

Let's protect our earth



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER
CN 402
TRENTON, N.J. 08625
609 - 292 - 2885

(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 MAY 14, 1987,
AMENDMENT TO THE UNION 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 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.

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 August 13, 1980, the Department approved, with modifications, the Union County District Solid Waste Management Plan. The Union County Board of Chosen Freeholders, on May 14, 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 Union County District Resource Recovery Investment Tax Fund. In addition, the amendment contained provisions for mandatory municipal recycling programs.

The amendment was received by the Department of Environmental Protection on June 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, 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 May 14, 1987 is approved in part and modified in part 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, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the May 14, 1987, amendment to the Union County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in N.J.S.A. 13:1E-150 and the Statewide Solid Waste Management Plan 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 identifying acceptable uses of moneys from the Union County District Resource Recovery Investment Tax Fund, but is inconsistent in failing to provide for a suitable disbursement schedule for those 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 Department of 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 New Jersey Divisions of Environmental Quality, Coastal Resources, Water Resources, Green Acres, Parks and Forestry, and Fish, Game and Wildlife; the State Departments of Agriculture, and Health; the Board of Public Utilities, and the New Jersey Turnpike Authority. The following agencies failed to respond to our requests for comments: the State Departments of the Public Advocate, and Transportation and the U.S. Environmental Protection Agency. The Office of Recycling, the Department of Community Affairs, the New Jersey Advisory Council on Solid Waste Management and the Division of Solid Waste Management submitted substantive comments which are further addressed below.

The Office of Recycling commented that, while the provisions for mandatory municipal recycling programs contained in this amendment were submitted in response to the Certification of Approval of the January 17, 1986 Amendment to the Union County District Solid Waste Management Plan dated May 14, 1986, the

information in this plan amendment was rejected because it is no longer applicable. The requirements of the New Jersey Statewide Mandatory Source Separation and Recycling Act P.L. 1987, c. 102 now supercede the requirements of the Certification dated May 14, 1986. Therefore, under the requirements of the recently approved Act, Union County must address the issues of source separation and recycling in a subsequent plan amendment. In addition, the Office of Recycling stated that the County's intended use of the Union County Resource Recovery Investment Tax Revenues is not inconsistent with their goals.

The Department of Community Affairs commented that, given the lack of detailed financial specificity in the submitted plan, the Division of Local Government Services must necessarily defer any comment at this time. Similarly, the New Jersey Advisory Council on Solid Waste Management commented that, while the plan amendment is not inconsistent with their plans and program, there is little information given on which to judge. In response, the Department shares the concerns of both the Department of Community Affairs and the New Jersey Advisory Council on Solid Waste Management with respect to the level of detail which outlines proposed uses of and disbursement schedules for the fund. However, the Department is satisfied that the proposed uses for reducing the total bond issue to finance construction costs of the resource recovery facility and for retiring the taxable debt are in conformance with the requirements of N.J.S.A. 13:1E-150. Similarly, the disbursement schedule calls for a one time disbursement of funds at the time the county is prepared to issue bonds to finance said construction. In addition, remaining moneys in the fund would be used to retire the taxable debt. The schedule is in conformance with the intent of N.J.S.A. 13:1E-150 and meets reasonable content criteria by providing projections of fund balances through 1990, under assume waste flows and tax rates. However, the schedule is deficient in identifying interest earnings and post 1990 deposits as well as projecting dates for disbursements. Therefore, the Department has modified the disbursement schedule as set out in Section C 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 the resource recovery 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 the Department has established criteria (see Attachment 1, Part II). Since the disbursement schedule submitted by Union County did provide critical information such as fund projection, timing of disbursements, projected recipient of disbursements and other disbursement information, it partially meets reasonable criteria for adequacy. However, the schedules does not identify interest earnings, dates for disbursements and fund balances.

The amendment which is the subject of this certification 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 to reduce rates charged to the users of the resource recovery facilities serving the county. Specifically, investment tax revenues available at the time of financing will directly offset taxable bonds which otherwise would have been issued. In addition, investment tax revenue which may become available after financing would be used to retire the taxable debt. Finally, Union County chose not to avail itself of the two percent per annum allowance for the administration of the Fund.

The disbursement schedule is consistent with N.J.S.A. 13:1E-150 in providing a reasonable methodology for projecting the fund balance and in identifying an initial disbursement to reduce the size of the bond issue upon project construction financing followed by additional disbursements to retire the taxable debt. However, the schedule fails to provide an estimate of interest earnings on the fund balance or to identify post 1990 deposits, the dates for disbursements, the anticipated dollar amounts of the disbursements and the subsequent fund balances. Interest earned on the fund balance may only be disbursed for the use approved in this or subsequent certifications. The Department recognizes that the fund balance projection embodies several technical assumptions concerning the quantity of solid waste generated in Union County and, therefore, the actual balance of the fund may vary over time. Similarly, the timing of fund disbursements is dependent upon resource recovery project development.

The Department has determined that the proposed uses of moneys from the Union County District Resource Recovery Investment Tax Fund are in conformance with the requirements of N.J.S.A. 13:1E-150. The direct offsetting of taxable bonds for the construction costs of the resource recovery facility serving the county

will reduce user fees for the facility. However, the Department has determined that the disbursement schedule 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 approved in part and modified in part the amendment as outlined in Section C below.

C. Certification of Union 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, have reviewed the May 14, 1987 amendment to the approved Union County District Solid Waste Management Plan and certify to the Union County Board of Chosen Freeholders that the May 14, 1987 amendment is approved in part and modified in part as further specified below.

The Department has determined that based upon the comments provided by the Office of Recycling, the provisions of the amendment concerning mandatory municipal recycling programs are rejected. The Department anticipates the submission of a plan amendment that will comply with the provisions of the New Jersey Statewide Mandatory Source Separation and Recycling Act P.L. 1987, c. 102. At that time the Department will review the submission and subsequently issue a certification.

The Department has determined that the proposed uses outlined in the Union County District Resource Recovery Investment Tax Fund Plan Amendment are in accordance with, and thereby satisfy, N.J.S.A. 13:1E-150 as they reduce the sum of the bond issue for the construction costs of the resource recovery facility serving the county only to the extent that such uses reduce the rates charged to all users of the county's resource recovery facility identified in the approved District Solid Waste Management Plan. The ultimate demonstration of user rate reduction shall be the responsibility of the county. The proposed uses of the fund are hereby approved. All interest earnings on the fund balance shall be used only for the uses approved herein.

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 are partially consistent with the disbursement schedule requirements of N.J.S.A. 13:1E-150. However, the schedule fails to provide a methodology for calculating, estimating or identifying interest earnings on the fund balance, dates for disbursements, the amount of disbursements receipts, or the fund balances after disbursements are made. Therefore, in accordance with N.J.S.A. 13:1E-150, Union County shall not disburse moneys from its District Resource Recovery Investment Tax Fund unless and until the Department approves the disbursement schedule for those moneys. The disbursement schedule portion of the subject amendment is, therefore, modified accordingly. This minor modification shall contain a revised disbursement schedule prepared in accordance with the guidelines in Attachment I. This approval shall be obtained by submission of a Freeholder Resolution in the form of a minor modification of the approved district solid waste management plan in accordance with N.J.S.A. 13:1E-24.

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 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 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 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).

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 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 Union County District Solid Waste Management Plan contained herein shall take effect immediately.

7. Audit Requirements

Union County shall, by October 31 of each year in which moneys remain in its District Resource Recovery Investment Tax Fund, file a compliance and financial 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 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 Modification 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, Richard T. Dewling, hereby approve in part and modify 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 May 14, 1987.

November 19, 1987

DATE



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 a 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) Uses 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

TABLE 1

COUNTY RESOURCE RECOVERY INVESTMENT TAX DISTRICT FUND

1985 (245 day)	1986	1987	1988
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 ton
Subtotal	\$668,826.00	\$1,104,846.00	\$1,358,530.00
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.

COUNTY ESTIMATED WASTE DISPOSAL RATE³

	1986	1987	1988
IN - COUNTY GENERATION tons/per/day/	916.2	926.8	937.4
OUT-OF-COUNTY DISPOSAL 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 County Solid Waste Management Facilities Complex Conceptual Engineering Design and Master Site Planning 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.

TABLE 6-2

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>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>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>