

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

**CERTIFICATION  
OF THE DECEMBER 3, 2003  
AMENDMENT TO THE ESSEX 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 August 13, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Essex 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 Essex County Board of Chosen Freeholders (County Freeholders) completed such a review and on December 3, 2003 adopted an amendment to its approved County Plan. The December 3, 2003 amendment proposes County Plan inclusion of the New Jersey Meadowlands Commission (NJMC) Erie Landfill, located in the Township of Lyndhurst, Bergen County, as the County's designated facility for the

disposal of all waste types 13, 23 (non-recycled portion), and 27 (non-processible portion) generated within the County.

The amendment was considered administratively complete for review by the Department on January 22, 2004 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 3, 2003 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the December 3, 2003 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 3, 2003 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
- Division of Compliance and Enforcement, DEP
- Division of Solid and Hazardous Waste, DEP
- Office of Air Quality Management, DEP
- Green Acres Program, DEP
- Land Use Regulation Element, DEP
- New Jersey Turnpike Authority
- New Jersey Advisory Council on Solid Waste Management
- Office of Local Environmental Management
- Department of Agriculture
- Department of Health and Senior Services
- Department of Transportation
- Department of Community Affairs
- U.S. Environmental Protection Agency

## **Elements of the December 3, 2003 Amendment**

### **Element: Erie Landfill History**

The NJMC Erie Landfill, located in Lyndhurst Township, Bergen County, operated during the 1950s and 1960s, accepting municipal, industrial, and construction and demolition waste until closure of the disposal site. An amendment adopted September 22, 1999 by the NJMC Commissioners proposed District Plan inclusion of the reopening of the Erie Landfill. This amendment was certified as approved by the Department on February 7, 2000. Since reopening in November 2002, the Erie Landfill has been receiving solid waste types 13, 13C, 23 except leaves, and 27 from various sources within the State.

### **Element: Non-Discriminatory Procurement Process**

On July 7, 2003, the Essex County Utilities Authority (ECUA) issued bid specifications calling for receipt of bids on August 7, 2003 for the provision of transfer, transportation, and disposal of for solid waste types 13, 23 (non-recycled portion), and 27 (non-processible portion). The request for bids was advertised locally in The Bergen Record, throughout New Jersey through The Star Ledger, and nationally in Waste News. Therefore, this procurement process was open to all bidders, regardless of geographical location. The ECUA received two bids. The NJMC was the low bidder, bidding \$69.00 per ton for disposal for a two-year span.

### **Element: Long-Term Disposal of County's Type 13, 23, and 27 Solid Waste**

The agreement between the NJMC and the ECUA commenced on January 1, 2004 and will terminate on December 31, 2005. Pursuant to N.J.S.A. 13:1E-21, every District's solid waste management plan shall include sufficient available suitable sites to provide solid waste facilities to treat and dispose of the actual and projected amounts of solid waste generated within that District over a 10-year period. As this amendment proposes the inclusion of a contract for disposal with a period substantially less than ten years from the date of this certification, the County will have to negotiate for the disposal of the solid waste types subject of this amendment. Therefore, Essex County shall submit to the Department a plan amendment specifying the arrangements the County has made for the long-term disposal of the solid waste types 13, 23 (non-recycled portion), and 27 (non-processible portion), no later than 180 days from the date of this certification.

## **C. Certification of the Essex 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 3, 2003 amendment to the approved County Plan and certify to the County Freeholders that the December 3, 2003 amendment is approved as further specified below.

The December 3, 2003 amendment proposing County Plan inclusion of the NJMC Erie Landfill, located in the Township of Lyndhurst, as the County's designated facility for the disposal of all waste types 13, 23 (non-recycled portion), and 27 (non-processible portion) generated within the County 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 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 Essex County District Solid Waste Management Plan which was adopted by the Essex County Board of Chosen Freeholders on December 3, 2003.

May 19, 2004

\_\_\_\_\_  
Date

\_\_\_\_\_  
Bradley M. Campbell, Commissioner  
Department of Environmental Protection