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Scott A. Weiner  
Commissioner

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

**CERTIFICATION OF THE  
JUNE 18, 1992 AND JULY 16, 1992  
AMENDMENTS TO THE UNION 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 August 13, 1980, the Department of Environmental Protection approved, with modifications, the Union 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 plan at any time and, if found inadequate, a new plan must be adopted. The Union County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 18, 1992 and July 16, 1992, adopted amendments to its approved County Plan. As adopted, the June 18, 1992 amendment proposed the expansion of the existing J&J Recycling Company, Inc. Transfer Station/Materials Recovery Facility, located at 833 Flora Street, Lots 739 and 740, Block 8, in Elizabeth, New Jersey, from a capacity of less than 100 tons per day to 450 tons per day. The July 16, 1992 amendment proposed plan inclusion of Advanced Recycling Technologies Services (ARTS), Inc., located at Lot 53, Block 580, Linden, New Jersey, as Union County's privatized recycling facility for Class A materials, and the deletion of the Union County Utilities Authority's (UCUA) recycling facility, located at 2400 Bedle Place, Lot 2, Block 478, Linden, New Jersey from the County Plan.

The June 18, 1992 amendment was received by the Department of Environmental Protection and Energy (Department or DEPE) on August 14, 1992. The July 16, 1992 amendment was received by the Department on August 11, 1992. Copies of these amendments were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments, as well as the entire County Plan, and has determined that the amendments adopted by the County Freeholders on June 18, 1992 and July 16, 1992 are approved as provided in N.J.S.A. 13:1E-24. While the immediate plan amendments have been approved, deficiencies in the County Plan have been identified within Section C. of this certification.

**B. Findings and Conclusions with Respect to the Union County District Solid Waste Management Plan Amendments**

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 18, 1992 and July 16, 1992 amendments to the Union County Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that these plan amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, however, the County Freeholders and the applicants are notified of the issues of concern relative to the June 18, 1992 and July 16, 1992 amendments which are included below.

In conjunction with the review of the amendments, 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. These agencies are the following:

Office of Energy, DEPE  
Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE  
Division of Solid Waste Management, DEPE  
Green Acres Program, DEPE  
Land Use Regulation Element, DEPE  
Groundwater Quality Management Element, DEPE  
Wastewater Facilities Regulation Element, DEPE  
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  
Department of the Public Advocate  
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the June 18, 1992 Amendment

The following agencies did not object to the proposed plan amendment:

Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE  
Green Acres Program, DEPE  
Department of Agriculture  
New Jersey Turnpike Authority  
New Jersey Advisory Council on Solid Waste Management

The following agencies did not respond to the Department's requests for comments:

Land Use Regulation Element, DEPE  
Groundwater Quality Management Element, DEPE  
Department of Health  
Department of Community Affairs  
Department of the Public Advocate  
U.S. Environmental Protection Agency

The following agencies submitted substantive comments which are further addressed below:

Wastewater Facilities Regulation Element, DEPE  
Department of Transportation  
Office of Energy, DEPE  
Division of Solid Waste Management, DEPE

2. Agency Participation in the Review of the July 16, 1992 Amendment

The following agencies did not object to the proposed plan amendment:

Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE  
Green Acres Program, DEPE  
Department of Agriculture  
New Jersey Turnpike Authority  
New Jersey Advisory Council on Solid Waste Management

The following agencies did not respond to the Department's requests for comments:

Land Use Regulation Element, DEPE  
Groundwater Quality Management Element, DEPE  
Wastewater Facilities Regulation Element, DEPE  
Department of Health  
Department of Community Affairs  
Department of the Public Advocate  
U.S. Environmental Protection Agency

The following agencies submitted substantive comments which are further addressed below:

Department of Transportation  
Office of Energy, DEPE  
Division of Solid Waste Management, DEPE

**3. Issues of Concern Relative to the June 18, 1992 Amendment**

**Issue: Permit Requirements**

Transfer stations 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 or property. In this regard, transfer stations are also 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. Also, if an access to a State Highway is needed, an Access Application must be filed and possibly a Drainage Application. Additionally, if the proposed operations will discharge pollutants as defined at N.J.A.C. 7:14-1.9, the applicant must secure a New Jersey Pollutant Discharge Elimination System (NJPDES) permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

Further, J&J Recycling Company, Inc., must submit a new and complete application in accordance with the solid waste regulations at N.J.A.C. 7:26-2, in order to receive a new Solid Waste Facility Permit.

**Issue: Mixed Waste and Bulky Waste Processing Facilities**

The Department would like to take this opportunity to clarify its position with regard to the establishment of mixed waste and bulky waste processing facilities. On February 18, 1992, the Department certified the August 1, 1991 amendment to the Union County Plan which addressed the recommendations of the Emergency Solid Waste Assessment Task Force Final Report. Two of the proposals included in the amendment which the Department approved were the establishment of mixed waste and bulky waste processing facilities.

The amendment described these facilities as "an exclusively licensed mixed waste processing facility" and "an exclusively licensed bulky waste

processing facility". An allegation was later brought to the Department's attention that the County was using this language to inform the regulated community that, in the future, solid waste generated within Union County could not be brought to transfer stations and materials recovery facilities in other counties for processing pursuant to the DEPE's "Pereira Policy" due to the Department's certification of the August, 1991 amendment. In response, the Department notified the County by letter dated May 26, 1992 that it would clarify this matter within a Departmental certification of a pending amendment.

In this regard, please be advised that it was not the intention of the Department to prohibit the intercounty movement of mixed waste and bulky waste generated within Union County. Moreover, this prohibition of mixed waste would be in conflict with the Department's proposed mixed waste flow rule which would allow the intercounty movement of solid waste to transfer stations and materials recovery facilities as long as strict recordkeeping requirements are followed.

#### 4. Issues of Concern Relative to the July 16, 1992 Amendment

##### Issue: Permit Requirements

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 of property. Also, recycling centers are considered solid waste facilities, which 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. Further, if an access to a State Highway is needed, an application must be filed and possibly a Drainage Application. Also, since ARTS will be using the Automated Modular Systems (AMS), Inc. Transfer Station ingress and egress routes, and weight scale, a minor modification of the AMS Master Performance Permit (MPP) is required by the Division of Solid Waste Management, Bureau of Small Facility Review. Also in this regard, Union County is directed to demonstrate to the Department that the additional truck traffic generated as a result of the operation of ARTS will not jeopardize the existing level of service in the vicinity of the AMS Transfer Station.

Further, the operation of all recycling centers which receive, store, process or transfer Class A recyclable materials, as defined at N.J.A.C. 7:26-1.3, shall be in conformance with N.J.A.C. 7:26-A-4 et seq. Finally, 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.

##### Issue: Property Rights

Based upon information provided in the UCUA rate case for AMS, the subject property (Lot 53) is owned by Hartz Mountain. In this regard, the lease for Lot 53 expires in December, 1992. Therefore, as noted in Section C., the UCUA must provide written verification to the Director of the Division of Solid Waste Management that the County has ownership/control of Lot 53 prior to site implementation.

**Issue: Rate Implications**

To insure that the costs of the recycling operation are not subsequently included in the tipping fee at the AMS Transfer Station, ARTS must allocate its costs between the two facilities by identifying the costs specific to recycling operations as well as those expenditures to the AMS Transfer Station for use of their ingress and egress routes, and weigh scale. Therefore, as noted in Section C., ARTS must provide the Director of the Division of Solid Waste Management with this information within 45 days of this certification.

**Issue: Impact on Competition**

The Department has an ongoing concern that the County's solid waste management efforts give appropriate recognition to private sector activity and do not implement a system which inappropriately crowds out private sector participation. In this regard, discussions with representatives of Union County following submission of the subject plan amendment disclosed that municipal participation at the County's privatized recycling center is optional allowing the municipalities in Union County the opportunity to select the most cost effective recycling program.

**C. Certification of the Union County District Solid Waste Management Plan Amendments**

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 June 18, 1992 and July 16, 1992 amendments to the approved County Plan and certify to the County Freeholders that the June 18, 1992 and July 16, 1992 amendments are approved as further specified below.

**1. June 18, 1992 Amendment**

The capacity expansion of the existing J&J Company, Inc. Transfer Station/Materials Recovery Facility, located on Block 8, Lots 739 and 740, 833 Flora Street in Elizabeth, from less than 100 tons per day to 450 tons per day is approved. As noted in the Department's November 27, 1991 certification of the June 20, 1991 amendment to the Union County Plan, the facility accepts mixed waste types 10 (commercial only), 13, and 27 (exclusive of asbestos) to recover the following recyclables: paper, wood, concrete, ferrous metals, nonferrous metals, sheetrock, heavy aggregate, plastic, asphalt roofing, and tires.

Also, in the Department's August 3, 1987 certification, the subject facility was to be located on Block 8, Lot 507. Subsequent to this initial facility inclusion, the Commissioner certified approval of an additional Lot (740) to the J&J facility. Since that time, the City of Elizabeth changed the tax map designation of Lot 507 to Lot 739. Therefore, the J&J facility is comprised of Block 8, Lots 739 and 740.

Further, as noted in Section B., the J&J Recycling Company, Inc. must submit a new and complete application in accordance with the solid waste regulations at N.J.A.C. 7:26-2 in order to receive a new Small Scale Solid Waste Facility Permit.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the Attorney General to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

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 recyclable 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.

Finally, as noted in Section B., the Department would like to take this opportunity to clarify its position with regard to the establishment of mixed waste and bulky waste processing facilities. On February 18, 1992, the Department certified the August 1, 1991 amendment to the Union County Plan which addressed the recommendations of the Emergency Solid Waste Assessment Task Force Final Report. Two of the proposals included in the amendment which the Department approved were the establishment of mixed waste and bulky waste processing facilities.

The amendment described these facilities as "an exclusively licensed mixed waste processing facility" and "an exclusively licensed bulky waste processing facility". An allegation was later brought to the Department's attention that the County was using this language to inform the regulated community that, in the future, solid waste generated within Union County could not be brought to transfer stations and materials recovery facilities in other counties for processing pursuant to the DEPE's "Pereira Policy" due to the Department's certification of the August, 1991 amendment. In response, the Department notified the County by letter dated May 26, 1992 that it would clarify this matter within a Departmental certification of a pending amendment.

In this regard, it was not the intention of the Department to prohibit the intercounty movement of mixed waste and bulky waste generated within Union County. Moreover, this prohibition of mixed waste would be in conflict with the Department's proposed mixed waste flow rule which would allow the intercounty movement of solid waste to transfer stations and materials recovery facilities as long as strict recordkeeping requirements are followed.

2. July 16, 1992 Amendment

- a. The inclusion into the Union County District Solid Waste Management Plan of Advanced Recycling Technologies Services, Inc. Recycling Center, Lot 53, Block 580, Linden, New Jersey, as a Class A recycling

center is approved. According to the amendment, ARTS will act as the County's privatized recycling center to provide curbside collection and processing to end users of source separated Class A materials generated within Union County.

As noted in Section B, since ARTS will be using the Automated Modular Systems, Inc. Transfer Station ingress and egress routes, and weigh scale, a minor modification of the AMS Master Performance Permit is required by the Division of Solid Waste Management, Bureau of Small Facilities Review. Also in this regard, Union County is directed to demonstrate to the Department that the additional truck traffic generated as a result of the operation of ARTS will not jeopardize the existing level of service in the vicinity of the AMS Transfer Station.

Also as noted in Section B., ARTS must allocate its costs between the two facilities by identifying the costs specific to recycling operations as well as those expenditures to the AMS Transfer Station for the use of their ingress and egress routes, and weigh scale within 45 days of this certification. Further, discussions with representatives of Union County following submission of the subject plan amendment disclosed that municipal participation at the County's privatized recycling center is optional allowing the municipalities in Union County the opportunity to select the most cost effective recycling program.

The operation of all recycling centers which receive, store, process or transfer Class A recyclable materials, as defined at N.J.A.C. 7:26-1.3, shall be in conformance with N.J.A.C. 7:26A-4 et seq. Also, 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.

- b. The deletion from the District Solid Waste Management Plan of the UCUA'S recycling center located at 2400 Bedle Place, Lot 2, Block 478, Linden, New Jersey, is also approved. In this regard, the approval of the ARTS facility as Union County's privatized recycling operation negates the necessity of this facility. Specifically, the ARTS facility will provide for the curbside collection, and the processing to end users of the county's source separated recyclable material as noted above. The UCUA's recycling facility was included in the Department's August 1, 1991 certification of the June 21, 1991 amendment to the County Plan. The facility was approved to process newspaper, glass containers, aluminum cans, corrugated cardboard, plastic bottles, steel cans, and additional designated recyclables.

### 3. Union County District Solid Waste Management Plan Deficiencies

I have reviewed the entire County Plan to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21, as well as the recommendations of the Emergency Solid Waste Assessment Task Force Final Report accepted by the Governor on November 16, 1990.



In this regard, the Department's February 18, 1992 certification to Union County's August 1, 1991 plan amendment directed the County to address the requirements of the December 16, 1991 Service Agreement approval. Specifically, the County was directed to perform a waste composition and weighing study to reflect the achievement of at least a 60% total waste stream recycling rate with respect to Union and Bergen Counties, the results of which were to be submitted to the Department for modification of the incinerator permit, if appropriate. Also in the February 18, 1992 certification, the County was directed to continue to actively pursue the development of in-state landfill capacity. Accordingly, a subsequent plan amendment identifying an in-state disposal facility for ash residue and nonprocessable waste was to be submitted to the Department by April 2, 1992.

To date, Union County has not submitted the required amendment nor addressed the requirements of the Service Agreement. Therefore, the Union County plan remains deficient, and the County is again directed to submit the required amendment and Service Agreement information as soon as possible. Finally, please be advised that the failure of the County to comply with this directive may result in the withholding and reallocation of Solid Waste Services Tax moneys and the withholding of the County's Resource Recovery Investment Tax moneys.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with these amendments to the County Plan and which was executed prior to the approval of these amendments 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 these amendments and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of these amendments 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 these amendments contained herein shall operate in compliance with these amendments 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 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. 7:26-6, but are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

4. Certification to Proceed with the Implementation of the Plan Amendments

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 shall proceed with the implementation of the approved amendments certified herein.

5. Definitions

For the purpose of these amendments 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 and -2.13, and N.J.A.C. 7:26A-1.3.

6. Effective Date of the Amendments

The amendments 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 amendments made thereto, shall conform with the Statewide Solid Waste Management Plan.

The Department has published a 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. Certification of Approval of the Amendments and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection and Energy

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve the amendments, as outlined in Section C. of this certification, to the Union County District Solid Waste Management Plan which were adopted by the Union County Board of Chosen Freeholders on June 18, 1992 and July 16, 1992. I hereby also require, as noted in Section C., the Union County Board of Chosen Freeholders to address the noted deficiencies within the timeframes specified.

1-4-93

DATE



SCOTT A. WEINER

COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND ENERGY

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