

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

**CERTIFICATION
OF THE JULY 11, 2006
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 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 Hudson County Board of Chosen Freeholders (County Freeholders) completed such a review and on July 11, 2006 adopted an amendment to its approved County Plan. The July 11, 2006 amendment proposes County Plan inclusion of a capacity increase at the Eagle Recycling of New Jersey, Inc. Transfer Station/Materials Recovery Facility (TS/MRF), located on Block 91, Lot 1; Block 93, Lots A &

B; Block 95, Lot 1; and Block 100, Lots 24-27 in the Township of North Bergen. Specifically, the July 11, 2006 amendment proposes increasing the capacity of the subject facility from 353 tons per day (tpd) to 1,000 tpd of solid waste types 10 (non-putrescible), 13, 13C, 23, and 27 and the use of weekly averaging based upon a total weekly capacity of 6,000 tons and a peak daily capacity of 1,200 tons at the facility.

The amendment was considered administratively complete for review by the Department on September 6, 2006 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 July 11, 2006 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 July 11, 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 July 11, 2006 amendment which are included below.

In conjunction with the review of the amendment, the Department circulated copies to seventeen 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
 New Jersey Meadowlands Commission
 U.S. Environmental Protection Agency

Elements of the July 11, 2006 Amendment

Element: Facility History and Operations

On January 9, 1992, the Hudson County Board of Chosen Freeholders adopted an amendment to the County Plan to include within it the P&N/SJG recycling center, located on Block 91, Lot L1 in the Township of North Bergen. This County Plan amendment was certified as approved by the Department on June 20, 1992. The certification approved the acceptance of a maximum of 75 tpd of cardboard, metals, fine paper, glass, concrete, rock, and wood pallets.

On December 10, 1992, the Hudson County Board of Chosen Freeholders approved an amendment to the County Plan which proposed inclusion of a capacity expansion and revision of acceptable materials to be processed at the P&N/SJG Recycling Specialists recycling facility. The amendment provided for the acceptance of 353 tpd of cardboard, metals (including wire and cable), paper, wood (including pallets, construction and demolition debris, other non-treated wood, trees, tree parts, and brush), concrete, brick, block, stone, plaster, ceramic tile, clean fill, asphalt shingles and roofing products, and glass. This amendment was certified as approved by the Department on July 16, 1993.

A County Plan amendment adopted by the Hudson County Board of Chosen Freeholders on July 11, 1996 maintained the capacity of the facility at 353 tpd but added a materials recovery operation to the existing Class A and B recycling center. The capacity of all operations was 95 tpd of materials recovery for waste types 13 and 13C and 5 tpd of waste type 23; 28 tpd of Class A recyclables (cardboard, metal, plastic, paper, and glass); and 225 tpd for Class B recyclables (concrete, asphalt, brick, block, stone, untreated and unpainted wood, uncontaminated soil, and asphalt roofing materials). This amendment was certified as approved by the Department on December 9, 1996.

On March 30, 2000, the Department approved a March 14, 2000 request for administrative action which proposed inclusion of transfer station operations at the P&N/SJG Recycling Specialists, Inc. facility. In addition, this administrative action proposed to allow the subject facility to accept any combination of solid waste (types 10, 13, 13C, and 23) and recyclables totaling 353 tpd, eliminating the capacity limits provided in the July 11, 1996 amendment. Lastly, in this administrative action, the County notes the site location as 4509-4705 Dell Avenue, Block 91, Lots 1 & 6 in the Township of North Bergen.

On August 6, 2001, the Department approved a July 23, 2001 request for administrative action to include in the County Plan additional blocks and lots for the P&N/SJG Recycling Specialists, Inc. TS/MRF. The additional block and lots proposed for inclusion were Block 91, Lots 149-152; Block 93, Lots A & B; Block 95, Lot 1; and Block 100, Lots 1-5, 24-27, and 36. These additional blocks and lots were included in the County Plan for ancillary activities, such as scaling, vehicle maintenance, and vehicle parking.

On September 4, 2002, the Department approved an August 16, 2002 request for administrative

action to the County Plan to include operational changes at the P&N/SJG Recycling Specialists, Inc. TS/MRF. Specifically, this request administrative action proposed to include an increase in capacity of 99 tpd in the County Plan, bringing the subject facility's total capacity to 452 tpd of any combination of solid waste and recyclables.

On November 20, 2004, the Department approved a November 19, 2004 request for administrative action to the County Plan to reflect a change in name and ownership for the P&N/SJG Recycling Specialists, Inc. TS/MRF. This request for administrative action to the County Plan noted that the facility was now owned by Eagle Recycling, Inc.

Lastly, on May 9, 2005, the Department approved an April 27, 2005 request for administrative action to the County Plan to include operational changes at the Eagle Recycling Systems, Inc. TS/MRF. Specifically, this request for administrative action to the County Plan proposed to include the acceptance of source-separated tires at the subject facility in the County Plan.

The July 11, 2006 amendment proposes County Plan inclusion of a capacity increase at the Eagle Recycling of New Jersey, Inc. TS/MRF, located on Block 91, Lot 1; Block 93, Lots A & B; Block 95, Lot 1; and Block 100, Lots 24-27 in the Township of North Bergen. Specifically, the July 11, 2006 amendment proposes increasing the capacity of the subject facility from 353 tons per day (tpd) to 1,200 tpd of solid waste types 10 (non-putrescible), 13, 13C, 23, and 27 and the use of weekly averaging based upon a total weekly capacity of 6,000 tons and a peak daily capacity of 1,200 tons at the facility.

Element: Host Community Agreement Between the Township of North Bergen and Eagle Recycling of New Jersey, Inc.

A Host Benefit Agreement (Agreement) by and among the Township of North Bergen and Eagle Recycling of New Jersey, Inc. was executed on July 20, 2004. The Agreement outlines, amongst other things, specific terms between the Township of North Bergen and Eagle Recycling of New Jersey, Inc. regarding the proposed expansion of the Eagle Recycling of New Jersey, Inc. TS/MRF. Section 6 of the Agreement reads that beginning with a capacity increase of 99 tpd (which would allow for the subject facility to receive up to 452 tons per day of solid waste and used tires and recyclables) and for each subsequent staged capacity increase until the facility reaches the proposed 1,000 tpd maximum capacity, the facility must operate at each staged daily permitted capacity for a minimum of four months before seeking any further increase. The Agreement goes on to read that after this four-month period Eagle Recycling of New Jersey, Inc. shall then be entitled to seek an additional increase in increments of 100 tpd upon receipt of a resolution from the Township of North Bergen supporting said increase in the permitted daily capacity or the passing of forty-five days from the date of notice to the Township of North Bergen with no formal action being taken by the Township.

It should be noted that in a letter dated July 22, 2005 from the Township of North Bergen's counsel to Eagle Recycling of New Jersey, Inc.'s consulting engineer that it is made clear that the Township would be willing to support an initial capacity increase of 200 tpd (bringing the

facility's capacity to 553 tpd) if the owner/operator of the subject facility were willing to expedite the installation of adequate buffer materials.

While not commenting on the legality or the specific terms of the Agreement, the Department notes that if the Township of North Bergen decides to bar the subject facility from any capacity increase prior to the facility reaching a daily capacity of 1,000 tpd (peak daily capacity of 1,200 tons), the Township must use verifiable and quantitative findings to justify such a decision to the Department.

Element: Disposal of Solid Waste from Counties with a State Approved Waste Flow

The July 11, 2006 County Plan amendment does not note the origin of solid waste to be received at the proposed facility. Hudson County, as well as other counties in New Jersey, have procured non-discriminatory bids for their solid waste disposal and have State approved waste flows. As per N.J.A.C. 7:26-6.12, if the Eagle Recycling of New Jersey, Inc. TS/MRF receives solid waste from a county with an approved waste flow, this waste or the resulting residue, after recycling, must be disposed of in conformance with the provisions of the respective county solid waste management plan.

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 July 11, 2006 amendment to the approved County Plan and certify to the County Freeholders that the July 11, 2006 amendment is approved as further specified below.

The July 11, 2006 amendment proposing County Plan inclusion of a capacity increase at the Eagle Recycling of New Jersey, Inc. TS/MRF, located on Block 91, Lot 1; Block 93, Lots A & B; Block 95, Lot 1; and Block 100, Lots 24-27 in the Township of North Bergen from 353 tpd to 1,000 tpd of solid waste types 10 (non-putrescible), 13, 13C, 23, and 27 and the use of weekly averaging based upon a total weekly capacity of 6,000 tons and a peak daily capacity of 1,200 tons at the facility is approved.

This certification shall not be construed as an expression of the DEP's intent to issue a solid waste facility permit or permit modification for any proposed facility or operation.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. 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. 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 Hudson County District Solid Waste Management Plan which was adopted by the Hudson County Board of Chosen Freeholders on July 11, 2006.

January 8, 2007

Date

Lisa P. Jackson, Commissioner
Department of Environmental Protection