

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

**CERTIFICATION
OF THE SEPTEMBER 14, 2004
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) 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 Passaic 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 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 September 14, 2004 adopted an amendment to its approved County Plan. The September 14, 2004 amendment proposes County Plan inclusion of Skytop Recycling, Inc. as a transfer station/material recovery facility (TS/MRF) located on Block 6002, Lot 34 at 80 Airport Road in the Township of West Milford for

the acceptance of up to 99 tons per day (tpd) of solid waste types 13 and 13C.

The amendment was considered administratively complete for review by the Department on November 19, 2004 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 September 14, 2004 is approved 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 the September 14, 2004 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 September 14, 2004 amendment which are included below.

In conjunction with the review of the amendment, the Department circulated copies to sixteen 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
 Division of Compliance and Enforcement, DEP
 Division of Solid and Hazardous Waste, DEP
 Office of Air Quality Management, DEP
 Green Acres Program, DEP
 Land Use Regulation Element, DEP
 New Jersey Turnpike Authority
 New Jersey Advisory Council on Solid Waste Management
 Office of Local Environmental Management
 Department of Agriculture
 Department of Health and Senior Services
 Department of Transportation
 Department of Community Affairs
 U.S. Environmental Protection Agency

Elements of the September 14, 2004 Amendment

Element: Facility Operations & History

On December 27, 1995, the County adopted an amendment to include Skytop Recycling, Inc. as

a Class A recycling center within the County Plan. The estimated capacity of this recycling center was noted as 60 tpd. The Department approved the amendment on January 18, 1996 as an administrative action.

On June 22, 1999, the County adopted an amendment to include a Class B recycling center at the site of the Skytop Recycling, Inc. Class A Recycling Center. The June 22, 1999 amendment included a capacity for the Class B recycling center of 770 tpd of source-separated concrete, asphalt shingles, brick, block, tree stumps, tree parts, brush, and unpainted and non-chemically treated wood. The Department certified this amendment to the County Plan as approved on October 21, 1999.

The September 14, 2004 amendment proposes County Plan inclusion of Skytop Recycling, Inc. as a transfer station/material recovery facility (TS/MRF) located on Block 6002, Lot 34 at 80 Airport Road in the Township of West Milford for the acceptance of up to 99 tons per day (tpd) of solid waste types 13 and 13C, thus bringing the site's total capacity of solid waste and Class A and B recyclables in the County Plan to 929 tpd.

Element: Regulatory Requirements

Transfer stations/material recovery facilities 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. Further, transfer stations/material recovery facilities are also subject to N.J.A.C. 7:27-8.2(a)16 which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants. Finally, if the proposed operation 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.

C. Certification of the 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 the September 14, 2004 amendment to the approved County Plan and certify to the County Freeholders that the September 14, 2004 amendment is approved as further specified below.

The September 14, 2004 amendment proposing County Plan inclusion of Skytop Recycling, Inc. as TS/MRF located on Block 6002, Lot 34 at 80 Airport Road in the Township of West Milford for the acceptance of a maximum of 99 tpd of waste types 13 and 13C is approved.

This certification shall not be construed as an expression of the DEP's intent to issue a solid waste facility permit or permit modification for any proposed facility or operation.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the DEP and the Attorney General of the State of New Jersey to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

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 Passaic County District Solid Waste Management Plan which was adopted by the Passaic County Board of Chosen Freeholders on September 14, 2004.

April 9, 2005

Date

Bradley M. Campbell, Commissioner
Department of Environmental Protection