

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

**CERTIFICATION
OF THE DECEMBER, 21, 2006
AMENDMENT TO THE MERCER 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 Mercer 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 Mercer County Board of Chosen Freeholders (County Freeholders) completed such a review and on December 21, 2006 adopted

an amendment to its approved County Plan. The December 21, 2006 amendment proposes County Plan inclusion of the response to the Statewide Solid Waste Management Plan.

The amendment was considered administratively complete for review by the Department on January 10, 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 21, 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 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 6, 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 New Jersey Meadowlands Commission) 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;
- 6) Identify 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 Mercer County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the December 21, 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 December 21, 2006 amendment which are included below.

In conjunction with the review of the amendment, the Department circulated copies to sixteen 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 21, 2006 Amendment

Element: 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.

Solid Waste Facilities

- Mercer County Improvement Authority (MCIA) transfer station- This facility is located on Block 13, Lots 3, 10, 16, 17, and 37 in Ewing Township. This facility is permitted to accept up to 1,099 tons per day, not to exceed 6,000 tons per week, of waste types 10, 13, 23, 25 and 27.
- Mercer Group International transfer station/materials recovery facility- This facility is located on Block 13, Lot 1 at 4 Beakes Street in Ewing Township.
- National Waste Disposal Inc transfer station- This facility is located on Block A-21, Lots 4-8 in Ewing Township.

Recycling Centers

Class A Facilities

- Waste Management/Enterprise Ave- This facility is located on Block 211A, Lot 3 in the City of Trenton.
- Mercer Wrecking- This facility is located on Block 13, Lot 1 in the City of Trenton.
- National Waste- This facility is located on Block 21-01, Lot 8 in Ewing Township.
- Trenton Iron & Metal- This facility is located on Block 23102, Lot 9 in the City of Trenton.
- F & W Scrap Metal Company- This facility is located Block 25001, Lot 2 in the City of Trenton.
- Hamilton Auto Scrap Recycling- This facility is located Block 2147, Lot 8 in Hamilton

Township.

- Scarpati Scrap Metal- This facility is located Block 22001, Lot 4 in the City of Trenton.
- ADDI- This facility is located Block 1104, Lot 4 in Lawrence Township.

Class B Facilities

- Albert E. Barrett/Trap Rock- This facility is located on Block 62, Lot 26 in Hamilton Township.
- Hamilton Ecological- This facility is located on Block 499, Lot 15 in Hamilton Township.
- Mid Jersey Mulch- This facility is located on Block 36.01, Lot 12 in Lawrence Township.
- Mercer Group International- This facility is located on Block 12, Lot 3, Block 13, Lot 1, and Block 20, Lot 1 in Ewing Township.
- J Vinch & Sons- This facility is located on Block 13, Lot 21 in Ewing Township.
- Lawrence Township Ecological- This facility is located on Block 5801, Lot 26 in Lawrence Township.

Class C Facilities

- Lawrence Township Compost- This facility is located on Block 5801, Lot 26 in Lawrence Township.
- Princeton Sewer Operating Compost- This facility is located on Block 1503, Lot 4 in Princeton Township.
- Ewing Township- This facility is located on Block 13, Lots 3, 17, 37 in Ewing Township.
- Hopewell Township- This facility is located on Block 92, Lot 5 in Hopewell Township.
- Hamilton Township- Ecological Compost- This facility is located on Block 2163, Lot 17 in Hamilton Township.
- West Windsor Township Compost- This facility is located on Block 6, Lot 17 in West Windsor Township.
- Princeton University Compost- This facility is located on Block 3, Lot 128 in Princeton Borough.
- Hightstown Compost- This facility is located on Block 7, Lot 41 in Hightstown Borough.
- City of Trenton Compost- This facility is located on Block 12601, Lot 21 in the City of Trenton.

The December 21, 2006 County Plan amendment contains an inventory of solid waste and recycling facilities (lot and block and street address). However, approved waste types, amounts, and hours of operation have not been included. Also, the approved truck route for the MCIA transfer station is the only truck route provided.

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

The August 21, 1997 plan amendment reestablishes waste flow after the May 1, 1997 decision of the United States Court of Appeals for the Third Circuit which declared unconstitutional New Jersey's historic system of solid waste flow control. Currently, solid waste generated in Mercer

County is delivered by collection vehicles to the Mercer County Transfer Station in Ewing Township for processing and disposal. Waste Management, Inc. operates and maintains the facility and provides transfer trailers for transporting waste to the G.R.O.W.S. Landfill in Pennsylvania.

The December 21, 2006 County Plan amendment states that the Mercer County Transfer Station has a current contract with Waste Management for transfer, transportation and disposal that will expire November 30, 2007. The Department notes that the December 21, 2006 does not contain any specifics as to the county's intention on disposal strategy upon the November 30, 2007 expiration date of the Waste Management, Inc. contract. The Department further notes that unless a subsequent plan amendment containing a non-discriminatory bidding process is submitted and approved by the Department prior to November 30, 2007, the county solid waste system will revert to an open market where waste is not subject to waste flow.

Element: District Plan Inclusion Process

Prior to submitting the application to the County for plan inclusion for a recycling center or compost facility, the applicant shall schedule a pre-application conference with the Mercer County Improvement Authority (MCIA) to discuss the submission requirements, the review process, and the plan amendment procedures. This applicant shall have prepared for the pre-application conference the following:

- Site location map;
- Written description of the type of facility;
- Written estimate of the proposed design capacity of the facility;
- Written description of the proposed operations.
- The corporate name, address, and telephone number of the person seeking to own or operate the proposed recycling center;
- The name of the individual serving as a contact person;
- The location of the recycling center, including the lot and block, and the generally recognized address of the site;
- The acreage of the site and/or square footage of the recycling center;
- The zoning of the site;
- A description of the material(s) to be received, stored, processed, or transferred;
- Projected daily capacity in tons by material to be received, stored, processed, or transferred;
- The daily capacity of the recycling center;
- A narrative description of the daily operations;
- A map delineating the actual location of the facility in relationship to the host municipality and neighboring communities;
- A description of the major processing equipment in the recycling center;

Within 30 days of the pre-application conference and receipt of the material above, the MCIA will determine whether the application is administratively complete. An application is administratively complete where it satisfies the information requirements set forth above. Once

the applicant is deemed administratively complete, the MCIA will, within 30 days of receipt of the application issue a letter to the applicant indicating the administrative completeness of the application.

If an applicant fails to meet the criteria for administrative completeness, the MCIA will advise the applicant within 30 days, that the application is incomplete and will specify in writing what additional data, reports, specifications, plans or other information is required for administrative completeness, and a deadline by which such additional shall be submitted. The MCIA shall not make a decision on any application until such time as the applicant has submitted the requested additional information and is deemed administratively complete. Failure to submit the requested additional information as requested shall constitute cause for denial of the application without prejudice. A determination of incompleteness shall stop any review within 30 days.

Once the applicant receives the notice of incompleteness, the applicant shall submit the requested additional information to the MCIA as an addendum to the application approval. Upon receipt of the Addendum, the MCIA shall review the Addendum to determine administrative completeness. Once the MCIA deems the Addendum administratively complete, the technical review process will begin.

Once the application is deemed technically complete, the provision of the Blanket Inclusion policy previously approved and certified shall become effective.

However, the Blanket Inclusion policy as identified in the June 10, 1993 plan amendment states that after the required public notice in the newspaper, if no objections to the site or facility are raised within the 30 day comment period, the site or facility will be considered consistent with the goals and objectives of the County plan and will be considered included in said plan upon adoption of a resolution to that effect by the County Freeholders. However, Mercer County will have to identify to the Department a process for situations when objections, both pertinent and not are submitted as part of this process.

The Department notes that there is no mention of District Plan inclusion process for a solid waste facility or a deadline on the voting of the facility into the County Plan via blanket inclusion process, therefore more information will be required in a subsequent plan amendment submission to correct this deficiency.

Element: Additional tonnage of recycled materials in the MSW stream (by material commodity types) required to meet the mandated MSW recycling goal, and a strategy for the attainment of the recycling goals as outlined above, including, but not limited to: a listing of designated recyclable materials; those entities providing recycling collection, processing and marketing services for each of the designated recyclable materials; the communication program to be utilized to inform generators of their source separation and recycling responsibilities, and a comprehensive enforcement program that identifies the county and/or municipal entity(ies) responsible for enforcement of recycling mandates.

The Designated Recyclables for the residential sectors are as follows:

- Paper, including newspapers, magazines, corrugated cardboard
- Other paper
- Clear, green and amber glass food and beverage containers
- Aluminum food and beverage containers
- P.E.T. beverage and H.D.P.E. beverage and laundry detergent containers
- Tin-plate steel containers
- Bi-metal containers
- Tires
- Vehicle batteries
- White Goods
- Leaves
- Used motor oil
- Ferrous automotive scrap

The Designated Recyclables for the commercial, industrial, and institutional sectors are as follows:

- Paper, including acceptable mixed paper, corrugated cardboard, office paper
- Other paper
- Clear, green and amber glass
- Aluminum food and beverage containers
- Tin-plate steel containers
- Bi-metal food and beverages containers
- P.E.T. and H.D.P.E. containers
- Tires
- Vehicle batteries
- White goods
- Leaves
- Used motor oil
- Ferrous automotive scrap

In section 4.2.1 of the December 21, 2006 County Plan amendment states that initiatives were developed by MCIA to educate Mercer County residents. The submission states that some of the initiatives include:

- Brochures educating residents on which material are recyclable and which are not
- the creation of a Recycling Hotline
- Proactive Enforcement to educate residents on do's and don'ts
- the MCIA has assembled promotional items for America Recycles Day
- MCIA's website contains links to recycling resources.

The Department notes that no specifics are provided on how proactive enforcement to educate residents will be done.

In section 4.2.5 of the December 21, 2006 County Plan amendment states that the MCIA has a

three year contract beginning on March 16, 2004 to March 16, 2007 with Magnus Environmental Corporation for the transfer and recycling of used tires. The Department notes that no specifics are provided on the expiration of the contract.

In Appendix B of the December 21, 2006 County Plan amendment designates the MCIA, a CEHA sub-contractor of the Mercer County Division of Public Health, as the county lead enforcement agency. The Department notes that there is no mention of enforcement coordination, or delineation of activities with the local municipalities and there is no delineation of recycling enforcement activities, or an outline of the enforcement notification procedures that would take place between agencies.

In Section 4 of the Draft Recycling Ordinance in the December 21, 2006 County Plan amendment, Mercer County authorizes MCIA to issue orders to enforce compliance with the Mercer County Recycling Plan and/or the Recycling Ordinance by municipalities, residents, commercial, industrial and institutional establishments, and recyclers, and to assess penalties for violation of the Plan and/or the Ordinance consistent with the sums provided for in N.J.S.A. 13:1E-1 et seq. The Department notes that the Mercer County Plan amendment submission does not identify how the training needs of municipal solid waste officials will be met if or when the Draft Recycling Ordinance is approved.

In Section 6 of the Draft Recycling Ordinance in the December 21, 2006 County Plan amendment states that any resident of any municipality within Mercer County who is found to have violated the provisions of this Ordinance shall be subject to the following procedures and penalties:

- A warning on the first three occasions that said ordinance is violated; and
- Thereafter, a cessation in the collection of garbage which contains recyclable materials from that household; and/or,
- A fine up to \$500.00 per day of violation depending upon the extent of and circumstances of the violation to be assessed by the MCIA, as authorized pursuant to the inclusion of the Ordinance within the Mercer County Solid Waste Management Plan.

The Department notes that the Enforcement Agency should be issuing Notice of Violations and penalties instead of three warnings to the violators.

The Department notes that our figures indicate that Mercer County needs 76,036 additional tons of municipal solid waste (MSW) in order to reach the 50% MSW recycling goal.

C. Certification of the Mercer 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 21, 2006 amendment to the approved County Plan and certify to the County Freeholders that the December 21, 2006 amendment is approved as further specified below.

The District Plan inclusion of the district plan update in response to the updated Statewide Solid Waste Management Plan is approved; however, Mercer County shall submit to the Department within 180 days from the date of this certification a subsequent plan amendment to correct deficiencies as noted in Section B.

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 Mercer County District Solid Waste Management Plan which was adopted by the Mercer County Board of Chosen Freeholders on December 21, 2006.

Date

Lisa P. Jackson, Commissioner
Department of Environmental Protection