

State of New Jersey

Christine Todd Whitman
Governor

Department of Environmental Protection

Robert C. Shinn, Jr.

Commissioner

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

S CERTIFICATION
OF THE MARCH 20, 1995
AMENDMENT TO THE ATLANTIC 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 develop comprehensive plans for waste management in their respective districts. On June 24, 1982, the Department of Environmental Protection (Department or DEP) approved with modifications the Atlantic 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, which sites may be in the district or, if none are available, in another district. (The Act provides procedures for reaching any necessary interdistrict agreements.)

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 Atlantic County Board of Chosen Freeholders (County Freeholders) completed such a review and on March 20, 1995 adopted an amendment to its approved County Plan.

As adopted, the March 20, 1995 amendment proposed inclusion of: additional Class B materials for acceptance at the existing Tony Canale, Inc. recycling center located in Egg Harbor Township; additional property to the existing A.E. Stone recycling center for Class B materials located in the City of Pleasantville; and Iaconelli Contracting Co., Inc. located in the City of Pleasantville as a recycling center for Class B materials.

The amendment was received by the Department on April 11, 1995 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 20, 1994 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the March 20, 1995 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 this plan 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 March 20, 1995 amendment which are included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to sixteen federal and state 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 Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Solid and Hazardous Waste, DEP
Division of Enforcement, DEP
Division of Water Quality, DEP
Office of Air Quality 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

Department of Transportation Department of Community Affairs Pinelands Commission U.S. Environmental Protection Agency

1. Agency Participation in the Review of the March 20, 1995 Amendment

The following agencies did not object to the proposed amendment:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Enforcement, DEP
Land Use Regulation Element, DEP
Department of Agriculture
Department of Transportation
Department of Community Affairs
Pinelands Commission
New Jersey Advisory Council on Solid Waste Management

The following agencies did not respond to our requests for comment:

Office of Air Quality Management, DEP Green Acres Program, DEP New Jersey Turnpike Authority Department of Health U.S. Environmental Protection Agency

The following agencies provided substantive comments as shown in Section B. of the certification document:

Division of Water Quality, DEP Division of Solid and Hazardous Waste, DEP

2. Issues of Concern Regarding the March 20, 1995 Amendment

Issue: Acceptance of Chemically Treated Wood

On December 29, 1993, the Department issued a "Decision on Request for Interpretation in the Matter of Managing Chemically Treated Wood Scrap through Incineration and Energy Recovery." This policy specified that chemically treated wood is exempt from the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26-6) if it is destined for incineration with resource recovery, the incinerator is authorized to accept wood as a fuel by the state in which it is located, the material is transported by a DEP licensed solid waste transporter and is accompanied by a DEP approved waste origin/waste disposal form. Therefore, if the outlet for the chemically treated wood to be accepted at the Tony Canale, Inc. recycling center is a power generating incinerator, the above noted conditions must be followed. If, however, bonafide recycling markets are identified for the chemically treated wood,

transportation need not be via a DEP licensed solid waste transporter. Regardless of the final end use, the applicant may only accept chemically treated wood for transferring purposes and may not engage in any on-site processing. The acceptance and use/marketing of chemically treated wood by Tony Canale, Inc. will be further addressed during the DEP's technical review of modifying the existing Canale Class B recycling center approval to accept more materials.

Issue: Acceptance of Asphalt Shingles

The amendment indicates that Tony Canale, Inc., upon receipt of asphalt shingles, will remove nails and other scrap metal and then grind the shingles into particles which can be used for athletic tracks and other recreational and paved surfaces. Previously, the Department has restricted the application of processed asphalt based roofing shingles to areas which are nonresidential in land use. As a result, the historical practice has been to prohibit the use of this material for recreational Instead, the Department encourages that this material be delivered to asphalt plants as an aggregate replacement for the manufacture of bituminous concrete. Therefore, while Section C. of this certification approves the County's proposal to authorize Tony Canale, Inc. to process asphalt shingles, such approval shall not constitute the use of asphalt shingles in recreational areas. acceptance, processing, and use/marketing of asphalt based roofing material by Tony Canale, Inc. will be further addressed during the DEP's technical review of modifying the existing Canale Class B recycling center approval to accept more materials.

Issue: Permitting Requirements for Recycling Centers

Recycling centers are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life and property. Also, recycling centers are considered solid waste facilities and are subject to N.J.A.C. 7:27-8.2(a)16 which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants.

If any operation of a recycling center will discharge pollutants as defined in N.J.A.C. 7:14-1.9, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollution discharge prior to operation.

The Department's Division of Solid and Hazardous Waste (DSHW) recommends that Iaconelli Contracting Co., Inc. contact the DSHW for a preapplication conference prior to the submission of an application to operate a recycling center for Class B materials.

Specifically, the DSHW is concerned with the planned operation of the facility relative to the amount and nature of incoming materials.

C. <u>Certification of the Atlantic County District Solid Waste</u> 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 district solid waste management plans, I have reviewed the March 20, 1995 amendment to the approved County Plan and certify to the County Freeholders that the March 20, 1995 amendment is approved as further specified below.

The County Plan inclusion of additional Class B materials for acceptance at the existing Tony Canale, Inc. recycling center located in Egg Harbor Township is approved. Specifically, the facility proposes to accept, store, and process asphalt shingles up to 25 tons per day with a maximum aggregate of 6,500 tons per year. As noted within Section B., this approval shall not constitute the use of asphalt shingles in residential use or recreational areas. Instead the DEP encourages that this material be delivered to asphalt plants as an aggregate replacement for the manufacture of bituminous concrete. Also, the center proposes to accept chemically treated wood up to 100 tons per day with a maximum aggregate total of 26,000 tons per year. The applicant shall accept such wood waste for the purpose of transferring said materials to DEP approved outlets and shall not engage in any onsite processing. If the outlet for chemically treated wood is a power generating incinerator, the applicant must abide by the conditions for such incineration identified in the Department's December 29, 1993 "Decision on Request for Interpretation in the Matter of Managing Chemically Treated Wood Scrap through Incineration and Energy Recovery."

The County Plan inclusion of Iaconelli Contracting Company, Inc. located in the City of Pleasantville at Block 190, Lot 14 as a recycling center for Class B materials is approved. Specifically, the facility proposes to accept the following quantities of source separated materials per year: 15,600 tons of concrete; 7,800 tons of wood; 1,300 tons of asphalt; 1,300 tons of brick; and 1,300 tons of block. Iaconelli proposes to use the crushed concrete, block, and brick for use as decorative landscape material, fill, and construction material for sidewalks, driveways, underground drainage facilities, and trenches. Asphalt will be crushed and mixed with new asphalt for paving projects and wood will be chipped for landscape applications.

The County Plan inclusion of additional property to the existing A. E. Stone recycling center for Class B materials located in the City of Pleasantville is approved. Specifically, the additional lots comprise: Block 136, Lots 1-54 and 56; Block 137, Lot 1; and Block

141, Lots 1-6 and 11. Inclusion of this additional property in no way shall authorize A.E. Stone to increase the volume or type of materials specified in its DEP approval to operate a recycling center for Class B materials.

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 granted where the applicant has submitted an administratively complete application, as per N.J.A.C. 7:26A-3.5, where all 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-11 and 12.

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

Any residue generated as a result of the operation of any recycling center shall be disposed of pursuant to the County Plan and the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26 et seq.).

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 Waste Covered by the District Solid Waste Management 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 and shall not apply to liquid wastes, sewage sludge, septage, and hazardous wastes. All nonhazardous materials separated at the point of generation for sale or reuse are excluded from the waste flows designated in the Interdistrict and Intradistrict Solid Waste Flow Rules set forth at N.J.A.C. 7:26A-1 et seq.

4. <u>Certification to Proceed with the Implementation of the Plan</u> Amendment

This document shall serve as the certification of the Commissioner of the Department to the County Freeholders and pursuant to $\underline{\text{N.J.S.A.}}$ 13:1E-24c and f, the County shall proceed with the implementation of the approved 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 the Amendment

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, interdistrict and intradistrict waste flow rules, and also includes the compilation of individual district plans and amendments as they are approved.

E. <u>Certification of Approval of the Amendment by the Commissioner of the Department of Environmental Protection</u>

In accordance with the requirements of $\underline{\text{N.J.S.A.}}$ 13:1E-1 et seq., I hereby approve the amendment, as outlined in Section C. of this certification, to the Atlantic County District Solid Waste Management Plan which was adopted by the Atlantic County Board of Chosen Freeholders on March 20, 1995.

Date

Robert C. Shinn,

Commissioner-

Department of Environmental

Protection