

**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 DECEMBER 27, 2006
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 December 27, 2006 adopted an amendment to its approved County Plan. The December 27, 2006 amendment proposes County Plan inclusion of 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 January 23, 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 December 27, 2006 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 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) Identification of 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 Passaic County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the December 27, 2006 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 December 27, 2006 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
 Solid and Hazardous Waste 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
 U.S. Environmental Protection Agency

Elements of the December 27, 2006 Amendment

Element: Designation of County Plan Implementation Agency

The December 27, 2006 County Plan amendment includes the Passaic County Health Department (PCHD) within the County Plan 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 projection's made by the New Jersey Department of Transportation for Passaic County, 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 2016 as 1,223,846, 1,228,088, 1,232,329, 1,236,571, 1,242,162, 1,247,753, 1,253,345, 1,258,936, 1,264,527, and 1,275,083, respectively.

Element: Inventory of Solid Waste and Recycling Facilities

The December 27, 2006 amendment to the County Plan identifies the solid waste and recycling facilities included in the County Plan; however, important planning information regarding the facilities, including lot and block designation, capacity, acceptable materials, and operating hours is incomplete and/or incorrect in many cases. This must be addressed by the County.

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

The December 27, 2006 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. Such a system has been in place within Passaic County since 1998.

Element: County Plan Inclusion Process

The December 27, 2006 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 County Solid Waste Coordinator reviews all County Plan inclusion requests for administrative and technical completeness and begins the review process once said application is determined to be complete. From the date that the application is deemed complete and within 60 days, the County Solid Waste Advisory Committee (SWAC) holds a meeting on the proposed operation or facility to determine consistency with the County Plan. Once the SWAC completes its review, their recommendation is then forwarded to the County Freeholders for their action. The duration between SWAC making a recommendation and County Freeholder action and, if the County Freeholders approve the inclusion of the proposed amendment to the County Plan, submission to the Department for certification is limited to 60 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 may not be limited to:

- Type of facility, including a list of the materials to be accepted at the facility;
- Capacity of the facility and how facility capacity will be determined;
- Source of the material to be accepted at the facility;
- Market/residue information, including contact information of all planned markets for materials/residue;
- A written narrative explanation of the facility operation from the receipt of material to the point of transfer to end markets;
- Days and hours of operation;
- Number and types of vehicles entering and exiting the facility;
- Description of the existing property use;
- Listing of equipment to be used on site;
- Specific information about the process design and operation, including a site plan which identifies the placement of all equipment, buildings, and material stockpiles;
- Traffic flow in and out of the facility and vehicle routing within the site;
- Utility information;
- Environmental issues, including floodplains, wetlands, dust control, stormwater, odors, noise, wastewater, etc; and
- Municipal, County, State, Federal permits/approvals necessary.

All applicants for County Plan inclusion must also publish two Legal Notices in the recognized County newspaper. The first Notice must be published prior to the SWAC's vote on the proposed County Plan amendment. The second Notice must be published no more than 30 and no less than 15 calendar days prior to the public hearing held by the County Freeholders to hear comments on the proposed County Plan amendment. The Notices must identify the facility name and owner; legal property owner; municipality and block and lot designation of the

facility; street address of the facility; nature of the proposed County Plan amendment; indication that a copy of the application for County Plan inclusion may be examined at the County Clerk's office; and an indication that comments regarding the application for County Plan inclusion can be made at the public hearing to be convened by the County Freeholders.

The December 27, 2006 County Plan amendment also includes the County's process for inclusion of those County Plan amendments which the County Solid Waste Coordinator deems can be accomplished via an administrative action pursuant to N.J.A.C. 7:26A-6.11.

Element: Recycling

In 2003, Passaic County recycled 30.8% of its MSW and 50.2% of its total solid waste (TSW). Using 2003 Department data, Passaic County will have to recycle an additional 108,000 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 33.4% and 31.9% and TSW recycling rates of 52.9% and 48.7% for Passaic County in 2004 and 2005, respectively.

The December 27, 2006 County Plan amendment proposes County Plan inclusion of updates to several sections of the County's recycling strategy including designation of additional recyclables, establishment of target recycling rates for several designated recyclables, source reduction strategies, and recycling compliance and enforcement.

Designated Recyclable Materials – The December 27, 2006 amendment to the County Plan proposes County Plan inclusion of corrugated cardboard, mixed office paper, other paper, steel containers, plastic containers, heavy iron, aluminum scrap, white goods, concrete/asphalt/brick/block, brush/tree parts and stumps as designated recyclable materials. The following is a complete listing of the designated recyclable materials included in the County Plan for the residential, commercial, and institutional sectors:

Aluminum, tin, and steel containers	Leaves
Aluminum scrap	Mixed office paper
Brush/tree parts	Newspaper
Concrete/asphalt/brick/block	Other office paper
Corrugated cardboard	Plastic containers
Glass containers	Stumps
Heavy Iron	White goods

The County's strategy to attain a recycling rate of 50% MSW relies on an increase in the amount of recycling of several categories of paper through increased education and enforcement in the residential, commercial, and institutional sectors. Specifically, the County Plan proposes target recycling rates of 70% for corrugated cardboard and 55% for office paper and other paper. The County Plan also proposes that the County's recycling rate will increase through better record keeping and reporting on the municipal and County levels and identifies that this will be

accomplished through the establishment of annual workshops with municipal recycling coordinators. The County Plan notes that carrying out the above noted strategies will lead to the recycling of an additional 101,000 tons of material based on the County's use of Department MSW generation and recycling data.

Source Reduction Strategies – the County through the December 27, 2006 County Plan amendment proposes County Plan inclusion of its educational efforts for source reduction in schools and its support for the “Cut It and Leave It” program, which are accomplished through the County's Office of Natural Resource Programs.

Enforcement – the County through the December 27, 2006 County Plan amendment proposes County Plan inclusion of the PCHD as the lead county agency for enforcement of the County Plan. The County Plan identifies that the PCHD, on an annual basis, will conduct a minimum of eighty recycling compliance inspections at businesses with more than twenty-five employees, institutions, and multi-family dwellings. Recycling compliance and enforcement at businesses with less than twenty-five employees will be the responsibility of the municipalities. The County Plan also notes that the PCHD, on an annual basis, will conduct a minimum of twenty recycling compliance inspections at schools. Also in terms of inspections, the PCHD will conduct annual inspections of all solid waste facilities and Class A and Class B recycling centers and twice annual inspections (fall and spring) of all exempt and non-exempt Class C recycling centers located within the County.

Lastly, the enforcement element of the County's recycling strategy includes a fee schedule for violations of the County Plan.

The Department's Division of County Environmental and Waste Enforcement (DCEWE) submitted comments regarding the proposed enforcement component of the December 27, 2006 County Plan amendment. The DCEWE noted firstly that the County Plan does not provide specifics on the “new enforcement focus” on corrugated cardboard. In addition, the DCEWE noted that the PCHD's CEHA contract stipulates that transfer stations within the County are to be inspected on a quarterly basis, not annually, as the County Plan reads.

The Department's Bureau of Recycling and Planning notes its concern that the County Plan does not provide detailed specifics regarding recycling compliance for small businesses in the County. If the County plans to rely on local enforcement of municipal source-separation ordinances for commercial generators, how will the County ensure that this enforcement is happening? The above noted deficiencies need to be addressed by the County.

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 December 27, 2006 amendment to the approved County Plan and certify to the County Freeholders that the December 27, 2006 amendment is approved as further specified

below.

The County Plan inclusion of the December 27, 2006 County Plan Update In Response to the updated Statewide Solid Waste Management Plan is approved; however, the County must submit a County Plan amendment to address the deficiencies noted in Section B. of this certification within 180 days of the date of this approval. 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 Passaic County District Solid Waste Management Plan which was adopted by the Passaic County Board of Chosen Freeholders on December 27, 2006.

June 19, 2007

Date

Lisa P. Jackson, Commissioner
Department of Environmental Protection