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**CERTIFICATION
OF TWO AUGUST 18, 2009
AMENDMENTS 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 County Plan at any time and, if found inadequate, a new County Plan must be adopted. The Essex County Board of Chosen Freeholders (County Freeholders) completed such a review and on August 12, 2009 adopted three amendments to its approved County Plan. Two of these amendments were approved by the Essex County Executive on August 18, 2009 and these are the subject of this certification.

The August 18, 2009 amendments propose County Plan inclusion of the:

- American Recycling, LLC Class B Recycling Center, to be located on Block 3779, Lot 20 at 110 Evergreen Avenue in the City of Newark, for the acceptance and processing of up to 175 tons per day (tpd) of source-separated scrap wood; and the
- American Recycling, LLC Transfer Station/Material Recovery Facility (TS/MRF), to be located on Block 3779, Lots 20, 28, and 42 at 110 Evergreen Avenue in the City of Newark, for the acceptance and processing of up to 2,500 tpd (14,000 tons per week) of solid waste types 10, 13, 13C, and 27.

The amendments were considered administratively complete for review by the Department on September 9, 2009 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments, and has determined that the amendments adopted by the County Freeholders on August 12, 2009 and approved by the Essex County Executive on August 18, 2009 are 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 Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the August 18, 2009 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 amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the elements relative to the August 18, 2009 amendments which are included below.

Elements of the August 18, 2009 Amendments

Element: Facility Operations

The August 18, 2009 amendments to the County Plan propose County Plan inclusion of the:

- American Recycling, LLC Class B Recycling Center, to be located on Block 3779, Lot 20 at 110 Evergreen Avenue in the City of Newark, for the acceptance and processing of up to 175 tons per day (tpd) of source-separated scrap wood; and the
- American Recycling, LLC Transfer Station/Material Recovery Facility, to be located on Block 3779, Lots 20, 28, and 42 at 110 Evergreen Avenue in the City of Newark, for the acceptance and processing of up to 2,500 tpd (14,000 tons per week) of solid waste types 10, 13, 13C, and 27.

The subject amendments propose to include the subject facilities in the County Plan with an operating schedule of twenty four hours per day, Monday through Sunday.

Element: Regulatory Requirements

A Class B recycling center must obtain a Class B Recycling Center General Approval prior to commencement of regulated recycling activities and shall also follow all pertinent regulations found at N.J.A.C. 7:26A-3 et seq. and the design and operational standards at N.J.A.C. 7:26A-4.1.

A solid waste transfer station/material recovery facility must obtain a Solid Waste Facility (SWF) Permit prior to commencement of regulated activities and shall also follow all pertinent regulations found at N.J.A.C. 7:26-2 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.

If any operation of a recycling center 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.

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, as per the Department's Division of Air Quality, the subject facility may require an air quality preconstruction permit and operating certificate pursuant to N.J.A.C. 7:27-8.2(c), dependent upon the type of operations conducted and equipment employed at the facility.

C. Certification of the Essex County District Solid Waste Management Plan Amendments

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 August 18, 2009 amendments to the approved County Plan and certify to the County Freeholders that the August 18, 2009 amendments are approved as further specified below.

The County Plan inclusion of the:

- American Recycling, LLC Class B Recycling Center, to be located on Block 3779, Lot 20 at 110 Evergreen Avenue in the City of Newark, for the acceptance and processing of up to 175 tons per day (tpd) of source-separated scrap wood; and the
- American Recycling, LLC Transfer Station/Material Recovery Facility, to be located on Block 3779, Lots 20, 28, and 42 at 110 Evergreen Avenue in the City of Newark, for the acceptance and processing of up to 2,500 tpd (14,000 tons per week) of solid waste types 10, 13, 13C, and 27 are approved.

This certification shall not be construed as an expression of the Department's intent to issue a recycling center General Approval to any recycling center for Class B materials. A recycling center General Approval shall only be issued where the applicant has submitted as 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.

This certification shall not be construed as an expression of the Department's intent to issue a SWF Permit to any transfer station/materials recovery facility. A SWF Permit shall only be issued where the applicant has submitted an administratively complete application, as per N.J.A.C. 7:26-2.4, where all the substantive criteria for approval are satisfied, and where a fee has been paid in accordance with N.J.A.C. 7:26-4.

D. Other Provisions Affecting the Plan Amendments**1. Compliance**

All solid waste facility operators and transporters registered with the Department and operating within the County and affected by the amendments contained herein shall operate in compliance with these amendments 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 Amendments

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 amendments certified herein.

3. Definitions

For the purpose of this amendments 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 Amendments

The approved components of the amendments 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 amendments 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 Amendments 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 amendments, as outlined in Section C. of this certification, to the Essex County District Solid Waste Management Plan which were adopted by the Essex County Board of Chosen Freeholders on August 12, 2009 and approved by the Essex County Executive on August 18, 2009.

November 23, 2009

Date

Mark N. Mauriello, Acting Commissioner
Department of Environmental Protection