



State of New Jersey
Department of Environmental Protection and Energy
Division of Solid Waste Management

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Jeanne M. Fox
Acting 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 JULY 14, 1993
AMENDMENT TO THE PASSAIC COUNTY
DISTRICT SOLID WASTE MANAGEMENT PLAN**

BY ORDER OF THE ACTING 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 County Plan at any time and, if found inadequate, a new County Plan must be adopted. The Passaic County Board of Chosen Freeholders (County Freeholders) completed such a review and on July 14, 1993, adopted an amendment to its approved County Plan. The amendment proposed inclusion of a Memorandum of Understanding (MOU) between Bergen and Passaic Counties to send 600 to 1000 tons per day of Passaic County waste to the Bergen County Utilities Authority (BCUA) transfer station for out-of-state disposal, for a period of 3 to 5 years, with associated waste flows and truck routing plan.

The amendment was received by the Department of Environmental Protection and Energy (Department or DEPE) on July 28, 1993 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 July 28, 1993 is rejected as provided in N.J.S.A. 13:1E-24.

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 have studied and reviewed the July 14, 1993 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 this plan amendment is inconsistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the issues of concern relative to the July 14, 1993 amendment which are included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to fifteen 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 Air Quality, DEPE
Land Use Regulation Element, DEPE
Wastewater Facilities 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
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 July 14, 1993 Amendment

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

Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Department of Agriculture
Department of Health
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
New Jersey Turnpike Authority
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

The following agencies submitted substantive comments which are further addressed below:

Division of Solid Waste Management, DEPE
Wastewater Facilities Regulation Element, DEPE
Air Quality Management, DEPE
New Jersey Advisory Council on Solid Waste Management, DEPE

2. Issues of Concern Regarding the July 14, 1993 Amendment

Issue: Memorandum of Understanding

The MOU, which was signed on June 25, 1993, specified that if an interdistrict agreement between Bergen and Passaic Counties was not signed by September 1, 1993, then the MOU could be terminated upon prior written notice by either party. The DEPE has received such notice from Bergen County. Therefore, the July 14, 1993 plan amendment is now moot and, as noted in Section C., the Department has rejected the amendment. It is also noted, however, that the BCUA and PCUA have continued to meet since the expiration of the MOU to explore regional initiatives. One of the primary goals of the Governor's Emergency Solid Waste Assessment Task Force is the regionalization of solid waste disposal by the shared use of solid waste facilities between counties. The Department therefore encourages the County to continue discussions with Bergen County on the development of an interdistrict agreement. Finally, the County is advised that in order to implement an interdistrict agreement, it will be necessary for both counties to amend their solid waste management plans to include the agreement and for the Department to approve such amendments.

Issue: Permitting Requirements

To the extent that the amendment proposes that the existing BCUA Transfer Station would process additional solid waste, it is noted that transfer stations 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. Also, transfer stations are subject to the provisions of N.J.A.C. 7:27-8.2(a)16 and 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. Further, if the proposed operation will discharge pollutants as defined in N.J.A.C. 7:14A-1.9, said operations may be required to secure a New Jersey Pollutant Discharge Elimination System (NJPDDES) permit and/or a Treatment Works Approval for pollutant discharges prior to construction or operation.

While the plan amendment indicates that the designated truck routes will be highways, a review of the map which accompanied the amendment submission indicates that local roadways will be used to ingress and egress the BCUA transfer station. Further, the plan amendment does not designate any truck routes to be utilized by those vehicles redirected from Passaic County. Therefore, Passaic County must clarify and provide a description of the above noted routes. In addition, the amendment fails to address the question of enforcement of the designated truck routes and does not identify which agency (PCUA and/or BCUA) will assume the responsibility for enforcing the designated truck routes. This concern must be addressed by Passaic County since it is possible that other routes may be used to access the BCUA facility (i.e. Schulyer Avenue). It should also be noted that Pen-Pac's Fulton Street Transfer Station Solid Waste Facility Permit was issued after a thorough evaluation of all environmental impacts (including traffic related impacts) to the surrounding area and was subject to a public hearing to receive comments from any concerned citizens. However, the Master Performance Permit (MPP) issued to the BCUA for the operation of its transfer station was not subject to a similar process and a public hearing to receive commentary regarding the facility's location, general environmental impacts, and impacts associated with the long-term operation of the facility (i.e. traffic impacts to the surrounding area, noise impacts, etc.) was never held due to the emergency permitting procedures. Therefore, as noted in Section C., this issue and the other above noted engineering issues must be further addressed by Bergen County when and if it adopts a similar amendment to include the interdistrict agreement.

The plan amendment proposes to redirect between 600-1000 tons per day of municipal solid waste to the BCUA. However, the DEPE currently has a request from the BCUA to develop a sludge curing facility at the BCUA transfer station/baler facility. This proposal requires the elimination of two of the four baler areas at the BCUA facility. As such, if the sludge curing facility is approved, then the BCUA facility will have only two areas available to handle the current waste flow of 1000 tons per day. Further, the BCUA has also proposed to develop a recycling center to process Class A and Class B materials within the remaining area reserved

for solid waste operations and the BCUA facility is also the designated back-up facility for the Bergen County waste currently directed to the Essex County incinerator. Accordingly, if waste had to be redirected due to an emergency closure of the incinerator, contractual problems, or termination of Phase II operations, then the BCUA facility would have to accept and process 1000 tons per day at only two baler stations. It should also be noted that the BCUA is not using their baling units at this time and employs an open top loading operation for all solid waste delivered to the facility. The DEPE has serious concerns as to BCUA's capability to accept and process their current waste flow of 1000 tons per day in addition to the proposed 600-1000 tons per day of waste from Passaic County using either an open top loading area which requires additional floor space or using the two baler units. Therefore, as noted in Section C., as part of any future amendment to include the interdistrict agreement the BCUA must demonstrate that the BCUA transfer station has adequate capability to accept and process the above noted waste flow in conjunction with the activities proposed by the BCUA (i.e., sludge curing facility and Class A and Class B recycling activities).

Finally, the amendment provides a section which identifies potential impacts to Bergen County. It indicates that all potential impacts were considered during the permitting of the BCUA facility. Since the BCUA was issued a MPP, the environmental assessment completed was not as detailed as a new facility application. Further, the plan amendment states that the proposed redirection of Passaic County waste will not affect the total traffic demand at the BCUA facility. In this regard, while the issuance of the MPP required BCUA to complete a traffic impact analysis, as of this date, the BCUA has not submitted the required impact analysis. The DEPE is requiring the BCUA to perform the traffic impact analysis as a requirement of reviewing their modification to develop a sludge curing facility. The subject analysis will include current transfer station operations, potential operations (i.e. emergency redirection of waste from the Essex County incinerator and Class A and B recycling operations), and the proposed curing facility operations.

C. Certification of the Passaic 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 district solid waste management plans, I have reviewed the July 14, 1993 amendment to the approved County Plan and certify to the County Freeholders that the July 14, 1993 amendment is rejected as further specified below.

The County Plan inclusion of an MOU between Bergen and Passaic Counties to send 600 to 1000 tons per day of Passaic County waste to the BCUA transfer station for out-of-state disposal, for a period of 3 to 5 years, and associated waste flows and truck routing plan is rejected. As noted in Section B., since the counties failed to sign an interdistrict agreement by the September 1, 1993 deadline, the July 14, 1993 plan amendment is now moot. It is also noted, however, that the BCUA and PCUA have continued to meet since the expiration of the MOU to explore regional initiatives and the Department encourages the counties to continue these discussions.

Additionally, regarding the MOU and as noted in Section B., if a similar MOU is signed in the future which proposes utilization of the BCUA transfer station, it will be necessary for Bergen County to submit extensive additional engineering information to determine the capability of the BCUA transfer station to process the additional waste flow from Passaic County as well as a clarification of additional truck routes. Specifically, as noted in Section B., the Department has concerns as to the ability of the BCUA transfer station to process an additional 600 to 1000 tons per day of solid waste when the facility is also proposing to accept sludge, Class A and B recyclable materials, and provide back-up capacity for the Phase II program in addition to its existing waste flow of 1000 TPD. Finally, as noted in Section B., in order for an interdistrict amendment to be implemented in the future it will be necessary for both counties to adopt amendments including the interdistrict agreement and for the Department to approve these amendments prior to implementation of a revised interdistrict management system.

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 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. 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 and -2.13, and N.J.A.C. 7:26A-1.3.

5. 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 Rejection of the Amendment by the Acting 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 reject 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 July 14, 1993.

Dec. 22, 1993
DATE

Jeanne M. Fox
JEANNE M. FOX
ACTING COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND ENERGY