



State of New Jersey

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

**CERTIFICATION
OF THE APRIL 19, 2000
AMENDMENT TO THE HMDC 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 (HMDC) develop comprehensive plans for waste management in their respective districts. On July 30, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the HMDC District Solid Waste Management Plan (District 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 District Plan at any time and, if found inadequate, a new District Plan must be adopted. The HMDC Commissioners completed such a review and on April 19, 2000, adopted an amendment to its approved District Plan. The April 19, 2000 amendment proposes:

- 1) The expansion of the present landfilling operations at the HMDC 1-E Landfill, (North Area Expansion) to be located in the Borough of North Arlington, Bergen County for the acceptance of non-putrescible waste.
- 2) The operation of the previously DEP permitted HMDC Transfer Station/Materials Recovery Facility (TS/MRF) as a 2,000 ton per day facility for waste types 10, 13, 23, 25 and 27; and,
- 3) Additional landfilling of the North Arlington portion of the HMDC 1-E Landfill of non-putrescible wastes over a fifteen-year period as needed to achieve the final approved elevations.

The amendment was considered administratively complete for review by the Department on April 25, 2000 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 HMDC Commissioners on April 19, 2000 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the April 19, 2000 amendment to the District 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 this regard, the HMDC Commissioners are notified of the issues of concern relative to the April 19, 2000 amendment which are included in Section B.2. below.

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 Water Quality Management, 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
 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 April 19, 2000 Amendment

The following agencies did not object to the proposed plan amendment:

Division of Compliance and Enforcement, DEP
Green Acres Program, DEP
Department of Agriculture
Department of Transportation
Department of Community Affairs
New Jersey Turnpike Authority

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

Division of Water Quality, DEP
Land Use Regulation Element, DEP
Division of Air Quality, DEP
Division of Parks and Forestry, DEP
New Jersey Advisory Council on Solid Waste Management
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
Division of Fish and Wildlife, DEP

2. Issues of Concern Regarding the April 19, 2000 Amendment

Issue: HMDC 1-E Landfill Expansion

The expansion of the present landfilling operations of the HMDC 1-E Landfill into the adjacent 9 acre North Area Expansion is within the existing perimeter environmental improvements (i.e., cutoff wall and leachate collection system) which restrict the outward movement of contaminants from the landfill. As with the existing operations of the HMDC 1-E Landfill, the North Area Expansion will accept only non-putrescible waste type 13 (construction/demolition and bulky waste), waste type 23 (vegetative waste), and waste type 27 (dry non-hazardous industrial waste). Previously, this expansion area had been used as a police shooting range, compost staging area and bagged compost storage area. Present elevations in the North Area Expansion are between

10 and 20 feet ngvd (national geodetic vertical datum), and the HMDC is proposing to operate this area to an approximate elevation of 120 feet ngvd. With an average base elevation of 15 feet, there are approximately 1,200,000 cubic yards of air space available. Deducting 15 percent for cover material yields 720,000 cubic yards of capacity. The anticipated volume of waste to be accepted will range from 1,000 tons per day to upwards of 3,000 tons per day. Assuming an average 1,250 tons per day over a six-day week, the site is anticipated to be at capacity about January 2003.

Issue: The Operation of the HMDC TS/MRF

The HMDC Baler, located in Kearny, Hudson County and North Arlington, Bergen County was included within the original HMDC District Solid Waste Management Plan, approved by the Department on July 30, 1980. Baling operations were suspended in September 1997. In December 1998 the HMDC was issued a permit by the Department to operate the former baling facility as a 2,000 ton-per-day transfer station and materials recovery facility for solid waste types 10, 13, 23, 25 and 27. The HMDC began accepting waste and conducting materials recovery in July 1999. The April 19, 2000 plan amendment formally proposes District Plan inclusion of the December 1998 permit for the TS/MRF operations.

Issue: Additional Filling of the North Arlington Portion of the HMDC 1-E Landfill

The HMDC is proposing additional landfilling to a final elevation of 150 feet ngvd on Lot 1, Blocks 175-183, 185-189 in the Borough of North Arlington, Bergen County. Areas within these limits could receive additional non-putrescible waste over a fifteen-year period. Affected portions are those that were never filled to final elevation and/or have settled since filling ceased.

Extensive comments were submitted by the DEP's Divisions of Solid and Hazardous Waste and Fish and Wildlife, which are outlined below.

The Division of Solid and Hazardous Waste stated that there are stability issues at this facility, which could be exacerbated by the additional filling. This is supported by reports and studies done on this site. The STS Consultants Ltd. Consulting Engineers report, "Reanalysis of East Slope Stability", dated June 12, 1992, estimated a factor of safety (FS) of 1.28 for the east slope at an elevation of +130 feet amsl (above mean sea level). Another study, performed by STS, "Slope Stability Analysis 1E Landfill West Slope", dated July 13, 1990 indicated a FS of 1.35 for the west slope at an elevation of +150 amsl. (In general, when FS is less than 1, the slope is unstable; when the FS =1, it indicates impending failure of the slope; and, when the FS is 1.5 or greater, the slope is usually considered stable. The department requires an FS of 1.5 or greater, which is the minimum for stable slope.)

The facility does not have an approved closure plan. The main reasons for this include: a continuing technical debate regarding the applicability of Subtitle D capping requirements; and, the absence of dedicated escrow funding. The 407-acre 1-E landfill is closed (not operating) with the exception of the North Area (12 acres) and the proposed North Area Expansion (9 acres). The HMDC contends that adequate final cover has been placed on the entire site and no

further work is necessary for the proper closure of the landfill. The HMDC notes that the site is fully vegetated; any additional placement of final cover or capping materials would destroy this vegetation and reopening the landfill for waste disposal would ruin the existing cover and vegetation. These closure matters will require further resolution.

Also, while the Division acknowledges that all landfills settle, bringing the site up to grade (150 feet amsl) would require 30 feet of waste or more in many areas. The proposal does not give any estimates of the amount of waste needed to achieve final grade which could exceed the permitted capacity of the existing North Area and proposed North Area Expansion. The Division is not aware of any technical reason for this proposal. The regulations do not require continual filling to maintain final grades and the final approved elevation of 150 feet amsl represents the maximum height of the landfill, not the minimum height that must be maintained.

This proposal may be construed to be a plan to reopen/expand the HMDC 1-E landfill for waste disposal operations for a 15-year period. The Division required a permit to operate the 12-acre North Area and the proposed 9-acre North Area Expansion and questions the need for the HMDC to reopen a 200 plus acre landfill for "final grading" and would require a permit for same.

The Division of Fish and Wildlife expressed concerns regarding the increased height or new expansion location compromising the infrastructure built into the landfill (e.g. leachate, gas, stormwater collection or treatment; stability of the base liner; etc.). The Division relies upon the expertise of the Division of Solid and Hazardous Waste Management staff to assure that the design, construction and operation of the expansion is adequate and will not result in the loss of containment or the introduction of contaminants into the surrounding ecosystem.

The Division of Fish and Wildlife also notes its concern about landfill cover such that vegetation planted provides food and/or cover habitat for wildlife. Warm seasonal grasses are recommended since they are attractive to wildlife and reduce maintenance costs. The applicant should address whether warm seasonals have been used in the past or if they can be used, with the consent of the local soil conservation district, on future covers or final covers in order to minimize and/or mitigate the effects of the landfill. Any other additional or innovative covers that benefit fish and wildlife but still maintain the integrity of the landfill are encouraged.

Although the Department notes the substantive comments submitted by the Divisions of Solid and Hazardous Waste and Fish and Wildlife, these specific concerns are more appropriately addressed during the DEP's technical review phase of permit issuance.

C. Certification of the HMDC 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 April 19, 2000 amendment to the approved HMDC District Plan and certify to the HMDC Commissioners that the April 19, 2000 amendment is approved as further specified below.

The District Plan inclusion of the expansion of the present landfilling operations at the HMDC 1-E Landfill, for the acceptance of non-putrescible waste onto the adjacent 9-acre area (North Area Extension), located at Lot 1, Blocks 177, 178, 180, and 182 in the Borough of North Arlington, Bergen County is approved.

The District Plan inclusion of the operation of the previously DEP permitted (DEP facility # 0239000092) HMDC Transfer Station/Materials Recovery Facility as a 2,00 ton per day facility to accept waste types 10, 13, 23, 25 and 27 is approved.

The District Plan inclusion of the additional landfilling to final elevation of 150 feet ngvd on Lot 1, Blocks 175-183, 185-189 in the Borough of North Arlington, Bergen County of the HMDC 1-E Landfill with non-putrescible wastes over a fifteen-year period as needed to achieve the final approved elevations is approved.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. This certification shall not be construed as an expression of the Department's intent to issue a permit to operate a landfill.

The applicant must apply to the Department for a modification to its existing solid waste facility permit to authorize a landfill capacity expansion. This certification shall not be construed to be an expression of the Department's intent to issue a solid waste facility permit modification for any proposed facility or operation.

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 District 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 District 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 District and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the District 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 Plan

The provisions of the District 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 DEP to the HMDC Commissioners and pursuant to N.J.S.A. 13:1E-24c. and f., the HMDC Commissioners shall proceed with the implementation of the approved 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 the Amendment

The approved amendment to the District Plan contained herein shall take effect immediately.

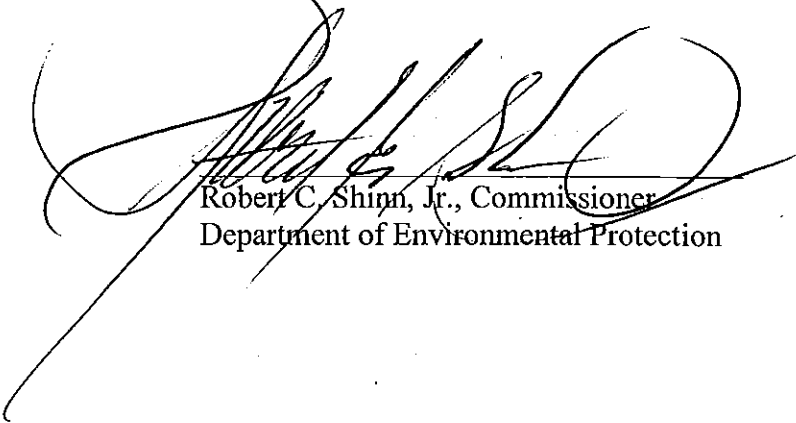
7. Reservation of Authority

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 District 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, as outlined in Section C. of this certification, to the HMDC District Solid Waste Management Plan which was adopted by the HMDC Commissioners on April 19, 2000.

7/31/00
Date


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