

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

**CERTIFICATION
OF THE MAY 16, 2007
AMENDMENT TO THE BERGEN COUNTY
DISTRICT SOLID WASTE MANAGEMENT PLAN**

BY ORDER OF THE COMMISSIONER:

A. Introduction

The New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) established a comprehensive system for the management of solid waste in New Jersey. The Act designated all twenty-one (21) of the state's counties, and the Hackensack Meadowlands District, as Solid Waste Management Districts, and mandated that the Boards of Chosen Freeholders and the Hackensack Meadowlands Development Commission (now known as the New Jersey Meadowlands Commission) develop comprehensive plans for waste management in their respective districts. On October 31, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Bergen County District Solid Waste Management Plan (County Plan).

The Act requires that all district plans be based on and accompanied by a report detailing the existing waste disposal situation in the district, and a plan which includes the strategy to be followed by the district in meeting the solid waste management needs of the district for a ten-year planning period. The report must detail the current and projected waste generation for the district, inventory and appraise all facilities in the district, and analyze the waste collection and transportation systems which serve the district. The disposal strategy must include the maximum practicable use of resource recovery techniques. In addition to this strategy, the plan must designate sufficient available suitable sites for the disposal of the district's waste for a ten-year period.

The Act further provides that a district may review its District Plan at any time and, if found inadequate, a new District Plan must be adopted. The Bergen County Board of Chosen Freeholders (County Freeholders) completed such a review and on May 16, 2007 adopted an amendment to its approved County Plan.

The May 16, 2007 amendment proposes County Plan inclusion of the County Plan Update in

response to the updated Statewide Solid Waste Management Plan.

The amendment was considered administratively complete for review by the Department on August 9, 2007 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment, and has determined that the amendment adopted by the County Freeholders on May 16, 2007 is approved as provided in N.J.S.A. 13:1E-24.

On April 13, 2002, New Jersey Department of Environmental Protection Commissioner Bradley M. Campbell signed Administrative Order No. 2002-10, which requires, among other things, that the Department revise, update and readopt the Statewide Solid Waste Management Plan. On January 3, 2006, New Jersey Department of Environmental Protection Commissioner Lisa P. Jackson formally adopted the updated Statewide Solid Waste Management Plan.

The updated Statewide Solid Waste Management Plan reaffirms the state's goal of recycling 50% of the MSW stream. The overall strategy for achieving this ambitious goal starts with a quantification, on a statewide basis, of the increased tonnage of recycled materials needed. This is further calculated on a per county basis, with an analysis of current MSW recycling tonnages by county, and the necessary increases required by each county. The statewide increase needed is also expressed in terms of increased recycling tonnage by material, such as newspaper, corrugated, food waste, etc. Additionally, the plan targets specific classes of generators (schools, multi-family housing complexes, small and medium-sized businesses) that need to be focused on in terms of expanded recycling opportunities for the materials identified.

The state, through this Solid Waste Management Plan update, establishes the overall policy objectives and goals for solid waste management in New Jersey. The counties and the NJMC shall have the responsibility for developing their respective district solid waste management plans consistent with the state's goals and objectives. Therefore, as noted in the State Plan, each district shall, within one year of the adoption of the updated Statewide Solid Waste Management Plan or January 3, 2007, adopt and submit to the Department, an updated district solid waste plan. This district plan update shall demonstrate consistency with the State Plan. Further, the district plans shall reiterate the district plan requirements contained in N.J.S.A. 13:1E-21. Specifically, revised district plan updates shall include, but not be limited to the following components:

- 1) Designation of the department, unit or committee of the county government (or district in the case of the NJMC) to supervise the implementation of the district plan;
- 2) An inventory of the quantity of solid waste generated within the district for the ten-year period commencing with the adoption of updated district solid waste management plan;
- 3) An inventory of all solid waste and recycling facilities (lot and block and street address) including approved waste types and amounts, hours of operation and approved truck routes;
- 4) An outline of the solid waste disposal strategy to be utilized by the district for a ten-year planning period;
- 5) A procedure for the processing of applications for inclusion of solid waste and recycling facilities within the district solid waste management plans. The procedure shall state the

applicant requirements for inclusion into the district plan and the specific county review process/procedures, including time frames for county approvals or rejections and subsequent submittals to the Department. **Note-** the criteria for inclusion shall **not** include a requirement that local zoning or planning board approval(s) be obtained as a condition for inclusion within the district solid waste management plan, nor shall such a requirement be made a condition for subsequent construction or operation of any facility; and

- 6) Identify the additional tonnage of recycled materials in the MSW stream (by material commodity types) required by each county to meet the mandated MSW recycling goal, a strategy for the attainment of the recycling goals as outlined above. The strategy shall include, as necessary:
 - a) the designation of the currently mandated recyclable materials and additional materials, if any, to be source separated in the residential, commercial and institutional sectors;
 - b) a listing of those entities providing recycling collection, processing and marketing services for each of the designated recyclable materials;
 - c) the communication program to be utilized to inform generators of their source separation and recycling responsibilities;
 - d) a comprehensive enforcement program that identifies the county and/or municipal entity(ies) responsible for enforcement of the recycling mandates, specifies the minimum number of recycling inspections that will be undertaken by these entities on an annual basis and details the penalties to be imposed for non-compliance with the municipal source-separation ordinance and county solid waste management plan. Additionally, the updated district plan shall include copies of each municipal source separation ordinance.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the May 16, 2007 amendment to the County Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that the amendment is consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the elements of the May 16, 2007 amendment which are included below.

In conjunction with the review of the amendment, the Department circulated copies to seventeen administrative review agencies and solicited their review and comment. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various bureaus, divisions, and agencies within the Department. All agencies contacted are as follows:

Division of Water Quality, DEP
 Division of Parks and Forestry, DEP
 Division of Fish and Wildlife, DEP
 Solid and Hazardous Waste Management Program, DEP
 Green Acres Program, DEP
 Land Use Regulation Program, DEP

Office of Local Environmental Management, DEP
Office of Air Quality Management, DEP
Bureau of Solid Waste Compliance and Enforcement, DEP
Department of Community Affairs
Department of Transportation
Department of Agriculture
Department of Health and Senior Services
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
New Jersey Meadowlands Commission
U.S. Environmental Protection Agency

Elements of the May 16, 2007 Amendment

Element: Designation of County Plan Implementation Agency

The May 16, 2007 County Plan amendment reaffirms the designation of the Bergen County Utilities Authority (BCUA) as the County Plan implementation agency.

Element: Inventory of the Quantity of Solid Waste Generated Within The County for the Next Ten Years

Using solid waste disposal and recycling data for sixteen municipalities within the County and population projections made by the New Jersey Department of Labor, the County Plan includes the total tonnages of solid waste types 10, 13, and 13C to be generated within the County in the years 2007 through 2020 as 1,751,167, 1,763,539, 1,775,907, 1,788,274, 1,800,832, 1,813,387, 1,826,063, 1,838,655, 1,851,245, 1,864,476, 1,877,705, 1,890,933, 1,904,160, and 1,917,386 respectively. The May 16, 2007 amendment to the County Plan notes that solid waste types 10, 13, and 13C account for more than 95% of the solid waste generated within the County.

Element: Inventory of Solid Waste and Recycling Facilities

The below facilities are identified in the May 16, 2007 amendment to the County Plan as being included in the County Plan.

Solid Waste Facilities

- Waste Management of New Jersey, Inc. (North Arlington) Transfer Station/Material Recovery Facility (TS/MRF) – This facility is located on Block 175, Lot 1 and Block 177, Lot 1 at 100 Baler Boulevard in the Borough of North Arlington and has a total capacity of 2,750 tons per day (tpd), not to exceed 12,000 tons per week (tpw), of solid waste types 10, 13, 13C, 23, 25, and 27. The County Plan includes the facility's operating hours as 6:00 am – 4:30 pm, Monday through Friday and 6:00 am – 3:30 pm, Saturday; however, the Solid Waste Facility (SWF) Permit for this facility also allows for the processing of solid waste

from 6:00 am – 10:00 pm, Monday through Saturday. The May 16, 2007 County Plan amendment does not include truck routes to this or any other solid waste facility. The County is directed to address this issue as noted below in Section C. of this certification.

- Waste Management of New Jersey, Inc. (Fairview) TS/MRF – This facility is located on Block 501, Lots 7 and 8 at 61 Broad Avenue in the Borough of Fairview and has a total capacity of 950 tpd, not to exceed 4,800 tpw, of solid waste types 10, 13, 13C, 23, and 27 and Class A and Class B recyclables. The County Plan does not include operating hours for this facility; however, the SWF Permit for this facility allows for the receipt of material from 4:00 am – 8:30 pm, Monday through Friday and 4:00 am – 2:00 pm, Saturday and the processing of solid waste 24 hours per day, Monday through Saturday.
- Waste Management of New Jersey, Inc. (Hillsdale) TS/MRF – This facility is located on Block 1210, Lot 10 and Block 1211, Lot 1 at 131 Patterson Avenue in the Borough of Hillsdale and has a total capacity of 900 tpd of solid waste types 10, 13, 13C, and 27. The County Plan includes the facility's operating hours as 7:00 am – 5:00 pm, Monday through Friday and 7:00 am – 2:00 pm, Saturday.
- Waste Management of New Jersey, Inc. (Park Ridge) TS/MRF – This facility is located on Block 1801, Lot 5 and Block 1802, Lots 6 and 7 at 94 Perry Street in the Borough of Park Ridge and has a total capacity of 600 tpd, not to exceed 3,000 tpw, of solid waste types 10, 13, 13C, 23, and 27. The County Plan includes the facility's operating hours as 7:00 am – 4:00 pm, Monday through Friday and 7:00 am – 1:00 pm, Saturday; however, the SWF Permit for this facility also allows for the processing of solid waste from 6:00 am – 6:00 pm, Monday through Saturday.
- I.W.S. Transfer Systems of New Jersey, Inc. TS/MRF – This facility is located on Block 34.02, Lot 41; Block 48.02, Lot 16.01; Block 52, Lot 46; and Block 220, Lot 7 (partial) at 19-35 Atlantic Street in the City of Garfield and has a total capacity of 750 tpd, not to exceed 3,520 tpw, of solid waste types 10, 13, 13C, 23, and 27. The County Plan includes the facility's operating hours as 6:00 am – 4:00 pm, Monday through Friday and 7:00 am – 1:00 pm, Saturday.
- Miele Sanitation Company, Inc. TS/MRF – This facility is located on Block 1204, Lot 8 (partial) and Block 1205, Lots 3.01, 10, and 11 at 60 Railroad Avenue in the Borough of Closter and has a total capacity of 145 tpd of solid waste types 10, 13, 13C, and 23. This facility is also included in the County Plan to receive maximums of 30 tpd of Class A recyclables and 75 tpd of Class B recyclables. The County Plan does not include operating hours for this facility; however, the SWF Permit for this facility allows for the receipt of solid waste from 7:00 am – 5:00 pm, Monday through Saturday and the processing of solid waste from 7:00 am – 10:00 pm, Monday through Saturday.
- City of Englewood TS/MRF – This facility is located on Block 2411, Lot 1.01 (partial) at 125 South Van Brunt Street in the City of Englewood and has a total capacity of 99 tpd of solid waste types 10, 13, and 13C. The County Plan includes the facility's operating hours as 7:00 am – 5:00 pm, Monday through Friday and 9:00 am – 12:00 pm, Saturday.
- National Transfer, Inc. TS/MRF – This facility is located on Block 169.02, Lots 21.01 and 21.05 at 445 North Main Street in the Borough of Lodi and has a total capacity of 350 tpd of solid waste types 10, 13, 13C, 23, and 27; however, the SWF Permit for this facility limits the capacity of solid waste to 80 tpd. The County Plan does not include operating hours for

this facility.

- S&L Zeppetelli, Inc. TS/MRF – This facility is located on Block 38, Lot 3 at 191 Moonachie Road in the Borough of Moonachie and has a total capacity of 20 tpd of solid waste types 13 and 27. The County Plan does not include operating hours for this facility; however, the SWF Permit for this facility identifies the operating hours as 6:00 am – 4:00 pm, Monday through Friday and 6:30 am – 3:00 pm, Saturday.

Recycling Centers

The May 16, 2007 amendment to the County Plan includes thirty-one recycling facilities in the County Plan.

The Department's Bureau of Transfer Stations and Recycling Facilities commented that the County Plan fails to list several operating recycling facilities, which have previously been included in the County Plan. In addition, the Department's Bureau of Recycling and Planning commented that the County Plan failed to include the block and lot location and hours of operation for the above referenced recycling centers. The County is directed to address this issue as noted below in Section C. of this certification.

Please also note that this certification shall not be construed as an expression of the Department's intent to issue a recycling center approval to any recycling center for Class B or C materials.

Element: Solid Waste Disposal Strategy to be Utilized by the County for the Next Ten Years

The May 16, 2007 County Plan amendment includes in the County Plan a free-market system for the management of solid waste generated within the County, in which solid waste transporters select the facility for ultimate disposal regardless of the location of such facility. Such a system has been in place within Bergen County since 1997.

In addition, the County Plan includes the continuation of the BCUA's Solid Waste Cooperative Marketing Program, whereby costs savings for participating towns are achieved through the marketing of larger amounts of solid waste. Currently twenty-four municipalities within the County participate in the Program.

Element: County Plan Inclusion Process

The May 16, 2007 County Plan amendment seeks to include the County's process to review and act on all requests for inclusion into the County Plan.

First, the BCUA reviews all County Plan inclusion requests for administrative and technical completeness and begins the review process once said application is determined to be complete. Once this determination is made, the BCUA then drafts a plan amendment, which may be

considered by the Bergen County Solid Waste Advisory Council (County SWAC). After consideration by the County SWAC, the proposed amendment is either rejected or accepted by the Commissioners of the BCUA and a recommendation as such is then forwarded to the County Freeholders for their consideration.

As per page A-7 of the updated Statewide Solid Waste Management Plan, each County Plan must identify and include “the applicant requirements for inclusion into the district plan and the specific county review process/procedures, including time frames for county approvals or rejections and subsequent submittals to the Department”. As the May 16, 2007 amendment to the County Plan does not provide specific timelines for the County Plan inclusion process for solid waste and recycling facilities, the County is directed to address this issue as noted below in Section C. of this certification.

Element: Recycling

In 2003, Bergen County recycled 42.1% of its municipal solid waste (MSW) and 51.4% of its total solid waste (TSW). Using 2003 Department data, Bergen County will have to recycle an additional 93,000 tons of MSW to reach a MSW recycling rate of 50%. Since the release of the updated Statewide Solid Waste Management Plan in early 2006, the Department has determined MSW recycling rates of 40.5% and 42.7% and TSW recycling rates of 51.2% and 53.6% for Bergen County in 2004 and 2005, respectively.

Designated Recyclable Materials – The May 16, 2007 amendment to the County Plan proposes County Plan inclusion of mixed paper and corrugated cardboard as designated recyclable materials for the residential sector. The following is a complete listing of the designated recyclable materials included in the County Plan for the residential sector:

Aluminum cans	Leaves
Corrugated cardboard	Mixed paper
Ferrous scrap	Newspaper
Glass beverage containers	Tin cans
Grass	White goods

The May 16, 2007 amendment identifies the following as a complete listing of the designated recyclable materials included in the County Plan for the commercial, institutional, and industrial sectors:

Aluminum cans	Glass beverage containers
Construction and demolition debris	High-grade office paper
Corrugated cardboard	Mixed paper
Ferrous scrap	White goods

The May 16, 2007 County Plan amendment proposes County Plan inclusion of updates to several sections of the County’s recycling strategy, including updated programs, and recycling

initiatives.

Updated Programs – The County through the May 16, 2007 County Plan amendment proposes County Plan inclusion of several recycling programs. These include programs aimed at increasing the recycling of less traditional recyclables including household hazardous waste, hazardous waste generated in school laboratories, computers and other consumer electronics, mercury thermometers, and tires.

Recycling Initiatives – The County through the May 16, 2007 County Plan amendment proposes County Plan inclusion of its strategy to attain a recycling rate of 50% MSW. The County's strategy to attain a recycling rate of 50% MSW is to:

- 1) increase the amount of recycling of paper and corrugated cardboard through the designation of these materials as designated recyclable materials in the residential sector;
- 2) increase the amount of consumer electronics recycled; and
- 3) implement a comprehensive enforcement program.

Specifically, the County proposes to recycle, at minimum, an additional 18,000 tons of corrugated cardboard and kraft paper; 17,000 tons of newsprint; 4,000 tons of office paper; 51,000 tons of other paper and magazines; and 2,600 tons of consumer electronics as compared to 2003. Attaining these material target tonnage increases will lead to the recycling of an additional 93,000 tons of material based on the County's use of the Department's solid waste generation data and the waste composition study recently performed for the BCUA.

The Department's Bureau of Recycling and Planning commented that construction and demolition debris is a solid waste type (13C) and thus can not be designated as a recyclable material in the County Plan. Because this waste type is a significant component of the overall solid waste stream generated within the County and the State, the Department strongly suggests that the County consider the inclusion of the designation of several components of solid waste type 13C as recyclable in the County Plan in the near future. In addition, the Department strongly encourages that the County include plastic containers (types 1 and 2) in the County Plan as designated recyclables. Despite their low significance in terms of percentage of the overall solid waste stream, their designation as a mandatory recyclable is commonplace across the State as markets for these materials are currently and historically abundant.

The Department's Division of County Environmental and Waste Enforcement (DCEWE) and Bureau of Recycling and Planning and the Department of Agriculture submitted comments regarding the proposed enforcement component of the May 16, 2007 County Plan amendment. Each agency expressed concern that the County Plan did not include sufficient detailed information concerning enforcement of laws and regulations regarding recycling. The DCEWE's comments specifically read that the County Plan does not identify: how enforcement will be coordinated between various agencies within the County; the role of the County Department of Health; which facilities and with what frequency facilities will be inspected by the County; and the penalties to be imposed for non-compliance with municipal source-separation ordinances. The County is directed to address these issues as noted below in Section C. of this certification.

C. Certification of the Bergen County District Solid Waste Management Plan Amendment

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-21, which establishes specific requirements regarding the contents of county solid waste management plans, I have reviewed the May 16, 2007 amendment to the approved County Plan and certify to the County Freeholders that the May 16, 2007 amendment is approved as further specified below.

The County Plan inclusion of the May 16, 2007 County Plan Update in response to the updated Statewide Solid Waste Management Plan is approved; however, the County must submit a County Plan amendment within 180 days of the date of this approval to address the following deficiencies noted in Section B. of this certification:

- truck routes to all solid waste facilities included in the County Plan;
- a complete listing of all recycling centers, including lot and block location, street address, capacity, acceptable materials, and operating hours included in the County Plan;
- specific timelines for applicants seeking inclusion in the County Plan;
- listing of specific components of solid waste type 13 to be included in the County Plan as designated recyclables; and
- greater detail regarding the County's recycling enforcement strategy and programs.

The County may submit the required amendment as an administrative action, pursuant to N.J.A.C. 7:26-6.11 et seq. Please note that the Department is requiring the County to meld the submissions in response to the requirements contained in the State Plan update, as identified above, into one unified document for the purpose of general circulation.

D. Other Provisions Affecting the Plan Amendment

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with this amendment to the County Plan and which was executed prior to the approval of this amendment and subsequent to the effective date of the Solid Waste Management Act (July 29, 1977), and which shall further be for a term in excess of one year, shall immediately be renegotiated in order to bring same into conformance with the terms and provisions herein set forth. Any solid waste collection operation or disposal facility registered by the Department and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of this amendment provided, however, that any such registrant may, upon application to the Department, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and transporters registered with the Department and operating within the County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the County Plan. Any facility operator or transporter who fails to comply with the provisions contained herein shall be deemed to be in violation of N.J.S.A. 13:1E-1 et seq., in violation of N.J.A.C. 7:26-1 et seq., and in violation of their registration to operate a solid waste facility or a collection system issued thereunder by the Department and shall be subject to the provisions and penalties of N.J.S.A. 13:1E-9 and 12 and all other applicable laws.

3. Types of Solid Wastes Covered by the County Plan

The provisions of the County Plan shall apply to all solid wastes defined in N.J.S.A. 13:1E-3 and N.J.A.C. 7:26-2.13 including waste types 10, 13, 23, 25, and 27 and all applicable subcategories and shall not apply to liquid and hazardous wastes. All nonhazardous materials separated at the point of generation for sale or reuse are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

4. Certification to Proceed with Implementation of Amendment

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

5. Definitions

For the purpose of this amendment and unless the context clearly requires a different meaning, the definitions of terms shall be the same as those found at N.J.S.A. 13:1E-3 and -99.12, N.J.A.C. 7:26-1.4, -2.13, and N.J.A.C. 7:26A-1.3.

6. Effective Date of Amendment

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

7. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, and also includes the compilation of individual district plans and amendments as they are approved.

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

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve the amendment, as outlined in Section C. of this certification, to the Bergen County District Solid Waste Management Plan which was adopted by the Bergen County Board of Chosen Freeholders on May 16, 2007.

November 30, 2007

Date

Lisa P. Jackson, Commissioner
Department of Environmental Protection