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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)
(MIDDLESEX COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE FEBRUARY 5, 1987
AMENDMENT TO THE MIDDLESEX 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 29, 1980, the Department approved, with modifications, the Middlesex County District Solid Waste Management Plan. The Middlesex County Board of Chosen Freeholders, on February 5, 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 Middlesex County District Resource Recovery Investment Tax Fund.

The amendment was received by the Department of Environmental Protection on February 11, 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 Middlesex County Board of Chosen Freeholders on February 5, 1987 is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Middlesex 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 February 5, 1987 amendment to the approved Middlesex 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 with the Statewide Solid Waste Management plan in identifying acceptable uses of moneys from the Middlesex 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 N.J.D.E.P. Divisions of Environmental Quality, Fish, Game and Wildlife, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture, Community Affairs, and Transportation; the Board of Public Utilities, the Green Acres Program, the Office of Recycling, the New Jersey Turnpike Authority, 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 Water Resources, the State Departments of Health and the Public Advocate; and the U.S. Environmental Protection Agency. Substantive comments are provided below by the Division of Solid Waste Management.

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.

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 establish a disbursement schedule for those moneys in the fund. The Department has interpreted this language to require that two tests 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.

The Department interprets the phrase "...a schedule for the disbursement of the moneys..." in N.J.S.A. 13:1E-150c., which 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.), to mean a formal mechanism for quantifying contributions to and withdrawals from the fund, in order to maintain a running fund balance. These criteria may be met in several formats that allocate activities over time and that meet the minimum content guidelines set out in Attachment I of this certification. The Department's policy is that this data and analysis is a district responsibility to be conducted within guidelines and criteria established by the Department.

On February 5, 1987, the Middlesex 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 funds to reduce rates charged to the users of the resource recovery facilities serving the county. Specifically, the amendment proposed allocation for the design, financing, construction and operation of a materials processing/recycling facility. Two million dollars was proposed for allocation towards design, financing and construction of such a facility, with one million dollars allocated toward subsidizing the operation and maintenance of the facility. Additionally, funds were proposed for allocation towards the design, financing, and construction of a waste-to-energy facility. Lastly, two per centum of the fund was proposed for allocation to Middlesex County on an annual basis for administration of the fund.

The amendment also established a disbursement schedule for the moneys in the fund. Specifically, two million dollars was to be disbursed for design, financing and construction of the materials processing/recycling facility in 1987 - 1988. One million dollars for subsidization of the operations and maintenance of said facility was to be disbursed in annual increments of \$100,000 for a period of ten years, to be paid on or before January 15 of each calendar year. Funds were proposed for allocation to the waste-to-energy facility to cover all acceptable project costs incurred through December 31, 1988, additional funds were to be allocated to cover all acceptable costs

incurred from January 1, 1989 through December 31, 1990. All remaining funds were proposed to be used to cover costs incurred between January 1, 1991 and December 31, 1992, or the date that the waste-to-energy facility comes on-line, whichever is later. Payments for costs incurred through 1988 were to be made from the fund on or before March 31, 1989 for costs incurred through 1990 on or before March 31, 1991; and payments for costs incurred through 1992 on or before March 31, 1993, or within three months of the start-up date of the facility.

The Department has determined that the proposed uses of moneys from the Middlesex County District Resource Recovery Investment Tax Fund are consistent with the criteria presented in N.J.S.A. 13:1E-150. The subsidization of the design, financing, and construction of a waste-to-energy facility will reduce user fees for the facility. Similarly, subsidization of the design, financing, construction and operation of a materials processing/recycling facility will ultimately benefit users of the resource recovery facility through reduction in the net development, construction, and operating cost of the resource recovery 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, we have approved in part and rejected in part the amendment as outlined in Section C below.

C. Certification of Middlesex 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 established specific requirements regarding the contents of the district solid waste management plans, have reviewed the February 5, 1987 amendment to the approved Middlesex County District Solid Waste Management Plan and certify to the Middlesex County Board of Chosen Freeholders that the February 5, 1987 amendment is approved in part and rejected in part as further specified below.

The Department has determined that the proposed uses outlined in the Middlesex 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 limit disbursement to the design, financing and construction of a waste-to-energy facility, only to the extent that such uses reduce the rates charged to all users of the county's resource recovery facility identified in the District Solid Waste Management Plan. Similarly, allocation of funds from the Middlesex County District Resource Recovery Tax Fund for the purpose of design, financing, construction and operation of a materials processing/recycling facility are approved only to the extent that user rates at the resource recovery facility are reduced. The ultimate demonstration of user rate reduction shall be the responsibility of the county. The proposed uses from the fund are hereby approved.

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 moneys does not meet the Department's content and format criteria for provision of a disbursement schedule. The disbursement schedule section of the plan amendment is hereby rejected. Therefore, in

accordance with N.J.S.A. 13:1E-150, Middlesex 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. This approval shall be obtained through written submission to the Department, but does not require the development and submission of an additional plan amendment to correct this deficiency.

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 Middlesex County District Solid Waste Management Plan herein certified 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 Middlesex 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 Middlesex 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 Middlesex 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 Middlesex 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 Middlesex 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 Middlesex County District Solid Waste Management Plan certified herein shall take effect immediately.

7. Audit Requirements

Middlesex County shall, by October 31 of each year in which moneys remain in its district investment tax fund, file an audit of the district investment tax 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 Recourse Recovery Financing, Division of Solid Waste Management, 401 East State Street, Trenton, New Jersey 08625.

8. Reservation of Authority

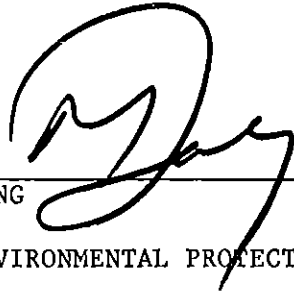
Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Middlesex County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan. The Department has published a Statewide Solid Waste Management Plan with appendices which includes the Department's planning guidelines and rules, regulations, and orders of the Department, including the interdistrict and intradistrict waste flow rules, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval in Part and Rejection in Part of the Amendment by the Commissioner of the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve in part and reject in part the amendment as outlined in Section C. of this certification, to the Middlesex County District Solid Waste Management Plan which was adopted by the Middlesex County Board of Chosen Freeholders on February 5, 1987. I further direct the Middlesex County Board of Chosen Freeholders to remedy those deficiencies identified in Section C of this certification as soon as possible.

July 10, 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.

TABLE 1

 COUNTY RESOURCE RECOVERY INVESTMENT TAX DISTRICT FUND

| <u>1985 (245 day)</u> | <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.

 COUNTY ESTIMATED WASTE DISPOSAL RATE³

| | <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 tons/per/day | 6.42 | 6.64 | 6.86 |
| TOTAL IN-COUNTY DISPOSAL | <u>909.78</u> | <u>920.16</u> | <u>930.5</u> |

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> |