

**STATE OF DELAWARE**



**EXECUTIVE DEPARTMENT  
DOVER**

**EXECUTIVE ORDER  
NUMBER TWENTY-TWO**

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: WAIVER AND REASSIGNMENT OF ALLOCATION OF RECOVERY ZONE  
FACILITY BOND VOLUME CAP

WHEREAS, the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("ARRA"), which became effective February 17, 2009, authorized state and local governments to issue certain Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds; and

WHEREAS, the Internal Revenue Service released Notice 2009-50, which provided guidance for the issuance of Recovery Zone Bonds along with the allocation of volume cap for Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds; and

WHEREAS, Kent County received an allocation under ARRA of \$22,446,000 in Recovery Zone Economic Development Bonds for governmental projects and \$33,668,000 in Recovery Zone Facility Bonds for private activity projects; and

WHEREAS, Kent County defined recovery zones according to ARRA on August 11, 2009, adopting Resolution No. 3057; and

WHEREAS, Kent County Levy Court allocated its Recovery Zone Economic Development Bond volume cap to certain public works projects on September 28, 2010; and

WHEREAS, Kent County Levy Court allocated a portion of its Recovery Zone Facility Bond volume cap to certain qualifying projects and wishes to reassign \$20 million of its remaining volume cap; and

WHEREAS, Internal Revenue Service Notice 2009-50 provides that, upon waiver of any portion of volume cap by a county, the State in which such county is located "shall be authorized

to reallocate the waived volume cap in any reasonable manner as it shall determine in good faith in its discretion;”

NOW, THEREFORE, I, JACK A. MARKELL, by the authority vested in me as Governor of the State of Delaware, do hereby DECLARE and ORDER that:

1. Pursuant to Resolution No. 3179 adopted by the Kent County Levy Court on October 26, 2010, \$20 million of Kent County’s remaining Recovery Zone Facility Bond volume cap allocation remains unused and is hereby transferred to the State for further disposition.

2. \$20 million of the Recovery Zone Facility Bond volume cap is hereby allocated to Sussex County for use by NRG’s Indian River Plant project, which includes the financing of air quality control systems for the reduction of SO<sub>2</sub>, NO<sub>x</sub> and mercury emissions.

**APPROVED this 17th day of November, 2010**



*Jack Markell*  
Governor

**ATTEST:**

*Richard J. Gusibeyn*  
Secretary of State  
Acting