



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION SITE REMEDIATION AND WASTE MANAGEMENT PROGRAM

401 East State Street

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Trenton, New Jersey 08625-0420

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PHILIP D. MURPHY

Governor

SHEILA Y. OLIVER

Lt. Governor

SHAWN M. LATOURETTE

Acting Commissioner

FEB 09 2021

The Honorable Anthony P. Vainieri, Jr.
Hudson County Board of County Commissioners
567 Pavonia Avenue
Jersey City, NJ 07306

Dear Mr. Vainieri:

I am pleased to inform you that the New Jersey Department of Environmental Protection ("Department") has approved the Solid Waste Management Plan Amendment ("Amendment") received by the Department on September 25, 2020, adopted by the Hudson County Board of County Commissioners on February 13, 2020, and approved by the Hudson County Executive on February 19, 2020. The certification is enclosed.

The approved Amendment proposes Solid Waste Management Plan inclusion of:

- The Solid Waste Disposal Services Agreement by and between the Hudson County Improvement Authority and Advanced Enterprises Recycling, Inc. Transfer Station/Materials Recovery Facility ("TS/MRF"); and,
- The inclusion of Advanced Enterprises Recycling, Inc. TS/MRF located at 540 Doremus Avenue in the City of Newark as the ultimate disposal facility for all Hudson County generated solid waste types 10, 13, 13C, 23, 25, and 27; and,
- The direction of all solid waste types 10, 13, 13C, 23, 25, and 27 to the Advanced Enterprises Recycling, Inc. TS/MRF for disposal, pursuant to regulatory waste flow control.

We recognize and appreciate the leadership and commitment that the County Commissioner Board demonstrated in working collaboratively with the Hudson County Improvement Authority, the Hudson County Solid Waste Advisory Council, elected officials, and residents to formulate the Amendment.

Sincerely,

Mark J. Pedersen

Assistant Commissioner

Enclosure





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SHAWN M. LATOURETTE
Acting Commissioner

The Honorable Thomas A. DeGise, Hudson County Executive
583 Newark Avenue
Jersey City, NJ 07306

FEB 09 2021

Dear Mr. DeGise:

I am pleased to inform you that the New Jersey Department of Environmental Protection ("Department") has approved the Solid Waste Management Plan Amendment ("Amendment") received by the Department on September 25, 2020, adopted by the Hudson County Board of County Commissioners on February 13, 2020, and approved by you on February 19, 2020. The certification is enclosed.

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Mark J. Pedersen
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11

12



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CERTIFICATION OF THE FEBRUARY 13, 2020 AMENDMENT TO THE HUDSON COUNTY DISTRICT SOLID WASTE MANAGEMENT PLAN

BY ORDER OF THE DEPARTMENT:

A. Introduction

The New Jersey Solid Waste Management Act ("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 (now referred to as "Boards of County Commissioners") and the Hackensack Meadowlands Development Commission (previously known as the New Jersey Meadowlands Commission, and now known as New Jersey Sports & Exposition Authority or NJSEA) develop comprehensive plans for waste management in their respective districts. On January 27, 1982, the Department of Environmental Protection ("Department" or "DEP") approved the Hudson County District Solid Waste Management Plan ("County Plan").

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 Hudson County Board of Chosen Freeholders (now referred to as "County Commissioners") completed such a review and on February 13, 2020 adopted an amendment to its approved County Plan. Said Amendment was approved by the Hudson County Executive ("County Executive") on February 19, 2020.

The February 13, 2020 Amendment ("Amendment") proposes County Plan inclusion of:

- The Solid Waste Disposal Services Agreement by and between the Hudson County Improvement Authority ("HCIA") and Advanced Enterprises Recycling, Inc. ("AERI") Transfer Station/Materials Recovery Facility ("TS/MRF") for the disposal of all processible solid waste types 10 and 25 generated within Hudson County, commencing on July 1, 2020 for a term of three years with the HCIA maintaining the right to extend the contract for two additional one-year periods through June 30,

2025, and the disposal of all non-processible solid waste types 13, 13C, 23, and 27 generated within Hudson County, commencing December 1, 2020 to terminate simultaneously with the contract for the disposal of processible waste, based on an open and non-discriminatory procurement; and,

- The inclusion of AERI TS/MRF located at 540 Doremus Avenue in the City of Newark as the ultimate disposal facility for all Hudson County generated solid waste types 10, 13, 13C, 23, 25, and 27; and,
- The direction of all solid waste types 10, 13, 13C, 23, 25, and 27 to the AERI TS/MRF for disposal, pursuant to regulatory waste flow control.

The Amendment was considered complete for review by the Department on September 25, 2020 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 Commissioners on February 13, 2020 and approved by the County Executive on February 19, 2020 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the 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 Commissioners are notified of the elements of the Amendment which are included below.

Elements of the February 13, 2020 Amendment

Element: Facility History of Advanced Enterprises Recycling, Inc. TS/MRF

On October 2, 2002, the Essex County Board of County Commissioners adopted an amendment to their County Plan proposing County Plan inclusion of the AERI TS/MRF to be located on Block 5070, Lots 25 (part), 41, and 43 in the City of Newark, for the acceptance of a maximum of 2,000 tons per day (“tpd”) of solid waste types 10, 13, 13C, 23, and 27. This amendment was certified as approved by the Department on March 18, 2004.

On April 28, 2009, the Essex County Utilities Authority (“ECUA”) submitted a request for administrative action to the Department proposing County Plan inclusion of daily averaging at the AERI TS/MRF. Specifically, the April 28, 2009 request for administrative action to the County Plan proposed to include in the County Plan the receipt of a daily maximum of 2,650 tons of solid waste types 10, 13, 13C, 23, and 27 at the AERI TS/MRF, while maintaining the solid waste capacity of the subject facility on a weekly basis at 14,000 tons. This request for administrative action to the County Plan was approved by the Department on May 7, 2009.



On March 21, 2013, the ECUA submitted a request for administrative action to the Department proposing County Plan inclusion to accept solid waste type 25 as an additional waste type. This request for administrative action to the County Plan was approved by the Department on April 2, 2013.

Lastly, on May 3, 2016 the Department approved an April 27, 2016 request for administrative action to the County Plan, which proposed County Plan inclusion of designated traffic routes for solid waste vehicles accessing the AERI TS/MRF.

Element: County Plan Inclusion of Regulatory Flow Control over Solid Waste Types 10, 13, 13C, 23, 25, and 27

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 County Commissioners adopted a County Plan amendment on November 13, 1997, which included the County's revised solid waste disposal strategy. The certification of this amendment by the Department on December 30, 1997 approved County Plan inclusion of the strategy of implementing regulatory flow control of solid waste based upon a nondiscriminatory procurement process. Until this process could be completed, the certification of the November 13, 1997 amendment directed the delivery of solid waste to the Solid Waste Transfer and Recycling ("SWT&R") Transfer Station ("TS"), located in the City of Newark.

On February 11, 1998, the County Commissioners adopted an amendment to their County Plan to propose a strategy of implementing regulatory flow control based upon the completion of nondiscriminatory procured solid waste disposal services. This amendment was certified as approved by the Department on May 27, 1998, which directed the flow of all solid waste generated within Hudson County to the SWT&R TS.

On March 11, 1999, the County Commissioners adopted an amendment to their County Plan, to propose County Plan inclusion of the following waste flows based upon the completion of non-discriminatory bid contracts:

- Solid waste types 13, 23, 27, 27A, and grits and screenings to the NJSEA 1-E North Area Landfill, located in the Borough of North Arlington;
- Up to 100,000 tons per year of solid waste types 10 and 25 to the Union County Resource Recovery Facility, located in the City of Rahway; and,
- Up to 300,000 tons per year of waste types 10 and 25 to the SWT&R TS for processing and transfer and transport to the Grand Central Landfill, located in Pen Argyl, Pennsylvania.

This amendment was certified as approved by the Department on June 8, 1999.



On July 8, 2004, the County Commissioners adopted an amendment to the County Plan to propose County Plan inclusion of regulatory flow control over solid waste types 10 and 25 pursuant to a non-discriminatory procurement, and to include the SWT&R TS as the County's designated facility to which all solid waste types 10 and 25 generated within Hudson County were directed. The amendment also proposed County Plan inclusion of the NJSEA Erie Landfill, located in the Borough of North Arlington, as the designated facility for disposal of all solid waste types 13, 13C, 23, and 27 (including 27A) and grits and screenings generated within Hudson County. This amendment was certified as approved by the Department with the exception of the disposal of solid waste type 27A to the NJSEA Erie Landfill on January 30, 2005.

On April 28, 2009, the County Commissioners adopted an amendment to the County Plan to propose County Plan inclusion of regulatory waste flow for solid waste types 10 and 25 pursuant to a non-discriminatory procurement and to include AERI TS/MRF, located at Block 5070, Lots 41, 43, 25 (part), 540 Doremus Avenue, Newark, New Jersey, as the designated facility to which all solid waste types 10 and 25 generated within Hudson County were directed. The amendment also proposed County Plan inclusion of NJSEA Keegan Landfill, located in the Town of Kearny as the designated disposal facility for all grits and screenings and solid waste types 13, 13C, 23, 27, and 27A generated within the County. This amendment was certified as approved by the Department with the exception of the disposal of grits and screenings and solid waste type 27A and to the NJSEA Keegan Landfill on July 15, 2009.

On September 11, 2014 the County Commissioners adopted an amendment to the County Plan, which was approved by the County Executive on September 16, 2014, that proposed County Plan inclusion of:

- Contract between the HCIA and AERI designating AERI TS/MRF, located at 540 Doremus Avenue, Newark, Essex County, for disposal of all solid waste types 10 and 25 generated within the County. This agreement expires on July 1, 2020;
- The Shared Solid Waste Disposal Services Agreement by and between the HCIA and NJSEA designating NJSEA Keegan Landfill, located in the Town of Kearny, for the disposal of all grits and screenings and solid waste types 13, 13C, 23, 27, and 27A generated within the County. This agreement expires on June 30, 2016.

This amendment to the County Plan was certified as approved by the Department on April 14, 2015.

On June 30, 2016, the Department approved a June 23, 2016 request for Administrative Action to the County Plan, which proposed County Plan inclusion of an Extension Agreement to the Solid Waste Disposal Agreement between HCIA and the NJSEA for the provision of non-processible waste disposal services and the direction of waste to the Keegan Landfill for a period of six (6) months beginning July 1, 2016 while the condemnation action and Solid Waste Permit renewal process for Keegan Landfill were being completed.



On January 10, 2017, the Department approved a December 14, 2016 request for Administrative Action to the County Plan, which proposed County Plan inclusion of the Second Extension Agreement to the Solid Waste Disposal Agreement between HCIA and the NJSEA for the provision of non-processible waste disposal services and the direction of waste to the Keegan Landfill for a period of six (6) months beginning January 1, 2017.

Lastly, on September 12, 2019, the County Commissioners adopted an Amendment to the County Plan, which proposed County Plan inclusion of:

- The Solid Waste Disposal Services Agreement by and between the HCIA and Waste Management of New Jersey, Inc. for the disposal of non-processible solid waste types 13, 13C, 23, and 27 generated within Hudson County, for a period of one year commencing on or about December 1, 2019, through and including November 30, 2020, based on an open and non-discriminatory procurement; and,
- The inclusion of three (3) Waste Management of New Jersey, Inc. TS/MRFs located at 840 Julia Street in the City of Elizabeth, 625-640 South Front Street in the City of Elizabeth, and 61 Broad Street in the Borough of Fairview; and,
- The direction of all non-processible solid waste types 13, 13C, 23, and 27 generated within Hudson County to the three (3) Waste Management of New Jersey, Inc. TS/MRF facilities for disposal pursuant to regulatory solid waste flow control.

This amendment to the County Plan was certified as approved by the Department on November 8, 2019.

Element: Non-Discriminatory Procurement Process

On October 29, 2019, the HCIA advertised the issuance of Bid Specifications calling for receipt of bids for the provision of disposal services of all solid waste types 10, 13, 13C, 23, 25, and 27 locally in The Jersey Journal, regionally utilizing The Star Ledger, and nationally utilizing Recycling Today. Therefore, this procurement process was open to all bidders, regardless of geographical location. The HCIA received three bids on December 17, 2019. Advanced Enterprises Recycling, Inc. was determined by the HCIA to be the lowest, complying, and responsible bidder in compliance with the Bid Specifications, bidding \$74.67, \$75.16, \$75.65, \$76.14 and \$76.63 per ton for each year of the five-year disposal contract, commencing on July 1, 2020 for processible waste and December 1, 2020 for non-processible waste, both terminating simultaneously on June 30, 2025.

C. Certification of the Hudson 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 Amendment to the approved County Plan and certify to the County Commissioners that the Amendment is approved as further specified below.



The County Plan inclusion of:

- The Solid Waste Disposal Services Agreement by and between the HCIA and AERI TS/MRF for the disposal of all processible solid waste types 10 and 25 generated within Hudson County, commencing on July 1, 2020 for a term of three years with the HCIA maintaining the right to extend the contract for two additional one-year periods through June 30, 2025, and the disposal of all non-processible solid waste types 13, 13C, 23, and 27 generated within Hudson County, commencing December 1, 2020 to terminate simultaneously with the contract for the disposal of processible waste, based on an open and non-discriminatory procurement; and,
- The inclusion of AERI TS/MRF located at 540 Doremus Avenue in the City of Newark as the ultimate disposal facility for all Hudson County generated solid waste types 10, 13, 13C, 23, 25, and 27; and,
- The direction of all solid waste types 10, 13, 13C, 23, 25, and 27 to the AERI TS/MRF for disposal, pursuant to regulatory waste flow control.

D. Implementation of the Plan Amendment

1. Certification to Proceed with Implementation of Amendment

This document shall serve as the Certification by the Department to the County Commissioners and pursuant to N.J.S.A. 13:1E-24c and f., the County Commissioners shall proceed with the implementation of the approved components of the Amendment certified herein.

2. 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 and -2.13, and N.J.A.C. 7:26A-1.3.

3. Effective Date of Amendment

The approved components of this Amendment shall take effect immediately.

4. 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 to the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, and includes the compilation of individual county plans and amendments as they are approved.

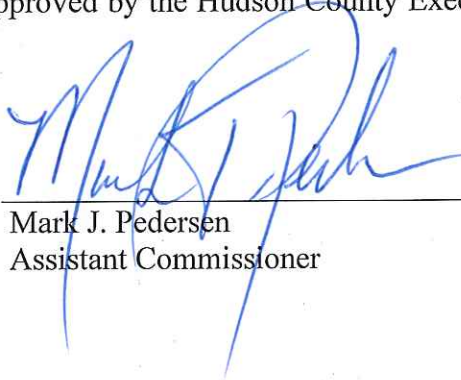


E. **Certification of Approval of the Amendment by the Department of Environmental Protection**

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 Hudson County District Solid Waste Management Plan which was adopted by the Hudson County Board of County Commissioners on February 13, 2020 and approved by the Hudson County Executive on February 19, 2020.

2-9-21

Date



Mark J. Pedersen
Assistant Commissioner



