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STATE OF NEW JERSEY
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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 THE SEPTEMBER 28, 1989
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 modifications, 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 September 28, 1989, adopted an amendment to its approved district solid waste management plan. The amendment proposes to:

1. Include specific small scale incinerators and a blanket existing small scale incinerator inclusion policy within the district plan.
2. Amend the resource recovery facility traffic plan for vehicles coming from Berkeley Heights, Springfield and Hillside by reassigning them from using Route 78 to using Route 22.
3. Include the Union County waste flow directive to the various transfer stations within the county in the district plan until such time as the resource recovery facility becomes operational.
4. Amend the Union County Recycling Plan and include it as part of the Union County District Solid Waste Management Plan.
5. Include a Springfield compost site within the district plan.

The amendment was received by the Department of Environmental Protection on October 25, 1989, and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire Union County District Solid Waste Management Plan, and has determined that the amendment adopted by the Union County Board of Chosen Freeholders on September 28, 1989, is approved with modifications as provided in N.J.S.A. 13:1E-24.

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, Judith A. Yaskin, Commissioner of the Department of Environmental Protection, have studied and reviewed the September 28, 1989 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 this plan amendment is consistent, as modified, with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendment to fifteen review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24a(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 Health, the Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. Of these agencies, the following did not object to the proposed plan amendment: the N.J.D.E.P. Divisions of Water Resources, Fish, Game and Wildlife and Coastal Resources; the State Departments of Agriculture, Community Affairs and Transportation; and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Division of Parks and Forestry; the State Departments of Health and the Public Advocate; the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. The Green Acres Program and the Divisions of Solid Waste Management and Environmental Quality submitted substantive comments which are further addressed below.

The Green Acres Program commented that the inclusion of a Springfield compost site, Block 185, lot 1, is not inconsistent with the plans and programs administered by the Green Acres Program provided that Union County eliminate the former Springfield Township compost site, Block 185B, lot 1, included in the Union County Plan Amendment of September 11, 1986. This site must be cleared of all residual leaf material and be restored to a condition equal to or better than its original condition, including but not limited to regrading and grass seeding. These conditions are recommended due to the fact that Block 185B, lot 1, is property encumbered by the Green Acres Program and inventoried parkland which restricts the land to recreational and conservational uses. Also, in accord with the facility's solid waste facility permit, the site must be restored and reclaimed for public outdoor recreation and conservation use as stipulated at N.J.A.C. 7:36-1 et seq. Failure to recognize and abide by Green Acres Program conditions will result in a recommendation that the September 28, 1989 plan amendment is inconsistent with the plans and programs administered by the agency. By copy of this certification, Union County is notified of the Green Acres Program's comments. Furthermore, as noted in Section C. of this certification, Union County is directed to restore the compost site located on Block 185B, lot 1 in Springfield Township to its previous condition as outlined above. Finally, the plan is modified in Section C. to delete this site from the district solid waste management plan.

The Division of Solid Waste Management commented that any small scale incinerator is required to obtain a solid waste facility permit pursuant to N.J.A.C. 7:26-2 and 7:26-2B, prior to the expiration of the facility's current air pollution control permit, which is issued by the Division of Environmental Quality pursuant to N.J.A.C. 7:27. Also, on March 6, 1989, Governor Kean signed into law the "Comprehensive Regulated Medical Waste Management Act", P.L. 1989, c. 34. This legislation provides a distinction between a commercial facility and a non-commercial facility and imposes a ban of at least one year on Departmental approval of any new commercial regulated medical waste incinerator. The Act defines a non-commercial facility as one "which accepts regulated medical waste from other generators for a cost-based fee not in excess of the costs actually incurred by the facility or on-site generator for the treatment or disposal of the regulated medical waste." The Act also grandfathered all existing medical waste disposal facilities into their respective district solid waste management plans. Unless a facility was acting as a commercial facility prior to March 6, 1989 and was, therefore, grandfathered into the district plan, approval of a medical waste incinerator must be limited to its existing sole source status.

The Division also commented relative to the district's blanket small scale incinerator inclusion policy. Specifically, the Division commented that the condition that existing small scale incinerators shall cease operation upon start-up of the resource recovery facility appeared to violate a facility's right to operate pursuant to unexpired permits that may have been issued, and the county has not provided the Department with sufficient information to determine whether this condition meets the requirements of the solid waste regulations. Therefore, in Section C.,

Union County is directed, in a subsequent amendment, to identify all incinerators affected by this policy, the types and amounts of waste presently being accepted at these incinerators, and to modify this policy to specify that small scale incinerators shall cease operation after start-up of the district resource recovery facility and upon expiration of their Departmental permits.

Furthermore, the Division commented on the revised traffic routes for trucks accessing the planned resource recovery facility in Rahway. Specifically, the impacts associated with redirecting the trucks to Route 22 instead of I-78 from Berkeley Heights, Hillside and Springfield have not been evaluated. In response, by copy of this certification, Union County is notified of this issue, and is directed to receive subsequent Departmental approval for the use of these routes in a modified solid waste facility permit. Issuance of such a permit is subject to the receipt and review of a revised traffic study which shall satisfy the concerns raised by the Division.

Finally, the Division of Solid Waste Management commented on the county recycling plan as follows:

1. Pursuant to N.J.S.A. 13:1E-99.13, each district recycling plan shall designate the strategy for the collection, marketing and disposition of designated source separated recyclable materials in each municipality. However, the Union County district recycling plan does not indicate the collection strategy to be utilized in the commercial and institutional sectors for the municipalities of Berkeley Heights, Linden, Mountainside and Plainfield. The collection strategy to be utilized in the commercial and institutional sectors for the municipalities of Roselle Park, Springfield and Union is indicated for glass, aluminum and newspaper, however, the collection strategy to be utilized in the commercial and institutional sectors of these municipalities is not indicated for corrugated cardboard, white ledger and computer printout paper. The district recycling plan is modified to require that those municipalities utilizing municipal depots as the central collection strategy for commercial and institutional generators ensure that said depots provide for convenient drop-off of recyclables, and to require that Union County prepare a report listing the generators of commercial and institutional waste and the recycling services currently in place to collect and market the designated recyclables in said municipalities. Union County shall, furthermore, indicate where recycling services are lacking for generators of the designated recyclables, and indicate what steps will be taken to ensure that all generators of designated recyclable materials are provided with recycling collection services. These steps may include, but are not limited to: municipally sponsored curbside collection of designated recyclable materials; or municipally sponsored or contracted receipt of designated recyclable materials at a recycling center. This report shall be submitted to the Department within sixty (60) days of the date of this certification.

The Union County district recycling plan indicates the processing and marketing strategy to be utilized by the municipalities in the county for the residential, commercial and institutional sectors. The "Notes" to Table 2 state that the U.C.U.A. has a contract with P.I.M. Recycling, located at Block 498 Lot 5, Plainfield, N.J., for the disposition of the designated materials collected by the recycling program operated by the U.C.U.A. The district recycling plan is, therefore, modified to include this facility in the "Recycling Strategy" section of the plan. In addition, while markets for the designated recyclable materials are indicated for most of those municipalities not participating in the regional recycling program, the majority of said municipalities do not have marketing contracts or agreements for the disposition of the designated recyclable materials from residential, commercial and institutional sectors. In the event that these marketing arrangements cease for any reason, pursuant to N.J.S.A. 13:1E-99.14, the county shall, "solicit proposals from, review the qualifications of, and enter into contracts or agreements on behalf of municipalities with persons providing recycling services or operating recycling centers for the collection, storage, processing, and disposition of designated recyclables in those instances where these services are not otherwise provided by the municipality, interlocal service agreement or joint service program, or other private or public recycling program operator."

2. Pursuant to N.J.S.A. 13:1E-99.13, each county plan shall contain language setting forth the manner by which the recycling plan may be amended or modified. The Union County district recycling plan does include a procedure by which the recycling plan may be amended or modified, however, the ambiguity of language contained in this section of the district recycling plan precludes its acceptance by the Department as meeting the requirements of the Recycling Act. Specifically, Union County was requested, in the November 8, 1988 certification of the district recycling plan, to establish a listing of major and minor plan modifications and detail procedures for adoption of these amendments which ensure opportunity for public comment on both major and minor amendments. The district solid waste management plan amendment of September 28, 1989 fails to comply with that directive. Therefore, the district recycling plan is modified to include the following list of major and minor plan modifications. Those considered minor would be included in the plan after consideration by the Union County Solid Waste Advisory Council at a meeting for which a public notice has been published at least once in a newspaper of general circulation, no less than ten days prior to the meeting, and upon affirmative resolution of the Union County Board of Chosen Freeholders. The list of minor plan modifications include, but are not limited to the following, subject to the requirements of N.J.S.A. 13:1E-99.11 et seq.:

- change in the marketing agreements for designated recyclable materials;

- change in the provider(s) of curbside collection service; and
- change in the operation of recycling depots, e.g., hours, etc.

Those modifications considered major would be considered solid waste plan amendments and shall follow the standard procedure for solid waste management plan amendments set forth at N.J.S.A. 13:1E-1 et seq. The list of major plan amendments include, but are not limited to the following, subject to the requirements of N.J.S.A. 13:1E-99.11 et seq.:

- designation of materials required to be source separated district wide;
- determination of recycling targets; and
- plan inclusion of recycling centers.

A period of time shall be allowed for comment on any proposed minor plan modification prior to incorporation into the district recycling plan. A methodology for addressing the comments received prior to incorporation into the district recycling plan shall also be incorporated into the procedures for the modification of the district recycling plan.

Similarly, the district recycling plan states in Section 2, "Targets for the Second and Subsequent Years" that subject to Authority advice, a municipality may designate any one or more of the following materials to be source separated for recycling by the residential, commercial, or institutional sectors: white goods, other ferrous, and non-ferrous scrap, corrugated, plastics, steel cans, tires and wood. However, the district recycling plan does not define "advice", or indicate if the U.C.U.A retains right of refusal as a component of said advice. If right of refusal is implied, the Department questions the legal basis for the exercise of this right. Please be advised that it is the opinion of the Department that the designation of additional materials by an individual municipality constitutes a minor plan modification. Therefore, the district recycling plan is modified to reflect that the designation of additional materials by a municipality constitutes a minor plan amendment.

3. Pursuant to N.J.S.A. 13:1E-9, the Union County recycling plan includes provisions which will be utilized to enforce the source separation requirements of the county plan and municipal ordinances adopted. The Office of Recycling made recommendations in the November 8, 1988 certification of the district recycling plan which would have the effect of strengthening and clarifying the enforcement provisions of the district recycling plan. However, these recommendations were not included in the September 28, 1989 submission to the Department. Therefore, the district recycling

plan is modified to provide that municipal recycling ordinances, which must be passed pursuant to N.J.S.A. 13:1E-99.16b, be required to include a provision which prohibits waste haulers from collecting solid waste which contains designated recyclable materials. Other minimum requirements shall include, but not be limited to: the designation of the specific municipal agency empowered to enforce recycling provisions; minimum civil penalties to be incorporated into each municipal recycling ordinance to be assessed against any person found to be violating said ordinances, and the manner and frequency by which municipalities shall determine the extent of compliance with the municipal ordinances thus established.

In addition, the district recycling plan shall specify that U.C.U.A. personnel, along with any additional county and municipal personnel, will comply, at a minimum, with the following procedure regarding solid waste facility inspection and penalties at the existing county transfer stations and the proposed resource recovery facility:

Each vehicle transporting loads of residential, commercial, and institutional waste for disposal as solid waste to the above facilities shall be inspected at least once per month. Accurate records shall be established by the county and shall include, at a minimum, the following: N.J.D.E.P. Solid Waste Transporter Number; license number; vehicle identification number; capacity of vehicle; type of vehicle; decal number, if such exists; company name; municipality of waste origin; waste sector origin, i.e. residential, commercial, institutional; results of inspection, i.e. compliance/non-compliance; action taken if found non-compliant; and date of inspection. A visual observation of the waste as it is discharged from the vehicles will be made. Any load containing designated recyclable materials shall constitute a violation. Each violator will be issued one warning notice for the first offense, one notice of violation for the second offense, and a penalty notice for each subsequent offense thereafter, pursuant to N.J.S.A. 13:1E-1 et seq. In addition, these notices shall be sent to the person designated in the municipal recycling ordinance as responsible for enforcement of this ordinance. A determination of the generator of the waste shall be made, if possible, and penalty action taken as necessary. Furthermore, waste loads originating from municipalities which are not achieving state mandated recycling goals shall be inspected more frequently, as shall repeat violators of the above provisions.

In addition, the district recycling plan indicates that "any municipality or person(s) found to be in violation of the source separation requirements of either the District Recycling Plan and/or a municipality's recycling ordinance may be prohibited from using any recycling centers or solid waste disposal facilities owned, operated or contracted by the District ...". The district recycling plan is hereby modified to delete that statement.

4. Pursuant to N.J.S.A. 13:1E-99.16d, each county plan shall indicate the manner by which municipalities may exempt persons or businesses from the source separation requirements of municipal recycling ordinances. The Union County district recycling plan indicates that those requesting an exemption must provide documentation to the municipality of the total number of tons recycled. The Office of Recycling recommended in the November 8, 1988 certification of the district recycling plan that the exemption language be supplemented by a provision which states that those seeking an exemption must also provide the municipality with a verifiable total waste generation figure so that a determination can be made regarding the recycling rate of the person or business seeking the exemption. The September 28, 1989 Union County District Solid Waste Plan Amendment does not include this recommendation. Therefore, the plan is modified to state that "those seeking an exemption must also provide the municipality with a verifiable total waste generation figure so that a determination can be made regarding the recycling rate of the person or business seeking the exemption".

5. Pursuant to N.J.S.A. 13:1E-99.13, the Recycling Act requires municipalities to recycle at least 15% of the municipal solid waste stream by the end of the first year after approval of the county's recycling plan and at least 25% of the municipal solid waste stream by the end of the second year. The Union County recycling plan indicates recycling recovery targets for municipalities, however, said recycling recovery targets are deficient and are required to be recalculated. The discrepancy arises from the total municipal solid waste base amount used for the calculation of the recycling recovery targets. Total municipal solid waste is the sum of the total municipal solid waste disposed and the total designated recyclable materials recycled. The Union County district recycling plan indicates that the 1986 total municipal solid waste amount for the county is 363,459 tons. However, an examination of the waste generation data found in the Union County Resource Recovery Project Engineering Design Submittal, as well as data from the Office of Recycling Tonnage Grant Program, reveals that the 1986 total municipal solid waste amount for the county is 387,000 tons. This amount is calculated by adding 363,000 tons of municipal solid waste disposed, as per the Union County Resource Recovery Project Engineering Design Submittal, and 24,000 tons of designated recyclable materials recycled, as per the 1986 Office of Recycling Tonnage Grant Program. The district recycling plan is modified to recalculate the municipal recycling recovery targets, based upon total municipal solid waste of 387,000 tons, so that the district recycling plan is consistent with the proposed resource recovery project calculations. A copy of the recalculated municipal recycling recovery targets shall be forwarded to the Department for review within sixty (60) days of the date of this certification.

By copy of this certification, Union County is notified of the comments and requirements of the Division of Solid Waste Management.

The Division of Environmental Quality commented that incinerators 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. Incinerators are also regulated under N.J.A.C. 7:27-11, "Incinerators". This regulation defines the construction, operation, and emission standards for all incinerators. Additionally, incinerators are subject to the provisions of N.J.A.C. 7:27-8.2(a)14, which requires permits and certificates for any incinerator. New and modified equipment which emits air contaminants must incorporate advances in the art of air pollution control. For incineration, this usually includes scrubbing for hydrochloric acid control, a baghouse for particulate control, and burners in a secondary combustion zone for hydrocarbon control. The DEP had required much less stringent controls for incineration facilities under 800 pounds per hour charging capacity, but tightened its guidelines in June 1989. At this time, DEP requires that, at a minimum, scrubber air pollution control shall be installed achieving less than 0.03 grains of particulates per dry standard cubic feet (gr/dscf), adjusted to 7% oxygen, and at least 90% reduction in hydrochloric acid emissions. New incineration facilities are required to install more advanced control technologies, such as spray driers and baghouses, to achieve 0.015 gr/dscf at 7% oxygen. Also, the DEP is considering rulemaking to require retrofitting of better air pollution controls for existing waste incinerators.

At this time, any permit application for waste incineration shall include:

1. Air quality modelling and an evaluation of downwash, which demonstrate sufficient stack height.
2. Cancer risk assessment for metals and dioxin, demonstrating low cancer risk on and off site.
3. Continuous emission monitoring and recording for carbon monoxide, oxygen, and secondary chamber temperature.
4. Extensive stack testing after construction.
5. Compliance with the Department's "Air Pollution Control Guidelines for Resource Recovery Facilities and Incinerators" March 1983, amended November 1, 1984, amended April 1987, if over 800 pounds per hour charging capacity.

The Division also commented that composting facilities are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution". This regulation prohibits odors and emissions of other air contaminants which interfere with the enjoyment of life or property. Additionally, air pollution control permits are required for equipment used to vent a solid waste facility to the ambient atmosphere (N.J.A.C. 7:27-8.2(a)16).

Furthermore, the Division commented that the inclusion of small-scale medical and certain industrial waste incinerators is consistent with the

plans and programs administered by that Division, provided these incinerators comply with all air pollution control requirements. The Division also concurs that other small incinerators, such as for apartment and commercial use, should be phased out and the waste directed to the resource recovery facility.

Finally, the Division of Environmental Quality commented that if trucks on route to the proposed resource recovery facility coming from Berkeley Heights, Springfield and Hillside pass through intersections U.S. 1&9 and Wood Avenue in Linden, U.S. 1&9 and Stiles in Linden and any point of intersection with Rt. 22 passing through Hillside, then alternate routes should be taken, if feasible, because these intersections are identified in the 1982 State Implementation Plan as carbon monoxide hot spots. By copy of this certification, Union County is informed of all comments of the Division of Environmental Quality.

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

I, Judith A. Yaskin, 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 plans, have reviewed the September 28, 1989 amendment to the approved Union County District Solid Waste Management Plan and certify to the Union County Board of Chosen Freeholders that the September 28, 1989 amendment is approved with modifications as further specified below.

1. The district plan inclusion of the waste flow directive issued by the Board of Public Utilities and the Department in their Emergency Redirection of Solid Waste Flow Order on August 5, 1988 is approved. Final disposition of this rule change to the Interdistrict and Intradistrict Solid Waste Flow Rules will be determined pursuant to formal rulemaking by the Department and the Board in accordance with N.J.A.C. 7:26-6.6. It should be noted that the amendment contains additional language to item number 3 of the emergency redirection order. This language directs waste types 10, 13, and 23 formerly delivered by private citizens to the City of Elizabeth Public Works Convenience Center to the Ellesor, Inc., Transfer Station, DEP Facility #2004D2, for final disposal at out-of-state facilities.
2. The district plan inclusion of the Revised Resource Recovery Traffic Plan is approved. This redesignation reflects changes directed by the Department in its January 18, 1989 certified traffic plan in which all plan components were approved except the assignment of vehicles to Interstate Route 78. The Department had informed the Union County Utilities Authority that standard waste hauling vehicles may not be able to meet the weight restrictions contained in the Federal Bridge Formula. As a result, vehicles from Berkeley Heights, Hillside and Springfield are redirected from Route 78 to Route 22, which is not subject to the Federal weight restrictions. Vehicles from those municipalities are then required to access U.S.

Route 1 & 9 north of Elizabeth from Route 22. As this represents a change from the routings evaluated in the permitting of the resource recovery facility, the impacts of this change must be evaluated and approval of the use of these routes must be obtained from the Division of Solid Waste Management in the form of a modified solid waste facility permit prior to their use.

3. The district plan inclusion of the following small-scale incinerators is approved.
 - a. The BOC Group, Inc., located on Lots 1-6, Block 370, in New Providence Borough, Union County. This is a replacement incinerator of same size and same waste type as the current facility to be utilized for the incineration of animal carcasses from the BOC research facility.
 - b. Schering-Plough Corporation, located on Lot 2, Block 101, in Kenilworth Borough, Union County. This is a new facility to be utilized for the incineration of pathological animal carcasses, bedding and plastic research equipment.

As noted in Section B. of the certification, under the Comprehensive Regulated Medical Waste Management Act (P.L. 1989, c. 34) signed by Governor Kean on March 6, 1989, a moratorium or a ban of at least one year is imposed on Departmental approval or consideration of any new commercial medical waste incinerator. Therefore, the plan inclusion approval of new facilities which were not in operation and accepting regulated medical waste on or prior to March 6, 1989 is restricted to facilities limited to non-commercial use. Furthermore, prior to the operation of either of the above noted small scale incinerators, the applicant must submit to the Department a certified affidavit verifying the non-commercial status of the facility. This affidavit, a sample of which may be obtained by contacting the NJDEP, Division of Solid Waste Management, Bureau of Special Waste, must be submitted within 45 days of the date of this certification. 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 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 et seq.

The blanket inclusion policy for all existing small scale, non-hazardous solid waste incinerators, as defined in N.J.A.C. 7:26-2.4(c)2, and currently on file with the N.J.D.E.P. Division of Environmental Quality as having air pollution permits, is hereby approved for inclusion within the Union County District Solid Waste Management Plan as follows:

- i. The condition that upon start up of the resource recovery facility by the Union County Utilities Authority, small scale incinerators shall no longer be considered as part of the district

plan, shall cease operations, and the waste shall be directed to the resource recovery facility, is rejected. Union County has not provided the Department with sufficient information to determine whether this condition meets the requirements of the state's solid waste regulations. The county is directed in a subsequent amendment to identify all incinerators affected by this condition, the types and amounts of waste presently being processed at these incinerators, and to modify the condition to specify that incinerators shall cease operation after start-up of the resource recovery facility and after expiration of their Departmental permits.

ii. The condition that permits held by existing small scale incinerators subject to the blanket inclusion may not lapse due to any action or inaction on the part of the permit holder is approved. In the event that the permit should lapse, due to any action or inaction on the part of the permit holder, the facility shall immediately cease operation and the waste shall be directed to the appropriate county disposal/transfer facility.

iii. The condition that a permit holder or permit applicant of a special waste incinerator, defined in the amendment as those utilized to incinerate medical, industrial and/or pathological waste, may petition the Union County Utilities Authority for a continuation of the facility's inclusion or new inclusion in the district plan is approved. The permit holder or application must demonstrate that, due to the characteristics or handling requirements of the special waste, it is more appropriate for the generator to continue operating or to begin operating a small scale incinerator than to have the waste material directed to the appropriate regional disposal/transfer facility or resource recovery facility. The Union County Utilities Authority reserves the right to reject any petition if, in its opinion, the waste is more appropriately managed at regional disposal/transfer station facilities or, the facility conflicts with the goal of the Union County Recycling Plan. Exemptions based primarily on economic convenience shall not be granted.

4. The inclusion of the amended Union County Recycling Plan within the Union County District Solid Waste Management Plan is approved with modifications. These modifications are enumerated within Section B. of this certification.
5. The district plan inclusion of a compost facility located on Block 185, lot 1, in the Township of Springfield, Union County, is approved with modification. This modification deletes the existing compost facility located on Block 185B, lot 1, in the Township of Springfield, Union County. Further, the Department directs that this compost site, DEP facility #2017A, be cleared of all residual leaf material and be restored to a condition equal to or better than its original condition including but not limited to regrading and grass seeding to ensure restoration and reclamation for public outdoor recreation and conservation as stipulated in N.J.A.C. 7:36-1

et seq. The construction or operation of the new solid waste facility shall be preceded by the acquisition of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The county shall operate the facility to accommodate leaves generated by all twenty-one Union County municipalities.

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 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 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).

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 and pursuant to N.J.S.A. 13:1E-24c. and f., the county shall proceed with the implementation of the approved amendment, as modified, 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 amendment, as modified, to the Union County District Solid Waste Management 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 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 With Modifications 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 with modifications 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 September 28, 1989. I hereby direct Union County to proceed with the directives specified in Section C. of this certification.

DATE

7/27/90

JUDITH A. YASKIN
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION