



**State of New Jersey  
Department of Environmental Protection and Energy**

Robert C. Shinn, Jr.  
Commissioner

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

**CERTIFICATION  
OF THE OCTOBER 27, 1993  
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 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 October 27, 1993, adopted an amendment to its approved County Plan.

The amendment proposed an expanded strategy for addressing State requirements concerning source reduction, recycling, and regionalization planning. The amendment was in response to the Department's April 8, 1993 certification of the County's plan amendment of October 14, 1992. That certification identified specific deficiencies and directed the County, within a subsequent plan amendment submission, to provide: a schedule for conducting waste audits in the private sector and at County and municipal buildings; a strategy for capping waste generation; and the results of investigating the development of a permanent household hazardous waste collection facility and a bulky waste processing facility. Also, regarding regionalization, the County was directed, within a subsequent plan amendment submission, to provide a long-term in-state disposal strategy which included a timeline with specific milestones for developing in-county disposal facilities or for the negotiation of interdistrict agreements for the shared use of other existing or planned in-state disposal facilities.

The amendment was received by the Department of Environmental Protection and Energy (Department or DEPE) on November 29, 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 October 27, 1993 is approved 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 October 27, 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 consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the issue of concern relative to the October 27, 1993 amendment which is 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 Management, DEPE  
Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE

Division of Solid Waste Management, DEPE  
Green Acres Program, DEPE  
Land Use Regulation 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 October 27, 1993 Amendment**

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

Office of Air Quality Management, DEPE  
Division of Fish, Game and Wildlife, DEPE  
Green Acres Program, DEPE  
Land Use Regulation Element, DEPE  
Wastewater Facilities Regulation Element, DEPE  
New Jersey Turnpike Authority  
New Jersey Advisory Council on Solid Waste Management  
Department of Agriculture  
Department of Transportation  
Department of Community Affairs

The following agencies did not respond to our requests for comment:

Division of Parks and Forestry, DEPE  
Department of Health  
Department of the Public Advocate  
U.S. Environmental Protection Agency

The following agency provided substantive comments as shown in Section B. of the certification document:

Division of Solid Waste Management, DEPE

**2. Issue of Concern Regarding the October 27, 1993 Amendment**

**Issue: County Response to Source Reduction, Recycling, and Regionalization Deficiencies**

On March 20, 1991, the County adopted a multifaceted amendment, a portion of which addressed the State requirements concerning source reduction, recycling, and regionalization planning. The DEPE, in its certification of September 27, 1991, approved the County's general strategy but noted deficiencies in certain areas relative

to source reduction, recycling, and regionalization planning and directed the County to address these deficiencies by March 24, 1992 in a subsequent plan amendment submission. On October 14, 1992, the County adopted a subsequent plan amendment to address the noted deficiencies. The Department, in its certification of April 8, 1993, approved the responses to the noted deficiencies but directed the County, within an additional subsequent plan amendment submission, to provide: a schedule for conducting waste audits in the private sector and at County and municipal buildings; a strategy for capping per capita waste generation; and the results of investigating the development of a permanent household hazardous waste collection facility and a bulky waste processing facility. Also, regarding regionalization, the County was directed to provide a long-term in-state disposal strategy which included a time-line with specific milestones for developing in-county disposal facilities or for the negotiation of interdistrict agreements for the shared use of other existing or planned in-state disposal facilities. The County was directed to submit the additional amendment, exclusive of the regionalization component, by October 8, 1993 but it was not received until November 29, 1993.

Concerning regionalization, the County was directed to address this deficiency by July 8, 1993. On July 6, 1993, the County submitted a Letter Petition/Long-Term Solid Waste Plan (Petition) in response to this regionalization directive. The Petition proposed a long-term plan comprising: a Memorandum of Understanding (MOU) with Bergen County to deliver 600-1000 tons per day of Passaic's waste to the Bergen County Utilities Authority Transfer Station; the development of a county transfer station/materials recovery facility; a 15 year disposal contract with the Empire Landfill; an MOU with Union County for Passaic's bulky waste and the second right of refusal for additional capacity at the Union County resource recovery facility; and an MOU with International Multi-Tech, Inc. for a landfill in Sussex County for Passaic's waste.

Finally, it must be noted that on October 7, 1993 former Commissioner Fox issued an order in the matter of a Petition of the Passaic County Utilities Authority (PCUA) for an Approval of a License Agreement with the Empire (Pa.) Landfill. The term of the license agreement was for 15 years with a 5 year renewal option. The DEPE, in its Order, approved the agreement for an initial term of two years while incorporating specific milestones to ensure that the County fully addresses the above noted deficiencies and a long-term disposal strategy.

The DEPE has reviewed the October 27, 1993 amendment within the context of the adopted Solid Waste Management State Plan Update: 1993-2002 and the October 7, 1993 Order. The following is an overview of the County's response to the noted deficiencies as well as the Department's comments on the proposed plans and programs.

**a. Source Reduction Goals**

The April 8, 1993 certification directed the County to endorse the State's source reduction goals of capping per capita waste generation at 1990 levels, capping total waste generation within 5 years, and reducing total waste generation within 10 years. The October 7, 1993 Order, in addition to requiring the endorsement of the noted source reduction goals, requires the County by October 31, 1994 in plan amendment form to provide an analysis of population and generation trends and to estimate the impacts of the various County programs, in numerical terms, toward capping and reducing waste generation. The October 27, 1993 amendment indicates that the County endorses the State's strategy and anticipates that this strategy is attainable through the aggressive County programs already in place, a continued slow economy, and lower rates of population growth. The County is reminded of the need to provide by October 31, 1994 the population and generation analysis required by the October 7, 1993 Order.

**b. Waste Audits Schedule**

The April 8, 1993 certification directed the County to provide a schedule for conducting waste audits in the private sector and at County and municipal buildings. The October 7, 1993 Order directs that waste audits be performed in all County and municipal buildings by December 31, 1994 with quarterly progress reports to be submitted to the DEPE by June and September 1994. The October 27, 1993 amendment indicates that the following schedule for implementing waste audits was adopted and requires that:

- (1) Industries with more than 500 employees will conduct waste audits by 1992;
- (2) Industries with 250-499 employees will conduct waste audits by 1993;
- (3) Industries with 100-249 employees will conduct waste audits by 1994; and
- (4) Industries with 50-99 employees will conduct waste audits by 1995.

Also, the County indicates that a private consultant has been secured to perform audits at County and municipal buildings for a two year period commencing in 1993. The County is reminded of the need to submit by June and September 1994 the quarterly progress reports required by the October 7, 1993 Order.

**c. Permanent Household Hazardous Waste Collection Facility**

The April 8, 1993 certification directed the County to provide the results of its study for developing a permanent household hazardous waste collection facility. The October 7, 1993 Order directs the County to commit by October 31, 1994 in plan amendment form to the establishment of a regional permanent facility or ongoing mobile

collection program or identify arrangements to utilize a collection facility(ies) within another New Jersey county. The October 27, 1993 amendment indicates that discussions continue regarding a permanent, consistent funding source that can sustain a broader based household hazardous waste collection program. The County is reminded of the need to commit to pursuing by October 31, 1994 one of the three options required by the October 7, 1993 Order.

**d. Procurement of Recycled Products**

Although both the April 8, 1993 certification and the October 27, 1993 amendment are silent on the issue of the procurement of recycled products, the October 7, 1993 Order directs the County by March 31, 1994 to provide a report in letter form on its progress in meeting its prior commitment to adopt revised purchasing practices for all County government offices by the end of 1994. The DEPE notes that this milestone has passed without the required submission.

**e. Regionalization and Long-Term Planning**

The April 8, 1993 certification directed the County to provide the results of its investigation to develop a bulky waste processing facility and evaluate the opportunities for regionalization. Also, regarding regionalization, the County was directed to provide a long-term in-state disposal strategy which included a timeline with specific milestones for developing in-county disposal facilities or for the negotiation of interdistrict agreement for the shared use of other existing or planned in-state disposal facilities. The October 7, 1993 Order directs the County to address the following regarding regionalization and long-term planning:

(1) The County was directed to submit a letter by October 31, 1993 from Bergen County on that county's continued commitment to pursue the terms of the June 25, 1993 MOU.

(2) The County was directed to submit an analysis by March 31, 1994 as to the need for an additional transfer station/materials recovery facility at 400 Maltese Drive, Totowa.

(3) The County was directed to submit an analysis by March 31, 1994 concerning the use of the J&J Recycling, Inc. facility located in Elizabeth, Union County for bulky and dry industrial waste generated within Passaic County.

(4) The County was directed to submit an analysis by March 31, 1994 concerning the potential for excess capacity for the County at the Union County resource recovery facility.

(5) The County was directed to submit a waste stream analysis by March 31, 1994 which estimates for the period 1994-2003 annual

solid waste generation, recycling rates, in-state and out-of-state disposal tonnages.

To date, none of the required submissions have been received. Based upon these submissions and following formal comment on them by the DEPE, the County shall adopt a plan amendment for submission to the Department by October 31, 1994. This amendment shall formally embody the detailed strategy of the County to meet all of its source reduction and recycling goals and to achieve in-state self-sufficiency in solid waste disposal by December 31, 1998. The amendment shall also formally embody the terms of the Empire Landfill Agreement and the Department's limited approval of same. The County must also address regionalization of processing/disposal capacity by exploring all possibilities of entering into interdistrict agreements with other districts which may be planning the development of similar types of facilities planned or needed by Passaic County.

The October 27, 1993 amendment indicates that negotiations continue with several counties for regionalization options concerning processing facilities and in-state landfill space. Also, the amendment notes that three MOU's have been signed to advance regionalization opportunities which are as follows:

(1) Passaic/Union MOU

This MOU provides that in the event excess capacity is available at the Union County resource recovery facility and Bergen County does not exercise its right of first refusal, the PCUA shall have the option to utilize such capacity. In the event the PCUA exercises such option, it shall be obligated to deliver processible waste to the facility in an amount not to exceed 100,000 tons per year. Also, pursuant to the MOU, the PCUA shall deliver all of its type 13 and 27 solid waste to the Linden Landfill.

(2) Passaic/International Multi-Tech Inc. (IMT) MOU

This MOU calls for the development by IMT of a landfill in Sussex County with Passaic County having the option to deliver municipal waste to said landfill. Passaic County acknowledges that the execution of an interdistrict agreement between Passaic and Sussex Counties is a condition of the MOU's performance obligations.

(3) Bergen/Passaic MOU

This final MOU provides for the delivery of between 600 to 1000 tons of Passaic County waste to the Bergen County transfer station for out-of-state disposal for a period of 3 to 5 years. It must be noted that this MOU was the subject of the July 14, 1993 amendment to the Passaic County Plan which was rejected in a DEPE certification of December 22, 1993. The basis for the rejection was a stipulation within the MOU which stated that if an interdistrict

agreement between the two counties was not signed by September 1, 1993, the MOU could be terminated upon prior written notice by either party. The DEPE did receive such notice from Bergen County thus rendering the MOU moot.

Finally, the DEPE notes that on March 29, 1994, the Department issued an emergency redirection order (ERO) to Essex, Hudson, and Passaic Counties. This ERO directs portions of Hudson and Passaic Counties' processible solid waste to the Essex County resource recovery facility from April 1 to December 31, 1994 to compensate for a shortfall in the delivery of waste to that facility. Effective April 1, 1994, portions of Bergen County's processible waste, which was formerly delivered to the Essex facility, is now being delivered to the Union County resource recovery facility pursuant to a 20 year Bergen/Union interdistrict agreement. Due to Passaic County's present total reliance on out-of-state disposal and the need for additional waste at the Essex resource recovery facility, the March 29, 1994 ERO provides a unique opportunity to structure a long-term regional disposal plan which is economically advantageous to the ratepayers of Passaic County while in accordance with the State's primary public policy goal of disposal self-sufficiency. Beyond the potential for Essex and Passaic Counties to negotiate a mutually advantageous interdistrict agreement, Passaic County should continue to explore regional opportunities with Bergen County. As identified in the above noted Bergen/Passaic MOU, the BCUA Transfer Station has significant available capacity. Therefore, a possible linkage exists between Bergen, Essex, and Passaic Counties where: Passaic could deliver solid waste to the BCUA Transfer Station for processing prior to the delivery of the processible portion of the waste stream to the Essex resource recovery facility; and Bergen, in addition to providing this materials recovery function, could serve as a spot market for the delivery of additional waste to the Essex facility during seasonal periods of excess capacity. Therefore, it is imperative that Passaic County use the period through December 31, 1994 to aggressively pursue mutually advantageous interdistrict agreements with both Bergen and Essex Counties.

As noted within Section C. of the certification, the DEPE has approved the County's responses to the deficiencies pertaining to adopting source reduction goals and conducting waste audits. However, the County's responses for addressing deficiencies pertaining to the development of a permanent household hazardous waste collection facility and the pursuit of regionalization options are only commitments to continue to address these deficiencies. Therefore, Section C. notes that the County must comply with specific milestones required by the October 7, 1993 Order for the DEPE to properly evaluate these latter two deficiencies. Also, Section C. notes the Essex/Hudson/Passaic ERO and the unique opportunity this ERO provides Passaic County to structure a long-term regional disposal plan. Finally, Section C. notes that the October 7, 1993 Order directs the achievement of



additional tasks pertaining to source reduction goals and waste audits.

**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 October 27, 1993 amendment to the approved County Plan and certify to the County Freeholders that the October 27, 1993 amendment is approved as further specified below.

**1. Source Reduction Goals**

The County's source reduction strategy comprising the State's source reduction goals is approved. However, as noted within Section B., the County is hereby notified that the Department's October 7, 1993 Order requires the accomplishment of additional source reduction tasks by October 31, 1994.

**2. Waste Audits Schedule**

The County's schedule for conducting waste audits in the public and private sectors is approved. However, as noted within Section B., the County is hereby notified that the Department's October 7, 1993 Order requires the accomplishment of additional waste audit tasks by June 30 and September 30, 1994.

**3. Permanent Household Hazardous Waste Collection Facility**

The Department acknowledges the County's commitment to continue to pursue the development of a permanent household hazardous waste collection facility. However, as noted within Section B., since the County has not provided the necessary details for the DEPE to properly evaluate this commitment, the County is hereby notified that the October 7, 1993 Order requires specific accomplishments by October 31, 1994 to properly address this deficiency.

**4. Regionalization**

The Department acknowledges the County's commitment to continue to pursue regionalization options. However, as noted within Section B., since the County has not provided the necessary details for the DEPE to properly evaluate this commitment, the County is hereby notified that the October 7, 1993 Order requires specific accomplishments by October 31, 1994 to properly address this deficiency. Further, as noted within Section B., the County has already failed to meet specific milestone submissions pertaining to regionalization and long-term planning. Finally, as also noted within Section B., the Department's March 29, 1994 ERO provides Passaic County with a unique opportunity to structure a long-term

regional disposal plan which is economically advantageous to the ratepayers of the County while in accordance with the State's primary public policy goal of disposal self-sufficiency. It is imperative that the County seize upon this opportunity to finalize an interdistrict agreement with Essex, and possibly Bergen, County. The DEPE remains available to provide any needed assistance.

**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. 7:26A-1 et seq.

4. Certification to Proceed with the Implementation of the Plan Amendment

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 amendment certified 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 -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 Amendment

The amendment to the County Plan contained herein shall take effect immediately.

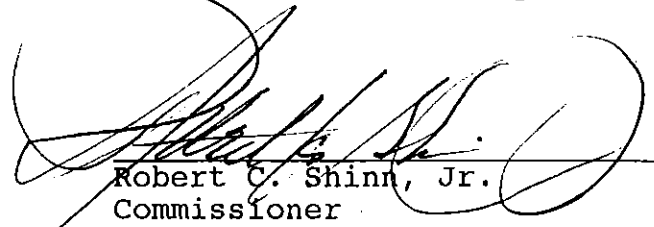
7. Reservation of Authority

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, 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 Amendment 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 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 October 27, 1993. I hereby also require, as noted in Section C., the Passaic County Board of Chosen Freeholders to address the noted deficiencies within the timeframes specified.

4/26/94  
Date

  
Robert C. Shinn, Jr.  
Commissioner  
Department of Environmental  
Protection and Energy