

**NOTE: THIS IS A COURTESY COPY OF THIS RULE ADOPTION. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE NOVEMBER 16, 2009 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE ADOPTION, THE OFFICIAL VERSION WILL GOVERN.**

**ENVIRONMENTAL PROTECTION**

**ENVIRONMENTAL REGULATION**

**SOLID AND HAZARDOUS WASTE MANAGEMENT PROGRAM**

**COMPLIANCE AND ENFORCEMENT**

**DIVISION OF COUNTY ENVIRONMENTAL AND WASTE ENFORCEMENT**

**Solid Waste Rules**

Readoption without Amendments: N.J.A.C. 7:26

Proposed: June 1, 2009 at 41 N.J.R. 2186(a)

Adopted: October 10, 2009 by Mark N. Mauriello, Acting  
Commissioner, Department of Environmental Protection

Filed: October 20, 2009 as R.2009 d. **without change.**

Authority: N.J.S.A. 13:1B-3, 13:1D-1 et seq., 13:1D-125 et seq.,  
13:1E-1 et seq., 13:1E-9, 26:2C-1 et seq., 47:1A-1 et seq.,  
58:10-23.11 and 58:10A-1 et seq.

DEP Docket Number: 08-09-04/741

Effective Date: October 20, 2009.

Expiration Date: October 20, 2014

The Department of Environmental Protection (Department) hereby readopts, without change, the Solid Waste Rules, N.J.A.C. 7:26. These rules govern the following activities: the registration, operation, maintenance and closure of solid waste facilities; the registration, operation and maintenance of solid waste transportation vehicles; fees charged for services provided by the Department to solid waste facilities, generators and transporters; civil

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administrative penalty assessments and requests for adjudicatory hearings; the implementation of various statutory loan programs; the disclosure and integrity review of solid and hazardous waste facilities and transporters; and the availability and confidentiality of information received by the Department in administering the solid waste program.

The proposal to readopt the Solid Waste Rules without change was published in the New Jersey Register on June 1, 2009 at 41 N.J.R. 2186(a). No public hearing was held concerning the proposal. The comment period closed on July 31, 2009.

This adoption document may be viewed on the Department's website at <http://www.nj.gov/dep/rules>.

### **Summary of Public Comments and Agency Responses**

No public comment was received.

### Federal Standards Analysis

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65), require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. These Solid Waste rules are adopted under the authority of N.J.S.A. 13:1E-1 et seq., 13:1B-3, and 13:1D-9. New Jersey has been regulating solid and hazardous waste since 1970. The United States Environmental Protection Agency ("USEPA") has regulated solid and hazardous waste management since 1978. The two programs operate, for the most part, in conjunction and coordination.

Except for the provisions noted below, the rules are not being readopted under the authority of or in order to implement, comply with or participate in any program established under Federal law. Accordingly, no comparison with Federal law is required under P.L. 1995, c.65, and Executive Order No. 27(1994) for these provisions.

The rules being readopted that set forth the requirements for the design, construction, operation and closure of sanitary landfills at N.J.A.C. 7:26 are equivalent to the Federal requirements for Municipal Solid Waste landfills at 40 C.F.R. Parts 257 and 258. The Department's sanitary landfill permitting program has been approved by the USEPA and is

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adequate to implement the requirements at 40 C.F.R. Parts 257 and 258. While the Department's sanitary landfill permit program is equivalent to the USEPA program, there is one area in which the Department's program is more stringent than the Federal program. At N.J.A.C. 7:26-2A.7(f)1i, the Department requires that the landfill gas collection and venting system be designed to prevent and control the accumulation of any methane gas at any concentration in any structure. The Federal regulations at 40 C.F.R. 258.23(a)1 are less stringent because they only require methane gas collection and venting systems be designed to prevent and control the accumulation of methane gas in a landfill structure when that concentration reaches 25 percent of the lower explosive limit ("LEL"). The LEL is five percent of methane in air.

The Department based its standard on operational experience at New Jersey facilities. In many cases in which methane was detected onsite or migrating off-site, the strategy was to mitigate the potential build up to prevent any fires or explosion. In several cases, however, fires have occurred and structures have been damaged because of methane gas buildup. The overall benefit is the protection of life and property. Since the difference between these standards, that is, between a discernible gas concentration in any structure and 25 percent of five percent gas concentration (the LEL) is small, it is not fully possible to explore the cost of complying with the State standard versus the Federal standard. The cost of compliance with the additional standard over the Federal standard is extremely small and probably zero. The Department's standard simply removes the need for any decision making in this potentially dangerous situation. In fact, the real world response to any methane gas concentration in a confined structure would be to mitigate the situation. Given the benefit of potentially saving lives and property at a landfill and the likely zero additional cost to the regulated community, the more stringent requirement is reasonable and attainable under current technology.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 7:26.

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Based on consultation with staff, I hereby certify that the above statements, including the Federal Standards Analysis addressing the requirements of Executive Order No. 27 (1994), permits the public to understand accurately and plainly the purposes and expected consequences of this readoption. I hereby authorize this readoption.

Date: \_\_\_\_\_

\_\_\_\_\_  
Mark N. Mauriello, Acting Commissioner  
Department of Environmental Protection