

## **IC 13-21-5**

### **Chapter 5. District Solid Waste Management Plan**

#### **IC 13-21-5-1**

##### **Adoption of plan; submission to commissioner; requirements and criteria**

Sec. 1. Each district shall adopt and submit to the commissioner for approval a district solid waste management plan that meets:

- (1) the requirements of this chapter; and
- (2) the criteria and other elements set forth in the state plan.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-2**

##### **Public meetings; notice**

Sec. 2. (a) A district must conduct at least one (1) regularly scheduled public meeting each month before the creation, amendment, or alteration of the district solid waste management plan. The board shall give notice of each public meeting in accordance with IC 5-14-1.5. In addition, a copy of the schedule of regularly scheduled monthly meetings shall annually be submitted for publication to a newspaper of general circulation in each county of the district. The notice:

- (1) must be at least two (2) columns wide by five (5) inches long; and
- (2) may not be placed in the part of the newspaper where legal notices and classified advertisements appear.

(b) Public comments shall be taken at each board meeting.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-3**

##### **Public meetings; hearing; notice**

Sec. 3. (a) After considering public comment received during all public meetings held under section 2 of this chapter, the board shall hold a public hearing on the proposed plan before adopting a district plan in final form.

(b) The board shall make the proposed plan available to the public at least thirty (30) days before the date the public hearing is held.

(c) The board shall give public notice of the hearing held under this section.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-4**

##### **Public meetings; format of plan**

Sec. 4. (a) The department shall furnish a model format to be used in the preparation of district plans under this chapter.

(b) A district plan adopted before January 1, 1991, may use a format different from the format furnished under subsection (a), but the commissioner may request that such a plan be revised to conform to the model format furnished under subsection (a).

*As added by P.L.1-1996, SEC.11.*

### **IC 13-21-5-5**

#### **Public meetings; advisory committee**

Sec. 5. (a) An advisory committee established under IC 13-21-3-11 must conduct at least one (1) regularly scheduled public meeting each month before reporting to the board on any matter.

(b) After a board adopts a district plan, the advisory committee appointed by the board shall meet as follows:

- (1) At least four (4) times each year.
- (2) At the request of the board.

(c) Public comments shall be taken at each advisory committee meeting.

*As added by P.L.1-1996, SEC.11.*

### **IC 13-21-5-6**

#### **Review of working documents**

Sec. 6. A board:

- (1) must make all working documents available for review by the public for a period of time that allows sufficient time for adequate review before a public meeting of the board; and
- (2) shall make updated copies of working documents available to the public on a regular basis.

*As added by P.L.1-1996, SEC.11.*

### **IC 13-21-5-7**

#### **Special meetings; notice**

Sec. 7. (a) If the board conducts a meeting other than a regularly scheduled public meeting conducted under section 2 of this chapter:

- (1) notice of the meeting must be given in accordance with IC 5-14-1.5-5;
- (2) an agenda of the meeting must be posted at least forty-eight (48) hours in advance under IC 5-14-1.5-4; and
- (3) the board shall notify a general circulation newspaper in each county that makes up the district of the meeting and the agenda to be discussed.

(b) The notice to the newspaper under this section shall be given by:

- (1) first class mail if notice can reasonably be expected to reach the newspaper at least forty-eight (48) hours before the meeting; and
- (2) telephone if notice cannot reasonably be expected to reach the newspaper under subdivision (1).

(c) At the meeting, the board may discuss only those matters that were indicated on the meeting agenda prepared under this section.

*As added by P.L.1-1996, SEC.11.*

### **IC 13-21-5-8**

#### **Approval or disapproval of plan**

Sec. 8. (a) Based upon the contents of the state plan and on rules adopted by the board, the commissioner shall approve or disapprove

each district plan submitted for review under this chapter within one hundred twenty (120) days after the plan is submitted to the commissioner.

(b) If the commissioner fails to act within one hundred twenty (120) days after a district plan is submitted, the district plan is considered approved.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-9**

##### **Notification of disapproval; revision; hearing; time limitations**

Sec. 9. (a) If the commissioner disapproves a district plan submitted by a board, the commissioner shall promptly:

- (1) notify the board of the disapproval of the district plan; and
- (2) provide written comments on changes that would make the district plan acceptable.

(b) The district shall do the following:

- (1) Revise the district plan.
- (2) Resubmit the plan to the commissioner within ninety (90) days after the disapproval of the original district plan.

(c) Before adoption of the revised district plan, the board shall hold a public hearing using the procedures in section 3 of this chapter.

(d) The commissioner shall approve or disapprove a revised district plan within one hundred twenty (120) days after the revised plan is submitted to the commissioner. If the commissioner fails to act within one hundred twenty (120) days after a revised plan is submitted, the revised plan is considered approved.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-10**

##### **Information provided by department to assist counties**

Sec. 10. The department shall provide information to assist counties to do the following:

- (1) Establish districts.
- (2) Develop district plans under this chapter.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-11**

##### **Requirements of plan**

Sec. 11. A district plan must include the following:

- (1) The results of a demographic study of the district predicting the population of the district:
  - (A) five (5) years;
  - (B) ten (10) years; and
  - (C) twenty (20) years;after the year the district plan is adopted.

- (2) A:
  - (A) description of the origin, content, and weight or volume of the solid waste to be generated in the district at the time of the development of the district plan; and

- (B) projection of the origin, content, and weight or volume of the solid waste to be generated in the district:
  - (i) five (5) years;
  - (ii) ten (10) years; and
  - (iii) twenty (20) years;after the year the district plan is adopted.
- (3) An inventory and description of the following:
  - (A) The facilities located within the district.
  - (B) The solid waste management activities taking place within the district.
- (4) A statement identifying and assessing solid waste problems that:
  - (A) exist in the district at the time of the development of the district plan; and
  - (B) may exist in the district in the future.
- (5) A:
  - (A) projection of the need for; and
  - (B) description of;facilities in the district five (5) years, ten (10) years, and twenty (20) years after the year the district plan is adopted.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-12**

##### **Solid waste management policy required**

Sec. 12. (a) A district plan must establish a solid waste management policy for the district that reflects the needs of the district and provides an integrated approach to solid waste management that includes the following:

- (1) Source reduction.
- (2) Alternatives to complete or partial dependence on final disposal facilities, including recycling and composting.
- (3) Final disposal facilities.

(b) A district plan must contain a strategy to promote and educate the public regarding the benefits of managing vegetative matter by:

- (1) composting;
- (2) mulching; and
- (3) any other environmentally appropriate manner the board may determine, other than the disposing of vegetative matter in a landfill.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-13**

##### **Required contents of plan**

Sec. 13. A district plan must do the following:

- (1) Set forth goals and objectives for the district.
- (2) Identify alternative means of achieving these goals and objectives based upon the problems and needs of the district.
- (3) Set forth a description of the following:
  - (A) The operational costs and capital costs of implementing the district plan.

(B) The proposed means of financing the implementation of the district plan.

(4) Set forth the basis for setting fees, rates, and charges for use of any facility.

(5) Designate a person to supervise the implementation of the district plan and describe the responsibilities and authority of that person.

(6) Describe the surveillance and enforcement procedures to be implemented to ensure compliance with the district plan.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-14**

##### **Disposal of certain waste materials required by plan**

Sec. 14. (a) A district plan must also include provisions for the management and disposal of the following materials for the term of the plan:

(1) Waste tires.

(2) Household hazardous waste.

(3) Used oil.

(4) White goods.

(5) Other classifications of waste provided for in the state plan.

(b) A district plan that sets forth provisions for the management and disposal of materials identified in subsection (a) must comply with all laws and rules governing the management and disposal of those materials.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-15**

##### **Optional provisions to restrict disposal of solid waste from another state**

Sec. 15. A district plan may, to the extent the provisions are constitutionally permissible, include provisions to restrict or prohibit the disposal within the district of solid waste originating from another state if the district reasonably considers the provisions necessary to accomplish the long range planning goals of the district.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-16**

##### **Considerations and limitations of plan**

Sec. 16. (a) A district plan must consider, in all circumstances, contracts with private persons.

(b) A district plan or amended plan must, where reasonably necessary to effectuate the efficient use of existing permitted final disposal facilities, take account of permitted final disposal facilities in the district that are in operation at the time the district plan is adopted. A district plan or amended plan must incorporate all recycling activities in progress in the district at the time the district plan is adopted or amended.

(c) A district plan may not impose operational requirements on a privately owned or operated facility that differ from operational

requirements imposed on a public facility solely because the facility is privately owned or operated.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-17**

##### **Failure to submit plan; disapproval of revision; adoption of plan by commissioner**

Sec. 17. If:

(1) a district fails to submit a district plan to the commissioner under section 1 of this chapter; or

(2) the commissioner disapproves a revised district plan submitted by the district under section 9 of this chapter;

the commissioner may adopt a solid waste management plan for the district.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-18**

##### **Amendment of plan; procedures; filing and implementation**

Sec. 18. (a) A district may amend the district's solid waste management plan at any time using the procedures set forth in sections 1 through 7 of this chapter.

(b) A district shall amend its district plan using the procedures set forth in sections 1 through 7 of this chapter if the district decides to implement one (1) of the following programs and the program is not addressed in the district's district plan or the district decides to not implement one (1) of the following programs and the program is addressed in the district's district plan:

(1) A program involving a facility that requires a permit from or registration with the department.

(2) A program involving a facility for processing recyclable materials.

(3) A program for collecting recyclables.

(4) A major education program.

(c) An amended plan prepared under this section:

(1) shall be immediately filed with the commissioner; and

(2) may be implemented after filing unless the commissioner notifies the district in writing within thirty (30) days after the filing that the amended plan fails to comply with the state plan.

The written notice of the commissioner must also provide written comments on changes that would make the amended plan acceptable.

(d) An amended district plan prepared under this section shall be filed:

(1) on a form; or

(2) in a format;

provided by the department.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-19**

##### **Merged districts; adoption of plan**

Sec. 19. (a) Before a district submits a district plan to the department under this chapter, a district may merge with one (1) or more other districts after the adoption of identical resolutions by the board of each district to be merged.

(b) Upon adoption of identical resolutions under subsection (a), a board for the resulting merged district shall be established using the procedures set forth in IC 13-21-3.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-20**

##### **Merger of districts; adoption of identical resolutions; time limitations; notice of noncompliance**

Sec. 20. (a) After a district submits a district plan to the department under this chapter, a district may merge with one (1) or more other districts after the adoption of identical resolutions by the board of each district to be merged.

(b) Upon adoption of identical resolutions under subsection (a), a board for the resulting merged district shall be established using the procedures set forth in IC 13-21-3.

(c) A merged district shall:

(1) adopt a district plan under sections 1 through 7 of this chapter not later than sixty (60) days after the merger is completed; and

(2) file the district plan with the commissioner.

The new district plan may be an amended version of the previous approved plans submitted under the new district name. A merger under subsection (a) does not take effect until the district plan is filed with the commissioner.

(d) A district plan adopted under this section is considered approved unless the commissioner notifies the district in writing not later than thirty (30) days after the district plan is filed with the commissioner that the district plan fails to comply with the state plan. The notice provided by the commissioner must include comments concerning changes to the district plan that would make the district plan acceptable.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-5-21**

##### **Withdrawal or removal of counties from joint districts; plan requirements; notice of noncompliance**

Sec. 21. (a) If a county seeks to withdraw from a joint district or a joint district seeks to remove a county from the joint district under IC 13-21-4 and the county:

(1) designates itself as a county district;

(2) joins into an existing joint district; or

(3) joins with one (1) or more other counties in establishing a new joint district;

the county district or the joint district shall comply with this section.

(b) If a county that withdraws from a joint district designates itself as a county district, the board appointed for the new county district

under IC 13-21-3-4 shall file a district plan with the commissioner not later than one (1) year after the date the identical resolutions adopted under IC 13-21-4-2 for the county's withdrawal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new county district to the extent the terms of the plan apply to the new county district until the plan of the new county district is approved under this chapter. If the board fails to file the district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new county district.

(c) If a county that is removed by a joint district designates itself as a county district, the board appointed for the new county district under IC 13-21-3-4 shall file a district plan with the commissioner not later than one (1) year after the date the identical resolutions adopted under IC 13-21-4-2 for the county's removal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new county district to the extent the terms of the plan apply to the new county district until the plan of the new county district is approved under this chapter. If the board fails to file the district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new county district.

(d) If a county joins into an existing joint district, the board of the joint district:

- (1) must approve the addition of the county to the district;
- (2) shall amend the district plan to include the additional county; and
- (3) shall file the amended district plan with the commissioner not later than one (1) year after the addition of the county to the district.

The district plan of the joint district continues to serve as the plan for the new joint district until the date the amended district plan is approved under this chapter. If the board fails to file the amended district plan with the commissioner not later than one (1) year after the addition of the county to the district, the commissioner may adopt a district plan for the new joint district.

(e) If a county joins in establishing a new joint district, the board of the new joint district shall, not later than one (1) year after:

- (1) the adoption of an ordinance establishing the joint district; and
- (2) approving an agreement governing the operation of the joint district;

file a new district plan with the commissioner. If the board fails to file the new district plan with the commissioner not later than one (1) year after the adoption and approval under subdivisions (1) and (2), the commissioner may adopt a district plan for the new joint district.

(f) If a county withdraws from a joint district that consists of more than two (2) counties, the board of the joint district shall:

- (1) restructure the joint district's board under IC 13-21-3 not later than forty-five (45) days; and

(2) amend the district plan under sections 1 through 7 of this chapter and file the amended district plan with the commissioner not later than one (1) year; after the date the identical resolutions adopted under IC 13-21-4-2 for the county's withdrawal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new joint district to the extent the terms of the plan apply to the new joint district until the amended plan of the new joint district is approved under this chapter. If the board fails to file the amended district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new joint district.

(g) If a county is removed from a joint district that consists of more than two (2) counties, the board of the joint district shall:

(1) restructure the joint district's board under IC 13-21-3 not later than forty-five (45) days; and

(2) amend the district plan under sections 1 through 7 of this chapter and file the amended district plan with the commissioner not later than one (1) year;

after the date the identical resolutions adopted under IC 13-21-4-2 for the county's removal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new joint district to the extent the terms of the plan apply to the new joint district until the amended plan of the new joint district is approved under this chapter. If the board fails to file the amended district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new joint district.

(h) A district plan adopted under this section is considered approved unless the commissioner notifies the district in writing not later than thirty (30) days after the district plan is filed with the commissioner that the district plan fails to comply with the state plan. The notice provided by the commissioner must include comments concerning changes to the district plan that would make the district plan acceptable.

(i) With respect to a joint district that consists of only two (2) counties, if the county other than the county that withdraws from the joint district designates itself as a county district, the board appointed for the new county district under IC 13-21-3-4 shall file a district plan with the commissioner not later than one (1) year after the date the identical resolutions adopted under IC 13-21-4-2 for the withdrawal from the joint district take effect. The district plan of the joint district continues to serve as the plan for the new county district to the extent the terms of the plan apply to the new county district until the plan of the new county district is approved under this chapter. If the board fails to file the district plan with the commissioner not later than one (1) year after the effective date of the identical resolutions, the commissioner may adopt a district plan for the new county district.

*As added by P.L. 1-1996, SEC. 11. Amended by P.L. 74-2002, SEC. 10.*