

## **Chapter 20**

### **Solid Waste**

#### **Part 1**

#### **Municipal Waste Flow**

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**Part 1****Municipal Waste Flow****§20-101. Definitions.**

1. The following terms shall have the following meanings in this Part:

*County* - the County of Lancaster.

*Existing contract* - any agreement or contract fully executed prior to the effective date of this Part for the collection, disposal or transportation of municipal waste generated within this County.

*Facility* - the waste to energy incinerator to be constructed by or on behalf of LCSWMA pursuant to the plan.

*Full system operation or fully operational* - that date which is 60 days from the date upon which the County and other municipalities representing, in the aggregate, not less than 60 percent of the population of the County, as determined by the 1980 Decennial Census of the United States, execute the intermunicipal agreement and enact waste flow ordinances.

*LCSWMA* - the Lancaster County Solid Waste Management Authority, its assigns, its successors in interest, and its predecessor in interest, the Lancaster Area Refuse Authority.

*Participating municipality* - any municipality which is party to the intermunicipal agreement with the County, as described in §20-111 hereof, and has enacted a waste flow ordinance in substantially the same form as this Part.

*Person* - any individual, firm, partnership, corporation, association, cooperative enterprise, trust, municipal authority, Federal institution or agency, State institution or agency, municipality, other governmental agency or any other entity or any group of such persons which is recognized by law as the subject of rights and duties. In any provisions of this Part prescribing a fine, penalty, imprisonment or denial or grant of any license, the term "person" shall include the officers and directors of a corporation or other legal entity having officers and directors.

*Plan* - the municipal waste management plan for the County adopted by the County or municipalities therein and approved by the Pennsylvania Department of Environmental Resources.

*Point of entry into the system* - any delivery site within the system designated by LCSWMA for delivery of regulated municipal waste.

*Recycling* - the collection, separation, recovery and sale or reuse of metals, glass, paper, yard waste and other materials which would otherwise become municipal waste.

*Regulated municipal waste* - any garbage, refuse, industrial lunchroom or office waste, and other material including solid or semisolid material resulting from operation of residential, municipal, commercial, or institutional establishments and from community activities, and any other solid waste which is within the definition "municipal waste" set forth in §103 of the Pennsylvania Solid Waste Management Act ("SWMA"), Act of July 2, 1980, P.L. 380, No. 97, 35 P.S. §6018.103, and which

LCSWMA, the County, or any contractor (“contractor”), selected by the County or LCSWMA to construct and/or operate a resource recovery facility or facilities to be located within the municipal boundaries of the County by ordinance or regulation is willing to accept at the facility but excluding (1) any liquid waste or sludge, (2) any waste which is defined by existing or future Federal or State law or regulation as hazardous waste or residual waste, (3) infectious waste, pathological waste, or other waste for which treatment or handling requirements different from those normally applicable to municipal waste apply, (4) polychlorinated biphenyls, (5) any waste which may be marketable and which is intentionally segregated for purposes of recycling and (6) materials specifically excluded under applicable County or LCSWMA ordinances, rules or regulations.

*Source separation* - the segregation and collection, prior to delivery to a point of entry into the system, of materials for the sole purpose of recycling.

*System* - the overall solid waste management and disposal system and every aspect thereof owned or operated by or on behalf of LCSWMA including, without limitation, equipment, transfer stations, resource recovery facilities, and landfills, owned or operated, or to be acquired, constructed or operated by LCSWMA or any agent, designee or contractor thereof in implementation of the plan.

*Transfer facility* - any solid waste facility which is now or hereafter may be established by LCSWMA or the County for the purpose of accepting solid waste for processing and economical consolidation for subsequent delivery to the facility or other solid waste disposal site.

2. All other words and phrases shall have the same meanings as set forth in the Pennsylvania Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, 35 P.S. §6018.101 *et seq.*, as it may hereinafter be amended or supplemented by legislation regarding municipal waste planning.

(Ord. 354, 1/12/1987, §1)

### **§20-102. Operation by Licensed Collectors.**

1. *Licensing.* No person who is not duly licensed by LCSWMA to deliver waste to the County system may collect or transport municipal waste located or generated within this County. This prohibition shall become effective 120 days from the effective date of this Section of this Part.

2. *Compliance with Rules, Regulations and Ordinances.* In carrying on activities related to solid waste collection or transportation within this County, all municipal waste collectors and all municipal waste transporters shall comply with all rules, regulations and ordinances pertaining to the collection, transportation and disposal of solid waste as may be hereinafter enacted by this County and all rules and regulations enacted by LCSWMA pursuant to authority given it under 53 P.S. §314, as hereafter amended.

3. *Administration.* Licenses hereunder shall be issued, revoked and administered by LCSWMA.

(Ord. 354, 1/12/1987, §2)

### **§20-103. Disposal at Designated Solid Waste Processing or Disposal**

**Facility.**

1. *Delivery to LCSWMA/County Sites.* All municipal waste collectors and transporters shall deliver and dispose of all regulated municipal waste collected or generated within the County at a transfer station or disposal facility owned and operated by or on behalf of LCSWMA, subject to such reasonable regulations for the operation thereof as may be established by the County or LCSWMA.

2. *Disposal at Other Sites.* Disposal of regulated municipal waste collected or generated within the County may occur at other sites only as permitted by rule, regulation, ordinance or order duly issued by the County or by the written agreement of the County, LCSWMA and the participating municipality within which the waste is generated. Disposal of regulated municipal waste at an existing facility from sources reflected on the notice to the County, LCSWMA and the host municipality as provided in §6(c) of this Part shall be permitted.

3. *Recycling.* Nothing herein shall be deemed to prohibit source separation or recycling or to affect any sites at which source separation or recycling may take place. (Ord. 354, 1/12/1987, §3)

**§20-104. Regulations.**

1. *Compliance with County and LCSWMA Regulations.* The collection, transportation and disposal of municipal waste present or generated within the County shall be subject to such further reasonable rules and regulations as may from time to time be adopted by the County Board of Commissioners and such rules and regulations as may be adopted by LCSWMA pursuant to 53 P.S. §314, as hereafter amended. Said rules and regulations shall include, without limitation, regulations governing applications and standards for licensing, fees to be charged for such licensing, the terms of licenses, procedures, record keeping, transportation routes and other matters deemed convenient or necessary.

2. *Consistency of Regulations with Ordinance and Other Laws.* No rules or regulations adopted pursuant to this Part shall be contrary to or less stringent than the provisions of this Part, the plan, any applicable waste flow ordinance adopted by a participating municipality, the Pennsylvania Solid Waste Management Act or regulations adopted thereunder, or such other laws, regulations or requirements as may be enacted by the Commonwealth, the Department of Environmental Resources or the Environmental Quality Board governing municipal waste planning, collection, storage, transportation, processing or disposal.

3. *Time for Initial Adoption of Rules and Regulations.* Initial rules and regulations shall be promulgated hereunder no later than 90 days after the effective date of this section of this Part.

(Ord. 354, 1/12/1987, §4)

**§20-105. Existing Contracts.**

1. *Noninterference with Existing Contracts.* Nothing contained in this Part shall be construed to interfere with or in any way modify the provisions of any existing contract in force in the County on the effective date of this Part.

2. *New Contracts and Renewals of Existing Contracts.* No renewal of any existing

contract upon the expiration of the original term thereof and no new contract for municipal waste collection, transportation, processing or disposal shall be entered into after the effective date of this Part, unless such renewal or such contract shall conform to the requirements of this Part, rules and regulations promulgated thereunder, and the terms of licenses issued thereunder.

(Ord. 354, 1/12/1987, §5)

#### **§20-106. Private Dumps, Transfer Stations and Landfills Prohibited.**

1. *Prohibition of Private Waste Processing and Disposal Facilities.* No person other than LCSWMA, the United States of America, the Commonwealth of Pennsylvania, a county, a municipality, an authority created by the foregoing, or a person acting on behalf of the foregoing shall use or permit to be used any property owned or occupied by that person within the County as a municipal waste processing or disposal facility, either for municipal waste generated within the County or elsewhere, without the express written approval of the County, LCSWMA, and the host municipality if the municipality is a participating municipality.

2. *Recycling.* The prohibition set forth in subsection .1 shall not interfere with the operation of any program for recycling.

3. *Existing Facilities.* The prohibition set forth in subsection .1 shall not interfere with the operation of any solid waste facility which has been issued a solid waste permit before the effective date of this Part, provided:

A. The owner or operator of the facility provides written notice to the County and the host municipality, if that municipality is a participating municipality, of the facility permit number, address, ownership and existing sources of waste no later than 60 days after the effective date of this Part.

B. The facility accepts regulated municipal waste from no sources within the County other than those authorized by the facility's solid waste permit and then being accepted, as reflected on the notice provided the County pursuant to this Section.

C. The facility shall not be expanded in capacity, with the exception of facilities owned or operated by or on behalf of another county, which facilities may expand if such expansion is consistent with a DER approved municipal waste management plan. Nothing herein should be deemed consent by the County to the utilization by another county of a site or facility within the county for purposes of obtaining DER approval of said County's municipal waste management plan.

D. The County or the host municipality may designate LCSWMA or another authority or agency as the entity which will receive notice pursuant to this Section. Such designation shall occur on or before the effective date of this Part.

(Ord. 354, 1/12/1987, §6)

#### **§20-107. Unlawful Activities; Nuisance.**

1. *Unlawful Conduct.* It shall be unlawful for any person to:

A. Accumulate or cause to be accumulated municipal waste in an amount greater than 20 tons, other than waste which has been source separated for the purpose of recycling.

B. Violate, cause or assist in the violation of any provision of this Part, any rule, regulation or order promulgated hereunder, or any rule, regulation or order promulgated by the County consistent with this Part.

C. Process, treat, transfer or dispose of or cause to be processed, treated, transferred or, disposed of regulated municipal waste generated within the County at any solid waste facility other than a solid waste facility owned or operated by or on behalf of the County or LCSWMA or at an existing solid waste facility as permitted by §6(c) of this Part, without the express written consent of the municipality within which the facility is located, the County, and LCSWMA.

D. Collect municipal waste present or generated within the County without a valid license for disposal issued by LCSWMA.

E. Hinder, obstruct, prevent or interfere with the County, LCSWMA or their personnel in the performance of any duty under this Part or in the enforcement of this Part.

F. Act in a manner that is contrary to the Pennsylvania Solid Waste Management Act, regulations promulgated thereunder, the plan, this Part, any applicable municipal waste flow ordinance, rules or regulations promulgated thereunder, or the terms of licenses issued thereunder.

2. *Public Nuisance.* Any unlawful conduct set forth in subsection .1 hereof shall constitute a public nuisance.

(*Ord. 354, 1/12/1987, §7*)

#### **§20-108. Penalties.**

Any person who engages in unlawful conduct as defined in this Part shall, upon conviction thereof, in a summary proceeding before a magisterial district judge, be sentenced to pay a fine of not more than \$300 and not less than \$150, and, in default of payment thereof, shall be committed to the County jail for a period not exceeding 30 days. Each continuing day of violation of this Part shall constitute a separate offense.

(*Ord. 354, 1/12/1987, §8; as amended by Ord. 00037, 10/8/2007*)

#### **§20-109. Revocation of License.**

Upon finding that any person has engaged in unlawful conduct as defined in this Part, (A) LCSWMA, the County, or a participating municipality with a waste flow ordinance may revoke any license issued by LCSWMA to that person in accordance with §20-102 of this Part and (B) LCSWMA may deny any subsequent application by that person for a license pursuant to §20-102 hereof.

(*Ord. 354, 1/12/1987, §9*)

#### **§20-110. Injunctions; Concurrent Remedies.**

1. *Restraining Violations.* In addition to any other remedy provided in this Part, the County, LCSWMA or a participating municipality with a waste flow ordinance may institute a suit in equity where unlawful conduct or public nuisance exists as defined in this Part for an injunction to restrain a violation of this Part or rules, regulations, orders or the terms of licenses promulgated or issued pursuant to this Part. In addition to an injunction, the court may impose penalties as authorized by §20-108 hereof and

revoke any licenses as authorized by §20-109 hereof.

2. *Concurrent Remedies.* The penalties and remedies prescribed by this Part shall be deemed concurrent. The existence or exercise of any remedy shall not prevent the County, LCSWMA or any participating municipality from exercising any other remedy provided by this Part or otherwise provided at law or equity.

(Ord. 354, 1/12/1987, §10)

### **§20-111. Intermunicipal Agreement.**

1. *Entry into Intermunicipal Agreement.* In order to implement the intent and terms of this Part, this County pursuant to the authority of the Intergovernmental Cooperation Act, Act of July 12, 1972, No. 180, 53 P.S. §§481 to 490 and Article IX, §5, of the Constitution of the Commonwealth of Pennsylvania, hereby enters into the intermunicipal joint cooperation agreement between this County and municipalities within the County of Lancaster, which is attached hereto as Exhibit A and incorporated herein, together with such changes consistent with this Part, if any, as may be approved by the officials of the parties executing the same, such execution to be conclusive evidence of such approval (“intermunicipal agreement”).

2. *Terms and Implementation of Intermunicipal Agreement.* As more fully set forth in the intermunicipal agreement and this Part:

A. *Conditions and Terms of Agreement.* In the agreement:

(1) The County agrees (a) to arrange for the provision of municipal waste disposal facilities for the economical and environmentally sound disposal of municipal waste generated within the participating municipalities, (b) to coordinate recycling activities and marketing and (c) to assure continuing municipal waste planning for the County and all participating municipalities by entering into an agreement with LCSWMA.

(2) The County and the participating municipalities representing, in the aggregate, not less than, 60 percent of the population of the County, each agree to enact a waste flow ordinance in a form substantially similar to this Part and to assure otherwise that all acceptable municipal waste be delivered to the County system.

(3) The County agrees (a) to enact rules and regulations, (b) to cause LCSWMA to enact additional rules and regulations and to administer a licensing program, and (c) to enforce this Part and parallel municipal waste flow ordinances.

(4) The County agrees to assure reasonable and uniform solid waste disposal fees for residents of the participating municipalities.

(5) The parties agree to cooperate in the joint enforcement of the intermunicipal agreement and all ordinances enacted pursuant to the intermunicipal agreement and the participating municipalities thereby agree cooperatively to exercise, to delegate to the County, and to allow delegation of such powers, duties and responsibilities as set forth in the intermunicipal agreement.

B. *Duration of Term of the Agreement.* The term of the intermunicipal agreement shall commence upon the date on which the County and municipalities

representing at least 60 percent of the population of the County have executed the intermunicipal agreement and shall terminate 40 years following that date, unless terminated earlier for cause.

C. *Purpose and Objectives of Agreement.* The purpose of the intermunicipal agreement is to provide a mechanism (1) to finance, to construct and to operate a municipal waste disposal system to serve the County and the municipalities within the County, (2) to administer a countywide recycling program, and (3) to provide continuing municipal waste planning, as more fully set forth in the recitals to the intermunicipal agreement and this Part.

D. *Manner and Extent of Financing the Agreement.* Enforcement of this Part shall be financed by the County's general revenues, except insofar as any participating municipality elects to enforce this Part; administration of this Part, the recycling program, and planning shall be financed by LCSWMA with revenues received from operation of the County system; and construction and operation of the County system shall be financed by debt instruments issued by LCSWMA and by operating revenues.

E. *Organizational Structure Necessary to Implement the Agreement.* LCSWMA shall be formed from LARA by amendment of LARA's Articles of Incorporation; LCSWMA shall (1) construct and operate or arrange for the construction and operation of the County system and (2) administer this Part and waste flow ordinances adopted by participating municipalities pursuant to the intermunicipal agreement; and the County and each participating municipality shall enforce said waste flow ordinances with assistance from LCSWMA.

F. *Management and Acquisition of Property.* All property within the County system shall be acquired, managed and disposed of by LCSWMA, in accordance with its separate agreement with the County and the powers and duties imposed upon LCSWMA by law.

3. *Execution.* Appropriate officers of the County are authorized and directed to execute the intermunicipal agreement on behalf of the County.

(Ord. 354, 1/12/1987, §11)

#### **§20-112. County/LCSWMA Operations and Charges.**

The solid waste processing and disposal facilities proposed by the plan shall be operated efficiently and economically by LCSWMA in accordance with all applicable laws and regulations. All charges for solid waste processing or disposal within the system shall be reasonable and uniform among all classes of the users of the plant or plants from participating municipalities which execute the intermunicipal agreement within 90 days of the date upon which DER grants preliminary approval to the plan, provided, however, that different fees may be charged for different categories of waste and for different points of entry into the system. Charges for disposal of solid waste generated outside of the County shall be at least \$2 per ton greater than for waste generated within a participating municipality. Charges for disposal of solid waste generated within the County but not within a participating municipality which executed the intermunicipal agreement within 90 days of the date upon which DER grants preliminary approval to the plan may be the greater of \$1 per ton greater than for solid waste generated within a participating municipality or an amount sufficient

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to compensate LCSWMA for any additional costs (administrative, engineering or construction) incurred or to be incurred as a result of the municipality not executing the intermunicipal agreement within 90 days of DER granting preliminary approval to the plan, provided, however, that the municipality may pay this amount as a lump sum.

(*Ord. 354, 1/12/1987, §12*)

**§20-113. Construction.**

The terms and provisions of this Part are to be liberally construed, so as best to achieve and to effectuate the goals and purposes hereof. This Part shall be construed in pari materia with the Act of July 7, 1980, P.L. 380, No. 97, known as the Solid Waste Management Act, 35 P.S. §6018.101 *et seq.*

(*Ord. 354, 1/12/1987, §13*)