



**State of New Jersey**  
**Department of Environmental Protection and Energy**  
Office of the Commissioner  
CN 402  
Trenton, NJ 08625-0402  
Tel. # 609-292-2885  
Fax. # 609-984-3962

Scott A. Welner  
Commissioner

**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 APRIL 1, 1992  
AMENDMENTS 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 of Environmental Protection approved, with modifications, the Passaic 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. The Passaic County Board of Chosen Freeholders (County Freeholders) completed such a review and on April 1, 1992, adopted amendments to its approved County Plan.

Amendment #1-1992 reallocates Resource Recovery Investment Tax (RRIT) funds to be used towards the County's source reduction and recycling plan and to initially establish a comprehensive waste audit program for government entities. Amendment #2-1992 proposes to include the United Scrap Iron & Metal Co., Inc. into the County Plan as a recycling center to handle Class A recyclables.

The amendments were received by the Department of Environmental Protection and Energy (Department or DEPE) on April 20, 1992, and copies were distributed to various administrative review agencies for review and comment as required by law. The Department has reviewed these amendments, as well as the entire County Plan, and has determined that the amendments adopted by the County Freeholders on April 1, 1992 are approved as provided in N.J.S.A. 13:1E-24. While the immediate plan amendments have been approved, serious deficiencies in the County Plan have been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the April 1, 1992 amendments 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders and the applicant are notified of the issues of concern resulting from the review of the April 1, 1992 amendments which are noted below.

In conjunction with the review of the amendments, 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  
Land Use Regulation Element, DEPE  
Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE  
Division of Solid Waste Management, DEPE  
Green Acres Program, 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 April 1, 1992 Amendments

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

Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE  
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:

Land Use Regulation Element, DEPE  
Green Acres Program, DEPE  
Groundwater Quality Management Element, DEPE  
Wastewater Facilities Regulation Element, DEPE  
New Jersey Turnpike Authority  
Department of Health  
Department of Community Affairs  
Department of the Public Advocate  
U.S. Environmental Protection Agency

The following agencies submitted substantive comments as set forth below.

Office of Energy, DEPE  
Division of Solid Waste Management, DEPE

2. Issues of Concern Regarding the April 1, 1992 Amendments

Issue: RRIT Fund Use and Disbursement

In the Department's certification of the January 21, 1987 Passaic County Plan Amendment, the use of RRIT funds for resource recovery development costs was approved only to the extent that such use reduced the rates charged to all users of the County's resource recovery facility. However, the disbursement schedule contained in that plan amendment was rejected because it did not meet the Department's content and format criteria for allocation of activities over time. The County was directed to adopt and submit a new disbursement schedule for written approval by the Department without the development and submission of an additional plan amendment.

On December 22, 1987, the Department acknowledged the receipt of the required disbursement schedule as adopted by the Board of Freeholders on November 5, 1987. The disbursement schedule was subsequently approved and allocated \$2,800,000.00 and \$175,000.00 in interest earnings for the approved use. The schedule was limited to fiscal year (FY) 1988 funds. All future funds beyond FY 1988 could not be disbursed until the County had submitted a new disbursement schedule and received approval from the Department.

On April 1, 1992, the County amended its Plan for the purpose of establishing a new use and disbursement schedule for the Passaic County RRIT fund. The County proposes to use funds towards the County's source reduction and recycling plan to conduct waste audits and implement the resulting recommendations of the County's program. The amendment also states that this use will reduce the amount of waste to be generated and disposed, thereby lowering the cost of disposal to all Passaic County residents. As noted in Section C., the County should clarify its basis for determining exactly how costs will be lowered through reduced solid waste generation and disposal in a letter to the Division of Solid Waste Management.

The disbursement schedule committed all funds currently in the RRIT fund (\$93,544.00) plus all future allocations through 1995 to this proposed use. In addition, in the event that any of the allocations detailed in the modified disbursement plan are in error by less than 10%, it is planned to shift funds to one of the other approved spending categories. It is the intent of the County to utilize the remaining monies in the RRIT fund to support elements in the recycling plan.

The proposed use and disbursement schedule for Passaic County's RRIT fund set forth in the April 1, 1992 amendment is in accordance with, and thereby satisfies, the requirements of N.J.S.A. 13:1E-150.

**Issue: Permit Requirements**

Recycling centers are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life or property.

Recycling centers are also considered solid waste facilities, which are subject to N.J.A.C. 7:27-8.2(a)16 which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants.

Because this recycling center will be handling only Class A recyclable material, as defined at N.J.A.C. 7:26A-1.3, no recycling approval from the Department is necessary prior to operation. However, the recycling center must operate in accordance with the regulations at N.J.A.C. 7:26A-4 as well as any other applicable state and local rules and regulations.

**C. Certification of the Passaic County District Solid Waste Management Plan Amendments**

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 April 1, 1992 amendments to the approved County Plan and certify to the County Freeholders that the April 1, 1992 amendments are approved as further specified below.

1. April 1, 1992 Amendments

a. Resource Recovery Investment Tax Fund (Amendment #1-1992)

The inclusion into the County Plan of the proposed use and disbursement of the Resource Recovery Investment Tax funds as set forth in Amendment #1-1992 is in accordance with N.J.S.A. 13:1E-150 and, therefore, is approved. As noted in Section B., the currently unexpended monies in the fund and all future monies shall be used to implement the County's source reduction and recycling plan which will initially provide for a waste audit and reduction plan for government entities as set forth in the amendment. As indicated in the amendment, Passaic County RRIT funds were previously utilized for development expenses for the County's incinerator project which is no longer being considered for development. Also, as noted in Section B. Passaic County must clarify in a letter to the Director of Division of Solid Waste Management the basis for the statement in the amendment that the cost of disposal to all Passaic County residents will be lower as a result of the RRIT fund use which will reduce the waste generated and disposed.

b. United Iron and Metal Co., Inc. (Amendment #2-1992)

The inclusion into the County Plan of United Scrap Iron & Metal Co., Inc., located at 157-179 East 7th Street, Paterson, New Jersey; Block 365 - Lot 4 and Block 366 - Lot 1; is approved. As noted in Amendment #2-1992, United Iron and Metal Co., Inc. receives and processes all grades of ferrous and non-ferrous metals for delivery to steel mills. Commingled recyclables such as aluminum and glass are also accepted for machine sorting prior to being sent to recycling markets. Because this recycling center will be handling only Class A recyclable material, as defined at N.J.A.C. 7:26A-1.3, no recycling approval from the Department is necessary prior to operation. However, the recycling center must operate in accordance with the regulations at N.J.A.C. 7:26A-4 as well as any other applicable state and local rules and regulations.

2. Passaic County District Solid Waste Management Plan Deficiencies

The entire County Plan has been reviewed, including these amendments, 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:

a. 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.

Passaic County currently relies on private transfer stations to process waste generated within the district for out-of-state disposal. Further, viable long-term disposal capacity within New Jersey has not been identified within the County Plan. As a result, Passaic County does not have long-term in-county capacity or an interdistrict agreement with

another district to provide for disposal of the County's solid waste. As such, Passaic County currently has no disposal plan in place and the long-term use of out-of-state disposal was authorized only within the context of contingency plan backup use as stated within the Department's September 1, 1987 certification. Therefore, the Passaic County plan is deficient with respect to N.J.S.A. 13:1E-21b(3).

The continued failure on the part of the County to enter into a regional in-state disposal agreement or to identify and develop in-county capacity is a serious plan deficiency, particularly in light of current activities in the United States Congress to place legislative restrictions on the interstate movement of solid waste. As a result, Passaic County is hereby ordered to submit its long-term disposal strategy to the Department within 120 days of the date of this certification. Plans to pursue regional agreements for shared use of existing or planned in-state capacity outside of Passaic County must be addressed within the strategy, as well as the potential and timeframes associated with developing new in-county disposal capacity. The Department will assist the County upon request in the evaluation of opportunities for regionalization and as a facilitator in initiating discussions with other counties. However, while I consider remedial actions by the Department as a last resort, please be advised that the continued disregard of mandated deadlines could result in withholding and reallocating Solid Waste Services tax moneys, assuming the administration of the district's Resource Recovery Investment Tax Fund, and/or possible direct intervention of the Department in the planning process of Passaic County.

b. 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 not yet submitted a complete financing plan to provide for solid waste management within the District. Therefore, the Passaic County plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(6).

### 3. Passaic County Response to Solid Waste Task Force Final Report

I have also reviewed the County Plan 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. The March 20, 1991 amendment to the County Plan, certified by the Department on September 27, 1991, addressed the County's source reduction and recycling plans. In that certification, the County was directed to submit a subsequent amendment within 180 days of the date of certification (or March 24, 1992) to, among other things, address regionalization and further define the source reduction and recycling plans in response to the comments of the Department's Division of Solid Waste Management. The County has not complied with this important submission requirement and is directed to submit a subsequent plan amendment to address these issues immediately.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with these amendments to the County Plan and which was executed prior to the approval of these amendments 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 these amendments and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of these amendments 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 amendments contained herein shall operate in compliance with these amendments 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 Amendments

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 amendments certified herein.

5. Definitions

For the purpose of these amendments 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 Amendments

These amendments to the County Plan contained herein shall take effect immediately.

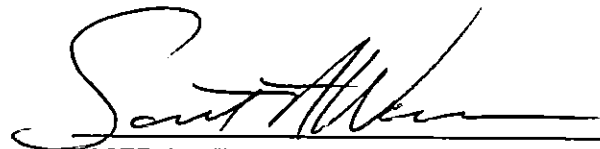
7. Reservation of Authority

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 Amendments 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 April 1, 1992 amendments to the Passaic County District Solid Waste Management Plan as outlined in Section C. of this certification. I hereby also require, as noted in Section C., that the Passaic County Board of Chosen Freeholders address the noted deficiencies within the timeframes specified.

9-11-92  
DATE



SCOTT A. WEINER  
COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND ENERGY