

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

**CERTIFICATION
OF THE FEBRUARY 13, 2007
AMENDMENT TO THE CAPE MAY 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 February 4, 1981, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Cape May 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 Cape May County Board of Chosen Freeholders (County Freeholders) completed such a review and on February 13, 2007 adopted an amendment to its approved County Plan. The February 13, 2007 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 February 27, 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 February 13, 2007 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

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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 Cape May County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the February 13, 2007 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 February 13, 2007 amendment which are included below.

In conjunction with the review of the amendment, the Department circulated copies to seventeen 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

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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
New Jersey Pinelands Commission
U.S. Environmental Protection Agency

Elements of the February 13, 2007 Amendment

Element: Designation of County Plan Implementation Agency.

The February 13, 2007 plan amendment reaffirms the designation of the Cape May Utilities Authority as the County agency to supervise the implementation of the County plan.

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

Using Cape May County's actual and projected solid waste and recycling tonnages, the total tonnages of solid waste types 10, 13, 23, 25, and 27 to be generated within the County in the years 2006 through 2016 are estimated at 588,068, 584,032, 581,587, 580,544, 580,644, 585,021, 595,125, 605,059, 614,360, 622,985, 631,819, respectively.

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.

Unless otherwise indicated, the above information has been included in the February 13, 2007 plan amendment.

Solid Waste Facilities

- Cape May County Municipal Utilities Authority Sanitary Landfill (Upper Township and Borough of Woodbine).
- Cape May County Municipal Utilities Authority Transfer Station (Middle Township).

Recycling Centers

Class A Facilities

- Cape May County Intermediate Processing Facility (Borough of Woodbine).

Class B Facilities

- Action Supply, Inc. (Upper Township).
- Cape May County Municipal Utilities Authority (Borough of Woodbine).
- Daley's Pit (Upper Township).
- Future Mining & Recycling, Inc. (Middle Township).
- Garden State Dredging (Lower Township).
- Lower Township Municipal Utilities Authority (Lower Township).

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

The siting of a new solid waste landfill within Cape May County is virtually precluded by the environmentally sensitive geography of the County as well as restrictions of the Pinelands Comprehensive Plan (the Pinelands Plan). The Pinelands Plan also includes limitations on the operation of the CMCMUA's Sanitary Landfill, the only landfill permitted to operate in the Pinelands area. As a result, the acceptance and disposal of solid waste from all out-of-state and most in-state sources is prohibited at the CMCMUA Sanitary Landfill.

The County will not accept waste generated outside of Cape May County for disposal and will continue its intrastate flow control strategy which mandates that all non-recycled solid waste generated within Cape May County, which is not transported out of state for disposal, shall be disposed of at the CMCMUA's Sanitary Landfill or Transfer Station.

Element: District Plan Inclusion Process

Inclusion Process for New/Expanded Solid Waste Facilities

The February 13, 2007 plan amendment prohibits the establishment of any new solid waste facility in Cape May County that would compete with a facility established by the CMCMUA. New and/or expanded solid waste facilities shall be considered for incorporation into the County Plan only when a clear and demonstrated need for such new and/or expanded solid waste facility exists and only if it can be decisively demonstrated that such facility would not compete with any facility established by the CMCMUA pursuant to the County Plan.

The February 13, 2007 plan amendment details the inclusion process that includes:

- Submittal of application package to CMCMUA.
- Application package referred to Planning Department for review.
- Planning Department submits, within ten (10) days, a written report to CMCMUA and SWAC.
- Review and comment from host municipality (host municipality has thirty (30) days to submit comments to CMCMUA).
- Within thirty (30) days CMCMUA will determine if application is administratively complete and in conformance with the requirements of the County Plan.
- If application is administratively incomplete, the CMCMUA will specify in writing the information needed for administrative completeness and a letter of determination of County Plan inconsistency will be forwarded to the applicant to advise that the application will not be considered for County Plan inclusion.
- Applicant has thirty (30) days to appeal the decision. The SWAC shall review such appeal and make determination within three (3) months of the applicant's appeal.
- If the application is deemed administratively complete, and in conformance with the requirements of the County Plan, the CMCMUA shall draft a County Plan amendment for proposed facility within sixty (60) days of such determination.
- Once prepared, the proposed County Plan amendment shall be forwarded by the CMCMUA to the SWAC for its review and consideration.
- The process for considering an application for a proposed recycling facility shall be completed within six (6) months of the determination by the CMCMUA that an administratively complete application was submitted by the applicant.

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. 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:

The February 13, 2007 amendment states that Cape May County's recycling rate for 2004 was 34.1% of the municipal waste stream and 57.7% of the total waste stream. Using 2004 data, Cape May County will need to recycle an additional 19,928 tons of material in order to reach the 50% municipal solid waste recycling rate goal.

The February 13, 2007 plan amendment sets forth a multi-faceted strategy for the attainment of the 50% MSW recycling goal by each municipality as well as expansion of County-wide recycling efforts. These include expansion of the list of designated materials to be recycled; expansion of municipal collection systems to include additional designated materials and provide more recycling opportunities for year-round residents, seasonal visitors, and commercial and institutional establishments; improved recycling record keeping and reporting by commercial establishments and municipalities; improved recycling educational outreach; and, significant expansion of recycling enforcement activities at the municipal level to ensure that year-round residents, seasonal visitors, and commercial and institutional waste generators are source separating and recycling all materials mandated by this plan amendment.

The February 13, 2007 plan amendment indicates that measures intended to increase recycling will result in the achievement of the mandatory recycling goals by 2011.

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

- Paper Products including newspaper (with inserts), magazines, office paper, junk mail, telephone and paperback books, corrugated and Kraft grocery bags. (Shredded junk mail and office paper acceptable).
- Glass food & beverage containers including clear, green and brown containers.
- Metal food & beverage containers including aluminum, bi-metal and steel food and beverage containers, and aerosol cans.
- Plastic bottles and jugs imprinted with PETE or HDPE on the bottom including food, beverage, health, beauty and cleaning products, in containers of 2.5 gallons or less in size. Automotive fluid containers and other bottles, which contained hazardous products, are not included.

- Leaves.

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- Grass Clippings.
- Brush, tree branches, tree stumps, and Christmas trees including all sizes of vegetative or land clearing wastes.
- “White Goods”- ferrous scrap and non-ferrous scrap including refrigerators, air conditioners and other “CFC” containing appliances, washers, dryers, ovens, water heaters, steel metal and piping.
- Wood Pallets including clean untreated, unpainted pallets and crates only.
- Asphalt and concrete.
- Contaminated Soil including fuel contaminated soil, dewatered soil and stone subjected to NJDEP regulatory standards.
- Propane Tanks (must be empty 20 to 30 pound tanks).
- Cooking Grease (from commercial sources only).
- Consumer Electronics including CPU’s, monitors, TV’s, VCR’s, radios and telephones.
- Auto and Truck Bodies
- Tires including worn truck and passenger car tires.
- Used motor oil, kerosene and #2 home heating oil including crankcase oil and other oils that meet market specifications.
- Used oil filters.
- Anti-freeze.
- Lead- acid batteries including motor vehicle, aviation, marine and sealed lead acid batteries.
- Consumer rechargeable NiCad (Nickel-Cadmium) and small sealed lead- acid batteries.

Comprehensive enforcement program that identifies the county and/or municipal entity(ies) responsible for enforcement of recycling mandates

Section VIII of the February 13, 2007 County Plan amendment includes a comprehensive enforcement strategy which includes, among other things:

The timely adoption of a revised mandatory recycling ordinance in each municipality, which shall include the designation of the Cape May County Health Department as an additional entity empowered to enforce the provisions of the municipal recycling ordinance, among the elements to be revised pursuant to this Plan amendment;

The establishment of a minimum number of recycling inspections at the municipal and county levels; and

The review and update of each municipal master plan and the county Comprehensive Plan.

CMCMUA Sanitary Landfill Expansion Plan

Recognizing the need for additional, long-term disposal capacity, the CMCMUA applied to the

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Pinelands Commission for authorization to expand the 93-acre area previously approved for landfilling. On May 1, 2006, the Pinelands Commission adopted an amendment to the Pinelands Plan to provide an additional 74 acres for landfilling. Including the currently permitted capacity, the Sanitary Landfill is projected to provide disposal services for Cape May County until the year 2067.

C. Certification of the Cape May 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 February 13, 2007 amendment to the approved County Plan and certify to the County Freeholders that the February 13, 2007 amendment is approved.

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

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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 Cape May County District Solid Waste Management Plan which was adopted by the Cape May County Board of Chosen Freeholders on February 13, 2007.

Date

Lisa P. Jackson, Commissioner
Department of Environmental Protection