



State of New Jersey

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CERTIFICATION OF THE SEPTEMBER 11, 2013 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 (now known as the New Jersey Meadowlands Commission) develop comprehensive plans for waste management in their respective districts. On June 1, 1981, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Sussex County District Solid Waste Management Plan (County Plan).

The Act further provides that a district may review its district plan at any time and, if found inadequate, a new district plan must be adopted. The Sussex County Board of Chosen Freeholders (County Freeholders) completed such a review and on September 11, 2013 adopted an amendment to its approved County Plan.

The September 11, 2013 amendment to the County Plan proposes County Plan inclusion of a horizontal and vertical expansion of the Sussex County Municipal Utilities Authority (SCMUA) Landfill located on Block 14, Lots 33.05, 34, 35.01, 36, 37, 38.01, and 38.06 at 34 Route 94 South in the Township of Lafayette.

The amendment was considered administratively complete for review by the Department on September 23, 2013 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment and has determined that the amendment adopted by the County Freeholders on September 11, 2013 is approved as provided in N.J.S.A. 13:1E-24.

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 September 11, 2013 amendment to the County Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that the amendment is consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the elements relative to the September 11, 2013 amendment which are included below.

Elements of the September 11, 2013 Amendment

Element: Facility History and Operations

Site 1E, located on Block 14, Lots 33A, 33B, 33E, 34, 35, 37, and 38A in the Township of Lafayette, was initially included in the County Plan for the development of, amongst other things, a sanitary landfill via a May 14, 1985 amendment to the County Plan. The portion of the County Plan amendment dealing with the inclusion of the landfill site was certified as approved by the Department on October 16, 1985.

A November 12, 1986 amendment to the County Plan proposed County Plan inclusion of an amended lot and block designation of Site 1E. The November 12, 1986 amendment to the County Plan proposed the addition of Block 14, Lot 38F and the deletion of Lot 33B and portions of Lots 33A, 34, and 35 on Block 14 in the Township of Lafayette. The portion of the November 12, 1986 County Plan amendment dealing with County Plan inclusion of the amended lot and block designation of the landfill was certified as approved by the Department on March 26, 1987.

A June 22, 2005 amendment to the County Plan proposed County Plan inclusion of an expansion of the SCMUA Landfill, located at 34 South Route 94 in the Township of Lafayette. Said expansion was proposed to occur on Block 14, Lot 38.01, previously identified in the County Plan as Lot 38A, and was to increase the footprint of the subject landfill by 4.5 acres and the maximum capacity by 658,000 cubic yards.

On July 25, 2007, the Sussex County Board of Chosen Freeholders adopted an amendment to the County Plan to reaffirm County Plan inclusion of, amongst other things, the SCMUA Landfill, located on Block 14, Lots 33.05, 34, 35.01, 36, 37, 38.01, and 38.06 in the Township of Lafayette. The subject facility was reaffirmed for County Plan inclusion for the acceptance and processing of solid waste types 10, 13, 13C, 23, 25, 27, 27A, and 27I from 7:00 am – 4:00 pm, Monday through Saturday. This amendment to the County Plan was certified as approved by the Department on January 11, 2008.

The September 11, 2013 amendment to the County Plan proposes County Plan inclusion of a horizontal and vertical expansion of the SCMUA Landfill located on Block 14, Lots 33.05, 34, 35.01, 36, 37, 38.01, and 38.06 in the Township of Lafayette. The proposed amendment to the County Plan reads that the subject expansion is expected to increase the capacity of the SCMUA Landfill by 5,370,216 cubic yards over its currently-permitted capacity and extend its useful life from 2020 to 2062. Lastly, this amendment to the County Plan also reads that the subject expansion is expected to occur in six discrete stages and that “each stage of expansion could be constructed as needed, depending upon actual future waste disposal or until such time as a proven, viable, cost-effective alternative technology becomes available.”

Element: Traffic Routes for Solid Waste Transporters Accessing and Exiting the SCMUA Landfill

Pursuant to N.J.A.C. 7:26-3.4(j), all solid waste transporters must access and exit a solid waste facility via truck routes designated in either the respective district solid waste management plan or Solid Waste Facility (SWF) Permit.

On January 12, 1988, the Sussex County Board of Chosen Freeholders adopted an amendment to the County Plan which proposed, amongst other things, recommended routes for solid waste transporters accessing the subject site. This amendment to the County Plan was approved, with modification, by the Department on June 28, 1988. These recommended traffic routes were reaffirmed in the County Plan via a County Plan amendment adopted by the Sussex County Board of Chosen Freeholders on May 25, 1994 and certified as approved by the Department on November 15, 1994.

It is the Department’s position that the above noted traffic routes are not currently enforceable because they are merely recommended to solid waste transporters accessing the SCMUA Landfill. Therefore, the County shall address this deficiency through the planning process as described below in Section C.

It is also important to note that as the traffic routes subject of the 1988 and 1994 amendments to the County Plan were devised over twenty-five years ago, the County should conduct due diligence to determine which routes are currently most appropriate for solid waste vehicles accessing the SCMUA Landfill.

Element: Regulatory Requirements

As noted above, the Department circulated copies of the September 11, 2013 amendment to the County Plan to various administrative review agencies. In response to this request for comment, the Department’s Division of Fish & Wildlife (DFW) commented that lands potentially involved in Stages 2 & 3 of the subject expansion appear to intersect with Habitat patches valued for the Federally-Listed Bog Turtle. The DFW went on to comment that there is an active Bog Turtle colony in the area and that as a result, the U.S. Fish & Wildlife Service will need to be contacted

for comment and direction prior to initiating any construction activities in these areas.

The proposed landfill expansion may be subject to State land use regulations regarding freshwater wetlands, flood hazard areas, coastal areas, and/or Highlands water protection and planning. If any new construction including vegetation clearing, grading, paving, and/or filling is proposed at the subject facility, further State approval may be required prior to construction. Therefore, the SCMUA shall contact the Department's Division of Land Use Regulation for regulatory guidance before initiating construction.

The September 11, 2013 amendment to the County Plan calls for an increase in the approved capacity of the SCMUA Landfill. Prior to the commencement of said expansion, a modification to the SCMUA's SWF Permit will have to be obtained pursuant to N.J.A.C. 7:26-2.6 et seq.

Solid waste facilities are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This subchapter of regulations prohibits the release of odors and other air contaminants which interfere with the enjoyment of life and property. In addition, the owner or operator of a solid waste facility requires an air quality preconstruction permit and operating certificate in accordance with N.J.A.C. 7:27-8.2.

Finally, if any operation of a solid waste facility will discharge pollutants as defined in N.J.A.C. 7:14A-1.2, the owner or operator of that solid waste facility must secure a New Jersey Pollutant Discharge Elimination System Permit pursuant to N.J.A.C. 7:14A-2.4(b)4. Additionally, as per N.J.A.C. 7:14A-22.3(a)2, if the owner or operator of a solid waste facility will, as part of its operation, build, install, modify, or operate any sewer line, pumping station, or force main which serves more than two buildings or is for the conveyance of 8,000 gallons per day or more of wastewater, a Treatment Works Approval would have to be obtained from the Department prior to construction.

Additional Element of the Sussex County District Solid Waste Management Plan

Element: Municipal Solid Waste (MSW) Recycling in Sussex County

On July 25, 2007, the Sussex County Board of Chosen Freeholders adopted an amendment to the County Plan which, among other things, included specific strategies for achieving the State's statutorily-mandated minimum MSW recycling rate of 50%. This amendment to the County Plan was certified as approved in part and rejected in part by the Department on January 11, 2008.

The most recent recycling data compiled by the State shows that in 2011, 36% of Sussex County MSW was recycled. Using 2011 Department data, an additional 16,900 tons of Sussex County-MSW will have to be recycled to reach an MSW recycling rate of 50%.

In this regard, the County is reminded that the Department adopted an Update to the Statewide Solid Waste Management Plan in 2006, which set forth, among other things, a framework for the

counties in assessing various strategies to be employed to achieve the statutorily-mandated recycling goals and, although the state does not prescribe specific actions to be taken, the Department strongly recommends that the County, at a minimum:

- 1) Assess compliance with the requirements of the County recycling plan within the institutional sector, including public and private schools, government buildings, recreational facilities and other public locations within the county. This assessment should include what specific actions the County will take if a school board or government body refuses to follow recycling mandates; and,
- 2) Coordinate with appropriate municipal authorities for increased compliance and enforcement inspections at commercial establishments, where quantities of designated recyclables (especially corrugated cardboard and various grades of paper) may be present; and,
- 3) Coordinate with each municipality in the County that in 2011 had an MSW recycling rate of 25% or less and develop strategies to increase their respective recycling rates by at least 25% by the end of calendar year 2014, and prepare plans to implement those strategies.

It should also be noted that, relative to the above, the Department is available to assist the County in developing appropriate recycling compliance and other strategies to achieve mandated recycling goals. Finally, in order to assess progress by the County in achieving the state's mandated recycling goals, the County is directed to submit, beginning on July 1, 2014 and every six months thereafter, a report detailing actions taken, and specific results achieved, until such time as the Department determines that the County has achieved these goals.

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, I have reviewed the September 11, 2013 amendment to the approved County Plan and certify to the County Freeholders that the September 11, 2013 amendment is approved as further specified below.

The September 11, 2013 amendment proposing County Plan inclusion of a horizontal and vertical expansion of the SCMUA Landfill located on Block 14, Lots 33.05, 34, 35.01, 36, 37, 38.01, and 38.06 at 34 Route 94 South in the Township of Lafayette is approved; however, the County must submit a County Plan amendment within 180 days of the date of this approval including designated traffic routes for solid waste transporters accessing and exiting the subject facility. The County may submit the required amendment as an administrative action, pursuant to N.J.A.C. 7:26-6.11 et seq.

This certification shall not be construed as an expression of the DEP's intent to issue a SWF Permit Modification or Renewal for any proposed or existing facility or operation. The issuance

of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the DEP and the Attorney General of the State of New Jersey to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

D. Other Provisions Affecting the Plan Amendment

1. 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, N.J.A.C. 7:26-5.1 et seq., and all other applicable laws.

2. Certification to Proceed with Implementation of 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 Freeholders shall proceed with the implementation of the approved components of the amendment certified herein.

3. 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.

4. Effective Date of Amendment

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

5. 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, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval of the Amendment 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 County Plan which was adopted by the County Freeholders on September 11, 2013.

January 10, 2014

Date

Bob Martin, Commissioner
Department of Environmental Protection