



State of New Jersey

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CERTIFICATION OF THE MARCH 15, 2012 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 known as the New Jersey Meadowlands Commission or NJMC) develop comprehensive plans for waste management in their respective districts. On July 29, 1980 the Department of Environmental Protection (Department or DEP) approved the Middlesex 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 Middlesex County Board of Chosen Freeholders (County Freeholders) completed such a review and on March 15, 2012 adopted an amendment to its approved County Plan.

The March 15, 2012 amendment proposes County Plan inclusion of the Soil Safe, Inc. Class B Recycling Center, to be located on Block 10, Lots 10 and 16 – 21 and Block 11.01, Lots 8, 10, 14, and 16 at Terminus of Driftway Street in the Borough of Carteret, for the receipt of a maximum of 7,000 tons per day (tpd) of concrete, asphalt, brick, block, and petroleum-contaminated soil.

The amendment was considered administratively complete for review by the Department on April 15, 2012 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 March 15, 2012 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 March 15, 2012 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 of the March 15, 2012 amendment which are included below.

Elements of the March 15, 2012 Amendment

Element: Facility Operations

The March 15, 2012 amendment to the County Plan proposes County Plan inclusion of the Soil Safe, Inc. Class B Recycling Center, to be located on Block 10, Lots 10 and 16 – 21 and Block 11.01, Lots 8, 10, 14 and 16 at Terminus of Driftway Street in the Borough of Carteret. The March 15, 2012 County Plan amendment proposes that the subject recycling center and site be included in the County Plan for the receipt of a maximum of 7,000 tpd of concrete, asphalt, brick, block, and petroleum-contaminated soil and identifies the facility's operating schedule as 24 hours per day, Monday through Sunday with the exception that "[c]rushing and product placement shall not occur between the hours of 11pm to 7am."

It must be noted that there are several references made within the March 15, 2012 plan amendment, including transcribed statements made by a representative of Soil Safe, Inc. during the March 7, 2012 public hearing, that read that the proposed recycling center will be operated for a limited period corresponding to the length of time required to cap the subject site and that the end market for the recyclable materials "[e]xcept for a very small amount of recycled scrap metal and non-processible materials that are gleaned from the incoming soil" received at the recycling center will be limited to the subject site. It is therefore the Department's position that any proposal by Soil Safe, Inc. to alter the limited nature of the recycling center or the above noted end market for the resulting product would require County Plan inclusion of a new recycling center pursuant to the plan amendment process as per N.J.A.C. 7:26-6.10 and the issuance of a new Class B Recycling Center General Approval as per N.J.A.C. 7:26A-3.1 et seq.

Element: Regulatory Requirements

The owner or operator of a Class B recycling center must obtain a Class B Recycling Center General Approval prior to commencement of regulated recycling activities and shall also follow all pertinent regulations found at N.J.A.C. 7:26A-3.1 et seq. and the design and operational standards at N.J.A.C. 7:26A-4.1.

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. In addition, the owner or operator of a recycling center may require an air quality preconstruction permit and operating certificate pursuant to N.J.A.C. 7:27-8.2(c), dependent upon the equipment and type of operations conducted at the facility.

The construction of the Class B Recycling Center is subject to the Administrative Requirements for the Remediation of Contaminated Sites at N.J.A.C. 7:26C as a modification of the Remedial Action at the site. A Licensed Site Remediation Professional (LSRP) must be retained and comply with all applicable rules and guidelines for conducting the remediation including, but not limited to, N.J.A.C. 7:26C and N.J.A.C. 7:26E. Before construction begins, the LSRP must prepare a Remedial Action Work Plan (RAWP) that includes the proposed facility as part of the engineering controls at the site. Also, the Site Remediation Program (SRP) understands that in this matter, the intent is to use product generated at the Class B recycling center as alternative fill to both alter elevations at the site and act as a final capping material. The RAWP must include the use of this material and any use of fill materials on the site must comply with the “Alternative and Clean Fill Guidance for SRP Sites.” All regulations and guidance documents are available on the SRP website at <http://www.nj.gov/dep/srp/>.

Finally, if any operation of a recycling center will discharge pollutants as defined in N.J.A.C. 7:14-1.2, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

Additional Element of the Middlesex County District Solid Waste Management Plan**Element: Municipal Solid Waste (MSW) Recycling in Middlesex County**

On December 21, 2006, the Middlesex County Board of Chosen Freeholders adopted an amendment to the County Plan which, among other things, included specific strategies for achieving the State’s statutorily-mandated minimum MSW recycling rate of 50%. This amendment to the County Plan was certified as approved by the Department on May 17, 2007.

The most recent recycling data compiled by the State shows that in 2010, 40.3% of Middlesex County MSW was recycled. Using 2010 Department data, Middlesex County will have to recycle an additional 89,900 tons of MSW to reach a MSW recycling rate of 50%.

In this regard, the County is reminded that the Department adopted an Update to the Statewide Solid Waste Management Plan in 2006, which set forth, among other things, a framework for the counties in assessing various strategies to be employed to achieve the statutorily-mandated recycling goals and, although the state does not prescribe specific actions to be taken, the Department strongly recommends that the County, at a minimum:

- 1) Assess compliance with the requirements of the County recycling plan within the institutional sector, including public and private schools, government buildings, recreational facilities and other public locations within the county. This assessment should include what specific actions the County will take if a school board or government body refuses to follow recycling mandates; and,
- 2) Coordinate with appropriate municipal authorities for increased compliance and enforcement inspections at commercial establishments, where quantities of designated recyclables (especially corrugated cardboard and various grades of paper) may be present; and,
- 3) Coordinate with each municipality in the County that in 2010 had an MSW recycling rate of 25% or less and develop strategies to increase their respective recycling rates by at least 25% by the end of calendar year 2013, and prepare plans to implement those strategies.

It should also be noted that, relative to the above, the Department is available to assist the County in developing appropriate recycling compliance and other strategies to achieve mandated recycling goals. Finally, in order to assess progress by the County in achieving the state's mandated recycling goals, the county is directed to submit, beginning on January 1, 2013 and every six months thereafter, a report detailing actions taken, and specific results achieved, until such time as the Department determines that the County has achieved these goals.

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 March 15, 2012 amendment to the approved County Plan and certify to the County Freeholders that the March 15, 2012 amendment is approved as further specified below.

The County Plan inclusion of the Soil Safe, Inc. Class B Recycling Center, to be located on Block 10, Lots 10 and 16 – 21 and Block 11.01, Lots 8, 10, 14 and 16 at Terminus of Driftway Street in the Borough of Carteret, for the receipt of a maximum of 7,000 tpd of concrete, asphalt, brick, block, and petroleum-contaminant soil is approved.

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 B 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.

D. Other Provisions Affecting the Plan Amendment

1. Compliance

All solid waste facility operators and transporters registered with the Department and operating within the District 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.

2. 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.

3. 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.

4. Effective Date of Amendment

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

5. 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 County 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 March 15, 2012.

August 22, 2012

Date

Bob Martin, Commissioner
Department of Environmental Protection