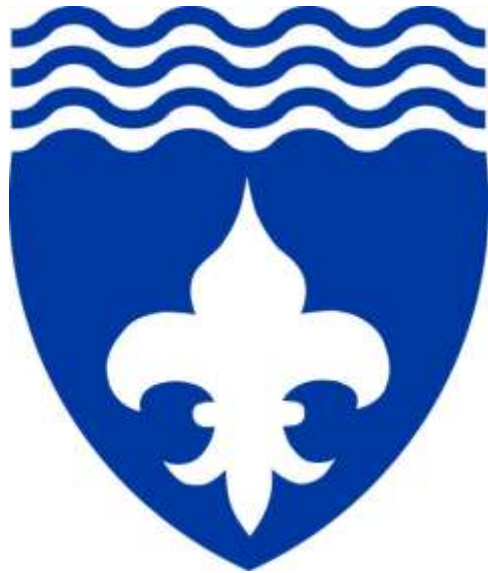


COUNTY OF DAUPHIN

**MUNICIPAL WASTE
MANAGEMENT PLAN**

2013 NONSUBSTANTIAL REVISION

Adopted October 23, 2013



COUNTY OF DAUPHIN

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Harrisburg, PA 17101

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- A. Proposed Delegation and Assumption of Capacity Assurance Responsibilities Agreement
- B. Proposed County Solid Waste Management Ordinance
- C. Proposed SRMC Rules and Regulations
- D. Proposed Revised Dauphin County Rules and Regulations
- E. Proposed Application Form For C&D Waste Facilities; Model Contract For C&D Waste Facilities
- F. Proposed Request For Proposals For C&D Waste Facilities
- G. Public Comments and Responses

EXECUTIVE SUMMARY

On September 27, 2005, the Department approved the County of Dauphin's 2005 Substantial Plan Revision ("2005 Plan"). The 2005 Plan incorporated new provisions for managing and providing capacity assurance for the disposal of regulated Construction and Demolition Waste generated within the County beginning January 1, 2006.

This 2013 Non-substantial Plan Revision is submitted in accordance with §§ 272.251 and 272.252 of the Department's regulations. The primary purpose of this Non-substantial Plan Revision is to update waste generation and recycling data and provide a ten year projection of waste disposal needs within the County. In addition, this Non-substantial Plan Revision:

- Reports a proposed change in the ownership of the Designated Facility for RMW;
- Provides for a change to the method for directing disposal of Regulated Municipal Waste when the Designated Facility is unavailable ("Bypass Waste");
- Details proposed improvements to the County's recycling program to meet the Department's 35% recycling rate goal;
- Provides for a periodic Request for Proposals to ensure that the application process for prospective Construction and Demolition ("C&D") Waste disposal facilities remains open and competitive;
- Proposes changes to the County's Rules and Regulations and the adoption of LCSWMA's Rules and Regulations to reflect the change in ownership of the Designated Facility and delegation of certain powers to LCSWMA;
- Provides a discussion of how the County's existing Flow Control Plan as developed in the 2005 Plan, as modified by the proposed acquisition of the Designated Facility by LCSWMA and delegation of the County's RMW responsibilities to LCSWMA, comports with Constitutional requirements as articulated by the courts subsequent to the submission and approval of the 2005 Plan.

No substantive changes to the County's Flow Control Plan are proposed in this Non-substantial Plan Revision.

The contents of this Non-substantial Plan Revision are those required by § 272.252(c)(2). To ensure completeness, Chapters are provided for each of the Plan contents specified by §§ 272.221 – 272.233, but the information in each Chapter is limited to a discussion of the changes or updates from the 2005 Plan (see § 272.252(c)(1)). Hence, some Chapters of this Non-substantial Plan Revision contain

extensive data and discussion, while others are minimal or merely recite that no changes from the 2005 Plan are proposed.

DEFINITIONS

The terms as defined in the 2005 Substantial Plan Revision remain valid with the following additions or revisions:

DELEGATION AND ASSUMPTION OF CAPACITY ASSURANCE RESPONSIBILITIES

AGREEMENT (“Delegation Agreement”): As described in Section 5.1 and presented in Appendix A.

DAUPHIN COUNTY TONNAGE:

All Municipal Waste generated within the County except Municipal Waste generated within the City of Harrisburg, Swatara Township and Highspire Borough during the term of their existing disposal contracts.

DESIGNATED C&D WASTE FACILITY

Facilities designated by the County for the processing and disposal of Regulated C&D Waste.

DESIGNATED RMW FACILITY

The HRRF; upon acquisition by LCSWMA to be called the Susquehanna Resource Management Complex (SRMC).

HAULERS:

Persons engaged in the collection, storage or transportation of Regulated Municipal and/or Construction and Demolition Wastes generated within Dauphin County.

LCSWMA WASTE-TO-ENERGY FACILITY (LCWTEF):

The waste-to-energy facility situated in Lancaster County, owned by LCSWMA, and used for the disposal of Regulated Municipal Waste.

LANCASTER COUNTY SOLID WASTE MANAGEMENT AUTHORITY (LCSWMA)

The municipality authority established by Lancaster County which administers Lancaster County’s solid waste management plan and which owns the LCWTEF.

REGULATED C&D WASTE

C&D Waste generated or collected in Dauphin County including the City of Harrisburg, as well as all C&D Waste generated in Swatara Township and Highspire Borough after

the expiration of the term of their existing contracts to deliver RMW to the York County Resource Recovery Facility on May 22, 2016 and May 21, 2016, respectively. ¹

REGULATED MUNICIPAL WASTE (RMW)

Municipal Waste, except C&D Waste and water supply plant and sewage treatment plant sludges, generated in Dauphin County including the City of Harrisburg, as well as all Municipal Waste generated in Swatara Township and Highspire Borough after the expiration of the term of their existing contracts to deliver RMW to the York County Resource Recovery Facility on May 22, 2016 and May 21, 2016, respectively.

REGULATED WASTE

Regulated Municipal Waste and Regulated C&D Waste.

¹ The dates of expiration of the Swatara Township and Highspire Borough contracts stated in this 2013 Non-substantial Plan Revision are those determined to be applicable by the County.

CHAPTER ONE | Description of Waste

1.1 PURPOSE

The primary purpose of this chapter is to describe the quantity of Regulated Municipal Waste (RMW) and Construction/Demolition (C&D) Wastes currently generated within the borders of Dauphin County, and to project the quantity of RMW and C&D Waste that will be generated within the next ten (10) years (2013–2022). In this 2013 Non-substantial Plan Revision, the term Regulated Municipal Waste means Municipal Waste as defined in the 2005 Plan, which does not include C&D Waste, Source-separated Recyclable Materials, Hazardous Waste, Special Handling Waste, Residual Waste, or water or sewage treatment plant sludges. To ensure understanding of the term, the definition of RMW has been clarified in this 2013 Non-substantial Plan Revision and the associated documents (Ordinance, Rules and Regulations, *etc.*). As had been the case under the previous Solid Waste Management Plan, RMW and Regulated C&D Waste are regulated as separate and distinct waste streams.

1.2 REGULATED MUNICIPAL WASTE

The RMW portion of the County’s solid waste stream consists of waste generated by the residential, commercial and institutional sectors, and community events. Table 1-2 reports the quantities of municipal waste disposed from 2008-2012.

**Table 1-2
Regulated RMW Generation and County Population 2008 to 2012**

YEAR	POPULATION	REGULATED MUNICIPAL WASTE ANNUAL TONNAGE (1)	ANNUAL TONS PER CAPITA
2008	258,222	234,391	0.91
2009	258,934	199,201	0.77
2010	268,100	179,293	0.67
2011	269,025	185,450	0.69
2012	269,665	195,164	0.72

(1) Source: PaDEP Municipal Solid Waste Disposal Reports.

The above data are totals for all Dauphin County-originated RMW and include waste generated in Highspire Borough and Swatara Township, even though waste from these municipalities is delivered to the York County Resource Recovery Facility under

pre-existing contracts. Once the initial term of such pre-existing contracts expire on May 21, 2016 and May 22, 2016, respectively, all RMW generated in Highspire Borough and Swatara Township will be directed to the Designated RMW Facility.

1.3 **CONSTRUCTION AND DEMOLITION WASTE**

Based on PaDEP’s Municipal Solid Waste Disposal Reports, 41,110 tons of C&D waste was generated in 2012 in Dauphin County and disposed of at the HRRF and eight (8) of the ten Designated C&D Waste Facilities (see § 2.1.2). The primary sources of C&D waste are construction, renovation, and demolition projects. C&D Waste generally consists of wood debris; plaster and metals; and asphaltic substances, brick, block and concrete generated from the construction or demolition of buildings and other structures. The amount of C&D Waste generated in Dauphin County for disposal at designated landfills on an annual basis and population figures is provided on Table 1-3.

Table 1-3
Dauphin County C&D Waste Disposed and Population, 2008 to 2012

YEAR	Population	C&D Disposal (in tons) (1)	Annual Tons Per Capita
2008	258,222	25,738	0.10
2009	258,934	36,430	0.14
2010	268,100	48,768	0.18
2011	269,025	42,573	0.16
2012	269,665	41,110	0.15

(1) Source: PaDEP Municipal Solid Waste Disposal Reports

1.4 **SEWAGE SLUDGE**

1.4.1 **Treatment Facilities**

To update data on biosolids generation, the County conducted an inventory of all public and private sewage treatment facilities within the County. A list of all biosolids generators was provided by the PaDEP Southcentral Regional Office, Bureau of Water Quality Management. The County is presently served by 20 public sewage treatment

facilities and 71 private treatment facilities. The public facilities are listed on Table 1-4b, the private facilities are categorized as follows:

**Table 1-4a
Private Sewage Treatment Facilities by Type**

Type	Quantity
Private Residence	21
Mobile Home Park& Apartments	11
Subdivision	4
School	3
Industry	19
Hotel, Campground, Church	6
Gas Station or Truck Stop	5
Casino/Race Track	1
Airport	1

A survey to collect data on sewage sludge disposal was mailed to all public sewage treatment facilities in the County in 2011. Table 1-4b identifies the methods of sewage sludge disposal reported by the public treatment facilities and the total tons disposed by each method in the County in 2010.

Sludge generation is dependent on population and, to some degree, industrial activity. Sludge generation is projected to increase at the same rate as population—approximately 1.2% per year. Each municipality is responsible for disposing of its sludge under the PaDEP regulations and the County does not regulate or track that activity.

**Table 1-4b
Public Sewage Treatment Facilities
2010 Biosolids Generation & Disposal Methods**

Authority/Waste Water Treatment Facility	Generation (dry tons)	Land Applied	Landfilled	Other*
Berrysburg Borough	1.496			1.496
Dauphin Borough	DNR			
Derry Township (Clearwater Rd. & SW Plant combined)	1,511	1,311		
East Hanover Grantville	DNR			
East Hanover Dairy Ln	36.06			36.06
Elizabethville Borough	DNR			
Gratz Borough	7.056			7.056
Halifax	10.178			10.178
Harrisburg City	2,784	550.9	2,266.8	
Highspire Borough	94.64		94.64	
Lower Paxton/ Springford Village	6.35	6.35		
Lykens Borough	29.32		29.32	
Middletown Borough	312	312		
Millersburg Borough	58	58		
Swatara Township	910.4		832.0	
Washington Township	0 †			
West Hanover Twp.	275.7	275.7		
Wiconisco Village Township	DNR			
Williamstown Borough	DNR			

Notes:

Other*: Sludge transported to other treatment plants for disposal.

DNR: Did Not Respond to inquiry

† Sewage treatment method uses constructed wetlands which does not generate sludge.

1.4.2 Septage Haulers

The following PaDEP- licensed septage waste haulers are reported to operate in the County. The County does not license or regulate septage haulers.

TABLE 1-4-2 List of Approved Septage Haulers

Septage Hauler	Location	Telephone
Associated Product Services, Inc.	Mechanicsburg, PA 17050	(717) 766-5397
Baker's Septic Service	* No Address Provided	(717) 367-7271
Blue Chip Services	Harrisburg, PA 17101	(717) 238-3991
Dillsburg Excavating & Septic, Inc.	Dillsburg, PA 17019	(717) 638-9573
Gerberich-Hoffman Septic Service	Hummelstown, PA 17036	(717) 867-5024
Groff's Septic Service	* No Address Provided	(717) 776-7402
Hoke's Septic Service	Harrisburg, PA 17112	(717) 599-5794
Hoke's Septic Service	Halifax, PA 17032	(717) 896-7867
Kauffman's Septic Service	Middletown, PA 17057	(717) 944-4308
Litzenberger's Septic Service	Lebanon, PA 17046	(717) 865-2478
Masser & Smeltz Inc.	Halifax, PA 17032	(717) 896-8228
Mr. Rooter	* No Address Provided	(877) 766-8396
Peterman Brothers Septic Service	Hummelstown, PA 17036	(717) 566-1182
ProTank Limited	* No Address Provided	(866) 776-8265
Roto-Rooter Plumbing & Drain Services	Harrisburg, PA 17111	(717) 234-3332
Roto-Rooter Plumbing	Hershey, PA 17033	(717) 534-9066
Roto-Rooter Plumbing	Middletown, PA 17057	(717) 944-5774
Roush Roy Septic Cleaning	Middletown, PA 17057	(717) 944-4308
Walters Services	Grantville, PA 17028	(877) 826-7511
Young's Sanitary Septic Service, Inc.	* No Address Provided	(717) 691-9360

1.5 INFECTIOUS/CHEMOTHERAPEUTIC WASTES

Generators of infectious and chemotherapeutic wastes (“ICW”) are hospitals, nursing homes, outpatient clinics, and dental, medical and veterinarian offices. Generators either process ICW onsite by way of incineration or autoclave, or transport such wastes to processing facilities. The ash and processed waste is then disposed of at designated landfills. The PaDEP ensures safe and proper transportation of ICW through a comprehensive hauler licensing program and the County does not regulate it or include it in its Flow Control Plan. Table 1-5 presents ICW generation data. Infectious waste data were obtained from PaDEP; Chemotherapeutic Waste disposal data were obtained from one of the two hospitals (the other did not respond to the County’s written inquiries), which were most recently surveyed in 2011. It is estimated that the amount of Chemotherapeutic Waste generated in 2011 and 2012 is approximately 12 tons per year.

**Table 1-5
Dauphin County ICW Generation 2008 – 2012**

YEAR	INFECTIOUS WASTE (in tons)	CHEMOTHERAPEUTIC WASTE (in tons)
2008	1	10
2009	1,012	12
2010	1,347	15
2011	1,402	12 (est.)
2012	1,424	12 (est.)

Sources: Infectious Waste: PaDEP MSW Disposal Reports
Chemotherapeutic Waste: Responses to Survey

The County surveyed the two (2) hospital providers in the County—PinnacleHealth and the Penn State Milton S. Hershey Medical Center—concerning the manner in which they treat ICW at their facilities. PinnacleHealth did not reply to the County’s inquiries. The Penn State Milton S. Hershey Medical Center advised that Infectious Waste is treated on-site at the hospital using autoclave technology and processed through a Chem-Clave treatment unit where it is sterilized, then compacted for disposal at a municipal waste landfill, in accordance with all PaDEP regulations. With regard to Chemotherapeutic Waste, the Medical Center collects and stores it on site and contracts with a licensed firm for hauling and disposal.

1.6 HOUSEHOLD HAZARDOUS WASTE

The County implemented a mercury thermostat recycling program at its recycling center adjacent to the HRRF in May, 2009. It accepted 80 pounds of mercury under that program through 2010 and continues to accept mercury and recycle it through approved mercury recyclers. The County also accepts rechargeable batteries at its recycling center. The County has also implemented a household hazardous waste pickup program called “At Your Door.” Working in cooperation with WM Curbside, LLC, the County provides residential pickup of batteries, CFLs, motor oil, pesticides and other household hazardous waste. As a result of these initiatives, it is expected that the proper disposal of HHW will increase in the future and less HHW will find its way into the Regulated Municipal Waste stream.

Exclusion of HHW from the Regulated Municipal Waste stream is ultimately the responsibility of the disposal facility. The County and LCSWMA have defined HHW as Unacceptable Waste which may not be disposed of at the Designated RMW Facility (see Ordinance, Appendix B, and both Rules and Regulations, Appendices C & D). These provisions should continue to keep HHW from being delivered to the Designated RMW Facility.

1.7 COMMUNITY EVENTS WASTE

Table 1-7 provides a list of Dauphin County’s major annual community special events and activities.

The County owns two recycling trailers that it provides to these events as requested to encourage recycling and remind the residents that recycling is appropriate at all times. As noted in Section 4.2.5, the County plans to increase the use of these trailers at smaller events to act as a reminder to residents that recycling is always appropriate and increase the recycling rate in the County.

**Table 1-7
Annual Community Special Events and Activities**

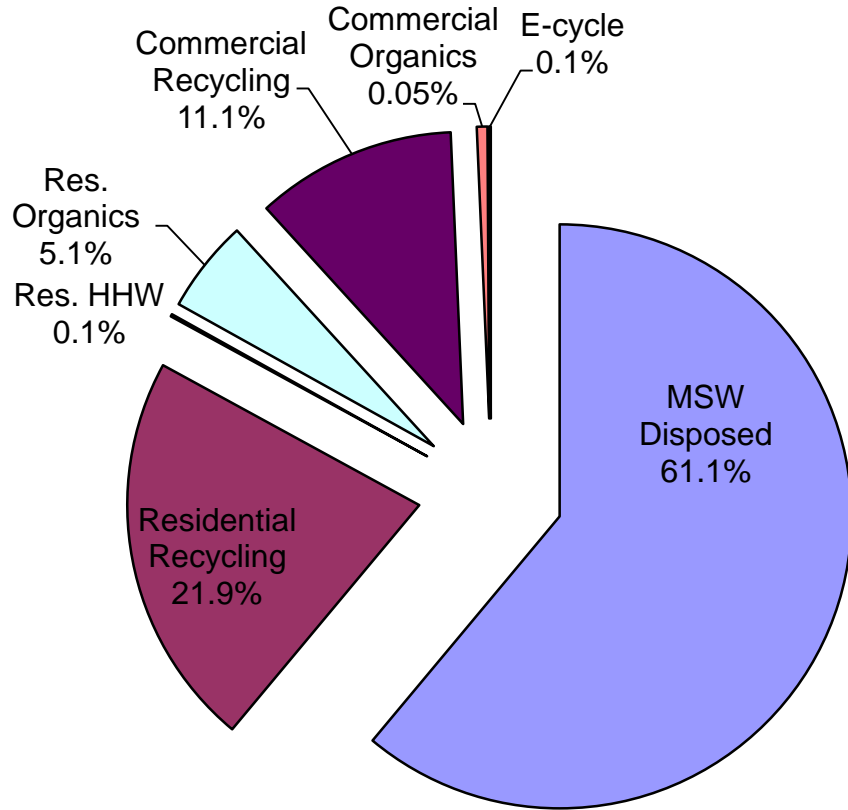
Event	Location/Municipality	Month of Event
PA Farm Show	Farm Show Complex & Expo Center / Harrisburg	January
PA Motortrend Auto Show	Farm Show Complex & Expo Center / Harrisburg	January
Eastern Sports&OutdoorsShow	Farm Show Complex & Expo Center / Harrisburg	February
PA Garden Expo	Farm Show Complex & Expo Center / Harrisburg	February
Wetlands Festival	Wildwood Lake & Nature Center / Harrisburg	April
Arts Festival	RiverFront Park / Harrisburg	May
Shakespeare In The Park	Reservoir Park / Harrisburg	June
Annual Arts & Crafts Fair	Hoffer Park / Middletown	June
Jazz & Multi-Cultural Festival	RiverFront Park & City Island / Harrisburg	July
Ned Smith Center Nature and Arts Festival	Ned Smith Center / Millersburg	July
Annual July 4th Celebration	Millersburg	July
Dauphin County Cultural Festival	Downtown Harrisburg / Harrisburg	August
KIPONA Celebration	RiverFront Park & City Island / Harrisburg	September
Annual Fishing Derby	Jackson Lick Pool / Harrisburg	September
Gratz Fair	Gratz Fair Grounds / Gratz Borough	September
PA National Horse Show	Farm Show Complex & Expo Center / Harrisburg	October
Harrisburg Holiday Parade	Downtown Harrisburg, City Island / Harrisburg	November
New Year's Eve Celebration	Downtown Harrisburg / Harrisburg	December
New Year's Eve Celebration	Downtown Hershey / Derry Township	December
New Year's Eve Celebration	Downtown Hummelstown Borough	December
Harrisburg Senators Baseball	City Island / Harrisburg	Seasonal
Hershey Bears™ Hockey	Giant Stadium / Derry Township	Seasonal
City Islanders™ Soccer	City Island / Harrisburg	Seasonal
Harrisburg Stampede™ (Southern Indoor Football League)	Farm Show Complex & Expo Center / Harrisburg	Seasonal
Italian Lake Concert Series	Italian Lake / Harrisburg	Summer

1.8 MAKEUP OF REGULATED WASTE

The data from the various tables and from the PaDEP databases, supplemented by County data on electronics recycling, are summarized on Figure 1.

FIGURE 1

Makeup of Residential and Non-Residential Waste Streams – 2012



Source: PaDEP 2012 MSW Disposal & Recycling Reports plus County e-cycling data

1.9 PROJECTED RMW GENERATION, 2013 to 2022.

Table 1-9 projects the amount of RMW to be generated and disposed of in the years 2013 to 2022. The projections are based on an historical rate of population growth and the average of 0.752 tons per capita per year RMW derived from Table 1–2. Total RMW disposal data on Table 1–2 include all County-generated wastes including that from Highspire Borough and Swatara Township; therefore the transition of waste disposal for Highspire Borough and Swatara Township from the York County RRF to the HRRF in 2016 does not require any special adjustment in the waste generation projections on Table 1–9.

**Table 1-9
Population and RMW Generation Projections 2013-2022**

YEAR	POPULATION	RMW DISPOSED (tons)
2013	270,474	203,396
2014	271,285	204,007
2015	272,099	204,619
2016	272,916	205,233
2017	273,734	205,848
2018	274,556	206,466
2019	275,379	207,085
2020	276,205	207,706
2021	277,034	208,330
2022	277,865	208,955

1.10 PROJECTED C&D WASTE GENERATION, 2013 to 2022.

Table 1-9 projects the amount of C&D waste generated and disposed in the years 2013 to 2022. The projections are based on an historical rate of population growth and the average of 0.16 tons per capita per year C&D Waste derived from Table 1–3. The projected annual rate for 2022 translates to an average daily rate (delivered 260 days per year) of 171 tons per day of C&D Waste requiring disposal.

**Table 1-10
Population and C&D Waste Generation Projections 2013-2022**

YEAR	POPULATION	C&D DISPOSED (tons)
2013	270,474	43,276
2014	271,285	43,406
2015	272,099	43,536
2016	272,916	43,666
2017	273,734	43,797
2018	274,556	43,929
2019	275,379	44,061
2020	276,205	44,193
2021	277,034	44,325
2022	277,865	44,458

CHAPTER TWO | Description of Facilities

2.1 FACILITIES WHERE COUNTY MUNICIPAL WASTE IS BEING DISPOSED OR PROCESSED.

2.1.1 Municipal Waste

Table 2-1-1 identifies each facility that disposed or processed RMW from 2010 to 2012, and the percentage of the total waste processed by each facility. During the data period (2010–2012) all of Dauphin County RMW except wastes from Swatara Township and Highspire Borough was designated to the HRRF by the County's Flow Control Plan. When the HRRF was not able to accept waste, RMW was directed to the Designated Bypass Facilities, which are indicated as such on Table 2-1-1.

**Table 2-1-1
Percentage of County-Generated RMW Processed Or Disposed of
by Facility, 2010 to 2012**

Facility Name	Designated Bypass Facility	2010	2011	2012
Blue Ridge Landfill	X	0%	0%	< 1%
Commonwealth Environmental Systems	X	0%	< 1%	< 1%
Cumberland County Landfill	X	0%	< 1%	3.6%
Harrisburg Resource Recovery Facility		91.3%	90.1%	81.4%
LCWTEF	X	< 1%	< 1%	6.4%
Modern Landfill	X	0%	< 1%	< 1%
Mountain View Reclamation Landfill	X	< 1%	< 1%	< 1%
York County Resource Recovery Facility†	X	8.6%	8.8%	8.2%

Source: PaDEP MSW Disposal Reports

† The disposal data for the YCRRF include Municipal Waste from Swatara Township and Highspire Borough under existing contracts as well as Bypass Waste.

Throughout the planning period of this Non-substantial Plan Revision, the HRRF will have ample capacity to accept and process all RMW generated in Dauphin County. The HRRF can process approximately 280,000 tons per year.

As projected in Table 1-8, by 2022 Dauphin County will generate approximately 209,000 tons per year of RMW, which is 75% of the capacity of the HRRF.

As described in Section 5.1 of this Non-substantial Plan Revision, the County intends to enter into a Delegation Agreement with LCSWMA (Appendix A) in which the County will delegate certain rights, duties and obligations to the LCSWMA, which will continue to operate the HRRF as heretofore, and which will provide additional Regulated Municipal Waste disposal capacity through the LCSWMA Waste-to-Energy Facility and the Frey Farm Landfill, as necessary. When the transaction described in Section 5.1 is complete, the HRRF will remain the Designated RMW Facility. This will not impair the Swatara Township or Highspire Borough disposal contracts, which will continue in force until their expiration dates on May 22, 2016, and May 21, 2016, respectively, as described in Section 2.3 below. Once the initial terms of such disposal contracts expire, all Regulated Municipal Waste generated or collected in those municipalities will be directed to the Designated RMW Facility. No renewals of the Highspire or Swatara Township contracts will be allowed to extend the termination dates.

Pursuant to the planned delegation of authority to the LCSWMA, as discussed in Section 5.1, the capacity of the HRRF will be augmented by the capacity of the LCWTEF and the Frey Farm Landfill, which will operate as Bypass Waste Facilities on an as-needed basis.

2.1.2 C&D Waste

All C&D Waste generated within Dauphin County is accepted at ten Designated C&D Waste disposal facilities, as well as the HRRF. The Designated C&D Waste Facilities are shown on Tables 2-2-2 and 2-3; those that accepted C&D Waste during 2010–2012 are shown on 2-1-2 on the next page.

**Table 2-1-2
Percentage of County-Generated C&D Waste Disposed of
by Facility, 2010 – 2012²**

Facility Name	2010	2011	2012
Commonwealth Environmental Systems	39.8%	26.5%	19.2%
Cumberland County Landfill	10.1%	7.8%	6.6%
Harrisburg Resource Recovery Facility	16.5%	12.3%	10.7%
IESI Blue Ridge Landfill	4.3%	2.2%	1.4%
Modern Landfill	6.5%	25.4%	42.2%
Mountain View Reclamation Landfill	< 1%	15.4%	18.9%
Pine Grove Landfill	17.9%	3.6%	0%
Sandy Run Landfill	4.5%	7.0%	< 1%

Source: PaDEP MSW Disposal Reports

2.2 REMAINING PERMITTED CAPACITY OF DESIGNATED FACILITY(S)

2.2.1 Designated RMW Facilities

As discussed in Section 2.1.1 above, the HRRF has adequate capacity to accept the projected volume of RMW through 2022. Additionally, pursuant to the planned delegation of authority to the LCSWMA, as discussed in Section 5.1, the capacity of the HRRF will be augmented by the capacity of the LCSWMA Waste-to-Energy Facility and the Frey Farm Landfill when needed. The Delegation And Assumption Of Capacity Assurance Responsibilities Agreement (Appendix “A”) ensures that adequate disposal capacity for Regulated Municipal Waste will exist for the twenty year Term of this Non-substantial Plan Revision; see Section 8.4. Since waste-to-energy facilities have no fixed capacity, no tabulation of remaining available capacity in the HRRF or LWTEF is provided in this Non-substantial Plan Revision.

2.2.2 Designated C&D Waste Facilities

The County conducted a telephone survey of Designated C&D Waste Facilities to establish their remaining available capacity. Those facilities responding to the request provided summaries of their 2012 Annual Reports. The results are provided on Table

² Designated C&D Waste facilities not listed on Table 2-1-2 did not report receiving any C&D Waste during the reporting period.

2-2-2. Based on the data and the maximum projected C&D Waste disposal rate of 171 tons per day from Section 1.10, adequate C&D Waste disposal capacity remains for the ten year planning horizon in this 2013 Non-substantial Plan Revision.

**Table 2-2-2
Remaining Capacity of Designated C&D Facilities**

Facility Name/Designation	Current Rate (Tons/day)	Estimated Remaining Life (Years)
Commonwealth Environmental Systems	DNR†	
Cumberland County Landfill	DNR	
Laurel Highlands	717.6	103.2
Milton Grove Landfill	DNR	
Modern Landfill	DNR	
Mostoller Landfill	DNR	
Mountain View Reclamation Landfill	949	43.29
Phoenix Landfill	775.8	63.75
Sandy Run Landfill	DNR	
Shade Landfill	365.3	256.2

Source: County survey, 2013

† DNR: Did Not Respond to Survey

2.3 DESCRIPTION OF EXISTING FACILITIES

Each of the available facilities was described in detail in the 2005 Plan. The descriptions remain generally applicable, with the exception that the Dauphin Meadows and Pine Grove Landfills are no longer in operation and the Laurel Highlands, Modern, and Shade Landfills are no longer Designated Bypass Facilities because their Bypass Waste contracts have expired (these facilities are still Designated C&D Waste Facilities under separate contracts). It is noted that the York County Resource Recovery Facility is currently the designated disposal facility for Highspire Borough and Swatara Township pursuant to existing contracts. The terms of these contracts will expire on May 21, 2016 for Highspire Borough and on May 22, 2016 for Swatara Township. Following the expiration of the terms of such contracts, all RMW generated in these two municipalities will constitute Regulated Municipal Waste and be required to be disposed of at the Designated RMW Facility. The projection of total RMW generation in this Non-substantial Plan Revision is based on PaDEP data for total RMW generated within the

County, and therefore the RMW generation projections on Table 1-8 already reflect wastes generated in Swatara Township and Highspire Borough.

Table 2–3 provides a summary of the existing contracts with Bypass and C&D Disposal Facilities. Since the availability of the LCSWMA Waste-to-Energy Facility and Frey Farm Landfill owned by the LCSWMA obviates the need for other designated Bypass Waste facilities once the Delegation Agreement is finalized, the contracts for Bypass Waste will be allowed to expire by their terms and will not be renewed. Contracts for Regulated C&D Waste Disposal will be negotiated upon their expiration (a revised Model Contract is provided in Appendix E) and new C&D Disposal Contracts may be entered into pursuant to the RFP discussed in Section 8.3.4.

Table 2-3
Summary of Current Designated Bypass and Designated C&D Facilities Contracts

Facility Name/Designation	Contract Expiration Date
Commonwealth Environmental Systems (Bypass & C&D)	November, 2014
Cumberland County Landfill (Bypass & C&D)	November, 2016
Keystone Landfill (Bypass)	November, 2014
LCSWMA Waste-to-Energy Facility (Bypass)	December, 2016
Laurel Highlands (C&D)	December, 2014
Milton Grove Landfill (C&D)	December, 2015
Modern Landfill (C&D)	December, 2015
Mostoller Landfill (Bypass & C&D)	November, 2016
Mountain View Reclamation Landfill (Bypass & C&D)	February, 2016
Phoenix Landfill (C&D)	December, 2014
Sandy Run Landfill (Bypass & C&D)	November, 2016
Shade Landfill (C&D)	December, 2014
Southern Alleghenies Landfill (Bypass)	February, 2015
York County Resource Recovery Facility (Bypass)	October, 2014

2.4 THIS PLAN DOES NOT IMPAIR USE OF EXISTING FACILITIES

This Plan does not substantially impair the use of the remaining permitted capacity, or the capacity that could be made available through reasonable expansion of Existing Facilities as defined at 25 Pa. Code § 272.224(b)(2). The County will not interfere with, or attempt to interfere with, the efforts of facilities to find Municipal Waste customers whose Municipal Waste does not comprise part of the Dauphin Tonnage.

2.5 EFFECT OF RECYCLING ON EXISTING FACILITIES

Recycling will continue to have a positive impact on the operation and available processing capacity of the HRRF. Recycling of single stream materials, various grades of paper, metals, and organics, will assure that the capacity needed at the HRRF to process RMW will be available throughout the planning period. Additionally, the County-sponsored HHW collection program (discussed in Section 1.6) and recycling of electronics will reduce the amount of heavy metals, such as cadmium, nickel, lead and mercury, processed at the HRRF.

The implementation of a drywall recycling program, detailed in Section 4.2 will remove from the waste stream approximately 4,000 tons per year of material that is currently being landfilled in Designated C&D Waste facilities. This initiative will have a positive impact on the available capacity of the Designated C&D facilities as this material will be recycled rather than disposed.

CHAPTER THREE | Estimated Future Capacity

3.1 PROJECTION OF MUNICIPAL WASTE DISPOSAL CAPACITY NEEDS, 2013 – 2022

Descriptions of Regulated Waste generated from 2008 through 2012 are provided in Chapter 1 and projections of future County Tonnage are provided on Table 1-9 for Municipal Waste and on Table 1-10 for C&D Waste.

3.2 NO DEFICIENCY IN REGULATED MUNICIPAL WASTE DISPOSAL CAPACITY, 2013–2022

As discussed in Section 2.2.1 the projected rate of disposal through 2022 will not exceed the capacity of the Designated RMW Facility (the HRRF). Additionally, since excess capacity will remain in the Designated RMW Facility, an increase in disposal capacity needs over the above projections will not result in insufficient capacity in the Designated RMW Facility.

3.3 NO DEFICIENCY IN REGULATED C&D WASTE DISPOSAL CAPACITY, 2013–2022

As discussed in Section 2.2.2, the capacity information provided by the Designated C&D Waste Disposal Facilities indicates that there is adequate capacity to accept Regulated C&D Waste for the planning period. It is expected that C&D Waste capacity will increase as a result of the search for additional C&D Waste Facilities pursuant to the RFP discussed in Section 8.3.4.

CHAPTER FOUR | Description Of Recyclable Materials

4.1 DESCRIPTION OF RECYCLABLE MATERIALS

This Chapter describes the recyclable materials generated within the County. Table 4-1 below identifies the Residential and Commercial tonnages by material type for 2012.

**Table 4-1
Composition of Residential and Commercial Recycling Streams–2012**

MATERIAL	RESIDENTIAL TONS	COMMERCIAL TONS	TOTAL TONS
Single Stream	13,759	15,984	29,743
Commingled	61	1,255	1,316
Paper	1,225	9,397	10,622
Metals	200	6,891	7,091
Glass	247	0	247
Plastics	196	191	387
Tires	40	563	603
HHW	286	0	286
Electronics	307	0	307
Miscellaneous	0	1,021	1,021
Yard Waste/Organics	16,437	1,874	18,311
TOTAL	32,758	37,176	69,934

Source: PaDEP ReTRAC database, except Electronics data from County records

The following sections provide greater detail about the main recyclable material streams in the County.

4.1.1 Single Stream

Single stream recyclables are collected curbside from residential units and to a lesser extent, from commercial properties. Single stream tonnages have steadily increased as haulers have transitioned to this collection method in the past few years. A corresponding decrease has been seen in commingled materials and newsprint tonnages as these materials now constitute single stream. Another reason for the steady increase in single stream is that the recycling facilities that haulers are delivering this material to are accepting a wider array of paper in the mix, such as magazines, non-corrugated cardboard

(chipboard), junk mail, office paper, etc. Single stream tonnages are expected to continue to increase with additional paper grades being added, as well as the population growth leading to more residential units in the County.

4.1.2 Yard Waste/Organics

Act 101, Section 1501(c)(1)(ii) and (iii), requires persons in mandated municipalities to separate leaf waste from other municipal waste generated at residential, commercial, municipal and institutional establishments. “Leaf waste” is defined in the Act and its regulations as “Leaves, garden residues, shrubbery and tree trimmings, and similar material, but not including grass clippings.” Ten municipalities within Dauphin County have composting programs for leaf and yard waste, a list of these facilities is provided in Section 6.3. The amount of organic waste that was reported by Dauphin County municipalities for the years 2008 to 2012 is shown on Table 4–1–2. These data are also included in the Recycling data on Table 4–1.

Table 4-1-2 Residential and Commercial Organic Waste

EAR	RESIDENTIAL ORGANICS (tons)	COMMERCIAL ORGANICS (tons)	TOTAL TONS
2008	15,653	268	15,921
2009	28,247	8,479	36,726
2010	26,825	151	26,976
2011	19,673	824	20,497
2012	16,437	1,874	18,311

Source: PaDEP Re-TRAC data

4.1.3 Electronic Equipment

The County initially began an e-Cycling Program in 2002 by way of a one day drop-off event and continued to have semi-annual one day drop-off events at the Harrisburg Area Community College through October 2008. On April 21, 2009 the Dauphin County Recycling Center opened to accept electronics for

recycling free of charge from County residents, institutional establishments, and non-profits. Some items are also accepted from out-of-County residents as resources permit. In addition to electronics collection at the Dauphin County Recycling Center, the County has added a secure drop off site for electronics at the West Hanover Township Public Works site. The West Hanover site services both East Hanover and West Hanover Townships.

The amount of electronic equipment recycled by Dauphin County for the years 2008 to 2012 is shown on Table 4–1–3 below.

Table 4-1-3 eCycling Data, 2008-2012

Year	E-CYCLING (tons)
2008	201
2009	230
2010	310
2011	238
2012	307

Source: Dauphin County Department of Solid Waste Management & Recycling

4.1.4 Summary of Recycling Rate Data

Table 4-1-4 provides an analysis of the percentage recycling achieved in the County during the subject years.

**Table 4-1-4
County Recycling Rate 2008-2012**

YEAR	MSW (TONS)	TOTAL RECYCLING (TONS)	RECYCLING RATE
2008	234,391	76,790	24.7 %
2009	199,201	116,520	36.9%
2010	179,293	85,135	32.2 %
2011	185,450	84,261	31.2%
2012	195,164	69,934	26.4%

The data indicate that, except for 2009, Dauphin County has not achieved on a consistent basis, the statewide recycling goal of 35%. It is noted, however, that the review period encompassed a significant economic downturn which likely affected recycling rates. As discussed in the following section, the County is taking steps to increase recycling and it is believed that the 35% goal will be met and sustained by 2017.

4.2 County Plan to Reach 35% Recycling Rate

The County and municipalities within the County will make the following efforts to increase the recycling rate:

4.2.1. **Enhanced Data Collection** The County relies on various parties to report the data that are used as the basis for calculating the recycling rate. Haulers, municipalities, material recovery facilities and commercial establishments are all relied on to report recycling data to the County. Accurate data collection and aggregation forms the basis for benchmarking the successes or failures of recycling programs. Any major fluctuations in recycling data that have been reported to PaDEP could be the result of deficiencies in collection or reporting of data. The County has had difficulty in the past in obtaining recycling data from commercial sources, such as large department stores that recycle large amounts of corrugated cardboard. For example, the amount of corrugated cardboard reported in County has decreased from approximately 44,000 tons in 2008 to only 4,000 tons in 2012, while the number of large retailers has increased steadily. The County will hold a workshop each year for the large retailers, with the goal of educating the retailers on the importance of reporting data to their respective municipalities. These yearly workshops should help the County receive the data that are needed to accurately portray the recycling activities from these large-quantity generators. In addition, a representative from the County will join the Professional Recyclers of Pennsylvania Data Management Committee, which focuses solely on the issue of data collection and has worked with these large retailers to obtain data. To measure the potential impact of receiving data that was recorded in past years, the County anticipates that it will gradually increase the data collection for corrugated cardboard over the next four years, by 10,000 tons per year until it reaches the point of 2008 corrugated cardboard levels of 44,000 tons.

4.2.2. **City of Harrisburg Transition to Private Waste and Recycling Collection** The City of Harrisburg has traditionally had a well-below average recycling rate. Residents may place an unlimited amount of trash at the curb

each week. Although the City has a yard waste collection program in place, participation in that program is very low. The City is in the process of completely revamping the waste and recycling collection system which is expected to have a positive impact on its recycling rate. The City will cease municipal collection of waste and recyclables in favor of a single private hauler, which will be selected through a competitive bid process. The City will require the contracted hauler to limit the collection of waste to six bags per household and will also require twice per month yard waste collection and five leaf collections per year. The haulers will be required to bid the cost of both collection and waste disposal, which will incentivize the hauler to increase recycling tonnages. Increased recycling will be achieved through provision of larger recycling bins, better education to the residents, and the aforementioned increase in yard waste collection frequency.

The Harrisburg City Environmental Advisory Committee was formed to address the below-average recycling rate. Working in conjunction with the County, the City's efforts are expected to produce an increase in the City's Recycling rate and contribute an estimated 1,700 additional tons to the County recycling tonnage.

4.2.3. **Drywall Recycling Program** As detailed in Section 2.1.2, C&D Waste is directed to ten Designated C&D Waste landfills or the HRRF for disposal. Market development for the materials that can be source separated from the C&D Waste stream has caused the amount of C&D Waste that needs to be disposed of in landfills to decrease dramatically. One particular component of the C&D Waste stream, drywall, can be easily source separated. There are two well-established recycling facilities in neighboring Lancaster County that accept drywall, both of which are continuously looking for more material that can be processed at the facilities. However, there is currently only a very small amount of drywall originating from Dauphin County being recycled. The County will meet with representatives from these facilities to begin implementation of a drywall recycling program. The drywall recyclers typically work with new home/new commercial property builders to set up collection routes through their various job sites to collect drywall trimmings. This collection model can be expanded to Dauphin County to achieve the County's goal of increased recycling, as well as direct a valuable material to existing facilities that have ample processing capacity for the material. Using data from the two facilities located in Lancaster County as a base, implementation of a drywall collection program could divert up to 4,000 tons per year to these facilities from the C&D Waste stream, beginning at 1,000 tons per year and increasing to 4,000 tons per year over the next four years.

4.2.4. Yard Waste Site Collaboration and Promotion There are currently ten (10) municipalities that offer a drop-off location for yard waste (see Table 6-3). Per Act 101 requirements, residents in each mandated municipality have access to curbside yard waste collection services. The County believes that there is an opportunity to increase the tonnage of yard waste collected or dropped off at the various yard waste sites through further municipal collaboration and promotion of the facilities. The County will meet with municipal recycling coordinators in municipalities that don't currently offer yard waste collection or drop off to discuss the implementation of a collection program or drop-off, utilizing the excess processing capacity of one or more of the established facilities when possible. Municipalities implementing new programs can share a proportionate amount of the operational costs.

In addition to exploring new opportunities for municipal collaboration, further promotion of the existing yard waste sites will raise awareness of the availability of these facilities. The County will gather and post information about each facility on its website. Since this website receives a significant number of viewers, having the yard waste facility information posted here should help to increase the participation rate and hence increase the amount of yard waste recycled at these sites. The County estimates that further municipal collaboration and increased promotion of the yard waste sites will produce an additional 1,000 tons per year in four years.

4.2.5. Community Events Recycling The County has two (2) trailers that are used at community events for attendees to source separate recyclables. Table 1.7 lists the major community events in Dauphin County. There are numerous small events in addition to those listed. The County will expand the usage of the recycling trailers at community events, assuring that recycling away from home is convenient for attendees of these events. The County estimates that increased usage of the recycling trailers at community events will generate an additional 100 tons of recyclables per year.

In summary, Table 4-2 shows the expected effect of the County actions on the recycling rate. A baseline recyclables tonnage of 70,000 tons was used, which is the approximate tonnage recycled in 2012. As shown, the County intends to meet and sustain the 35% recycling rate by 2017.

**Table 4-2
Projected County Recycling Rate 2014-2017**

YEAR	RMW (TONS)	TOTAL RECYCLING (TONS)	RECYCLING RATE
2014	204,007	83,050	28.9%
2015	204,619	94,300	31.5 %
2016	205,233	105,550	34.0%
2017	205,848	116,800	36.2%

4.3 RECYCLABLE MATERIALS PROCESSING OPERATIONS

The following privately-owned facilities conduct recycling operations in Dauphin County.

Consolidated Scrap Resources, Inc.

1616 North Cameron Street
 Harrisburg, PA 17110
 Telephone: (717) 233-7927
 Materials Accepted: Ferrous and non-ferrous metals, scrap metals, white goods
 Buy-Back Program
 Residential and commercial materials accepted

Harrisburg Waste Paper Company

4200 Industrial Road
 Harrisburg, PA 17110
 Telephone: (717) 236-7971
 Materials Accepted: All paper, plastics.
 Does have buy-back program for Commercial Accounts
 Commercial materials only

Royalton Recycling

3 Hollendale Street
 Royalton PA 17057
 717-944-4823
 Royaltonrecycling@yahoo.com email
 Materials Accepted: light and heavy iron, copper, aluminum and brass, cars, bikes
 appliances, steel siding, water heaters

Tri-State Recyclers, Incorporated

2209 North 7th Street

Harrisburg, PA 17110

Telephone: (717) 233-5606

Materials Accepted: aluminum, copper, brass, stainless steel, and high-grade office paper.

Buy-back program only.

Residential and Commercial materials accepted

CHAPTER FIVE | Selection And Justification Of Municipal Waste Management System

This Non-substantial Plan Revision does not substantively change the Municipal Waste management system implemented as discussed in detail in the 2005 Plan. The purpose of this 2012 Non-substantial Plan Revision is to update waste disposal data, project waste disposal needs for the next ten years, and provide other information to the Department of Environmental Protection regarding the County's Waste Management Plan as required by § 272.252(c)(2) of the regulations. However, information is provided in this Chapter 5, and in Chapter 8, to explain how the selected Municipal Waste management system, as minimally modified by the contemplated sale of the HRRF to LCSWMA and delegation of some County responsibilities to LCSWMA, complies with all constitutional and statutory requirements.

As discussed in Section 8.1, the initial selection of the HRRF as the Designated Facility in 2003 was made in full compliance with applicable Constitutional principles pertaining to the Commerce Clause in that the process was fair, open and competitive and did not interfere with interstate commerce. This Non-substantial Plan Revision does not change the facility selected or the underlying status of that facility. The Designated Facility for the processing and disposal of Regulated Municipal Waste in Dauphin County will continue to be the HRRF.

As discussed below, the ownership of the HRRF is proposed to change from one public entity to another, and the operation of the Regulated Municipal Waste disposal system as a whole will change slightly due to the availability of the LCTWEF (which is already a Designated Bypass Facility—see Table 2.1.1) to serve as the facility for the processing and disposal of RMW when the HRRF is unavailable, replacing the need for other Designated Bypass Waste Facilities. This change is discussed in Sections 2.1.1 above and 5.1 below. These changes are minor and do not constitute a substantial change in the County's Waste Management Plan as set forth in the 2005 Plan.

5.1 DELEGATION AND ASSUMPTION OF CAPACITY ASSURANCE RESPONSIBILITIES AGREEMENT WITH LCSWMA

5.1.1 Background of the Delegation Agreement

As detailed in the 2005 Plan and discussed in Section 8.1 below, the County selected waste-to-energy combustion by a publicly-owned facility as the preferred method of disposal of County Tonnage. The Designated Facility under that Plan was the HRRF, which at that time was owned by The Harrisburg

Authority (“THA”), a municipality authority chartered under the Pennsylvania Municipality Authorities Act.

The HRRF underwent a substantial renovation and retrofit in order to maintain capacity to accept County Tonnage and other wastes delivered to it for disposal. However, severe problems developed in the renovation and retrofit of the HRRF and total costs were significantly higher than originally contemplated. The City of Harrisburg and the County, as guarantors of the retrofit bonds, were left with obligations to repay unsupportable levels of debt upon the HRRF. This resulted in enormous financial difficulties for the City of Harrisburg, and to a lesser extent the County.

As a result of the retrofit project debt, the Receiver for the City of Harrisburg (the “Receiver”) and The Harrisburg Authority (“THA”) engaged in a lengthy fair, open and competitive process to engage in a transaction to allow the HRRF to assure capacity at fixed disposal prices. This inquiry was not limited to a change in ownership, but also considered other methods of obtaining capital, such as leases or operating agreements. As a result of this process, on February 2, 2012, the Receiver and THA issued a Request for Qualifications for a Strategic Transaction for the Designated Facility. On March 5, 2012, five entities submitted Statements of Qualification. On March 20, 2012, four of the five were deemed qualified to respond; three of the four qualified respondents subsequently submitted proposals.

The result of that fair, open and competitive public process was the determination by the County, THA and the Receiver that a public entity within Pennsylvania could best pay a price approaching the value of the HRRF and that LCSWMA, an experienced and financially strong adjacent solid waste authority, was the best choice to provide maximum benefit to the City of Harrisburg and Dauphin County by paying a fair sale price for the Designated Facility. Accordingly the proposal of LCSWMA was selected.

It is contemplated that the Recovery Plan of the Receiver will provide that THA will sell to LCSWMA the HRRF free of all existing debt. After the sale, Dauphin County will continue to direct all Regulated Municipal Waste to the HRRF (to be renamed the Susquehanna Resource Management Complex—SRMC) under the County’s Ordinance. Since LCSWMA also owns the LCWTEF, when the HRRF is unable to process waste it will be transported by LCSWMA to LCWTEF via the HRRF Transfer Station. This means that independent Bypass Waste Disposal Facilities, which are part of the current County Plan, will no longer be needed.

5.1.2 Effect of the Delegation Agreement on Municipal Waste Management

The sale of the HRRF to LCSWMA does not change the status of the County's Flow Control Plan or the Constitutional analysis set forth in Section 8.1 of this Non-substantial Plan Revision. The selection of a municipal waste disposal system as described in the 2005 Plan was based on the determination that a publicly-owned waste-to-energy facility would provide the most benefit to County residents. The contemplated sale of the HRRF by THA to LCSWMA does not change this analysis in the slightest—the Designated RMW Facility will continue to be a publicly-owned waste-to-energy facility.

The operation of the RMW disposal system (pursuant to the revised Ordinance—Appendix B—and the LCSWMA and County Rules and Regulations—Appendices C and D respectively) will continue virtually identically to the way it has in the past. All Haulers will be directed to deliver Regulated Municipal Waste to the HRRF for processing and disposal. All RMW will be processed and disposed of at the Designated RMW Facility—the HRRF. The only change will be to the redirection of waste on those occasions when the HRRF is out of service. Under the current Plan, all such Bypass Waste was directed to a number of Designated Bypass Facilities, which included both privately- and publicly-owned facilities under individual contracts with the County. Haulers were authorized to deliver Bypass Waste directly to these facilities, or to use the HRRF Transfer Station, whichever was more convenient. However, under the proposed Plan, since LCSWMA owns the LCWTEF (which is already designated as a Bypass Waste Facility) and since LCSWMA will also own the Transfer Station at the HRRF, all Bypass Waste will be handled by LCSWMA and sent to the LCWTEF via the Transfer Station. In other words, all RMW will be directed to the HRRF regardless of whether or not the HRRF is in service and the use of Designated Bypass Facilities will be discontinued.

5.1.3 Authorization of the Delegation Agreement By Act 101

Section 303(d) of Act 101 authorizes counties to enter into an agreement with another person, including a municipality authority, pursuant to which that person undertakes to fulfill some or all of the county's responsibilities under Act 101 for municipal waste planning and implementation of the approved county plan. LCSWMA is a duly constituted Municipality Authority established for the purpose of providing, and in the past has provided, the specialized knowledge, technical competence and administrative expertise for the effective, efficient, reliable and environmentally safe processing, combustion and disposal of

municipal waste. Accordingly, the County intends to delegate, by means of revising and re-enacting its Ordinance, certain of the County's rights, duties and obligations under Act 101 to "insure the availability of adequate permitted processing and disposal capacity for the municipal waste which is generated within its boundaries" as required by Section 303(a) of Act 101. A copy of the Delegation Agreement is attached as Appendix A. The proposed revised Ordinance is found in Appendix B.

As discussed above, because LCSWMA owns the LCWTEF, which is currently designated as a Bypass Facility (see Table 2-3), it is contemplated that whenever the HRRF is unable to provide Disposal Capacity (e.g., during maintenance), all waste will be delivered to the LCWTEF via the HRRF Transfer Station. Hence, there will not be any need for separate Bypass Facility Disposal agreements because, with both facilities under the control of LCSWMA, it is unlikely that both facilities would be scheduled to be out of service for maintenance at the same time. In the unlikely event of both waste-to-energy facilities being out of service simultaneously, the LCSWMA would divert all Regulated Municipal Waste to its Frey Farm Landfill, again using the Transfer Station at the HRRF to do so. Hence, the delegation of Regulated Municipal Waste management authority by the County to LCSWMA ensures available disposal capacity for County Tonnage for the planning period.

The Delegation Agreement and the revised Ordinance address only Regulated Municipal Waste. As discussed elsewhere in this Non-substantial Plan Revision, the County will retain all of its authority and responsibilities with regard to C&D Waste and recycling. The County and LCSWMA will each adopt Rules and Regulations reflecting their authority and interests, and the County will adopt by reference the LCSWMA Rules and Regulations, making them enforceable by the County as well as LCSWMA.

5.2 DESIGNATION OF C&D DISPOSAL FACILITIES

The County's application process for facilities to apply to be designated as a Designated C&D Facility remains open and available at any time, as outlined in Section 5.4.2 of the 2005 Plan. In compliance with recent Pennsylvania court decisions regarding fees for designation of facilities, the County has revised its application forms so that a "County System Fee" which had been required under the prior program is no longer required. A copy of the application form and a "model" C&D Disposal contract that are proposed to be used following approval of this Non-substantial Plan Revision are attached as Appendix "E."

To ensure that the selection process remains public, open, and competitive, the County will initiate a Request for Proposals following PaDEP approval of this Non-substantial Plan Revision, as illustrated in Appendix “F.”

The County’s Flow Control Plan as adopted in the 2005 Plan, with respect to recent court decisions implicating flow control and Constitutional concerns, is discussed further in Chapter 8 of this Non-substantial Plan Revision.

5.3 RECYCLING PROGRAM AND C&D WASTE DISPOSAL TO REMAIN COUNTY FUNCTIONS

As described elsewhere in this Non-substantial Plan Revision, the County intends to delegate the responsibility for Regulated Municipal Waste processing and disposal to the LCSWMA, which will own the HRRF as well as the LCSWMA Waste-to-Energy Facility. The contemplated delegation will only affect the processing and disposal of Regulated Municipal Waste. The County will continue to administer the C&D Waste Disposal and Recycling programs within the County. The income from PaDEP grants and County General Funds will be used to fund the drop-off recycling and HHW programs and the County will discontinue collecting the County System Fee which had been included in existing contracts with the HRRF and Bypass Waste and C&D Waste Facilities. Curbside recycling services throughout the County are user-fee based, as the resident is paying for the cost of curbside waste and recycling collection. The user fee-based system ensures the sustainability of the curbside recycling programs in the larger municipalities. As discussed in Section 4.2, the County will work with municipalities and commercial entities to increase recycling of RMW and organic waste.

CHAPTER SIX | Location Of Facilities And Programs

6.1 DISPOSAL AND PROCESSING FACILITIES

As discussed in Section 5.1, the Designated RMW Facility under the Delegation Agreement (and revised Ordinance) will continue to be the HRRF, which will be owned by LCSWMA. The contracts with the Designated Bypass Facilities will be allowed to expire by their terms (see Table 2-3) and will not be renewed. When it is necessary to redirect RMW due to unavailability of the HRRF, LCSWMA will be responsible for this using the Transfer Station to transfer RMW to the LWTEF.

A table showing the Designated C&D Facilities is provided as Table 2-1-2 above.

6.2 DROP-OFF RECYCLING DEPOTS

The County operates ten (10) voluntary drop-off recycling depots. These depots are located in the following municipalities:

- Conewago Township
- Gratz Borough
- Halifax Borough
- Harrisburg City (Uptown Shopping Center)
- Highspire Borough
- Lykens Borough
- Millersburg Borough
- Washington Township
- Williamstown Borough
- Dauphin County Recycling Center

6.3 YARD WASTE/COMPOSTING

Ten (10) municipalities operate drop-off yard waste/composting in Dauphin County. A summary of the organic yard waste recycling tonnage based on ReTrac data is provided on Table 4-1. A list of the municipal composting facilities is provided on Table 6-3 below.

TABLE 6-3
Municipal Yard Waste Composting Facilities

MUNICIPALITY
Derry Township
Hummelstown Borough
Lower Paxton Township
Lower Swatara Township
Middletown Borough
Paxtang Borough †
South Hanover Township
Steelton Borough†
Susquehanna Township
Swatara Township

Note †: Yard Waste collected and delivered to Swatara Twp. for composting

CHAPTER SEVEN | Implementing Entity Identification

7.1 IMPLEMENTING ENTITY

Dauphin County remains the implementing entity as described in detail in the County's 2005 Plan and in previous Plans. Upon approval of this Non-substantial Plan Revision by PaDEP, and pursuant to the proposed Delegation Agreement (Appendix A) and revised Ordinance (Appendix B), the County will delegate certain of its powers and duties related to the disposal of Regulated Municipal Waste to LCSWMA, as authorized by Section 303 of the Act. 53 P.S. § 4000.303(d). Accordingly, LCSWMA will be the entity responsible to insure the availability of adequate permitted processing and disposal capacity for Regulated Municipal Waste as required by Act 101, Section 303(a). Dauphin County will remain responsible for regulating the disposal of Regulated C&D Waste and for recycling.

7.2 ENFORCEMENT

The Ordinance (Appendix B) will be revised and re-enacted to reflect the provisions of the Delegation Agreement (Appendix A). The Delegation Agreement provides that LCSWMA will issue rules and regulations (the "SRMC Rules and Regulations") for the use of its facilities (the HRRF) under its powers as a municipality authority. The proposed SRMC Rules and Regulations are in Appendix C. Dauphin County and LCSWMA will jointly enforce the adopted SRMC Rules and Regulations within Dauphin County pertaining to regulation and registration of RMW Haulers. As a duly constituted municipality authority under the Pennsylvania Municipality Authorities Act (53 P.S. § 5601 *et seq.*), LCSWMA has the independent authority to enforce its regulations. See, *e.g.*, § 5607(a)(7)–(9), & (d)(17), (26).

The current Dauphin County Rules and Regulations will be amended to regulate and require registration only of C&D Waste Haulers and C&D Waste Facilities. Other clarifying revisions are also proposed, including deletion of references to the County System Fee, which will no longer be charged. The proposed Revised Dauphin County Rules and Regulations are attached as Appendix D.

As a result of the contemplated delegation of authority, the regulation of Haulers will be by both the County and LCSWMA depending on the waste which each Hauler is delivering. Those Haulers who collect and deliver RMW will be regulated by LCSWMA, including registration of the vehicles. Haulers that collect and deliver C&D Waste will continue to be regulated by the County and will be registered with the County as they currently are. Any Hauler that collects both kinds of waste will be required to be

registered with both entities, who will use different kinds of registration stickers to ensure that the Designated Facilities can quickly identify that the Hauler is properly registered for the type of waste being delivered.

7.3 TERM OF THE MUNICIPAL WASTE MANAGEMENT PLAN, AS REVISED

The Dauphin County Municipal Waste Management Plan, as revised by this Non-substantial Plan Revision, shall continue until the twentieth (20th) anniversary of approval or deemed approval by the Department of Environmental Protection (the “Termination Date”; and the period from approval until the Termination Date shall be referred to as the “Term”). During the Term, the County shall prepare and file as a Non-substantial Plan Revision updated waste data tabulations and projections on or about the tenth (10th), anniversary of Plan approval.

CHAPTER EIGHT | Public Function And County Ownership

8.1 INTRODUCTION

This Non-Substantial Plan Revision does not propose any substantive change in the County's Flow Control Plan and the discussion of Public Function as set forth in the 2005 Plan remains unchanged and is not repeated in this document.

However, the Department's *Guidelines for the Development and Implementation of County Municipal Waste Management Plan Revisions* (PaDEP #254-2212-504) includes a requirement to discuss in light of recent court decisions how the County's existing (2003) Flow Control Plan comports with Constitutional requirements under the Commerce Clause as interpreted by the courts. Two cases are relevant to this analysis.

In 2007, the U.S. Supreme Court decided the case of *United Haulers Ass'n, Inc. v. Oneida-Herkimer Solid Waste Management Authority*, 127 S.Ct. 1786 (2007) ("Oneida-Herkimer"). In *Oneida-Herkimer* the Court held that municipal waste flow control plans that favor government-owned disposal facilities do not violate the Commerce Clause of the United States Constitution because waste management is a government function. However, some minimal elements must be present to show that the governmental function is in the public interest. These include:

- The plan results in public health and environmental benefits to the citizens of the County by providing an integrated waste management system that encourages recycling and provides enhanced enforcement;
- The citizens of the County have approved the plan; and
- The plan imposes minimal disparate impact on interstate commerce

The Third Circuit Court of Appeals expanded this discussion in the case of *Lebanon Farms Disposal, Inc. v. County of Lebanon*, 538 F.3d 241 (C.A. 3, 2008). In *Lebanon Farms*, the Third Circuit explained that in deciding whether a flow control plan impermissibly infringes on the rights of out-of-state entities, the balancing test set forth in *Pike v. Bruce Church, Inc.*, 397 U.S. 137 ("Pike") is applied. This test is applied once the analysis set forth in *Oneida-Herkimer* establishes that there are legitimate local concerns that result in incidental effects on interstate commerce. Under *Pike*, "a court will uphold the flow control plan unless the burden imposed on interstate commerce is clearly excessive in relation to the local benefits." *Oneida-Herkimer*, 127 S. Ct. 1797.

The other relevant case is *Harvey & Harvey, Inc. v. County of Chester*, 68 F.3d 788 (3d Cir. 1995) which considered the effect of the Commerce Clause when private entities are selected to carry out a flow control plan. The criteria established in *Harvey* are:

- The process of selection is open, fair, and competitive between in-state and out-of-state providers
- Reasonably short periods of exclusion and the possibility of future amendment so that opportunities will appear again in the future

Initially, it is important to note that, as discussed in *Oneida-Herkimer*, waste management is a county function. Act 101 provides that the primary responsibility for developing and implementing waste management plans lies with counties. 53 P.S. §§ 4000.102(b)(10), 4000.303(a). Accordingly, the County has developed a comprehensive system of waste management as authorized and directed by Act 101 and other laws and regulations. The Flow Control Plan is an integral part of this overarching Waste Management Plan. While this Non-substantial Plan Revision represents an update of the Waste Management Plan, it does not propose any substantive change in the Flow Control Plan established in earlier Plan Revisions, the most recent one being the *2005 Substantial Plan Revision*. Since that document discusses the facts relevant to the County's Flow Control Plan, it is used as the primary reference in this document.

The County Flow Control Plan for Regulated Municipal Waste differs from the Flow Control Plan for C&D Waste. Therefore, the plan with regard to each waste stream is discussed separately below in light of the relevant court decisions.

8.2 FLOW CONTROL PLAN FOR MUNICIPAL WASTE

The discussions of process and procedure in the 2005 Plan, particularly in Chapters 5, 8 and 12, demonstrate that the Flow Control Plan—designating a municipally-owned waste-to-energy disposal facility—does not violate the Commerce Clause under the analyses mandated by *Oneida-Herkimer* and *Lebanon Farms*. The 2003 selection process was fair, open and competitive and did not result in an unacceptable burden on interstate commerce under *Pike*. The analysis is provided in the following subsections.

8.2.1 The 2003 Flow Control Plan

Pursuant to the approved Waste Management Plan, and as directed by the County Ordinance (No. 5–2005), the County directed all Municipal Waste to one publicly-owned disposal facility, the Harrisburg Materials Energy Recycling and Resource Recovery Facility (HRRF), a waste-to-energy municipal waste processing and disposal facility (the Designated RMW Facility). Waste hauling (curb-to-disposal) is not regulated by the County, except to the extent that all haulers are required to deliver County-generated Regulated Municipal Waste to the Designated RMW Facility and to register with the County for tracking and compliance oversight purposes.

Since the Flow Control Plan utilizes a municipally-owned facility, the applicable analysis is conducted under *Oneida-Herkimer* and *Lebanon Farms*, as discussed above.

8.2.2 Nature of The Designated RMW Facility

At the time the flow control plan was created, the HRRF was owned by The Harrisburg Authority (THA), a Pennsylvania Municipality Authority created and existing under the Pennsylvania Municipality Authorities Act, 53 P.S. § 5601 *et seq.* Thus, the Designated RMW Facility was publicly owned. It also noted that the HRRF is operated by a private company under contract to the Authority, not the County. It is understood that the Commerce Clause issues to be addressed in this Non-substantial Plan Revision are those related to the County’s selection of the designated disposal facilities and not to the question of the operation of the publicly-owned facility, since the operation of the facility is not under the control of the County.

The transactions described in Section 5.1 of this Non-substantial Plan Revision will result in the HRRF being owned by the LCSWMA, which, like THA, is a Pennsylvania municipality authority. Hence, the contemplated flow control plan will be identical to the flow control plan adopted in 2005 as far as the nature of the Designated RMW Facility is concerned.

8.2.3 Contractual Relationship

The County and THA entered into a “Municipal Waste Processing/ Disposal Agreement” (“Waste Agreement”— Exhibit “B” of the 2005 Plan) as of

September 16, 2003, in which the County designated the HRRF as the Designated RMW Facility. The Waste Agreement had an initial term of twenty years, with an automatic five year renewal clause (Waste Agreement § 10.01), resulting in a term ending in September, 2028.

Upon LCSWMA's acquisition of the Designated RMW Facility, the Delegation Agreement will become effective and LCSWMA will be the governmental entity to which the County has delegated responsibility for assuring adequate permitted processing and disposal capacity for all RMW. Accordingly, the Waste Agreement will no longer be necessary and will terminate. The Delegation Agreement term extends until 2033, corresponding with the Term of this Plan (see § 7.3). The Constitutional analysis of Flow Control to the Designated RMW Facility in this Chapter is unchanged by this event.

8.2.4 Benefits of Selection of a Publicly-owned Designated Facility

The selection of a publicly-owned waste to energy facility provides many benefits to the residents of Dauphin County. As discussed in Section 7.1.6 of the 2005 Plan, these include:

- *Renewable Energy Generation*

The HRRF is designed to maximize efficient processing of waste by using the waste as a source of power for electricity generation which is sold back to the electrical grid, thereby making beneficial use of the waste that would otherwise be landfilled.

- *Waste Recycling*

The County maintains the offices of its Department of Solid Waste Management and Recycling adjacent to the HRRF site. The County provides on this site a suite of material recycling services that complement services provided by the HRRF. For instance, the HRRF provides white goods recycling along with recovery of metals from the waste stream. The County provides to County residents free recycling services for electronics, Freon-containing appliances, mercury-containing thermostats, appliances, and document shredding, as well as comprehensive recycling of metals, plastics, paper, cardboard and glass at the same location. As discussed in Section 4.2 of this Non-substantial Plan Revision,

the County will continue to develop its recycling program to increase the percentage of RMW being recycled; the availability of a centralized location is an important part of this effort.

- *Household Hazardous Waste Disposal*

The County also provides free Household Hazardous Waste disposal services to County residents (see § 1.6) at the same site.

By centralizing these County services at the same location as the Designated RMW facility, operating costs are reduced while the range of public services is maximized, thereby benefiting the residents of Dauphin County financially and in terms of maximizing recycling opportunities and maximizing energy generation from waste. These consolidated and cost-efficient services provide both economic and health benefits to the residents of Dauphin County.

The proposed change in ownership of the HRRF and delegation of RMW processing duties to the LCSWMA does not impair any of the above-described public benefits.

8.2.5 Open and Public Selection Process in 2003

The process for selection of the HRRF is detailed in §§ 5.2.A, 7.1.6, and 12.1.1 of the 2005 Plan. In summary, the County conducted a comprehensive interstate search for proposals for a municipal waste combustion facility in 2003 and received one complete and one incomplete bid. The bids were reviewed by the County's consulting engineer, which found that the complete bid, from the HRRF, was acceptable and offered a lower "gate rate" than the other two nearby municipal waste-to-energy facilities (York and Lancaster, which in any case did not submit bids). There being no other complete bids, the HRRF bid was accepted.

In selecting a municipal waste combustion facility in 2003, a Request for Proposals was direct mailed to all municipal waste combustion facilities in Pennsylvania, Ohio, New York, New Jersey, Virginia, Maryland and West Virginia, and was nationally advertised in the industry magazine *Waste News*. Accordingly, no discrimination occurred between publicly- or privately-owned, or between in-state and out-of-state facilities during the selection process.

8.2.6 Public Participation in Selection of the Publicly-Owned Designated Facility in 2003

The County developed its Flow Control Plan as part of the initial development of the County Waste Management Plan. Accordingly, the County engaged in multiple layers of public participation as required by the Department's regulations for initial Plan development. The public participation process is described and documented in the 2005 Plan and included the following activities. (Regulatory requirements are shown in parentheses):

Creation of an Advisory Committee (25 Pa Code § 272.202)

Publication of the Plan in local newspapers (§ 272.241(a))

Notice to all municipalities within the County of Plan development and review of the draft Plan by the municipalities (§ 272.241(b))

Ratification of the Plan by resolution of the individual municipalities (§ 272.242)

Continuing involvement of the County Commissioners throughout the plan development process.

Accordingly, the County believes that the Flow Control Plan which designates a single publicly-owned waste disposal facility was known to, understood by, and acceptable to, the residents of the County. To the extent that the selection of this facility may impose economic burdens and benefits on the residents (and note that the information developed during the 2005 Plan indicates that the HRRF is economically competitive with other similar facilities) the citizens have approved the Plan with that knowledge.

The County believes that the extensive public participation process clearly supports the proposition that the citizens of Dauphin County have chosen the government to provide Municipal Waste management services, with a role for the private sector in arranging for transport of the RMW from the curb to the public facilities. The citizens selected the option to vest responsibility for RMW disposal

with the County government and to adopt a flow control ordinance to support the government effort.

The above discussion indicates that the analysis required by *Oneida-Herkimer* supports the conclusion that the County's Flow Control Plan is in the public interest. Having demonstrated that result, the *Pike* test, as described in *Lebanon Farms*, is applied next. As noted above, this test is met when it is demonstrated that the burden on interstate commerce is not excessive.

8.2.7 Burden on Interstate Commerce (Pike test)

The selection of the HRRF as the Designated Regulated Municipal Waste processing facility did not place an excessive burden on interstate commerce compared to the public benefits. In particular, it is noted that the selection process included a direct mailing of the RFP to out-of-state facilities as well as in-state facilities. The RFP was uniform and did not include any requirements that would have made it more difficult for out-of-state facilities to submit proposals. Although no out-of-state facilities submitted a proposal, none submitted any information to the County indicating that the selection process was burdensome to them. There is no evidence that any out-of-state municipal waste combustion facilities suffered any burden as a result of the selection process. Since the *Pike* test requires only that there not be a "clearly excessive" burden on interstate commerce, the County complied with this legal requirement.

8.2.8 Selection of Municipal Waste Haulers

The County does not designate waste haulers, although it does require haulers to be registered for purposes of tracking waste and ensuring that haulers are properly equipped to transport waste in compliance with applicable state regulations. Because haulers are selected by customers or by local municipalities, the County Flow Control Plan has no effect on the selection of in-state or out-of-state haulers. Section 5.2.2(d) of the 2005 Plan notes that this open approach "is expected to encourage greater competition in waste hauling." Hence, no discrimination between in-state and out-of-state municipal waste haulers occurred in the development of the Flow Control Plan.

8.2.9 Summary of Analysis Of Flow Control Plan For Municipal Waste As Adopted In 2003

The discussions of process and procedure in the 2005 Plan, particularly in Chapters 5, 8 and 12, demonstrate that the Flow Control Plan—designating a municipally-owned waste to energy disposal facility—did not violate the Commerce Clause under the analyses mandated by *Oneida-Herkimer* and *Lebanon Farms*. The 2003 selection process was fair, open and competitive and did not result in an unacceptable burden on interstate commerce.

The minor change in the Flow Control Plan discussed in § 5.1—acquisition of the HRRF by LCSWMA, and delegation of certain County rights, duties and obligations to LCSWMA—does not constitute a substantive change in the Constitutional analysis of the County flow control plan under *Oneida-Herkimer* and *Lebanon Farms*. The reasons for this conclusion are provided below.

8.2.10 Ownership Will Remain In A Municipality Authority

The HRRF was owned by THA at the time it was selected as the Designated Facility in 2003. Likewise, LCSWMA is a municipality authority created under the Pennsylvania Municipality Authorities Act (53 P.S. § 5601 *et seq.*). As such, LCSWMA is an independent agency of the Commonwealth. *Com. v. Lucas*, 534 PA. 293, 295; 623 A.2d 868, 870 (1993). Furthermore, LCSWMA has those powers granted by the Authorities Act. In particular, an authority is empowered to act anywhere within the Commonwealth. *See, e.g., East Hempfield Twp. v. City of Lancaster*, 273 A.2d 333 (Pa. 1973). Additionally, authorities are empowered to enter into contracts with other municipalities. 53 P.S. § 5607(d)(14).

8.2.11 The Delegation of County Powers To LCSWMA Is Authorized By Act 101

The County is authorized by Section 303(d) of Act 101 to “enter into a written agreement with another person pursuant to which the person undertakes to fulfill some or all of the County's responsibilities under this act for municipal waste planning and implementation of the approved county plan. Any such person shall be jointly and severally responsible with the county for municipal waste planning and implementation of the approved county plan in accordance with this act and the regulations promulgated thereto.” Hence, both LCSWMA

and the County are empowered to enter into an agreement wherein the County delegates to LCSWMA some of the County's responsibilities to provide for implementation of the County Plan; this delegation of authority is accomplished by Ordinance, Appendix B, and the terms and conditions of the delegation are memorialized in the Delegation Agreement, Appendix A.

8.2.12 Designation of LCSWMA's Facilities Is Substantively The Same As Designation Of THA's Facilities

Since LCSWMA is a governmental agency with jurisdiction to act within Dauphin County and anywhere in the Commonwealth, and since LCSWMA will own the HRRF, which has been the Designated Facility for RMW since 2003 (see *2005 Plan*), the delegation of certain County functions to LCSWMA by the County creates no substantive change in the County's Flow Control Plan as set forth in the 2005 Plan. The Designated RMW Facility will continue to be a Waste-To-Energy facility (incinerator), owned by a public entity (municipality authority).

In addition to the initial selection of the HRRF by a fair, competitive and open selection process in 2003 as discussed above, the selection in 2013 of LCSWMA to purchase the facility and continue its operation was also accomplished using an open and fair selection process. As described in the Delegation Agreement (Appendix A) and in § 5.1 above, the selection of LCSWMA to purchase the HRRF was made pursuant to a fair, open, and competitive process undertaken by THA and the Receiver for the City of Harrisburg, and monitored by the County, in which five entities submitted Statements of Qualification and three submitted proposals to acquire the HRRF.

Since the initial selection of the HRRF as the Designated Facility met the Constitutional requirements, and since the change in ownership of the HRRF from one municipality authority to another does not change the underlying analysis in any way, the County's Flow Control Plan met, and continues to meet, all Constitutional requirements.

8.3 FLOW CONTROL PLAN FOR CONSTRUCTION AND DEMOLITION WASTES

The County's Flow Control Plan for Regulated C&D Wastes directs all such wastes generated within the County to ten Designated C&D Facilities, all of which are privately owned (see Table 2–3). Because only privately owned facilities are designated, the Commerce Clause analysis is conducted under the rules stated in the case of *Harvey & Harvey, Inc. v. County of Chester*. As discussed above, under *Harvey*

the analysis first focuses on the selection process in order to determine whether out-of-state facilities were subject to discrimination. In addition, once the selection is made, the plan is reviewed to determine whether the initial selection is open to future amendment by reviewing the (1) duration of the designation, and (2) whether an amendment is possible to add alternative sites. Each of these three factors is discussed below.

8.3.1 Designated Facilities

The 2003 Flow Control Plan designated the following as Designated C&D Facilities: CES Landfill, owned by Commonwealth Environmental Systems, L.P.; Modern Landfill, owned by Republic Services of Pennsylvania; and Mountain View, Phoenix Resources, Laurel Highlands, and Shade Landfills, all owned by Waste Management of Pennsylvania, Inc. All three owners are Pennsylvania corporations (although it must be noted that Waste Management Pennsylvania, Inc. is a subsidiary of Waste Management of North America, Inc., a Texas corporation with worldwide operations).

8.3.2 Selection Process

The selection process is described in §§ 5.2B, 7.1.7, and 12.1.2 of the 2005 Plan. In 2004 the County issued a Request for Proposals to provide C&D waste disposal facilities and received proposals from three companies, representing six facilities. All three companies and all six facilities were selected and placed under ten year contracts. No responsible submission was rejected and no discrimination between submitters occurred.

In reviewing the Proposals, the County considered the financial condition of the applicants, the available capacity, the reasonableness of the proposed tipping fees, and the desirability of having several alternatives available to haulers to encourage competition and fair prices. A summary of the review process appears in the Department's letter to the Solid Waste Advisory Committee, Appendix Q of the 2005 Plan.

Because the RFP was publicly advertised, the County believes that the selection process was open, fair, and non-discriminatory. The fact that all of the selected facilities are within Pennsylvania is simply the result of the fact that all of the companies responding to the RFP are located within Pennsylvania. No effort was made to exclude from the selection process any out-of-state facilities.

8.3.3 Duration of Designation

As noted, the County entered into ten year contracts with each of the three providers in 2004. This time period is necessary to meet the ten year planning horizon required by the regulations (25 Pa. Code § 272.225(a)), and to provide stability and certainty in the availability of Regulated C&D Waste disposal capacity and cost. As discussed above, the County intends to issue another Request for Proposals in 2013, in advance of the expiration of these contracts in 2014, thereby ensuring that all potential providers will be considered.

By limiting the term of C&D Waste Disposal Contracts to ten years, the requirements of *Harvey* regarding the duration of designation are met.

8.3.4 Amendment to Add Additional Facilities.

Subsequent to the initial selection of six C&D Waste Facilities, the County received requests from others to be so designated. During the last ten years the County has added four additional Designated C&D Waste Facilities to its list; currently ten facilities are so designated (See Table 2-3). Thus, the County has demonstrated that its process for designating these facilities has remained open and available throughout the prior planning period. This open application process will remain in effect; the County intends to revise its Application Form and Contract as illustrated in Appendix E to bring its documents up to date (including deletion of the County System Fee, as stated in § 5.3).

Although the County's application process has been and will continue to be open and available at any time, the County intends to issue a Request for Proposals in 2013 and again at the end of the Term of this Non-substantial Plan Revision (see Section 7.3) to ensure that the availability of this opportunity is made known to any entities wishing to provide C&D Waste disposal facilities to the County and to provide a uniform process for renewing the existing contracts. The proposed RFP is attached as Appendix "F." Because the County intends to rescind its "County System Fee" (see § 5.2) the County will offer the existing Designated C&D Waste Facilities (see Table 2-3) the opportunity to renew their contracts prior to their expiration dates using the new model contract (Appendix "E") during the RFP process. These provisions ensure that the requirements of *Harvey* regarding amendment of Flow Control to provide availability to all potential providers are met.

8.4 SUMMARY OF FLOW CONTROL

The County created its Flow Control Plan in 2003 in an open, public, and non-discriminatory way which resulted in no burden on interstate commerce. The selection of a municipally-owned Municipal Waste disposal facility provides many economic and health benefits to the residents of the County, and was approved by the residents of the County through an extensive public notice and review process. The selection of another municipal entity—LCSWMA—to acquire the HRRF does not alter this analysis. The selection of six privately-owned facilities for the disposal of Regulated C&D Waste was conducted in an open and non-discriminatory process in which no out-of-state entities were discriminated against. Four additional Designated C&D Waste Facilities have been added under the County’s open application process since that time and selection of Designated C&D Facilities will remain open and competitive by the implementation of an RFP process as described above. Finally, since the selection of waste Haulers is a matter for local municipalities and individuals, this aspect of the Flow Control Plan was not under the control of the County.

An analysis of the County’s Flow Control Plan using the standards enunciated by the courts for Commerce Clause review demonstrates that all of the Constitutional protections of interstate commerce required by the Constitution have been provided. The County intends to ensure that its process remains fair, open and competitive by issuing a Request for Proposals for Designated C&D Facilities upon PaDEP approval of this Non-substantial Plan Revision.

CHAPTER NINE | Implementing Documents And Disposal Other Than By Contract

Most of the implementing documents were provided to the Department in the 2005 Plan. Those documents that are not proposed to be revised are not included in this 2012 Non-substantial Plan Revision. However, the following documents are either new or proposed to be revised and are attached for the Department's review and approval prior to formal adoption:

- As discussed in Section 5.1, the County will enter into the Delegation Agreement with LCSWMA, attached as Appendix "A."
- As discussed in Section 5.1 the County will revise and re-enact its Ordinance to reflect the continuing designation of the HRRF when it becomes owned by LCSWMA as the Designated RMW Facility for disposal of Regulated Municipal Waste. The Ordinance will also reflect the delegation of County authority to LCSWMA to become the responsible party for the processing and disposal of RMW in County. The proposed revised Ordinance is attached as Appendix "B."
- As discussed in Section 7.2, LCSWMA will regulate Regulated Municipal Waste Haulers using the HRRF, which will be called the SRMC. The proposed SRMC Rules and Regulations are provided as Appendix "C."
- As discussed in Section 7.2, the County will update its Rules and Regulations to change their scope to reflect the proposed Delegation Agreement, in which the County will only regulate Haulers of Regulated C&D Waste and Designated C&D Waste Disposal Facilities. The proposed revised Dauphin County Rules and Regulations are attached as Appendix "D."
- As discussed in Chapter 5, the County proposes to update and revise its Application Form and standard contract language for prospective Designated C&D Waste Facilities. These documents are attached as Appendix "E."
- As discussed in Section 8.3, the County intends to issue a Request for Proposals to update its selection process for Designated C&D Waste Facilities. The proposed RFP is provided in Appendix "F."

CHAPTER TEN | Orderly Extension

A discussion of how the County Plan provides for the orderly extension of waste management systems within the County, consistent with existing state and local plans, was provided in the 2005 Plan. As this Non-substantial Plan Revision makes no substantive changes to the Plan with regard to Designated Facilities, the discussion as provided in the 2005 Plan remains applicable, with the exception that certain County functions with regard to RMW are proposed to be delegated to the LCSWMA.

Table 2-3 lists the current Disposal Contracts for both Designated Bypass Waste Facilities and Designated C&D Facilities and their expiration dates. As discussed elsewhere in this Non-substantial Plan Revision, the LWTEF and Frey Farm Landfill will accommodate all waste which cannot be processed and disposed by the HRRF, all existing Bypass Waste Disposal Contracts will be allowed to expire without renewal, and no new Bypass Waste Disposal Contracts will be sought.

Existing C&D Waste contracts will be subject to an application process for renewal (Appendix “E”). As discussed in Sections 8.3.3 and 8.3.4, the County will continue to provide opportunities for providers of C&D Waste disposal to become Designated C&D Waste Disposal Facilities throughout the Term of the Plan, including an RFP process to seek out new providers.

CHAPTER ELEVEN | Facilities Developed Pursuant To Sub-County Plans And Other Non-Interference Requirements

A discussion of how the County's Plan is consistent with and does not interfere with the contractual obligations of existing facilities was provided in the 2005 Plan. As this Non-substantial Plan Revision makes no changes to the Plan with regard to Designated Facilities, the discussion as provided in the 2005 Plan remains applicable.

CHAPTER TWELVE | Public Participation And Approval Process

The Solid Waste Advisory Committee and all County municipalities were provided with a draft copy of this document for their review and comment pursuant to § 272.252(b)(3) on two separate occasions during the development of this Non-substantial Plan Revision. A short discussion of the public participation process and the comments received are provided in Appendix “G.”

APPENDIX A

**DELEGATION AND ASSUMPTION OF CAPACITY ASSURANCE
RESPONSIBILITIES AGREEMENT**

APPENDIX B

PROPOSED COUNTY WASTE MANAGEMENT ORDINANCE

APPENDIX C

PROPOSED SRMC RULES AND REGULATIONS

APPENDIX D

PROPOSED REVISED COUNTY RULES AND REGULATIONS

APPENDIX E

PROPOSED APPLICATION FORM FOR DESIGNATED C&D FACILITIES;

PROPOSED MODEL CONTRACT FOR DESIGNATED C&D FACILITIES

APPENDIX F

**PROPOSED REQUEST FOR PROPOSALS FOR DESIGNATED C&D
FACILITIES**

APPENDIX G
PUBLIC COMMENTS AND RESPONSES

Appendix G—SUMMARY OF PUBLIC COMMENTS

A Review Draft of the 2013 Non-substantial Plan Revision was provided to all municipalities in the County and to the Solid Waste Advisory Committee (SWAC) in October, 2012. A meeting of the SWAC was held on November 9, 2012 to discuss the proposed Plan Revision. No comments were received from the municipalities or the SWAC.

A Second Review Draft of the proposed 2013 Non-substantial Plan Revision, incorporating numerous changes including the discussion of the proposed sale of the HRRF to LCSWMA, was provided to all municipalities and the SWAC on August 2, 2013. A meeting of the SWAC was held on August 27, 2013 at which the proposed 2013 Non-substantial Plan Revision was discussed in detail. No comments were received from any municipality or from the SWAC.