



State of New Jersey

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CERTIFICATION OF A MARCH 12, 2013 AMENDMENT TO THE PASSAIC 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 or NJMC) develop comprehensive plans for waste management in their respective districts. On August 13, 1980 the Department of Environmental Protection (Department or DEP) approved the Passaic 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 Passaic County Board of Chosen Freeholders (County Freeholders) completed such a review and on March 12, 2013 adopted amendments to its approved County Plan.

This one of three March 12, 2013 amendments to the County Plan proposes County Plan inclusion of the SBI Materials, LLC Class B/C Recycling Center, to be located on Block 604, Lot 14 at 155 Dey Road in the Township of Wayne, for the receipt of a maximum of 2,000 tons per day (tpd) of Class B and C recyclables. Specifically, this March 12, 2013 amendment to the County Plan proposes County Plan inclusion of material-specific capacities as follows: Concrete, asphalt, brick, and block (850 tpd); Tree parts, untreated wood, and brush (450 tpd); Leaves (100 tpd); Grass (100 tpd); and Dirt (500 tpd).

This amendment was considered administratively complete for review by the Department on April 9, 2013 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 this amendment adopted by the County Freeholders on March 12, 2013 is approved, with modification, as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed this one of three March 12, 2013 amendments 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 of this March 12, 2013 amendment which are included below.

Elements of this March 12, 2013 Amendment

Element: Facility Operations

This one of three March 12, 2013 amendments to the County Plan proposes County Plan inclusion of the SBI Materials, LLC Class B/C Recycling Center, to be located on Block 604, Lot 14 at 155 Dey Road in the Township of Wayne for the receipt of a maximum of 850 tpd of concrete, asphalt, brick, and block; 450 tpd of tree parts, untreated wood, and brush; 100 tpd of leaves; 100 tpd of grass; and 500 tpd of dirt. This March 12, 2013 amendment to the County Plan also proposes that the subject recycling center be included in the County Plan with an operating schedule as 7:00 am – 7:00 pm, Monday through Friday and 8:00 am – 4:00 pm, Saturday.

As noted above, the Department circulated copies of this one of three March 12, 2013 amendments to the County Plan to various administrative review agencies. In response to this request for comment, the Department's Bureau of Transfer Stations and Recycling Facilities commented that clean dirt is not a material which the Department regulates and thus can not be included in the County Plan or any General Approval to Operate a Class B/C Recycling Center as an acceptable material.

Element: Regulatory Requirements

The owner or operator of a Class B/C recycling center must obtain a General Approval to Operate a Class B/C Recycling Center prior to commencement of regulated recycling activities and shall also follow all pertinent regulations found at N.J.A.C. 7:26A-3.1 et seq. and the design and operational standards at N.J.A.C. 7:26A-4.1 and 4.8.

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, recycling centers may require an air quality preconstruction permit and operating certificate pursuant to N.J.A.C. 7:27-8.2(c), dependent upon the equipment and type of operations conducted at the facility.

Finally, if any operation of a recycling center will discharge pollutants as defined in N.J.A.C. 7:14A-1.2, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

C. **Certification of a Passaic 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 this one of three March 12, 2013 amendments to the approved County Plan and certify to the County Freeholders that this March 12, 2013 amendment is approved, with modification, as further specified below.

The County Plan inclusion of the SBI Materials, LLC Class B/C Recycling Center, to be located on Block 604, Lot 14 at 155 Dey Road in the Township of Wayne, for the receipt of a maximum of 850 tpd of concrete, asphalt, brick, and block; 450 tpd of tree parts, untreated wood, and brush; 100 tpd of leaves; 100 tpd of grass; and 500 tpd of dirt is approved with modification. Specifically, all references to dirt, and the associated capacity of 500 tpd are eliminated from this March 12, 2013 amendment.

This certification shall not be construed as an expression of the Department's intent to issue a recycling center approval to the owner or operator of any recycling center for Class B and/or Class C recyclable materials. A recycling center approval shall only be issued where the applicant has submitted an 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 District and affected by the amendment contained herein shall operate in compliance with the 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 County Plans and amendments as they are approved.

E. Certification of Approval of An 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 subject amendment with modification, as outlined in Section C. of this certification, to the Passaic County District Solid Waste Management Plan which was adopted by the Passaic County Board of Chosen Freeholders on March 12, 2013.

June 20, 2013

Date

Bob Martin, Commissioner
Department of Environmental Protection