



## State of New Jersey

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**CERTIFICATION  
OF THE JULY 10, 2014 AMENDMENT  
TO THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY, FORMERLY  
KNOWN AS THE NEW JERSEY MEADOWLANDS COMMISSION 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 (formerly known as the New Jersey Meadowlands Commission, now known as New Jersey Sports and Exposition Authority or NJSEA) develop comprehensive plans for waste management in their respective districts. On July 31, 1980, the Department of Environmental Protection (Department or DEP) approved the NJSEA District Solid Waste Management Plan (District Plan).

The Act further provides that a district may review its district plan at any time and, if found inadequate, a new district plan must be adopted. The NJSEA Board of Commissioners (NJSEA Commissioners) completed such a review and on July 10, 2014 adopted an amendment to its approved District Plan ("Plan Amendment").

The July 10, 2014 Plan Amendment would revise the District Plan so that it includes an increase of the final elevation of the Keegan Landfill, located on Block 205, Lots 18, 19.02, 24, and 27-33 off of Bergen Avenue in the Town of Kearny from 60 feet to 100 feet North American Vertical Datum (navd). Assuming no change in the current rate at which solid waste is received at the landfill, the vertical expansion would provide disposal capacity until approximately 2021.

The Plan Amendment was considered administratively complete for review by the Department on September 10, 2014 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department had 150 days from that date to conduct its review (until February 6, 2015); however, on February 3, 2015, the Department and NJSEA

entered into an agreement (the "Tolling Agreement") that provided the Department an additional ninety (90) days to review the Plan Amendment (until May 4, 2015). The Department has reviewed this amendment, and has determined that the amendment adopted by the NJSEA Commissioners on July 10, 2014 is approved.

**B. Findings and Conclusions with Respect to the NJSEA District Solid Waste Management Plan Amendment**

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the July 10, 2014 Plan Amendment according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan, and I find and conclude that the Plan Amendment is consistent with the Statewide Solid Waste Management Plan. In this regard, the NJSEA Commissioners are notified of the elements of the July 10, 2014 Plan Amendment which are included below.

**Elements of the July 10, 2014 Amendment**

**Element: Background**

On May 27, 1992, the Commissioners of the Hackensack Meadowlands Development Commission (formerly known as the New Jersey Meadowlands Commission and now known as New Jersey Sports and Exposition Authority or NJSEA) adopted an amendment to their District Solid Waste Management Plan (NJSEA District Plan) to include a proposed landfill for non-processible solid waste to be located at the former Keegan Landfill on Block 205, Lots 18, 19, 24, 27, and 28-33 in the Town of Kearny, Hudson County. This amendment to the District Plan was certified as approved by the Department on December 2, 1992.

On November 28, 2006, the NJSEA Commissioners adopted a District Plan amendment which proposed to include, amongst other things, the use of the Keegan Landfill for up to 3,000 tpd (tons per day) of solid waste types 13, 13C, 23, and 27; operation of the Keegan Landfill during the hours 6:00 am - 4:00 pm, Monday through Friday and 6:00 am - 1:00 pm, Saturday; and limiting the height of the Keegan Landfill to 60 feet above mean sea level. The November 28, 2006 amendment to the District Plan was certified as approved by the Commissioner on April 10, 2007.

On October 1, 2008, the NJSEA Commissioners requested that the Department issue an administrative approval to amend the District Plan to change the operating hours for the Keegan Landfill from 6:00 am to 4:00 pm, Monday through Friday and 6:00 am to 1:00 pm, Saturday to 6:00 am to 4:00 pm, Monday through Friday and 6:00 am to 1:30 pm, Saturday. The Department approved the request on October 6, 2008.

The Keegan Landfill is owned by the following entities:

- NJSEA: Block 205, Lot 31-33; and,
- Town of Kearny: Block 205, Lot 24, 27, 29, 30, and 19.02 ("Kearny Parcels").

NJSEA leases the Kearny Parcels pursuant to a lease agreement ("Kearny-NJSEA Lease") with the Town of Kearny that expires concurrently with the Solid Waste Facility Permit on June 20, 2016. The Town of Kearny is not an operator of the Landfill.

The July 10, 2014 Plan Amendment proposes to increase the final elevation of the Keegan Landfill from 60 feet to 100 feet navd. Under the current Solid Waste Facility Permit, the remaining life of the Keegan Landfill, as of March 24, 2014, is estimated to be 33 months (December 2016). The proposed elevation increase would add another 2.4 million cubic yards of capacity to the Keegan Landfill. Assuming the current filling rates remain the same, the expansion would give the landfill disposal capacity until approximately 2021. The proposed vertical expansion requires renewal and modification of the current Keegan Landfill Solid Waste Facility Permit.

**Element: Closure/Post-Closure Escrow Account**

As of October 31, 2014, NJSEA had a balance of \$1,766,965.00 in the escrow account that it maintains pursuant to N.J.S.A. 13:1E-109 (requiring landfill owner/operator to deposit \$1.00 per ton into an escrow account to be used to fund landfill closure and post-closure costs) ("DEP Closure Escrow Account"). NJSEA has been depositing an average of \$300,000 per year into the DEP Closure Escrow Account. NJSEA has not submitted a comprehensive financial plan (including Schedules A, B, C) that identifies the detailed costs of closing the landfill and the expenses for 30 years of post-closure activities and the means by which closure and post-closure will be funded. N.J.A.C. 7:26-2A.9(f) (financial plan obligations of the landfill owner/operator). Therefore, the Department cannot determine whether the current amount in the DEP Closure Escrow Account plus deposits anticipated between now and the end of the landfill permit will be adequate to cover anticipated and potentially unanticipated expenses for closure activities and 30 years of post-closure care. If the amount in the DEP Closure Escrow is projected to be insufficient to cover estimated closure and post-closure activities, then NJSEA will have to identify funds to meet its closure and post-closure funding obligations (e.g., increased tipping rates, assumption of costs by another entity (subject to DEP approval)).

To evaluate whether the NJSEA is placing adequate funds into the landfill's escrow accounts to cover all closure and post-closure expenses expected as a result of the expansion, the Department is requiring NJSEA to submit a comprehensive Financial Plan with Schedules "A", "B", and "C" with detailed cost estimates for all the closure and post-closure activities and the funding sources for Keegan Landfill within 90 days of approval of this Certification.

NJSEA has advised the Department that NJSEA intends to fund closure of the Keegan Landfill, the Town of Kearny will fund post-closure activities, and that the respective closure and post-closure responsibilities of the parties will be set forth in a new or amended Kearny-NJSEA Lease.

To establish the respective financial obligations of NJSEA and Kearny with regard to the Landfill, the Department expects that the Financial Plan will:

1. Be executed by both NJSEA and Kearny;
2. Specify that NJSEA will fund closure activities and identify the mechanisms that NJSEA will use to fund those activities;

3. Specify that Kearny will fund post-closure activities and identify the mechanisms that Kearny will use to fund those activities.

In addition, as an owner of part of the landfill and as the entity that will perform post-closure activities, Kearny will have to be a signatory (along with NJSEA) on the application to amend the Solid Waste Facility Permit to increase the elevation of the Keegan Landfill and to add Kearny as a permit holder. If the Department approves the proposed increase in elevation, then it will issue the amended permit to both Kearny and NJSEA.

**Element: Solid Waste Facility Permit Renewal and Landfill Expansion**

Submittal of an administratively and technically complete application for the Solid Waste Facility permit renewal and major modification is requested no later than December 20, 2015 to provide DEP with 180 days to review engineering studies to determine if the expansion meets requirements of the New Jersey Solid Waste Management Act. Within 60 days of approval of this certification NJSEA shall schedule and participate in a pre-application meeting with the DEP to discuss application submittal requirements and review procedures.

Application guidance and requirements for the Solid Waste Facility Permit renewal and Major Modification as well as the Closure/Post-Closure Care and Financial Plan are described in Sections four and five, respectively, of the Department-issued document entitled "Technical Manual for Sanitary Landfill Permits and Approvals" dated May 1999 (available on <http://www.nj.gov/dep/dshw/hwtf/permits/sanlanpa.pdf>).

**Element: NJPDES Compliance**

Pursuant to N.J.A.C. 7:14A-16.4(b), any substantial alteration or addition to the permitted facility or discharge (including one or more changes in the permittee's residual use or disposal practices) which occurred after the issuance of a New Jersey Pollutant Discharge Elimination System (NJPDES) permit and which justifies the application of permit conditions that are different or absent from those in the existing permit constitutes a cause for the modification of the facility's existing permit. Therefore, the NJSEA Keegan Landfill may require a modification of its NJPDES permit.

**C. Certification of the NJSEA District Solid Waste Management Plan Amendment**

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-21, which establishes specific requirements regarding the contents of the county solid waste management plans, I have reviewed the July 10, 2014 amendment to the approved District Plan and certify to the NJSEA Commissioners that the July 10, 2014 amendment is approved.

This Certification shall not be construed as an expression of the DEP's intent to issue a solid waste facility permit or permit modification for any proposed facility or operation. Therefore, NJSEA and Kearny must apply to the Department to renew and modify its existing solid waste facility permit to authorize the proposed vertical expansion. If NJSEA does not provide sufficient time for DEP to carefully review the required engineering studies that must accompany a permit

modification to expand Keegan Landfill as identified in the Section entitled Regulatory Requirements found above, and if Keegan Landfill is approaching its maximum permitted disposal capacity before the permit is approved, DEP will provide notification to the three counties (Hudson, Essex and Union) that rely upon Keegan Landfill as part of their waste flow strategies to designate alternative disposal facilities to avoid any disruption in implementing their solid waste management programs.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the DEP and the Attorney General of the State of New Jersey to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

Furthermore, the Department is aware that the current solid waste permit and the lease agreement between NJSEA and the Town of Kearny expire on June 20, 2016. The Department will not be able to approve renewal and modification of the Keegan Landfill permit unless there is a valid and current lease agreement between the Town of Kearny and NJSEA. To assist the counties of Essex, Hudson, and Union with sound solid waste management planning, the Department has advised each of those counties of the regulatory status of the Keegan Landfill, including the current permit limits of the landfill, the potential expansion of the landfill and the potential need for tipping rate increases to address closure and post-closure costs. Further, Keegan Landfill is unauthorized to continue to accept solid waste should it reach its permitted capacity prior to the issuance of a new solid waste permit with expanded capacity.

Lastly, NJSEA must submit a Financial Plan with Schedules "A", "B", and "C" with detailed cost estimates for all the closure and post-closure activities assuming the landfill expansion is approved and the funding sources for Keegan Landfill within 90 days of approval 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 District 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 and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment and of the District 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, and for good cause shown, obtain an extension of time to complete such renegotiation.

To the extent that NJSEA is seeking to enter into new long-term contracts or agreements for disposal of solid waste at the Keegan Landfill, such contracts and agreements shall comply with

the New Jersey Solid Waste Management Act and shall be consistent with applicable permits. If NJSEA enters into new long-term contracts or agreements with counties that designate Keegan as part of their DEP-approved waste flow programs before a modified solid waste permit is issued by the Department authorizing the proposed vertical expansion, then NJSEA and such counties do so at their own financial risk.

## **2. Compliance**

All solid waste facility operators and transporters registered with the Department and operating within the District and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the District Plan. Any facility operator or transporter 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 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. Certification to Proceed with Implementation of Amendment**

This document shall serve as the Certification of the Commissioner of the Department to the NJSEA Commissioners and pursuant to N.J.S.A. 13:1E-24c and f., the NJSEA Commissioners shall proceed with the implementation of the approved components of the amendment certified herein.

## **4. 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 99.12, N.J.A.C. 7:26-1.4, -2.13, and N.J.A.C. 7:26A-1.3.

## **5. Effective Date of Amendment**

The approved components of the amendment to the District Plan contained herein shall take effect immediately.

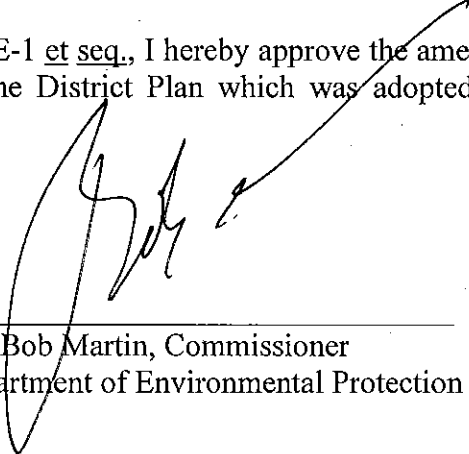
## **6. Reservation of Authority**

Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The District Plan, including any amendment made thereto, shall conform to the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, and also includes the compilation of individual District Plans and amendments as they are approved.

**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 the amendment, as outlined in Section C. of this Certification, to the District Plan which was adopted by the NJSEA Commissioners on July 10, 2014.

5/1/2015  
Date

  
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Bob Martin, Commissioner  
Department of Environmental Protection