

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

**CERTIFICATION
OF THE AUGUST 9, 2005
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 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 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 Atlantic County Board of Chosen Freeholders (County Freeholders) completed such a review and on August 9, 2005, adopted an amendment to its approved County Plan.

The August 9, 2005 amendment proposed an expansion of the Atlantic County Landfill, facility #018001165, located on Block 607, Lots 5, 6, and 8 in Egg Harbor Township. The landfill expansion will include a lateral increase in the footprint of the landfill of about 15 acres and a vertical increase of about 80 feet. The landfill expansion will provide an additional 22 years of life to the landfill to the year 2038.

The amendment was considered administratively complete for review by the Department on September 28, 2005 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 August 9, 2005 is approved as provided in N.J.S.A. 13:1E-24.

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 August 9, 2005 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 August 9, 2005 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 Management Program, DEP
- Office of Local Environmental Management, DEP
- Office of Air Quality Management, DEP
- Green Acres Program, DEP
- Land Use Regulation Program, DEP
- Bureau of Solid Waste Compliance and Enforcement, DEP
- New Jersey Turnpike Authority
- New Jersey Advisory Council on Solid Waste Management
- Pinelands Commission
- Department of Agriculture
- Department of Health and Senior Services
- Department of Transportation
- Department of Community Affairs
- U.S. Environmental Protection Agency

Elements of the August 9, 2005 Amendment

Background

On December 13, 1988, the County Freeholders adopted an amendment which proposed an interim/bypass landfill at the Atlantic County Utilities Authority (ACUA) Environmental Park in Egg Harbor Township. According to the "Interim/Bypass Landfill Siting Study", it was estimated that sufficient disposal would be available at the proposed landfill until January 1, 2013. On May 26, 1989, the Department approved with modification this amendment requiring the submission of a viable bird deterrent plan for the proposed landfill. On July 25, 1989, the County Freeholders adopted a subsequent amendment which outlined a bird deterrent plan for the proposed interim/bypass landfill. On September 5, 1989, the Department rejected the July 25, 1989 amendment due to the determination that the bird deterrent plan (as submitted) was not viable. The Department did, however, state that a limited use landfill may be appropriate for the site. On October 24, 1989 and November 14, 1989, the County Freeholders adopted subsequent amendments which designated a limited use landfill for waste types 13 and 27 (bulky waste and dry industrial waste, respectively) at the ACUA Environmental Park in Egg Harbor Township. The Department approved the limited use landfill designation on April 30, 1990.

On March 8, 1997 and May 8, 1997, the Department received requests, with accompanying documentation, from the ACUA for a research, development, and demonstration (RD&D) project for the night landfilling of municipal (type 10) solid waste at the ACUA limited use landfill. On October 8, 1997, the Department issued to the ACUA a Certificate of Authority to Operate (CAO) a RD&D project at the limited use landfill. The CAO authorized the ACUA to landfill 100 tons per day of municipal waste at night for research purposes to demonstrate that birds will not be attracted to the night activity. On December 16, 1997, the Department issued a subsequent CAO which allowed the ACUA to increase the daily tonnage to 300 tons. Both of these CAO's expired on October 7, 1998. On September 17, 1998, the Department issued another CAO which extends the RD&D project until September 16, 1999 and increases the maximum amount of type 10 solid waste that may be landfilled to 800 tons per day and not to exceed 3,600 tons per week.

On July 30, 1998, the County adopted an amendment which memorialized the above noted RD&D project time extension and tonnage increase. The Department approved this amendment on January 4, 1999.

On July 2, 1999, the Atlantic County Board of Chosen Freeholders adopted an amendment that provided for continued nighttime landfilling of municipal solid waste at the Atlantic County Utilities Authority (ACUA) Landfill in Egg Harbor Township, Atlantic County. This plan amendment was certified as approved with modification on October 21, 1999.

Regulatory Requirements

If any operation of a solid waste facility will discharge pollutants as defined in N.J.A.C. 7:14A et seq., said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

Solid waste facilities are subject to the provisions of N.J.A.C. 7:27-5, “Prohibition of Air Pollution”. This regulation prohibits the release of odors and other air contaminants, which interfere with the enjoyment of life and property.

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 August 9, 2005 amendment to the approved County Plan and certify to the County Freeholders that the August 9, 2005 amendment is approved as further specified below.

The August 9, 2005 amendment proposing an expansion of the Atlantic County Landfill, facility #018001165, located on Block 607, Lots 5, 6, and 8 in Egg Harbor Township is approved. The landfill expansion will include a lateral increase in the footprint of the landfill of about 15 acres and a vertical increase of about 80 feet. The landfill expansion will provide an additional 22 years of life to the landfill to the year 2038.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the DEP and the Attorney General of the State of New Jersey to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

The applicant must apply to the Department for a modification of its existing solid waste facility permit to authorize a capacity expansion and the facility’s continued operation. This certification shall not be construed as an expression of the Department’s intent to issue a solid waste facility permit or permit modification for any proposed facility or operation.

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 Atlantic County District Solid Waste Management Plan which was adopted by the Atlantic County Board of Chosen Freeholders on August 9, 2005.

Date

Bradley M. Campbell, Commissioner
Department of Environmental Protection