

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

**CERTIFICATION
OF THE OCTOBER 21, 2004
AMENDMENT TO THE MIDDLESEX 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 July 28, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Middlesex 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 Middlesex County Board of Chosen Freeholders (County Freeholders) completed such a review and on October 21, 2004 adopted an amendment to its approved County Plan.

The October 21, 2004 amendment proposes County Plan inclusion of the Mining Organics Management, LLC Class C recycling center located at Block 51, Lot 1 (with access located on Block 51, Lot 2B), with a street address of 75 Crows Mill Road, Keasbey (Woodbridge Township).

The amendment was considered administratively complete for review by the Department on October 29, 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 October 21, 2004 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the October 21, 2004 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 October 21, 2004 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
- Office of Local Environmental Management, DEP
- Green Acres Program, DEP
- Land Use Regulation Element, DEP
- New Jersey Turnpike Authority
- New Jersey Advisory Council on Solid Waste 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 October 21, 2004 Amendment

Background

The Mining Organics Management, LLC Class C recycling center would be allowed to accept up to 500 tons per day of source separated food waste. The food waste would be processed in-vessel to produce an organic fertilizer/supplement. All operations would occur indoors, with an odor control system in place. The hours of operation would be Monday through Saturday 12 a.m. to 5 p.m. for acceptance; and, Monday through Sunday 24 hours per day for processing.

Comments by the New Jersey Department of Agriculture

The New Jersey Department of Agriculture (NJDA) has two concerns regarding the proposed facility. The first involves a contingency plan for facilities that handle food waste in the event that their processing or handling capabilities are compromised. This is important because facilities such as Mining Organics Management, LLC generally have contractual obligations to take delivery of source separated food waste from generators even if they are not processing. In the past, when facilities that accept source separated food waste had to cease operations, the food waste was redirected to livestock operations for use as livestock feed.

The NJDA noted that terrorist attacks across the nation have increased the importance of biosecurity measures and the need for a plan of defense against possible biological attacks on our food supply. With the risk of disease always present, the NJDA requests support from other government agencies to minimize New Jersey's agriculture risk by creating a system to ensure feed ingredients, including food waste, are not contaminated. The NJDA's Division of Animal Health maintains disease control programs to protect the health and well being of livestock in New Jersey. And, as such, the NJDA requests that Mining Organics, LLC should include in their plan of operations a contingency measure to contact the NJDA's Division of Animal Health in the event they propose to redirect food waste for use as livestock feed.

The second concern involves the United States Department of Agriculture (USDA) organic certification and NJDA licensing of the facility. A USDA-accredited certification agency must certify that the material to be marketed as an organic fertilizer is produced in accordance with the Organic Foods Production Act of 1990, as amended (7U.S.C. 6501 et seq.). In addition, the NJDA requires the registration and licensing of manufacturers or distributors of commercial fertilizers and soil conditioners (N.J.S.A. 4:9-15.1 et seq.). The end product from Mining Organics Management, LLC must be a marketable commodity, it must be certified organic and the NJDA must issue a license. Failure to do so will render the fertilizer unmarketable resulting in a stockpiled surplus, which will inevitably become a solid waste. The NJDA recommends that Mining Organics Management, LLC should include a provision in their plan to address USDA organic certification and securing a NJDA license.

Within Section C. of this certification, the Department is requiring that any recycling center general approval application submitted by Mining Organics Management, LLC, be forwarded to

the NJDA for review and comment to ensure that the issues raised by the NJDA are addressed.

Rules and Regulations

If any operation of a recycling center 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.

Recycling centers 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 Middlesex 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 October 21, 2004 amendment to the approved County Plan, and certify to the County Freeholders that the October 21, 2004 amendment is approved as further specified below.

The County Plan inclusion of the Mining Organics Management, LLC Class C recycling center located at Block 51, Lot 1 (with access located on Block 51, Lot 2B), with a street address of 75 Crows Mill Road, Keasbey (Woodbridge Township) is approved. The facility will accept up to 500 tons per day of source separated food waste. The food waste will be processed in-vessel to produce an organic fertilizer/supplement. All operations will occur indoors, with an odor control system in place. The hours of operation will be Monday through Saturday 12 a.m. to 5 p.m. for acceptance; and, Monday through Sunday 24 hours per day for processing.

This certification shall not be construed as an expression of the Department's intent to issue a recycling center approval to any recycling center for Class C materials. A recycling center approval shall only be issued where the applicant has submitted an administratively complete application, as per N.J.A.C. 7:26A-3.5, where all the substantive criteria for approval set forth in N.J.A.C. 7:26A-3.2, 3.3, and 3.4 are satisfied, where a fee has been paid in accordance with N.J.A.C. 7:26A-2, and where none of the criteria for denial of a recycling center approval are met, as per N.J.A.C. 7:26A-3.12.

Further, as noted in Section B. of this certification, any recycling center general approval application submitted by Mining Organics Management, LLC, be forwarded to the NJDA for review and comment to ensure that the issues raised by the NJDA are addressed.

Pursuant to N.J.A.C. 7:26A-4.1(a)1.iii., Class C recyclable materials may be commingled only with other Class C recyclable materials and only to the extent authorized in the Department's general approval.

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, 13C, 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 Middlesex County District Solid Waste Management Plan which was adopted by the Middlesex County Board of Chosen Freeholders on October 21, 2004.

January 30, 2005

Date

Bradley M. Campbell, Commissioner
Department of Environmental Protection