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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)
(PASSAIC COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE JUNE 25, 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 30, 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 June 25, 1986, adopted an amendment to its approved district solid waste management plan. The amendment proposes to enlarge the site designation for the Passaic City site for the Passaic County Resource Recovery Facility, incorporate the Memorandum of Understanding between Passaic County and the New Jersey Department of Transportation with respect to the extension of Route 21, and incorporate the design for the extension of Route 21 into the approved district plan.

The amendment was received by the Department of Environmental Protection on July 30, 1986 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 Passaic County District Solid Waste Management Plan, and has determined that the amendment adopted by the Passaic County Board of Chosen Freeholders on June 25, 1986, is approved as provided in N.J.S.A. 13:1E-24. With regard to the district plan, while the requirements of the Act concerning the report have been met, the district's plan remains deficient in some important ways.

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 June 25, 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 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, and Parks and Forestry; the State Departments of Agriculture, Health, Community Affairs, and Transportation; the Board of Public Utilities, 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 N.J.D.E.P. Division of Coastal Resources, the State Department of the Public Advocate, the Green Acres Program, and the U.S. Environmental Protection Agency. The N.J.D.E.P. Division of Solid Waste Management submitted substantive comments which are further addressed below.

The Division notes that on February 21, 1985, the Passaic County Board of Chosen Freeholders adopted a resolution proposing to amend the county solid waste management plan to designate the Passaic City site for the development of the county resource recovery facility. The Commissioner certified this amendment on July 15, 1985. The Commissioner's cover letter to this plan amendment certification stated that "while this certification approves the Passaic City resource recovery site for inclusion in the county plan, development of the proposed facility must be preceded by approval of an acceptable environmental impact statement (EIS) and issuance of a facility design and construction permit. Further investigation is necessary regarding the site limitations with respect to the neighboring school, hospital and housing, possible noise impacts, truck access and emissions impact. The Department cannot be certain, at this time, that such EIS and/or permit approvals will be issued. Only the detailed

data and analysis to be provided by the EIS can yield an indication in this regard."

On May 9, 1986, Passaic County submitted a preliminary environmental and health impact statement (PEHIS) for the resource recovery project. A preliminary review of this document revealed that certain information critical to conducting the technical review was missing. Passaic County was informed that the Department of Environmental Protection's review process would not be initiated until this information was received. Additional information was received by the Department on October 30, 1986. On this date the PEHIS was considered complete and was forwarded to the various state level review agencies for review and comment. The PEHIS is, as of the date of this certification, still undergoing state level review.

The Division remains concerned over the Passaic City site with respect to the same considerations outlined in the above referenced July 15, 1985 plan certification cover letter. However, it would be premature to reject the plan amendment under consideration pending a complete review of the PEHIS document.

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 June 25, 1986, amendment to the approved Passaic County District Solid Waste Management Plan and certify to the Passaic County Board of Chosen Freeholders that the June 25, 1986 amendment is approved as further specified below.

1. The inclusion into the district plan of the revised designation of the Passaic City resource recovery site to include the land necessary for the access routes and ramps to the extension of Route 21 is approved. Specifically, the previously approved site designation for the Passaic County Resource Recovery Facility was Block 65, Lots 1, 15, 20, 25, 31 and 35 in the City of Passaic, Passaic County. The revised resource recovery facility site designation of Block 65, Lots 1, 15, 20, 25, 31, and 35; Block 57, Lots 10, 14, 15, 17, 18, 20, 22 through 32, and 34 through 36, in the City of Passaic, Passaic County is approved for inclusion into the district plan.
2. The incorporation into the district plan of the May 9, 1986 Memorandum of Understanding between Passaic County and the New Jersey Department of Transportation concerning the extension of Route 21 is approved.
3. The incorporation into the district plan of the design for the extension of Route 21, as reflected in the Memorandum of Understanding and in the "Property Acquisition Plan Route 21 Temporary Ramps Passaic County Resource Recovery Facility" by Richard A. Alaimo Engineering Company, dated May 9, 1986 is approved.
4. 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:

- a. 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 Passaic County District Solid Waste Management Plan is deficient in regard to N.J.S.A. 13:1E-21b(1) because it fails to designate a district plan implementation agency.

- b. 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 yet been designated, which makes the December 1, 1987 operational date unlikely. Also, the newly projected date for the resource recovery facility to be operational is sometime 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.

As a possible remedy to the disposal capacity shortfall described above, the Department of Environmental Protection 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 also required Passaic County to adopt and submit a plan amendment identifying a landfill site within 90 days of the May 13, 1986 certification. As of the date of this Certification, Passaic County has made no submission to address this requirement. Therefore, the Passaic County District Solid Waste Plan is deficient in regard to N.J.S.A. 13:1E-21b(3) because of its failure to resolve the short term disposal shortfall and the residual ash disposal issue.

- c. 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 an updated survey of transportation routes with projected transportation costs from collection districts to proposed disposal facilities. Therefore, the Passaic County District Plan is deficient with respect to the requirements of N.J.S.A. 13:1E-21b(4).

- d. 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 an 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 the 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, 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.

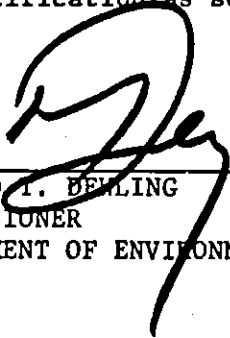
7. Reservation of Authority

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 June 25, 1986. Further, I hereby direct the Passaic County Board of Chosen Freeholders to correct the deficiencies outlined in Section C. of the certification as soon as possible.

12/23/86
DATE



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION