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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., 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 30, 1987
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 30, 1987, adopted an amendment to its approved district solid waste management plan.

As adopted, the five part amendment proposed to:

- 1) Include in the district plan a portion of Sherman Street, located in the City of Passaic, as a part of the county resource recovery facility site;
- 2) Include in the district plan two lots located in the City of Paterson as a part of Fulton Street Transfer Station site;
- 3) Include in the district plan a provision requiring the renegotiation of solid waste collection and disposal contracts;
- 4) Designate within the district plan the transportation routes to be used by collector/haulers delivering waste to the Fulton Street and Iowa Avenue Transfer Stations located in the City of Paterson; and
- 5) Delete from the district plan the proposed West Milford (Stamato) Transfer Station.

The amendment was received by the Department of Environmental Protection on December 24, 1987 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 30, 1987, 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, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the November 30, 1987 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, and Fish, Game and Wildlife, and the State Department of Community Affairs. The following agencies failed to respond to our request for comments: the N.J.D.E.P. Divisions of Water Resources, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture, Health, Transportation and the Public Advocate; the Board of Public Utilities, the Green Acres Program, the New Jersey Turnpike

Authority, the New Jersey Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The Office of Recycling and the Division of Solid Waste Management submitted substantive comments which are further addressed below.

The Division of Solid Waste Management's Bureau of Resource Recovery commented that they were uncertain as to how the portion of Sherman Street in the City of Passaic, designated to be part of the county resource recovery facility site, should be identified within the solid waste facility permit. Also, updated transfer station facility designs of November 17, 1987, submitted by Pen Pac, Inc. (for the Fulton Street Transfer Station) reflect only the inclusion of Block D 0558, Lot 6, as additional acquired property, and does not include Lot 6a which is contained in the proposed plan amendment. It was the Bureau's understanding that Pen Pac, Inc. is also attempting to acquire Block 5-58, Lot 1, 2, and 3 for facility operation. Finally, the Bureau of Resource Recovery commented regarding the designated truck routes, as described in the proposed plan amendment, that enforcement provisions (of the proposed routes) shall be included for necessary compliance. In response, while the portion of Sherman Street in the City of Passaic is approvable for plan inclusion, Passaic County must submit to the Department the block and lot numbers that comprise all of the site for permit issuance. In response to the comment on the Fulton Street Transfer Station expansion, a permit may be issued to a transfer station which designates more blocks or lots in the district plan than comprise the site. However, a permit cannot be issued for a transfer station if the complete site designation is not contained in the district plan. In regard to the comment on the designated truck routes to the Paterson transfer stations, Passaic County is notified by copy of this certification that it must stipulate in writing to the Department specific enforcement provisions to ensure that the routes are utilized.

The Office of Recycling commented regarding the renegotiation of solid waste collection and disposal contracts by stating that the fees in the renegotiated contracts should be based upon the amount of solid waste collected and disposed, rather than a fixed yearly fee, which is the present practice. The Office of Recycling strongly objects to a fixed or put or pay type of fee. Such a fee structure seriously discourages recycling and alternatively encourages waste production habits. Restructuring waste removal service fees so that they reflect the actual amount of solid waste disposal will provide additional incentive for municipalities to recycle and will more accurately reflect the true costs of solid waste disposal. In response, by copy of this certification, the Board of Public Utilities is informed of these comments for their review and possible action.

The Division of Solid Waste Management's Bureau of Solid Waste and Resource Recovery Planning commented regarding the West Milford (Stamato) Transfer Station plan deletion by stating that on January 17, 1986, the Department proposed an amendment to the Passaic County District Solid Waste Management Plan that proposed the incorporation of a short-term disposal strategy to provide for the development of transfer stations to prepare the county's waste for transport to out-of-state landfills. This action was made necessary due to the December 1, 1987 HMDC landfill closure and the lack of any in-county disposal facilities. At the time of the January 17, 1986

proposed plan amendment, the Department accepted project implementation responsibility for the transfer station project. Upon receipt of a proposal by Pen Pac, Inc., the Department subsequently, on November 19, 1986, proposed an amendment to the Passaic County District Solid Waste Management Plan which designated one new and three previously sited transfer station sites for the processing of Passaic County waste prior to transport to out-of-state landfills. Each of the four (4) transfer stations were initially proposed to have a maximum design processing capacity of at least 680 tons per day and an expected loading rate of 440 tons per day. Of the three previously sited transfer stations, two were operational in Paterson. Subsequently, both of the operational transfer stations underwent expansions to handle the county's solid waste. The remaining previously sited facility, West Milford (Stamato) Transfer Station, submitted an application for a permit to construct and operate the facility. Upon review of the permit application, it was determined that permit conditions might substantially increase the cost of constructing the facility. The Passaic County Board of Chosen Freeholders, accepting the responsibility of project implementation at the onset of the project development, proposed to the Department that, with the construction of the new transfer station in Totowa and the expansions of the two operating transfer stations in Paterson, the West Milford (Stamato) Transfer Station was unnecessary. The Department concurs with the Passaic County Freeholder Board that, under the conditions they project with the construction of the Totowa Transfer Station and the expansion of the two Paterson transfer stations, a fourth transfer station may not be necessary. The Department will, therefore, noting that the Passaic County Freeholder Board has accepted project implementation responsibility, act favorably towards the county's request to delete the West Milford (Stamato) facility from the project and district plan. However, in the event additional disposal/processing capacity is needed, it is the responsibility of the county to provide for such capacity through the upgrading/expansion of one or more of the three remaining Pen Pac, Inc. transfer stations and/or providing alternative capacity elsewhere.

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 November 30, 1987 amendment to the approved Passaic County District Solid Waste Management Plan and certify to the Passaic County Board of Chosen Freeholders that the 1986 amendment is approved as further specified below.

1. The inclusion into the district plan of a portion of Sherman Street in the City of Passaic, west of Dayton Avenue and extending from the southwestern corner of the intersection of Dayton Avenue and Sherman Street westerly a distance of approximately 126 feet, to be utilized as a portion of an enclosed dedicated access road proposed to service the resource recovery facility is approved. Passaic County shall submit the block and lot designation of this parcel of land in a subsequent plan amendment submission.

2. The inclusion into the district plan of Block D 0558, Lots 6 and 6a, in the City of Paterson for use as the Pen Pac, Inc. Fulton Street Transfer Station, is approved.
3. The inclusion into the district plan of a policy for contract renegotiation is approved. Specifically, all contracts for solid waste collection and or disposal executed prior to the Departmental certification of this amendment and subsequent to the effective date of the Solid Waste Management Act (July 29, 1977) shall be renegotiated within 60 days of the certification of this plan amendment. Said renegotiation shall reflect the increase in disposal fees and the reduction in transportation costs resulting from the utilization of the Pen Pac, Inc. system of transfer stations servicing Passaic County municipalities.
4. The designation of truck routes for the delivery of waste to the Pen Pac, Inc. transfer station on Fulton Street in the City of Paterson and the Pen Pac, Inc. transfer station on Iowa Avenue in the City of Paterson is approved. Specifically, these routes are indicated in the November 30, 1987 amendment to the Passaic County District Solid Waste Management Plan. Passaic County shall specify to the Department in writing the enforcement provisions to ensure that the required routes are utilized.
5. The deletion of the West Milford (Stamato) Transfer Station, located at Block 549, Lot 8, in the Township of West Milford, is approved. This approval is based on assurances from Passaic County that sufficient processing capacity will exist to meet the county's needs. In the event that additional disposal/processing capacity is needed, Passaic County shall be responsible for providing such capacity through the expansion of the three remaining Pen Pac, Inc. transfer stations and/or through providing alternative capacity elsewhere.

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 sixty (60) 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 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 November 30, 1987.

February 26, 1988
DATE



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION