



STATE OF NEW JERSEY
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
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Finance
RAT Disburse

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

CERTIFICATION
 OF THE DECEMBER 14, 1989
 AMENDMENT TO THE CUMBERLAND COUNTY
 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.) establishes a comprehensive system for the management of solid waste in New Jersey. The Act designates all twenty-one (21) of the state's counties, and the Hackensack Meadowlands District, as Solid Waste Management Districts, and mandates that the Boards of Chosen Freeholders and the Hackensack Meadowlands Development Commission develop comprehensive plans for waste management in their respective districts.

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 procedures. 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. Amendments to the Act found at N.J.S.A. 13:1E-136 et seq. require that, among other things, counties amend their district solid waste management plans to include an outline of the proposed uses of the moneys in the District Resource Recovery Investment Tax Fund, as well as establish a schedule for disbursement of the moneys in that fund.

On March 4, 1981, the Department approved the Cumberland County District Solid Waste Management Plan. The Cumberland County Board of Chosen Freeholders, on December 14, 1989, adopted an amendment to its approved District Solid Waste Management Plan to satisfy the requirements of N.J.S.A. 13:1E-150. The amendment proposed a plan for the disbursement of moneys in the Cumberland County District Resource Recovery Investment Tax Fund for those uses previously approved by the Department. This disbursement schedule had been required by the Department in its certification of the June 13, 1989 Cumberland County Plan Amendment.

The amendment was received and accepted by the Department of Environmental Protection on January 30, 1990 and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment, and has determined that the amendment adopted by the Cumberland County Board of Chosen Freeholders on December 14, 1989 is approved in full as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1) and N.J.S.A. 13:1E-150, I, Judith A. Yaskin, Commissioner of the Department of Environmental Protection, have studied and reviewed the December 14, 1989 amendment to the approved Cumberland County District Solid Waste Management Plan according to the objectives, criteria and standards developed in the Statewide Solid Waste Management Plan and N.J.S.A. 13:1E-150 and I find and conclude that this plan amendment is consistent with the Statewide Solid Waste Management Plan and N.J.S.A. 13:1E-150 in proposing an acceptable disbursement schedule for moneys in the Cumberland County District Resource Recovery Investment Tax Fund.

In addition, the Division of Solid Waste Management circulated the plan amendment to sixteen 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. Among these agencies were the following:

- Division of Environmental Quality
- Division of Financial Management, Planning and General Services
- Division of Water Resources
- Division of Coastal Resources
- Division of Parks and Forestry
- Division of Fish, Game and Wildlife
- Board of Public Utilities
- Green Acres Program
- 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

Of these agencies, the following did not object to the proposed plan amendment:

- Division of Environmental Quality
- Division of Water Resources
- Division of Parks and Forestry
- Division of Fish, Game and Wildlife
- New Jersey Advisory Council on Solid Waste Management
- Green Acres Program
- Department of Agriculture

The following agencies failed to respond to our requests:

- Division of Financial Management, Planning and General Services
- Division of Coastal Resources
- Board of Public Utilities
- New Jersey Turnpike Authority
- Department of Health
- Department of Transportation
- Department of Community Affairs
- Department of the Public Advocate
- U.S. Environmental Protection Agency

The following agencies provided substantive comment as further described below:

The Division of Solid Waste Management commented that the provisions of the "McEnroe" legislation (N.J.S.A. 13:1E-136 et seq.) which establish District Resource Recovery Investment Tax Fund accounts for the state's twenty-one (21) counties, set out a clear state policy objective to generate revenues in order to subsidize anticipated resource recovery tipping fees to a level which is competitive with disposal costs at landfills utilized by the counties. If a county can demonstrate to the satisfaction of the Department that utilization of a resource recovery facility is not feasible for the disposal of solid waste generated in the county, then the District Resource Recovery Investment Tax Fund may be used to design, finance, construct, operate or maintain environmentally sound state-of-the-art sanitary landfill facilities.

Prior to disbursement from its District Resource Recovery Investment Tax Fund, however, a county must prepare a plan amendment which outlines the proposed uses of the moneys in its District Fund and establishes a disbursement schedule for those moneys in the fund. Thus, two tests must be met: an eligible use test, which uses are limited to those identified in N.J.S.A. 13:1E-150b. and a disbursement schedule test, which test criteria are not specifically provided in the Act.

Eligible uses of the fund are provided in Attachment I, Part I, of this certification. In consideration of the intent and objectives of the Act outlined above and the specific limitations upon eligible uses of the fund provided in N.J.S.A. 13:1E-150b., projects not formally identified in the approved district solid waste management plan shall not be funded with Resource Recovery Investment Tax Fund moneys. Therefore, in order to ensure user's rate reduction and facilitate timely project implementation,

disbursements from a District Resource Recovery Investment Tax Fund shall be made only to projects formally identified in the approved district solid waste management plan.

Pursuant to law, in order to provide safeguards as to how the investment tax funds are to be spent, a schedule for the disbursement of the moneys must be provided through the plan amendment process established under the New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.). In this way, a formal procedure for quantifying contributions to and withdrawals from the fund is established in order to maintain a running fund balance. Such a procedure may be followed using a variety of specific steps and methods of data presentation. In order to evaluate the adequacy of a disbursement schedule, the Department has established criteria (See Attachment I, Part II). The disbursement schedule submitted by Cumberland County provided adequate information.

The Cumberland County Board of Chosen Freeholders on June 13, 1989 adopted an amendment to its approved District Solid Waste Management Plan to satisfy the requirements of N.J.S.A. 13:1E-150. The Department approved the proposed use of the Cumberland County District Resource Recovery Investment Tax Funds for the design and construction of the Material Separating Facility (MSF) located in Deerfield Township; operating subsidies for the MSF; the purchase of residential recycling containers and the County's 2% administrative expenses permitted by the Act. The Department rejected the allocation for activities over time as they relate to the Resource Recovery Investment Tax Fund because it did not meet adequate content and format criteria provisions for a disbursement schedule.

On December 14, 1989, the Cumberland County Board of Chosen Freeholders adopted an amendment to their approved district plan which provided a detailed disbursement schedule for the use of the entire fund balance in the Cumberland County District Resource Recovery Investment Tax Fund. The Department has reviewed this amendment and has determined that the amendment adopted by the Cumberland County Board of Chosen Freeholders on December 14, 1989 is approved as being in conformance with the requirements of N.J.S.A. 13:1E-150b.

C. Certification of the Cumberland 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 establish specific requirements regarding the contents of the district solid waste management plans and N.J.S.A. 13:1E-150b which establishes eligible uses and disbursement schedule requirements for a district's Resource Recovery Investment Tax Fund, have reviewed the December 14, 1989 amendment to the approved Cumberland County District Solid Waste Management Plan and certify to the Cumberland County Board of Chosen Freeholders that the December 14, 1989 amendment is approved.

The Department finds that the provisions of the plan amendment concerning the allocation for activities over time as they relate to the District Resource Recovery Investment Tax Fund do meet the Department's content and format criteria provisions for a disbursement schedule. Therefore, the disbursement schedule contained in this plan amendment is approved.

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 herein amendment to the Cumberland County District Solid Waste Management Plan herein certified, which was executed prior to the approval of this amendment and subsequent to the effective date of the Solid Waste Management Act 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 Cumberland 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 transporters registered with the Department of Environmental Protection and operating within Cumberland County and affected by the portion of the amendment certified herein shall operate in compliance with this amendment and all other approved provisions of the Cumberland County District Solid Waste Management 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 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 Waste Covered by the District Solid Waste Management Plans

The provisions of the Cumberland 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 Cumberland 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 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 to the Cumberland County District Solid Waste Management Plan certified herein shall take effect immediately.

7. Audit Requirements

Cumberland County shall by October 31 of each year in which moneys remain in its District Resource Recovery Investment Tax Fund, file an audit of the fund and any expenditures therefrom with the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs. The audit shall be conducted by an independent public accountant. A copy of the audit shall be provided to: Chief, Bureau of Solid Waste and Resource Recovery Financing, Division of Solid Waste Management, Department of Environmental Protection, CN 414, Trenton, New Jersey 08625.

8. 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 Cumberland 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 include the Department's planning guidelines, rules, regulations, orders of the Department, including the interdistrict and intradistrict waste flow rules, and also include the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval of the Amendment by the Commissioner of the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve the amendment as outlined in Section C. of this certification to the Cumberland County District Solid Waste Management Plan which was adopted by the Cumberland County Board of Chosen Freeholders on December 14, 1989.

June 1, 1990
DATE

Judith A. Yaskin
JUDITH A. YASKIN
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ATTACHMENT I

Content and Format Criteria for District Resource Recovery Investment Tax Fund Plan Amendment Submissions, in Accordance with N.J.S.A. 13:1E-150

I. Proposed Uses

The moneys in the fund shall be disbursed only for the following purposes:

- 1) To reduce the rates charged to all users by a resource recovery facility serving the county in order to provide a gradual transition to resource recovery facility rates from sanitary landfill facility rates. A county may achieve reduction through the use of moneys in its district investment tax fund to pay directly part of the fees charged for disposal to all users of a resource recovery facility;
- 2) To design, finance, construct, operate or maintain environmentally sound state-of-the-art sanitary landfill facilities to be utilized for disposing of those solid wastes which cannot be processed by a resource recovery facility or the waste products resulting from the operation of a resource recovery facility;
- 3) To design, finance, construct, operate or maintain environmentally sound state-of-the-art sanitary landfill facilities to be utilized for disposal of those solid waste, on a long-term basis, if a county can demonstrate to the satisfaction of the department that utilization of a resource recovery facility is not feasible for disposal of the solid waste generated in that county;
- 4) To finance the closing costs for the proper closure of any terminated sanitary landfill facility located within a county whenever that county has made an investment tax rate adjustment for this purpose in accordance with the study conducted pursuant to N.J.S.A. 13:1E-146; and
- 5) To administer the investment tax fund, up to an amount not to exceed 2% of the total moneys appropriated to the fund during the fiscal year.

II. Disbursement Schedule

All disbursement schedules for District Resource Recovery Investment Tax Fund moneys shall be consistent with, but not be limited to, the following:

- 1) Narrative which outlines the purpose, background and legislative justification of and authorization for the use of the funds;
- 2) Narrative which provides the purpose, description and objectives of the project proposed for receipt of fund moneys;
- 3) Narrative which provides specific project performance data, implementation schedules and project status;

4) A spread sheet or other tabular or budgetary format which provides at least the following information, over time (choice of the time interval is at the discretion of the county, but shall not be longer than annually):

- a) Initial fund balance;
- b) Additional deposits to fund based upon tax rates and projected waste generation and disposal figures, under various recycling/reduction assumptions and population/economic growth assumptions;
- c) Interest accrued on fund balance, by year;
- d) Recipients of fund moneys, by amount, by proposed use, by time interval;
- e) Use of moneys by recipients, by amount, by time interval;
- f) If available, a budget for fund disbursements.