



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
CHRISTOPHER J. DAGGETT, 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 NOVEMBER 23, 1988
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 November 23, 1988, adopted an amendment to its approved district solid waste management plan. The amendment proposed to include within the county plan, mandatory truck routes to the proposed Passaic County resource recovery facility.

The amendment was received by the Department of Environmental Protection on December 9, 1988, 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 November 23, 1988, is approved in part, modified in part, and rejected in part 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, Christopher J. Daggett, Commissioner of the Department of Environmental Protection have studied and reviewed the November 23, 1988, 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 the approved portions of this plan amendment, as modified, are consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendment to fifteen 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 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 Water Resources, Parks and Forestry, and Coastal Resources; the Green Acres Program, the State Departments of Agriculture and Community Affairs, and the Board of Public Utilities. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Division of Fish, Game and Wildlife; the State Departments of Health and the Public Advocate; the New Jersey Turnpike Authority, the New Jersey Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The Department of Transportation, and the N.J.D.E.P. Divisions of Environmental Quality and Solid Waste Management submitted substantive comments which are further addressed below.

The Department of Transportation (DOT) indicated that Passaic County must file for an access permit, as the facility's access is from a state highway. The Department concurs with DOT's comments, and by way of this plan amendment notifies Passaic County of this requirement.

The Division of Environmental Quality commented that trucks traveling the proposed routes should avoid any intersections identified as hot spots in the 1982 State Implementation Plan, if recommended improvements to those intersections have not been completed. In response, since Route 21 is being utilized for local access to the facility, the recommended truck routes avoid local intersections, and site generated traffic should not cause significant adverse effects on ambient air quality.

The Division of Solid Waste Management (DSWM) commented that the recommended truck routes for certain Passaic County municipalities were inconsistent with those provided in the Solid Waste Facility Permit application for the resource recovery facility. Upon closer examination, the majority of these differences were the result of additional detail which was lacking in the routes contained in the application. However, DSWM noted that Route 3 was omitted in the routes designated from North Haledon Borough and Pompton Lakes Borough. DSWM also noted a substantial inconsistency in the proposed truck routes from Haledon Borough. Representatives of Haledon attended the September 21, 1988 public hearing to protest the truck routes originally proposed and to offer for consideration an alternative route which would provide considerable savings to the Borough. In response to those comments, the Passaic County Freeholder Board changed the proposed resolution to incorporate the alternate route. While the new route provides a more economic option according to Haledon officials, and the original traffic analysis is unaffected by this change, DSWM is concerned that proper public comment was not solicited for the alternate route. Finally, DSWM expressed concerns in regard to the potential need for an interdistrict agreement in those instances where the proposed routes require the utilization of out-of-district roadways.

In response, the Department concurs with DSWM's assessment that, with the exception of the Route 3 omission and the revised truck route from Haledon, all changes merely provide additional detail to the routes to the resource recovery facility. The Department has learned that the omission of Route 3 was an oversight as confirmed by the County Planning Director. This route was properly noticed as a truck route for other municipalities needing a connecting route between Route 46 and Route 21. It was merely an oversight on the part of the county not to include this route in the proposed amendment as submitted, and can be corrected through a minor modification. In reference to the out-of-district route, since the route involves the use of a state highway, no interdistrict agreement is required pursuant to existing Departmental policy. Lastly, the new truck route from Haledon Borough was not part of the plan amendment on which the September 21, 1988 public hearing was held. Persons who may have been interested in or affected by the route change did not receive proper notification and, therefore, were not afforded an opportunity to comment. Therefore, the Department rejects this portion of the amendment as outlined in Section C. below.

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

I, Christopher J. Daggett, 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 November 23, 1988 amendment to the approved Passaic County District Solid Waste Management Plan and certify to the Passaic County Board of Chosen Freeholders that the November 23, 1988 amendment is approved in part, modified in part, and rejected in part, as further specified below.

1. The following mandatory truck routes to the proposed Passaic County Resource Recovery Facility, to be located in the City of Passaic, Passaic County, are hereby approved as stated below:

- a. Trucks from the Borough of Bloomingdale will take Route 511 to Route 23 to Route 46 to Route 3 to Route 21.
- b. Trucks from northern Clifton will take Route 46 to Route 3 to Route 21. Trucks from southwestern Clifton will take Route 3 to Route 21, and trucks from southeastern Clifton will use local Clifton access to Route 21.
- c. Trucks from Hawthorne will take Route 20 to Route 46 to Route 3 to Route 21.
- d. Trucks from Little Falls will take Route 46 to Route 3 to Route 21.
- e. Trucks from Passaic will use local access to Route 21.
- f. Trucks from Paterson will take Route 19 and/or Route 20 to Route 46 to Route 3 to Route 21.
- g. Trucks from Prospect Park will take East Main Street to Wagaraw Road to Route 20 to Route 46 to Route 3 to Route 21.
- h. Trucks from Ringwood will take Ringwood Avenue to Paterson-Hamburg Turnpike to Route 511 to Route 23 to Route 46 to Route 3 to Route 21.
- i. Trucks from Totowa will take Route 46 to Route 3 to Route 21.
- j. Trucks from Wanaque will take Ringwood Avenue to Paterson-Hamburg Turnpike to Route 511 to Route 23 to Route 46 to Route 3 to Route 21.
- k. Trucks from Wayne will take Route 23 to Route 46 to Route 3 to Route 21.
- l. Trucks from West Milford will take Route 23 to Route 46 to Route 3 to Route 21.
- m. Trucks from West Paterson will take Route 46 to Route 3 to Route 21.
2. The following mandatory truck routes to the proposed Passaic County Resource Recovery Facility, to be located in the City of Passaic, Passaic County, have been modified by the Department to include Route 3, and are hereby approved as stated below:
 - a. Trucks from North Haledon will take Haledon Avenue to N. 6th Street to East Main Street to Wagaraw Road to Route 20 to Route 46 to Route 3 to Route 21.
 - b. Trucks from Pompton Lakes will take Route 511 to Route 23 to Route 46 to Route 3 to Route 21.
3. The following mandatory truck route to the proposed Passaic County Resource Recovery Facility to be located in the City of Passaic, Passaic County is hereby rejected by the Department;
 - a. Trucks from Haledon will take Belmont Avenue to Union Avenue to Route 46 to Route 3 to Route 21.

As noted earlier, this truck route was not included as part of the draft plan amendment for which a public hearing notice was issued and related public documents filed. Persons who may be interested in or affected by the change in route did not receive proper notice and did not have an opportunity to comment on this change. The Department is not making a determination on the technical merits of the revised truck route itself, but is rejecting this portion of the amendment on procedural grounds. Therefore, within 45 days, the county shall hold a public hearing and adopt a plan amendment to include a truck route for trucks from Haledon Borough.

In addition, 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(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 remains deficient with respect to N.J.S.A. 13:1E-21b(3), due to the failure to include within the district plan all properties being utilized for the Passaic County Resource Recovery Facility. Additionally, on June 24, 1987, Passaic County adopted a plan amendment to designate the Chambers Development Company landfill system in Pennsylvania and other states as the primary landfill system until the year 2002. On September 1, 1987, the Commissioner of the Department approved the inclusion of this landfill system through 1992, and rejected its use as the primary disposal option through 2002. The Department then modified the June 24, 1987 amendment to allow the Chambers Development Company landfill system to be included in Passaic County's plan as a contingency for the disposal of residual, bypass and non-processible waste through 2002. Passaic County was further directed to address landfill disposal options within 45 days of the September 1, 1987 Certification. In this regard, Passaic County has failed to address the issue of primary disposal of residual, bypass and non-processible waste after 1992. This issue is critical to the successful continuation of Passaic County's solid waste program. Therefore, Passaic County is once again directed to address these issues, in writing, within 45 days of the date of this certification. Until these issues are addressed, the Passaic County Plan remains deficient with respect to N.J.S.A. 13:1E-21b(3).

2. 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.

Although this certification partially addresses this requirement, Passaic County has yet to address projected solid waste transportation

costs. Therefore, the Passaic County plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(4).

3. 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 for both a district landfill and resource recovery facility. Therefore, the Passaic County plan remains deficient with respect to the requirements of 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 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 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 portions of 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 in Part, Modification 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 requirements of N.J.S.A. 13:1E-1 et. seq., I hereby approve in part, modify in part, and reject in part 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 November 23, 1988. The modification contained herein is considered minor in nature. Therefore, an additional public hearing will not be required for the modification. In accordance with N.J.S.A. 13:1E-24(d) and (f), the Passaic County Board of Chosen Freeholders is hereby ordered to adopt a plan amendment to include this modification within 45 days of receipt of this certification. The Passaic County

Freeholders are also ordered to hold a public hearing on the rejected portion of this amendment within 45 days of receipt of this certification and adopt a plan amendment to address the rejected portions. I further direct the Passaic County Freeholders to remedy those deficiencies outlined in Section C. of this certification within 45 days.

03 MAY 1988

DATE

CHRISTOPHER J. DAGGETT
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION