

Let's protect our earth



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(SOMERSET COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE FEBRUARY 17, 1987
AMENDMENT TO THE SOMERSET 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.) 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 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. Amendments to the Act found in 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 July 12, 1980, the Department approved, with modifications, the Somerset County District Solid Waste Management Plan. The Somerset County Board of Chosen Freeholders, on February 17, 1987, 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 use and disbursement of moneys in the Somerset County District Resource Recovery Investment Tax Fund.

The amendment was received and accepted by the Department of Environmental Protection on March 23, 1987 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 Somerset County Board of Chosen Freeholders on February 17, 1987 is approved in part with modifications and rejected in part as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Somerset 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, Richard T. Dewling, Commissioner of the Department of Environmental Protection, have studied and reviewed the February 17, 1987 amendment to the approved Somerset 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 acceptable uses of moneys from the Somerset County District Resource Recovery Investment Tax Fund provided certain conditions are met, but is inconsistent in failing to provide for a suitable disbursement schedule for these moneys.

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. Also among these agencies were the Department of Community Affairs, the Public Advocate, the Department of Health, the Office of Recycling, 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 Environmental Quality, Coastal Resources and Parks and Forestry; the State Departments of Agriculture, Health, and Transportation; the Green Acres Program; the New Jersey Turnpike Authority; the Board of Public Utilities, and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests: the State Department of the Public Advocate, the Department of Community Affairs, the U.S. Environmental Protection Agency, the New Jersey Department of Environmental Protection, Divisions of Water Resources, and Fish, Game and Wildlife, and the Office of Recycling. The Division of Solid Waste Management has substantive comments which are further addressed below.

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 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. The subsidies created by this legislation also were designed as incentives to make the transition from landfill disposal to capital intensive resource recovery technologies. Thus, the purposes of the Act are to provide financial assistance to counties in order to expedite resource recovery technology implementation and to provide user benefits through a reduction in the tipping fees at resource recovery facilities. 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 1, 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-150, 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 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 financial disbursement procedures, the Department has established criteria (see Attachment 1, Part II). Since the disbursement schedule submitted by Somerset County did not provide critical information such as fund balance, fund projection, timing of disbursements, projected recipients of disbursements and other critical disbursement information, it did not meet reasonable criteria for adequacy.

On February 17, 1987, the Somerset County Board of Chosen Freeholders adopted an amendment to their approved district plan which outlined the proposed uses of the District Resource Recovery Investment Tax Fund and provided a schedule for disbursement of those moneys. The proposed amendment provided for the use of the fund for the preparation of impact studies on the proposed residue landfill. The fund also would be used to finance the preliminary design of this facility. Somerset County proposed to enter into the impact study preparation immediately upon site designation, which designation was tentatively scheduled for mid-May 1987. To date, the contemplated residue landfill site has not been formally designated by the Somerset County Board of Chosen Freeholders for inclusion in the county plan, although the Bridgewater Township Quarry Site remains a part of the approved plan. Additionally, a site and technology for the resource recovery facility that a residue landfill would serve has not been selected formally by the Somerset County Board of Chosen Freeholders.

The amendment also established a disbursement schedule for the moneys in the fund. Specifically, disbursements from the fund were proposed to begin in May, 1987 and be made coincident with payment vouchers submitted by the consultant retained for the project. The subject amendment noted that the county retained Richard A. Alaimo Engineering Co. for the initial siting study, but that a consultant had not been procured for the proposed impact studies and designs.

The Department has determined that the proposed uses of moneys from the Somerset County District Resource Recovery Investment Tax Fund are in conformance with the requirements of N.J.S.A. 13:1E-150b. Disbursement for impact studies and preliminary designs for the residue landfill serving the district's resource recovery facility is an eligible use pursuant to N.J.S.A. 13:1E-150b(2) solely to the extent that the landfill accepts wastes which cannot be processed by a resource recovery facility and/or the waste products resulting from the operation of a resource recovery facility. Logically, both a resource recovery facility and a designated residue landfill site are required to satisfy these criteria due to the fact that impact studies and designs must be conducted at a discrete residue landfill site. Similarly, residue may only result from the operation of a resource recovery facility. As a result, the proposed uses of the moneys have been approved with modifications pending site and technology designations as further identified in Section C. below.

The Department also has determined that the disbursement schedule outlined in the subject amendment is inadequate because its level of detail and clarity is not sufficient to enable the Department to conduct a meaningful review and discharge its statutory oversight responsibilities. Therefore, I have rejected the disbursement schedule component of the amendment as outlined in Section C. below.

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

I, Richard T. Dewling, Commissioner of the Department of Environmental Protection, in accordance with N.J.S.A. 13:1E-1 et seq., which establishes specific requirements regarding the contents of the district solid waste

management plans and N.J.S.A. 13:1E-150 which establishes eligible uses and disbursement schedule requirements for a district's Resource Recovery Investment Tax Fund, have reviewed the February 17, 1987 amendment to the approved Somerset County District Solid Waste Management Plan and certify to the Somerset County Board of Chosen Freeholders that the February 17, 1987 amendment is approved in part with modifications and rejected in part as further specified below.

The proposed uses outlined in the Somerset County District Resource Recovery Investment Tax Fund Plan Amendment are in conformance with the requirements of N.J.S.A. 13:1E-150b(2) only as they limit disbursement from the district fund to the impact assessment and preliminary design of a residue landfill which accepts wastes which cannot be processed by the county's resource recovery facility and/or the waste products resulting from the operation of the county's resource recovery facility. The aforementioned approval is conditioned upon the selection by the Somerset County Board of Chosen Freeholders of a resource recovery site, designation of a resource recovery technology at that site, and either development of the approved Bridgewater Township Quarry landfill site for landfilling of resource recovery residues or the selection of an alternative site for a residue landfill. These conditions must be formally incorporated into the approved Somerset County District Solid Waste Management Plan. The proposed uses of said fund are, therefore, approved only to the extent that the county meets the conditions outlined above.

The Department finds that the provisions of the plan amendment concerning the allocation of activities over time as they relate to the District Resource Recovery Investment Tax Fund do not meet the Department's content and format criteria for provision of a disbursement schedule. Therefore, the disbursement schedule section of the plan amendment is rejected.

In accordance with N.J.S.A. 13:1E-150, Somerset County shall not disburse moneys from its District Resource Recovery Investment Tax Fund unless and until the Department approves the plan amendment(s) which selects a resource recovery site and designates a resource recovery technology at that site. Additionally, prior to disbursement, the Department must approve a plan amendment which designates a site for disposal of non-processible and/or waste products which result from the operation of the resource recovery facility. The residue landfill site designation condition may be satisfied by the development of the approved Bridgewater Township Quarry site for disposal of non-processibles and/or waste products which result from the operation of the resource recovery facility. Lastly, the Department must approve of a plan amendment which contains a disbursement schedule, which schedule shall meet the criteria presented in Attachment 1.

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 amendment to the Somerset 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 Somerset 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 Somerset 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 Somerset 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 Plans

The provisions of the Somerset 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 Somerset 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 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 N.J.A.C. 7:26-2.13.

6. Effective Date of Amendment

The amendment to the Somerset County District Solid Waste Management Plan certified herein shall take effect immediately.

7. Audit Requirements

Somerset 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, 401 East State Street, 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 Somerset 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, rules, regulations, 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 with modifications and Rejection in Part 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 in part with modifications and reject in part the amendment as outlined in Section C. of this certification to the Somerset County District Solid Waste Management Plan which was adopted by the Somerset County Board of Chosen Freeholders on February 17, 1987. I further direct the Somerset County Board of Chosen Freeholders to remedy those deficiencies identified in Section C of this certification as soon as possible.

August 20, 1987
DATE

Michael J. Catania for
RICHARD T. DEWLING
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

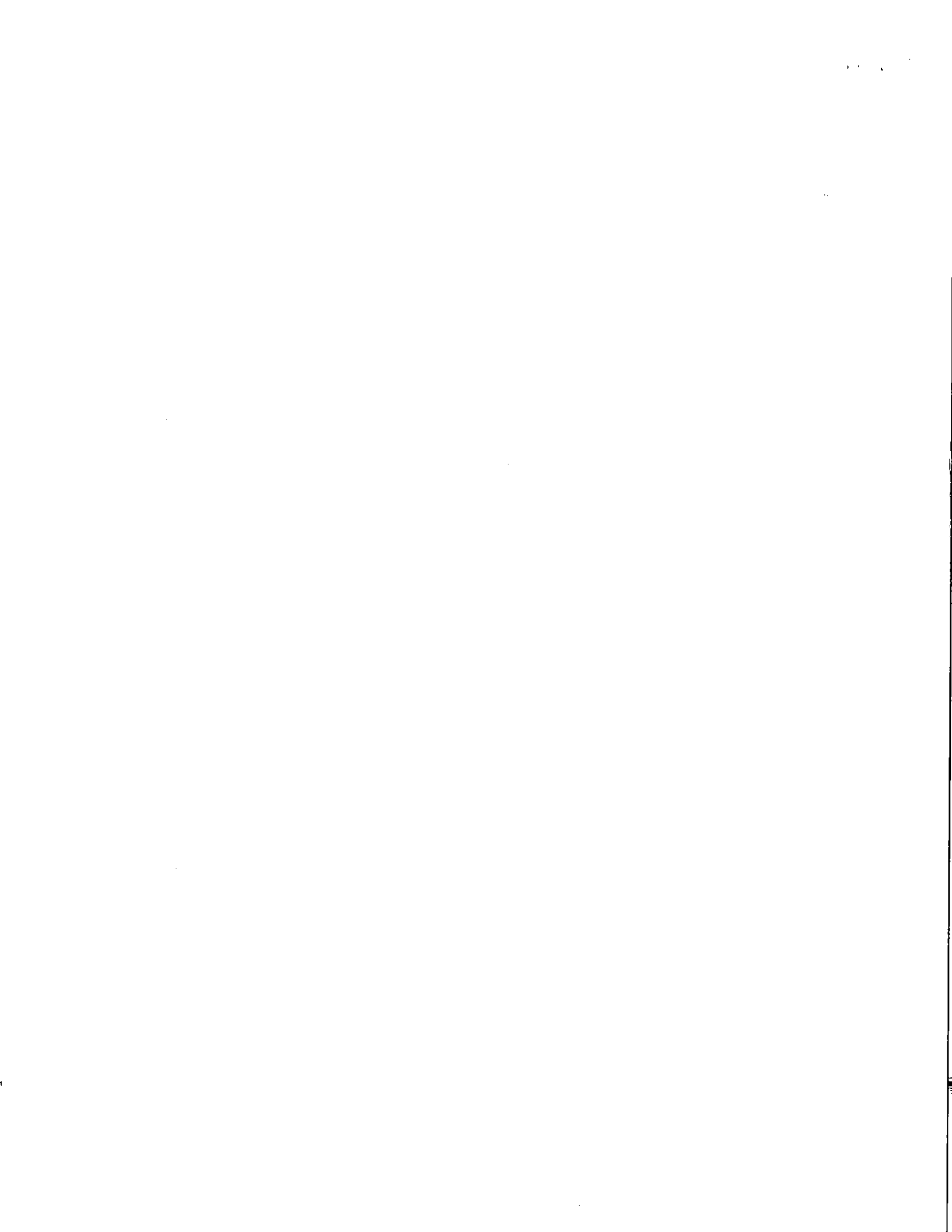
All disbursement schedules for District Resource Recovery Investment Tax Fund moneys shall include, but not be limited to, the following: *

- 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.

* A model format is attached. This format is from the approved Burlington County submission and is presented as guidance and need not be strictly adhered to. The Department recognizes that the data analysis may be presented in a variety of acceptable formats. For example, the Department has received a cash flow spreadsheet format that meets the criteria. This format is available for examination by the county.

Attachment



BURLINGTON COUNTY REGIONAL RECYCLING PROGRAM BUDGET PLAN
1986 - 1988

<u>EQUIPMENT</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Eager Beavers (incl. truck)	\$112,000.00	\$232,000.00	\$155,000.00
Box Truck w/Dump	\$80,000.00	\$328,000.00	\$128,000.00
Dump Trailers	\$28,000.00	\$20,000.00	\$0.00
Tractor	\$23,500.00	\$24,000.00	\$0.00
1 Van (for Coordinator)	\$6,000.00	\$0.00	0.00
Forklift	\$7,000.00	\$10,000.00	\$0.00
Caterpillar w/ft loader	\$20,000.00	\$25,000.00	\$0.00
Radios w/base	\$17,000.00	\$4,000.00	\$0.00
TOTAL	<u>293,500.00</u>	<u>\$643,000.00</u>	<u>\$283,000.00</u>
<u>PERSONNEL</u>			
(INCLUDES ALL FRINGE)			
1 Coordinator	\$21,000.00	\$23,900.00	\$25,376.00
1 Asst. Coordinator	\$17,290.00	\$18,500.00	\$19,610.00
Riders	\$225,780.00	\$364,773.00	\$488,358.00
Drivers (SV & EBT)	\$218,068.00	\$487,326.00	\$649,642.00
Drivers (TT)	\$26,800.00	\$46,000.00	\$69,000.00
Phone Operator	\$14,500.00	\$15,515.00	\$16,446.00
Delran Equipment Operator	\$5,270.00	\$16,000.00	\$16,960.00
Southampton Equipment Operator	\$0.00	\$4,000.00	\$16,000.00
TOTAL	<u>\$528,708.00</u>	<u>\$976,014.00</u>	<u>1,301,392.00</u>
<u>OPERATING (CURBSIDE)</u>			
Fuel	\$70,000.00	\$115,000.00	\$140,000.00
Maintenance	\$40,000.00	\$55,000.00	\$70,000.00
Insurance	\$60,000.00	\$105,000.00	\$135,000.00
Safety Apparel	\$4,000.00	\$4,000.00	\$4,000.00
TOTAL	<u>\$174,000.00</u>	<u>\$279,000.00</u>	<u>\$349,000.00</u>
<u>DELRAN RECYCLING CENTER</u>			
Insurance	\$5,000.00	\$12,000.00	\$14,000.00
Utilities	\$5,000.00	\$11,000.00	\$12,500.00
Maintenance	\$1,500.00	\$3,000.00	\$3,500.00
Supplies	\$2,000.00	\$7,000.00	\$8,000.00
TOTAL	<u>\$13,500.00</u>	<u>\$33,000.00</u>	<u>\$38,000.00</u>
<u>SOUTHERN RECYCLING CENTER</u>			
Insurance	\$0.00	\$2,000.00	\$8,000.00
Utilities	\$0.00	\$2,000.00	\$6,000.00
Maintenance	\$0.00	\$500.00	\$2,000.00
TOTAL	<u>\$0.00</u>	<u>\$4,500.00</u>	<u>\$16,000.00</u>
Total Operating	\$716,208.00	\$1,292,514.00	\$1,704,392.00
Administration 9%	\$64,458.72	\$116,326.26	\$153,395.28
SUBTOTAL	\$780,666.72	\$1,408,840.26	\$1,857,787.28
Total Equipment	\$293,500.00	\$643,000.00	\$283,000.00
GRAND TOTAL	<u>\$1,074,166.72</u>	<u>\$2,051,840.26</u>	<u>\$2,140,787.28</u>

BURLINGTON COUNTY RESOURCE RECOVERY INVESTMENT TAX DISTRICT FUND

	<u>1985</u> (245 days)	<u>1986</u>	<u>1987</u>	<u>1988</u>
Tax	\$1.00/ton	\$2.00/ton	\$3.00/ton	\$4.00/ton
Tons of Waste ¹		334,413 tons	338,282 tons	342,151 tons
Subtotal		<u>\$668,826.00</u>	<u>\$1,104,846.00</u>	<u>\$1,358,530.00</u>
Total ²	\$255,715.32	\$655,449.48	\$994,549.08	\$1,341,231.90

¹ Based on projected in-County waste disposal rates shown below.

² Total is calculated minus a 2% N.J. Department of Treasury Share.

BURLINGTON COUNTY ESTIMATED WASTE DISPOSAL RATE ³

	<u>1986</u>	<u>1987</u>	<u>1988</u>
IN - COUNTY GENERATION tons/per/day	916.2	926.8	937.4
OUT-OF-COUNTY DISPOSAL Bass River/Washington Township - tons/per/day	6.42	6.64	6.86
TOTAL IN-COUNTY DISPOSAL	909.78	920.16	930.5

³ Waste generation rates are based on the USEPA per capita generation rate of 4.7 lbs/capita/day for 1985 and the population projections of the Delaware Valley Regional Planning Commission, as reported in the "Burlington County Solid Waste Management Facilities Complex Conceptual Engineering Design and Master Site Plan Report," Volume I.

Waste generation rates should also account for waste reduction and recycling goals in projecting waste disposal in-county and waste generation in-county.