



State of New Jersey
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JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

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

**CERTIFICATION
OF THE SEPTEMBER 12, 2007
AMENDMENT TO THE WARREN 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 October 16, 1981, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Warren 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 Warren County Board of Chosen Freeholders (County Freeholders) completed such a review and on September 12, 2007 adopted an amendment to its approved County Plan.

The September 12, 2007 amendment proposes County Plan inclusion of certain aspects 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 September 28, 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 September 12, 2007 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) 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 Warren County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the September 12, 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 with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the elements relative to the September 12, 2007 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 Management 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 September 12, 2007 Amendment

Element: Inventory of Recycling Centers

The below facilities are identified in the September 12, 2007 amendment to the County Plan as being included in the County Plan.

Recycling Centers

Class A Recycling Centers

In addition to the Warren County Class A Recycling Center, which was included in the County Plan via a separate amendment to the County Plan adopted on September 12, 2007 and certified as approved by the Department on January 11, 2008, this amendment seeks to include the following recycling centers in the County Plan.

- Second Chance Class A Recycling Center – This facility, located on Block 8, Lot 15 at 5 Hutchinson River Road in the Township of Harmony, is included in the County Plan to accept no more than 21 trucks per day of tin cans, plastic containers, aluminum cans, glass containers, newsprint, and cardboard. The County Plan includes the facility's operating hours as 5:00 am – 5:00 pm, Monday through Saturday.
- Sanico Class A Recycling Center – This facility, located on Block 55, Lots 17 and 18 at 77 Route 46 in the Township of Knowlton, is included in the County Plan to accept tin cans, plastic containers, aluminum cans, glass containers, newsprint, and cardboard. The County Plan includes the facility's operating hours as 8:00 am – 4:00 pm, Monday through Friday.

Class B Recycling Centers

- Tilcon Quarry Class B Recycling Center – This facility, located on Block 25, Lot 3 off of Mt. Pisgah Avenue in the Township of Oxford, is included in the County Plan to accept no more than 2,400 tpd of asphalt and concrete. The County Plan includes the facility's operating hours as 7:30 am – 4:30 pm, Monday through Friday.

Class C Recycling Centers

- Nature's Choice Class C Recycling Center – This facility, located on Block 21, Lot 11 at 40 Foul Rift Road in the Township of White, is included in the County Plan to accept no more than 70 trucks per day of leaves, grass clippings, brush, tree parts, and wood chips. The County Plan includes the facility's operating hours as 6:00 am – 8:00 pm, Monday through Saturday.
- S. Rotondi & Sons, Inc. Class C Recycling Center – This facility, located on Block 7, Lots 12 and 14.02 at 129 Reeder Road in the Township of Harmony, is included in the County Plan to accept no more than 66 trucks per day of leaves, grass clippings, brush, tree parts, and wood chips. The County Plan includes the facility's operating hours as 6:00 am – 8:00 pm, Monday through Saturday.

The September 12, 2007 amendment to the County Plan also includes a composting facility located on Block 34, Lot 17 and Block 32, Lots 12 and 22 in White Township in the County Plan. This facility is not currently in operation. If this facility 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 this facility 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.

Element: County Plan Inclusion Process

The September 12, 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, an applicant for County Plan inclusion must file a complete application with the County Solid Waste Coordinator, the County Planning Board, the County Health Department, and the host municipal governing body and planning and land use boards.

After the County Solid Waste Coordinator deems an application complete, the applicant is scheduled to appear at a scheduled meeting of the Warren County Solid Waste Advisory Council (SWAC) and a SWAC sub-committee is appointed to review the subject application. Once the review of the application commences, the applicant is notified and shall publish a legal notice in the official newspaper of the County and host municipality, at least fifteen days prior to the public meeting of the SWAC and proof of publication must be provided to the SWAC, County Solid Waste Coordinator, and host municipality upon its publication.

Next, the SWAC solicits comments from the host municipality and other agencies. These comments are requested to be received within 45 days of the municipality's or agencies' receipt of the solicitation. Within six months of the lapse of this 45-day period, SWAC then votes at a public meeting on a recommendation to the County Freeholders. If the SWAC delivers a

recommendation to include a facility or an expansion of an existing facility in the County Plan, the County Freeholders will schedule a public hearing for the purpose of hearing the proposed County Plan amendment. Prior to the public hearing, the applicant shall publish a legal notice of a public hearing concerning the County Plan amendment in the official newspaper(s) of the County and host municipality, once each week for two consecutive weeks, the second publication date being not less than ten calendar days prior to the public hearing date and affidavit of publication must be provided to the County Solid Waste Coordinator.

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 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;
- Description of the existing property use;
- 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;
- Source(s) of material to be accepted at 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;
- Inspection procedure for presence of excess contamination in material delivered to the facility;
- Record keeping procedures;
- Local, state, or federal permits/approvals that may be required for the proposed facility;
- Environmental issues, including floodplains, wetlands, historic sites, stormwater management, potable water, landscaping, odors, noise, and dust control; and
- Benefits and needs analysis.

For cases, where the proposed activity of facility meets certain clearly identified criteria, the County will employ the administrative action process, which is also defined in the September 12, 2007 County Plan amendment.

The September 12, 2007 amendment to the County Plan does not specify a timeline for final County Freeholder action on an application for County Plan inclusion. The County is directed to address this issue as noted below in Section C. of this certification.

Element: Recycling

In 2003, Warren County recycled 19.3% of its municipal solid waste (MSW) and 46.9% of its total solid waste (TSW). Using 2003 Department data, Warren County will have to recycle an additional 29,000 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 20.7% and 20.2% and TSW recycling rates of 44.2% and 37.6% for Warren County in 2004 and 2005, respectively.

The September 12, 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 September 12, 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	Magazines and mixed paper
Antifreeze	Newsprint
Asphalt and concrete pavement	Non-treated wood
Carpet	Oil filters
Computer paper	Plastic containers (types 1 and 2)
Computers	Propane tanks
Corrugated cardboard	Scrap metals (including junked autos)
Fluorescent tubes	Source-separated metal
Glass bottles and jars	Steel and tin cans
High-grade white office paper	Stumps
Household batteries	Textiles/clothing
Laser and inkjet cartridges	Tires
Latex paint *	Used motor oil
Lead-acid batteries	White goods
Leaves and yard waste (brush, tree parts)	

* the County designates Latex paint, but only if the PCFA restarts its collection of the material

Updated Programs – the County through the September 12, 2007 County Plan amendment proposes County Plan inclusion of several programs. These include recycling programs aimed at increasing the recycling of less traditional recyclables, including household hazardous waste, burnt metals, and junked vehicles.

Recycling Initiatives – the County through the September 12, 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 traditional recyclables. The County proposes target recycling rates of 65% for newsprint, corrugated cardboard, office paper, magazines and mixed paper, glass containers, antifreeze, used motor oil, household batteries, and textiles.

Source Reduction Strategies – the County through the September 12, 2007 County Plan amendment proposes County Plan inclusion of the County's plan to distribute source reduction information through mailings to municipal recycling coordinators and press releases and through the County website. The County will also promote per container fees to waste haulers servicing generators in the County and "Cut It and Leave It" for grass clippings and leaves.

Enforcement – The County through the September 12, 2007 County Plan amendment proposes County Plan inclusion of the Warren County Health Department (WCHD) as the agency which will conduct recycling inspections of commercial and institutional generators and multi-family dwellings and compliance inspections of recycling centers. The WCHD will also supplement municipal recycling enforcement efforts.

The County Plan also notes that solid waste haulers should not collect a load of solid waste if they see that that load of solid waste is mixed with designated recyclables. During the public hearing, a commenter objected to this provision. The commenter expressed his belief that the Solid Waste Utility Control Act (N.J.S.A. 48:13A-1 et seq.) would prohibit a solid waste hauler from refusing to collect a load of solid waste commingled with designated recyclables. In response, the Department's Bureau of Solid Waste Regulation commented that regulations found at N.J.A.C. 7:26H-4.4(a)6 read that solid waste collectors are prohibited from collecting commingled loads of solid waste and designated source-separated recyclable materials, except in those instances where a specific municipal exemption has been granted to the generator of those materials as provided by N.J.S.A. 13:1E-99.16(d).

The Department's Division of County Environmental and Waste Enforcement (DCEWE) submitted comments regarding the proposed enforcement component of the September 12, 2007 County Plan amendment. The DCEWE's comments specifically read that the County Plan does not:

- clearly define the role of the WCHD in recycling enforcement;
- clearly specify that the WCHD is presently conducting seventy-five annual recycling inspections because they collect the Department-approved Solid Waste Enforcement Fee;
- specify whether the WCHD will continue to conduct the inspections if they stop collecting the Fee;

- identify which types of solid waste facilities and recycling centers are to be inspected by the WCHD and with what frequency these types of facilities will be inspected;
- identify any type of recycling compliance assistance programs or training to be provided to solid waste generators; and
- identify what means of penalty assessment the WCHD will employ for violations of the Solid Waste Management Act, including provisions regarding recycling (see below);

The Solid Waste Management 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.

The County is directed to address the above issues as noted below in Section C. of this certification.

C. Certification of the Warren 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 12, 2007 amendment to the approved County Plan and certify to the County Freeholders that the September 12, 2007 amendment is approved as further specified below.

The County Plan inclusion of certain aspects of the September 12, 2007 County Plan Update in response to the updated Statewide Solid Waste Management Plan is approved; however, the County must submit a County Plan amendment within 180 days of the date of this approval to address the following deficiencies noted in Section B. of this certification:

- a specific timeline after the SWAC’s issuance of a recommendation regarding an application for inclusion in the County Plan and
- greater detail regarding the recycling enforcement strategy to be employed by the County.

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**

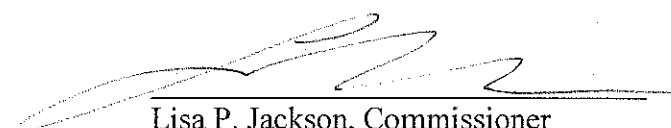
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's 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 Warren County District Solid Waste Management Plan which was adopted by the Warren County Board of Chosen Freeholders on September 12, 2007.

Date

2/4/08


Lisa P. Jackson, Commissioner
Department of Environmental Protection

