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Scott A. Weiner  
Commissioner

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 JANUARY 22, 1992  
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 of Environmental Protection approved, with modifications, the Sussex County District Solid Waste Management Plan (County 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 a 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 a 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. Amendments to the Act found in N.J.S.A. 13:1E-136 et seq., require that, among other things, Counties amend their district solid waste management plans to include an outline of the proposed uses of the moneys in the District Resource Recovery Investment Tax (RRIT) Fund, as well as establish a schedule for disbursement of the moneys in that fund. The Sussex County Board of Chosen Freeholders (County Freeholders) completed such a review and on January 22, 1992, adopted an amendment to its approved County Plan.

The amendment proposed a use and disbursement from the County RRIT Fund to finance a household hazardous waste collection program. Also, the amendment proposed an outline of a strategy of an amendment for addressing the recommendations of the Emergency Solid Waste Assessment Task Force (Task Force) Final Report and longstanding plan deficiencies.

The amendment was received by the Department of Environmental Protection and Energy (Department or DEPE) on April 13, 1992 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire County Plan, and has determined that the amendment adopted by the County Freeholders on April 13, 1992 is approved as provided in N.J.S.A. 13:1E-24. Deficiencies in the County Plan have been identified within Section C. of this certification.

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 have studied and reviewed the April 13, 1992 amendment to the County Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and N.J.S.A. 13:1E-150 and I find and conclude that this plan amendment is consistent with the Statewide Solid Waste Management Plan and N.J.S.A. 13:1E-150 in proposing an acceptable use and disbursement schedule for moneys in the County RRIT Fund.

In conjunction with the review of the amendment, the Department circulated copies to sixteen administrative review agencies and solicited their review and comment. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various bureaus, divisions, and agencies within the Department. These agencies are the following:

Office of Energy, DEPE  
Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE  
Division of Solid Waste Management, DEPE  
Green Acres Program, DEPE  
Land Use Regulation Element, DEPE  
Groundwater Quality Management Element, DEPE  
Wastewater Facilities Regulation Element, DEPE  
New Jersey Turnpike Authority

New Jersey Advisory Council on Solid Waste Management  
Department of Agriculture  
Department of Health  
Department of Transportation  
Department of Community Affairs  
Department of the Public Advocate  
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the January 22, 1992 Amendment

The following agencies did not object to the proposed plan amendment:

Office of Energy, DEPE  
Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE  
Land Use Regulation Element, DEPE  
Green Acres Program, DEPE  
New Jersey Turnpike Authority  
New Jersey Advisory Council on Solid Waste Management  
Department of Agriculture  
Department of Transportation

The following agencies did not respond to the Department's requests for comments:

Groundwater Quality Management Element, DEPE  
Wastewater Facilities Regulation Element, DEPE  
Department of Health  
Department of Community Affairs  
Department of the Public Advocate  
U.S. Environmental Protection Agency

The following agency submitted substantive comments which are further addressed below:

Division of Solid Waste Management, DEPE

2. Issues of Concern Regarding the January 22, 1992 Amendment

Issue: RRIT Fund Use and Disbursement

On October 23, 1990, the County Freeholders adopted an amendment to their County Plan which outlined the uses of the RRIT Fund and provided a schedule for the disbursement of those moneys. The amendment designated the County's Fiscal Year 1989 RRIT Fund allocation in the amount of \$45,738.50 to be dispensed to the Sussex County Municipal Utilities Authority (SCMUA) for the purpose of providing a household hazardous waste disposal program for the residents of the County. The May 22, 1991 certification of this amendment determined that the proposed use and disbursement schedule for moneys from the RRIT Fund was in conformance with the requirements of N.J.S.A. 13:1E-150b and approved the use and allocation of the moneys. However, the County was directed in the certification to make no further disbursement from the fund until the County had adopted another plan amendment and received approval from the Department for the remaining fund balance.

On January 22, 1992, the County Freeholders adopted an amendment to their County Plan which further outlined the proposed use of the RRIT Fund and provided a schedule for the disbursement of those moneys. The amendment designated the County's Fiscal Year 1988 RRIT Fund allocation of \$44,468.00, the Fiscal Year 1990 allocation of \$125,164.00, and the remaining funds in the Fiscal Year 1986/1987 allocation of \$2,130.59, for a total amount of \$171,762.59, to be dispensed to the SCMUA for the purpose of providing up to three household hazardous waste disposal days for the residents of the County. These events are scheduled to conclude by the Fall of 1992. Use of the moneys shall include advertising and promotion of the events as well as the payment for the transportation and disposal of the materials collected at the SCMUA's solid waste complex during the events by a contracted company licensed to transport hazardous waste to a facility permitted to accept hazardous waste. All materials shall be documented and manifested prior to transportation from the SCMUA site. The proposed use and disbursement schedule for moneys from the RRIT Fund are in conformance with the requirements of N.J.S.A. 13:1E-150b and c.

The County Freeholders are hereby notified of these comments.

**Issue: Task Force Final Report**

The January 22, 1992 amendment responded to a requirement contained in the May 22, 1991 certification which directed the County to adopt an amendment addressing the recommendations of the Task Force Final Report. The amendment stated that the County Freeholders have designated the SCMUA to prepare a two-year update to the County Plan. The updated plan will address, among other things, the Task Force recommendations relating to recycling, source reduction and regionalization. The strategy in outline form of items that the County indicated were to be addressed in the subsequent plan amendment was included as a part of the January 22, 1992 amendment. Specific issues relative to the Task Force recommendations are identified below:

- a. **Designate Recovery Targets:** The outline indicates that a proposed strategy will be submitted in the plan update to recycle 60% of the district's solid waste. The proposed strategy should contain documentation to support achievement of recycling a minimum of 60% of the total waste stream and 50% of the municipal waste stream by December 31, 1995.
- b. **Enforcement:** The outline does not specify any strategy to expand the County's existing solid waste enforcement program to include recycling. The County should describe in the plan update the enforcement program in detail, including methods and frequency of enforcement and resources needed to implement and maintain a proper enforcement program.
- c. **Additional Recyclable Materials:** The outline identified additional materials to be recycled to include magazines, household batteries, and #2 HDPE plastic containers. The County should submit in the plan update a description of its overall recycling program, the

designation of additional recyclables in both the residential and the commercial sectors, its method or timeframes for encouraging additional recycling efforts, and specify its residential, commercial and institutional target groups for such efforts.

- d. **Education:** The outline does not describe the County's strategy to increase recycling. The County should indicate in the plan update its intentions to continue to expand its public education efforts in schools and throughout the public and private sectors and its outreach to the commercial and the multifamily dwelling sectors. Also, the County should describe in detail the educational and outreach program, current and anticipated target groups, associated timeframes for developing expanded recycling programs and the anticipated frequency of its efforts.
- e. **Vegetative Waste:** The outline does not identify specific programs to encourage vegetative waste composting and the development of composting facilities. The County should provide in the plan update an inventory of existing and proposed vegetative waste composting facilities, and estimate the annual tonnage diverted from the waste stream as a result of its compost program.
- f. **Procurement Policies:** The outline does not address the County's procurement policy regarding recycled materials. The County should identify in the plan update its procurement policy such as specific procurement guidelines, procurement goals, a method of record keeping and enforcement, and a timetable for implementation. The County program should include: an education and outreach program to the municipalities; a requirement for the County and municipal governments to adhere to current and future State procurement goals; sample bid specifications for use by municipal governments and private businesses; and the purchase of recycled products instead of virgin products and the use of recycled materials for road and other construction activities.
- g. **Source Reduction Policies:** The outline indicates that a strategy for developing a source reduction program will be contained in the plan update. This strategy should focus upon source reduction through the use of waste audits, household hazardous waste collection programs, yard waste management programs, educational strategies, and expanding the use of per container rate collections systems. The plan update should identify the specific educational programs developed to implement source reduction in the County, the target groups, the specifics of the waste audit/survey program, the proposed enforcement measures, and the associated timetables for implementing the source reduction program. Finally, the strategy should cap 1990 per capita generation of waste, cap total waste generation by December 31, 1995 and reduce total waste generation by December 31, 2000.
- h. **Regionalization:** The outline does not indicate that regionalization is being addressed in the plan update. The County must describe in the plan update the extent to which it can undertake regionalization

of its solid waste facilities and programs with other districts to provide regional solutions to solid waste management. Consideration should be given to regional plans for materials processing, recycling, and disposal facilities.

- i. **Additional Processing Facilities:** In addition to conversion of the County's existing transfer station to a bulky waste processing facility as specified in the outline, the County should consider in the plan update development of additional processing facilities such as a mixed waste processing facility to increase the rate of recycling of various materials.
- j. **Cost for Implementing 60% Recycling Strategy:** The outline does not indicate a projected cost for implementing the many programs necessary to implement the County's recycling strategy. The County should prepare such an estimate and include it in the plan update.

The County Freeholders are hereby notified of these comments.

**Issue: General Plan Deficiencies**

In its October 16, 1985 certification of the May 14, 1985 amendment, the Department reviewed the entire County Plan to determine whether the requirements set forth in N.J.S.A. 13:1E-21 were fulfilled. Certain deficiencies were identified which were the failure to provide a plan for using terminated landfills (N.J.S.A. 13:1E-21b(2)), the lack of sufficient suitable disposal sites (N.J.S.A. 13:1E-21b(3)), the lack of transportation routes to disposal sites (N.J.S.A. 13:1E-21b(4)) and the lack of a method or methods of financing needed solid waste disposal facilities (N.J.S.A. 13:1E-21b(6)). With the opening of the Sussex County Landfill in early 1990, the County is no longer deficient with respect to N.J.S.A. 13:1E-21b(3). Among the topics identified in the outline of a strategy for addressing solid waste issues are updating a plan for financing solid waste facilities, revising transportation routes for solid waste haulers, and a description of long-term uses of closed landfills. The Department awaits the subsequent plan amendment submission to determine whether the remaining plan deficiencies have been adequately addressed.

Two other issues identified in the strategy outline warrant discussion. These issues relate to the deletion of a municipal solid waste incinerator from the County Plan and the deletion of the plan for disposal of municipal incinerator ash at the County Landfill. The County, in its October 11, 1988 amendment, attempted to delete a disposal strategy that proposed mass-burn incineration and imposed a ban on the acceptance of ash residue at the County Landfill. The Department, in its April 12, 1989 certification, rejected both deletions until an alternate resource recovery technology was identified. The County must still provide for a comprehensive resource recovery strategy in the subsequent plan amendment submission.

The County Freeholders are hereby notified of these comments.

C. Certification of the Sussex County District Solid Waste Management Plan Amendment

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-21, which establishes specific requirements regarding the contents of the district solid waste management plans, and N.J.S.A. 13:1E-150 which establishes eligible uses and disbursement schedule requirements for a County's RRIT Fund, I have reviewed the January 22, 1992 amendment to the approved County Plan and certify to the County Freeholders that the January 22, 1992 amendment is approved as further specified below.

1. Resource Recovery Investment Tax Fund Use and Disbursement Schedule

The amendment designates the County's Fiscal Year 1988 RRIT Fund allocation of \$44,468.00, the Fiscal Year 1990 allocation of \$125,164.00, and the remaining funds in the Fiscal Year 1986/1987 allocation of \$2,130.59, to be dispensed to the SCMUA for the purpose of providing up to three household hazardous waste disposal days for the residents of the County. These events are scheduled to conclude by the Fall of 1992. This proposed use is in conformance with the requirements of N.J.S.A. 13:1E-150b and is approved.

The Department finds that the provisions of the amendment concerning the allocation for activities over time as they relate to the RRIT Fund do meet the Department's content and format criteria for provision of a disbursement schedule. Therefore, the disbursement schedule contained in the amendment is also approved. Any future fund balance, plus accrued interest, shall not be disbursed until the County adopts and the Department approves a subsequent plan amendment which outlines a proposed use and disbursement schedule in accordance with N.J.S.A. 13:1E-150.

2. Sussex County District Solid Waste Management Plan Deficiencies

In the October 16, 1985 and May 5, 1991 certifications to the County Plan, the County Freeholders were directed to address, respectively, certain plan deficiencies and the recommendations of the Task Force Final Report pertaining to source reduction, recycling and regionalization. The Department considers the outline of the yet to be adopted County Plan amendment addressing the longstanding plan deficiencies and the recommendations of the Task Force as a positive step by the County, but it does not fulfill the requirements set forth by the DEPE. Therefore, the Department directs the County to submit the proposed County Plan amendment within 120 days of the date 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 this amendment to the County 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 and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment and of the County 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, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and transporters registered with the Department and operating within the County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the County Plan. Any facility operator or transporter 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 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 Plan

The provisions of the County 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. All nonhazardous 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 set forth at N.J.A.C. 7:26-6, but are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

4. Certification to Proceed with the Implementation of the Plan Amendment

This document shall serve as the certification of the Commissioner of the Department to the County Freeholders and pursuant to N.J.S.A. 13:1E-24c and f, the County shall proceed with the implementation of the approved amendment certified 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 -99.12, N.J.A.C. 7:26-1.4, -2.13, and N.J.A.C. 7:26A-1.3.

6. Effective Date of the Amendment

The amendment to the County Plan contained herein shall take effect immediately.



7. Reservation of Authority

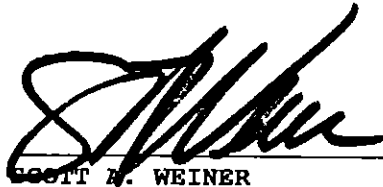
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan. The Department has published a Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, 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 and Energy

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 Sussex County District Solid Waste Management Plan which was adopted by the Sussex County Board of Chosen Freeholders on January 22, 1992. I hereby also require, as noted in Section C., the Sussex County Board of Chosen Freeholders to address the noted deficiencies within the timeframe specified.

DATE

8/28/92



SCOTT A. WEINER

COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND ENERGY