

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

**CERTIFICATION
OF THE DECEMBER 19, 2006
AMENDMENT TO THE SOMERSET 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 31, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Somerset 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 Somerset County Board of Chosen Freeholders (County Freeholders) completed such a review and on December 19, 2006 adopted an amendment to its approved County Plan. The December 19, 2006 amendment proposes County Plan inclusion of the County Plan Update in response to the updated Statewide Solid Waste Management Plan.

The amendment was considered administratively complete for review by the Department on January 9, 2007 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 19, 2006 is approved as provided in N.J.S.A. 13:1E-24.

On April 13, 2002, New Jersey Department of Environmental Protection Commissioner Bradley M. Campbell signed Administrative Order No. 2002-10, which requires, among other things, that the Department revise, update and readopt the Statewide Solid Waste Management Plan. On January 3, 2006, New Jersey Department of Environmental Protection Commissioner Lisa P. Jackson formally adopted the updated Statewide Solid Waste Management Plan

The updated Statewide Solid Waste Management Plan reaffirms the state's goal of recycling 50% of the municipal solid waste (MSW) stream. The overall strategy for achieving this ambitious goal starts with a quantification, on a statewide basis, of the increased tonnage of recycled materials needed. This is further calculated on a per county basis, with an analysis of current MSW recycling tonnages by county, and the necessary increases required by each county. The statewide increase needed is also expressed in terms of increased recycling tonnage by material, such as newspaper, corrugated, food waste, etc. Additionally, the plan targets specific classes of generators (schools, multi-family housing complexes, small and medium-sized businesses) that need to be focused on in terms of expanded recycling opportunities for the materials identified.

The state, through this Solid Waste Management Plan update, establishes the overall policy objectives and goals for solid waste management in New Jersey. The counties and the NJMC shall have the responsibility for developing their respective district solid waste management plans consistent with the state's goals and objectives. Therefore, as noted in the State Plan, each district shall, within one year of the adoption of the updated Statewide Solid Waste Management Plan or January 3, 2007, adopt and submit to the Department, an updated district solid waste plan. This district plan update shall demonstrate consistency with the State Plan. Further, the district plans shall reiterate the district plan requirements contained in N.J.S.A. 13:1E-21. Specifically, revised district plan updates shall include, but not be limited to the following components:

- 1) Designation of the department, unit or committee of the county government (or district in the case of the NJMC) to supervise the implementation of the district plan;
- 2) An inventory of the quantity of solid waste generated within the district for the ten-year period commencing with the adoption of updated district solid waste management plan;
- 3) An inventory of all solid waste and recycling facilities (lot and block and street address) including approved waste types and amounts, hours of operation and approved truck routes;
- 4) An outline of the solid waste disposal strategy to be utilized by the district for a ten-year planning period;
- 5) A procedure for the processing of applications for inclusion of solid waste and recycling facilities within the district solid waste management plans. The procedure shall state the

applicant requirements for inclusion into the district plan and the specific county review process/procedures, including time frames for county approvals or rejections and subsequent submittals to the Department. **Note-** the criteria for inclusion shall **not** include a requirement that local zoning or planning board approval(s) be obtained as a condition for inclusion within the district solid waste management plan, nor shall such a requirement be made a condition for subsequent construction or operation of any facility; and

- 6) Identification of the additional tonnage of recycled materials in the MSW stream (by material commodity types) required by each county to meet the mandated MSW recycling goal, a strategy for the attainment of the recycling goals as outlined above. The strategy shall include, as necessary:
 - a) the designation of the currently mandated recyclable materials and additional materials, if any, to be source separated in the residential, commercial and institutional sectors;
 - b) a listing of those entities providing recycling collection, processing and marketing services for each of the designated recyclable materials;
 - c) the communication program to be utilized to inform generators of their source separation and recycling responsibilities;
 - d) a comprehensive enforcement program that identifies the county and/or municipal entity(ies) responsible for enforcement of the recycling mandates, specifies the minimum number of recycling inspections that will be undertaken by these entities on an annual basis and details the penalties to be imposed for non-compliance with the municipal source-separation ordinance and county solid waste management plan. Additionally, the updated district plan shall include copies of each municipal source separation ordinance.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the December 19, 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 issues of concern relative to the December 19, 2006 amendment which are included below.

In conjunction with the review of the amendment, the Department circulated copies to fifteen 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
U.S. Environmental Protection Agency

Elements of the December 19, 2006 Amendment

Element: Designation of County Plan Implementation Agency

The December 19, 2006 amendment to the County Plan does not include the County Plan implementation agency.

Element: Inventory of the Quantity of Solid Waste Generated Within The County for the Next Ten Years

Using solid waste generation data for 2003 and population projection's provided by the Somerset County Planning Board, the County Plan includes the total tonnages of solid waste to be generated within Somerset County in 2010 and 2015 as 653,441 and 676,929, respectively.

Element: Inventory of Solid Waste and Recycling Facilities

The below facilities are identified in the December 19, 2006 amendment to the County Plan as being included in the County Plan.

Solid Waste Facility

- Bridgewater Resources, Inc. Transfer Station/Materials Recovery Facility (BRI TS/MRF) – This facility is located on Block 6101, Lot 3.2 and Block 6103, Lot 1 at 15 Polhemus Lane in the Township of Bridgewater and has a daily maximum capacity of 1,800 tons (with a total weekly capacity of 8,400 tons) of solid waste types 10, 13, 13C, 23, 25, and 27. The December 19, 2006 amendment to the County Plan does not include operating hours for the BRI TS/MRF, but does include truck routes to the facility in the County Plan.

Recycling Centers

Class A Recycling Centers

- M&A Recycling, Inc. Class A Recycling Center – This facility is located on Block 66, Lot 3, at 65 Old Camplain Road in the Township of Hillsborough and has a total capacity of 50 tons per day (tpd) of source-separated metal (steel, iron, copper, aluminum, and brass). The December 19, 2006 amendment to the County Plan does not include operating hours for this facility or any other recycling center in the County Plan.
- Somerset County Class A Recycling Center – This facility is located on Block 6101, Lot 3.03 at 40 Polhemus Lane in the Township of Bridgewater. The December 19, 2006 amendment to the County Plan does not include a capacity for the facility, but notes that acceptable materials include source-separated PET, HDPE, newsprint, cardboard, junk mail, bi-metal, steel, and tin containers, glass, scrap glass, and textiles.

Class B Recycling Centers

- Active Trucking Class B Recycling Center – This facility is located on Block 6101, Lot 3.2, Block 6102, Lot 1, and Block 6103, Lot 1 at 15 Polhemus Lane in the Township of Bridgewater and has a total capacity of 400 tons per day (tpd) of source-separated brick, block, concrete, brush, trees, tree parts, tree stumps, unpainted and untreated wood, and leaves.
- Stavola Construction Materials, Inc. Class B Recycling Center – This facility is located on Block 711, Lots 3, 4, and 6 off of Chimney Rock Road in the Township of Bridgewater and has a total capacity of 3,000 tpd of source-separated concrete and asphalt.
- Trap Rock Industries Class B Recycling Center – This facility is located on Block 1, Lot 2 in the Township of Franklin and has a total capacity of 1,500 tpd of source-separated brick, block, concrete, and asphalt.
- Vollers Excavating and Construction, Inc. Class B Recycling Center – This facility is located on Block 9, Lots 16 and 17.01 in the Township of Branchburg and has a total capacity of 1,573 tpd of source-separated brick, block, concrete, asphalt, and unpainted and untreated wood.
- Weldon Asphalt Company Class B Recycling Center – This facility is located on Block 76.2, Lots 5 and 20 in the Borough of Watchung and has a total capacity of 5,000 tpd of source-separated concrete and asphalt.

Class C Recycling Centers

- Borough of Bernardsville Exempt Class C Recycling Center – This facility is located off of Pill Hill Road in the Borough of Bernardsville and has a total annual capacity of 10,000 cubic yards of source-separated leaves.
- Borough of Somerville Exempt Class C Recycling Center – This facility is located at 25 West End Avenue in the Borough of Somerville and has a total annual capacity of 10,000 cubic yards of source-separated leaves.

- Township of Green Brook Exempt Class C Recycling Center – This facility is located at 111 Greenbrook Road in the Township of Green Brook and has a total annual capacity of 10,000 cubic yards of source-separated leaves.

Class D Recycling Center

- NewTech Recycling, Inc. Class D Recycling Center – This facility is located at 111 Chimney Rock Road in the Township of Bridgewater and has a total capacity of 200 tpd of used consumer electronics.

Element: Solid Waste Disposal Strategy to be Utilized by the County for the Next Ten Years

The December 19, 2006 amendment to the County Plan does not include the disposal strategy to be utilized by the County for the next ten years.

Element: County Plan Inclusion Process

The December 19, 2006 amendment to the County Plan does not include the County Plan inclusion process.

Element: Recycling

In 2003, Somerset County recycled 27.9% of its MSW and 44.4% of its total solid waste (TSW). Using 2003 Department data, Somerset County will have to recycle an additional 68,000 tons of MSW to reach a MSW recycling rate of 50%. Since the release of the updated Statewide Solid Waste Management Plan in early 2006, the Department has determined MSW recycling rates of 27.0% and 26.5% and TSW recycling rates of 44.8% and 48.1% for Somerset County in 2004 and 2005, respectively.

The December 21, 2006 County Plan amendment proposes County Plan inclusion of updates to several sections of the County's recycling strategy, including updated programs, recycling initiatives, source reduction strategies, and enforcement.

Updated Programs – the County through the December 21, 2006 County Plan amendment proposes County Plan inclusion of several new programs which have yet to be included in the Plan. These include recycling programs aimed at increasing the recycling of traditional recyclables and also less traditional recyclables including consumer electronics, tires, antifreeze, used motor oil and oil filters, and propane tanks.

Recycling Initiatives – the County through the December 21, 2006 County Plan amendment proposes County Plan inclusion of: 1) additional designated recyclables and 2) the County's strategy to attain a recycling rate of 50% for MSW as further specified below:

- 1) For the commercial, industrial, institutional, and governmental sectors, used electronics and mercury-containing devices were added as designated recyclables.
- 2) The County's strategy to attain a recycling rate of 50% MSW is to increase the amount of recycling of currently designated recyclables through increased education and enforcement in the residential, commercial, and institutional sectors. In addition, the County will develop guidelines for new multi-family and commercial developments to ensure that they provide adequate space to accommodate recycling.

Designated Recyclable Materials – The following is a listing of the designated recyclable materials for the commercial, industrial, institutional, and governmental sectors:

Aluminum Cans	Mixed Office Paper
Antifreeze	Newspaper
Computer Printout/White Ledger	Plastic Containers
Concrete	Scrap Autos
Consumer Batteries	Steel Cans
Corrugated	Stumps, Logs, and Tree Parts
Glass Containers	Textiles
Heavy Iron	Tires
Lead-Acid Batteries	Used Consumer Electronics
Leaves and Brush	Used Motor Oil
Magazines and Junk Mail	White Goods
Mercury-Containing Devices	Wood Scrap

The December 19, 2006 amendment does not contain the listing of the designated recyclable materials for the residential sector. This deficiency must be corrected in a subsequent plan amendment submission.

Source Reduction Strategies – the County through the December 21, 2006 County Plan amendment proposes County Plan inclusion of the continuance of its two annual backyard composting events, acceptance of mercury-containing devices at its annual household hazardous waste collection days, and educational efforts on the “Cut It and Leave It” Program for grass.

Enforcement – the County through the December 21, 2006 County Plan amendment proposes County Plan inclusion of more frequent recycling compliance inspections at the BRI TS/MRF, construction and demolition sites, convenience stores, and schools.

Although the Department does not question the County's commitment to recycling, the Department's data indicates that Somerset County's MSW and TSW recycling rates are well below the statewide average and the statutory minimum. As a planning aid to the counties, the State constructed and published in the Statewide Solid Waste Management Plan, Table B-1, which highlights the additional tonnage of material each county must recycle in order to reach a MSW recycling rate of 50%. However, the December 19, 2006 amendment to the County Plan does not identify the means by which the County will recycle the additional 68,000 tons of

material, cited in Table B-1, required for the County to reach a 50% MSW recycling rate going forward. For example, although the County offers one of the most comprehensive residential curbside collection services in the State, what body will the County rely on for enforcing the County Plan for commercial generators of solid waste? If the County plans to rely on local enforcement of municipal source-separation ordinances for commercial generators, how will the County ensure that this enforcement is happening?

The updated Statewide Solid Waste Management Plan specifically reads on page A-7, that each solid waste management district shall, as a part of their district plan update, provide a comprehensive enforcement program that identifies the county and/or municipal entity(ies) responsible for enforcement of the recycling mandates, specifies the minimum number of recycling inspections that will be undertaken by these entities on an annual basis and details the penalties to be imposed for non-compliance with the municipal source-separation ordinance and county solid waste management plan. Therefore, the County is directed to address this issue as noted below in Section C. of this certification.

C. Certification of the Somerset 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 19, 2006 amendment to the approved County Plan and certify to the County Freeholders that the December 19, 2006 amendment is approved as further specified below.

The County Plan inclusion of the December 19, 2006 County Plan Update In Response to the updated Statewide Solid Waste Management Plan is approved; however, the County must submit a County Plan amendment to address the deficiencies noted in Section B. of this certification within 180 days of the date of this approval. The County may submit the required amendment as an Administrative Action, pursuant to N.J.A.C. 7:26-6.11 et seq. Please note that the Department is requiring the County to meld the submissions in response to the requirements contained in the State Plan update, as identified above, into one unified document for the purpose of general circulation.

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, with modification, the amendment, as outlined in Section C. of this certification, to the Somerset County District Solid Waste Management Plan which was adopted by the Somerset County Board of Chosen Freeholders on December 19, 2006.

May 23, 2007

Date

Lisa P. Jackson, Commissioner
Department of Environmental Protection