



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 MARCH 28, 1984 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 resource recovery techniques. In addition to this strategy, the plan must designate sufficient available 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 March 28, 1984 adopted an amendment to its approved District Solid Waste Management Plan. The amendment was received by the Department of Environmental Protection on April 25, 1984 and copies were distributed to various state level agencies for review and comment, as required by law.

As recently as October 19, 1983, the Passaic County Board of Chosen Freeholders adopted an amendment to the approved Passaic County District Solid Waste Management Plan. This amendment specifically proposed for inclusion into the District Plan the IMRF (Iorio) transfer station, located

on Block 170, Lot 91, Totowa, New Jersey. The amendment also contained a proposed County siting policy for new transfer stations. This proposed siting policy stated 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 the designated disposal facilities, and the owner/operator of said transfer station is in full knowledge of District waste disposal plans. The October 19, 1983 amendment also specifically proposed for inclusion into the District Plan the IMRF (Iorio) Transfer Station, located in Totowa, Passaic County. On March 22, 1984, the Commissioner of the Department of Environmental Protection certified the October 19, 1983 Passaic County plan amendment. This Certification rejected the proposed transfer station siting policy for failing to provide for the proper consideration of siting criteria for each specific site which the County must consider in its capacity as a Solid Waste Management District. The Certification of the October 19, 1983 amendment approved for inclusion into the District Plan the IMRF (Iorio) Transfer Station, located in Totowa, Passaic County.

An application for a Department of Environmental Protection solid waste facility registration and permit to operate the IMRF (Iorio) transfer station was received by the Department on January 3, 1984. Prior to this, the applicant had contacted the Department to inquire about the planning and engineering requirements for a proposed facility. The Department supplied this information and contacted the Passaic County Planning Board to ascertain the County's position in regard to this proposed facility. The Director of the Passaic County Planning Board, James Rogers, informed the Department that this proposed facility is included in the draft of the two-year update (the October 19, 1983 amendment) of the Passaic County Solid Waste Management Plan. The Department was also forwarded a Passaic County Freeholder resolution, dated July 20, 1983 supporting the IMRF (Iorio) transfer station. Upon receipt of the application, it was forwarded to the Bureau of Engineering Permits and Licenses for the required review and the application was also forwarded to the necessary state level review agencies. This action was based solely on the representations of Passaic County as to their support and the eventual inclusion of this facility into the District Plan.

On March 28, 1984, the Passaic County Board of Chosen Freeholders adopted an amendment to the Passaic County District Solid Waste Management Plan to delete the IMRF (Iorio) Transfer Station from the approved District Plan. The inclusion or exclusion of any solid waste facility is a land use decision which must be made (and defended) by the County Board of Chosen Freeholders. Because the amendment to delete the proposed facility was adopted only days after the Certification approving the inclusion of this facility was issued, and, the deletion of this proposed facility would not jeopardize the management of solid waste in Passaic County, the Department of Environmental Protection will not reject this land use decision made by the Passaic County Board of Chosen Freeholders. Therefore, the Solid Waste Management Plan amendment adopted by the Passaic County Board of Chosen Freeholders on March 28, 1984 is approved in accordance with N.J.S.A. 13:1E-1 et seq.

B. 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 show, 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-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 Interdistrict Solid Waste Flow Rules (N.J.A.C. 7:26-6) which are part of the Passaic County District Solid Waste Management Plan.

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 N.J.A.C. 7:26-1.4 and -2.13.

5. Effective Date of Amendment

The approved amendment to the Passaic County District Solid Waste Management Plan contained herein shall take effect immediately.

6. Reservation of Authority

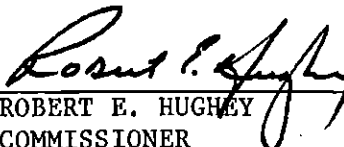
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Passaic County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide 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.

C. Certification of Approval by the Commissioner of the Department of Environmental Protection

In accordance with the provisions of N.J.S.A. 13:1E-1 et seq., I hereby approve the amendment, as outlined in Section A of this Certification, to the Passaic County District Solid Waste Management Plan which was adopted by the Passaic County Board of Chosen Freeholders on March 28, 1984. Notwithstanding said approval, the Passaic County District Solid Waste Management Plan remains deficient in several areas and, therefore, in violation of the Solid Waste Management Act.

9/7/84

DATE



ROBERT E. HUGHEY
COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION