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**CERTIFICATION
OF THE FEBRUARY 25, 2009
AMENDMENT TO THE ESSEX 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 August 13, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Essex County District Solid Waste Management Plan (County Plan).

The Act further provides that a district may review its County Plan at any time and, if found inadequate, a new County Plan must be adopted. The Essex County Board of Chosen Freeholders (County Freeholders) completed such a review and on February 18, 2009 adopted an amendment to its approved County Plan. Said amendment was approved by the Essex County Executive on February 25, 2009.

The February 25, 2009 amendment proposes County Plan inclusion of the Silva Class B Recycling Center, to be located on Block 675, Lot 21 at 100 Riverside Avenue in the City of Newark, for the receipt and processing of up to 164 tons per day (tpd) of source-separated concrete, brick, asphalt, asphalt roofing, and scrap wood.

The amendment was considered administratively complete for review by the Department on April 28, 2009 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 February 18, 2009 and approved by the Essex County Executive on February 25, 2009 is approved as provided in

N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the February 25, 2009 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 relative to the February 25, 2009 amendment which are included below.

Elements of the February 25, 2009 Amendment

Element: Facility Operations

The February 25, 2009 amendment to the County Plan proposes County Plan inclusion of the Silva Class B Recycling Center, to be located on Block 675, Lot 21 at 100 Riverside Avenue in the City of Newark, for the receipt and processing of up to 164 tpd of source-separated concrete, brick, asphalt, asphalt roofing scrap, and scrap wood. The operating hours of the facility are identified in the subject County Plan amendment as 7:00 am – 10:00 pm, Monday through Friday and 7:00 am – 4:00 pm, Saturday.

Element: Regulatory Requirements

If any operation of a recycling center will discharge pollutants as defined in N.J.A.C. 7:14-1.9, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

Recycling centers are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution". This regulation prohibits the release of odors and other air contaminants which interfere with the enjoyment of life and property. In addition, as per the Department's Division of Air Quality, the subject facility may require an air quality preconstruction permit and operating certificate pursuant to N.J.A.C. 7:27-8.2(c), dependent upon the type of operations conducted and equipment employed at the facility.

Also, staff from the Department's Land Use Regulation Program (LURP) commented that the subject facility may need a Flood Hazard Area Permit if the site is located in the 100-year floodplain of the Passaic River and that the applicant may make a written request to the LURP for a Flood Hazard Area jurisdictional determination.

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

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-21, which establishes specific requirements regarding the contents of the county solid waste management plans, I have reviewed the February 25, 2009 amendment to the approved County Plan and certify to the

County Freeholders that the February 25, 2009 amendment is approved as further specified below.

The County Plan inclusion of the Silva Class B Recycling Center, to be located on Block 675, Lot 21 at 100 Riverside Avenue in the City of Newark, for the receipt and processing of up to 164 tpd of source-separated concrete, brick, asphalt, asphalt roofing, and scrap wood is approved.

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 materials. A recycling center approval shall only be issued where the applicant has submitted as administratively complete application, as per N.J.A.C. 7:26A-3.5, where all the substantive criteria for approval set forth in N.J.A.C. 7:26A-3.2, 3.3, and 3.4 are satisfied, where a fee has been paid in accordance with N.J.A.C. 7:26A-2, and where none of the criteria for denial of a recycling center approval are met, as per N.J.A.C. 7:26A-3.12.

D. Other Provisions Affecting the Plan Amendment

1. 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.

2. 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.

3. Definitions

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

4. Effective Date of Amendment

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

5. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The 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 Essex County District Solid Waste Management Plan which was adopted by the Essex County Board of Chosen Freeholders on February 18, 2009 and approved by the Essex County Executive on February 25, 2009.

August 19, 2009

Date

Mark N. Mauriello, Acting Commissioner
Department of Environmental Protection