



State of New Jersey

CHRIS CHRISTIE
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Mail Code 401-07F
P.O. Box 402
Trenton, NJ 08625-0402
Tel. # (609) 292-2885
Fax # (609) 292-7695

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

CERTIFICATION OF THE AUGUST 16, 2011 AMENDMENT TO THE HUNTERDON 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 or NJMC) develop comprehensive plans for waste management in their respective districts. On October 2, 1981 the Department of Environmental Protection (Department or DEP) approved the Hunterdon 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 Hunterdon County Board of Chosen Freeholders (County Freeholders) completed such a review and on August 16, 2011 adopted an amendment to its approved County Plan

The August 16, 2011 amendment proposes County Plan inclusion of the GreenCycle of Hunterdon, LLC Class B Recycling Center, to be located on Block 22, Lots 15 and 15.01 at 5 and 6 Frontage Road in the Township of Union, for the acceptance, storage, and processing of a maximum of 210 tons per day (tpd) of concrete, asphalt, brick, block, and unpainted, untreated wood.

The amendment was considered administratively complete for review by the Department on November 25, 2011 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 August 16, 2011 is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the August 16, 2011 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 in part and inconsistent in part with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the elements of the August 16, 2011 amendment which are included below.

Elements of the August 16, 2011 Amendment

Element: Facility Operations and Location

The August 16, 2011 amendment to the County Plan is proposing County Plan inclusion of the GreenCycle of Hunterdon, LLC Class B Recycling Center, to be located on Block 22, Lots 15 and 15.01 at 5 and 6 Frontage Road in the Township of Union. The August 16, 2011 County Plan amendment proposes that the subject facility be included in the County Plan for the acceptance, storage, and processing of a maximum of 210 tons per day of concrete, asphalt, brick, block, and unpainted, untreated wood and identifies the facility's operating schedule for the acceptance and processing of materials as 7:00 am – 4:00 pm, Monday through Friday and 7:00 am – 12:00 pm, Saturday.

This would be a new operation.

As noted above, the Department circulated copies of the August 16, 2011 amendment to the County Plan to various administrative review agencies. In response to this request for comment, the Department's Division of Land Use Regulation commented that the subject facility is proposed to be located on parcels of property containing freshwater wetlands of intermediate resource value. As per N.J.A.C. 7:7A-2.5(e), the required standard width of a transition area adjacent to a freshwater wetland of intermediate resource value is 50 feet. Additionally, this classification may affect the requirements for an Individual Wetlands Permit (see N.J.A.C. 7:7A-7), the types of Statewide General Permits available for the wetlands portion of these parcels (see N.J.A.C. 7:7A-5) and the modification available through a transition area waiver (see N.J.A.C. 7:7A-6).

The Division of Land Use Regulation and the Division and Fish and Wildlife also commented that the nearby Grandin Stream, a tributary of Sidney Brook, is a “Category One water” and therefore, the Stream may require a 300-foot buffer as per the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h)1i and the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-1 et seq. and would be regulated by the anti-degradation policies set forth at N.J.A.C. 7:9B-1.5(d).

Element: Traffic Routes to and From the GreenCycle of Hunterdon, LLC Class B Recycling Center

The August 16, 2011 amendment to the County Plan also proposes to include designated traffic routes for vehicles entering and exiting the subject recycling center; however, there is no provision in either the Solid Waste Management Act or its implementing regulations (N.J.A.C. 7:26 and N.J.A.C. 7:26A) which allow the County to include such routes for vehicles entering or exiting a recycling center in its County Plan and thus all language regarding traffic routes to and from the GreenCycle of Hunterdon, LLC Class B Recycling Center is hereby rejected.

If the County wishes to proceed with designating truck routes for vehicles entering and exiting the subject facility it may be able to do so as per the New Jersey large truck routing regulations found at N.J.A.C. 16:32, or by way of other traffic regulating authority which may be available to the county. Questions regarding these regulations should be directed to the New Jersey Department of Transportation.

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-3.1 et seq. and the design and operational standards at N.J.A.C. 7:26A-4.1.

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, recycling centers may require an air quality preconstruction permit and operating certificate pursuant to N.J.A.C. 7:27-8.2(c), dependent upon the equipment and type of operations conducted at the facility.

Finally, 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.

Additional Element of the Hunterdon County District Solid Waste Management Plan

Element: Municipal Solid Waste (MSW) Recycling in Hunterdon County

On March 18, 2008, the Hunterdon County Board of Chosen Freeholders adopted an amendment to the County Plan which included specific strategies for achieving the State's statutorily-mandated minimum MSW recycling rate of 50%. This amendment to the County Plan was approved in part by the Department on December 22, 2008; however, in the certification of this amendment the Department requested that the County submit, amongst other things, additional detail regarding its plan to increase its recycling rate.

Hunterdon County submitted two subsequent requests for administrative action to the County Plan proposing County Plan inclusion of additional specifics regarding the above noted deficiencies. These respective requests for administrative action to the County Plan were acted on by the Department on July 24, 2009 and December 24, 2009.

The most recent recycling data compiled by the State shows that in 2009, 32.2% of Hunterdon County MSW was recycled. Using 2009 Department data, Hunterdon County will have to recycle an additional 20,800 tons of MSW to reach the statutorily-mandated minimum MSW recycling rate of 50%.

In this regard, the County is reminded that the Department adopted an Update to the Statewide Solid Waste Management Plan in 2006, which set forth, among other things, a framework for the counties in assessing various strategies to be employed to achieve the statutorily-mandated recycling goals and, although the state does not prescribe specific actions to be taken, the Department strongly recommends that the County, at a minimum:

- 1) Assess compliance with the requirements of the County recycling plan within the institutional sector, including public and private schools, government buildings, recreational facilities and other public locations within the county. This assessment should include what specific actions the County will take if a school board or government body refuses to follow recycling mandates;
- 2) Increase compliance and enforcement inspections at solid waste facilities within the County to assess the presence of designated recyclable materials in loads of solid waste transported and delivered for disposal; and,
- 3) Coordinate with appropriate municipal authorities for increased compliance and enforcement inspections at commercial establishments, where quantities of designated recyclables (especially corrugated cardboard and various grades of paper) may be present.

It should also be noted that, relative to the above, the Department is available to assist the County in developing appropriate recycling compliance and other strategies to achieve mandated recycling goals. Finally, in order to assess progress by the County in achieving the state's mandated recycling targets, the county is directed to submit, beginning on July 1, 2012 and every six months thereafter, a report detailing actions taken, and specific results achieved, until such time as the Department determines that the County has achieved the 50% MSW recycling target.

C. Certification of the Hunterdon 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 August 16, 2011 amendment to the approved County Plan and certify to the County Freeholders that the August 16, 2011 amendment is approved in part and rejected in part as further specified below.

The County Plan inclusion of the GreenCycle of Hunterdon, LLC Class B Recycling Center, to be located on Block 22, Lots 15 and 15.01 at 5 and 6 Frontage Road in the Township of Union, for the acceptance, storage, and processing of a maximum of 210 tpd of concrete, asphalt, brick, block, and unpainted, untreated wood is approved; however, all language in the August 16, 2011 amendment to the County Plan regarding traffic routes to and from the subject recycling center is hereby rejected as there is no provision in either the Solid Waste Management Act or its implementing regulations which allow the County to include designated traffic routes for vehicles entering or exiting a recycling center in its County Plan.

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

D. Other Provisions Affecting the Plan Amendment

1. Compliance

All solid waste facility operators and transporters registered with 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 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 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 in part and reject in part the amendment, as outlined in Section C. of this certification, to the Hunterdon County District Solid Waste Management Plan which was adopted by the Hunterdon County Board of Chosen Freeholders on August 16, 2011.

April 3, 2012

Date

Bob Martin, Commissioner
Department of Environmental Protection