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)
(HUDSON COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE APRIL 23, 1987
AMENDMENT TO THE HUDSON 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.) established 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. On January 7, 1982, the Department approved, with modifications, the Hudson County District Solid Waste Management Plan.

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. The Hudson County Board of Chosen Freeholders completed such a review and on April 23, 1987 adopted an amendment to its approved district solid waste management plan.

The amendment proposed to incorporate into the district plan a strategy that will provide for the appropriate distribution of waste types, between the various component facilities of the county solid waste system, and to provide the Hudson County Improvement Authority with the ability to establish specific tipping fees (under Board of Public Utilities rate setting procedures) at each component facility for each type of waste handled by an individual component facility. This strategy represents a means of regulating the amounts, types and origins of the solid waste delivered to the proposed Hudson County solid waste facilities. Also contained in this strategy is the provision for the establishment of waste distribution centers which will be the only authorized entities allowed to deliver Hudson County's generated solid waste to the proposed solid waste facilities.

In addition, the amendment proposed to establish a Citizens Advisory Committee to provide a forum for the Hudson County Improvement Authority to receive input on its policy decisions from representatives of Hudson County municipalities, residents, businesses, community groups, and other interested parties.

In addition, the amendment also proposed to incorporate into the approved district plan a policy for district approval of incinerators of limited size within apartment complexes provided that:

1. A mandatory recycling program is instituted at the location of each incinerator approved. The source separated material would be collected on a periodic basis and delivered to Hudson County Improvement Authority's Central Recycling Facility.

2. Incinerator residue would be subject to random independent laboratory analysis for hazardous/non-hazardous waste classification, as a provision for the delivery of the residue to the Hudson County Improvement Authority waste system.

3. Incinerators would be subject to emission testing, under the supervision of the Department of Environmental Protection, prior to the issuance of a certificate to operate. Periodic emission testing would be required to continue operation.

Lastly, the amendment proposes to incorporate the district recycling plan into the approved district solid waste management plan as per the requirements of the New Jersey Statewide Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102 (herein referred to as the "Recycling Act").

The complete amendment was received by the Department of Environmental Protection on May 18, 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 Hudson County Board of Chosen Freeholders on April 23, 1987 is approved with modification as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1) and P.L. 1987, c.102 I, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the April 23, 1986, amendment to the Hudson County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and P.L. 1987, c.102 and I find and conclude that this plan amendment, as modified, is consistent with the Statewide Solid Waste Management plan.

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

The Office of Recycling commented on the county recycling plan as follows:

1. According to the Recycling Act, each district recycling plan must include the designation of a district recycling coordinator. The county has failed to include this designation and must do so within the subsequent solid waste management plan amendment required in Section C. of this certification.

2. The proposed plan amendment establishes recycling recovery rates for the county by material, but does not establish recycling recovery rates for each municipality. Section 3b.(4) of the Recycling Act requires the "designation of recovery targets in each municipality to achieve the maximum feasible recovery of recyclable materials from the municipal solid waste stream ...". The plan must indicate the municipal waste stream for each municipality, expressed in tons, plus the amounts of the designated recyclables currently recycled, and establish recycling recovery targets based on the above.

3. The Office of Recycling commends the Hudson County Improvement Authority for its comprehensive approach in selecting newspaper, glass, ferrous metal, plastics, aluminum, cardboard, fine paper and organics as the targeted recyclables of the recycling plan. However, the plan amendment does not specifically mandate materials to be source separated from the residential, commercial, or institutional waste streams in each municipality, as required by Section 3b.(2) of the Recycling Act.

4. The plan amendment states that the Hudson County Recycling Plan is scheduled for implementation over the next three to five years. According to Section 4a. of the Recycling Act, the county must secure recycling services on behalf of the municipalities (if not already provided by the municipality) within six months of the adoption and approval of the district recycling plan. The Hudson County Recycling Plan's implementation schedule is not in compliance with the requirements of the Recycling Act.

5. The plan amendment does not address Section 3d. of the Recycling Act which states, "each district recycling plan may be modified after adoption by the Department." The district recycling plan must address Section 3d., or future modifications will require future solid waste management plan amendments. If the county anticipates future changes of the Recycling Plan, the county should propose an amendment procedure for the Department's approval.

6. As indicated in Section 3c. of the Recycling Act, priority consideration must be given to businesses already engaged in recycling as of January 1, 1986. These businesses must be given the opportunity to bid on services or negotiate agreements to continue providing said services. Notification to these businesses of a request for services is sufficient to satisfy this requirement. The county has failed to indicate whether or not there are existing businesses which meet the criteria for priority consideration established in the Recycling Act.

7. The plan amendment did not identify what compost facility will be used by each municipality in Hudson County as required by Section 13a. of the Recycling Act. Therefore, the district recycling plan shall identify the leaf composting facilities to be utilized by each municipality within the county.

8. According to Section 6f. of the Recycling Act, each municipality is required to notify all persons occupying residential, commercial, and institutional premises of the source separation requirements of the local ordinance at least once every six months. The district recycling plan must specify the minimum activities to be undertaken by each municipality to satisfy this requirement.

The Division of Solid Waste Management responds by concurring with the comments made by the Office of Recycling concerning the county recycling plan. Hudson County is being directed in Section C. of this certification to conduct a public hearing within forty-five (45) days of the date of this certification to address the deficiencies identified in the county recycling plan by the Office of Recycling.

The Division of Solid Waste Management commented on the plan amendment by applauding the establishment of the Citizens Advisory Panel which will extend the public participation process for the implementation of the Hudson County Solid Waste Management Plan.

The Division also commented on the district policy for the renovation and operation of incinerators of limited size located in apartment complexes by stating that the county will be required to clarify to the Department the term "limited size" by establishing a quantitative limit on the maximum size that will be permitted under this policy. The minor nature of this clarification will only require that it be accomplished through correspondence from the Hudson County Improvement Authority to the Director, Division of Solid Waste Management, Department of Environmental Protection.

C. Certification of Hudson 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. and N.J.S.A. 13:1E-21, which established specific requirements regarding the contents of the district solid waste management plans and P.L. 1987 c.102 which requires that, among other things, counties amend their district solid waste management plan to include a district recycling plan, have reviewed the April 23, 1987 amendment to the approved Hudson County District Solid Waste Management Plan and certify to the Hudson County Board of Chosen Freeholders that the April 23, 1987 amendment is approved with modification as further specified below.

1. The inclusion into the district plan of the strategy to provide appropriate distribution of waste types to various component disposal facilities, and provide the Hudson County Improvement Authority with the ability to establish specific tipping fees (under Board of Public Utilities rate setting procedures) at each component disposal facility is approved.

   As stated in Section A. of this certification, this strategy represents a means of regulating the amounts, types and origins of the solid waste delivered to the proposed Hudson County solid waste facilities. Also contained in this strategy is the provision for the establishment of waste distribution centers which will be the only authorized entities allowed to deliver Hudson County generated solid waste to the proposed solid waste facilities.

2. The establishment of a Citizens Advisory Committee to provide a forum for the Hudson County Improvement Authority to receive input on policy decisions from municipal representatives, residents, businesses, community groups and other interested parties is approved.

3. The inclusion into the district plan of the policy for allowing renovation and operation of incinerators of limited size within apartment complexes, as outlined in Section A. of this certification, is approved as modified. Hudson County is required to submit to the Department a clarification of the term "limited size" by establishing a quantitative limit on the maximum size that will be permitted under this policy.

4. The inclusion into the district plan of the Hudson County Recycling Plan is approved with modification. Hudson County is required to conduct a public hearing within forty-five (45) days of the date of this certification to address a subsequent solid waste management plan amendment which will remedy the deficiencies in the district recycling plan identified by the Office of Recycling as outlined in Section B. of this certification.

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 Hudson County District Solid Waste Management Plan 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 Hudson 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 Hudson County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Hudson 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 Hudson 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 Hudson 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 -2.13 and P.L. 1987 c.102.

6. Effective Date of Amendment

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

7. 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 Hudson 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 of the Amendment and Notification of Deficiencies 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 with modification the amendment as outlined in Section C. of this certification, to the Hudson County District Solid Waste Management Plan which was adopted by the Hudson County Board of Chosen Freeholders on April 23, 1987. I further direct the Hudson County Board of Chosen Freeholders to conduct a public hearing within forty-five (45) days of the date of this certification to remedy the deficiencies outlined in Section B. of this certification.

10/19/87
DATE

RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION