Department and the Board of Public Utilities in accordance with N.J.A.C. 7:26-6.6.

The Sussex County Plan amendment proposes to designate Site 40, Tax Lot 33A, 33B, 33E, and 34, Block 14, within the Township of Lafayette, Sussex County for the establishment of a long-term county owned solid waste disposal facility. Based upon the data submitted by the County as part of the Plan amendment, this proposed site is approved as part of the Sussex County Solid Waste Management Plan. The construction or operation of these facilities shall be preceded by the obtaining 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. As part of a previous administrative consent agreement with the property owner, the Department had reviewed proposed engineering designs for this parcel and identified numerous engineering and environmental concerns regarding the site. It is important to note that unless these environmental problems are addressed and rectified in the Environmental Impact Statement and permit application for the proposed facility, an alternate site will have to be designated. The Sussex County Board of Chosen Freeholders should consider this carefully in light of their responsibility to provide for adequate disposal capacity for the County's waste.

The Sussex County Plan amendment indicates that the proposed resource recovery facility is expected to be operational in 1986 or early 1987. The facility is far behind the previously approved schedule which projected the proposed facility to be operational by 1985. Moreover, no site has been designated for this facility. The implementation of the proposed county landfill is also behind the previously approved schedule which projected the facility to be operational by December 1, 1982. Sussex County shall submit to the Department a detailed schedule outlining the tasks to be performed and a timetable for performing these tasks for the implementation of the solid waste facilities included in the Plan amendment.

Sussex County shall also submit to the Department a clarification of the proposed use of the County owned long-term solid waste landfill after the implementation of the proposed resource recovery facility in 1986.

The Plan also fails to contain a comprehensive plan for using terminated landfill disposal sites. The County shall submit to the Department a plan for the use of all terminated landfill disposal sites.

Therefore, the Sussex County Solid Waste Management Plan is deficient in accordance with the requirements of N.J.S.A. 13:1E-21b.(2) and (3) because of the lack of a designated resource recovery site, failure to finalize a plan for terminated landfill disposal sites, and the lack of a specific schedule of activities to implement the resource recovery and county landfill facilities. These deficiencies must be corrected in accordance with the schedule shown in Section D of this Certification.

- 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 suitable sites for solid waste disposal facilities.

Sussex County has failed to comply with the requirements of N.J.S.A. 13:1E-21b.(4) in that no survey of transportation routes with projected transportation costs to the designated interim disposal facility in Pennsylvania has been included in the Plan amendment.

Therefore, the Sussex County Solid Waste Management Plan is deficient with respect to the requirements of N.J.S.A. 13:1E-21b.(4). This deficiency must be corrected in accordance with the schedule shown in Section D of this Certification.

- 4) N.J.S.A. 13:1E-21b.(5) requires procedures for coordinating all activities related to the collection and disposal of solid waste by every person . . . 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.

The Sussex County District Solid Waste Management Plan is deficient with respect to the requirements of N.J.S.A. 13:1E-21b.(5) because no agreements exist between the Sussex County Board of Chosen Freeholders and Morris or Passaic Counties which export solid waste into Sussex County.

- 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.

The Sussex County Plan fails to provide a detailed plan for financing solid waste management. Therefore, the Sussex County District Solid Waste Management Plan is deficient for not providing the method or methods of financing solid waste management. This deficiency must be corrected in accordance with the schedule shown in Section D of this Certification.

C. Other Provisions Affecting the Plan Amendments

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, 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-2 and N.J.A.C. 7:26-2.13 and shall not apply to liquid wastes, sewage sludge, septage, hazardous wastes, oil spill cleanup wastes, and infectious waste.

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, as provided for by N.J.S.A. 13:1E-24f., to proceed with the implementation 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 amendment to the Sussex County District Solid Waste Management Plan contained herein shall take effect immediately.

7) Reservation of Authority

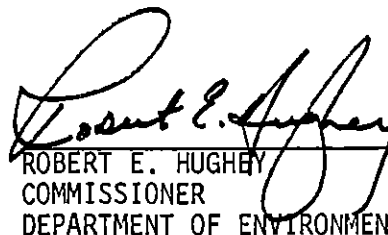
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Sussex County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide Solid 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 intra-district waste flow rules, and also includes the compilation of individual District Plans and amendments as they are approved.

D. Certification of Approval of the Amendment and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection

In accordance with the provisions of N.J.S.A. 13:1E-1 et seq., I hereby approve the amendment, as outlined in Section B of this Certification, to the Sussex County District Solid Waste Management Plan which was adopted by the Sussex County Board of Chosen Freeholders on October 11, 1983. Notwithstanding said approval, the significant deficiencies described in Section B, Parts 1, 2, 3, and 5 must be addressed. The proposed resolution of said deficiencies must be submitted to the Department within ninety (90) days of the date of this Certification.

DATE

3/19/84


ROBERT E. HUGHEY
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION