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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RICHARD T. DEWLING, Ph.D., P.E.
COMMISSIONER

CN 402
TRENTON, N.J. 08625
609-292-2885

(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(PASSAIC COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE MARCH 19, 1986
AMENDMENT TO THE PASSAIC 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 August 13, 1980, the Department approved, with modifications, the Passaic 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 Passaic County Board of Chosen Freeholders completed such a review and on March 19, 1986, adopted an amendment to its approved district solid waste management plan which proposes to remove the Lakeland Regional Solid Waste Management Authority as an implementing agency for the Passaic County Solid Waste Management Plan and delete its proposed resource recovery facility from the approved Plan. The amendment was received by the Department of Environmental Protection on April 18, 1986, and

copies were distributed to various state level review agencies for review and comments, as required by law. The Department has reviewed this amendment, as well as the entire Passaic County District Solid Waste Management Plan, and has determined that the amendment adopted by the Passaic County Board of Chosen Freeholders on March 19, 1986, is approved in accordance with N.J.S.A. 13:1E-24. While the requirements of the Act concerning the report have been met, the District's Plan remains deficient in some critical areas.

B. Findings and Conclusions with Respect to the Passaic County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the March 19, 1986, amendment to the Passaic County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that this plan amendment is fully consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendment to sixteen 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. Also among these agencies were the Department of Community Affairs, the Department of the Public Advocate, the Department of Health, the Office of Recycling, the Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Divisions of Environmental Quality, Water Resources, Fish, Game and Wildlife, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture, Health, Community Affairs and Transportation; the Board of Public Utilities, the Green Acres Program, the Office of Recycling, the New Jersey Turnpike Authority and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the State Department of the Public Advocate and the U.S. Environmental Protection Agency. None of the review agencies provided substantive comments on the March 19, 1986, amendment.

C. Certification of Passaic County District Solid Waste Management Plan Amendment

I, Richard T. Dewling, 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 March 19, 1986, amendment to the approved Passaic County District Solid Waste Management Plan and certify to the Passaic County Board of Chosen Freeholders that the March 19, 1986, amendment is approved as further specified below.

The New Jersey Solid Waste Management Act, namely N.J.S.A. 13:1E-21, requires each solid waste management district to, among other things, designate sufficient available suitable solid waste disposal sites. Since Passaic County has designated a resource recovery facility site in the city of Passaic, I find

it appropriate for the freeholder board to amend the plan with respect to the status of the Lakeland Authority resource recovery proposal for those reasons specified in the county's Resolution dated March 19, 1986. Due to the same reasons, it is also reasonable for the county to remove the authority as a designated plan implementation agency, which I approve herein. However, as noted in Section C.1. below, the county must now designate a new plan implementation agency pursuant to the requirements of N.J.S.A. 13:1E-21b(1) in accordance with Section E. of this certification.

In light of the above, the removal of the Lakeland Regional Solid Waste Management Authority as an implementing agency for the Passaic County District Solid Waste Management Plan and the deletion of the proposed Lakeland Authority resource recovery facility from the Passaic County District Solid Waste Management Plan is approved.

The Department has reviewed the entire Passaic 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.

The original Passaic County Solid Waste Management Plan, approved by the Department, with modifications, on August 13, 1980, contained provisions for the Lakeland Regional Solid Waste Management Authority to develop a resource recovery facility for the Passaic County municipalities of Bloomingdale, Pompton Lakes, and Ringwood, (in association with three Morris County municipalities). This plan amendment removes the Lakeland Authority as an implementing agency to develop any solid waste facility for Passaic County. However, Passaic County has never officially designated any department, unit or committee of county government to supervise the implementation of the entire county plan. Therefore, Passaic County currently has no implementing agency and the District Plan is deficient with respect to the requirements of N.J.S.A. 13:1E-21b(1).

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

According to the provisions of the December 3, 1984, Judicial Consent Order between the Department of Environmental Protection (DEP), the Hackensack Meadowlands Development Commission (HMDC) and Passaic County, the county agreed, among other things, to have an in-county landfill operational by December 1, 1987, and a resource recovery facility operational by October 1, 1988. A site for an in-county landfill has not been designated yet, which makes the December 1, 1987, operational date unlikely. Also, the newly projected date for the resource recovery facility to be operational

is some time in 1990. Provisions of the Judicial Consent Order require Passaic County to cease using HMDC landfill facilities by December 1, 1987. Therefore, a protracted period of time will exist where Passaic County has no in-state disposal capacity available and the District Plan is deficient with respect to the requirements of N.J.S.A. 13:1E-21b(3).

As a possible remedy to the disposal capacity shortfall described above, the Department proposed, in its January 17, 1986, Amendment to the Passaic County District Plan, a new short term disposal strategy which calls for the development of an in-county transfer station(s) to be used in conjunction with out-of-district disposal. The January 17, 1986, Amendment, which was certified by the Commissioner on May 13, 1986, also requires Passaic County to adopt and submit a plan amendment identifying a landfill site within 90 days of the date of the certification. Finally, the certification required every Passaic County municipality to adopt ordinances as may be required to implement the county-wide mandatory recycling program (as contained in the February 2, 1985, Passaic County Plan Amendment) requiring the recycling of newspaper and leaves. These requirements are not altered by this certification and retain the full force and effect of law.

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.

The Passaic County District Plan does not contain a survey of transportation routes with projected costs for existing and proposed solid waste facilities. Therefore, the Passaic County District Plan is deficient with respect to N.J.S.A. 13:1E-21b(4).

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

A court ordered interdistrict agreement exists between Passaic County, the DEP, and the HMDC. However, the agreement must be incorporated through a plan amendment in order to satisfy the Act. Therefore, the plan remains deficient with respect to N.J.S.A. 13:1E-21b(5).

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.

Passaic County has submitted to the DEP a preliminary financing plan for the proposed resource recovery facility. However, until further financial data is developed regarding the development of the in-county landfill and the complete financing plan for both facilities is incorporated into the approved plan, the county plan remains deficient with regard to N.J.S.A. 13:1E-21b(6).

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 within amendment to the Passaic 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 Passaic 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 Passaic County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Passaic 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 Passaic 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 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).

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 Passaic County Board of Chosen Freeholders and pursuant to N.J.S.A. 13:1E-24c. and f., the county shall proceed with the implementation of the approved 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 amendment to the Passaic 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 Passaic 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 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

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 Passaic County District Solid Waste Management Plan which was adopted by the Passaic County Board of Chosen Freeholders on March 19, 1986, and further direct the Passaic County freeholders to remedy those deficiencies outlined in Section C. of this certification as soon as possible.

AUG 5 1986

DATE



RICHARD T. DEERING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION