

**CERTIFICATION
OF THE JUNE 23, 2009
AMENDMENT TO THE HUDSON 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 January 27, 1982, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Hudson 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 Hudson County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 11, 2009 adopted an amendment to its approved County Plan. Said amendment was approved by the Hudson County Executive on June 23, 2009.

The June 23, 2009 amendment proposes County Plan inclusion of the Clean Earth of North Jersey, Inc. Transfer Station/Material Recovery Facility (TS/MRF) to be located on Block 289, Lots 14, 14A, and 14R at 105 Jacobus Avenue in the Town of Kearny, for the acceptance and processing of up to 2,810 tons per day (tpd) of solid waste types 10 (household hazardous waste), 13, 13C, 27, and 27A.

The amendment was considered administratively complete for review by the Department on August 11, 2009 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 June 11, 2009 and approved by the Hudson County Executive on June 23, 2009 is approved as provided in N.J.S.A.

13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 23, 2009 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 23, 2009 amendment which are included below.

Elements of the June 23, 2009 Amendment

Element: Facility Operations

Clean Earth of North Jersey, Inc. (Clean Earth) owns and operates a commercial solid and hazardous waste treatment, storage, and transfer facility on Block 289, Lots 14, 14A, and 14R in the Town of Kearny. This type of operation has been conducted at the site since 1984.

The Department issued a modified permit to Clean Earth on April 3, 2006 for the purpose of operating a solid and hazardous waste treatment, storage, and transfer facility. On April 26, 2006, Clean Earth filed a request for hearing with the Department's Office of Legal Affairs concerning the April 3, 2006 permit. On October, 23, 2006, the Department issued a modified permit to Clean Earth for the purpose of operating a solid and hazardous waste treatment, storage, and transfer facility. On November 17, 2006, Clean Earth again filed a request for hearing with the Department's Office of Legal Affairs concerning the October 23, 2006 permit. In each of its requests for hearings, Clean Earth objected to the 250-tpd capacity and hours of operation identified in the permits.

As a result of subsequent discussions by and between the DEP and Clean Earth, the parties agreed to the form and content of a Stipulation of Settlement and Withdrawal of Hearing Request (Stipulation), dated August 5, 2008. As a part of the Stipulation, Clean Earth submitted an application to the Hudson County Improvement Authority for inclusion of the above noted facility in the County Plan. The Stipulation specifies, amongst other things, that the DEP agrees to permit a total capacity of 2,810 tpd of solid waste to be processed at the facility and that the facility may operate twenty-four hours per day, Monday through Sunday upon certain conditions being satisfied by Clean Earth.

The June 23, 2009 amendment to the County Plan is proposing County Plan inclusion of the Clean Earth of North Jersey, Inc. TS/MRF to be located on Block 289, Lots 14, 14A, and 14R at 105 Jacobus Avenue in the Town of Kearny, for the acceptance and processing of up to 2,810 tpd of solid waste types 10 (household hazardous waste), 13, 13C, 27, and 27A.

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 Hudson 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 June 23, 2009 amendment to the approved County Plan and certify to the County Freeholders that the June 23, 2009 amendment is approved as further specified below.

The County Plan inclusion of the Clean Earth of North Jersey, Inc. TS/MRF to be located on Block 289, Lots 14, 14A, and 14R at 105 Jacobus Avenue in the Town of Kearny, for the acceptance and processing of up to 2,810 tpd of solid waste types 10 (household hazardous waste), 13, 13C, 27, and 27A is approved.

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 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.

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 -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 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 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 Hudson County District Solid Waste Management Plan which was adopted by the Hudson County Board of Chosen Freeholders on June 11, 2009 and approved by the Hudson County Executive on June 23, 2009.

November 23, 2009

Date

Mark N. Mauriello, Acting Commissioner
Department of Environmental Protection