



State of New Jersey

Department of Environmental Protection

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**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 NOVEMBER 30, 2000
AMENDMENT TO THE UNION 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 (Department or DEP) approved, with modifications, 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 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.

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 Union County Board of Chosen Freeholders (County Freeholders) completed such a review and on November 30, 2000, adopted an amendment to its approved County Plan.

The November 30, 2000 amendment proposes to include in the County Plan the Tremley Point Marine Transfer Terminal solid waste transfer station, to process type 10 municipal solid waste. The proposed facility will be located on Block 587, Lot 8, in the City of Linden, and is intended to be used to transfer solid waste generated in New York City from barges onto rail cars for disposal out-of-state.

The amendment was considered administratively complete on February 1, 2001, 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 November 30, 2000 is remanded for readoption and recertification as provided in N.J.S.A. 13:1E-24.B.

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

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. All agencies contacted are as follows:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Compliance and Enforcement, DEP
Division of Water Quality Management, 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
Department of Agriculture
Department of Health and Senior Services
Department of Transportation
Department of Community Affairs
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the November 30, 2000 Amendment

The following agencies did not object to the proposed amendment:

Division of Fish, Game and Wildlife, DEP
Division of Compliance and Enforcement, DEP

Division of Water Quality Management, DEP
Green Acres Program, DEP
Land Use Regulation Element, DEP
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Community Affairs

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

Division of Parks and Forestry, DEP
Department of Health and Senior Services
U.S. Environmental Protection Agency

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

Division of Solid and Hazardous Waste, DEP
Department of Transportation
Office of Air Quality Management, DEP

The County Freeholders are notified of the issues of concern relative to the November 30, 2000 amendment which are included in Section B.2. below.

2. Issues Related to the November 30, 2000 Amendment

Issue: Operational Logistics

The proposed transfer station project is unprecedented in the State both in terms of scope and operations. In terms of scale, the proposal calls for receipt and daily processing of 10,000 tons per day of municipal solid waste, with a contingency capacity during unusual events of 15,000 TPD. The largest operational facility in New Jersey at present receives approximately 3,000 tons per day. The base proposal is more than three times larger than any facility historically operated in the State and five times larger when the peak contingency capacity is considered. Further, the State has never reviewed and permitted a barge to rail transfer facility and, therefore, has no institutional knowledge of effective operational plans for such a facility. Given the scope and unprecedented nature of this proposal, the Department recommends that the Freeholder Board carefully review this matter and encourages the applicant to provide more detail on the logistics of such a massive daily processing of solid waste. In particular, the Freeholder Board and/or the applicant should provide to the Department in any plan amendment adopted in response to this certification, contingency plans for addressing disruptions of normal operations such as a mechanical failure at the facility that would prevent the processing of solid waste. Concerns

exist regarding the adequacy of the waterfront location for the storage of unloaded barges. The amendment is further deficient in its failure to specifically address contingency plans in the event of a disruption of rail service which would prevent the transport of waste-laden rail cars from the facility. The amendment must address the specific storage capacity and the proposed location for the queuing of the loaded trains. Amendment documents state that waste will enter the proposed facility exclusively by barge, and will be transported off-site exclusively by rail. Amendment documents do acknowledge, however, that under certain circumstances waste may need to be removed from the facility by solid waste motor vehicles. The County must elaborate on the extent to which this scenario may need to be employed, potential number of vehicle trips to remove all the solid waste at the facility, intended disposal sites and truck routes to those facilities. The amendment should also describe a contingency plan in the event the receiving out-of-state landfill becomes unable to accept a train shipment of solid waste for an extended period of time due to unforeseen circumstances. While this information is also the subject of the technical phase of the Department's permitting process, more information is requested at this point in the planning phase toward a clearer understanding of the feasibility of processing this volume of material on a daily basis as a matter of public policy, which falls within the responsibility of both the County and State under the requirements of the New Jersey Solid Waste Management Act. Therefore, in Section C. of this certification the amendment is remanded for readoption and recertification as provided in N.J.S.A. 13:1E-24.B.

Issue: Public Notification of the Proposed Amendment

The notification of a public hearing published by Union County pursuant to the requirements at N.J.A.C. 7-26-6.10(c) et. seq., for the purpose of receiving comments from persons interested in the adoption of the subject plan amendment, identifies the proposed Tremley Point facility as a transfer station that will process up to 10,000 tons per day (TPD) of type 10 municipal solid waste. According to documents submitted to the County by BFI and incorporated in the amendment by reference, the facility is designed to process average waste flows of 10,000 TPD of solid waste. In these documents BFI states, however, that occasional events may disrupt normal operation and necessitate the facility to operate at a peak capacity of 15,000 TPD for short periods. According to BFI, this may be necessary in situations where the barge delivery schedule is disrupted by tidal fluctuations or adverse weather conditions, or in the event waste collection in New York City is halted when all solid waste collection vehicles are diverted for use in snow removal. These events would require the proposed facility to operate a third shift each day which will result in 24 hours of continuous operations at the 15,000 TPD capacity for a period of time until the waste backlog created by these events is eliminated. In light of BFI's acknowledgement that the proposed facility may operate from time to time at a capacity of 15,000 TPD, it is the Department's position that the facility processing capacity identified in the notification of public hearing notice must reflect the possibility of this higher capacity. It is the Department's position that the public could not have been aware of this potential from the public notice which was given, and should have the ability to comment at the planning phase on this significant operational issue.

Issue: Impact of Solid Waste Transport by Rail on Road Traffic

The New Jersey Department of Transportation submitted comments to the DEP concerning the impact train transport of solid waste from the proposed facility to out-of-state disposal facilities would have on the flow of automobile traffic. Specifically, the comments relate to concerns that the train may block several road intersections at grade crossings for an unacceptable length of time, thereby temporarily blocking ingress and egress routes of affected localities. The County should consider evaluating the impact of the proposed transport of solid waste by rail on local traffic at grade crossings, should it choose to move forward with reproposal of this plan amendment following this remand.

Issue: Preventing Release of Solid Waste Floatables During Transportation and Processing

The amendment does not adequately address preventative measures that will be taken to prevent the solid waste being transported by barge and unloaded at the facility from being released as litter and becoming floatables in New Jersey and New York waterways. The County should address specific efforts that will be made to prevent the creation of litter resulting from the transporting, unloading and processing of solid waste associated with the operation of this facility, should it choose to move forward with reproposal of this plan amendment following this remand.

Issue: Impact of Proposed Facility Operation on Attainment of Federal Clean-Air Goals

With respect to the one-hour averaged federal ozone standard, New York City and northern New Jersey are part of a single non-attainment area as determined by the U.S. Environmental Protection Agency. The Department has concerns about the negative air impacts of New York City's proposed solid waste management system. These concerns were briefly discussed in a letter dated November 28, 2000, to former New York Department of Environmental Conservation Commissioner John P. Cahill. In this letter the Department requested an analysis be performed to quantify the projected increase in emissions resulting from the implementation of this system. Such an analysis has not been provided to the DEP to date. Considerable effort has been made in the past to reduce emissions of Volatile Organic Compounds (VOCs) and Nitrogen Oxides (NO_x), which are the precursors to ozone formation, and much work yet remains to be done to attain that standard. Even further emission reductions will be needed to attain the 8-hour averaged ozone standard. Consequently, any proposal that would increase emissions of VOCs and NO_x, including the barge/train method of transfer is of concern to the Department. In that regard, preliminary analyses by the Department indicate that while NO_x emissions may be reduced relative to a truck transfer approach, they may still be a deterrent to our efforts to attain the one hour ozone standard in the area by the prescribed 2007 date.

The area including Union County is also designated non-attainment for carbon monoxide (CO). While the monitoring data indicates the area is meeting the health standards, increases in

emissions may lead to further degradation or decreasing in the rate of improvement in carbon monoxide concentrations in the area.

The United States Environmental Protection Agency has a promulgated but not yet enforced standard for fine particulates (PM_{2.5}). In order to determine compliance with the proposed fine particulate health standard, three years of ambient air monitoring data are necessary. The data for the past two years indicate some areas of Union County and the northeastern region of the state are at or near the proposed standard and other areas including monitoring locations in Union County are above the proposed annual health standard. Increased emissions in the county and region may exacerbate the problem. Further, the USEPA studies have indicated diesel particulates are a significant air toxic in the region.

Therefore, should the County choose to move forward with reproposal of this plan amendment following this remand, it is directed to include an evaluation of the impact of New York City's proposed solid waste system on New Jersey's attainment of the federal ozone standards, continued compliance with the carbon monoxide health standard, and impacts of fine particulate emissions on compliance with the proposed health standard.

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 district solid waste management plans, I have reviewed the November 30, 2000 amendment to the approved County Plan and certify to the County Freeholders that the November 30, 2000 amendment is remanded for readoption and recertification as further specified below.

The County Plan inclusion of the Tremley Point Marine Transfer Terminal solid waste transfer station, located on Block 587, Lot 8, in the City of Linden, to process solid waste generated in New York City for transport to out-of-state disposal facilities is remanded for readoption and recertification. As noted in Section B. of this certification, the public hearing notice concerning this amendment is subject to misinterpretation regarding the facility processing capacity and therefore does not fulfill the public notice requirements found at N.J.A.C. 7:F26-6.10(c) et. seq. Furthermore, significant issues of concern regarding the operation of the facility have been raised in Section B. of the certification, and should be addressed by the County should it choose to move forward with reproposal of this plan amendment following this remand.

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 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 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. 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.

5. Effective Date of the Amendment

The remanded amendment to the County 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

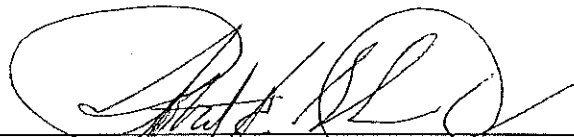
Department pursuant to its authority under the law. There may be other issues more properly addressed at a later date. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Remand 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 remand for readoption and recertification the amendment, 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 November 30, 2000.

June 28, 2001

Date



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