

The November 22, 1988 amendment was not distributed for state level review because the only state level review agencies which commented on the April 23, 1987 district recycling plan, necessitating the November 22, 1988 plan amendment, were N.J. Department of Environmental Protection (NJDEP), Division of Solid Waste Management's Bureau of Resource Recovery and the Office of Recycling. The November 22, 1988 plan amendment submitted to the Department has satisfied the comments made by those two agencies in the October 19, 1987 certification.

The amendment proposes to incorporate modifications to 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, N.J.S.A. 13:1E.99.11 et seq. (herein referred to as the "Recycling Act").

The amendment was received by the Department of Environmental Protection on January 30, 1989. The Department has reviewed this amendment and has determined that the amendment adopted by the Hudson County Board of Chosen Freeholders on November 22, 1988 is approved as modified herein, 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-24f and N.J.S.A. 13:1E-99.13, I, Christopher J. Daggett, Acting Commissioner of the Department of Environmental Protection have studied and reviewed the November 22, 1988 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 N.J.S.A. 13:1E 99.11 et seq., and I find and conclude that this plan amendment is consistent as modified herein with these requirements.

1. With respect to Point Three of the county's revised plan amendment, N.J.S.A. 13:1E-99.13 requires that each district recycling plan must designate the source separated recyclable materials to be diverted from the municipal solid waste stream within the residential, commercial, and institutional sectors of each municipality. The county's revised plan amendment is deficient in this regard, as it does not specifically mandate the designation of source separated recyclable materials within the specific sectors of each municipality. Therefore, the county is hereby directed to amend its district recycling plan to specifically mandate, at a minimum, the residential source separation of newspaper, glass food and beverage containers, and aluminum cans within each municipality. Further, the plan shall mandate, at a minimum, the source separation of corrugated cardboard and high grade office paper within the commercial and institutional sectors, in addition to those materials hereby mandated in the residential sector, within each municipality. This directive notwithstanding, each municipality shall, as may be deemed appropriate, provide for the diversion of additional source separated recyclable materials as set forth in N.J.S.A. 13:1E.99.11 et seq.

In addition, the county is hereby directed to amend the district recycling plan to provide that all municipal recycling ordinances are

to be consistent with, but shall not be limited to, the provisions of the adopted and approved district recycling plan regarding the designation of materials to be source separated in the residential, commercial, and institutional sectors.

2. With respect to Point Five of the amendment, regarding the procedure to be utilized for future modifications to the district recycling plan, the county is hereby directed to specifically address any and all substantive negative comments that may arise through a public hearing or written public comment period pertaining to such modifications. In addition, a permanent record of such proceedings must be kept and maintained.
3. With respect to Point Seven of the amendment, pertaining to the exemption provision set forth in N.J.S.A. 13:1E 99.16, the county is hereby directed to amend the district recycling plan to specify "source separated recyclable materials designated in the district recycling plan", where reference is made to commercial and institutional generators becoming eligible for exemptions from the source separation requirements of P.L. 1987, c.102, at the discretion of the respective municipality. It should be noted that the intent of the exemption provision set forth in N.J.S.A. 13:1E-99.16 is to grant exemptions to such commercial and/or institutional entities on a case by case basis "if those [entities] have otherwise provided for the recycling of the recyclable materials designated in the district recycling plan from the solid waste generated at those premises." In addition, in order to determine if the overall goals of the district recycling plan and the municipal ordinances adopted pursuant thereto have been met, those entities must furnish the municipality with regular reports containing verifiable information regarding solid waste generation and tonnage documentation that verify designated materials have been diverted for recycling.
4. With respect to Point Eight of the amendment, pursuant to N.J.S.A. 13:1E-99.21, "each district recycling plan shall identify the leaf composting facility or facilities to be utilized by each municipality in the county." The county has failed to identify these facilities as required by law.

It should be noted that the new rules established at N.J.A.C. 7:26-1.7 and 7:26-1.11 exempt leaf composting facilities from solid waste facility permitting if the owner or operator of the facility adheres to the requirements of the particular rule under which they propose to operate. It should also be noted that, pursuant to new rule N.J.A.C. 7:26-1.12, leaf composting facilities that engage in leaf mulching operations on agricultural or horticultural lands are exempt from the Department's solid waste facility permitting process if the specific standards under the rule are met.

Therefore, Hudson County shall, within sixty days of the date of the certification of this amendment, prepare and submit a report setting forth the following:

- A) The identification of all municipalities lacking access to permitted or authorized leaf composting facilities.
- B) A draft contract to be used by the county to execute services on behalf of municipalities for the proper collection and transportation of source separated leaves to permitted or authorized leaf composting facilities or to leaf composting facilities that engage in leaf mulching operations on agricultural or horticultural lands, during the mandatory leaf collection period of September 1 to December 31 of each year as required by N.J.S.A. 13:1E. 99.22.
- C) An indication of the steps to be taken (with a timeline setting forth the dates associated with those identified steps) to execute B above, with an execution date to be indicated no later than September 1, 1989.

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

I, Christopher J. Daggett, Acting 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, have reviewed the November 22, 1988 amendment to the approved Hudson County District Solid Waste Management Plan and certify to the Hudson County Board of Chosen Freeholders that the November 22, 1988 amendment is approved as modified 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 this 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 solid waste 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 recycling 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 N.J.A.C. 7:26-2.13 and N.J.S.A. 13:1E-99.12.

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,

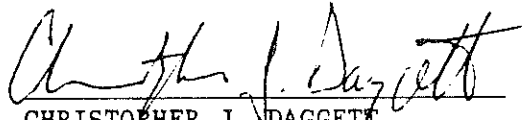
shall conform with the Statewide Solid Waste Management Plan. The Department has published a Statewide Solid Waste Management Plan with appendices which includes the Department's planning guidelines and rules, regulations, and orders of the Department, including the interdistrict and intradistrict waste flow rules, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval of the Amendment 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 November 22, 1988.

February 27, 1989

DATE


CHRISTOPHER J. DAGGETT
ACTING COMMISSIONER