



## State of New Jersey

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### **CERTIFICATION OF THE JUNE 18, 2013 AMENDMENT TO THE ESSEX 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 Essex County District Solid Waste Management Plan (County Plan).

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 Essex County Board of Chosen Freeholders (County Freeholders) completed such a review and on May 22, 2013 adopted an amendment to its approved County Plan. Said amendment was approved by the Essex County Executive (County Executive) on June 18, 2013.

The June 18, 2013 amendment proposes County Plan deletion of the previously-included County Plan requirement that Lemcor, Inc. cease operations at its transfer station/materials recovery facility, located at 170 Frelinghuysen Avenue in the City of Newark, upon completion of the construction of its transfer station/materials recovery facility, to be located at 221 Foundry Street in the City of Newark.

The amendment was considered administratively complete for review by the Department on July 22, 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 the amendment adopted by the County Freeholders on May 22, 2013 and approved by the County Executive on June 18, 2013 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 18, 2013 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 June 18, 2013 amendment which are included below.

**Elements of the June 18, 2013 Amendment**

**Element: Facility Histories**

**Lemcor, Inc. Frelinghuysen Avenue Transfer Station/Materials Recovery Facility (TS/MRF)**

On April 29, 1987, the Essex County Board of Chosen Freeholders adopted an amendment to their County Plan to include within it the Recycling and Salvage Transfer Station, located in the City of Newark. The capacity for the facility was given as 150 tons per day (tpd) of solid waste. This County Plan amendment was certified as approved by the Department on October 26, 1987.

An amendment to the County Plan adopted by the Essex County Board of Chosen Freeholders on June 11, 1997 identified the facility location as Block 2755, Lot 1 and Block 2780, Lot 28 at 170-180 Frelinghuysen Avenue in the City of Newark and included an increase in the capacity of the facility to a total of 450 tpd of solid waste. This County Plan amendment was certified as approved by the Department on May 12, 1998.

On June 30, 1999, the Department approved a June 14, 1999 request for administrative action to the County Plan, which proposed County Plan inclusion of Block 2767, Lots 1 and 35 in the City of Newark for ancillary activities at the subject facility, namely the storage of vehicles to prevent queuing on Frelinghuysen Avenue.

On January 19, 2005, the Department approved an October 25, 2004 request for administrative action to the County Plan, which proposed County Plan inclusion of weekly averaging at the Lemcor, Inc. TS/MRF on Frelinghuysen Avenue. Specifically, the October 25, 2004 request for administrative action to the County Plan proposed to allow Lemcor, Inc. to average its daily tonnage over the seven-day week, while maintaining the same weekly capacity of 3,150 tons of solid waste types 10, 13, 13C, and 27. This request for administrative action to the County Plan proposed a daily maximum capacity of 650 tpd.

Lastly, on October 1, 2008, the Essex County Utilities Authority submitted a request for administrative action to the Department proposing County Plan inclusion of, amongst other things, the Lemcor, Inc. TS/MRF, located on Block 2755, Lot 1; Block 2780, Lot 28; and Block 2767, Lots 1 and 35 at 170 Frelinghuysen Avenue in the City of Newark with a capacity of 650 tpd (3,150 tons per week) of solid waste types 10, 13, 13C, and 27. The October 1, 2008 request for administrative action to the County Plan included the operating schedule for the facility as 24 hours per day, Monday through Sunday. This request for administrative action to the County Plan was approved by the Department on October 15, 2008.

#### **Lemcor, Inc. Foundry Street TS/MRF**

On July 22, 2004, the Essex County Board of Chosen Freeholders adopted an amendment to their County Plan to include within it the Lemcor, Inc. TS/MRF to be located on Block 5005, Lots 1 and 15 at 221 Foundry Street in the City of Newark. The July 22, 2004 amendment to the County Plan proposed County Plan inclusion of this facility for the receipt of an average daily capacity of 1,200 tons and a maximum daily capacity of 1,680 tons of solid waste types 10, 13, 13C, 23, and 27. Additionally, the July 22, 2004 amendment to the County Plan reads that once Lemcor, Inc. received a Solid Waste Facility (SWF) Permit from the Department for its Foundry Street TS/MRF and completed construction of said facility, “the operation of the solid waste facility at 170 Frelinghuysen Avenue will cease.” This County Plan amendment was certified as approved by the Department on December 29, 2004.

On January 3, 2006, the Department approved a December 21, 2005 request for administrative action to the County Plan, which proposed County Plan inclusion of a change in the block and lot designation of the Lemcor, Inc. TS/MRF to be located on Foundry Street. As the result of a subdivision, the portion of Lot 1 that the facility is to be located on was redesignated as Lot 1.02. Thus, through the County’s December 21, 2005 request for administrative action to the County Plan and the Department’s subsequent approval, the block and lot designation of the Lemcor, Inc. TS/MRF to be located on Foundry Street was included in the County Plan as Block 5005, Lots 1.02 and 15 in the City of Newark.

An amendment to the County Plan adopted by the Essex County Board of Chosen Freeholders on May 11, 2006 proposed County Plan inclusion of a capacity increase at the Lemcor, Inc. TS/MRF, to be located on Block 5005, Lots 1.02, 3, and 15 at 221-253 Foundry Street in the City of Newark. Specifically, the May 11, 2006 amendment to the County Plan proposed an increase in the capacity of the subject facility from 1,200 tpd to 2,000 tpd of solid waste types 10, 13, 13C, 23, and 27.

Lastly, on September 25, 2006, the Department approved a September 14, 2006 request for administrative action to the County Plan, which proposed County Plan inclusion of daily averaging at the Lemcor, Inc. TS/MRF on Foundry Street. Specifically, the September 14, 2006 request for administrative action to the County Plan proposed County Plan inclusion of maximum daily and weekly capacities of 2,800 and 14,000 tons, respectively of solid waste types 10, 13, 13C, 23, and 27 at the subject facility.

### **Element: Regulatory Requirements**

The owner or operator of a solid waste transfer station/materials recovery facility must obtain a SWF Permit from the Department prior to the commencement of regulated activities and shall also follow all pertinent regulations found at N.J.A.C. 7:26-2.1 et seq. and the design and operational requirements at N.J.A.C. 7:26-2B.5 and N.J.A.C. 7:26-2B.9, respectively. In addition, no person shall engage in the treatment, storage, transfer, or disposal of solid waste in the State without a license as per N.J.A.C. 7:26-16.3(a) or without complying with all of the provisions of N.J.S.A. 13:1E-126 et seq. and N.J.A.C. 7:26-16 and 16A.

Solid waste facilities are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This subchapter of regulations prohibits the release of odors and other air contaminants which interfere with the enjoyment of life and property. In addition, the owner or operator of a solid waste facility will require an air quality preconstruction permit and operating certificate in accordance with N.J.A.C. 7:27-8.2.

Finally, if any operation of a solid waste facility will discharge pollutants as defined in N.J.A.C. 7:14A-1.2, the owner or operator of that solid waste facility must secure a New Jersey Pollutant Discharge Elimination System Permit pursuant to N.J.A.C. 7:14A-2.4(b)4. Additionally, as per N.J.A.C. 7:14A-22.3(a)2, if the owner or operator of a solid waste facility will, as part of its operation, build, install, modify, or operate any sewer line, pumping station, or force main which serves more than two buildings or is for the conveyance of 8,000 gallons per day or more of wastewater, a Treatment Works Approval would have to be obtained from the Department prior to construction.

**C. Certification of the Essex 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 district solid waste management plans, I have reviewed the June 18, 2013 amendment to the approved County Plan and certify to the County Freeholders that the June 18, 2013 amendment is approved as further specified below.

The June 18, 2013 amendment proposing County Plan deletion of the previously-included County Plan requirement that Lemcor, Inc. cease operations at its transfer station/materials recovery facility, located at 170 Frelinghuysen Avenue in the City of Newark, upon completion of the construction of its transfer station/materials recovery facility, to be located at 221 Foundry Street in the City of Newark is approved.

This certification shall not be construed as an expression of the DEP's intent to issue a SWF Permit Renewal for any proposed or existing facility or operation. 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. Compliance**

All owners and/or operators of a solid waste facility approved by the Department and operating within the District and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the County Plan. Any solid waste facility owner and/or operator 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 permit to operate a solid waste facility issued thereunder by the Department and shall be subject to the provisions and penalties of N.J.S.A. 13:1E-9 and -12, N.J.A.C. 7:26-5.1 et seq., 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 N.J.A.C. 7:26-1.4 and -2.13.

**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 to 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 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 Essex County District Solid Waste Management Plan which was adopted by the Essex County Board of Chosen Freeholders on May 22, 2013 and approved by the Essex County Executive on June 18, 2013.

December 11, 2013

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Date

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Bob Martin, Commissioner  
Department of Environmental Protection