



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ROBERT E. HUGHEY, COMMISSIONER
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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 OCTOBER 19, 1983 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 October 19, 1983, adopted an amendment to its approved District Solid Waste Management Plan. The amendment was received by the Department of Environmental Protection on October 26, 1983 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

October 19, 1983 is approved in part and rejected in part in accordance with 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 several important ways.

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

I, Robert E. Hughey, 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 October 19, 1983 amendment to the approved Passaic County District Solid Waste Management Plan and certify to the Passaic County Board of Chosen Freeholders that the October 19, 1983 amendment is approved in part and rejected in part as further specified below.

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 Passaic County Board of Chosen Freeholders previously directed the County Planning Board to be responsible for the biannual review and update of the District Solid Waste Management Plan. The Certification of Approval with Modification of the Passaic County Plan dated August 13, 1980 directed the Board of Chosen Freeholders to designate a Plan implementation agency on or before February 1, 1981, but no designation was made. Therefore, the Passaic County District Solid Waste Management Plan is deficient for not complying with the requirements of N.J.S.A. 13:1E-21b.(1). This deficiency must be corrected within the time schedule contained in Section D of this Certification.

- 2) N.J.S.A. 13:1E-21b.(2) and (3) requires a statement of the solid waste disposal strategy to be applied . . . which strategy shall include the maximum practicable use of resource recovery procedures and a plan for using terminated landfill disposal sites . . . in the Solid Waste Management District. Also required are 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.

- a) Sanitary Landfills

Passaic County has developed a solid waste disposal strategy which consists of continued landfilling at the HMDC Baler/Balefill (facility #0239C/0232D) for the eleven southern Passaic County municipalities (Clifton, Haledon, Hawthorne, Little Falls, North Haledon,

Passaic, Paterson, Prospect Park, Totowa, Wayne, and West Paterson) until 1989; the continued landfilling at H.S.L., Inc. (1913B) until the facility closes for the five northern Passaic County municipalities (Bloomingdale, Pompton Lakes, Ringwood, Wanaque, and West Milford) or the use of Carrino's Landfill (1605A); and the continued landfilling of solid waste type #25 (animal and food processing wastes) for the five northern Passaic County municipalities at Edgeboro Landfill (1204A).

This solid waste landfilling strategy is deficient for several reasons. There has been no technical information submitted to the Department indicating that the H.M.D.C. Baler/Balefill facility or any extension to this facility could operate with the present waste loading until 1989. While the balefill is presently very near capacity and a major expansion is unlikely, the County is obligated to identify disposal capacity for a ten year period. Should this capacity be at an out-of-county facility, the County must negotiate an interdistrict agreement with the receiving district. Also, the Department has filed suit in Superior Court seeking closure of the H.S.L., Inc. facility due to its having exceeded its approved elevation and for its failure to implement in a timely fashion the conditions of its registration and engineering design. The Court has found that the landfill is in violation of the Solid Waste Management Act but ordered it to remain open until July 9, 1984 in violation of its registration and engineering design. The Carrino's Landfill is currently closed, and there has been no information submitted to the Department indicating when, if ever, this facility will reopen. Even if it does reopen, Carrino's has a very limited short term capacity which will not satisfy the County's obligation to ensure disposal capacity for a ten year period. Also, a contingency disposal plan should be developed in the event that Carrino's does not reopen.

b) Waste Flow Modifications

The amendment proposes that the five northern Passaic County municipalities (Bloomingdale, Pompton Lakes, Ringwood, Wanaque, and West Milford) and Little Falls utilize the Carrino Contracting and Trucking Company Sanitary Landfill (facility #1605A) until the facility reaches its approved design capacity (projected to be in 1985). Engineering designs for this facility were first approved by the Department in 1975 but the facility virtually never operated due to protracted litigation. In March of 1981, the Superior Court of New Jersey ordered the Department to direct an interim waste flow to the Carrino Landfill. An interim waste flow was developed in the State Waste Flow Rules (N.J.A.C. 7:26-6.1 et seq.). The rules indicate that "it is necessary for the Board of Chosen Freeholders of Passaic County to formally propose and adopt in their District Solid Waste Management Plan, a waste flow which directs solid waste to Carrino's Landfill for a two-year period." In the fall of 1983, Carrino's Landfill was allowed to open. It remained open for only a brief period due to problems with the landfill liner. The Carrino's Landfill may reopen only if all outstanding problems are rectified.

Currently, the Morris County municipalities of Boonton, Boonton Township, Butler, Lincoln Park, Montville, Mountain Lakes, Pequannock and Riverdale are directed to the Carrino facility. The Passaic County amendment proposes to exclude the Morris County municipalities from Carrino's Landfill; no interdistrict agreement has been established for these waste flows.

These waste flow changes are approved for inclusion in the County Plan. Final disposition of such proposed changes in the State waste flow rules will be determined pursuant to formal rulemaking by the Department and the Board of Public Utilities in accordance with N.J.A.C. 7:26-6.6.

Furthermore, the Carrino Landfill is not registered to accept any solid waste #27 (industrial wastes) and portions of waste type #25 (animal and food processing wastes). The Plan amendment does not contain provisions for the disposal of these waste types generated from the five northern Passaic County municipalities, and therefore does not alter existing waste flows in this regard. Passaic County must resolve the disposal of these waste types from the five northern Passaic County municipalities within the time schedule contained in Section D of this Certification.

c) Resource Recovery

The Plan amendment indicates that the proposed Passaic County resource recovery facility is scheduled to be operational in 1989. The County must ensure that it has sufficient disposal capacity to handle its solid waste stream before its proposed resource recovery facility is operational. The completion date is well behind the previously approved implementation schedule which projected the proposed facility to be on line by January 1985. Moreover, no site has been designated for this facility. Passaic County shall submit to the Department a detailed resource recovery implementation schedule outlining the necessary tasks to be performed including, but not limited to, the designation of the facility site; preparation and issuance of the Request for Proposals for a vendor to design, build, and operate the facility; designation of residual disposal site; execution of the contract to design, build, and operate the resource recovery facility; startup and shakedown; and full scale operation. This schedule and the timetable for performing these and other necessary tasks for the implementation of the resource recovery facility shall be submitted within the time schedule contained in Section D of this Certification.

The Passaic County solid waste disposal strategy includes the proposed Lakeland Regional Solid Waste Management Authority resource recovery facility. The Authority consists of the municipalities of Bloomingdale, Pompton Lakes, and Ringwood from Passaic County, and Butler, Kinnelon, and Pequannock from Morris County. The County Plan amendment indicates an on line date of 1985 which is well behind the scheduled operational date of July 1983. Passaic County shall submit a detailed schedule for the implementation of the proposed Lakeland resource recovery facility within the time schedule contained in Section D of this Certification.

d) Proposed Facilities

The proposals to include the Stamato Transfer Station, Lot 8, Block 549, in West Milford; the Iorio Carting Transfer Station, Lot 91, Block 170, in Totowa; and the A. Capone Transfer Station, Lot 9, Block 558, in Paterson are approved. The construction or operation of these facilities shall be preceded by the obtaining of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq. and all other applicable laws. Issuance of construction and/or operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department to be fit and competent to manage such facilities.

e) Siting Policies

The Department has reviewed the proposed policy which the County has adopted regarding the review of applications for new composting and vegetative waste facilities. The proposed County policy states that any new application for a compost facility or temporary facility for the disposal of on-site generated vegetative wastes within the District is consistent with the approved District Solid Waste Management Plan provided it meets existing environmental design and operation standards of the Department of Environmental Protection. This compost facility siting policy is approved and included in the Passaic County Plan.

The Department has also reviewed the proposed policy which the County has adopted regarding the review of new transfer station applications. The proposed County policy states that any transfer station sited in Passaic County for handling solid waste generated in Passaic County will be in compliance with the County Plan provided that the waste flow, as set forth in the Plan, is not diverted from designated disposal facilities, and the owner/operator of said transfer station is in full knowledge of District waste disposal plans. This policy, while somewhat similar to the compost facility siting policy, encompasses far more complex issues. Therefore, this transfer station siting policy fails to provide for the proper consideration of legitimate siting criteria which the County must consider in its capacity as a Solid Waste Management District and is rejected.

The Plan amendment also indicates that the County landfill siting study (suitable to meet the disposal needs for the entire County) is incomplete. However, the County has since indicated that the study is now completed. Passaic County shall submit to the Department copies of the completed siting study immediately.

The landfill siting process in Passaic County has been incorporated within the H.S.L., Inc. Landfill litigation. The Superior Court has recently ruled that Passaic County has de facto certified failure to locate a landfill site within Passaic County and has ordered the Department to identify a landfill site on or before June 2, 1984. The Department will make every effort to comply with this order but the County should note that the Department will also

appeal the order. Therefore, Passaic County may wish to proceed with the landfill siting process in the event that the Department is successful in its appeal.

f) Solid Waste Disposal Strategy

The Passaic County solid waste disposal strategy contains the projected use of the H.M.D.C. Baler/Balefill, Carrino's Landfill, Edgeboro Landfill, a yet to be sited County landfill, the proposed Passaic County Resource Recovery Facility, and the proposed Lakeland Regional Resource Recovery Facility. This strategy lacks coordination among the various proposed existing facilities. Passaic County shall submit to the Department a revised solid waste disposal strategy according to the time schedule contained in Section D of this Certification.

g) Terminated Landfill Strategy

The Passaic County Plan fails to provide for using terminated landfill disposal sites. This omission must be corrected and submitted to the Department within the time schedule contained in Section D of this Certification.

Therefore, the Passaic County Solid Waste Management Plan is deficient with respect to the requirements of N.J.S.A. 13:1E-21b.(2) and (3). These deficiencies must be corrected according to the time requirements contained in Section D of this Certification.

- 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 Solid Waste Management Plan is deficient with respect to the requirements of N.J.S.A. 13:1E-21b.(4) for not including Carrino's Landfill in the survey of transportation routes with projected costs for the five northern Passaic County municipalities. Passaic County shall submit to the Department, a revised survey of transportation routes with projected costs for use of the Carrino Landfill as required by Section D of this Certification.

- 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.

The Solid Waste Management Act requires districts which import or export waste to reach formal interdistrict agreements. No such agreements exist between the Passaic County District and the H.M.D., Sussex County District, and Middlesex County District to which Passaic County exports its solid waste.

Therefore, the Passaic County District Plan is deficient with respect to the requirements of 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.

The Passaic County Plan fails to provide a detailed plan for financing solid waste management. Therefore, the Passaic County District Solid Waste Management Plan is deficient with respect to N.J.S.A. 13:1E-21b.(6).

C. 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-2 and

N.J.A.C. 7:26-2.13 and shall not apply to liquid wastes, sewage sludge, septage, hazardous wastes, and oil spill cleanup 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) which are part of the Passaic County District Solid Waste Management Plan.

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, as provided for by N.J.S.A. 13:1E-24f., to proceed with the implementation of the portions of the amendment approved 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 approved 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.

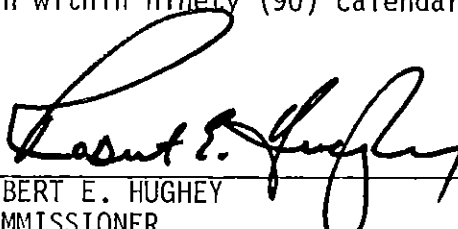
D. Certification of Approval in Part and Rejection in Part of the Amendment and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection

In accordance with the provisions of N.J.S.A. 13:1E-21, I hereby approve in part and reject in part the amendment, as outlined in Section B of this Certification, to the Passaic County District Solid Waste Management Plan which was adopted by the Passaic County Board of Chosen Freeholders on October 19, 1983.

In accordance with N.J.S.A. 13:1E-24, I am directing that a public hearing be conducted by the Passaic County Board of Chosen Freeholders within forty-five (45) days of the date of this Certification. The hearing shall be conducted

pursuant to the procedures contained in N.J.S.A. 13:1E-23. The purpose of the hearing shall be to inform the public of the deficiencies identified in the Plan, and to identify the County's plans for addressing these deficiencies, and to solicit public comment on these matters. Further, Passaic County is directed to amend its Plan to address the deficiencies identified above. This amendment shall be adopted by the County and submitted to the Department of Environmental Protection within ninety (90) calendar days from the date of this Certification.

3/22/84
DATE



ROBERT E. HUGHEY
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION