



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ROBERT E. HUGHEY, COMMISSIONER
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(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 APPROVAL
OF THE JULY 11, 1985 AMENDMENT
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 approved, with modification, the Union County District Solid Waste Management 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 the 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 the 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 completed such a review and on November 29, 1984, adopted an amendment to its approved district solid

waste management plan. On May 7, 1985, Commissioner Robert E. Hughey issued a certification of the November 29, 1984 amendment to the Union County District Solid Waste Management Plan. The certification directed the Union County Board of Chosen Freeholders to conduct a public hearing within 45 days of the date of the certification to inform the public of deficiencies identified in the plan, identify the county's plan for addressing the deficiencies, and to solicit public comment on the deficiencies. Further, the certification directed Union County to amend its plan to address the deficiencies within 90 days from the date of the certification.

On July 11, 1985, the Union County Board of Chosen Freeholders amended their district solid waste management plan to address the plan deficiencies identified in the certification of the November 29, 1984 amendment to the Union County plan. The amendment includes the county's recycling goal and strategy, terminated landfill policy, schedule for the completion of a financing plan for resource recovery development, policy toward negotiating interdistrict agreements with the Hackensack Meadowlands Development Commission (HMDC) and Middlesex County, a revised resource recovery implementation schedule, and proposal for the preparation of a residue disposal landfill siting study. This amendment was received by the Department on July 23, 1985.

The Department has reviewed this amendment as well as the entire Union County District Solid Waste Management Plan with respect to the requirements of the Solid Waste Management Act and has determined that the amendment adopted by the Union County Board of Chosen Freeholders on July 11, 1985 is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24. While the requirements of the Act concerning the report have been met, the district's plan still remains deficient in several important ways.

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

Pursuant to N.J.S.A. 13:1E-24a(1) I, Robert E. Hughey, Commissioner of the Department of Environmental Protection, have studied and reviewed the July 11, 1985 amendment to the Union County District Solid Waste Management Plan according to the objectives, criteria and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that the portion of this plan amendment that is approved is fully consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Waste Management circulated the plan amendment to sixteen review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24(2) and (3), these agencies included various agencies, bureaus and divisions within the

Department of Environmental Protection as well as the Board of Public Utilities. Also among these agencies were the Department of Community Affairs, the Office of Recycling, the Department of the Public Advocate, the Department of Health, the Department of Agriculture, the Department of Transportation and the New Jersey Turnpike Authority. Those agencies that had no objections to the proposed plan amendment included the N.J.D.E.P. Divisions of Environmental Quality, Water Resources, Green Acres, Parks and Forestry and Fish, Game and Wildlife; the State Departments of Transportation, Agriculture, Health and Community Affairs; the N.J. Turnpike Authority, and the Board of Public Utilities. Those agencies that did not respond to the proposed plan amendment included the Department of the Public Advocate, U.S.E.P.A., the New Jersey Advisory Council on Solid Waste Management, and the Division of Coastal Resources. The Office of Recycling submitted substantive comments concerning the plan amendment which are addressed below.

The Office of Recycling commented that a timetable to increase municipal recycling should be established by the district, and the planning process for the proposed resource recovery facility should reflect the district's 25% recycling goal. The Office of Recycling also commented that collection costs should be set on a per container basis due to the high percentage of private scavengers servicing the district, and that the district should assist local governments with municipal contracts to include recycling as an option in their bid requests. The Department of Environmental Protection encourages Union County to maximize all recycling efforts, and a copy of the Office of Recycling's comments will be forwarded to the county for their consideration and possible implementation.

B. Certification of Union County District Solid Waste Management Plan Amendment

I, Robert E. Hughey, Commissioner of the Department of Environmental Protection, in accordance with N.J.S.A. 13:1E-1 et seq. and N.J.S.A. 13:1E-21, which established specific requirements regarding the contents of the district solid waste management plan, have reviewed the July 11, 1985 amendment to the approved Union County District Solid Waste Management Plan and certify to the Union County Board of Chosen Freeholders that the July 11, 1985 amendment is approved in part and rejected in part as further specified below.

1. N.J.S.A. 13:E-21b.(2) requires a statement of the solid waste disposal strategy to be applied ... which strategy shall include the maximum practicable use of resource recovery procedures and a plan for using terminated landfill disposal sites... in the Solid Waste Management District.

Union County's Plan Amendment #1 to adopt a 25% recycling goal, hire an additional recycling staff person, develop a recycling videotape, encourage composting, increase recycling activities at transfer stations, encourage the use of milling techniques on all road resurfacing projects and recycle residues from the proposed resource recovery facility are all positive proposals. However, the amendment still does not provide a detailed and comprehensive implementation plan to achieve the goals identified in the amendment. Also, while the Department considers Union County's Amendment #2 to solicit specific plans from the owners of known landfill sites and include such plans in the overall district solid waste plan, if they are found to be consistent with sound solid waste management practices, an appropriate first step, the county plan still does not comply with the Act because a specific plan for using each terminated landfill in the county has not yet been completed. Therefore, the Union County District Solid Waste Management Plan still remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(2).

2. N.J.S.A. 13:1E-21b(3) requires a site plan which shall include all existing solid waste disposal facilities located within the Solid Waste Management District... and sufficient additional available suitable sites to provide solid waste facilities to treat and dispose of the actual and projected amounts of solid waste contained in the report accompanying the plan.

Union County's Plan Amendment #3 includes a revised (extended) schedule for implementation of the Union County resource recovery facility to be constructed in Rahway City. Generally, the revised schedule, which would amend the previously approved schedule by about one year, provides for commercial operation of the facility in December, 1989. The revised schedule also provides that Union County would issue its RFP in August, 1985 and receive proposals in November, 1985. However, since Union County has not issued its RFP and failure to act on the part of the county is inconsistent with the schedule provided in Amendment #3, the Department can only approve the following elements of the revised resource recovery implementation schedule which have been met or still could be met if the county proceeds on a more aggressive schedule.

°Resource Recovery Site Identified in County Plan	April, 1984
°Request for Vendor Qualifications Issued	October, 1984
°Vendors Qualifications Submitted	November 1, 1984
°Vendors Qualified	May, 1985
°Site Option Acquired	June, 1985
°Negotiate Host Municipality Memo of Understanding	August, 1985
°Residue landfill study completed	February, 1986
°Preliminary Environmental Health Impact Statement completed	February, 1986
°Finalize contract with selected vendor	May, 1986

°Finalize design	November, 1986
°Permits obtained	January, 1987
°Financing Complete	February, 1987
°Construction Complete	August, 1989
°Commercial Operation	December, 1989

Accordingly, due to Union County's inability to meet certain milestones in its amended resource recovery schedule, the Department has no alternative but to reject the following elements of the county's revised schedule.

°Negotiate Interdistrict Agreement with Middlesex County and the HMDC	July, 1985
°Residue landfill siting study initiated	August, 1985
°Rahway site Preliminary Environmental Health Impact Statement Initiated	August, 1985
°Facility RFP Issued	August, 1985
°Facility Proposals Received	November, 1985
°Proposals Evaluated and Ranked	January, 1986

The Department has been involved in litigation against Union County and five other New Jersey Counties relative to the development and implementation of the districts solid waste management plans. As a result of this ongoing litigation, Union County has agreed to meet with the Department to develop a mutually acceptable implementation schedule for their proposed resource recovery facility. While the above section addresses the schedule submitted by Union County as part of the July 11, 1985 plan amendment, it is expected that a revised schedule will be developed by the parties as soon as possible.

Union County's Plan Amendment #4 provides for the completion of a resource recovery residue/bypass landfill study of all vacant sites, 20 acres or more, and utilization of existing disposal sites in Middlesex County and the HMDC pursuant to interdistrict agreements to be negotiated during the summer of 1985. Section B.3) of the certification of the November 29, 1984 amendment to the Union County Plan states that "...Union County failed to conduct a comprehensive study and search which examines every potential additional landfill site in Union County to determine its suitability". While Union County's plan amendment #4 provides for a residue/bypass landfill siting study and the negotiation of interdistrict agreements for existing disposal capacity, the amendment does not provide inclusion of a suitable and available site for interim disposal capacity prior to the development of the county's resource recovery facility. Further, the county has not complied with its revised schedule to enter into interdistrict agreements with Middlesex County or the HMDC during July, 1985 as indicated in the county's amended schedule. Therefore, the Union County District Solid Waste Management Plan still remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(3).

3. N.J.S.A. 13:1E-21b(5) requires procedures for coordinating all activities related to the collection and disposal... within the Solid Waste Management District, which procedures shall include the agreements entered into as provided herein between the Board of Chosen Freeholders... and every such person, and the procedures for furnishing the solid waste facilities contained in the Solid Waste Management Plan.

Union County's Plan Amendment #5 states that Union County has initiated the negotiation of an interdistrict agreement with the HMDC which is expected to be executed in the immediate future. Also, a similar agreement will be sought with Middlesex County. While the Union District intends to finalize interdistrict agreements with the HMDC and Middlesex County for continued use of their disposal facilities due to a lack of sufficient disposal facilities within the Union District, plan amendment #5 does not include signed agreements with either of those solid waste districts, and the county has not provided evidence of completion of an agreement or even progress in such negotiations. Therefore, the Union County Solid Waste Management Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(5).

4. N.J.S.A. 13:1E-21b(6) requires a method or methods of financing solid waste management in the Solid Waste Management District pursuant to the Solid Waste Management Plan.

While Union County's plan amendment #6 states that county staff and consultants are preparing a financial plan as part of the resource recovery facility RFP which was due for release in August 1985, the amendment as submitted does not include the required financial plan and the RFP at this point is at least three months late in being released. Therefore, the Union County District Solid Waste Management Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(6).

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 the within amendment to the Union County District Solid Waste Management 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 of Environmental Protection and operating pursuant to a contract as herein described,

shall be deemed to be in violation of this amendment and of the Union County District Solid Waste Management 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 of Environmental Protection and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and collector/haulers registered with the Department of Environmental Protection and operating within Union County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Union County District Solid Waste Management Plan. Any facility operator or collector/hauler 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 of Environmental Protection shall be subject to the provisions and penalties of N.J.S.A. 13:1E-9, 10, and 12 and all other applicable laws.

3. Types of Solid Wastes Covered by the District Solid Waste Management Plans

The provisions of the Union County District Solid Waste Management 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.

Also, all non-hazardous 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 (N.J.A.C. 7:26-6) which are part of the Union County District Solid Waste Management Plan.

4. Certification to Proceed with the Implementation of Plan Amendment

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Union County Board of Chosen Freeholders, as provided for by N.J.S.A. 13:1E-24f., to proceed with the implementation of the approved portions of the amendment contained 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 N.J.A.C. 7:26-1.4 and 2.13.

6. Effective Date of Amendment

The approved portions of the amendment contained herein shall take effect immediately.

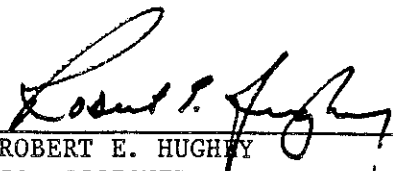
7. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Union County District Solid Waste Management Plan, including any amendment 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 and rules, regulations, and orders of the Department, including the 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 in Part and Rejection in Part of the Amendment and Notification of Deficiencies 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 in part and reject in part the amendment, as outlined in Section C. of this certification, to the Union County District Solid Waste Management Plan which was adopted by the Union County Board of Chosen Freeholders on July 11, 1985 and further direct the Union County Board of Chosen Freeholders to remedy those deficiencies outlined in Section C. of this certification as soon as possible.

12/11/85
DATE



ROBERT E. HUGHEY
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION