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**CERTIFICATION
OF THE MARCH 18, 2010
AMENDMENT TO THE MIDDLESEX 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 July 29, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Middlesex 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 Middlesex County Board of Chosen Freeholders (County Freeholders) completed such a review and on March 18, 2010 adopted an amendment to its approved County Plan.

The March 18, 2010 amendment proposes County Plan inclusion of the 986 Jersey Avenue, LLC Transfer Station/Material Recovery Facility (TS/MRF), to be located on Block 598, Lot 6 at 986 Jersey Avenue in the City of New Brunswick, for the acceptance and processing of up to 1,900 tons per day (tpd) of solid waste types 13 and 13C.

The amendment was considered administratively complete for review by the Department on March 22, 2010 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 March 18, 2010 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the March 18, 2010 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 March 18, 2010 amendment which are included below.

Elements of the March 18, 2010 Amendment

Element: Facility Operations

The March 18, 2010 amendment to the County Plan proposes County Plan inclusion of the 986 Jersey Avenue, LLC TS/MRF, to be located on Block 598, Lot 6 at 986 Jersey Avenue in the City of New Brunswick, for the acceptance and processing of up to 1,900 tpd of solid waste types 13 and 13C. The operating hours of the facility are identified in the subject County Plan amendment as 7:00 am – 6:00 pm, Monday through Friday and 7:00 am – 3:00 pm, Saturday.

Element: Regulatory Requirements

The owner or operator of a solid waste TS/MRF must obtain a Solid Waste Facility (SWF) Permit from the Department prior to the 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. As per N.J.A.C. 7:26H-1.6(a), 986 Jersey Avenue, LLC must seek and be issued a Certificate of Public Convenience and Necessity from the Department prior to engaging in the business of solid waste collection or solid waste disposal as defined at N.J.S.A. 48:13A-3. In addition, no person shall engage in the treatment, storage, transfer, or disposal of solid waste in the State without a license as per N.J.A.C. 7:26-16.3(a) or without complying with all of the provisions of N.J.S.A. 13:1E-126 *et seq.* and the provisions of N.J.A.C. 7:26-16 and 16A.

Pursuant to N.J.S.A. 13:1E-21(a)4, each County Plan shall include an analysis of solid waste transportation routes. As the March 18, 2010 amendment to the County Plan fails to designate solid waste vehicle routes to and from the 986 Jersey Avenue, LLC TS/MRF, the County is directed to address this issue as noted below in Section C. of this certification.

Transfer stations/material recovery facilities are subject to the provisions of N.J.A.C. 7:27-8.2(c)17 which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere.

Finally, if the proposed operation has a "stormwater discharge (or stormwater DSW)", a "process wastewater" discharge and/or discharges a "pollutant" as defined in N.J.A.C. 7:14A-1.2, or includes activities that require a New Jersey Pollutant Discharge Elimination System (NJPDES) Permit as identified in N.J.A.C. 7:14A-2.4, the applicant shall contact the Department's Division of Water Quality to obtain a NJPDES Permit and/or a Treatment Works Approval for discharges prior to operation, if required.

C. Certification of the Middlesex 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 March 18, 2010 amendment to the approved County Plan and certify to the County Freeholders that the March 18, 2010 amendment is approved as further specified below.

The County Plan inclusion of the 986 Jersey Avenue, LLC TS/MRF, to be located on Block 598, Lot 6 at 986 Jersey Avenue in the City of New Brunswick, for the acceptance and processing of up to 1,900 tpd of solid waste types 13 and 13C is approved; however, the County must submit a County Plan amendment, which may be accomplished as per N.J.A.C. 7:26-6.11, to address the deficiency noted in Section B. of this certification within 180 days of the date of this approval.

This certification shall not be construed as an expression of the DEP's intent to issue a SWF Permit for any proposed facility or operation. 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 Middlesex County District Solid Waste Management Plan which was adopted by the Middlesex County Board of Chosen Freeholders on March 18, 2010.

July 14, 2010

Date

Bob Martin, Commissioner
Department of Environmental Protection