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**CERTIFICATION
OF THE OCTOBER 2, 2008 AMENDMENT
TO THE NJMC 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 (now known as the New Jersey Meadowlands Commission or NJMC) develop comprehensive plans for waste management in their respective districts. On July 31, 1980 the Department of Environmental Protection (Department or DEP) approved the NJMC District Solid Waste Management Plan (District Plan).

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 NJMC Commissioners completed such a review and on October 2, 2008 adopted an amendment to its approved District Plan.

The October 2, 2008 amendment proposes District Plan inclusion of the Consolidated Environmental Waste Services, LLC (CEWS), dba Royal Rail Services, Transfer Station/Material Recovery Facility (TS/MRF), located on Block 452A, Lot 1A at 3700 Westside Avenue in the Township of North Bergen. The October 2, 2008 District Plan amendment proposes that the subject facility be included in the District Plan for the acceptance of a maximum of 700 tons per day (tpd) of solid waste type 13C.

The amendment was considered administratively complete for review by the Department on October 21, 2008 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 NJMC Commissioners on October 2, 2008 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the October 2, 2008 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 the amendment is consistent with the Statewide Solid Waste Management Plan. In this regard, the NJMC is notified of the elements of the October 2, 2008 amendment which are included below.

Elements of the October 2, 2008 Amendment

Element: Facility Operations

The October 2, 2008 amendment to the District Plan is proposing District Plan inclusion of the CEWS, dba Royal Rail Services, TS/MRF, located on Block 452A, Lot 1A at 3700 Westside Avenue (the alternative address for the facility is 3440 Paterson Plank Road) in the Township of North Bergen.

The property on which the facility is located is owned by 3440 Paterson Plank Road, LLC and currently leased to the New York, Susquehanna and Western Railway Corporation (“NYS&W”). The Department and the NJMC had been in litigation with the NYS&W and other parties concerning the Department’s authority to regulate five transfer stations, not including this facility, located alongside NYS&W rail tracks in North Bergen in a case captioned New York Susquehanna and Western Railway Corporation v. Lisa Jackson, New Jersey Meadowlands Commission et al., Civil Action No.: 05-4010(KSH)(D.N.J.). The other parties included various solid waste entities involved with the facilities. That litigation was recently terminated in a Judicial Consent Order (“JCO”) filed November 6, 2008. By that time, only two of the original five transfer stations remained in the litigation.

In conjunction with the JCO, the Department, the NJMC, the NYS&W, and certain waste entities involved with three facilities not at issue in the federal litigation, which are not parties to the JCO, have entered into separate Administrative Consent Orders (“ACOs”) to resolve disputes concerning regulation of such facilities. One of those facilities is the subject facility. That ACO has been fully executed. In the ACO, CEWS and NYS&W have agreed to a time frame and a process whereby CEWS will seek A-901 approval, plan inclusion, a Solid Waste Facility (SWF) Permit, and a certificate of public convenience and necessity allowing CEWS to operate the facility as a non-rail carrier solid waste facility pursuant to the New Jersey Solid Waste Management Act. Pursuant to the JCO and ACO, until the Permit is issued, NYS&W has agreed to operate the facility in accordance with current rail carrier facility regulations found at N.J.A.C. 7:26-2D.1. Should the DEP not issue CEWS a SWF Permit, or should the Permit be issued and CEWS cease operations, NYS&W is authorized to renew operations at the facility in accordance with the N.J.A.C. 7:26-2D.1 regulations while, pursuant to the Clean Railroads Act of 2008, Pub. L. No. 110-432, secs. 601 et seq., NYS&W seeks a SWF Permit, A-901 approval, and District Plan inclusion.

To date, as authorized by the ACO, CEWS has submitted to the Department its application for A-901 approval and a SWF Permit.

The October 2, 2008 District Plan amendment proposes for the subject facility to be included in the District Plan for the acceptance of a maximum of 700 tpd of solid waste type 13C and identifies the facility's operating hours as 24 hours per day, Monday through Saturday.

Element: 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 which 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 which requires air pollution control permits for any equipment which 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 NJMC 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 October 2, 2008 amendment to the approved District Plan and certify to the NJMC Commissioners that the October 2, 2008 amendment is approved as further specified below.

The District Plan inclusion of the Consolidated Environmental Waste Services, LLC, dba Royal Rail Services, TS/MRF, located on Block 452A, Lot 1A at 3700 Westside Avenue in the Township of North Bergen for the acceptance of a maximum of 700 tpd of solid waste type 13C is approved.

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

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. 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.

2. Certification to Proceed with Implementation of Amendment

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

3. 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.

4. Effective Date of Amendment

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

5. 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 NJMC District Solid Waste Management Plan which was adopted by the NJMC Commissioners on October 2, 2008.

March 16, 2009

Date

Mark N. Mauriello, Acting Commissioner
Department of Environmental Protection