



## State of New Jersey

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

MAIL CODE 401-07F  
P.O. Box 402  
Trenton, NJ 08625-0402  
TEL: # (609) 292-2885  
FAX # (609) 292-7695

BOB MARTIN  
*Commissioner*

### CERTIFICATION OF THE APRIL 26, 2011 AMENDMENT TO THE CUMBERLAND 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 May 10, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Cumberland County District Solid Waste Management Plan (County Plan).

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 Cumberland County Board of Chosen Freeholders (County Freeholders) completed such a review and on April 26, 2011 adopted an amendment to its approved County Plan.

The April 26, 2011 amendment proposes County Plan inclusion of the Cumberland County solid Waste Complex (CCSWC), located at 169 Jesse Bridge Road in Deerfield Township, as the designated disposal facility for solid waste types 10, 13, 13C, 23, 25, 27, and 27A generated within Cumberland County and the designation of the Cumberland County Improvement Authority (CCIA) as a County enforcement agent, as per a shared services agreement, in the realm of solid waste management.

The amendment was considered administratively complete for review by the Department on May 18, 2011 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 April 26, 2011 is approved, as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the April 26, 2011 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 April 26, 2011 amendment which are included below.

**Elements of the April 26, 2011 Amendment**

**Element: Solid Waste Flow Control**

The April 26, 2011 amendment proposes County Plan inclusion of the CCSWC, located at 169 Jesse Bridge Road in Deerfield Township, as the designated disposal facility for all solid waste types 10, 13, 13C, 23, 25, 27, and 27A generated within Cumberland County.

The use of permitted material recovery facilities located within the State of New Jersey to remove materials from Cumberland County generated solid wastes for the purpose of recycling or reuse is not a violation of the provisions of the County Plan, provided that the residue (non-recycled recovered materials) resulting from Cumberland County generated solid waste delivered to such material recovery facility is disposed of in accordance with the provision of the Cumberland County Solid Waste Management Plan.

The direct shipment of solid waste from the generating source to an out-of-state disposal facility is permitted under the provisions set forth in the County Plan amendment. However, this exception to the waste flow precludes any solid waste being shipped to a transfer station and then being shipped out-of-state.

The proposed Solid Waste Management Plan Amendment is appropriate under the recent U.S. Supreme Court decision in United Haulers Association v. Oneida Herkimer Solid Waste Management Authority, 550 U.S. 330 (2007). In Oneida Herkimer, a group of haulers challenged county flow control ordinances under the Commerce Clause of the U.S. Constitution; the challenged ordinances directed waste to a facility run by a public authority. As in Oneida Herkimer, the direction of waste to a facility run by a public authority places only an incidental burden on interstate commerce that is outweighed by its public purpose and is thus permissible under the Commerce Clause. The ordinances upheld in Oneida Herkimer are similar in their effect to the proposed amendment to the County Plan.

**Element: Solid Waste Enforcement**

The April 26, 2011 amendment to the County Plan also proposes the County Plan inclusion the designation of the CCIA) as a County enforcement agent, as per a shared services agreement, in the realm of solid waste management.

The CCIA and its staff, through an existing Inter-Local Services Agreement with the Cumberland County Health Department approved by NJDEP will be the designated Solid Waste Enforcement subcontractors for Cumberland County and conduct County Environmental Health Act Responsibilities (New Jersey Statutes Annotated Title 26, Health and Vital Statistics Chapter 3A2, Local Health Services II, County Environmental Health Act, and N.J.A.C. 7:1H, County Environmental Health Standards of Administrative Procedure and Performance.)

**C. Certification of the Cumberland 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 April 26, 2011 amendment to the approved County Plan and certify to the County Freeholders that the April 26, 2011 amendment is approved as further specified below.

The April 26, 2011 amendment proposing County Plan inclusion of the Cumberland County Solid Waste Complex, located at 169 Jesse Bridge Road in Deerfield Township, as the designated disposal facility for solid waste types 10, 13, 13C, 23, 25, 27, and 27A generated within Cumberland County and the designation of the CCCIA as a County enforcement agent, as per a shared services agreement, in the realm of solid waste management 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. 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.

**4. 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.

**5. Effective Date of Amendment**

The approved components of the amendment to the County Plan contained herein shall take effect immediately.

**6. Reservation of Authority**

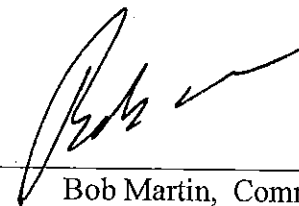
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's 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 Cumberland County District Solid Waste Management Plan, which was adopted by the Cumberland County Board of Chosen Freeholders on April 26, 2011.

7/7/11

Date



Bob Martin, Commissioner  
Department of Environmental Protection

