



## State of New Jersey

Department of Environmental Protection  
PO Box 402  
Trenton, NJ 08625-0402

Bradley M. Campbell  
Commissioner  
Tel. # (609) 292-2885  
Fax # (609) 292-7695

James E. McGreevey  
Governor

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

**CERTIFICATION  
OF THE FEBRUARY 13, 2003  
AMENDMENT TO THE UNION COUNTY 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 (now known as the New Jersey Meadowlands Commission or NJMC) develop comprehensive plans for waste management in their respective districts. On August 13, 1980, the Department of Environmental Protection (Department or DEP) approved the Union 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 that 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.

The Act further provides that a district may review its District Plan at any time and, if found inadequate, a new District Plan must be adopted. The Union County Board of Chosen Freeholders (County Freeholders) completed such a review and on February 13, 2003 adopted an amendment to its approved County Plan. The February 13, 2003 amendment proposes County Plan inclusion of the re-establishment of regulatory flow control over a portion of solid waste types 10 and 25 generated within the County through a non-discriminatory procurement. This portion refers to the type 10 and 25 solid waste generated within the County not currently delivered to the Union County Resource Recovery Facility (UCRRF) under voluntary contract.

In this certification, this portion of solid waste types 10 and 25 will hereafter be referred to as the non-contract waste. The amendment also proposes the inclusion of the:

- 1) UCRRF, located at 1499 Routes 1 & 9 North, in the City of Rahway;
- 2) Automated Modular Systems, Inc. (AMS) Transfer Station/Material Recovery Facility (TS/MRF), located at 1520 Lower Road, in the City of Linden; and
- 3) Waste Management of New Jersey, Inc. Transfer Station, located at 864 Julia Street, in the City of Elizabeth, as the County's designated facilities for the non-contract waste.

In addition, the above referenced plan amendment proposes the transfer of waste flow enforcement responsibilities from the County to the Union County Utilities Authority (UCUA).

The amendment was considered administratively complete for review by the Department on March 12, 2003 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 February 13, 2003 is approved in part and remanded in part, as provided in N.J.S.A. 13:1E-24.

**B. Findings and Conclusions with Respect to the Union County District Solid Waste Management Plan Amendment**

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the February 13, 2003 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 the amendment is consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the elements of the February 13, 2003 amendment, which are included below.

In conjunction with the review of the amendment, the Department circulated copies to sixteen 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. All agencies contacted are as follows:

Division of Water Quality, DEP  
Division of Parks and Forestry, DEP  
Division of Fish and Wildlife, DEP  
Division of Compliance and Enforcement, DEP  
Division of Solid and Hazardous Waste, DEP  
Office of Air Quality Management, DEP  
Green Acres Program, DEP  
Land Use Regulation Element, DEP  
New Jersey Turnpike Authority  
New Jersey Advisory Council on Solid Waste Management  
Office of Local Environmental Management

Department of Agriculture  
Department of Health and Senior Services  
Department of Transportation  
Department of Community Affairs  
U.S. Environmental Protection Agency

### **Elements of the February 13, 2003 Amendment**

#### **Element: County Plan Inclusion of Regulatory Flow Control Over Solid Waste Types 10 and 25**

The February 13, 2003 amendment is proposing County Plan inclusion of the re-establishment of regulatory flow control over solid waste types 10 and 25 pursuant to a nondiscriminatory procurement, and to include the UCRRF in the City of Rahway, the AMS Transfer Station in the City of Linden, and the Waste Management of New Jersey, Inc. Transfer Station in the City of Elizabeth, as the County's designated facilities to which non-contract wastes are directed. In addition, the above referenced plan amendment proposes the transfer of waste flow enforcement responsibilities from the County to the UCUA.

In response to the May 1, 1997 decision of the United States Court of Appeals for the Third Circuit which declared unconstitutional New Jersey's historic system of solid waste flow control [See Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County et al. 112 F . 3d 652 (3d Cir. 1997, cert. den., November 10, 1997)], the Union County Freeholders adopted a County Plan amendment on December 17, 1997, which included the County's revised solid waste disposal strategy. The certification of this amendment by the Department on April 30, 1998 approved County Plan inclusion of the strategy to offer voluntary contracts to each of the County's 21 municipalities and to commercial haulers servicing Union County customers, for the disposal of processible waste types 10 and 25 at the Union County Resource Recovery Facility (UCRRF). This certification, however, rejected the County Plan inclusion of the imposition of regulatory flow control of waste types 13, 23, and 27 to the J&J Recycling Company, Inc. Transfer Station, located in the City Elizabeth, and the Linden Landfill, located in the City of Linden, due to the County's failure to demonstrate that the relevant contracts were awarded to the designated facilities in a nondiscriminatory manner.

A March 11, 1999 County Plan amendment proposed imposition of regulatory flow control of waste types 13, 23, and 27 based upon the completion of nondiscriminatory bid contracts. This amendment, certified by the Department on June 1, 1999, delineated waste flow for waste types 13, 23, and 27, as follows:

- All non-recycled solid waste types 13 and 23 are directed to the New Jersey Meadowlands Commission (NJMC) Transfer Station and Materials Recovery Facility (TS/MRF), located at 100 Baler Boulevard in North Arlington, Bergen County for the provision of bulky waste recycling services;
- All non-recycled solid waste type 27 are directed to the NJMC TS/MRF for industrial waste recycling services; and

- All residue remaining after recycling solid waste types 13, 23, and 27 at the NJMC TS/MRF was directed to the NJMC 1-E North Area Landfill, located at 100 Baler Boulevard in North Arlington, Bergen County and Kearney, Hudson County, and now directed to the Erie Landfill, located at 100 Baler Boulevard in North Arlington, Bergen County for disposal.

An administrative action dated June 16, 1999 and approved by the Department on June 29, 1999 clarified that solid waste types 13 (including 13C) and 27 generated within Union County shall not be recycled at any other materials recovery facility prior to delivery to the NJMC TS/MRF for recycling.

A May 1, 2000 administrative action included within the County Plan the policy of allowing fully-permitted material recovery facilities to accept and recycle solid waste types 13, 23, and 27, provided that the facilities enter into agreements with the UCUA to deliver all residue remaining after recycling to NJMC facilities for disposal.

A July 13, 2000 administrative action included within the County Plan the policy that to the extent that the NJMC continues to receive regulated waste directly from Union County waste generators and that waste is not subject to prior materials recovery efforts by contracting MRFs, the NJMC will attempt to recycle this incoming regulated waste although there will be no established recycling goals.

Under a current contract, Union County is required to deliver 250,000 tons per year (tpy) of solid waste types 10 and 25 ("processable waste") to the UCRRF for incineration. Through voluntary contracts, 170,000 tpy are currently being delivered to the UCRRF.

## **Element: Facility Histories**

### **Union County Resource Recovery Facility**

The UCRRF was included in the County Plan in an April 5, 1984 plan amendment certified by the Department on October 5, 1984. The facility was included as a 437,000 tpy facility for the disposal of all of the processible solid waste generated in Union County with a location given as Block 144, Lots 40, 42, 43, 51, and 52; Block 146, Lots 24, 26, 29-32, 43, and 45; Block 148, Lots 29, 34, 36, 38, 40, and 41; Block 161, Lots 25-29; Block 162, Lots 1-6 and 16; Block 163, Lots 1-4; and Block 164, Lots 1-5, 1499 Routes 1 & 9 North, City of Rahway.

A September 15, 1988 amendment to the County Plan included Block 338, Lots 6, 7, 8, 8.01, 10, 11, and 13 in the City of Rahway as part of the UCRRF. This amendment was certified by the Department on April 13, 1989.

On December 9, 1996, the Department certified a June 20, 1996 County Plan amendment that included a revised processing capacity for the UCRRF from 437,000 tpy to its nameplate capacity of 525,600 tpy in an attempt to expedite the permitting renewal process. The UCRRF

was physically sized at 525,600 tpy to provide excess capacity to accommodate downtime at the facility.

A July 14, 1997 administrative action to the County Plan included a capacity expansion of 100 tons per day (tpd) for the UCRRF from 1440 tpd to 1540 tpd.

The current amendment directs non-contract waste (see page 2 of 9 above for the definition of this waste) from the Township of Berkeley Heights, Township of Clark, Township of Cranford, Borough of Fanwood, Borough of New Providence, City of Plainfield, City of Rahway, and the Township of Scotch Plains to the UCRRF for incineration.

#### **Automated Modular Services, Inc. Transfer Station/Material Recovery Facility**

The AMS Transfer Station, located on Block 580, Lot 53, 1520 Lower Road, City of Linden, was included in the County Plan for the acceptance of waste types 10, 13, 23, 25, and 27, in a May 19, 1987 plan amendment, certified by the Department on July 21, 1987. The certification noted that the maximum capacity would be determined during the permitting phase for the facility.

The AMS facility was included in the County Plan as a materials recovery facility and recycling center for Class A and B recyclable materials through a February 25, 1993 amendment, approved by the Department on September 10, 1993. This amendment also added Lot 52 to the facility location and proposed a capacity of 1200 tpd of solid waste and recyclable materials.

The current amendment directs non-contract waste from the Borough of Garwood, Borough of Kenilworth, City of Linden, Borough of Mountainside, Township of Springfield, City of Summit, Township of Union, Town of Westfield, and the Township of Winfield to the AMS Transfer Station prior to disposal out-of County.

#### **Waste Management of New Jersey, Inc. Transfer Station/Material Recovery Facility**

The Waste Management of New Jersey, Inc. Transfer Station, also known as the Ellesor Transfer Station, was included in the County Plan for the acceptance of waste types 10, 13, 23, 25, 27 in a May 19, 1987 plan amendment, certified by the Department on July 21, 1987. The certification noted that the maximum capacity would be determined during the permitting phase for the facility.

A May 18, 1994 Department certification of an amendment to the County Plan adopted on December 8, 1993, approved the acceptance of waste types 10, 13, 23, 25, and 27 at the Ellesor TS/MRF. The facility's location was given as Block 8, Lots 1401, 818, 819, 820, 1441, 1042 (a, b, c and d), 1042, and 542, with a street address of 864 Julia Street, City of Elizabeth.

On March 13, 1997, the Union County Freeholder Board adopted an amendment to include within it a capacity expansion for the Ellesor TS/MRF from 800 tpd to 1600 tpd. This County Plan

amendment was certified as approved by the Commissioner on July 10, 1997.

The current amendment directs non-contract waste from the City of Elizabeth, Township of Hillside, Borough of Roselle, and the Borough of Roselle Park to the Waste Management of New Jersey, Inc. TS/MRF prior to disposal out-of County.

**Element: Economic Hardship on Small-Haulers**

The system of waste flow, as proposed, would direct waste from certain municipalities to a corresponding disposal facility. This system may pose undue economic hardship on small-haulers with commercial customers in different municipalities, by forcing a hauler (at least hypothetically) to tip a partial load at one of the three designated facilities, and then return to their respective routes to service customers in a different municipality. Based on solid waste collector information obtained by the Department, approximately 30% of the commercial accounts in the County are handled by 51 haulers. As noted within Section C. of this certification, a plan to deal with this situation shall have to be developed by the UCUA and submitted to the Department to address these concerns.

**Element: Transfer of Waste Flow Enforcement Responsibilities to the UCUA**

The Union County Bureau of Environmental Health and Enforcement is a certified county health agency pursuant to the County Environmental Health Act (CEHA, N.J.S.A. 26:3A2-21 et seq.). In order for the UCUA to assume the administration of a CEHA waste flow enforcement program, the Union County Bureau of Environmental Health and Enforcement must submit a revised CEHA solid waste work program and an interlocal service agreement to the DEP's Office of Local Environmental Management for their review and subsequent approval. Therefore, this section of the February 13, 2003 amendment is remanded to the County pending resolution of these requirements.

**Regulatory Requirements**

Transfer stations/material recovery facilities are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits the release of odors and other air contaminants that interfere with the enjoyment of life and property. Further, transfer stations/material recovery facilities are also subject to N.J.A.C. 7:27-8.2(a)16 that requires air pollution control permits for any equipment that vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants. Finally, if the proposed operation will discharge pollutants as defined in N.J.A.C. 7:14-1.9, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

C. **Certification of the Union 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 county solid waste management plans, I have reviewed the February 13, 2003 amendment to the approved County Plan and certify to the County Freeholders that the February 13, 2003 amendment is approved in part and remanded in part as further specified below.

The County Plan inclusion of the re-establishment of regulatory flow control over solid waste types 10 and 25 pursuant to a nondiscriminatory procurement, and to include the UCRRF, located at 1499 Routes 1 & 9 North in the City of Rahway; Automated Modular Systems, Inc. (AMS) Transfer Station/Material Recovery Facility (TS/MRF), located at 1520 Lower Road, City of Linden; and the Waste Management of New Jersey, Inc. Transfer Station, located at 864 Julia Street, City of Elizabeth, as the County's designated facilities to which non-contract wastes, as defined above, are directed, is approved. Specifically, the February 13, 2003 plan amendment notes that non-contract waste from the Township of Berkeley Heights, Township of Clark, Township of Cranford, Borough of Fanwood, Borough of New Providence, City of Plainfield, City of Rahway, and the Township of Scotch Plains are to be directed to the UCRRF; that non-contract waste from the Borough of Garwood, Borough of Kenilworth, City of Linden, Borough of Mountainside, Township of Springfield, City of Summit, Township of Union, Town of Westfield, and the Township of Winfield are to be directed to the AMS Transfer Station; and that non-contract waste from the City of Elizabeth, Township of Hillside, Borough of Roselle, and the Borough of Roselle Park are to be directed to the Waste Management of New Jersey, Inc. TS/MRF prior to disposal out-of County.

However, the County is directed to submit a plan to alleviate the potential economic burden on small-haulers of the County's commercially generated solid waste. This submission may be in the form of an administrative action pursuant to the provision of N.J.A.C. 7:26-6.11. The County shall submit this required plan within ninety (90) calendar days of this certification.

The County Plan inclusion of Transfer of Waste Flow Enforcement Responsibilities to the UCUA is remanded, pending approval by the Department of a revised CEHA solid waste work program and interlocal service agreement. Upon resolution of these required elements, and the approval of the same by the Department as specified herein, no further action is required by the County vis-à-vis the District Solid Waste Management Plan.

This certification shall not be construed as an expression of the DEP's intent to issue a solid waste facility permit or permit modification for any proposed facility or operation.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the DEP and the Attorney General of the State of New Jersey to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

**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 County 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 including waste types 10, 13, 23, 25, and 27 and all applicable subcategories and shall not apply to liquid and hazardous wastes. All nonhazardous materials separated at the point of generation for sale or reuse are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

**4. Certification to Proceed with Implementation of 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 Freeholders shall proceed with the implementation of the approved components of the 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 Amendment**

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

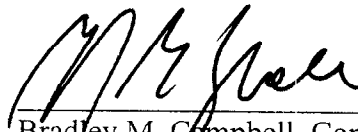
7. **Reservation of Authority**

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, 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 in part, and remand in part, as outlined in Section C. of this certification, to the Union County District Solid Waste Management Plan which was adopted by the Union County Board of Chosen Freeholders on February 13, 2003.

June 13 2003  
Date

  
Bradley M. Campbell, Commissioner  
Department of Environmental Protection