

**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 JUNE 22, 2005
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.) 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 or NJMC) 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 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 that serve the district. The disposal strategy must include the maximum practical 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.

The Act further provides that a district may review its County Plan at any time and, if found inadequate, a new County Plan must be adopted. The Sussex County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 22, 2005 adopted an amendment to its approved County Plan. The June 22, 2005 amendment proposes County Plan inclusion of an expansion of the Sussex County Municipal Utilities Authority (SCMUA) Sanitary Landfill, located at 34 South Route 94 in Lafayette Township.

The amendment was considered administratively complete for review by the Department on August 23, 2005 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 June 22, 2005 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 June 22, 2005 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 of the June 22, 2005 amendment, which are included below.

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. All agencies contacted are as follows:

Division of County Environmental and Waste Enforcement
Division of Water Quality, DEP
Division of Parks and Forestry, DEP
Division of Fish and Wildlife, DEP
Solid and Hazardous Waste Management Program, DEP
Green Acres Program, DEP
Land Use Regulation Program, DEP
Office of Local Environmental Management, DEP
Office of Air Quality Management, DEP
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Community Affairs
Department of Transportation
Department of Agriculture
Department of Health and Senior Services
U.S. Environmental Protection Agency

Elements of the June 22, 2005 Amendment

Element: Historical Background of the SCMUA Sanitary Landfill

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 plan amendment. 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 plan amendment 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 County Plan amendment dealing with the inclusion of the amended lot and block designation of the landfill was certified as approved by the Department on March 26, 1987.

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

It also should be noted that the tax map submitted of the relevant area of the Township of Lafayette denotes the facility's location as Block 14, Lots 33.05, 34, 35.01, 37, 38.01, and 38.06.

Element: Recycling Compliance, Enforcement, and Performance

The Division of County Environmental and Waste Enforcement (DCEWE) submitted comments suggesting that the SCMUA provide periodic written notification to all haulers transporting solid waste to the SCMUA Sanitary Landfill regarding the prohibition of designated recyclables in the municipal solid waste stream and the appropriate enforcement actions that would be taken for violations. Additionally, the DCEWE suggests that the SCMUA adopt a proactive policy of spot checks of random incoming loads for designated recyclables to be conducted by SCMUA staff. It should also be noted that the SCMUA Sanitary Landfill's Solid Waste Facility Permit prohibits the acceptance of recyclable materials as designated in the County Plan at the facility and that the acceptance of these materials would be a violation of the facility permit.

Lastly, it should be noted that over the past nine years, Sussex County has reported a recycling rate for municipal solid waste (MSW) on average 35% lower than that of the state average. In 2003, for example, Sussex County reported a MSW recycling rate of 21.7%, while the statewide reported MSW recycling rate was 32.7%. This rate of MSW recycling is also less than 50% of the State's statutory goal of 50% recycling of MSW. Thus, it is important that the County begin to formalize its plan to address its low recycling rate as part of its response to the Statewide Solid Waste Management Plan Update, which will have to be adopted and submitted to the Department on or before January 3, 2007.

These suggestions were provided by way of this certification in an attempt to assist the County to expand the capacity and thus life span of the SCMUA Sanitary Landfill and lead to increased recycling compliance in the County.

Element: Solid Waste Debt and State Financial Assistance

The June 22, 2005 amendment notes that the SCMUA Sanitary Landfill, as currently permitted, would reach capacity in 8.3 years (on or approximately April 1, 2013), based on conservative waste generation projections. The subject amendment also notes that this above noted closure date is prior to the completion of the debt service payments on existing solid waste bonds and that the proposed expansion would allow for the facility to be financially self sufficient by 2014. This self sufficiency is based on the assumption that State/County financial assistance will be available for the payment of existing solid waste bonds. The County, however, must note that the State can not guarantee that funds will be available to continue to aid them in the repayment of their stranded debt until 2013.

Element: Wildlife Mitigation Area

The June 22, 2005 amendment notes that the proposed expansion would extend the western boundary of the Phase 3 section of the landfill approximately 230 feet toward the edge of the Wildlife Mitigation Area. After the proposed expansion is complete the landfill boundary will terminate approximately 60 feet from the boundary of the Wildlife Mitigation Area. The Division of Fish and Wildlife (DFW) submitted comments regarding the proposed expansion of the SCMUA Sanitary Landfill. The DFW's comments note their concern that the proposed expansion may negatively impact the adjacent 61-acre Wildlife Mitigation Area.

The Department notes that the DFW's concerns will need to be addressed during the permitting phase of the proposed expansion of the SCMUA Sanitary Landfill.

Element: Regulatory Requirements

The June 22, 2005 amendment to the County Plan calls for an increase in the approved capacity of the SCMUA Sanitary Landfill; therefore, prior to the commencement of said expansion, a modification to the facility's existing solid waste facility permit will have to be obtained pursuant to N.J.A.C. 7:26-2.6 et seq.

Pursuant to N.J.A.C. 7:14A-16.4(b), any substantial alteration or addition to the permitted facility or discharge (including one or more changes in the permittee's residual use or disposal practices) which occurred after the issuance of a New Jersey Pollutant Discharge Elimination System (NJPDES) permit and which justifies the application of permit conditions that are different or absent from those in the existing permit constitutes a cause for the modification of the facility's existing permit. Therefore, the SCMUA Sanitary Landfill may require a modification of its NJPDES permit.

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 county solid waste management plans, I have reviewed the June 22, 2005 amendment to the approved County Plan and certify to the County Freeholders that the June 22, 2005 amendment is approved, as further specified below.

The County Plan inclusion of an expansion of the Sussex County Municipal Utilities Authority (SCMUA) Sanitary Landfill, located at 34 South Route 94 in Lafayette Township is approved. Said expansion will increase the footprint of the subject landfill by 4.5 acres and the maximum capacity by 658,000 cubic yards.

This certification shall not be construed as an expression of the DEP's intent to issue a solid waste facility permit or permit modification for any proposed facility or operation.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. 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. 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 County 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 including waste types 10, 13, 23, 25, and 27 and all applicable subcategories and shall not apply to liquid and hazardous wastes. All nonhazardous materials separated at the point of generation for sale or reuse are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

4. 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.

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 Amendment

The approved components of 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, 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 Sussex County District Solid Waste Management Plan which was adopted by the Sussex County Board of Chosen Freeholders on June 22, 2005.

December 19, 2005

Date

Bradley M. Campbell, Commissioner
Department of Environmental Protection