



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 DECEMBER 6, 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 December 6, 2011 adopted an amendment to its approved County Plan.

The December 6, 2011 amendment proposes County Plan inclusion of:

1. The Flemington Concrete Products, LLC Class B Recycling Center to be located on Block 27, Lot 30.02 at 5 Foster Lane in the Township of Raritan for the receipt of up to 500 tons per day (tpd) of concrete, brick, and block; and,
2. The County Freeholders as the County Plan implementation agency.

The amendment was considered administratively complete for review by the Department on March 12, 2012 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 December 6, 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 December 6, 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 December 6, 2011 amendment which are included below.

Elements of the December 6, 2011 Amendment

Element: Facility Operations

The December 6, 2011 amendment to the County Plan proposes County Plan inclusion of the Flemington Concrete Products, LLC Class B Recycling Center, to be located on Block 27, Lot 30.02 at 5 Foster Lane in the Township of Raritan. The December 6, 2011 County Plan amendment proposes that the subject facility be included in the County Plan for the receipt of a maximum of 500 tpd of concrete, brick, and block and identifies the facility's operating schedule for the acceptance and transfer of materials as 7:00 am – 4:00 pm, Monday through Friday and 7:00 am – 2:00 pm, Saturday and for the processing of materials as 7:00 am – 4:00 pm, Monday through Friday.

Element: Regulatory Requirements

The owner or operator of 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, the owner or operator of a recycling center 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. 7:14-1.2, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

Element: Traffic Routes to and From the Flemington Concrete Products, LLC Class B Recycling Center

The December 6, 2011 amendment to the County Plan also proposes to include designated traffic routes for vehicles entering and exiting the subject recycling center in the County Plan; 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. Thus, all language regarding traffic routes to and from the Flemington Concrete Products, 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: County Plan Inclusion Process

The completed Application for County Plan inclusion was included in the County's submission to the Department. This Application included responses to the 24 Conditions currently in The County's Application for County Plan inclusion. Unfortunately, Condition 21 of the County's "Solid Waste Management Plan Amendment Procedures for Solid Waste Facilities", which reads "[a]n economic analysis of the proposed facility which projects and approximates capital, operating and maintenance expenditures, as well as any revenues to be realized from the anticipated sale of recovered products, if applicable..." is still included in the County's Application despite being rejected by the Department on two separate occasions. As the Department has stated in its December 22, 2008 certification of the March 18, 2008 amendment to the County Plan and its July 24, 2009 action in response to a June 22, 2009 request for administrative action to the County Plan, the State has existing regulations regarding financial assurances for Class B, C, and D recycling centers at N.J.A.C. 7:26A-3.4(c) and other mechanisms to effectuate the proper removal, transportation, and disposition of all materials which may be abandoned on a solid waste facility or recycling center site. Thus, the County is hereby directed to immediately remove this Condition from its "Solid Waste Management Plan Amendment Procedures for Solid Waste Facilities."

Element: County Plan Implementation Agency

As per the Act (N.J.S.A. 13:1E-21b(1)), “[e]very district solid waste management plan shall include, amongst other things, the designation of a department, unit or committee of the county government...to supervise the implementation of the solid waste management plan.”

On October 24, 1995, the County Board of Chosen Freeholders adopted an amendment to amend the County Plan to include the Hunterdon County Utilities Authority (HCUA) as the County Plan implementation agency. This amendment to the County Plan was approved by the Department on April 2, 1996.

The December 6, 2011 amendment to the County Plan proposes to change the County Plan implementation agency from the HCUA to the County Board of Chosen Freeholders.

Additional Element of the Hunterdon County District Solid Waste Management Plan

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

The most recent recycling data compiled by the State shows that in 2010, 33.2% of Hunterdon County’s MSW was recycled. Using 2010 Department data, Hunterdon County will have to recycle an additional 19,200 tons of MSW to reach a MSW recycling rate of 50%, which is mandated by statute (N.J.S.A. 13:1E-99.13(b)).

In 2006, the Department adopted an Update to the Statewide Solid Waste Management Plan, which set forth, among other things, a framework for the counties in assessing strategies to achieve the recycling targets required by statute (N.J.S.A. 13:1E-99.13). To gain a better understanding of the state of recycling in the County, the Department hereby directs the County to submit to the Department by October 1, 2012 a report addressing each of the below:

- 1) A copy of the most recently adopted source separation and recycling ordinance of each municipality within the County;
- 2) A description of the methods utilized by the County to communicate with its residents, businesses, and institutions regarding recycling (e.g., websites, public notices in local media, radio/television announcements, posters, etc.);
- 3) A list of all publically-accessible recycling centers and recycling depots, their addresses and operating schedules, and a map depicting the locations of each such facility;
- 4) The number of household hazardous waste collection and e-waste collection days held each year within the County, the locations of such events, the manner in which these events are communicated to the

public, and the hours that these events are accessible to residents of the County;

- 5) An inventory of how recyclables are collected within each municipality (e.g., curbside collection pursuant to a municipal contract with a collection company, curbside collection only upon private contract with a collection company, drop-off recycling collection center, etc.). This inventory shall differentiate the methods employed for the residential- and commercial-generating sectors within a municipality, if different methods exist. Additionally, for municipalities that employ a municipal-wide contract for collection of recyclables for either or both the residential- or the commercial-generating sectors, the name of that contractor, and a copy of the contract.

The above noted report shall be submitted to the Department in addition to the annual compliance report due March 1 of each calendar year that the Department directed the County to submit in its December 24, 2009 response to the County's November 9, 2009 request for administrative action to the County Plan.

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 December 6, 2011 amendment to the approved County Plan and certify to the County Freeholders that the December 6, 2011 amendment is approved in part and rejected in part as further specified below.

The County Plan inclusion of the Flemington Concrete Products, LLC Class B Recycling Center, to be located on Block 27, Lot 30.02 at 5 Foster Lane in the Township of Raritan, for the receipt of a maximum of 500 tpd of concrete, brick, and block, is approved; however, all language in the December 6, 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. Additionally, the County Plan's continued inclusion of a condition which is more stringent than the regulations at N.J.A.C. 7:26A-3.4(c) in regards to financial assurances of an operator of a recycling center is hereby rejected.

Lastly, the County Plan inclusion of the County Freeholders as the County Plan implementation agency is approved.

This certification shall not be construed as an expression of the Department's intent to issue a recycling center approval to any owner or operator of a 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 December 6, 2011.

August 2, 2012

Date

Bob Martin, Commissioner
Department of Environmental Protection