



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Acting Commissioner

CERTIFICATION OF THE JULY 28, 2009 AMENDMENT TO THE ATLANTIC 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 June 24, 1982, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Atlantic County District Solid Waste Management Plan (County Plan).

The Act further provides that a district may review its District Plan at any time and, if found inadequate, a new District Plan must be adopted. The Atlantic County Board of Chosen Freeholders (County Freeholders) completed such a review and on July 28, 2009 adopted an amendment to its approved County Plan. The July 28, 2009 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 September 9, 2009 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 July 28, 2009 is approved in part, modified in part and remanded in part 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, 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) 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 Atlantic County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the July 28, 2009 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 relative to the July 28, 2009 amendment which are included below.

Elements of the July 28, 2009 Amendment

Element: Designation of County Plan Implementation Agency

The Atlantic County Board of Chosen Freeholders designated the Atlantic County Utilities Authority (ACUA) to supervise the implementation of the district plan and is approved.

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

Using Atlantic County's actual and projected solid waste 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 2019 are estimated at 918,292, 926,395, 934,667, 943,014, 951,435, 971,059, 981,022, 991,087, 1,001,256, 1,011,038, 1,020,916, 1,030,890, 1,040,962 respectively.

Element: Inventory of Solid Waste and Recycling Facilities

Solid Waste Facilities

- Atlantic County Utilities Authority (ACUA) Landfill is located on Block 603, Lots 10-13; Block 604, Lots 1&2; Block 605, Lots 1-5 & 17-19; Block 606, Lots 1&2; Block 607, Lots 5-8; Block 701, Lot 10.01; Block 703, Lots 1-8 & 19, and Block 704, Lots 3-9, 6700 Delilah Road in Egg Harbor Township. The ACUA Landfill is included in the County Plan to accept waste types 10, 13, 13C, 23, 25, 27, and 27I. The hours of operation are Monday through Friday, 7:00 a.m. to 4:00 p.m. and Saturday, 7:00 a.m. to 1:00 p.m.

All truck traffic entering the Landfill Complex shall use the designated routes which are: Garden State Parkway, Atlantic City Expressway, State Route 30, State Route 40, U.S. Route 9, County Route 646, which extends from Route 40 East to Route 30 West and has a direct intersection to every designated route exempt Garden State Parkway, County Route 585, County Route 651, County Route 685, County Route 563, and County Route 603, Municipal Doughty Road and Municipal Mill Road.

A solid waste facility permit modification was issued to the landfill on May 20, 2008 for a horizontal expansion which will provide disposal capacity until 2026.

Transfer Stations

- ACUA Transfer Station is located on Block 603, Lots 10-13; Block 604, Lots 1 & 2; Block 605, Lots 1-5 & 17-19; Block 606, Lots 1&2; Block 607, Lots 5-8; Block 701, Lot 10.01; Block 703, Lots 1-8 & 19; and Block 704, Lots 3-9, in Egg Harbor Township, and is included in the County Plan to accept a maximum of 1,950 tons of solid waste per day (TPD) waste types 10, 13, 13C, 23, 25 and 27. The hours of operation are Monday through Friday, 7:00 a.m. to 4:00 p.m. and Saturday, 7:00 a.m. to 1:00 p.m.
- Cifaloglio, Inc. Transfer Station is located on Block 603, Lot 1; Block 607, Lot 1; and Block 608, Lot 1, in Buena Vista Township, and is included in the County Plan to accept a maximum of 95 TPD waste types 10, 13, 13C, and 27. The hours of operation are Monday through Friday, 8:00 a.m. to 5:00 p.m. and Saturday, 8:00 a.m. to 10:00 a.m.

Recycling Centers

Class A Facilities

- ACUA Class A Recycling Facility is located on Block 603, Lots 10-13; Block 604, Lots 1&2; Block 605, Lots 1-5 & 17-19; Block 606, Lots 1&2; Block 607, Lots 5-8; Block 701, Lot 10.01; Block 703, Lots 1-8 & 19; and Block 704, Lots 3-9, in Egg Harbor Township. The hours of operation are Monday through Friday, 7:00 a.m. to 4:00 p.m. and Saturday, 7:00 a.m. to 1:00 p.m. (summer and winter till noon).

Class B Facilities

- A.E. Stone Class B Recycling Facility is located on Block 109, Lots 1 & 19, in Egg Harbor Township, and is included in the County Plan to accept 2,075 TPD of concrete, asphalt, brick and block, brush, and unpainted & non-chemically treated wood. The hours of operation are Monday through Saturday, 7:00 a.m. to 4:00 p.m.
- ACUA Class B Recycling Facility is located on Block 603, Lots 10-13; Block 604, Lots 1&2; Block 605, Lots 1-5 & 17-19; Block 606, Lots 1&2; Block 607, Lots 5-8; Block 701, Lot 10.01; Block 703, Lots 1-8 & 19; and Block 704, Lots 3-9, in Egg Harbor Township, and is included in the County Plan to accept 130 TPD of trees, tree stumps, brush, and unpainted & non-chemically treated wood. The hours of operation are Monday through Friday, 7:00 a.m. to 4:00 p.m. and Saturday, 7:00 a.m. to 1:00 p.m.
- B&J Recycling Class B Recycling Facility is located on Block 1171, Lot 22.01, in Galloway Township, and is included in the County Plan to accept 225 TPD of concrete, asphalt, brick and block, brush, and unpainted & non-chemically treated wood. The hours of operation are Monday through Friday, 7:00 a.m. to 5:00 p.m. and Saturday, 7:00 a.m. to noon.
- Old Cape Recycling Class B Recycling Facility is located on Block 53-B, Lots 3-6, 8, and 21 in Egg Harbor Township, and is included in the County Plan to accept 225 TPD of concrete, asphalt, brick and block, trees, tree stumps, unpainted & non-chemically treated wood, and asphalt based roofing material. The hours of operation are Monday through Friday, 7:00 a.m. to 5:00 p.m. and Saturday, 7:00 a.m. to 4:00 p.m.
- Arawak Paving Class B Recycling Facility is located on Block 68, Lots 3-10, in the town of Hammonton, and is included in the County Plan to accept 707 TPD of concrete and asphalt. The hours of operation are Monday through Friday, 7:00 a.m. to 3:30 p.m. and Saturday, 7:00 a.m. to noon.
- Iaconelli Contracting Class B Recycling Facility is located on Block 190, Lots 14, in the City of Pleasantville, and is included in the County Plan to accept 105 TPD of concrete, asphalt, brick and block, and unpainted & non-chemically treated wood. The hours of operation are Monday through Friday, 7:00 a.m. to 4:00 p.m.
- Penn Jersey Bldg Mats. Class B Recycling Facility is located on Block 2101, Lots 11, in Egg Harbor Township, and is included in the County Plan to accept 455 TPD of concrete, asphalt, brick and block. The hours of operation are Monday through Friday, 7:00 a.m. to 4:30 p.m. and Saturday, 7:00 a.m. to noon.
- Anthony Puggi Class B Recycling Facility is located on Block 3301, Lots 8 and 9, in Egg Harbor Township, and is included in the County Plan to accept 750 TPD of concrete, asphalt, brick and block, trees, tree stumps, tree parts and unpainted & non-chemically treated wood. The hours of operation are Monday through Friday, 7:00 a.m. to 4:30 p.m. and Saturday, 7:00 a.m. to 12:30 p.m.

- L. Ferriozzi Concrete Class B Recycling Facility is located on Block 901, Lots 16, 33, 35-41, in Egg Harbor Township, and is included in the County Plan to accept 248 TPD of concrete and asphalt. The hours of operation are Monday through Friday, 8:00 a.m. to 5:00 p.m. and Saturday, 7:00 a.m. to noon.
- Robert T. Winzinger Inc. Class B Recycling Facility is located on Block 1504, Lots 1-3, in Egg Harbor Township, and is included in the County Plan to accept 72 TPD of concrete, brick and block. The hours of operation are Monday through Saturday, 7:00 a.m. to 5:00 p.m.

Class C Facilities

- ACUA Class C Recycling Facility is located on Block 603, Lots 10-13; Block 604, Lots 1&2; Block 605, Lots 1-5 & 17-19; Block 606, Lots 1&2; Block 607, Lots 5-8; Block 701, Lot 10.01; Block 703, Lots 1-8 & 19; and Block 704, Lots 3-9, in Egg Harbor Township, and is included in the County Plan to accept leaves, grass, and brush. ACUA Class C Recycling Facility is permitted to accept 14,147,690 cubic yards per year.

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

The solid waste disposal strategy as contained in the July 28, 2009 amendment is a market participant strategy which allows delivery of solid waste to any legal solid waste facility and is approved.

Element: County Plan Inclusion Process

The July 28, 2009 County Plan amendment seeks to summarize the County's process to review and act on all requests for inclusion of solid waste facilities and recycling centers in the County Plan.

The Department notes that there is no listing in the July 28, 2009 amendment of the time frame for Board of Chosen Freeholders approval or rejection following the required public hearing for the inclusion of a solid waste facility and/or a recycling facility. Therefore, as noted in Section C of this certification document, Atlantic County is required to submit, in a subsequent plan amendment, a revised District Plan inclusion process for solid waste and recycling facilities which contains a definitive time frame for all elements of the county plan inclusion process.

Additionally, section 2.e. of the "Procedures to Amend the Atlantic County Solid waste management Plan" indicates that "for a Class A recycling facility the applicant shall obtain a site plan review and approval from the host municipality planning and/or zoning board." This requirement is inconsistent with the legally established notion of state preemption of municipal land use regulation in the area of solid waste management generally. The amendment is hereby modified to remove this requirement.

Element: Recycling

In 2007, Atlantic County recycled 25.5% of its municipal solid waste (MSW) and 62.0% of its total solid waste (TSW). Using 2007 Department data, Atlantic County will have to recycle an additional 107,221 tons of MSW to reach a MSW recycling rate of 50%.

The July 28, 2009 County Plan amendment proposes County Plan inclusion of updates to several sections of the County's recycling strategy which entails the following:

- designation of materials that must be recycled and continued identification of materials that have potential for increased recovery;
- continued development of systems for collection and marketing of designated and non-designated recyclable material;
- continued development of services performed by the public and private industry;
- educational efforts to increase public awareness of recycling obligations and opportunities along with source reduction strategies; and,
- continued development and enforcement of municipal recycling programs and procedures to ensure that generators comply with the Mandatory Source-Separation and Recycling Act.

The amendment indicates that measures intended to increase recycling will result in the achievement of the mandatory recycling goals by 2019. This date is well beyond the time frame established in the 1987 Recycling Act. Additionally, though the amendment identifies many strategies to enhance recycling, there is a lack of detail on how these strategies will be implemented, including notification of appropriate generators of new requirements (as appropriate), timeframes for reviewing progress of these strategies, and what, if any follow up will be taken by the appropriate entity as these strategies are implemented, to determine the success of the strategies either individually or collectively. As further noted in Section C. of this certification, the County is directed to provide, in a subsequent submission, a timetable for achievement of these goals in a more timely fashion, a more detailed description of how the County will assist municipal recycling efforts to achieve the 50% MSW recycling goal, and a more detailed description of the implementation of the strategies as identified above..

Designated Recyclable Materials

| | |
|-------------------------------------------------------------|------------------------|
| Paper Products | Brush |
| Clear & Colored Glass Bottles/Containers | Tree Branches |
| Leaves | Tree Stumps |
| Food & Beverage Containers | Grass Clippings |
| Christmas Trees including vegetative & land clearing wastes | Propane Tanks |
| Plastic containers (types 1 and 2) | Consumer Electronics |
| White Goods | Used Motor Oil |
| Asphalt & Concrete | Anti-freeze |
| Chipboard | Lead Acid Batteries |
| Tires | Rechargeable Batteries |

In light of the County's shortfall in meeting the 50% MSW recycling goal, the County is directed to explore the possibility of designating additional materials to increase recycling rates.

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

Under the County Environmental Health Act (CEHA), the Atlantic County Health Department (ACHD) has statutory authority to enforce certain provisions of the Solid Waste Management Act. The ACHD will continue to provide enforcement under its CEHA obligations, which at a minimum shall include:

- Monitor the operation of solid waste facilities;
- Monitor activities of solid waste transporters;
- Identify and prosecute illegal or promiscuous solid waste dumping;
- Investigate solid waste complaints from citizens;
- Monitor solid waste generators for compliance with the Atlantic County Solid Waste Management Plan and NJDEP regulations;
- Monitor solid waste and recycling haulers and transporters for compliance with the State and County laws, regulations, and policies; and,
- Monitor solid waste facilities and recycling centers for compliance with State and County laws, regulations, and policies.

The Division of County Environmental & Waste Enforcement (DCEWE) commented on the Plan's requirements for Municipal Recycling Coordinators to conduct a total of three investigations per year at large solid waste generators and three every other year at smaller generators. The DCEWE's comments specifically note that the Plan proposes that the requirement for Municipal Recycling Coordinators to conduct a total of three investigations per year at large solid waste generators and three every other year at smaller generators is simply not enough to be an effective deterrent to disposal of recyclables in the trash.

The July 28, 2009 plan amendment further requires the operator of a solid waste and/or recycling facility to include certain specific inspection and enforcement actions as part of their SWF permit O&M manual. The DCEWE believes many of these required actions would be impossible to accomplish, i.e., the enforcement of hauling routes and deterring illegal dumping. More importantly, DCEWE believes that only the Department can require actions to be taken as part of a SWF permit's O&M Manual.

The July 28, 2009 plan amendment also states that the ACUA will inspect solid waste loads and issue notices of non-compliance to the user/hauler, and after two notices, a surcharge will be assessed to prevent future violations. The DCEWE states that the ACUA lacks authority to issue any enforcement documents or "surcharges" and can obtain authority through a shared services agreement with the Atlantic County Health Department.

The enforcement strategy as contained in the July 28, 2009 plan amendment remains deficient until the issues noted above have been resolved. Therefore, as noted in Section C of this certification document, Atlantic County is required to submit in a subsequent plan amendment in the timeframe noted below.

C. Certification of the Atlantic 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 July 28, 2009 amendment to the approved County Plan and certify to the County Freeholders that the July 28, 2009 amendment is approved in part, modified in part and remanded in part as further specified below.

The County must submit a County Plan amendment to address the deficiencies noted in Section B. of this certification within 180 days. These deficiencies include:

- A timeline for approval/rejection for the inclusion of solid waste and recycling facilities into the Atlantic County Solid Waste Management Plan (noting the modification of the amendment as specified in Section B of this certification);
- The elements of the Enforcement Strategy as noted by the Division of County Environmental & Waste Enforcement; and,
- A detailed description of how the ACUA will assist municipal recycling efforts to achieve the 50% and 60% recycling goals, a revised timetable for achieving of these goals and a more detailed description of the recycling strategies as described in Section B of this certification.

The County may submit the required amendment as a request for administrative action, pursuant to N.J.A.C. 7:26-6.11 et seq.

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 in part and remand in part the amendment, as outlined in Section C. of this certification, to the Atlantic County District Solid Waste Management Plan which was adopted by the Atlantic County Board of Chosen Freeholders on July 28, 2009.

1/15/10
Date



Mark N. Mauriello, Acting Commissioner
Department of Environmental Protection