



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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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 23, 1990
AMENDMENT TO THE SUSSEX COUNTY
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.) establishes a comprehensive system for the management of solid waste in New Jersey. The Act designates all twenty-one (21) of the state's counties, and the Hackensack Meadowlands District, as Solid Waste Management Districts, and mandates that the Boards of Chosen Freeholders and the Hackensack Meadowlands Development Commission develop comprehensive plans for waste management in their respective districts.

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 procedures. 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. 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 Fund, as well as establish a schedule for disbursement of the moneys in that fund.



On June 1, 1981, the Department of Environmental Protection (Department or DEP) approved the Sussex County District Solid Waste Management Plan. The Sussex County Board of Chosen Freeholders, on October 23, 1990, adopted an amendment to its approved District Solid Waste Management Plan to satisfy the requirements of N.J.S.A. 13:1E-150. The proposed amendment designates the county's FY 1989 Resource Recovery Investment Tax Fund allocation in the amount of \$45,738.50 to be dispensed to the Sussex County Municipal Utilities Authority for the purpose of providing up to two Household Hazardous Waste Disposal Days during the year 1991 for the residents of Sussex County.

The amendment was received and accepted by the DEP on December 24, 1990 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 amendment adopted by the Sussex County Board of Chosen Freeholders on October 23, 1990 is approved in full as provided in N.J.S.A. 13:1E-24. Despite this approval, the Department has noted substantive deficiencies within the Sussex County Plan as further noted in Sections B. and C. below. These deficiencies pertain to the county's need to submit a subsequent amendment which details a revised solid waste strategy as called for previously by the Department and which indicates how the county will achieve the 60% recycling rate by 1995, source reduction through implementation of the programs called for within the Governor's Emergency Solid Waste Task Force Report and long-term regionalization in solid waste management.

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) and N.J.S.A. 13:1E-150, I, Scott A. Weiner, Commissioner of the Department, have studied and reviewed the October 23, 1990 amendment to the approved Sussex County District Solid Waste Management 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 of and disbursement schedule for moneys in the Sussex County District Resource Recovery Investment Tax Fund.

In addition, the Department circulated the plan amendment to seventeen 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. Among these agencies were the following:

- Division of Environmental Quality, DEP
- Division of Financial Management, Planning and
General Services, DEP
- Division of Water Resources, DEP
- Division of Coastal Resources, DEP
- Division of Parks and Forestry, DEP
- Division of Fish, Game and Wildlife, DEP
- Division of Solid Waste Management, DEP
- Board of Public Utilities

Green Acres Program, DEP
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

Of these agencies, the following did not object to the proposed plan amendment:

Division of Environmental Quality, DEP
Division of Water Resources, DEP
Division of Coastal Resources, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Board of Public Utilities
Green Acres Program, DEP
New Jersey Turnpike Authority
Department of Agriculture
Department of Transportation
Department of Community Affairs

The following agencies did not respond to our requests for comments:

Division of Financial Management, Planning and
General Services, DEP
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of the Public Advocate
U. S. Environmental Protection Agency

The following agency provided substantive comments as further described below:

Comment: The Division of Solid Waste Management (DSWM) commented that the provisions of the "McEnroe" legislation (N.J.S.A. 13:1E-136 et seq.) which establish District Resource Recovery Investment Tax Fund accounts for the state's twenty-one counties, set out a clear state policy objective to generate revenues in order to subsidize anticipated resource recovery tipping fees to a level which is competitive with disposal costs at landfills utilized by the counties. If a county can demonstrate to the satisfaction of the Department that utilization of a resource recovery facility is not feasible for the disposal of solid waste generated in the county, then the District Resource Recovery Investment Tax Fund may be used to design, finance, construct, operate or maintain environmentally sound state-of-the-art sanitary landfill facilities.

Prior to disbursement from its District Resource Recovery Investment Tax Fund, however, a county must prepare a plan amendment which outlines the proposed uses of the moneys in its District Fund and establishes a disbursement schedule for those moneys in the fund. Thus, two tests must be met: an eligible use test,

which uses are limited to those identified in N.J.S.A. 13:1E-150b. and a disbursement schedule test, which test criteria are not specifically provided in the Act.

Eligible uses of the fund are provided in Attachment I, Part I, of this certification. In consideration of the intent and objectives of the Act outlined above and the specific limitations upon eligible uses of the fund provided in N.J.S.A. 13:1E-150b., projects not formally identified in the approved district solid waste management plan shall not be funded with Resource Recovery Investment Tax Fund moneys. Therefore, in order to ensure users' rate reduction and facilitate timely project implementation, disbursements from a District Resource Recovery Investment Tax Fund shall be made only to projects formally identified in the approved district solid waste management plan.

Pursuant to law, in order to provide safeguards as to how the investment tax funds are to be spent, a schedule for the disbursement of the moneys must be provided through the plan amendment process established under the New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.). In this way, a formal procedure for quantifying contributions to and withdrawals from the fund is established in order to maintain a running fund balance. Such a procedure may be followed using a variety of specific steps and methods of data presentation. In order to evaluate the adequacy of the disbursement schedule, the Department has established criteria (see Attachment I, Part II).

On October 23, 1990, the Sussex County Board of Chosen Freeholders adopted an amendment to their approved district plan which outlined the proposed uses of the District Resource Recovery Investment Tax Fund and provided a schedule for disbursement of those moneys. The proposed amendment designates the county's FY 1989 Resource Recovery Investment Tax Fund allocation in the amount of \$45,738.50 to be dispensed to the Sussex County Municipal Utilities Authority for the purpose of providing up to two Household Hazardous Waste Disposal Days during the year 1991 for the residents of Sussex County. These events are to be scheduled for Spring 1991 and Fall 1991. Use of these moneys shall include advertising and promotion of events as well as payment for transportation and disposal of materials collected at the Authority's facility 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 Authority's site.

Response: I have determined that the proposed use and disbursement schedule for moneys from the Sussex County District Resource Recovery Investment Tax Fund are in conformance with the requirements of N.J.S.A. 13:1E-150b.

Comment: The DSWM also commented that Sussex County, in the October 11, 1988 Plan Amendment to its District Solid Waste Management Plan, proposed the deletion of the previously approved mass-burn incinerator strategy. The certification by former Commissioner Daggett dated April 17, 1989, rejected the deletion of this strategy because the alternate replacement technology was not adequately defined. The Department still has not received a fully detailed description of the proposed alternate technology. Therefore, the DSWM takes the position that the Sussex Plan remains deficient with respect to N.J.S.A. 13:1E-21b(2).

Response: By copy of this certification, I am notifying Sussex County of the comments and requirements of the DSWM and directing Sussex County to, within 180 days of the date of this certification, adopt a subsequent amendment addressing the plan deficiencies identified in the April 17, 1989 certification of the October 11, 1988 Sussex County District Plan Amendment.

Comment: The DSWM noted that the amendment fails to specify how Sussex County will achieve the 60% recycling rate as called for in the Emergency Solid Waste Assessment Task Force Final Report of August 6, 1990. In compliance with the Task Force's Final Report, the Division recommends that Sussex County adopt an amendment to indicate how it will achieve the 60% recycling goal by 1995 and, also, how it will achieve source reduction through implementation of specific programs as outlined in the Task Force Report. Further, the regionalization of long-term materials processing, recycling, transfer and disposal facilities should also be addressed by Sussex County in a subsequent plan amendment submission, as well as the other plan deficiencies noted above.

Response: I concur with the DSWM's comments and have directed Sussex County to address the recommendations of the Task Force Final Report in a subsequent plan amendment to be submitted within 180 days of the date of this certification.

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

I, Scott A. Weiner, Commissioner of the Department of Environmental Protection, 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 district's Resource Recovery Investment Tax Fund, have reviewed the October 23, 1990 amendment to the approved Sussex County District Solid Waste Management Plan and certify to the Sussex County Board of Chosen Freeholders that the October 23, 1990 amendment is approved.

1. Resource Recovery Investment Tax Fund Use and Disbursement Schedule

The amendment designates the county's FY 1989 Resource Recovery Investment Tax Fund allocation in the amount of \$45,738.50 to be dispensed to the Sussex County Municipal Utilities Authority for the purpose of providing up to two Household Hazardous Waste Disposal Days during the year 1991 for the residents of Sussex County. The proposed use of the moneys in the Sussex County Fund is in conformance with the requirements of N.J.S.A. 13:1E-150b because the moneys will be allocated to fund a household hazardous waste disposal program which will ensure that the Sussex County solid waste landfill is operated and maintained in an environmentally sound manner. Therefore, the use proposed within the October 23, 1990 amendment is approved.

The Department finds that the provisions of the plan amendment concerning the allocation for activities over time as they relate to the District Resource Recovery Investment Tax Fund do meet the Department's content and format criteria for provision of a disbursement schedule. Therefore, the disbursement schedule contained in the plan amendment is also approved.

The Department finds that the provisions of the plan amendment concerning the allocation for activities over time as they relate to the District Resource Recovery Investment Tax Fund do meet the Department's content and format criteria for provision of a disbursement schedule. Therefore, the disbursement schedule contained in the plan amendment is also approved.

Inasmuch as the October 23, 1990 Plan Amendment only concerns itself with the county's FY 1989 Resource Recovery Investment Tax Fund allocation, any future Fund balance, plus accrued interest, shall not be disbursed unless and until the county adopts and the Department approves a subsequent plan amendment which outlines a proposed use and provides a detailed disbursement schedule, in accordance with N.J.S.A. 13:1E-150.

2. General Plan Deficiencies

- a. As noted in the certification of the October 11, 1989 Plan Amendment dated April 17, 1989, Sussex County was notified that the District Solid Waste Management Plan was deficient with regard to providing a solid waste disposal strategy. The District Plan remains deficient in this regard as noted previously within Section B. of this certification. Consequently, Sussex County is hereby directed within 180 days of this certification to submit to the Department a subsequent amendment which details a revised solid waste strategy which addresses source reduction, recycling, landfilling and resource recovery both within Sussex County and on a regional basis.
- b. Finally, I have also reviewed this amendment to determine whether the plan fulfills the recommendations of the Emergency Solid Waste Assessment Task Force Final Report accepted by the Governor on November 16, 1990. Following this review, Sussex County is hereby directed to submit a subsequent plan amendment within 180 days of this certification to address the following provisions of source reduction, recycling and regionalization:
 - i. Source Reduction: Sussex County shall determine what source reduction measures can be taken at the county level to reduce the trend of increased per capita solid waste generation. For each noted source reduction measure, the county shall estimate its potential impact upon total solid waste generation with the district.
 - ii. Recycling: Sussex County shall determine what measures will be taken by the district to achieve a 60% recycling rate by 1995. This determination shall address, at a minimum, what additional facilities will be needed within the district; what sites already exist or under what procedure the Sussex district will select necessary sites; and under what schedule the district feels that each necessary facility can be brought into operation.

Also, for each component of the recycling strategy, the district shall outline estimates of the tonnages which can be recycled in a mass balance format taking into consideration

the total projected solid waste generation in Sussex County. Further, based upon the 60% recycling rate, the district must outline the amount of solid waste still requiring disposal.

- iii. Regionalization: Sussex County shall determine the extent to which it can undertake long-term 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, transfer and disposal facilities.

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 herein amendment to the Sussex County District Solid Waste Management Plan herein certified, 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 in conformance with the terms and provisions herein set forth. Any solid waste collection operation or disposal facility registered by the DEP 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 DEP, 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 DEP and operating within Sussex County and affected by the portion of the amendment certified 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 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 DEP 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 Waste 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-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 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 (N.J.A.C. 7:26-6).

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

This document shall serve as the certification of the Commissioner of the DEP to the Sussex County Board of Chosen Freeholders and, pursuant to N.J.S.A. 13:1E-24c. and f., the County of Sussex 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 N.J.A.C. 7:26-1.4 and 2.13.

6. Effective Date of the Amendment

The approved amendment to the Sussex County District Solid Waste Management Plan certified herein shall take effect immediately.

7. Audit Requirements

Sussex County shall, by October 31 of each year in which moneys remain in its District Resource Recovery Investment Tax Fund, file an audit of the fund and any expenditures therefrom with the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs. The audit shall be conducted by an independent public accountant. A copy of the audit shall be provided to: Chief, Bureau of Solid Waste Planning and Finance, Division of Solid Waste Management, CN 414, Trenton, New Jersey 08625.

8. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the DEP 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, rules, regulations, 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 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 Sussex County District Solid Waste Management Plan which was adopted by the Sussex County Board of Chosen Freeholders on October 23, 1990.

5-22-91
DATE


SCOTT A. WEINER
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ATTACHMENT I

Content and Format Criteria for District Resource Recovery Investment Tax Fund Plan Amendment Submissions, in Accordance with N.J.S.A. 13:1E-150

I. Proposed Uses

The money in the fund shall be disbursed only for the following purposes:

- 1) To reduce the rates charged to all users by a resource recovery facility serving the county in order to provide a gradual transition to resource recovery facility rates from sanitary landfill facility rates. A county may achieve reductions through the use of moneys in its district investment tax fund to pay directly part of the fees charged for disposal to all users of a resource recovery facility;
- 2) To design, finance, construct, operate or maintain environmentally sound state-of-the-art sanitary landfill facilities to be utilized for disposing of those solid wastes which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility;
- 3) To design, finance, construct, operate or maintain environmentally sound state-of-the-art sanitary landfill facilities to be utilized for disposal of solid waste, on a long-term basis, if a county can demonstrate to the satisfaction of the department that utilization of a resource recovery facility is not feasible for disposal of the solid waste generated in that county;
- 4) To finance the closing costs for the proper closure of any terminated sanitary landfill facility located within a county whenever that county has made an investment tax rate adjustment for this purpose in accordance with the study conducted pursuant to N.J.S.A. 13:1E-146; and
- 5) To administer the investment tax fund, up to an amount not to exceed 2% of the total moneys appropriated to the fund during the fiscal year.

II. Disbursement Schedule

All disbursement schedules for District Resource Recovery Investment Tax Fund moneys shall be consistent with, but not be limited to, the following:

- 1) Narrative which outlines the purpose, background and legislative justification of and authorization for the use of the funds;
- 2) Narrative which provides the purpose, description and objectives of the project proposed for receipt of fund moneys;
- 3) Narrative which provides specific project performance data, implementation schedules and project status;

- 4) A spreadsheet or other tabular or budgetary format which provides at least the following information, the activities over time (choice of the time interval is at the discretion of the county, but shall not be longer than annually):
- a) Initial fund balance;
 - b) Additional deposits to fund based upon tax rates and projected waste generation and disposal figures, under various recycling or other reduction assumptions and population and/or economic growth assumptions;
 - c) Interest accrued on fund balance, by year;
 - d) Recipients of fund moneys, by amount, by proposed use, by time intervals;
 - e) Use of moneys by recipients, by amount, by time interval; and
 - f) A budget for fund disbursements.