

AMENDMENT #26
TO THE CUMBERLAND COUNTY
SOLID WASTE MANAGEMENT PLAN



CUMBERLAND COUNTY IMPROVEMENT AUTHORITY
2 NORTH HIGH STREET
MILLVILLE, NEW JERSEY 08332
November 2017

**AMENDMENT NO. 26 TO THE CUMBERLAND COUNTY
SOLID WASTE MANAGEMENT PLAN**



TABLE OF CONTENTS

1.0	INTRODUCTION	2 – 3
2.0	SUMMARY OF CUMBERLAND COUNTY SOLID WASTE MANAGEMENT PLAN	4 – 8
3.0	Purpose and Background	9 – 15
3.1	The Plan	15

1.0 INTRODUCTION

The County of Cumberland proposes to amend the Cumberland County Solid Waste Management Plan (CCSWMP or County Plan) pursuant to the requirements of the New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et. seq.). The New Jersey Solid Waste Management Act (the Act) designates each county in the State and the Hackensack Meadowlands District as solid waste management districts, and provides each county and the Hackensack Meadowlands Development Commission with the authority to develop and implement comprehensive solid waste management plans which meet the needs of every municipality within each county and within the Hackensack Meadowlands District. 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 10 year planning period. The Act further provides that a district may review its plan at anytime and, if found inadequate, adopt a new plan.

The Cumberland County Solid Waste Management Plan was adopted by the Cumberland County Board of Chosen Freeholders on December 13, 1979, and approved with modifications by the Commissioner of the New Jersey Department of Environmental Protection (NJDEP) on March 4, 1981. Since 1981, twenty-five amendments to the SWMP have been adopted by the Board of Chosen Freeholders and twenty-four have been approved by the Commissioner. Amendment No. 24 was approved as an administrative action on October 20, 2016.

The purpose of the twenty-sixth amendment to the Cumberland County Solid Waste Management Plan is as follows:

1. To revise Amendment No. 21, such that from the date of Amendment 26, the Authority's role will be to "actively enforce the provisions of the [Cumberland County Solid Waste Management] County Plan, which requires that all non-recyclable solid waste generated in Cumberland County be disposed of at CCIA's Solid Waste Facility." The subsequent reference to the transport of such waste out-of-state for disposal will be removed from the County Plan.

To insure the broadest possible participation by the general public in this Plan Amendment process, the Cumberland County Board of Chosen Freeholders has scheduled a public hearing on the 28th day, August 2018 at 6:00 P.M. at 164 W. Broad Street, Bridgeton. All

County residents, public officials or organizations interested in Amendment No. 26 to the SWMP are encouraged to attend and offer testimony.

Copies of Plan Amendment No. 26 are available for review at:

- The office of the Cumberland County Improvement Authority, located at 2 North High Street, Millville, NJ.
- The office of the County Clerk, located at 60 West Broad Street, Bridgeton, NJ.
- The Municipal Clerk's office in each of the 14 Cumberland County Municipalities

Inquiries and/or comments concerning this proposed Plan Amendment may be forwarded in writing to:

Cumberland County Board of Chosen Freeholders
164 West Broad Street
Bridgeton, NJ 08302

or

Cumberland County Improvement Authority
2 North High Street
Millville, NJ 08332

2.0 SUMMARY OF CUMBERLAND COUNTY SOLID WASTE MANAGEMENT PLAN

The Cumberland County Solid Waste Management Plan was adopted by the Cumberland County Board of Chosen Freeholders on December 13, 1979, and approved with modifications by the Commissioner of the New Jersey Department of Environmental Protection (NJDEP) on March 4, 1981. The SWMP consists of an integrated approach to solid waste management that includes waste reduction, source separation and recycling, resource recovery, and landfilling.

The original SWMP set forth a process for siting a regional landfill to serve Cumberland County, developing a resource recovery facility to serve the County, and developing recycling programs in each municipality in the County. Furthermore, the plan designated the Cumberland County Improvement Authority (Improvement Authority) as the solid waste implementing agency within the County. In order to further develop the SWMP and meet the requirements of the Solid Waste Management Act and the Mandatory Source Separation and Recycling Act that was passed in 1987, the County prepared several plan amendments that are described below:

Amendment No.	Date of Amendment	NJDEP Approval	Purpose of Amendment
1	July 14, 1983	December 22, 1983*	Prepare background studies and update the Solid Waste Management Plan
2	March 15, 1984	July 30, 1984	Select site for Cumberland County Solid Waste Complex
3	May 8, 1986	October 9, 1986	Leaf and vegetative waste composting policy, interim disposal capacity, transportation analysis and construction debris
4	October 17, 1987	March 9, 1988*	County Recycling Plan
5	October 17, 1987	March 9, 1988*	Resource Recovery Investment Tax (RRIT) disbursement schedule, convenience centers, solid waste contingency plan, existing landfill closures and litter abatement partnership program
6	July 26, 1989	November 27, 1989*	Modifications to Amendment No. 4 and No. 5 as required by NJDEP

Amendment No.	Date of Amendment	NJDEP Approval	Purpose of Amendment
7	December 20, 1989	June 4, 1990	Use of RRIT funds for Material Separating Facility (MSF) and household recycling buckets
8	July 18, 1981	January 3, 1992*	Include recycling centers located in the County, development of a bulky waste recycling facility at the Solid Waste Complex and expand use of RRIT funds for MSF operating costs
9	June 9, 1992	September 18, 1992 November 17, 1992*	Revise RRIT fund disbursement schedule, include additional recycling centers located in the County, address recommendations of NJDEP Emergency Solid Waste Assessment Task Force Final Report and include blanket inclusion policy for recycling centers
10	April 14, 1994	August 15, 1994	Response to Governor's Emergency Solid Waste Assessment Task Force in the areas of recycling, enforcement, education and source reduction Plan for debris disposal from the demolition of the County Manor
11	December 15, 1994	April 27, 1995	Expanding Amendment No. 10, includes procurement practices, household hazardous waste collection program and collection of recyclables Delays construction of bulky waste recycling facility (see Amendment No. 8) and includes a Class "B" recycling center into the County Plan
12	June 22, 1995	August 3, 1995	Inclusion of a Class "B" recycling center into the County Plan
13	April 10, 1997	August 5, 1997	Revise RRIT fund disbursement schedule and deletes construction of bulky waste recycling facility from the County Plan (see Amendment No. 11)
14	January 15, 1998	April 24, 1998	Response to May 1, 1997 decision of the U.S. Court of Appeals for the Third Circuit, which declared unconstitutional New Jersey's historic system of solid waste flow control

Amendment No.	Date of Amendment	NJDEP Approval	Purpose of Amendment
15	May 11, 2000	October 9, 2000	<p>Revised solid waste disposal strategy;</p> <p>Increased the permitted disposal capacity of the Cumberland County Solid Waste Complex (CCSWC) landfill;</p> <p>Added Block 76, Lots 18 and 19 and portions of Lots 2, 3 and 4 in Deerfield Township to the existing permitted CCSWC landfill site to provide additional buffer and storm water detention;</p> <p>Added Kennedy Concrete, INC., in the City of Vineland, as a Class "B" Recycling Center for the recycling of concrete; and</p> <p>Added Federal Disposal, Inc., in the City Vineland, as Class A/Class B Recycling Facility and as a Material Recovery/Solid Waste Transfer Station.</p>
16	August 2003 (Rev. Oct. 2003)	July 13, 2004	<p>Adds: Recyclables Transfer Station; Class "B" Recycling Facility for Tires; Clean Wood Chipping Operation; Leaf Composting Facility; and Permanent Household Hazardous Waste Collection Facility at the Cumberland County Solid Waste Complex.</p> <p>Adds an additional four acres to the Mid Atlantic Recycling Technology, Inc. (MART) facility located at Block 89, Lot 14 in the City of Vineland.</p> <p>Adds an exempt leaf composting facility proposed by the Township of Maurice River to be located on Block 250, lot 5 in Maurice River Township.</p>
17	February 2005	August 10, 2005	<p>Includes Nature's Choice as a Class "B" Recycling Facility located on Block 905, Lots 6 in Upper Deerfield Township for the receipt, storage, processing, and/or transfer of whole trees, tree trunks, tree parts, tree stumps, brush and clean pallets.</p>

Amendment No.	Date of Amendment	NJDEP Approval	Purpose of Amendment
18	November, 2005	April 26, 2006	Includes: a lateral and vertical expansion of the landfill; new commercial convenience center; new access roads, scales and scale house; new equipment storage and maintenance facility; new diesel and gasoline fueling station; modifications to Administration/ maintenance facility to accommodate employee needs; Modifications to Material Separating Facility to house a public education and employee training center; improvements to leachate collection, pretreatment and load-out facilities; Aerobic/anaerobic bioreactor RD&D project. Removes Federal Disposal from the county solid waste management plan.
19	October 25, 2007	April 25, 2008	2007 Update of the Cumberland County Solid Waste Management Plan, in response to the requirements of the Statewide Solid Waste Management Plan Update.
20	April 7, 2008	August 5, 2008	Adds Thompson's Paving, Inc. as a Class "B" Recycling Facility for the receipt, processing and/or transfer of whole trees, tree trunks, tree parts, tree stumps, brush, untreated pallets and untreated wood; and for the receipt, storage, processing and/or transfer of concrete, brick, and block. Provides for the inclusion of Renewable Energy Projects and potential Greenhouse Gas Reduction Projects at the Cumberland County Solid Waste Complex.
21	April 26, 2011	July 7, 2011	Re-institutes solid waste flow control within Cumberland County and designates the Cumberland County Solid Waste Complex as the designated disposal facility for all solid waste types 10, 13, 13C, 23, 25, 27, and 27A generated within Cumberland County.

Amendment No.	Date of Amendment	NJDEP Approval	Purpose of Amendment
22	October 22, 2013	May 8, 2014	Deletion of Casie Ecology Oil Savaqe Inc., Class "D" Recycling Facility (Casie) and Mid-Atlantic Recycling Technology Class "B" Recycling Facility from the Cumberland County Solid Waste Management Plan.
23	December 22, 2015	October 24, 2016	Add a Class "B" Recycling Facility The Cumberland County Solid Waste Complex
24	December 22, 2015	October 20, 2016 (as Administrative Action)	AMP New Jersey, LLC and Energy 3 LLC upgrade existing gasification facility to accept up to 99 tons of solid waste.
25	September 27, 2016	April 10, 2017	To correct Amendment No. 18 (Proposed Lateral and Vertical Expansion of the Landfill) which inadvertently omitted the volume which joins the existing Cells 1 through 6 with the proposed new Cells 7, 8 & 9. The volume that was omitted is equal to 1,351,510 cubic yards. The Authority calls this volume the "Wedge". The "Wedge" volume was inadvertently omitted in initial calculations for both the permit renewal in 2005 and in Amendment No. 18.

* Approved with modifications requested by the Commissioner of NJDEP

3.0 Purpose and Background

In 1970, the New Jersey Legislature enacted the Solid Waste Management Act (SWMA) and the Solid Waste Utility Control Act (SWUCA), creating a comprehensive regulatory framework for the disposal of solid waste in New Jersey. In accordance with those statutes, each county was considered a Solid Waste Management District, responsible for developing and implementing a long-term Solid Waste Management Plan, subject to approval by the New Jersey Department of Environmental Protection (NJDEP).

In response to the (SWMA) and (SWUCA), the Cumberland County Solid Waste Management Plan was developed by Cumberland County and subsequently approved by the New Jersey Department of Environmental Protection on March 04, 1981.

The Cumberland County Solid Waste Management Plan designated the Cumberland County Improvement Authority (CCIA) as the solid waste agency for Cumberland County. The Plan calls for the operation of the CCIA Solid Waste Complex and the implementation of a Regional Recycling Collection Program.

On March 03, 1990, the New Jersey Department of Environmental Protection (NJDEP) and the Board of Public Utilities (BPU) issued an Emergency Redirection Order of Solid Waste Flow that directed all non-recyclable solid waste generated in Cumberland County to the Cumberland County Improvement Authority's Solid Waste Complex. The NJDEP granted the Authority an exclusive franchise within Cumberland County in accordance with the Solid Waste System Revenue Bonds in order to finance the future development of each of the solid waste facilities (the System) listed in the above paragraph. The Rate Covenant required the Authority to collect service charges (tipping fees) in order to fund system operations. In compliance with the Flow Control Covenant, the Authority obtained the legal power to enforce the delivery of non-recyclable solid waste generated in Cumberland County to its System. The Authority has properly managed all solid waste and recyclable materials delivered to the System through the implementation of prudent practices and appropriate technologies.

In response to the BPU and NJDEP directives, the CCIA entered into agreements with various Cumberland County municipalities and private sector entities to pay for the disposal of Cumberland County waste. This system was in place until November 10, 1997, when the United States Supreme Court refused to review the

circuit opinion which found the New Jersey system of waste flow control unconstitutionally discriminated against out-of-state waste disposal facilities. This ruling rendered CCIA agreements ineffective for controlling waste flow and revenue and the CCIA was faced with the opportunity and challenge to enter the competitive solid waste disposal market to capture waste flow as market share. In response, the Authority took the position of a market participant, where the pricing structure of the solid waste facilities was competitive with regional alternatives.

On April 30, 2007, the United States Supreme Court ruled that a local ordinance (Waste Flow Control) that requires the delivery of all solid waste to a publicly owned facility does not violate the Commerce Clause, in a case captioned United Haulers Association v. Oneida Herkimer Solid Waste Management Authority, 550 U.S. 330 (2007). In Oneida Herkimer, a group of haulers challenged ordinance-directed waste to a facility run by a public authority. In Oneida Herkimer, the Supreme Court determined that a waste flow ordinance that directs waste to a facility run by a public authority places only an incidental burden on interstate commerce, which is outweighed by the public purposes of providing publicly owned environmentally safe and sound solid waste disposal facilities. Under such circumstances, waste flow is permissible under the Commerce Clause. The court's decision in Oneida Herkimer has allowed other New Jersey counties to utilize waste flow control to establish financial stability and operate environmentally sound solid waste disposal systems.

As a result of the Oneida Herkimer decision, the Atlantic County Utilities Authority hereinafter the "ACUA", implemented a Flow Control Strategy which became effective on or about September 01, 2010. The result of Atlantic County's implementation of "flow control" was the loss of approximately 43,000 tons of solid waste that had been going to the Cumberland County Solid Waste Complex. This has caused the Cumberland County Improvement Authority's Solid Waste Complex to lose approximately \$2.25 million dollars of annual revenue (23% of total revenue). In addition, an Atlantic County Transfer Station operated by Cifaloglio, Inc. has entered into a contract with the Salem County Improvement Authority's Solid Waste Facility to take Cumberland County solid waste to the Salem County Landfill at a reduced contract rate significantly below Cumberland County's gate rate. This predatory pricing has cost the Cumberland County Solid Waste Complex to lose approximately \$500,000 - \$800,000 in revenue. Accordingly, the CCIA had to reduce expenditures, raise rates, and defease \$22.0 million dollars in bonds in order to meet our current bond coverage ratio and to operate our landfill facility in a more cost effective manner.

Consequently, the Cumberland County Improvement Authority's Board of Commissioners was provided a PowerPoint presentation as to the CCIA's financial condition as of late January 2010. This presentation outlined several necessary steps for the Authority to take to remain financially sound, including the reinstatement of solid waste flow control. Thereafter, the Board of Commissioners adopted a resolution endorsing an Amendment to the Cumberland County Solid Waste Management Plan to move from an open market business strategy to a flow control business strategy. A meeting of the Solid Waste Advisory Council was held and given a presentation that recommended that the Cumberland County Freeholders adopt an Amendment to the Solid Waste Management Plan enacting flow control for all solid waste generated in Cumberland County. On February 28, 2011, the Cumberland County Solid Waste Advisory Council adopted a resolution recommending that the Cumberland County Solid Waste Management Plan be amended to include the Solid Waste Flow Control. On April 26, 2011, the Cumberland County Freeholders unanimously adopted a Flow Control Ordinance and Plan Amendment to the Cumberland County Solid Waste Management Plan (Amendment #21), and the New Jersey Department of Environmental Protection approved Amendment 21 on July 7, 2011.

However, Amendment 21 supplemented Section F of the 2007 Plan Update with the following language regarding the CCIA's enforcement authority:

“The Authority will also actively enforce the provisions of the County Plan which requires that all non-recyclable solid waste generated in Cumberland County be disposed of at CCIA's Solid Waste Facility or transported directly out-of-state for disposal.”

This Amendment 26 revises the language of Section F of the 2007 Plan Update, as amended by Amendment 21, to remove the reference to the CCIA's enforcement authority relating to transporting the subject waste out of state for disposal, and the portion of Section F supplemented by Amendment 21 is revised and restated as follows:

**Section F of the 2007 Plan Update is supplemented with the following enforcement procedures concerning solid waste flow control:
CCIA Enforcement of Solid Waste Regulations and the County Solid Waste Management Plan:**

The Cumberland County Improvement Authority and its staff, through an existing Inter-Local Services Agreement with the Cumberland County Health Department approved by NJDEP are 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). These responsibilities include, but are not limited to conducting inspections, investigations, filing complaints in courts of competent jurisdiction, issuing enforcement documents such as Summonses, Notices of Violations, Notice of Violation Offer of Settlement Penalty Documents, conducting surveillance, interviews, taking statements, etc.

The CCIA's enforcement personnel shall perform the above listed CEHA responsibilities to ensure the compliance with NJDEP's Solid Waste Regulations found at NJSA 13:1 et. seq., N.J.A.C. 7:26-1 et. seq., and NJAC 7:26A-1 et seq. Violations of these solid waste regulations are prosecuted through the Courts of Competent Jurisdiction, the NJDEP, or the County Health Department's Enforcement Program.

The Authority will also actively enforce the provisions of the County Plan which requires that all non-recyclable solid waste generated in Cumberland County be disposed of at CCIA's Solid Waste Facility. The use of any other NJDEP permitted solid waste facility located in the State of New Jersey for disposal of Cumberland County generated solid waste is specifically prohibited. The use of permitted solid waste transfer stations, located within the State of New Jersey, to facilitate the transportation of solid waste generated within Cumberland County to permitted out-of-state disposal facilities is a violation of the provisions of the County Plan and strictly prohibited. Similarly, 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 purposes of recycling or reuse is not a violation of the provisions of the County Plan, provided that the residue (i.e., the non-recyclable / recovered materials) resulting from Cumberland County generated solid waste

delivered to such material recovery facility is disposed of in accordance with the provisions of the Cumberland County Solid Waste Management Plan.

To ensure compliance with these requirements, the CCIA's enforcement staff inspects active construction and demolition sites within the county and performs surveillance of solid waste haulers to monitor the waste disposal locations utilized. All haulers transporting solid waste generated within Cumberland County are responsible for compliance with the solid waste disposal procedures set forth in the County Plan. Accordingly, in the event of any dispute regarding non-compliance, it shall be the responsibility of each generator / hauler to maintain satisfactory documentation to demonstrate compliance with solid waste disposal requirements of the County Plan. Violators of these waste disposal requirements are prosecuted through the Courts of Competent Jurisdiction, the NJDEP, or the County Health Department's Enforcement Program.

The Authority's enforcement staff may assist Municipal Recycling Coordinators and the County Health Department periodically to inspect businesses to ensure that designated recyclables are recovered by the generator prior to final disposal in accordance with the County Plan. Such inspections may typically consist of conducting random recycling audits at commercial and institutional generators located in Cumberland County. To supplement the Authority's inspection of businesses, the CCIA will encourage private solid waste haulers to notify their customers of the requirements to source separate and recycle designated materials. The Authority will also request the assistance of haulers in distributing "informational cards" developed by the CCIA to advise waste generators of the mandatory recycling requirements. Haulers that encounter non-compliant waste generators should seek additional enforcement assistance from the municipality's recycling coordinator or designated code enforcement official. Municipal Recycling Coordinators or other designated recycling enforcement personnel may also utilize the services of the County Health Department to resolve non-compliant issues involving commercial establishments that repeatedly fail to cooperate.

In addition to the enforcement measures described above, the CCIA's staff also assists municipalities and the County Health Department with monitoring the enforcement of other solid waste and recycling activities including, but not limited to:

- Monitoring solid waste transporters for proper NJDEP registration;
- Investigating solid waste complaints received from citizens and the NJDEP

for activities such as illegal dumping of solid waste and unregistered transporters;

- Investigating, with the assistance of Municipal Recycling Coordinators, complaints received for failure of residential, commercial, or institutional waste generators to source separate and recycle designated materials.

3.1 The Plan

Upon Cumberland County Board of Chosen Freeholder's adoption of Plan Amendment 26, and the subsequent certification by the Commissioner of the NJDEP; Amendment 26 would be formally incorporated into the Cumberland County Solid Waste Management Plan.