

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

**CERTIFICATION  
OF THE APRIL 11, 2007  
AMENDMENT TO THE MORRIS 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 January 29, 1981, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Morris 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 Morris County Board of Chosen Freeholders (County Freeholders) completed such a review and on April 11, 2007 adopted an amendment to its approved County Plan. The April 11, 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 May 14, 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 April 11, 2007 is approved in part and rejected in part 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 municipal solid waste (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 Morris County District Solid Waste Management Plan Amendment**

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the April 11, 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 in part and inconsistent in part with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the elements relative to the April 11, 2007 amendment which are included below.

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

Division of Water Quality, 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  
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  
U.S. Environmental Protection Agency

### **Elements of the April 11, 2007 Amendment**

#### **Element: Designation of County Plan Implementation Agency**

The April 11, 2007 County Plan amendment reaffirms the designation of the Morris County Municipal Utilities Authority (MCMUA) as the County Plan implementation agency.

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

Using the Department's waste generation data for 2004 and population projections based on the United States Census Bureau's 2000 Census, the County Plan includes the total tonnages of solid waste types 10, 13, 13C, 23, 25, and 27 to be generated within the County in the years 2007 through 2015 as 1,252,345, 1,278,420, 1,304,494, 1,330,569, 1,356,643, 1,382,717, 1,408,792, 1,434,866, and 1,460,941, respectively.

#### **Element: Inventory of Solid Waste and Recycling Facilities**

The below facilities are identified in the April 11, 2007 amendment to the County Plan as being included in the County Plan.

##### **Solid Waste Facilities**

- MCMUA Mt. Olive Transfer Station/Material Recovery Facility (TS/MRF) – This facility, located on Block 4500, Lot 5 at 168 Gold Mine Road in the Township of Mount Olive, is included in the County Plan to accept up to 1,500 tons per day (tpd) of solid waste types 10, 13, 13C, 23, 25, and 27; however, the current Solid Waste Facility (SWF) Permit for this facility limits the capacity to 975 tpd of solid waste. The County Plan includes the facility's operating hours as 7:00 am – 4:30 pm, Monday through Friday and 7:00 am – 1:00 pm, Saturday and also includes truck routes to and from the facility.
- MCMUA Parsippany-Troy Hills TS/MRF – This facility, located on Block 768, Lots 2.01 and 3, Block 769, Lot 1, and Block 770, Lots 17-19 at 1100 Edwards Road in the Township of Parsippany-Troy Hills, is included in the County Plan to accept up to 2,050 tpd of solid waste types 10, 13, 13C, 23, 25, and 27; however, the SWF Permit for this facility limits the

capacity to 1,380 tpd, not to exceed 6,900 tons per week. The County Plan includes the facility's operating hours as 7:00 am – 4:00 pm, Monday through Friday and 7:30 am – 11:00 am, Saturday and also includes truck routes to and from the facility.

- Veolia ES Technical Solutions, LLC Transfer Station – This facility, located on Block 4500, Lot 37 at 1 Eden Lane in the Township of Mount Olive, is included in the County Plan to accept up to 170,500 gallons of solid waste type 27; however, the Solid and Hazardous Waste Facility Permit for this facility, issued by the Department on November 22, 2006, identifies the maximum capacity as 187,000 gallons and the acceptable solid waste types as 10 (household hazardous waste only), 27, and 27A. These discrepancies will be addressed in a future amendment to the County Plan. The County Plan does not restrict the facility's operating hours, but reads that its normal receiving hours are from 6:00 am – 10:00 pm, Monday through Friday and also includes truck routes to and from the facility.
- St. Clare's Hospital Small-Scale Medical Waste Incinerator – This facility, located on Block 50002, Lot 2 at Pocono Road in the Township of Denville, is included in the County Plan to process up to 600 pounds per hour of medical waste. The County Plan includes the facility to operate on an 8-hour-per-day schedule. This facility has ceased operations and no longer has a SWF Permit to operate.
- Chilton Memorial Hospital Small-Scale Medical Waste Incinerator – This facility, located on Block 411, Lot 6 at 97 West Parkway in the Township of Pequannock, is included in the County Plan to process up to 800 pounds per hour of medical waste. The County Plan includes the facility to operate on a 7-hour-per-day schedule, Monday through Sunday. This facility has ceased operations and no longer has a SWF Permit to operate.
- Morristown Memorial Hospital Small-Scale Medical Waste Incinerator – This facility, located on Block 4201, Lots 1.00-1.02 at 100 Madison Avenue in the Town of Morristown, is included in the County Plan to process up to 1,500 pounds per hour of medical waste. The County Plan includes the facility to operate on a 16-hour-per-day schedule. This facility ceased operations in 2003 and no longer has a SWF Permit to operate.
- Dover General Hospital Medical Waste Microwave Shredder – This facility, located on Block 2-02, Lots 2 and 3 at Jardine Street in the Town of Dover, is included in the County Plan to process up to 550 pounds per hour of medical waste. The County Plan includes the facility to operate on an 8-hour-per-day schedule, Monday through Saturday. This facility has ceased operations and does not have a SWF Permit to operate.
- Novartis Pharmaceuticals Small-Scale Solid Waste Incinerator – This facility, located on Block 99, Lot 12 at 59 Route 10 in the Township of East Hanover, is included in the County Plan to process up to 780 pounds per hour of solid waste types 10 and 27. The County Plan includes the facility to operate on a 10-hour-per-day schedule.

## **Recycling Centers**

### **Class A Recycling Centers**

- MCMUA Recycling Consolidation Center Class A Recycling Center and Small Quantity Universal Waste Handling Facility – This facility, located on Block 6-03, Lot 1 at 22 Richboynton Road in the Town of Dover, is included in the County Plan to accept up to 150 tpd of Class A recyclable materials and universal wastes, including lamps and dry-cell batteries. The County Plan includes the facility’s operating hours as 7:30 am – 4:30 pm, Monday through Friday with Saturday operations added if needed.
- Trinity Recycling of NJ Class A Recycling Center – This facility, located on Block 101, Lot 9 at 116 Iron Mountain Road in the Township of Mine Hill, is included in the County Plan to accept up to 100 tpd of recyclable paper fiber products. The County Plan includes the facility’s operating hours as 7:00 am – 5:00 pm, Monday through Friday and 7:00 am – 12:00 pm, Saturday.
- FCR Morris, Inc. Class A Recycling Center – This facility, located on Block 201, Lots 32 and 31.01 at 103 Iron Mountain Road in the Township of Mine Hill, is included in the County Plan to accept up to 100 tpd of Class A recyclable materials, including source-separated aluminum beverage and food containers, PET, HDPE, flint glass, green glass, amber glass and ferrous/tin beverage and food containers, aerosol cans, and paint cans. The County Plan includes the facility’s operating hours as 8:00 am – 4:00 pm, Monday through Friday.
- Carpet Cycle Company Class A Recycling Center – This facility, located on Block 19-04, Lot 10A at 241 East Blackwell Street in the Town of Dover, is included in the County Plan to accept up to 25 tpd of source-separated, post-consumer carpet and carpet padding. The County Plan includes the facility’s operating hours as 6:00 am – 6:00 pm, Monday through Friday.

### **Class B Recycling Centers**

- Nature’s Choice Corporation Class B Recycling Center – This facility, located on Block 8901, Lot 2.01 at 1405 Route 46 in the Township of Roxbury, is included in the County Plan to accept up to 500 tpd of source-separated, 100% natural land-clearing debris; however, the General Approval for this facility limits the capacity to 125 tpd. The facility may not accept material which has been treated, painted, stained or been in contact with any form of chemical, petroleum, or preservative product, material that has been subjected to any type of industrial process (i.e., dimensional lumber), or material resulting from the demolition of existing buildings, parts of buildings, patios, decks, etc. The County Plan includes the facility’s operating hours as 7:30 am – 4:30 pm, Monday through Friday.
- Tilcon New York, Inc. (Mt. Hope) Class B Recycling Center – This facility, located on Block 20001, Lot 5.01 at 625 Mt. Hope Road in the Township of Rockaway, is included in the County Plan to accept up to 10,000 tpd of type 27 petroleum-contaminated, non-hazardous soils, concrete, asphalt, brick, and block. The County Plan includes the facility’s operating hours as 7:00 am – 7:00 pm, Monday through Friday and 7:00 am – 5:00 pm,

Saturday.

- Tilcon New Jersey, Inc. (Riverdale) Class B Recycling Center – This facility, located on Block 12, Lot 13 and Block 13, Lots 27-29 at 125 Hamburg Turnpike in the Borough of Riverdale, is included in the County Plan to accept up to 2,010 tpd of concrete and asphalt. The County Plan includes the facility’s operating hours as 7:00 am – 7:00 pm, Monday through Friday and by appointment only on Saturday. The General Approval for this facility was revoked on November 13, 2006.
- MCMUA (Camp Pulaski) Class B Recycling Center – This facility, located on Block 400, Lot 1 and Block 401, Lot 4 off of Old Waterloo Village Road in the Township of Mount Olive, is included in the County Plan to accept up to 152 tpd of natural wood waste, brush, and logs. The County Plan includes the facility’s operating hours as 7:00 am – 4:30 pm, Monday through Friday with Saturday operations from 7:00 am – 4:30 pm if needed.

### **Class C Recycling Centers**

- MCMUA (Camp Pulaski) Class C Recycling Center – This facility, located on Block 400, Lot 1 and Block 401, Lot 4 off of Old Waterloo Village Road in the Township of Mount Olive, is included in the County Plan to accept up to 94,000 cubic yards per year of leaves and grass. The County Plan includes the facility’s operating hours as 7:00 am – 4:30 pm, Monday through Friday with Saturday operations from 7:00 am – 4:30 pm if needed.
- MCMUA (Parsippany-Troy Hills) Class C Recycling Center – This facility, located on Block 7, Lot 2 at 500 West Hanover Avenue in the Township of Parsippany-Troy Hills, is included in the County Plan to accept up to 66,500 cubic yards per year of leaves and grass. This facility also may receive, store, process, and transfer brush pursuant to N.J.A.C. 7:26A-1.4(a)3. The County Plan includes the facility’s operating hours as 7:00 am – 4:30 pm, Monday through Friday with Saturday operations from 7:00 am – 4:30 pm if needed; however, the General Approval for this facility, which expires on September 30, 2008, identifies the operating hours as 7:00 am – 5:00 pm, Monday through Saturday. As the County Plan inclusion and General Approval for the subject facility are inconsistent, the County shall either submit an administrative action, pursuant to N.J.A.C. 7:26-6.11, to extend the subject facility’s operating hours to 5:00 pm or modify the operating hours to 7:00 am – 4:30 pm during the general approval renewal process.
- Borough of Riverdale Class C Recycling Center – This facility, located on Block 32, Lot 3 at Riverdale Road in the Borough of Riverdale, is included in the County Plan to accept up to 112 cubic yards per day and 9,000 cubic yards per year of leaves, grass, brush, and wood chips. The County Plan includes the facility’s operating hours as 8:00 am – 4:00 pm, Monday through Friday and 9:00 am – 2:00 pm, Saturday.
- T.F.U.F. Enterprises, LLC Class C Recycling Center – This facility, located on Block 266, Lots 3, 4, and 6 at 12 Taylor Road in the Township of Jefferson, is included in the County Plan to accept up to 5,000 cubic yards per year of leaves, brush, and wood chips. The County Plan does not include operating hours for the facility.

- S. Rotondi & Sons, Inc. Vegetative Waste Transfer Station – This facility, located on Block 140, Lot 16 at 3 Watchung Avenue in the Borough of Chatham, is included in the County Plan to accept up to 260 tpd of leaves, grass, and tree parts; however, the current General Approval for this recycling center does not allow for the receipt of grass. Rather, the subject facility is currently operating under a Certificate of Authority to Operate (CAO) a Research, Development, and Demonstration Project for a Grass Clipping Transfer Operation at the site. This CAO is set to expire on October 31, 2007. The County Plan includes the facility's operating hours as 8:00 am – 5:00 pm, Monday through Saturday.

The April 11, 2007 amendment to the County Plan also includes twenty-nine composting facilities in the County Plan, none of which currently have a recycling center approval or are known to be operating pursuant to the exemption found at N.J.A.C. 7:26A-1.4(a)13. If any of these facilities intends to operate as a composting facility, the owners/operators must either follow the requirements for obtaining a recycling center approval pursuant to N.J.A.C. 7:26A-3.1 et seq. or if any of these facilities will operate pursuant to the exemption at N.J.A.C. 7:26A-1.4(a)13, which allows for receipt of yard trimmings for composting so long as operational criteria at this citation are satisfied, the appropriate notification must be made to the Department prior to the commencement of the activity, pursuant to N.J.A.C. 7:26A-1.4(b)5.

Please also note that this certification shall not be construed as an expression of the Department's intent to issue a SWF Permit to any solid waste facility or 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 April 11, 2007 amendment to the County Plan includes the County's intent to continue to direct all solid waste generated within Morris County to either of the MCMUA TS/MRFs and engage in nondiscriminatory, fair, open, and competitive procurement processes when it chooses operators of the two TS/MRFs, disposal facilities for the waste accepted at the TS/MRFs, and transporters to haul the waste from the TS/MRFs to the selected disposal facilities. The current contract for the disposal of Morris County solid waste between the MCMUA and Waste Management of New Jersey, Inc. expires on January 27, 2008. Therefore, the County is directed to submit a plan amendment to the Department within 90 days from the date of this certification including the County's latest contract for the operation of the MCMUA TS/MRFs, disposal facilities for the waste accepted at the TS/MRFs, and transporters to haul the waste from the TS/MRFs to the selected disposal facilities in the County Plan.

#### **Element: County Plan Inclusion Process**

The April 11, 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 Morris County Solid Waste Advisory Council (SWAC) 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 the applicant is notified that their application has been deemed complete, the applicant shall publish a legal notice in a newspaper having general circulation within Morris County, once each week for two consecutive weeks, notifying the public of the application to amend the County Plan and the scheduled SWAC public meeting. The second notice shall be published at least seven days prior to the scheduled public meeting and proof of publication must be provided to the SWAC prior to their meeting.

Following the public hearing, the SWAC and the MCMUA draft a recommendation to the County Freeholders regarding inclusion of the proposed amendment to the County Plan. The County Freeholders then act on the matter at one of their regularly scheduled public hearings. From the date that the applicant is notified that their application is deemed complete, the County Freeholders shall adopt a resolution regarding said application within 120 days.

All applicants for County Plan inclusion of a solid waste facility or recycling center must provide specific information about the proposed operation to the County. This information includes, but is not limited to, the following:

- Contact information of the owner(s) or corporate principals of the business, operator(s) of the proposed facility, and its consultants, engineers, attorneys, etc;
- Copy of the deed or record establishing ownership of the facility property or a legal agreement to use the property in question for the proposed purpose;
- Type of facility, including a list of the materials to be accepted at the facility and capacity of those materials;
- Geographical location of the proposed facility, including a tax map outlining the lot and block numbers of the facility site and all adjacent properties and an original 7.5 minute USGS Quadrangle map which includes the boundary of the facility plotted on the map and any streams, ponds, wetlands, floodplains and sensitive receptors within one-half mile radius of the facility;
- Site plan prepared, signed, and sealed in accordance with N.J.S.A. 45:8-35.1 et seq. by a licensed professional engineer or surveyor, which identifies the placement of all equipment, buildings, and areas related to the receipt, storage, processing and transferring of all unprocessed and processed materials. Additional information required about the operation includes location and dimensions of unprocessed and processed material stockpiles, site access controls, interior traffic circulation, and surface water movement;
- Description of the traffic impacts of the facility, setting forth the number and types of vehicles transporting material to and from the facility and routes vehicles will be required to employ to access the facility;
- Materials handling and process flow;
- Market/residue information, including contact information of all planned markets for materials/residue and contracts or agreements between the applicant and end markets;
- Record keeping procedures; and
- Environmental issues, including floodplains, wetlands, historic sites, stormwater

management, potable water, landscaping, odors, noise, and dust control.

### **Element: Recycling**

In 2003, Morris County recycled 36.3% of its municipal solid waste (MSW) and 50.0% of its total solid waste (TSW). Using 2003 Department data, Morris County will have to recycle an additional 77,000 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 35.1% and 36.3% and TSW recycling rates of 53.6% and 51.8% for Morris County in 2004 and 2005, respectively.

The April 11, 2007 County Plan amendment proposes County Plan inclusion of updates to several sections of the County's recycling strategy, including updated programs, recycling initiatives, and enforcement.

Designated Recyclable Materials – The April 11, 2007 amendment identifies the following as a complete listing of the designated recyclable materials included in the County Plan for the residential, commercial, institutional, and industrial sectors:

Aluminum cans	Mixed paper
Brush	Natural wood waste
Corrugated cardboard	Newspaper
Glass bottles and jars	Oil-contaminated soil
Grass clippings	Plastic bottles (PET & HDPE)
Hazardous dry cell batteries	Steel (tin) cans
Lead-acid batteries	Used motor oil
Leaves	Whole tires
Metal appliances	

Updated Programs – The County through the April 11, 2007 County Plan amendment proposes County Plan inclusion of several programs. These include recycling programs aimed at increasing the recycling of traditional recyclables and also less traditional recyclables, including household hazardous waste, consumer electronics, propane tanks, various universal wastes, tires, and bicycles.

Recycling Initiatives – The County through the April 11, 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 increase the amount of recycling of currently designated recyclables through increased education and enforcement in the residential, commercial, and institutional sectors. The County proposes to recycle at minimum the following percentages of materials not recycled: 50% of all fiber and paper, 10% of all food waste, 50% of bottles and cans, 50% of textiles. Attaining these material target rates will lead to the recycling of an additional 109,000 tons of material based on the County's use of Department solid waste generation data and the waste composition study recently performed for the Bergen County Utilities Authority.

Enforcement – The County through the April 11, 2007 County Plan amendment proposes County Plan inclusion of the Morris County Office of Health Management (MCOHM) to perform all routine compliance monitoring regulations inspections of solid waste facilities within the County. The County Plan also identifies that the MCOHM will handle all DEP and Morris County referrals and will monitor the compliance of solid waste haulers with DEP regulations regarding registration of vehicles. The County Plan also notes that the MCMUA, MCOHM, and the County executed an agreement on March 1, 2005 that provides for the MCMUA to make investigators available to the MCOHM for investigations regarding illegal dumping, illegal operation of solid waste facilities, decaling of containers and vehicles, and violations of the County Plan, including, but not limited to, the source-separation of the designated recyclable materials noted above.

The Division of County Environmental and Waste Enforcement (DCEWE) submitted comments regarding the proposed enforcement component of the April 11, 2007 County Plan amendment. The DCEWE noted that pursuant to their CEHA contract, the MCOHM, and not the Department, is responsible to inspect Class A recycling centers and farmland mulch sites. This comment refers to information contained within Table 10 of the April 11, 2007 County Plan amendment.

Lastly, the April 11, 2007 County Plan amendment includes a listing of penalties and fees for a collector of solid waste who collects commingled loads of solid waste and designated recyclable materials or mixes designated source-separated recyclables with solid waste.

The County Plan inclusion of the penalty schedule for violations of the Solid Waste Management Act (Act) is rejected. The Department has recently been advised by the Office of the Attorney General that the Department should not approve county plan inclusions of penalty schedules for violations of the Act. The Act gives sole authorization for the development of civil administrative penalty schedules to the Department. However, the “County Environmental Health Act” provides a mechanism (through the adoption of “environmental health ordinances”) for the adoption of penalty schedules at the county level. Additionally, the “Uniform Shared Services and Consolidation Act” allows for the delegation of enforcement authority (for municipal mandatory recycling ordinances) from the municipality to the county. Therefore, the County can employ the current civil administrative penalty schedule as given at N.J.A.C. 7:26-5.4 and 5.5, or the County can adopt penalty provisions through environmental health ordinances, and employ the provisions of the “Uniform Shared Services and Consolidation Act” to further augment their enforcement capabilities.

**C. Certification of the Morris 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 April 11, 2007 amendment to the approved County Plan and certify to the County Freeholders that the April 11, 2007 amendment is approved in part and rejected in part as further specified below.



The County Plan inclusion of the April 11, 2007 County Plan Update in response to the updated Statewide Solid Waste Management Plan is approved with the exception of the fee schedule for collectors of solid waste who collect commingled loads of solid waste and designated recyclables or who mix designated recyclables with solid waste. This portion of the April 11, 2007 amendment to the County Plan is rejected.

Lastly, the County shall submit a plan amendment to the Department within 90 days from the date of this certification including the County's latest contract for the operation of the MCMUA TS/MRFs, disposal facilities for the waste accepted at the TS/MRFs, and transporters to haul the waste from the TS/MRFs to the selected disposal facilities in the County Plan.

#### **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 in part and reject in part the amendment, as outlined in Section C. of this certification, to the Morris County District Solid Waste Management Plan which was adopted by the Morris County Board of Chosen Freeholders on April 11, 2007.

October 10, 2007

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lisa P. Jackson, Commissioner  
Department of Environmental Protection