



Monmouth County Solid Waste Management Plan Analysis

August 5, 2024

Background

DeFeo Associates has been retained to provide Monmouth County (County) with an analysis of the existing solid waste and recycling facilities within Monmouth County to create a general needs analysis as it relates to potential siting of new solid waste and recycling facilities. Specifically, the County is attempting to determine if there is any type of facility for which the County has a deficiency related to the total tonnage of material generated and disposed of within the County, versus the ability of the County to process/dispose of the materials generated.

The needs analysis includes a listing of known facilities which presently accept the types of solid waste and recyclable material which are listed below:

- Municipal solid waste (MSW) (ID 10 waste as defined in N.J.A.C. 7:26-2.13(g))
- Bulky debris (ID 13 waste as defined in N.J.A.C. 7:26-2.13(g))
- Construction and demolition debris (C&D) (ID13C waste as defined in N.J.A.C. 7:26-2.13(g))

The recycling facilities listed accept:

- Class “A” recyclable material- source separated non-putrescible metal, glass, paper, plastic containers, and corrugated and other cardboard (as defined in the Monmouth County Solid Waste Management Plan).
- Class “B” recyclable material- source separated, non-putrescible, waste concrete, asphalt, brick, block, asphalt-based roofing scrap and wood waste; source separated, non-putrescible, waste materials other than metal, glass, paper, plastic containers, corrugated and other cardboard resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures, source

separated whole trees, tree trunks, tree parts, tree stumps, brush and leaves provided that they are not composted; source separated scrap tires' and source separated petroleum contaminated soil.

- Class “C” recyclable material- source separated compostable material which includes, but is not limited to, source separated food waste, source separated vegetative food waste, and source separated yard trimmings.
- Class “D” recyclable material- means those items defined in N.J.A.C. 7:26A-1.3 including but not limited to used lubricant oil, used coolant oil, used emulsion oil, source separated batteries, thermostats, lamps, oil-based finishes, mercury-containing devices, latex paints, and antifreeze (HHW materials) as well as consumer electronics.

OBJECTIVES:

1. Provide a report outlining the type and number of solid waste and recycling facilities within Monmouth County.
 - a. Plot the location of each facility to allow for the establishment of a distribution density for each facility type.
2. Evaluate the total generation (a combination of total solid waste plus total recycling) as it compares to the permitted capacity for both solid waste and recycling facilities.
3. Provide information on P.L. 2020, Chapter 92, the Environmental Justice Law and the concurrent regulations and DEP Administrative Action related to the Environmental Justice Issue.

This report can be used by the Monmouth County Solid Waste Advisory Council, the Monmouth County Solid Waste Planning Staff and the Monmouth County Board of Commissioners to help plan for present and future needs as they pertain to solid waste and recycling facilities within the County. This study is designed to be a “living document,” which will have the ability to be updated every three to five years or “as needed.”

The idea of a “living document” is consistent with the goals of Solid Waste Management Planning within New Jersey and with the requirements of the New Jersey Department of Environmental Protection.

METHODOLOGY:

This study relied on solid waste and recycling data available from the New Jersey Department of Environmental Protection (N.J.D.E.P.) and the Monmouth County Solid Waste and Recycling Department. Under New Jersey regulations, solid waste transporters and solid waste disposal facilities are required to report all tonnages of solid waste collected within Monmouth County and disposed of both within and outside of Monmouth County to the N.J.D.E.P. monthly.

This data is consolidated by the New Jersey Department of Environmental Protection on an annual basis. Subsequently, the data is made a part of the public record and thus is available for inspection and use by the individual counties.

In addition to solid waste data, recycling data is collected by each municipality and reported to the N.J.D.E.P. on an annual basis for the twin purposes of determining compliance with the N.J.S.A. 13:1E-99.32, the recycling goals as established by this statute and to determine the total recycling tonnage grant to be paid to each municipality in the state.

Further, every solid waste and recycling facility is required to be included within the Solid Waste Management Plan of each County (with limited exception). Subsequent to such plan inclusion, and after the issuance of a N.J.D.E.P. permit (or acknowledgement of acceptance), the N.J.D.E.P. compiles a master data base locating each of these facilities within the State. This data base is updated from time to time.

Finally, while the Monmouth County Planning Board has compiled a listing of facilities within Monmouth County and that map has been included within this report, the reader is advised that the data is out of date. It is included for reference only.

DeFeo Associates utilized the most recent available data available from the N.J.D.E.P. However, the reader is advised that there is a time lag between the data being collected and its availability. Accordingly, the data provided is the most recent available and ends with the year 2021.

Additional data updates can be provided on a more regular basis as it becomes available.

FINDINGS:

As noted in the following table of audited data, Monmouth County's reported Total Solid Waste (TSW) and recycling generation rates for 2021 resulted in a combined output of 2,074,285 tons. Of this amount, 859,099 tons of solid waste was generated while 1,215,186 tons of material was reported as being recycled.

The net result is that in 2021, Monmouth County reported two different recycling rates as required by law. For the Municipal Solid Waste Stream (MSW), a recycling rate of 42% was achieved and for the Total Solid Waste Stream (TSW), a recycling rate of 59% was achieved.

Monmouth County was within 8% of the required MSW recycling rate in 2021. Further, Monmouth County was within one (1%) of achieving its TSW recycling rate.

It should be carefully noted that recycling rates will vary from year to year. The rates are based on reported tonnages. In any given year, it is difficult to determine that each municipality has achieved a 100% reporting rate from the commercial or institutional generators within their borders.

Further, outside factors have a direct impact on recycling generation. From the impact of Covid, to the fact that there has been a steady decline in the use of newspaper, overall recycling numbers are becoming more variable.

While this report does not provide a detailed, multiyear comparison of specific recyclable commodities, the reader will note that the overall recycling tonnage for Monmouth County is on an upward trend from year to year. Continued efforts at increasing reporting should be continued.

The basis for determining whether a County has a need for new capacity is the total generation of material from within the County versus the existing disposal and processing capacity for that county. This data is combined with the availability of solid waste disposal capacity plus the availability of recycling markets within a reasonable geographic proximity to the borders of the County.

Monmouth County has significant solid waste and recycling capacity within its borders as evidenced by:

1. N.J.D.E.P. solid waste disposal records, which are based on the reporting of solid waste disposal from each solid waste transporter and solid waste disposal facility receiving solid waste generated within Monmouth County indicate sufficient capacity.
2. There are no reports indicating that there is a capacity shortfall for any solid waste category by any generator sector.

Currently, all Solid Waste Type 10 is directed to the Monmouth County Reclamation Center located in Tinton Falls, New Jersey. This facility can accept up to 400,000 tons per year. Additionally, the County has three (3) commercial solid waste transfer stations with a combined permitted capacity of 406,587 tons per year.

The two largest transfer stations have a combined capacity of 385,803 tons per year of solid waste types 13 and 13C. The remaining facility can process 20,784 tons per year including solid waste type 10. However, as type 10 solid waste is directed to the Monmouth County Reclamation Center, any solid waste type 10 received by this facility must either originate outside of Monmouth County or the facility is consolidating loads for disposal at the Reclamation Center.

Note: A complete listing of all solid waste and recycling facilities can be found in Appendix A of this report.

Based on an eleven (11) year data analysis, Monmouth County disposed of 709,820 tons of TSW per year. Concurrently, Monmouth County has a TSW processing capacity of 806,587 tons per year. This capacity exceeds disposal by 96,768 tons.

2021 County Rate Table									
2021 GENERATION, DISPOSAL AND RECYCLING RATES IN NEW JERSEY (Tons)									
COUNTY	POPULATION	GENERATION		DISPOSAL			RECYCLING		
		2021 Estimate	Disposal and Recycling	MSW	Non-MSW	TOTAL	MSW %	Total Recycled w/Add-ons	Total % Recycled
Atlantic	274,534	755,609	213,670.05	122,792.62	336,462.67	117,321.55	35%	419,146.08	55%
Bergen	955,732	2,221,921	695,689.61	390,840.75	1,086,530.36	408,123.59	37%	1,135,390.59	51%
Burlington	461,860	1,012,395	341,002.37	161,472.08	502,474.45	208,182.79	38%	509,920.46	50%
Camden	523,485	955,393	364,788.05	194,064.43	558,852.48	160,343.73	31%	396,540.07	42%
Cape May	95,263	434,005	103,946.31	107,850.04	211,796.35	79,125.87	43%	222,208.96	51%
Cumberland	154,152	441,522	97,952.41	110,215.35	208,167.76	171,581.28	64%	233,354.47	53%
Essex	863,728	1,602,628	467,686.65	251,987.91	719,674.56	175,351.91	27%	882,953.49	55%
Gloucester	302,294	1,137,130	198,881.03	106,750.55	305,631.58	323,481.66	62%	831,498.37	73%
Hudson	724,854	1,041,616	421,350.86	157,190.51	578,541.37	155,658.20	27%	463,074.97	44%
Hunterdon	128,947	206,861	57,341.09	54,171.59	111,512.68	35,516.95	38%	95,348.10	46%
Mercer	387,340	923,884	273,054.93	89,386.24	362,441.17	153,736.13	36%	561,442.94	61%
Middlesex	863,162	2,811,284	566,072.33	324,269.96	890,342.29	412,819.25	42%	1,920,941.63	68%
Monmouth	643,615	2,074,285	508,282.07	350,816.78	859,098.85	363,938.15	42%	1,215,186.00	59%
Morris	509,285	1,163,741	308,292.23	170,497.63	478,789.86	228,706.74	43%	684,951.12	59%
Ocean	637,229	1,162,546	430,700.80	263,525.39	694,226.19	193,578.05	31%	468,319.85	40%
Passaic	524,118	1,262,944	495,475.12	290,222.37	785,697.49	168,612.43	25%	477,246.69	38%
Salem	64,837	136,567	39,605.85	44,033.50	83,639.35	18,998.37	32%	52,928.06	39%
Somerset	345,361	852,165	257,520.58	191,307.66	448,828.24	153,538.21	37%	403,336.48	47%
Sussex	144,221	262,597	75,472.57	33,952.52	109,425.09	60,751.90	45%	153,172.13	58%
Union	575,345	1,500,288	357,798.47	362,355.62	720,154.09	158,251.33	31%	780,134.11	52%
Warren	109,632	157,181	14,581.52	35,326.55	49,908.07	22,513.64	61%	107,272.53	68%
TOTAL	9,288,994	22,116,562	6,289,165	3,813,030	10,102,195	3,770,132	37%	12,014,367	54%

MSW recycled includes all paper and beverage containers, anti-freeze, motor oil, brush, grass, leaves, consumer electronics, food waste, dry cell batteries, other glass, other plastic and textiles when they are generated by a non-industrial generator. 10% of total metal has been included as non-industrial.

Street sweepings are no longer counted as a recyclable due to their management as a BUD. (NJAC 7:26A-1.3)

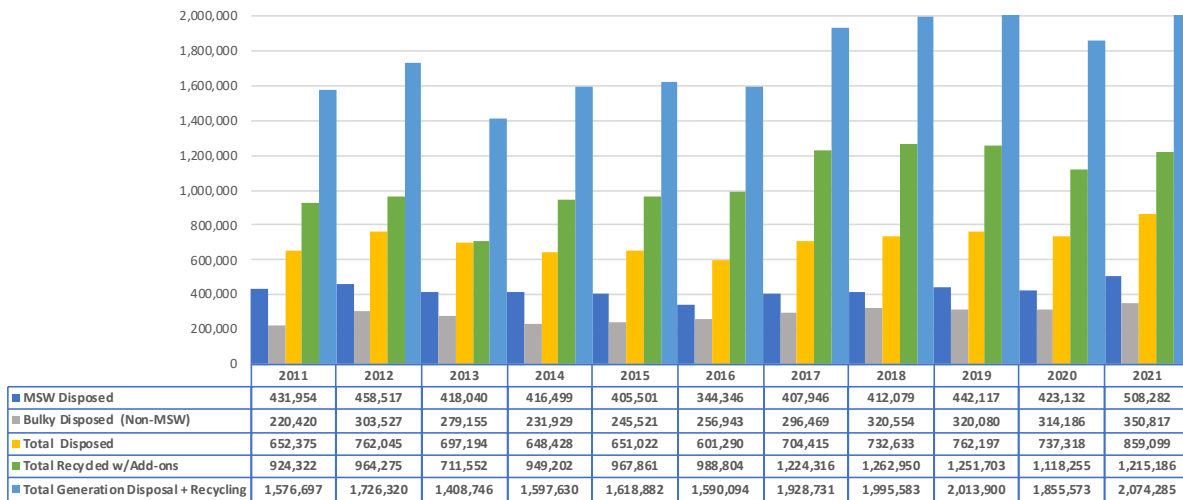
NOTES: Totals subject to rounding.
Last Updated on 01/04/24

Generation, Disposal and Recycling Rates in Monmouth County (Tons)

Year	Population	MSW Disposed	Bulky Disposed (Non-MSW)	Total Disposed	Total Recycled w/Add-ons	Total Generation Disposal + Recycling
2011	630,380	431,954	220,420	652,375	924,322	1,576,697
2012	630,380	458,517	303,527	762,045	964,275	1,726,320
2013	630,380	418,040	279,155	697,194	711,552	1,408,746
2014	630,380	416,499	231,929	648,428	949,202	1,597,630
2015	630,380	405,501	245,521	651,022	967,861	1,618,882
2016	627,532	344,346	256,943	601,290	988,804	1,590,094
2017	621,354	407,946	296,469	704,415	1,224,316	1,928,731
2018	621,659	412,079	320,554	732,633	1,262,950	1,995,583
2019	643,615	442,117	320,080	762,197	1,251,703	2,013,900
2020	646,263	423,132	314,186	737,318	1,118,255	1,855,573
2021	643,615	508,282	350,817	859,099	1,215,186	2,074,285

Source: <https://www.nj.gov/dep/dshw/recycling/stats.htm>

Total Generation - Disposal + Recycling



A further analysis shows that the County disposed of 350,817 tons of Non-MSW, or type 13 waste in 2021.

The County has significant excess capacity for the recycling of each category of material recognized by the NJDEP. Based on the known capacity for each recyclable commodity, the County has an internal capacity for the processing of recyclable materials as follows:

Class A Recyclable Material – 557,271 tons per year

Class B Recyclable Material – 3,063,562 tons per year

Class C Recyclable Material- Approximately 200 tons per year of leaves at Class C permitted sites.

- Does not include tonnage allowed on multiple farm mulching applications or exempt Class C sites.

Class D Recyclable Material – 20,576 tons per year

Concurrently, based on the table below, Monmouth County reported the following totals for each recyclable material generated within the County 2021 (This is the latest year that data has been

finalized from the N.J.D.E.P and reported as audited and final). NOTE: All data is subject to change:

- Class A Recyclable Material – 172,159 tons
- Class B Recyclable Material – 906,250 tons
- Class C Recyclable Material - 106,767 tons
- Class D Recyclable Material - 11,785tons

The data reports submitted by the N.J.D.E.P. indicate total tonnages as reported by the municipalities within Monmouth County. The tonnages include both those materials recycled at facilities within the County and those materials shipped outside of the County to recycling facilities in other locations. The data includes all sources of generation from residential, commercial and institutional.

The following table outlines the overall recycling tonnages as reported from all sources within the County for 2021. Discrepancies in data are the result of minor categories that are not readily assigned to a Class of recyclable material, thus the grand total reported below is greater than the sum outlined above.

Monmouth County Recycling Tonnages

2021 Mounmouth County Recycling Tonnage Totals by Material

DEP ID	Material	2021 Total (Tons)
1	Corrugated	60,800
2	Mixed Office Paper	19,296
3	Newspaper	9,581
4	Other Paper/Mag/JunkMail	19,669
5	Glass Containers	13,086
6	Aluminum Containers	3,705
7	Steel Containers	3,908
8	Plastic Containers	8,969
9	Heavy Iron	4,606
10	NonFerrous/Aluminum Scrap	12,373
11	White Goods & Light Iron	12,658
12	Anti-freeze	1,747
13	Batteries (Automobile)	515
14	Automobile Scrap	3,144
15	Tires	4,862
16	Used Motor Oil	6,535
17	Brush/Tree Parts	101,299
18	Grass Clippings	1,527
19	Leaves	75,826
20	Stumps	1,862
21	Consumer Electronics	2,988
22	Concrete / Asphalt / Brick / Block	695,199
23	Food Waste	30,941
24	Other Material Not Listed	19,504
25	Other Glass	1
26	Other Plastic	363
27	Oil Contaminated Soil	94,315
28	Process Residue	570
29	Textiles	412
30	Wood Scraps	4,924
Grand Total		1,215,186

Finally, the passage of the Environmental Justice Law (P.L. 2020, Chapter 92) will have a direct impact on the development of solid waste and recycling facilities within Monmouth County. Specifically, any solid waste facility and any recycling facility with a capacity of 100 tons per day or more can trigger the requirements of this law.

Essentially, the law (and corresponding regulations) requires that all facilities that impact overburdened communities must engage in a stakeholder notification and participation process before a final approval can be given for the permitting or operation of that facility.

Then details of the law are quite specific and quite detailed. It is advised that the SWAC become familiar with the requirements of the statute and rules.

Appendix A

Monmouth County Solid Waste/Recycling Facilities by Facility Type:

NEW JERSEY INTERMEDIATE PROCESSING FACILITIES (SUBSET OF CLASS A RECYCLING CENTERS)

Updated July 2023

While Intermediate Processing Facility (IPF) is not a regulatory term, it typically refers to a type of Class A recycling center that receives, at a minimum, source separated commingled recyclable containers and recyclable papers and processes the recyclable materials through mechanical and manual means into their constituent components. The list includes processors of both dual stream and single stream recyclables. Intermediate Processing Facilities are not permitted by the NJDEP; however, they must be included in the County Solid Waste Management Plan for the county in which they intend to operate.

Monmouth County

Mazza Recycling – Dual Stream and Single Stream
Address: 3230 Shafto Road, Tinton Falls, NJ 07753
Contact: Dominick J. Mazza, (732) 922-9292

Republic Services – Dual Stream and Single Stream
Address: 15 Railroad Avenue, Farmingdale, NJ 07727
Phone: (732) 751-9041

Class B Recycling Facilities - January 2024

WASTE TYPES

A = Asphalt	AM = Asphalt Millings
AS = Asphalt Shingles	BB = Brick & Block
BR = Brush	C = Concrete
CW = Creosote Wood	FW = Food Waste
G = Grass	GY = Gypsum
L = Leaves	LW = Lake Weed
PCS = Petroleum Contaminated Soil	PWR = Potable Water Residue
SS = Street Sweepings	T = Tires
TL = Tree Limbs/Tree Branches	TP = Tree Parts
TRS = Trees	TS = Tree Stumps
TT = Tree Trunks	W = Wood
WC = Wood Chips	WP = Wood Pallets

FACILITY NAME/COUNTY	NJEMS PI	WASTE TYPE	PHONE	LOCATION	MUNICIPALITY
MONMOUTH					
Benoit Recycling Center	147356	TL, TP, TRS, TS, TT	(732) 922-0405	615 Green Grove Rd.	Tinton Falls
Clayton Block	133611	A, BB, C	(732) 363-1995	1817 Old Mill Rd.	Wall
Freehold Cartage, Inc.	132412	A, BB, BR, C, CW, GY, T, TP, TRS, TS, W	(732) 462-1001	825 Highway 33 East	Freehold
Goldstar Recycling	164392	A, BB, C	(732) 617-7490	133 Amboy Rd.	Marlboro
Greenway Industries of New Jersey	728190	A, BB, C	(732) 938-2900	89 Yellowbrook Rd.	Farmingdale
J. Manzo Recycling	132430	A, BB, BR, C, TP, TS, WP	(732) 946-7100	55 Highway 34	Marlboro
John Blewett, Inc.	132419	BB, C, T, W	(732) 938-5331	246 Herbertsville Road	Howell
Lertch Recycling Company, Inc.	132460	A, BR, C, TP, TRS, TS, W	(732) 681-0206	5115 Belmar Boulevard	Wall Twp.
Lucas Bros., Inc.	244452	A, BB, C	(732) 536-6663	80 Amboy Road	Marlboro
Mazza Recycling Services LTD	132440	A, AS, BB, BR, C, CW, L, SS, T, TL, TT, TP, TRS, TS, W, WP	(732) 922-9292	3230 Shafto Rd.	Tinton Falls
Resource Engineering, LLC	543881	BR, TP, TRS, TS, TT, W	(732) 364-6466	34 Randolph Road	Howell
Rosano Howell Land, LLC	132418	A, BB, C	(732) 542-2328	360 Asbury Rd.	Howell
Stavola Trucking Co., Inc.	132442	A, C	(732) 542-2328	160 Hamilton Road	Tinton Falls



Class C Recycling Facilities - March 2023

WASTE TYPES

A = Asphalt	AM = Asphalt Millings
AS = Asphalt Shingles	BB = Brick & Block
BR = Brush	C = Concrete
CW = Creosote Wood	FW = Food Waste
G = Grass	GY = Gypsum
L = Leaves	LW = Lake Weed
PCS = Petroleum Contaminated Soil	PWR = Potable Water Residue
SS = Street Sweepings	T = Tires
TL = Tree Limbs/Tree Branches	TP = Tree Parts
TRS = Trees	TS = Tree Stumps
TT = Tree Trunks	W = Wood
WC = Wood Chips	WP = Wood Pallets

MONMOUTH					
Middletown Township Compost	147351	L	(732) 616-1585	Terminus of Center Avenue in Belford	Middletown
Ocean Township Compost	132445	L	(732) 531-5000	Whalepond Road	Ocean

Class D Recycling Facilities - December 2022

WASTE TYPES

AF = Anti Freeze	B = Batteries
BL = Ballast	CE = Consumer Electronics
L = Lamps	MD = Mercury-Containing Devices
UO = Used Oil	

MONMOUTH					
Monmouth wire	135438	CE	(732) 922-3320	3250 Shafto Road	Tinton Falls

Monmouth County Class B and C Facilities Part 1

Monmouth	Township of Aberdeen	132432	732-583-4200	off of Beach Drive	Aberdeen	L	13
	Borough of Atlantic Highlands	506470	732-291-1444	off of West Lincoln Avenue	Atlantic Highlands	L/B	3, 19
	Borough of Eatontown	132405	732-389-7651	off of Parker Road	Eatontown	L/B	3, 13
	Borough of Englishtown	584752	732-446-9235	off of West Dey Street	Englishtown	L/B/G	3, 22
	Township of Hazlet	132450	732-787-3636	39 Leocadia Court	Hazlet	L/B	3, 19
	Township of Holmdel	132415	732-946-4330	off of Long Bridge Road	Holmdel	L	13
	Township of Howell	132416	732-938-4500	278 Old Tavern Road	Howell	L	19
	Borough of Keansburg	510597	732-787-0215	40 Frazee Place	Keansburg	L/B	3, 19
	Borough of Keyport	507025	732-739-5154	Highway 36 & Florence Avenue	Keyport	L	19
	Township of Marlboro	514475	732-536-0188	133 Conover Road	Marlboro	L	12
	Township of Marlboro	516377	732-536-0188	off of Pleasant Valley Road	Marlboro	L	12
	Township of Marlboro	299668	732-536-0188	off of Spring Valley Road	Marlboro	L	19
	Township of Middletown	165459	732-615-2000	off of Kanes Lane	Middletown	L	19
	Township of Middletown	517019	732-615-2000	off of Normandy Road	Middletown	L/B	3, 19
	Borough of Oceanport	133616	732-222-8221	Oceanport Avenue & Eatontown Boulevard	Oceanport	L	13
	Borough of Oceanport	452074	732-222-8221	off of Port-Au-Peck Avenue	Oceanport	L	13
	Township of Neptune	133615	732-775-8797	off of Heck Avenue	Neptune Township	L	19
	Borough of Red Bank	132451	732-530-2748	off of Sunset Avenue	Red Bank	L	13, 19
	Borough of Shrewsbury	132454	732-741-4200	off of Sickles Place	Shrewsbury Borough	L	13
	Borough of Spring Lake	132455	732-449-0800	off of South Boulevard	Spring Lake	L	13
	Borough of Tinton Falls	133618	732-542-3400	Pine Brook Road & Pearl Harbor Avenue	Tinton Falls	L	13
	Township of Wall	132459	732-449-8444	off of Wyckoff Road	Wall	L	13
	Atlantic Farms, Inc.	510426	732-528-8680	1506 Atlantic Avenue	Wall	L	12
	Bienstock Farm	510862	732-780-0871	663 Casino Drive	Howell	L	12
	Buckley Farms	515004	732-462-7937	off of Buckley Road	Marlboro	L	12
	C. Casola, Inc.	300428	732-946-8588	off of Route 34 South	Colts Neck	L	12
	Capelli's Landscape & Supply Company	545528	732-615-0371	15 Kanes Lane	Middletown	L/G/B	3, 19, 22
	Henry Chan	591768	732-431-5821	420 Burlington Road	Freehold Township	L	18
	Dancer Farms	299026	732-462-8992	Route 33 & Woodward Road	Manalapan	L	12
	DePalma Farms and Greenhouses	296099	732-888-3307	off of Centerville Road	Holmdel	L	12
	Gibson Farms	461653	732-462-2668	off of Crow Hill Road	Howell	L	12
	Gibson Farms	510411	732-462-2668	off of Crow Hill Road	Freehold Township	L	12
	Gibson Farms	510417	732-462-2668	56 Willowbrook Road	Freehold Township	L	12
	Gibson Farms	510413	732-462-2668	853 Route 33 East	Freehold Township	L	12
Happy Day Farm	591157	732-580-0021	97 Daum Road	Manalapan	L	12, 18	
RV Juliano Farms, LLC	515162	732-542-8045	off of Hockhockson Road	Colts Neck	L	12	
Kauffman Farms	515160	732-938-5385	off of Squankum Road	Howell	L	12, 18	
Kauffman Farms	515555	732-938-5385	off of Old Tavern Road	Howell	L	12	
Mendies Farm	546184	609-820-8809	65 North Rochdale Avenue	Roosevelt	L/B	3, 12	

Monmouth (continued)	Merrick Farm	457508	732-938-2491	98 Merrick Road	Howell	L	12
	O'Hagan Nurseries	513826	732-245-8428	2 Cortlandt Street	Neptune Township	L	13
	Overbrook Farm	515008	732-542-2816	132 Hockhockson Road	Colts Neck	L	12
	Patterson Greenhouses	510729	732-431-5271	636 Adelpia Road	Howell	L	12
	Pilgrim Farm Management Company	546191	732-778-9638	376 Kings Highway East	Middletown	L	12
	RWV Land & Livestock South, Inc.	458235	732-364-1070	351 Pfister Road	Freehold Township	L	12
	Seasons Matter, Inc.	571888	732-566-8878	1343 Route 34 North	Aberdeen	L/G/B	3, 22
	Squankum Brook Farm	546188	732-938-3430	97 Victory Road	Howell	L	12
	Robert Squillare	510739	732-542-2400	68 Obre Road	Colts Neck	L	12
	Triple C Farms	516397	732-946-8840	off of Station Road	Marlboro	L	12
	Triple C Farms	516615	732-946-8840	off of Crine Road	Marlboro	L	12
	Triple C Nurseries, Inc.	516648	732-946-8885	off of Route 79	Marlboro	L	12
	Peter D. Van Mater	510641	732-239-5336	off of Route 79	Marlboro	L	12
	Walnut Grove Farm	540901	732-446-4543	89 Iron Ore Road	Manalapan	L	12, 18
	Woodshire Apartment, Inc.	510863	908-654-4360	2152 Aldrin Road	Ocean	L/B	3, 19

List of Exempt Recycling Facilities in Monmouth County – Part 2

(Source: NJDEP: updated as of 9/22/22)

Site Name	PI#	Exemption #	Authorized Material	Phone Number	Facility Address	Municipality
Monmouth County Public Works , Engineering	601687	1, 3, and 20	Asphalt and Class B Recyclable Materials	732-577-8758	300 Halls Mill Road	Freehold Township
The Stavola Companies (Howell)	456550	1,20	Asphalt and Class B Recyclable Materials	732-542-2328 x225	Yellowbrook Road	Howell
The Stavola Companies (Millstone)	456309	1,20	Asphalt and Class B Recyclable Materials	732-542-2328 x225	120 Old Bergen Hills Road	Millstone
The Stavola Companies (Tinton Falls)	696586	1,20	Asphalt and Class B Recyclable Materials	732-542-2328 x225	1 Hamilton Road	Tinton Falls
Garden State Precast	636594	1 , 7	Asphalt Manufacturing , Concrete/Brick/Block/Asphalt	(732) 938 - 4436	1630 Wyckoff Road	Farmingdale
County of Monmouth (Freehold)	701443	1, 5, 7	Asphalt Manufacturing, Tires, Concrete/Brick/Block/Asphalt	732-683-8686 x8961	240 Center Street	Freehold
Atlantic Tree Materials (Holmdel)	297037	3	Brush	732-861-7108	808 Holmdel Road	Holmdel
Capelli's Landscape , Supply Company	545523	3	Brush	732-615-0371	15 Kanes Lane	Middletown
Deal Borough	634773	3	Brush	732-531-1454	80 Runyan Avenue	Deal
Freehold Borough (#1)	924981	3	Brush	732-462-2400	775 Route 33	Freehold Borough
Millstone Township	602738	3	Brush	732-446-6774	15 Baird Road	Millstone
Spring Lake Heights Borough	282041	3	Brush	732-449-3500	555 Atlantic Avenue	Spring Lake Heights
Wall Township (#3)	439672	3	Brush	732-449-2700	699 Monmouth Blvd	Wall
Allentown Borough	580075	3 , 19	Brush , Leaf Transfer	609-259-7530	Breza Road	Allentown
Shamrock Lawn , Landscape, Inc.	569945	3, 7	Brush, Class B Recyclables	732-462-6113	186 Boundary Road	Marlboro

Burke Construction, Inc.	761911	3, 20	Brush, Concrete, Asphalt, Brick, Block	732-775-6959	3602 Sunset Avenue	Ocean
Neptune City	501450	3, 5, 7, 19	Brush, Concrete, Tires, Leaf Transfer	732-775-1607	2201 Heck Avenue	Neptune
Manalapan Township Department of Public Works	657343	3, 12	Brush, Leaf mulching	(732) 446 - 8403	164 Freehold Road	Manalapan
Mendies Farm, LLC	546184	3, 12, 18	Brush, Leaf Mulching, Yard Trimmings Composting	609-820-8809	65 Rochdale Avenue	Roosevelt
Hazlet Township	132450	3, 19	Brush, Leaf transfer	732-787-3636	Leocadia Court	Hazlet
Howell Township (#2)	757489	3, 19	Brush, Leaf Transfer	(732) 938-4500 X2450	W Farms Road	Howell
Atlantic Highlands Borough	506470	3, 5, 7 and 19	Brush, Tire, Concrete, Brick, Block, Asphalt and Leaf Transfer	732-291-1444 x615	W Lincoln Avenue	Atlantic Highlands
Howell Township (#1)	636864	3, 5, 7, 13, 19	Brush, Tires, Concrete/Brick/Block/Asphalt, Yard Trimmings Composting, Leaf Transfer	732-938-4500; 732)938-4500X2450	278 Old Tavern Road	Howell
Keansburg Borough	510597	3, 5, 7, 19	Brush, Tires, Concrete/Brick/Block, Leaf Transfer	732-787-0215	40 Frazee Place	Keansburg
Holmdel Township (#2)	132415	3, 5, 13	Brush, Tires, Yard Trimmings Composting	(908) 946-2820	Long Bridge Road	Holmdel
Eatontown Borough (#1)	647811	3, 13	Brush, Yard Trimmings	732-389-7651	Parker Road	Eatontown
Wall Township (#1)	132459	3, 13	Brush, Yard Trimmings Composting	908-449-2700	1633 Wyckoff Road	Wall
Buck Mining , Materials	743284	3 ,18	Brush/Yard Trimmings Composting	732-446-9336	26 Pine Hill Road	Millstone
Freehold Borough (#2)	451118	7	Class B Recyclables	732-462-4200	161 Center Street	Freehold Borough
Reilly Paving Company, Inc	667722	7, 20	Class B Recyclables, Concrete, Asphalt, Brick, Block	732-741-0115	665 Center Avenue	Middletown; Little Silver

Catanzaro , Sons Enterprises (Monmouth)	918999	2	Concrete	973-263-0370	38 West Street	Red Bank
AB Kurre Contracting, Inc.	596267	20	Concrete, Asphalt, Brick, Block	732-571-6800	26 Bradley Avenue	Howell
PAX Construction Corp.	650439	20	Concrete, Asphalt, Brick, Block	732-222-2949	492 Joline Avenue	Long Branch
Picture Perfect Landscaping	946482	20	Concrete, Brick and Block	732-786-8885	215 Woodward Road	Manalapan
Douglas Kauffman	515160	18	Leaf composting	732-620-3192	93 Squankum Road	Howell
Hockhockson Farm	506532	12	Leaf mulching	732-431-6663	236 Route 537	Colts Neck
Holmdel Township (#1)	742859	12	Leaf mulching	(908) 946-2820	23 Robers Road	Holmdel
Colts Neck Township	628521	19	Leaf Transfer	732-462-7998	231 State Route 34	Colts Neck
Highlands Borough	970848	19	Leaf Transfer	732-872-1224 x 250	42 Shore Drive	Highlands
Silvi Concrete (Englishtown)	746902	1	Manufacturing	<i>Telephone number unknown</i>	N/A	Englishtown
A+A Truck Pars	731172	5	Tires	732-780-0573	80 Hendrickson Road	Freehold
Monmouth County Mosquito Extermination Commission	198963	5	Tires	732-542-3267	143 Wayside Road	Tinton Falls
Rubberman Tire Removal, LLC	754159	5	Tires	732-446-2200	20 Park Avenue	Englishtown
Aberdeen Township	132432	13	Yard Trimmings Composting	732-583-4200 Ex 174	371 Beach Drive	Aberdeen
Delicious Orchards	805598	18	Yard Trimmings Composting	352-417-9837	320 Route 34	Colts Neck
O'Hagan Nurseries	513826	13	Yard Trimmings Composting	732-245-8428	Route 35	Neptune
Shrewsbury Borough	132454	13	Yard Trimmings Composting	732-741-4200 x402	Sickles Place	Shrewsbury
Tinton Falls Borough (#1)	133618	13	Yard Trimmings Composting	732-542-3400 x4	556 Tinton Ave	Tinton Falls

EXEMPTION SUMMARY LIST

Exemption #	Description of Exempt Recycling Activities
1	Manufacturers, for the receipt, storage or processing of source-separated materials, including asphalt manufacturing plants and pallet manufacturers or refurbishes.
2	Recycling of source separated recyclable materials which are generated, processed, and reused as a product exclusively at the point of generation. Petroleum contaminated soils are prohibited, and materials may not be received from off-site.
3	Recycling of tree branches, limbs, trunks, brush and/or wood chips derived from tree parts.
4	Retreading and/or remolding of tires.
5	Receipt of less than 5,000 tires per month. No processing of any kind can take place.
6	Scrap tires are received, stored, and processed into artificial reef units for use in artificial reef projects approved by the Department.
7	Receipt of source-separated Class B recyclable materials with the exception of scrap tires, leaves, non-container plastic materials, and petroleum contaminated soil for temporary storage.
8	Processing of petroleum contaminated soil at the point of generation using mobile recycling equipment.
9	Receipt, storage, processing, and transfer of non-container plastics.
10	Land clearing activities, whereby on-site trees and tree parts are uprooted, processed into wood chips at the point of generation, and utilized as a product (on-site or off-site).
11	Receipt, storage, processing, and transfer of source-separated textiles.
12	Leaf mulching on land deemed actively devoted to agricultural or horticultural use. Layered leaves must be incorporated into the soil by the next tillage season.
13	Receipt of yard trimmings for composting. No more than 10,000 yd ³ (Cubic Yards) of yard trimmings can be received per year. Inclusion in solid waste management plan of the solid waste management district within which the facility is to be located is mandatory prior to operation.
14	Collection, consolidation, and transfer of universal waste for recycling, treatment, or disposal and/or Class D recyclables for recycling, managed by small quantity handlers.
15	Collection, consolidation, and transfer of universal waste for recycling, treatment, or disposal and/or Class D recyclables for recycling, managed by large quantity handlers.
16	Transportation of universal waste for recycling, treatment, or disposal and/or Class D recyclables for recycling, managed by universal waste transporters.
17	Collection, consolidation, and transfer of source-separated Class D recyclables for recycling.
18	Receipt of yard trimmings for composting where the finished compost product is applied on site on land deemed actively devoted to agricultural or horticultural use or on mined lands being restored under an approved restoration plan.
19	Leaf transfer facility. No more than 1,000 yd ³ of leaves can be received per day.
20	Receipt, storage, processing, and transfer of source-separated concrete, asphalt, brick, and block. Contractor must be the sole generator and sole end user of the material. Sale of the material is strictly prohibited. Please see www.state.nj.us/dep/dshw/lrm/concrete.htm for additional information.
21	Recycling of source-separated Class C recyclable materials that are generated and processed on site into a product for sale and/or use off-site.
22	Receipt of less than 3,000 yd ³ of leaves per year and/or 1,000 yd ³ of grass clippings per year at a site for transfer.
23	Receipt of farm feedstocks on a farm for composting where less than 10,000 yd ³ are received per year.
24	Receipt and storage of architectural salvage items at a commercial enterprise.

This list of descriptions is only a summary of existing recycling exemptions. The complete text and all operational requirements currently in effect, can be found at N.J.A.C. 7:26A-1.4 et seq. available at: www.state.nj.us/dep/dshw/resource/rules.htm.

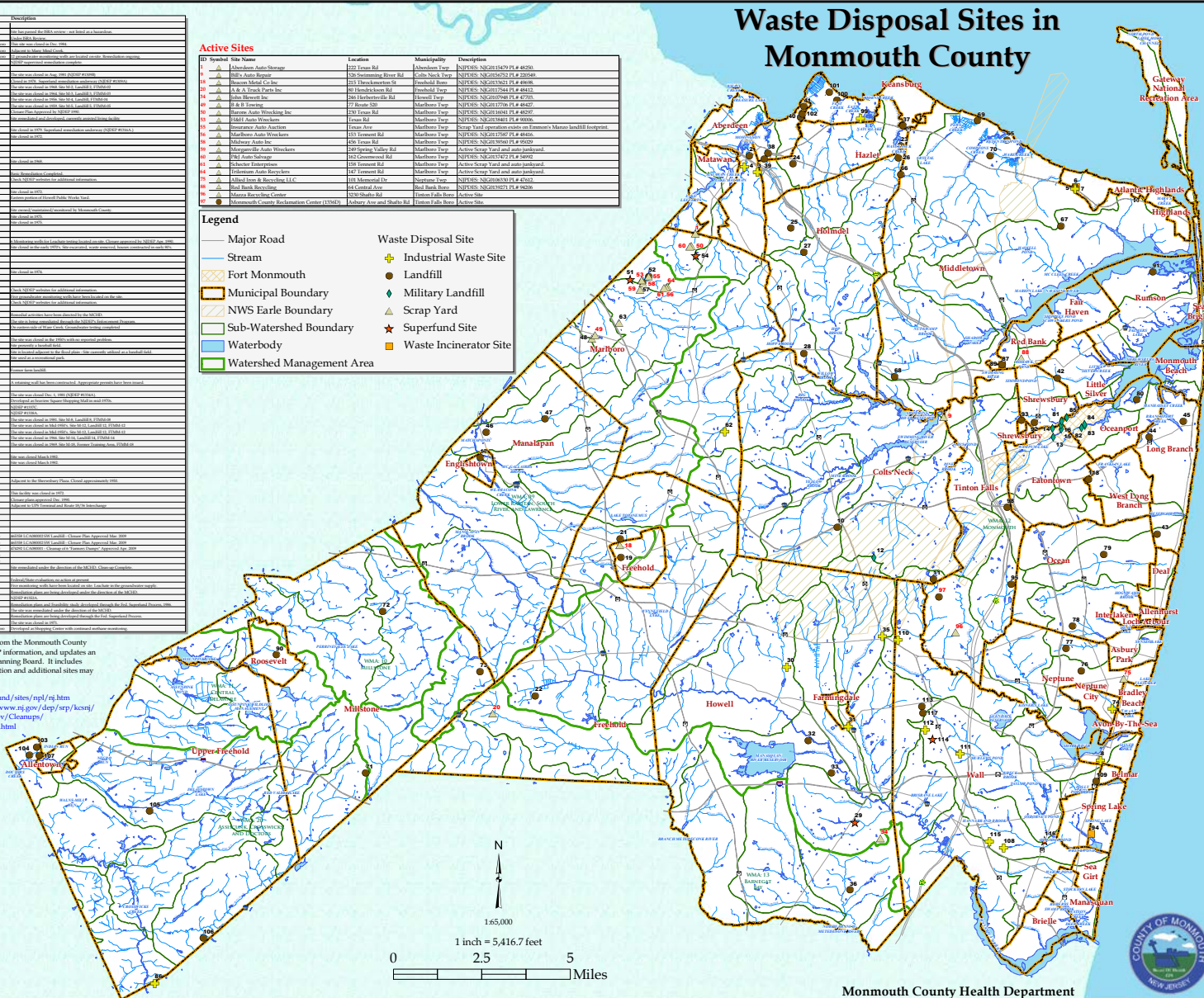
ID Number	Site Name	Location	Municipality	Description
101	Abington Auto Storage	122 Essex Rd	Abington Twp	Abandoned auto storage
102	ABP Auto Repair	526 Swinburne Blvd	Abington Twp	Auto repair
103	Abington Metal Co. Inc.	213 Swinburne St	Abington Twp	Metal recycling
104	A.B. & Frank Parts Inc.	80 Henderson Rd	Freehold Twp	Auto parts
105	Adco Recycling	504 Waterbury Rd	Freehold Twp	Recycling
106	A & B Towing	77 Route 530	Marlinton Twp	Towing
107	Adco Recycling	224 Route 530	Marlinton Twp	Recycling
108	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
109	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
110	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
111	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
112	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
113	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
114	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
115	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
116	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
117	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
118	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
119	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
120	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling

ID Number	Site Name	Location	Municipality	Description
121	Abington Auto Storage	122 Essex Rd	Abington Twp	Abandoned auto storage
122	ABP Auto Repair	526 Swinburne Blvd	Abington Twp	Auto repair
123	Abington Metal Co. Inc.	213 Swinburne St	Abington Twp	Metal recycling
124	A.B. & Frank Parts Inc.	80 Henderson Rd	Freehold Twp	Auto parts
125	Adco Recycling	504 Waterbury Rd	Freehold Twp	Recycling
126	A & B Towing	77 Route 530	Marlinton Twp	Towing
127	Adco Recycling	224 Route 530	Marlinton Twp	Recycling
128	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
129	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
130	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
131	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
132	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
133	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
134	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
135	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
136	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
137	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
138	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
139	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling
140	Adco Recycling	1000 Route 530	Marlinton Twp	Recycling

Legend

- Major Road
- Stream
- Fort Monmouth
- Municipal Boundary
- NWS Earle Boundary
- Sub-Watershed Boundary
- Waterbody
- Watershed Management Area
- Waste Disposal Site
 - Industrial Waste Site
 - Landfill
 - Military Landfill
 - Scrap Yard
 - Superfund Site
 - Waste Incinerator Site

Waste Disposal Sites in Monmouth County



This map developed from historic file and available digital data from the Monmouth County Health Department and Planning Board, supplemented by NJDEP information, and updates an October 1990/March 1991 "Waste Sites Map" published by the Planning Board. It includes some sites not found on NJDEP or USEPA listings. More information and additional sites may be found at the following sites:

- USEPA "Superfund" listings: <http://www.epa.gov/superfund/sites/npl/nj.htm>
- NJDEP "Known Contaminated Sites" (KCS) listing: <http://www.nj.gov/dep/serp/ksr/>
- USEPA Cleanups in My Community: <http://serp.epa.gov/Cleanups/>
- NJDEP Data Miner: <http://www.nj.gov/dep/opes/online.html>

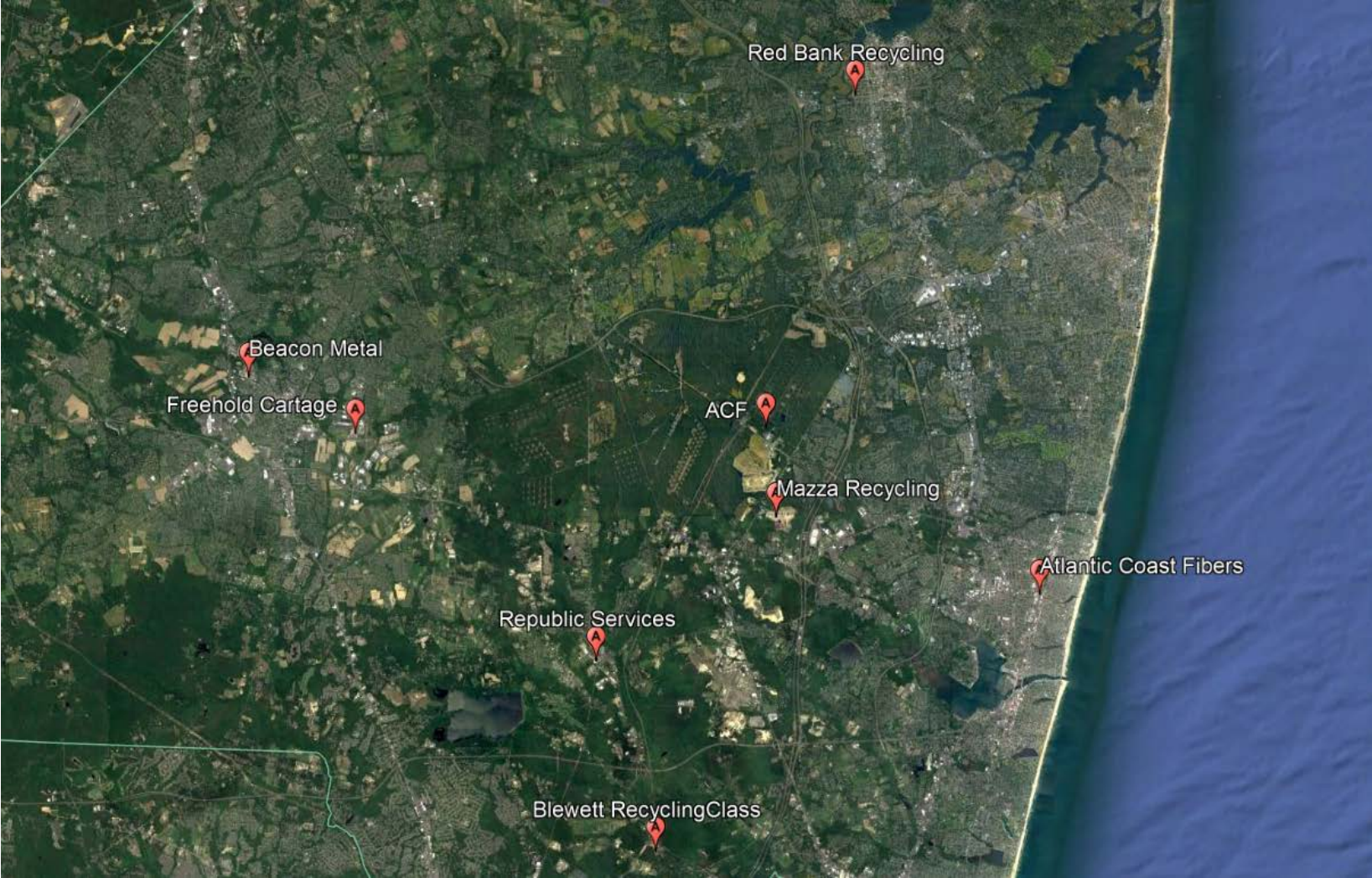


Mike Stephens, GIS, 06/04/2009
 F:\vol1\gis\office\2009\random\waste\disposal\sites.mxd
 F:\vol1\gis\map\img\gis\environmental\waste\disposal\sites.pdf

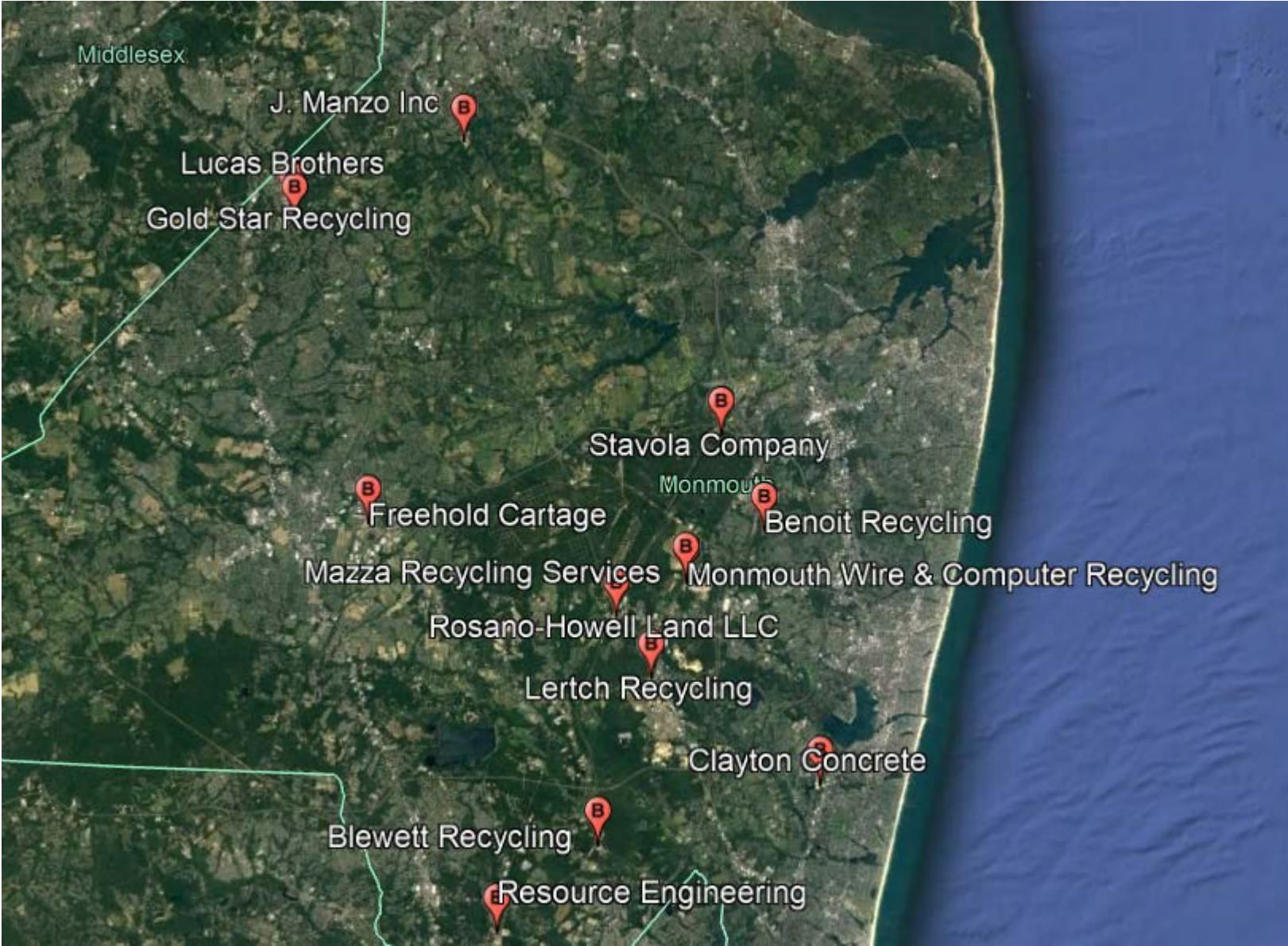


Monmouth County Health Department

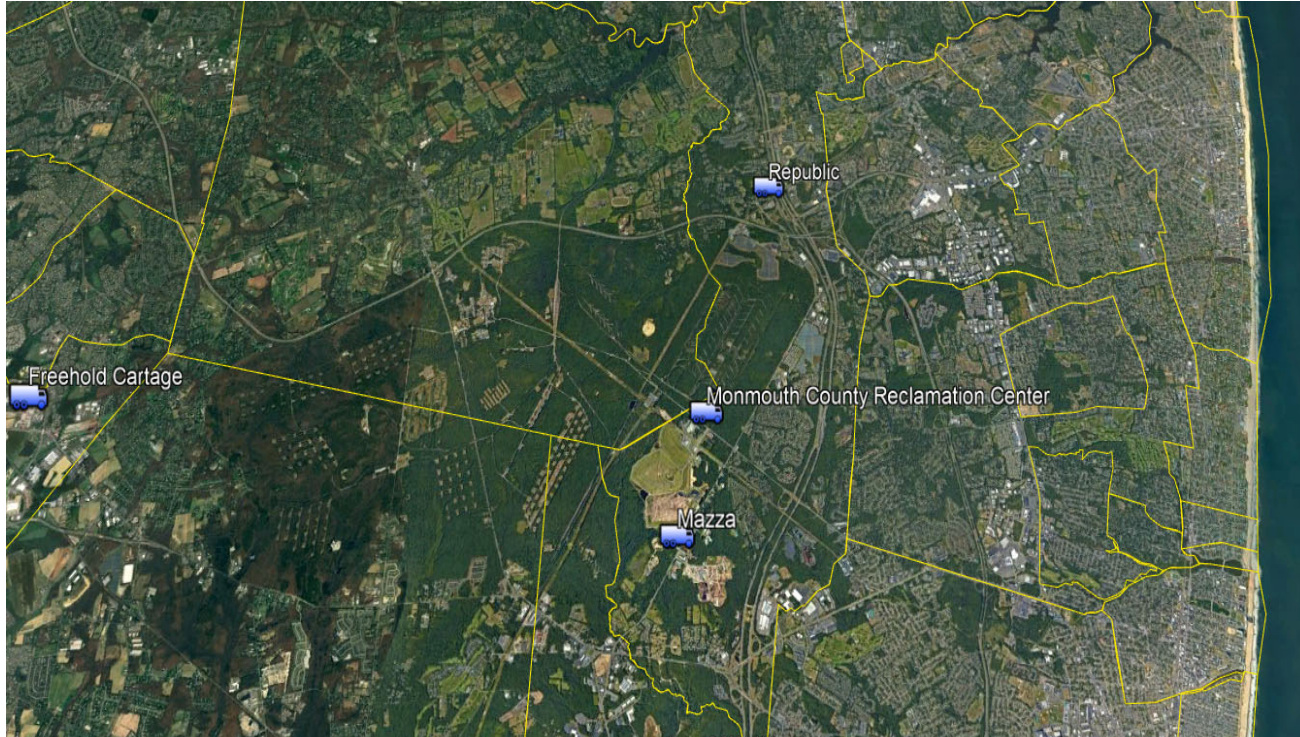
Monmouth County Class A Facilities



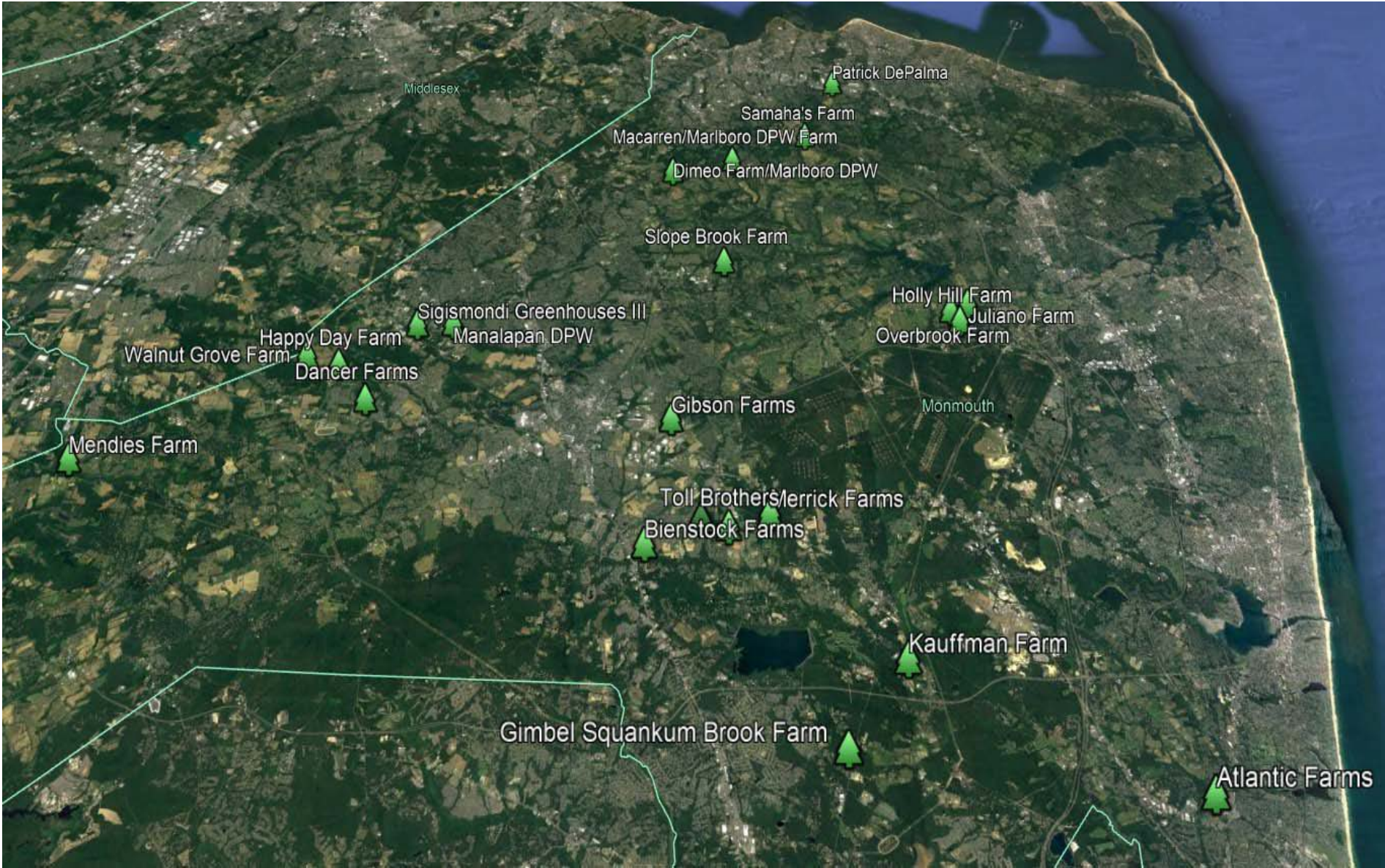
Monmouth County Class B & D Facilities



Monmouth County Transfer Stations



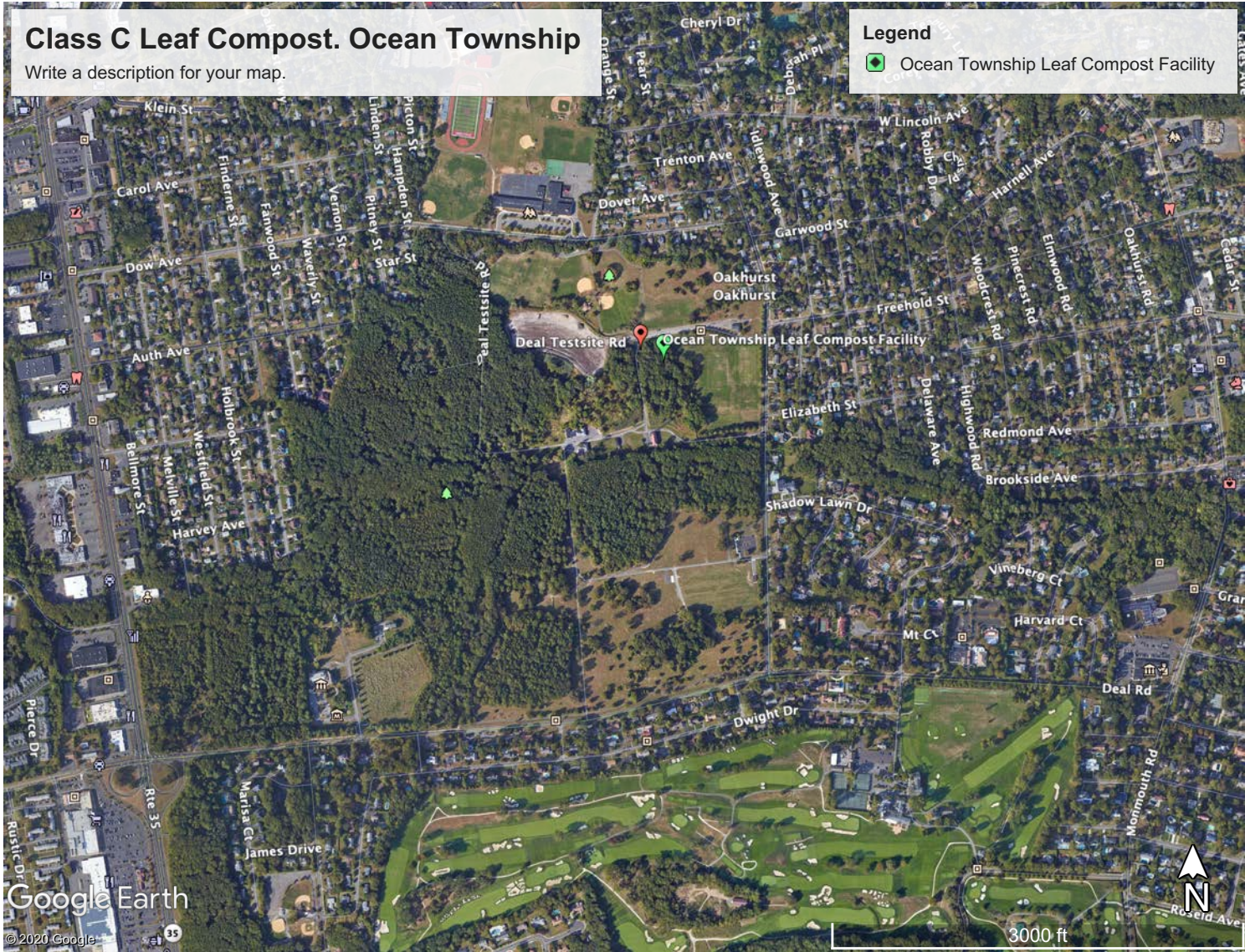
Monmouth County Leaf Mulching



Monmouth County Class C Leaf Compost Facility



Monmouth County Class C Leaf Compost Facility



CHAPTER 92

AN ACT concerning the disproportionate environmental and public health impacts of pollution on overburdened communities, and supplementing Title 13 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.13:1D-157 Findings, declarations relative to impact of pollution on overburdened communities.

1. The Legislature finds and declares that all New Jersey residents, regardless of income, race, ethnicity, color, or national origin, have a right to live, work, and recreate in a clean and healthy environment; that, historically, New Jersey's low-income communities and communities of color have been subject to a disproportionately high number of environmental and public health stressors, including pollution from numerous industrial, commercial, and governmental facilities located in those communities; that, as a result, residents in the State's overburdened communities have suffered from increased adverse health effects including, but not limited to, asthma, cancer, elevated blood lead levels, cardiovascular disease, and developmental disorders; that children are especially vulnerable to the adverse health effects caused by exposure to pollution, and that such health effects may severely limit a child's potential for future success; that the adverse effects caused by pollution impede the growth, stability, and long-term well-being of individuals and families living in overburdened communities; that the legacy of siting sources of pollution in overburdened communities continues to pose a threat to the health, well-being, and economic success of the State's most vulnerable residents; and that it is past time for the State to correct this historical injustice.

The Legislature further finds and declares that no community should bear a disproportionate share of the adverse environmental and public health consequences that accompany the State's economic growth; that the State's overburdened communities must have a meaningful opportunity to participate in any decision to allow in such communities certain types of facilities which, by the nature of their activity, have the potential to increase environmental and public health stressors; and

that it is in the public interest for the State, where appropriate, to limit the future placement and expansion of such facilities in overburdened communities.

C.13:1D-158 Definitions relative to impact of pollution on overburdened communities.

2. As used in this act:

“Department” means the Department of Environmental Protection.

“Environmental or public health stressors” means sources of environmental pollution, including, but not limited to, concentrated areas of air pollution, mobile sources of air pollution, contaminated sites, transfer stations or other solid waste facilities, recycling facilities, scrap yards, and point-sources of water pollution including, but not limited to, water pollution from facilities or combined sewer overflows; or conditions that may cause potential public health impacts, including, but not limited to, asthma, cancer, elevated blood lead levels, cardiovascular disease, and developmental problems in the overburdened community.

“Facility” means any: (1) major source of air pollution; (2) resource recovery facility or incinerator; (3) sludge processing facility, combustor, or incinerator; (4) sewage treatment plant with a capacity of more than 50 million gallons per day; (5) transfer station or other solid waste facility, or recycling facility intending to receive at least 100 tons of recyclable material per day; (6) scrap metal facility; (7) landfill, including, but not limited to, a landfill that accepts ash, construction or demolition debris, or solid waste; or (8) medical waste incinerator; except that “facility” shall not include a facility as defined in section 3 of P.L.1989, c.34 (C.13:1E-48.3) that accepts regulated medical waste for disposal, including a medical waste incinerator, that is attendant to a hospital or university and intended to process self-generated regulated medical waste.

“Limited English proficiency” means that a household does not have an adult that speaks English “very well” according to the United States Census Bureau.

“Low-income household” means a household that is at or below twice the poverty threshold as that threshold is determined annually by the United States Census Bureau.

“Major source” means a major source of air pollution as defined by the federal “Clean Air Act,” 42 U.S.C. s.7401 et seq., or in rules and regulations adopted by the department pursuant to the “Air Pollution Control Act,” P.L.1954, c.212 (C.26:2C-1 et seq.) or which directly emits, or has the potential to emit, one hundred tons per

year or more of any air pollutant, or other applicable criteria set forth in the federal “Clean Air Act,” 42 U.S.C. s.7401 et seq.

“Overburdened community” means any census block group, as determined in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English proficiency.

“Permit” means any individual permit, registration, or license issued by the department to a facility establishing the regulatory and management requirements for a regulated activity under the following State laws: R.S.12:5-1 et seq.; P.L.1975, c.232 (C.13:1D-29 et al.); the “Solid Waste Management Act,” P.L.1970, c.39 (C.13:1E-1 et seq.); section 17 of P.L.1975, c.326 (C.13:1E-26); the “Comprehensive Regulated Medical Waste Management Act,” P.L.1989, c.34 (C.13:1E-48.1 et al.); P.L.1989, c.151 (C.13:1E-99.21a et al.); the “New Jersey Statewide Mandatory Source Separation and Recycling Act,” P.L.1987, c.102 (C.13:1E-99.11 et al.); the “Pesticide Control Act of 1971,” P.L.1971, c.176 (C.13:1F-1 et seq.); “The Wetlands Act of 1970,” P.L.1970, c.272 (C.13:9A-1 et seq.); the “Freshwater Wetlands Protection Act,” P.L.1987, c.156 (C.13:9B-1 et al.); the “Coastal Area Facility Review Act,” P.L.1973, c.185 (C.13:19-1 et seq.); the “Highlands Water Protection and Planning Act,” P.L.2004, c.120 (C.13:20-1 et seq.), the “Air Pollution Control Act (1954),” P.L.1954, c.212 (C.26:2C-1 et seq.); the “Water Supply Management Act,” P.L.1981, c.262 (C.58:1A-1 et al.); P.L.1947, c.377 (C.58:4A-5 et seq.); the “Water Pollution Control Act,” P.L.1977, c.74 (C.58:10A-1 et seq.); P.L.1986, c.102 (C.58:10A-21 et seq.); or the “Flood Hazard Area Control Act,” P.L.1962, c.19 (C.58:16A-50 et seq.); except that “permit” shall not include any authorization or approval necessary to perform a remediation, as defined pursuant to section 23 of P.L.1993, c.139 (C.58:10B-1), or any authorization or approval required for a minor modification of a facility’s major source permit for activities or improvements that do not increase emissions.

C.13:1D-159 List of overburdened communities on website.

3. No later than 120 days after the effective date of this act, the department shall publish and maintain on its Internet website a list of overburdened communities in the State. The department shall update the list of overburdened communities at least

once every two years. The department shall notify a municipality if any part of the municipality has been designated an overburdened community pursuant to this act.

C.13:1D-160 Requirements for permit applicants.

4. a. Beginning immediately upon the adoption of the rules and regulations required pursuant to section 5 of this act, the department shall not consider complete for review any application for a permit for a new facility or for the expansion of an existing facility, or any application for the renewal of an existing facility's major source permit, if the facility is located, or proposed to be located, in whole or in part, in an overburdened community, unless the permit applicant first:

(1) Prepares an environmental justice impact statement that assesses the potential environmental and public health stressors associated with the proposed new or expanded facility, or with the existing major source, as applicable, including any adverse environmental or public health stressors that cannot be avoided if the permit is granted, and the environmental or public health stressors already borne by the overburdened community as a result of existing conditions located in or affecting the overburdened community;

(2) Transmits the environmental justice impact statement required to be prepared pursuant to paragraph (1) of this subsection, at least 60 days in advance of the public hearing required pursuant to paragraph (3) of this subsection, to the department and to the governing body and the clerk of the municipality in which the overburdened community is located. Upon receipt, the department shall publish the environmental justice impact statement on its Internet website; and

(3) Organizes and conducts a public hearing in the overburdened community. The permit applicant shall publish a notice of the public hearing in at least two newspapers circulating within the overburdened community, including one local non-English language newspaper, if applicable, not less than 60 days prior to the public hearing. The permit applicant shall provide a copy of the notice to the department, and the department shall publish the notice on its Internet website and in the monthly bulletin published pursuant to section 6 of P.L.1975, c.232 (C.13:1D-34). The notice of the public hearing shall provide the date, time, and location of the public hearing, a description of the proposed new or expanded facility or existing major source, as applicable, a map indicating the location of the facility, a brief summary of the environmental justice impact statement, information on how an interested person may review a copy of the complete environmental justice impact statement, an address for the submittal of written comments to the permit applicant,

and any other information deemed appropriate by the department. At least 60 days prior to the public hearing, the permit applicant shall send a copy of the notice to the department and to the governing body and the clerk of the municipality in which the overburdened community is located. The applicant shall invite the municipality to participate in the public hearing. At the public hearing, the permit applicant shall provide clear, accurate, and complete information about the proposed new or expanded facility, or existing major source, as applicable, and the potential environmental and public health stressors associated with the facility. The permit applicant shall accept written and oral comments from any interested party, and provided an opportunity for meaningful public participation at the public hearing. The permit applicant shall transcribe the public hearing and, no later than 10 days after the public hearing, submit the transcript along with any written comments received, to the department. Following the public hearing, the department shall consider the testimony presented and any written comments received, and evaluate the issuance of, or conditions to, the permit, as necessary in order to avoid or reduce the adverse environmental or public health stressors affecting the overburdened community.

The department may require the applicant to consolidate the public hearing held pursuant to this paragraph with any other public hearing held or required by the department regarding the permit application, provided the public hearing meets the other requirements of this paragraph. The department shall consider a request by a permit applicant to consolidate required public hearings and, if the request is granted by the department, the consolidation shall not preclude an application from being deemed complete for review pursuant to subsection a. of this section.

b. Notwithstanding the provisions of P.L.1975, c.232 (C.13:1D-29 et seq.) or any other law, or rule or regulation adopted pursuant thereto, to the contrary, the department shall not issue a decision on an application for a permit for a new facility or for the expansion of an existing facility, or on an application for the renewal of an existing facility's major source permit, if such facility is located, or proposed to be located, in whole or in part in an overburdened community until at least 45 days after the public hearing held pursuant to paragraph (3) of subsection a. of this subsection.

c. Notwithstanding the provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary, the department shall, after review of the environmental justice impact statement prepared pursuant to paragraph (1) of subsection a. of this section and any other relevant information, including testimony

and written comments received at the public hearing, deny a permit for a new facility upon a finding that approval of the permit, as proposed, would, together with other environmental or public health stressors affecting the overburdened community, cause or contribute to adverse cumulative environmental or public health stressors in the overburdened community that are higher than those borne by other communities within the State, county, or other geographic unit of analysis as determined by the department pursuant to rule, regulation, or guidance adopted or issued pursuant to section 5 of this act, except that where the department determines that a new facility will serve a compelling public interest in the community where it is to be located, the department may grant a permit that imposes conditions on the construction and operation of the facility to protect public health.

d. Notwithstanding the provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary, the department may, after review of the environmental justice impact statement prepared pursuant to paragraph (1) of subsection a. of this section and any other relevant information, including testimony and written comments received at the public hearing, apply conditions to a permit for the expansion of an existing facility, or the renewal of an existing facility's major source permit, concerning the construction and operation of the facility to protect public health, upon a finding that approval of a permit or permit renewal, as proposed, would, together with other environmental or public health stressors affecting the overburdened community, cause or contribute to adverse cumulative environmental or public health stressors in the overburdened community that are higher than those borne by other communities within the State, county, or other geographic unit of analysis as determined by the department pursuant to rule, regulation, or guidance adopted or issued pursuant to section 5 of this act.

e. If a permit applicant is applying for more than one permit for a proposed new or expanded facility, the permit applicant shall only be required to comply with the provisions of this section once, unless the department, in its discretion, determines that more than one public hearing is necessary due to the complexity of the permit applications necessary for the proposed new or expanded facility. Nothing in this section shall be construed to limit the authority of the department to hold or require additional public hearings, as may be required by any other law, rule, or regulation.

f. Nothing in this section shall be construed to limit the right of an applicant to continue facility operations during the process of permit renewal to the extent such right is conveyed by applicable law, rule, or regulation, including the application

shield provisions of the rules and regulations adopted pursuant to the “Air Pollution Control Act (1954),” P.L.1954, c.212 (C.26:2C-1 et seq.).

g. In addition to any other fee authorized by law, rule, or regulation, the department shall assess each permit applicant a reasonable fee in order to cover the department’s costs associated with the implementation of this act, including costs to provide technical assistance to permit applicants and overburdened communities as needed to comply with this act.

C.13:1D-161 Rules, regulations.

5. a. The department shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations to implement the provisions of this act.

b. The department may issue a technical guidance for compliance with this act, which the department shall publish on its Internet website.

6. This act shall take effect immediately.

Approved September 18, 2020.

Appendix C Environmental Justice Rule

N.J.A.C. 7:1C

ENVIRONMENTAL JUSTICE

Statutory authority: N.J.S.A. 13:1D-1 et seq., 13:1D-157 et seq., 26:2C-1 et seq., 13:1E-1 et seq., 13:1E-26 et seq., 13:1E-99.11 et seq., 58:1A-1 et seq., 58:4A-4 et seq., 58:10A-1 et seq., 58:10A-21 et seq., 12:5-1 et seq., 13:1D-29 et seq., 13:9A-1 et seq., 13:9B-1 et seq., 13:19-1 et seq., 13:20-1 et seq., 58:16A-50 et seq., 13:1F-1 et seq., 13:1E-48.1 et seq., and 13:1E-99.21a et seq.

For regulatory history and effective dates see the New Jersey Administrative Code

Table of Contents

SUBCHAPTER 1. GENERAL PROVISIONS

7:1C-1.1 Scope

7:1C-1.2 Construction

7:1C-1.3 Purpose

7:1C-1.4 Relationship to Other Regulatory Programs

7:1C-1.5 Definitions

7:1C-1.6 Severability

SUBCHAPTER 2. APPLICABILITY AND PROCEDURES

7:1C-2.1 Applicability

7:1C-2.2 Procedural Overview

7:1C-2.3 Initial Screening Information

SUBCHAPTER 3. ENVIRONMENTAL JUSTICE IMPACT STATEMENT

7:1C-3.1 Applicability

7:1C-3.2 Environmental Justice Impact Statement Requirements

7:1C-3.3 Supplemental Information

7:1C-3.4 Review of Environmental Justice Impact Statement

SUBCHAPTER 4. PROCESS FOR MEANINGFUL PUBLIC PARTICIPATION

7:1C-4.1 Public Notice

7:1C-4.2 Public Hearing and Comment

7:1C-4.3 Post-hearing and Comment Process

7:1C-4.4 General Requirements

SUBCHAPTER 5. REQUIREMENTS SPECIFIC TO PERMIT APPLICATIONS FOR NEW FACILITIES

7:1C-5.1 Applicability

7:1C-5.2 Avoidance of Disproportionate Impact

7:1C-5.3 Compelling Public Interest

7:1C-5.4 Control Measures

SUBCHAPTER 6. REQUIREMENTS SPECIFIC TO PERMIT APPLICATIONS FOR FACILITY EXPANSIONS

7:1C-6.1 Applicability

7:1C-6.2 Avoidance of Disproportionate Impact

7:1C-6.3 Control Measures

SUBCHAPTER 7. LOCALIZED IMPACT CONTROL TECHNOLOGY FOR NEW OR EXPANDED MAJOR SOURCE FACILITIES

7:1C-7.1 Localized Impact Control Technology for New or Expanded Major Source Facilities

SUBCHAPTER 8. REQUIREMENTS SPECIFIC TO RENEWAL APPLICATIONS FOR MAJOR SOURCE FACILITIES

7:1C-8.1 Applicability

7:1C-8.2 Avoidance of Disproportionate Impact

7:1C-8.3 General Requirements

7:1C-8.4 Facility-wide Risk Assessment

7:1C-8.5 Technical Feasibility Analysis

7:1C-8.6 Control Measures

SUBCHAPTER 9. DEPARTMENT REVIEW AND DECISION

7:1C-9.1 Department Review

7:1C-9.2 Department Decision

7:1C-9.3 Form and Timing of Decision

7:1C-9.4 Violation of Permit Conditions

7:1C-9.5 Procedure to Request an Adjudicatory Hearing; Decision on the Request; Effect of Request

SUBCHAPTER 10. FEES

7:1C-10.1 Applicability

7:1C-10.2 Payment of Fees

7:1C-10.3 Fee Calculation

SUBCHAPTER 1. GENERAL PROVISIONS

7:1C-1.1 Scope

This chapter shall constitute the rules of the Department to address the review and analysis of contributions to environmental and public health stressors by facilities in overburdened communities pursuant to N.J.S.A. 13:1D-157 et seq.

7:1C-1.2 Construction

This chapter shall be liberally construed to effectuate the statutory function, intent, and purposes of N.J.S.A. 13:1D-157.

7:1C-1.3 Purpose

(a) This chapter is promulgated for the following purposes:

1. Ensure meaningful public participation in the Department's analysis of environmental and public health stressors in overburdened communities and a facility's contributions thereto;
2. Limit the placement of new facilities that would create a disproportionate impact by causing or contributing to adverse cumulative stressors in an overburdened community; and
3. Reduce environmental and public health stressors in overburdened communities in the permitting of new, expanded, and existing major source facilities by requiring incorporation of measures to avoid, minimize, and/or reduce facility contributions thereto.

7:1C-1.4 Relationship to other regulatory programs

(a) Compliance with any subchapter of this chapter shall not relieve any person of the obligation to comply with all other applicable Federal, State, or local laws, rules, regulations, codes, or ordinances.

(b) In the event of a conflict between this chapter and another Department rule, this chapter shall supersede, except that this chapter shall not supersede any provision required to comply with Federal law.

7:1C-1.5 Definitions

“Act” means N.J.S.A. 13:1D-157 et seq., and any amendments thereto.

“Adverse cumulative stressors” means that the combined stressor total of the overburdened community is higher than the overburdened community's geographic point of comparison or would be made higher than an overburdened community's geographic point of comparison as a result of the facility's contribution.

“Adverse environmental and public health stressor” means a stressor in the overburdened community that is higher than an overburdened community’s geographic point of comparison or would be made higher than an overburdened community’s geographic point of comparison as a result of the facility’s contribution.

“Applicant” means a person who submits to the Department an application for a permit, expansion, or renewal.

“Change in use” means a change in the type of operation of an existing facility that increases the facility’s contribution to any environmental and public health stressor in an overburdened community, such as a change to waste processed or stored.

“Combined stressor total” means the sum of adverse environmental and public health stressors in an overburdened community. If the combined stressor total in the overburdened community is greater than the value of the geographic point of comparison, the overburdened community is subject to adverse cumulative stressors.

“Compelling public interest” means a demonstration by a proposed new facility that primarily serves an essential environmental, health, or safety need of the individuals in an overburdened community, is necessary to serve the essential environmental, health, or safety need, and that there are no other means reasonably available to meet the essential environmental, health, or safety need. For purposes of this chapter, the economic benefits of the proposed new facility shall not be considered in determining whether it serves a compelling public interest in an overburdened community.

"Department" means the New Jersey Department of Environmental Protection.

“Disproportionate impact” means the facility cannot avoid either: (1) creating adverse cumulative stressors in an overburdened community as a result of the facility’s contribution; or (2) contributing to an adverse environmental and public health stressor in an overburdened community that is already subject to adverse cumulative stressors. For purposes of this chapter, a facility located either in whole or in part in an overburdened community can have a disproportionate impact on that community. When determining whether a disproportionate impact will occur, an applicant would only be required to consider impacts to adverse environmental and public health stressors.

“Environmental and public health stressor” or “stressor” means sources of environmental pollution, including, but not limited to, concentrated areas of air pollution, mobile sources of air pollution, contaminated sites, transfer stations or other solid waste facilities, recycling facilities, scrap yards, and point-sources of water pollution including, but not limited to, water pollution from facilities or combined sewer overflows; or conditions that may cause potential public health impacts, including, but not limited to, asthma, cancer, elevated blood lead levels, cardiovascular disease, and developmental problems in the overburdened community, as the same are more specifically listed at the chapter Appendix.

“Environmental justice impact statement” or “EJIS” means a systematic, interdisciplinary and integrated assessment of environmental and public health conditions in an overburdened community that identifies and analyzes: (1) existing environmental and public health stressors; (2) any adverse environmental and public health stressors; (3) the presence or absence of adverse cumulative stressors; (4) potential environmental and public health stressors associated with a facility; (5) whether the facility can avoid causing a disproportionate impact; (6) the measures the facility will propose to implement to avoid or address any disproportionate impact; and (7) where applicable, how the new facility serves a compelling public interest in the overburdened community.

"Existing facility" means a facility, or any portion thereof, which, as of (the effective date of this chapter), possesses a valid approved registration or permit from the Department for its operation or construction and is in operation.

“Expansion” means a modification or expansion of existing operations or footprint of development that has the potential to result in an increase of an existing facility’s contribution to any

environmental and public health stressor in an overburdened community, but shall not include any such activity that decreases or does not otherwise result in an increase in stressor contributions.

“Facility” means any (1) major source of air pollution; (2) resource recovery facility or incinerator; (3) sludge processing facility, combustor, or incinerator; (4) sewage treatment plant with a “permitted flow,” as defined at N.J.A.C. 7:14A-1.2, of more than 50 million gallons per day; (5) transfer station or other solid waste facility, or recycling facility intending to receive at least 100 tons of recyclable material per day; (6) scrap metal facility; (7) landfill, including, but not limited to, a landfill that accepts ash, construction or demolition debris, or solid waste; or (8) medical waste incinerator, except a medical waste incinerator that accepts regulated medical waste for disposal, including a medical waste incinerator, that is attendant to a hospital or university and intended to process self-generated regulated medical waste, as defined in this chapter.

“Feasible” means measures addressing contributions to environmental or public health stressors that are reasonably capable of being accomplished by taking into account economic and technological factors.

“Geographic point of comparison” means the comparison area and value used to determine whether an overburdened community is subject to one or more adverse environmental and public health stressors and is determined by selecting the lower value of the State or county’s 50th percentile, calculated excluding the values of other overburdened communities. For the purposes of this definition, “county” shall refer to the county in which the overburdened community is located.

“Hazardous waste” has the same meaning as the term defined at N.J.A.C. 7:26G-5.1.

“Hazardous waste landfill” has the same meaning as the term defined at N.J.A.C. 7:27-8.1.

“Incinerator” has the same meaning as the terms defined at N.J.A.C. 7:26-1.4 and 7:27-11.1.

“Landfill” means a sanitary or hazardous waste landfill.

“Limited English proficiency” means that a household does not have an adult that speaks English “very well” according to the United States Census Bureau.

“Low-income household” means a household that is at, or below, twice the poverty threshold as that threshold is determined annually by the United States Census Bureau.

“Major source” or “major facility” shall have the same meaning as the term defined at N.J.A.C. 7:27-22.1.

“Material change” means a modification of the facility or EJIS that, in the determination of the Department, requires further analysis or public comment to accurately assess the facility’s contribution to environmental and public health stressors in the overburdened community, such as, but not limited to: 1. A change to the basic purpose; 2. An expansion of the facility; 3. An increase in the potential contributions to environmental or public health stressors; or 4. A change in measures proposed to address the facility’s contributions to environmental and public health stressors.

“Medical waste” has the same meaning as the term “medical/infectious waste” defined at N.J.A.C. 7:27-27.1.

“Net environmental benefit” means a reduction of baseline environmental and public health stressors in an overburdened community or other action that improves environmental or public health conditions in an overburdened community, as determined by the Department.

“New facility” means: 1) any facility that has not commenced operation as of (the effective date of this chapter); or 2) a change in use of an existing facility. For the purposes of this chapter, an existing facility that has operated without a valid approved registration or permit required by the Department prior to (the effective date of this chapter) shall be considered a new facility.

“Overburdened community” means any census block group as determined by the Department in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents

identify as minority or as members of a State-recognized tribal community; or (3) at least 40percent of the households have limited English proficiency. For the purposes of this chapter, State-designated tribal lands shall be considered overburdened communities. Information regarding overburdened communities can be found on the Department's internet website at <https://www.nj.gov/dep/ej/communities.html>.

“Permit” means any individual permit, registration, or license issued by the Department to a facility establishing the regulatory and management requirements for a regulated activity pursuant to the following State laws, as amended and supplemented: the Waterfront and Harbor Facilities Act, N.J.S.A. 12:5-1 et seq.; P.L. 1975, c. 232 (N.J.S.A. 13:1D-29 et seq.); the Solid Waste Management Act, P.L.1970, c. 39 (N.J.S.A. 13:1E-1 et seq.); section 17 of P.L. 1975, c.326 (N.J.S.A. 13:1E-26); the Comprehensive Regulated Medical Waste Management Act, P.L. 1989, c. 34 (N.J.S.A. 13:1E-48.1 et seq.); P.L. 1989, c. 151 (N.J.S.A. 13:1E-99.21 et seq.); the New Jersey Statewide Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.11 et seq.); the Pesticide Control Act of 1971, P.L. 1971, c. 176 (N.J.S.A. 13:1F-1 et seq.); The Wetlands Act of 1970, P.L. 1970, c. 272 (N.J.S.A. 13:9A-1 et seq.); the Freshwater Wetlands Protection Act, P.L. 1987, c. 156 (N.J.S.A. 13:9B-1 et seq.); the Coastal Area Facility Review Act, P.L. 1973, c. 185 (N.J.S.A. 13:19-1 et seq.); the Highlands Water Protection and Planning Act, P.L. 2004, c. 120 (N.J.S.A. 13:20-1 et seq.); the Air Pollution Control Act (1954), P.L. 1954, c. 212 (N.J.S.A. 26:2C-1 et seq.); the Water Supply Management Act, P.L. 1981, c. 262 (N.J.S.A. 58:1A-1 et seq.); P.L. 1947, c. 377 (N.J.S.A. 58:4A-5 et seq.); the Water Pollution Control Act, P.L. 1977, c. 74 (N.J.S.A. 58:10A-1 et seq.); P.L. 1986, c. 102 (N.J.S.A.58:10A-21 et seq.); or the Flood Hazard Area Control Act, P.L. 1962, c. 19 (N.J.S.A. 58:16A-50 et seq.); except that “permit” shall not include any authorization or approval necessary to perform

a remediation, as defined pursuant to section 23 of P.L. 1993, c. 139 (N.J.S.A. 58:10B-1), or any authorization or approval required for a minor modification of a facility's major source permit for activities or improvements that do not increase actual or potential emissions.

“Person” means an individual, corporation, corporate officer or official partnership, association, the Federal government, the State, municipality, commission or political subdivision of the State, or any interstate body.

“Reclaim” or “reclamation” has the same meaning as the term defined at N.J.A.C. 7:26-1.4.

“Recyclable materials” has the same meaning as the term defined at N.J.A.C. 7:26-1.4.

“Recycling or reclamation facility” means any place, equipment, or plant designed and/or operated for the purpose of recycling or reclamation, as defined above, to collect, store, process, or to

redistribute separated waste, so as to return the material to market intending to receive at least 100 tons of recyclable material per day.

“Renewal” means the continuation of existing permitted operations at a major facility without change. For the purposes of this chapter, modifications or changes of operations that decrease or do not otherwise increase a facility’s contributions to stressors shall be permitted as a renewal.

“Residual” has the same meaning as the term defined at N.J.A.C. 7:14A-1.2.

“Residual-only facility” has the same meaning as the term defined at N.J.A.C. 7:14A-1.2.

“Resource recovery facility” has the same meaning as the term defined at N.J.A.C. 7:26-1.4.

“Sanitary landfill” has the same meaning as the term defined at N.J.A.C. 7:26-1.4.

“Scrap metal” has the same meaning as the term defined at N.J.A.C. 7:26-1.4.

“Scrap metal facility” means any facility that receives, stores, processes, shreds, or recycles scrap metal, and includes what is commonly known as a scrap or junk yard.

“Sewage sludge” has the same meaning as the term defined at N.J.A.C. 7:14A-1.2.

“Sewage treatment plant” means any facility owned or operated by any public or private sewerage authority, municipal utilities authority, joint meeting, State agency, county, municipality or other governmental agency, subdivision or instrumentality, group of commissioners, commission, or other entity, into which a treatment works, as defined at N.J.A.C. 7:14A-1.2, will discharge; or which has jurisdiction to treat or convey sewage or other wastewater in the service area in which the proposed treatment works are to be located.

“Site” means any parcel or contiguous parcels of property on which a facility is located or proposed to be located. Parcels separated by a right-of-way shall be considered contiguous.

“Sludge” has the same meaning as the term defined at N.J.A.C. 7:14A-1.2 and includes sewage sludge.

“Sludge incinerator” means any facility that incinerates or combusts sludge in an enclosed device.

“Sludge processing facility” means, for the purposes of this chapter, a facility that receives, stores, or processes sludge, the location of a sludge transfer station or the location of any other treatment works treating domestic sewage (TWTDS) or residual-only facility required to obtain a permit pursuant to N.J.A.C. 7:14A-20. However, a sludge processing facility shall not include the land to which residual is applied or will be applied.

“Solid waste” has the same meaning as the term defined at N.J.A.C. 7:26-1.6.

“Solid waste facility” has the same meaning as the term defined at N.J.A.C. 7:26-1.4.

“Transfer station” has the same meaning as the term defined at N.J.A.C. 7:26-1.4.

7:1C-1.6 Severability

A finding by a court of competent jurisdiction that any section, subsection, provision, clause, or portion of this chapter is invalid or unconstitutional shall not affect the remainder of the chapter. If any section, subsection, provision, clause, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

SUBCHAPTER 2. APPLICABILITY AND PROCEDURES

7:1C-2.1 Applicability

(a) The requirements of this chapter apply when an applicant submits a permit application to the Department for a new or expanded facility, or the renewal of an existing major source permit, for a facility located or proposed to be located, in whole or in part, in an overburdened community, or to Solid Waste Management Plan actions as provided at N.J.A.C. 7:1C-4.4.

(b) The Department shall not consider complete for review any application for a permit for a new facility or for the expansion of an existing facility, or any application for the renewal of an existing facility’s major source permit, if the facility is located, or proposed to be located, in whole or in part, in an overburdened community, before the permit applicant first obtains a decision in accordance with N.J.A.C. 7:1C-9.

(c) Any application complete for review prior to (the effective date of this chapter), shall not be subject to the requirements set forth in this chapter.

(d) As of January 16, 2021, the Department has published on its website a list of overburdened communities utilizing data from the most recently published U.S. census. This information can be found at <https://www.nj.gov/dep/ej/communities.html>. At least every two years thereafter, the Department shall update the list utilizing the most recently published U.S. census data.

(e) Where an existing or proposed facility in a block group that has zero population is located immediately adjacent to an overburdened community, the existing or proposed facility shall be subject to the requirements of this chapter and shall utilize the highest combined stressor total of any immediately adjacent overburdened community for the purposes of this chapter. For the purposes of this section, immediately adjacent means directly abutting an overburdened community and includes those communities separated by a street, road, or right-of-way.

(f) Where an applicant is required to analyze the potential for a facility's contribution to create additional adverse environmental and public health stressors in an overburdened community, the applicant shall be required to address only those stressors identified as affected at the chapter Appendix.

(g) An applicant may request a determination of the applicability of this chapter to an application or potential application by providing the Department, in writing, the address of the existing or proposed facility and information necessary for the Department to determine whether the existing or proposed facility is subject to this chapter.

7:1C-2.2 Procedural overview

(a) Upon request, the Department shall provide to the applicant the initial screening information for the overburdened community required pursuant to N.J.A.C. 7:1C-2.3 identifying the environmental and public health stressors, the geographic point of comparison, any adverse environmental and public health stressors, and whether the overburdened community is subject to adverse cumulative stressors. Alternatively, the applicant that wishes to submit its EJIS with a permit application may obtain the required information itself pursuant to N.J.A.C. 7:1C-2.3(g).

(b) After obtaining the information set forth at (a) above, the applicant shall complete the EJIS, in accordance with N.J.A.C. 7:1C-3.

1. Where the overburdened community is not subject to adverse cumulative stressors and the applicant demonstrates, through an analysis of the facility's contributions to the existing environmental and public health stressors in the overburdened community identified as affected at the chapter Appendix, that the facility will avoid causing a disproportionate impact that would occur by creating adverse cumulative stressors as a result of the facility's contribution, only the information pursuant to N.J.A.C. 7:1C-3.2 will be required.

2. Where the facility cannot avoid a disproportionate impact that would occur by creating adverse cumulative stressors as a result of the facility's contribution, the applicant shall include information required pursuant to both N.J.A.C. 7:1C-3.2 and 3.3, including analyzing and proposing feasible measures to, as applicable, avoid or minimize contributions to environmental and public health stressors, provide a net environmental benefit and, where appropriate, demonstrate how the facility serves a compelling public interest in the overburdened community.

3. Where the overburdened community is subject to adverse cumulative stressors, the applicant shall include information required pursuant to both N.J.A.C. 7:1C-3.2 and 3.3.

4. An applicant that is required to provide the information pursuant to N.J.A.C. 7:1C-3.3 shall comply with the requirements pursuant to the following sections to determine whether the facility can, as applicable, first avoid a disproportionate impact or, where a

disproportionate impact will occur, address its contributions to environmental and public health stressors in the overburdened community:

- i. Applications for permits for proposed new facilities shall satisfy the requirements at N.J.A.C. 7:1C-5 and, as applicable, N.J.A.C. 7:1C-7.
- ii. Applications for permits to expand existing facilities shall satisfy the requirements at N.J.A.C. 7:1C-6 and, as applicable, N.J.A.C. 7:1C-7.
- iii. Applications for renewals of existing major source permits shall satisfy the requirements at N.J.A.C. 7:1C-8.

(c) The applicant shall provide the EJIS to the Department for administrative review and, upon the Department's authorization to proceed as required pursuant to N.J.A.C. 7:1C-3.4, complete the process for meaningful public participation pursuant to N.J.A.C. 7:1C-4.

(d) Following the completion of the public participation process at N.J.A.C. 7:1C-4, the Department shall consider the EJIS, and any supplemental information, testimony, written comments, the applicant's response to comments, and any other information deemed relevant by the Department to determine whether the facility can avoid a disproportionate impact, determine whether to deny or approve the application, and evaluate whether and how to impose conditions concerning the construction and operation of the facility to address its contributions to environmental and public health stressors affecting the overburdened community and issue a decision, in accordance with N.J.A.C. 7:1C-9.

7:1C-2.3 Initial screening information

(a) Upon request, the Department shall provide to the applicant the initial screening information provided in this section and a statement of applicability.

(b) Environmental and Public Health Stressors/Geographic Point of Comparison: The Department shall provide a listing of the existing environmental and public health stressors in the overburdened community as set forth at the chapter Appendix and indicate the appropriate geographic point of comparison for each stressor by selecting the lower of the 50th percentile of the State or county's equivalent stressor, excluding other overburdened communities from the comparison.

(c) Adverse Environmental and Public Health Stressors: The Department shall indicate which environmental and public health stressors are considered adverse by comparing the value of each stressor in the overburdened community with the appropriate geographic point of comparison.

(d) Combined Stressor Total: The Department shall sum the number of adverse environmental and public health stressors in the overburdened community to determine the combined stressor total. The Department shall also indicate the appropriate geographic point of comparison for the combined stressor total by selecting the lower of the 50th percentile of the State or county's combined stressor totals excluding the combined stressor totals of other overburdened communities from the comparison.

(e) Cumulative stressors: The Department shall determine whether the overburdened community is subject to stressors by comparing the combined stressor total to the appropriate geographic point of comparison. If the facility is located, or proposed to be located, in whole or in part, in more than one overburdened community, the Department will apply the higher combined stressor total of the overburdened communities for the purposes of this analysis.

(f) The Department shall provide the screening information at (b) through (e) above to the applicant, in writing, for incorporation into the EJIS.

(g) An applicant that wishes to submit its EJIS concurrent with a permit application may obtain the screening information at (a) through (f) above from the Department's Environmental Justice

Mapping, Assessment and Protection

Tool(<https://njdep.maps.arcgis.com/apps/webappviewer/index.html?id=34e507ead25b4aa5a5051dbb85e55055>).

SUBCHAPTER 3. ENVIRONMENTAL JUSTICE IMPACT STATEMENT 7:1C-3.1 Applicability

(a) All permit applicants shall prepare and submit to the Department an environmental justice impact statement (EJIS) in accordance with the requirements of this section.

(b) Where the overburdened community is not subject to adverse cumulative stressors and the applicant demonstrates, through an analysis of the facility's contributions to the current environmental and public health stressors in the overburdened community, that the facility will avoid a disproportionate impact that would occur by creating adverse cumulative stressors as a result of the facility's contribution, only the information at N.J.A.C. 7:1C-3.2 will be required.

(c) Where the facility cannot avoid a disproportionate impact that would occur by creating adverse cumulative stressors in the overburdened community as a result of the facility's contribution, the applicant shall include information required at both N.J.A.C. 7:1C-3.2 and 3.3.

(d) Where the overburdened community is subject to adverse cumulative stressors, the applicant shall include information required at both N.J.A.C. 7:1C-3.2 and 3.3.

(e) The Department may require inclusion of any additional information or point of analysis it deems necessary for the protection of public health and the environment.

(f) An EJIS, and any supplemental information submitted in accordance with N.J.A.C. 7:1C-3.3, must be prepared and submitted pursuant to this chapter, as applicable. Where the information addressing a requirement is supplied in the engineering designs or reports, reference to such

designs or reports may be noted in the EJIS and supplemental information, provided the appropriate section and page number of the design or report is summarized, cross referenced, and indexed. If any category or requirement above presents no impact relative to the facility, a notation of non-applicability shall be entered in the EJIS and supplemental information.

7:1C-3.2 Environmental justice impact statement requirements

(a) In its EJIS, an applicant for a facility located, or proposed to be located, in whole or in part, in an overburdened community shall include:

1. An executive summary of the information contained in the EJIS, including any supplemental information as required at N.J.A.C. 7:1C-3.3.
2. A detailed written description of the municipal and neighborhood setting of the facility, including the location of community and residential dwellings, hospitals, nursing homes, playgrounds, parks, schools, and comprehensive demographic, economic zoning, and physical descriptions. The site location shall also be identified by a site plan of the facility or equivalent map if no site plan exists.
3. A description of the facility's current and proposed operations, which shall include, but not be limited to, the following:

- i. An explanation of the purpose of the permit application, including how the project serves the needs of the individuals in the overburdened community;
 - ii. Identification of all processes to be used, including pollution or environmental control measures and monitoring instrumentation, hours of operation, onsite equipment, traffic routes, number of employees, and all other information relevant to the potential for the facility to contribute to environmental and public health stressors in the overburdened community; and
 - iii. For new or expanded facilities, a schedule for the construction and operation including anticipated completion dates for major phases of construction, any pollution or environmental control measures and monitoring instrumentation, hours of operation, onsite equipment, traffic routes, number of employees, and all other information relevant to the potential for the construction to contribute to environmental and public health stressors in the overburdened community.
4. A list of all the Federal, State, and local permits that are required, or will be required, for construction or operation of the facility including, but not limited to, those defined at N.J.A.C. 7:1C-1.5.
 5. Evidence of satisfaction of any local environmental justice or cumulative impact analysis ordinances with which the applicant is required to comply.
 6. The initial screening information obtained pursuant to N.J.A.C. 7:1C-2.3.
 7. An assessment of the impacts, both positive and negative, of the facility on each environmental and public health stressor in the overburdened community identified as affected at the chapter Appendix under conditions of maximum usage or output, and a correlation of such impacts with various stages of the site preparation, facility construction and operation, including the amounts, concentrations, and pathways of any contaminants or pollution that will be associated with the facility.
 8. A public participation plan that, at a minimum, satisfies the requirements at N.J.A.C. 7:1C-3.4(d) and 7:1C-4, including all proposed forms and methods of notice to the members of the overburdened community and the proposed hearing location.
 9. A demonstration, including any necessary operational conditions and control measures, that the facility will avoid a disproportionate impact that would occur by creating adverse cumulative stressors in the overburdened community as a result of the facility's contribution. If the applicant cannot make such a demonstration, then it is presumed that a disproportionate impact is present and the applicant shall include the information required at N.J.A.C. 7:1C-3.3.
 10. As applicable, how a proposed new facility will serve a compelling public interest in the overburdened community, in accordance with N.J.A.C. 7:1C-5.3.
- 7:1C-3.3 Supplemental information
- (a) An applicant shall supplement its EJIS with the information described below if the Department determines a facility is located, or proposed to be located, in whole or in part, in an overburdened community that is subject to adverse cumulative stressors or the facility cannot demonstrate that it will avoid a disproportionate impact that would occur by creating adverse cumulative stressors in the overburdened community as a result of the facility's contribution.
 1. Site mapping showing:
 - i. Topographic conditions, contour data, drainage patterns, wetlands or their associated buffers, coastal zones, or other areas regulated by the Department;
 - ii. Areas of known plant or animal species on the Federal and State endangered, threatened, or rare plant or animal species list;
 - iii. All existing water classifications, designated uses, and limitations of the surface water bodies that are immediately adjacent to the site, exist on the site, or drain directly onto or off the site, upstream tributaries of bodies of water which flow onto

the site, and downstream tributaries of bodies of water which flow from the site, in accordance with N.J.A.C. 7:9B; and

iv. Any existing onsite public scenic attributes or outdoor recreation and conservation opportunities in the overburdened community, such as any Federal, State, county, or municipal parks, forests, wildlife management areas and natural areas, any areas acquired for recreation and conservation purposes with Green Acres funding, program, or a non-profit conservation organization, any lands preserved as open space by a non-profit conservation organization or other public access features; and

2. Information pertaining to the existence or absence of contamination on site, which may include the existence of known, or suspected, contaminants, historical uses of the site, and any remediation activities that have occurred on the site;

3. A description of the ambient air quality data for existing concentrations of the National Ambient Air Quality Standard pollutants as identified at 42 U.S.C. §§ 7401 et seq., and a discussion of how the facility will comply with the requirements at N.J.A.C. 7:27;

4. A description of the subsurface hydrology that presents ground water quantity and quality data for the aquifers located beneath the site, including, but not limited to, depth to ground water during seasonal high and low flow, flow direction, existing uses, and future supply capabilities. In addition, a description of the soils that identifies major soil types and their characteristics, including, but not limited to, drainage, erosion potential, and sedimentation potential;

5. A description of the localized climate and flooding impacts through the presentation of site-specific data for average annual and monthly precipitation, flooding, and temperature.

Meteorological data may be obtained from the nearest National Oceanographic and Atmospheric Administration sanctioned station.

i. At a minimum, the description shall use data and tools from the Department's Climate Change website (<https://www.nj.gov/dep/climatechange>), which must be referenced in the prepared document, and address:

(1) Whether the facility is located within a flood hazard area, as delineated by the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13;

(2) The expected impacts of flooding on the facility from the 100-year storm event and/or potential inundation due to sea level rise;

(3) Proposed resilience measures; and

(4) A list of measures to mitigate risks from flooding and inundation;

6. A traffic study that describes the transportation routes that will service the facility, site access capability, and existing traffic flow patterns expressed in terms of daily peak hour volumes, off peak hour volumes, levels of service, and average daily round trips, and the facility's current and proposed contributions thereto for all vehicles associated with the facility's operations;

7. A description of the sewage facilities that identifies the type of treatment system available, existing treatment capacity, collection system capacity, average and peak flow data, and current committed capacity for the treatment and collection system;

8. A description of the stormwater management system that identifies the type of collection and treatment system available, and current collection and treatment capacity and utilization, including the presence or absence of combined sewer overflows;

9. A description of the water supply that identifies the water supply system, water sources, level and type of existing pre-treatment, capacity of the distribution system, current commitment of capacity, availability of additional supply, and peak and average demands;

10. A description of the energy supply system on-site or immediately available to the site by identifying existing power lines or pipelines, current commitment of capacity, the capability of supplying energy to the proposed facility and/or activity, and conveying, if applicable, any energy products generated by the proposed facility and/activity from the site. This analysis shall include an

evaluation of the feasibility of the utilization of onsite or offsite renewable energy resources to meet, fully or partially, the energy demand of the facility;

11. For new or expanded facilities, a sufficiently detailed comparison of reasonable design alternatives that would permit independent and comparative evaluation, including siting changes or process alternatives that could reduce some or all of the proposed facility's contributions to environmental and public health stressors in the overburdened community, including:

- i. Identification of any significant differences in contributions to environmental and public health stressors that would reasonably result from the alternatives considered;
- ii. A discussion of the alternative of no action or no project, including the major foreseeable consequences of such a choice;
- iii. A comparison, in matrix or other appropriate format, of both the chosen alternative and the set of alternatives considered; and
- iv. A justification of selection of the preferred alternative;

12. An odor, dust, and/or noise mitigation or management plan, if:

- i. The facility has the potential to cause odor, dust, and/or noise off-site; or
- ii. The facility has had a confirmed odor, dust, and/or noise complaint submitted through DEP's Hotline or the local health agency for the five years preceding the date of the permit application;

13. A detailed compliance history for the facility, including any existing Department permits and copies of any enforcement actions issued to the facility for the five years preceding the date of the permit application; and

14. An analysis and proposal of control measures to address the facility's contribution to environmental and public health stressors in accordance with N.J.A.C. 7:1C-5 (new facilities), 6 (facility expansions), or 8 (renewal of existing major source permits).

(b) The requirements of this section are in addition to, and do not supersede, the EJIS requirements in accordance with N.J.A.C. 7:1C-3.2.

(c) An applicant may elect to submit an EJIS and any supplemental information, in accordance with this subchapter, independent of whether the facility is located, or proposed to be located, in whole or in part, in an overburdened community that is subject to adverse cumulative stressors or the facility cannot demonstrate that it will avoid a disproportionate impact that would occur by creating adverse cumulative stressors in the overburdened community as a result of the facility's contribution.

7:1C-3.4 Review of Environmental Justice Impact Statement and authorization to proceed

(a) Prior to providing public notice pursuant to N.J.A.C. 7:1C-4.1, an applicant shall transmit the EJIS, and any supplemental information, to the Department for administrative review and authorization to proceed pursuant to N.J.A.C. 7:1C-4. The Department's review shall be limited to determining the presence of the information required to complete the EJIS and that the proposed public notice complies with the requirements of this chapter.

(b) Within 10 days of receipt of the EJIS, and any supplemental information, the Department shall either request revisions or the inclusion of additional information in the EJIS or provide the applicant with authorization to proceed with the public participation process pursuant to N.J.A.C. 7:1C-4.

(c) Upon providing authorization to proceed, the Department shall publish the EJIS and any supplemental information on its website and in the bulletin published pursuant to N.J.S.A. 13:1D-34 and shall provide an electronic copy to any party that has registered its interest in the project or representation of the overburdened community with the Department.

(d) The applicant shall provide, to the Department:

1. A proof of publication of the notice of public hearing required pursuant to N.J.A.C. 7:1C-4.1(a)1ii;
2. *[A dated copy of the posting required pursuant to N.J.A.C. 7:1C-4.1(b)1ii, as applicable;]*
3. Copies of and proof of mailing of the notices required pursuant to N.J.A.C. 7:1C-4.1*(b)* **(a)**1iii and iv; and

4. A proof of the posting and maintenance of a sign as required pursuant to N.J.A.C. 7:1C-4.1*[(b)]*
*(a)*1iv.

SUBCHAPTER 4. PROCESS FOR MEANINGFUL PUBLIC PARTICIPATION

7:1C-4.1 Public notice

(a) After receiving authorization from the Department pursuant to N.J.A.C. 7:1C-3.4 to proceed to public process, the applicant shall provide notice of the public hearing and of the opportunity for the public to submit written comments, in accordance with the following, and shall maintain a record that documents that these notice requirements were met:

1. At least 60 days prior to the hearing, the applicant shall:

i. Provide a copy of the EJIS to the clerk of the municipality or municipalities in which the overburdened community is located;

ii. Publish notice of the hearing in at least two newspapers circulating within the overburdened community, including, at a minimum, one local non-English language newspaper in a language representative of the residents of the overburdened community, if applicable;

iii. Provide written notice of the hearing to the Department, the governing body, and the clerk of the municipality in which the overburdened community is located;

iv. Provide written notice of the hearing through certified mail (return receipt requested) to all persons who own and/or reside on land located within 200 feet of the facility and to any easement holders for that land who are listed in the tax records for the municipality or municipalities in which the land is located;

v. Post and maintain, in a legible condition, until the public comment period is concluded, a sign on the site of the existing or proposed facility. Any such sign must advise the public of the permit application, the public hearing on the application, and the opportunity for public comment on the proposal. Such sign must be located in a prominent location(s) viewable by the public and contain sufficient detail in a language or language representative of the residents of the overburdened community as to inform of the application, and the method by which the public may obtain information about such proposed application;

vi. Provide notice through other methods identified by the applicant to ensure direct and adequate notice to individuals in the overburdened community including, but not limited to, providing information directly to active community groups or organizations, automated phone, voice, or electronic notice, flyers, and/or utilization of other publications utilized within the overburdened community; and

vii. Invite the Department, municipality or municipalities, and local environmental and environmental justice bodies to participate in the public hearing.

(b) The notices required pursuant to (a)1 above shall include the following information:

1. The name of the applicant and the date, time, and location of the hearing;

2. A general description of the proposed new or expanded facility or existing major source facility, as applicable, being considered;

3. A map indicating the location of the facility, including the street address, as applicable, municipality, county, tax map block and lot, and size of the property that would be the subject of the application being considered;

4. A brief summary of the EJIS and supplemental information, as applicable, and information on how an interested person may review a copy of the complete EJIS and supplemental information, as applicable;

5. A statement inviting participation in the public hearing and notifying the public that, for a time period of no less than 30 days after the hearing and 60 days total, written comments may be submitted to the applicant. The statement shall provide an address for submittal of written comments to the applicant; and

6. Any other information deemed appropriate by the Department, for that specific notice.

7:1C-4.2 Public hearing and comment

(a) An applicant shall schedule the public hearing, as follows:

1. The hearing must be held in the overburdened community, unless the applicant demonstrates that there is no suitable hearing space in the overburdened community. Where such demonstration is made, the hearing may, subject to the Department's approval, be held in the municipality in which the facility is, or will be, located within as close proximity as possible to the overburdened community and in a manner that facilitates participation of individuals in the overburdened community. If the facility is located in more than one overburdened community, the applicant shall, subject to the Department's approval, propose a central location within close proximity to all affected overburdened communities; and

2. All hearings must be conducted on a week day no earlier than 6:00 P.M. Eastern Standard Time/Eastern Daylight Time. An applicant shall include a virtual component to the in-person public hearing to increase public participation. The virtual component shall be recorded and available online for the public to view after the hearing until at least the close of the public comment period.

(b) At the public hearing, an applicant shall provide a clear, accurate, and complete presentation of the information contained in the EJIS and any supplemental information required by this chapter and accept written and oral comment from any interested party regarding the application. The applicant shall allot sufficient time to ensure that all interested individuals have a reasonable and adequate opportunity to provide oral comment at the hearing.

(c) The public comment period may begin upon completion of the notice requirements, in accordance with N.J.A.C. 7:1C-4.1. In addition, the comment period shall remain open a minimum of 30 days after the completion of the required public hearing, in accordance with this section and be no less than 60 days total.

7:1C-4.3 Post-hearing and comment process

(a) After the close of public comment, the applicant shall provide to the Department:

1. A written transcript of the public hearing; and

2. A summary of the public comments and the applicant's responses made at the public hearing, and a copy of the comments provided in writing after the public hearing, and the applicant's response to the public comments. The applicant shall indicate in its response how it will address the comments and, as necessary, amend and republish the EJIS.

(b) If the applicant makes a material change to the information set forth in the EJIS, its permit application, or an application pursuant to N.J.S.A. 13:1E-23, after it has submitted its EJIS pursuant to N.J.A.C. 7:1C-3, or after it has completed the public notice or public hearing requirements pursuant to this subchapter, the Department will require the applicant to amend its EJIS to reflect the material change and conduct additional public notice and public hearing, pursuant to this subchapter.

7:1C-4.4 General requirements

The notice and hearing requirements of this subchapter are in addition to the notice and hearing requirements of any other rule, except that an applicant shall conduct the notice and public hearing required pursuant to N.J.A.C. 7:1C-4.2, concurrent with the Solid Waste Management Plan notice and hearing required pursuant to N.J.S.A. 13:1E-23.

SUBCHAPTER 5. REQUIREMENTS SPECIFIC TO PERMIT APPLICATIONS FOR NEW FACILITIES

7:1C-5.1 Applicability

(a) This subchapter sets forth the requirements for an applicant that submits a permit application for a new facility that is proposed to be located, in whole or in part, in an overburdened community that is subject to adverse cumulative stressors or a new facility that cannot demonstrate that it will avoid a disproportionate impact that would occur by creating adverse cumulative stressors in the overburdened community as a result of the facility's contribution.

(b) In preparing an EJIS for a new facility pursuant to N.J.A.C. 7:1C-3, an applicant shall conduct the analysis and provide the information required pursuant to this subchapter.

7:1C-5.2 Avoidance of disproportionate impact

(a) An applicant that submits a permit application for a new facility that is proposed to be located, in whole or in part, in an overburdened community that is subject to adverse cumulative stressors shall analyze and propose all control measures necessary to avoid facility contributions to all adverse environmental and public health stressors in the overburdened community. Where the control measures proposed by the applicant will prevent a disproportionate impact by avoiding facility contributions to all adverse environmental and public health stressors in the overburdened community, the Department may grant the subject application pursuant to N.J.A.C. 7:1C-9.2(a).

(b) Where the control measures proposed by the applicant cannot avoid a disproportionate impact, the Department shall deny the subject application pursuant to N.J.A.C. 7:1C-9.2(b)1, unless the applicant demonstrates that the proposed facility will serve a compelling public interest in the overburdened community, in accordance with N.J.A.C. 7:1C-5.3.

(c) An applicant seeking to demonstrate that the proposed facility will serve a compelling public interest shall conduct the analysis and provide the information required at N.J.A.C. 7:1C-5.3 and 5.4.

7:1C-5.3 Compelling public interest

(a) Where a proposed new facility cannot avoid a disproportionate impact, the Department shall deny the subject application pursuant to N.J.A.C. 7:1C-9.2(b)1, unless the applicant demonstrates that the proposed facility will serve a compelling public interest in the overburdened community.

(b) An applicant that seeks approval for a proposed new facility that will serve a compelling public interest in the overburdened community where it is to be located must demonstrate that:

1. The proposed new facility will primarily serve an essential environmental, health, or safety needs of the individuals in an overburdened community;
2. The proposed new facility is necessary to serve the essential environmental, health, or safety needs of the individuals in an overburdened community; and
3. There are no reasonable alternatives that can be sited outside the overburdened community to serve the essential environmental, health, or safety needs of the individuals in an overburdened community.

(c) Facilities that directly reduce adverse environmental and public health stressors in the overburdened community may be considered as serving an essential environmental, health, or safety need of the individuals in an overburdened community.

(d) The Department may consider, as relevant, public input as to whether a compelling public interest is demonstrated if there is a significant degree of public interest in favor of or against an application from individuals residing in the overburdened community. In addition to any other public comment provided pursuant to this chapter, the Department may seek input from the public whenever it determines such comments may clarify whether the compelling public interest standard is met.

7:1C-5.4 Control measures

(a) An applicant for a proposed new major source facility that seeks to demonstrate a compelling public interest, shall propose control measures, in accordance with N.J.A.C. 7:1C-7.1.

(b) For any aspects of a new facility's operations not addressed at (a) above, the applicant shall propose control measures in the following order:

1. All feasible measures to avoid facility contributions to environmental and public health stressors;
2. For any contribution that cannot feasibly be avoided, all feasible onsite measures to minimize facility contributions to environmental and public health stressors;
3. All feasible offsite measures within the overburdened community to reduce environmental and public health stressors to which the facility will contribute;
4. All feasible offsite measures within the overburdened community to reduce adverse environmental and public health stressors to which the facility will not contribute, with

preference for the reduction of stressors from highest to lowest percentile in relation to the geographic point of comparison; and

5. All feasible offsite measures within the overburdened community to provide a net environmental benefit in the overburdened community.

SUBCHAPTER 6. REQUIREMENTS SPECIFIC TO PERMIT APPLICATIONS FOR FACILITY EXPANSIONS

7:1C-6.1 Applicability

(a) This subchapter sets forth the requirements for an applicant that submits a permit application for an expanded facility located, in whole or in part, in an overburdened community that is subject to adverse cumulative stressors or a facility expansion that cannot demonstrate that it will avoid a disproportionate impact that would occur by creating adverse cumulative stressors in the overburdened community as a result of the facility's contribution.

(b) In preparing an EJIS for an expanded facility pursuant to N.J.A.C. 7:1C-3, an applicant shall conduct the analysis and provide the information required pursuant to this subchapter.

7:1C-6.2 Avoidance of disproportionate impact

(a) An applicant that submits a permit application for an expanded facility that is proposed to be located, in whole or in part, in an overburdened community that is subject to adverse cumulative stressors shall analyze and propose all control measures necessary to avoid facility contributions to all adverse environmental and public health stressors in the overburdened community. Where the control measures proposed by the applicant will prevent a disproportionate impact by avoiding facility contributions to all adverse environmental and public health stressors in the overburdened community, the Department may grant the subject application pursuant to N.J.A.C. 7:1C-9.2(a).

(b) Where the control measures proposed by the applicant cannot avoid a disproportionate impact, the Department shall impose conditions in accordance with N.J.A.C. 7:1C-9.2(b)2.

(c) An applicant seeking approval for an expanded facility where a disproportionate impact is present shall conduct the analysis and provide the information required pursuant to N.J.A.C. 7:1C-6.3.

7:1C-6.3 Control measures

(a) An applicant for an expanded major source facility shall propose control measures in accordance with N.J.A.C. 7:1C-7.1.

(b) For any aspects of any other expanded facility's operations not addressed at (a) above, the applicant shall propose control measures in the following order:

1. All feasible measures to avoid facility contributions to environmental and public health stressors;
2. For any contribution that cannot feasibly be avoided, all feasible onsite measures to minimize facility contributions to environmental and public health stressors;
3. All feasible offsite measures within the overburdened community to reduce environmental and public health stressors to which the facility will contribute;
4. All feasible offsite measures within the overburdened community to reduce adverse environmental and public health stressors to which the facility will not contribute, with preference for the reduction of stressors from highest to lowest percentile in relation to the geographic point of comparison; and
5. All feasible offsite measures within the overburdened community to provide a net environmental benefit in the overburdened community.

SUBCHAPTER 7. LOCALIZED IMPACT CONTROL TECHNOLOGY FOR NEW OR EXPANDED MAJOR SOURCE FACILITIES

7:1C-7.1 Localized impact control technology for new or expanded major source facilities

(a) For a new major source facility that serves a compelling public interest pursuant to N.J.A.C.

7:1C-4.1, or an expansion of an existing major source facility, if an application proposes construction, installation, reconstruction, or modification of equipment and control apparatus that is a significant source operation, as defined at N.J.A.C. 7:27-8.1, meeting the following criteria, the applicant shall document Localized Impact Control Technology (LICT) for the source:

1. The facility has a potential to emit any HAP at a rate equal to or greater than the SOTA Threshold at N.J.A.C. 7:27-17.9.

2. The facility has a potential to emit carbon monoxide, nitrogen oxide, inhalable particles with diameters that are generally 10 micrometers and smaller, fine inhalable particles with diameters that are generally 2.5 micrometers and smaller, sulfur dioxide, trisodium phosphate, total volatile organic compounds, or any other air contaminant or category of air contaminant not covered at (a)1 above at a rate individually equal to or greater than the five tons per year.

(b) Documentation of LICT is required only for an air contaminant for which the facility's potential to emit that air contaminant at the amount listed at (a) above.

(c) An applicant shall document compliance with the LICT standard determined through a top-down approach. To perform a top-down LICT demonstration, the applicant shall:

1. Identify and evaluate a list of air pollution control technologies or measures that may be applied to the source to reduce each contaminant identified at N.J.A.C. 7:27-7.1(b). This list shall not be limited to measures that have been applied to other existing sources in this same source category and shall include measures applied to sources in similar source categories, as well as innovative control technologies, modification of the process or process equipment, other pollution prevention measures, and combinations of the above measures.

2. Arrange the measures on the list in descending order of air pollution control effectiveness. The first-listed or "top" measure shall constitute LICT for the source unless the applicant provides one of the following:

i. A demonstration that the top measure should be eliminated from consideration because it is technically infeasible, based on physical, chemical, or engineering principles, and/or technical difficulties that would prevent the successful application of the measure;

ii. A demonstration that the top measure should be eliminated from consideration based on its environmental impacts. The justification shall show that the adverse environmental effects of the top measure, such as effects on water or land, or HAP emissions, when compared with its air contaminant emission reduction benefits, would make use of the top measure unreasonable; or

iii. A demonstration that the top measure should be eliminated from consideration based on its energy impacts. The justification shall show that the top measure uses fuels that are not reliably available; or that the energy consumed by the top measure is greater than the proposed measure(s), and that the extra energy used, when compared with the air contaminant emission reduction benefits resulting from the top measure, would make use of the top measure unreasonable.

3. If the top measure is eliminated from consideration under any of the provisions at (c)2i, ii, or iii above, the applicant shall evaluate each successive measure on the list, using the procedures described at (c)2 above, until a measure is reached that is not eliminated. Upon the Department's approval of the LICT demonstration, this measure shall constitute the LICT for the source.

(d) The requirements of this subchapter shall not apply to sources permitted in a general permit issued pursuant to N.J.A.C. 7:27-8.8 or in a general operating permit issued pursuant to N.J.A.C. 7:27-22.14.

(e) The requirements of this subchapter shall not relieve the applicant from the responsibility to comply with any other State, local, or Federal regulations.

SUBCHAPTER 8. REQUIREMENTS SPECIFIC TO RENEWAL APPLICATIONS FOR MAJOR SOURCE FACILITIES

7:1C-8.1 Applicability

(a) This subchapter sets forth the requirements for an applicant for a permit for a major facility, as defined at N.J.A.C. 7:27-22.1, that submits an application for a renewal of its operating permit required pursuant to N.J.A.C. 7:27-22 and is located in an overburdened community that is subject to adverse cumulative stressors or cannot demonstrate that it will avoid a disproportionate impact that

would occur by creating adverse cumulative stressors in the overburdened community as a result of the facility's contribution.

(b) In preparing an EJIS for the renewal of an existing major source permit pursuant to N.J.A.C. 7:1C-3, an applicant shall conduct the analysis and provide the information required pursuant to this subchapter.

7:1C-8.2 Avoidance of disproportionate impact

(a) In addition to the analysis and measures required at N.J.A.C. 7:1C-8.3, 8.4, and 8.5, an applicant that submits a permit application for the renewal of an existing major source permit that is to be located, in whole or in part, in an overburdened community that is subject to adverse cumulative stressors shall analyze and propose feasible control measures necessary to avoid facility contributions to all adverse environmental and public health stressors in the overburdened community. Where the control measures proposed by the applicant will prevent a disproportionate impact by avoiding facility contributions to all adverse environmental and public health stressors in the overburdened community, the Department may grant the subject application pursuant to N.J.A.C. 7:1C-9.2(a).

(b) Where the control measures proposed by the applicant cannot avoid a disproportionate impact, the Department shall impose conditions in accordance with N.J.A.C. 7:1C-9.2(b)2.

(c) An applicant seeking the renewal of a major source facility permit, where a disproportionate impact is present, shall conduct the analysis and provide the information required pursuant to N.J.A.C. 7:1C-8.3, 8.4, 8.5, and 8.6.

7:1C-8.3 General requirements

(a) An applicant for a major facility permit renewal subject to this subchapter shall include the following in its environmental justice impact statement, as applicable:

1. A facility-wide risk assessment, pursuant to N.J.A.C. 7:1C-8.4, unless:
 - i. The applicant or designated responsible corporate official certifies that:
 - (1) The applicant submitted a facility-wide risk assessment, as part of its application for its current effective operating permit;
 - (2) The Department approved the facility-wide risk assessment; and
 - (3) No new information or change in use or operation at the facility occurred since the Department approved the facility-wide risk assessment; and
 - ii. The Department determines that there have been no changes to the requirements for a facility-wide risk assessment pursuant to N.J.A.C. 7:1C-8.4, requiring an update to the facility-wide risk assessment; and
 2. A technical feasibility analysis to reduce emissions to the maximum extent technically feasible, pursuant to N.J.A.C. 7:1C-8.5, if the facility meets the criteria set forth at N.J.A.C. 7:1C-8.5.
- 7:1C-8.4 Facility-wide risk assessment
- (a) An applicant of a major facility permit renewal subject to this subchapter shall submit a facility-wide risk assessment that evaluates existing source operations and includes each source operation's emission rates of hazardous air pollutants (HAP) and toxic substances that exceed the reporting thresholds at N.J.A.C. 7:27-17.9(a).
 - (b) The applicant shall conduct the facility-wide risk assessment in accordance with a protocol approved in advance by the Department. The Department will not approve a protocol unless it takes all relevant site-specific and general factors into account. These factors include, but are not limited to, a land use analysis, proper consideration of topography, a good engineering practice

stack height analysis, use of the most recent version of the USEPA-approved models, identification of the most appropriate meteorological data, and consideration of all relevant averaging times. The protocol shall document how the applicant proposes to conduct the facility-wide risk assessment, and how the results will be presented to the Department. Technical guidance on the preparation of a protocol can be found in the Air Quality Permitting Program's Technical Manual 1002 (Guidance on Preparing an Air Quality Modeling Protocol) and Technical Manual 1003 (Guidance on Preparing a Risk Assessment for Air Contaminant Emissions) available on the Department's website at <http://www.nj.gov/dep/aqpp/techman.html>.

(c) If the outcome of the facility-wide risk assessment is above a negligible level pursuant to Technical Manual 1003, then the applicant shall submit a plan to lower the risk to an egligible level as part of its EJIS in accordance with N.J.A.C. 7:1C-2. The plan may include measures, such as applying better air pollution controls to lower emissions, modifying stack parameters to increase dispersion, and/or implementing applicable risk minimization strategies to reduce risk in the overburdened community.

(d) If the facility's proposed plan does not lower risk to a negligible level, the Department will include conditions in its decision that are necessary to reduce risk in the overburdened community.

7:1C-8.5 Technical feasibility analysis

(a) An applicant for a major facility permit renewal subject to this subchapter shall submit a technical feasibility analysis if the facility's current effective operating permit includes any equipment or control apparatus that meets the following:

1. The equipment or control apparatus was installed at least 20 years prior to the expiration date of its current effective operating permit;

N

2. The equipment or control apparatus was not subject to review under this subchapter in the 15 years prior to the expiration date of its current effective operating permit; and

3. The total emissions of any of the pollutants listed below from all equipment or control apparatus that meet the criteria at (a)1 and 2 above, comprise at least 20 percent of the facility's overall potential to emit that pollutant. All emissions shall be calculated based on potential to emit:

- i. Fine particulate matter (PM 2.5);
- ii. Nitrogen oxides; and
- iii. Volatile organic compounds.

(b) The applicant shall list each equipment and source operation that meets the criteria at (a) above, according to the potential to emit of each equipment and source operation, in descending order, for each applicable pollutant.

(c) The applicant shall submit as part of its EJIS pursuant to N.J.A.C. 7:1C-3, a technical feasibility analysis that addresses each equipment and source operation required to be listed at (b) above, beginning at the top of the list provided at (c)1 and 2 below. The technical feasibility analysis shall include the following, and utilize the "top-down" approach, as provided below:

1. A list of air pollution control technologies or pollution prevention options that may be applied to each equipment or control apparatus to reduce the pollutants identified at (a)3 above, which shall:

- i. Include control applied to similar types of sources, innovative control technologies, modification of the process or process equipment, other pollution prevention measures, and combination of these measures; and
- ii. List each measure in descending order of air pollution control effectiveness.

2. A proposal to reduce emissions of each pollutant that meets (a)3 above by applying the first listed or "top" measure in its list for each equipment and control apparatus, unless the applicant demonstrates that:

- i. The top measure is technically infeasible, based on physical, chemical, or engineering principles, and/or technical difficulties that would prevent the successful application of the measure;
- ii. The top measure would be unreasonable when comparing its air contaminant emission reduction benefits with its adverse environmental effects, such as effects on water or land, or HAP emissions;
- iii. The total and incremental costs of the top measure are greater than the total and incremental costs of the proposed measure(s), which costs shall be calculated using the techniques in the latest edition of the USEPA's Air Pollution Control Cost Manual and that the extra costs, compared with the air contaminant emission reduction benefits resulting from the top measure, would make use of the top measure unreasonable; or
- iv. The top measure uses fuels that are not reliably available, or that the energy consumed by the top measure is greater than the proposed measure(s), and the extra energy used, when compared with the air contaminant emission reduction benefits resulting from the top measure, would make use of the top measure unreasonable.

3. If the top measure is eliminated from consideration, the applicant shall evaluate each successive measure on the list, using the procedure described at (c)2 above, until the applicant reaches its proposed measure.

N

7:1C-8.6 Control measures

(a) An applicant seeking renewal of an existing facility's major source permit shall propose control measures in accordance with N.J.A.C. 7:1C-8.3, 8.4, and 8.5.

(b) For any aspects of the existing major source facility's operations not addressed at (a) above, the applicant shall propose control measures in the following order:

1. All feasible measures to avoid facility contributions to environmental and public health stressors; and

2. For any contribution that cannot feasibly be avoided, all feasible onsite measures to minimize facility contributions to environmental and public health stressors.

SUBCHAPTER 9. DEPARTMENT REVIEW AND DECISION

7:1C-9.1 Department review

(a) Following the completion of the public participation process at N.J.A.C. 7:1C-4, the Department shall consider the EJIS and any supplemental information, testimony, written comments, the applicant's response to comments, and any other information deemed relevant by the Department to evaluate its decision pursuant to this chapter.

(b) In issuing its decision pursuant to N.J.A.C. 7:1C-9.2, the Department shall:

1. Determine whether the facility will avoid a disproportionate impact to an overburdened community;

2. Evaluate and determine the feasibility of conditions on the construction or operation of the facility in accordance with the requirements at N.J.A.C. 7:1C-5, 6, and 8 and such evaluation shall not be limited to those conditions proposed by the applicant; and

3. Evaluate conditions on the construction or operation of the facility in accordance with the requirements at N.J.A.C. 7:1C-7, which evaluation shall not be limited to those conditions proposed by the applicant; and

4. Impose conditions selected by the Department after being evaluated pursuant to (b)2 and (3) above, on the construction or operation of the facility.

(c) If it is necessary for the Department to engage one or more experts to evaluate any information submitted by the applicant, the Department shall notify the applicant, include an estimate of the cost to the Department to engage the expert(s), and direct the applicant to submit payment in full within 90 days of the Department's notice in order to obtain further review of its application. An application for which the Department finds it necessary to engage an expert for alternatives analysis review shall not be considered complete before the Department has received and reviewed the recommendations of the expert.

7:1C-9.2 Department decision

(a) If the Department determines that the facility will avoid a disproportionate impact, the Department shall authorize the applicant to proceed with the imposition of conditions set by the Department, as necessary to ensure a disproportionate impact is avoided.

(b) If the Department determines that the facility cannot avoid a disproportionate impact, it shall:

1. For new facilities:

i. Deny the application; or

ii. Find that the facility will serve a compelling public interest pursuant to N.J.A.C. 7:1C-5.3 in the overburdened community and authorize the applicant to proceed with the imposition of conditions set by the Department as necessary to avoid or

minimize contributions to adverse environmental and public health stressors, reduce adverse environmental and public health stressors, and/or provide a net environmental benefit in the overburdened community;

2. For expanding facilities: authorize the applicant to proceed with the Department permitting the imposition of appropriate conditions set by the Department as necessary to avoid or minimize

contributions to adverse environmental and public health stressors, reduce adverse environmental and public health stressors, or provide a net environmental benefit in the overburdened community;

3. For major source renewals: authorize the applicant to proceed with the Department permitting the imposition of appropriate conditions set by the Department as necessary to avoid or minimize contributions to adverse environmental and public health stressors in the overburdened community; and

4. The Department shall not issue a decision that would compromise the reasonable requirements of public health, safety, and welfare to the environment in the overburdened community.

7:1C-9.3 Form and timing of decision

(a) The Department shall issue its decision, in writing, with a summary of facts, the Department's analysis, and identification of any conditions set by the Department that will be incorporated into any subsequently issued Departmental permits for the facility. The Department's decision shall constitute a final agency decision and shall be incorporated into any related permitting decisions.

(b) The Department may determine that its decision pursuant to this subchapter satisfies the requirements of this chapter for subsequent Department permits for the facility required to be listed pursuant to N.J.A.C. 7:1C-3.2(a)4 and identified in the Department-authorized EJIS, provided the permit applications are submitted to the Department within five years of the date of the decision and there is no material change to the facility. Any such permits shall be listed in the decision.

(c) In accordance with N.J.S.A. 13:1D-160.b, and notwithstanding the provisions at N.J.S.A. 13:1D-29 et seq., or any other law, rule, or regulation adopted pursuant thereto, to the contrary, the Department shall not issue a decision pursuant to this chapter until at least 45 days after the public hearing held pursuant to N.J.A.C. 7:1C-4.

(d) The Department shall not consider complete for review, any permit application for a facility subject to the requirements of this chapter prior to the issuance of a decision.

7:1C-9.4 Violation of permit conditions

(a) Any violation of the conditions imposed pursuant to this chapter shall, as applicable, be considered non-minor violations or aggravating circumstances, or the equivalent, under any other Department rules applicable to the facility.

(b) Any violation of the conditions imposed pursuant to this chapter shall constitute grounds for suspension or revocation, in accordance with N.J.S.A. 13:1B-3, N.J.A.C. 13:1D, or the underlying permitting authorities of any Department-issued permits.

7:1C-9.5 Procedure to request an adjudicatory hearing; decision on the request; effect of request

(a) This section sets forth the process by which a person may request an adjudicatory hearing to contest a Department decision pursuant to this chapter.

(b) To contest a Department decision pursuant to this chapter, a person shall submit an adjudicatory hearing request within 30 calendar days of issuance. If a person submits the adjudicatory hearing request after this time, the Department shall deny the request.

(c) A person requesting an adjudicatory hearing shall provide the following information on an adjudicatory hearing request form, available from the Department:

1. The name, address, daytime telephone number, fax number, and email address of the person requesting the hearing, and of the person's authorized representative;
2. A copy of the Department decision on which a hearing is being requested;
3. The date that the Department decision on which a hearing is being requested was received by the person requesting the hearing;
4. A specific admission, denial, or explanation of each fact appearing in the Department decision, or a statement that the person is without knowledge thereof;
5. A concise statement of the facts or principles of law asserted to constitute any factual or legal defense; and

6. Where the person submitting the hearing request is not the person to whom the decision that is being contested was issued, evidence that a copy of the hearing request has been mailed or delivered to the person to whom the decision was issued.

(d) A person requesting an adjudicatory hearing shall:

1. Submit the original hearing request to:

New Jersey Department of Environmental Protection
Office of Administrative Hearings and Dispute Resolution
Attention: Adjudicatory Hearing Requests
Mail Code 401-07A
PO Box 402

401 East State Street, 7th Floor

Trenton, NJ 08625-0402; and

2. Submit a copy of the hearing request to the Director of the Office of Permit and Project Navigation.

(e) Nothing in this subchapter shall be construed to provide a right to an adjudicatory hearing in contravention of the Administrative Procedure Act, at N.J.S.A. 52:14B-3.1, 3.2, and 3.3.

(f) The Department shall notify the requester that the request for hearing is granted or denied. If the hearing request is denied, the denial shall provide the reason(s) for the denial. If the hearing request is granted, the Department shall refer the matter to the Office of Administrative Law for a contested case hearing, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(g) A final decision issued by the Commissioner after the hearing in the Office of Administrative Law shall be considered a final agency action for purposes of the Administrative Procedure Act and shall be subject to judicial review in the Appellate Division of the Superior Court, as provided in the Rules of Court.

(h) When an applicant requests an adjudicatory hearing to contest a Department decision pursuant to this chapter, the decision shall be automatically stayed in its entirety.

SUBCHAPTER 10. FEES

7:1C-10.1 Applicability

(a) An applicant who submits an application for an individual permit for a new or expanded facility, or the renewal of an existing major source permit, located, or proposed to be located, in whole or in part, in an overburdened community shall remit a fee to the Department in accordance with this subchapter.

7:1C-10.2 Payment of fees

(a) Fees for activities related to environmental justice review shall be paid in U.S. dollars by certified check, government purchase order or check, or money order, payable to "Treasurer, State of New Jersey," and mailed or hand-delivered to the following address, unless the Department authorizes some other means of payment:

New Jersey Department of Environmental Protection
Office of Permitting and Project Navigation
PO Box 420

401 East State Street

Trenton, NJ 08625-0420

(b) The Department may refrain from commencing work on activities related to environmental justice review until the Department receives full payment of such fee. If the Department has commenced work on the service, the Department may suspend such work until it receives full payment of such fee.

(c) The Department shall not issue a decision pursuant to N.J.A.C. 7:1C-9, unless the fee required pursuant to this subchapter is paid in full.

(d) Any fee pursuant to this subchapter that is subject to N.J.A.C. 7:1L shall be payable in installments, in accordance with N.J.A.C. 7:1L.

7:1C-10.3 Fee calculation

(a) By December 1 of the first full year after (the effective date of this rulemaking), the Department shall calculate base EJIS submission fees for the upcoming fiscal year (July 1 through June 30), as follows:

1. The Department shall determine its EJIS review budget by determining the dollar amount needed to accomplish all tasks associated with administering the EJIS Review, including costs to provide technical assistance to permit applicants and overburdened communities as needed to comply with this chapter. The Department shall not include in its EJIS Review budget any costs associated with any other program areas within the Department's Environmental Justice Program that is funded by a source outside of the EJIS Review budget. The result shall be the total amount of revenue that is to be collected through EJIS submission fees.

2. The Department shall calculate the EJIS submission fee by dividing the EJIS review revenue calculated pursuant to (a) above by the number of EJIS submissions received by the Department in the prior calendar year.

(b) For each fiscal year after (the effective date of this chapter), the Department shall prepare an EJIS Program Fee Calculation Report based on the prior calendar year data, including the information contained in the annual budget submission to the Department of the Treasury, and the numbers of EJIS applications, and the EJIS submission fee that shall be due and payable for that calendar year. Beginning March 2024, and each March thereafter, the Department shall publish in the New Jersey Register, a notice that includes a summary of the report and its EJIS Review budget. The Department shall also post this report on its website.

(c) Through (the first year after the effective date of this chapter), the initial fee shall be \$3,900 per EJIS reviewed.

APPENDIX Concentrated Areas of Air Pollution			
Stressor	Designation	Measure	Source
Ground-Level Ozone	Affected	3-year average days above standard	Most recent USEPA ¹ Ambient Air Quality Daily Summary data
Fine Particulate Matter (PM _{2.52})	Affected	3-year average days above standard	Most recent USEPA Ambient Air Quality Daily Summary data
Air Toxics Cancer Risk Including Diesel Particulate Matter	Affected	Estimated cancer risk per million	Most recent AirToxScreen NJ state summary file
Air Toxics Cancer Risk Excluding Diesel Particulate Matter	Affected	Estimated cancer risk per million	Most recent AirToxScreen NJ state summary file
Air Toxics Non-Cancer Risk	Affected	Combined Hazard Quotient	Most recent AirToxScreen NJ state summary file

Appendix C
Administrative Order 20-25 On Environmental Justice



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF THE COMMISSIONER

401 East State Street

P.O. Box 420, Mail Code 401-07

Trenton, New Jersey 08625-0420

Tel. (609) 292-2885 • Fax (609) 292-7695

www.nj.gov/dep

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SHAWN M. LATOURETTE
Commissioner

ADMINISTRATIVE ORDER NO. 2021-25

WHEREAS, pursuant to its enabling legislation at N.J.S.A. 13:1D-1, et seq., the New Jersey Department of Environmental Protection (Department) is charged with formulating and implementing comprehensive policies for the protection of the environment and public health, including, but not limited to, the conservation of the State's natural resources and prevention of pollution; and

WHEREAS, all residents of the State of New Jersey, regardless of income, race, ethnicity, color, or national origin, have a right to live, work, learn, and recreate in a clean and healthy environment; and

WHEREAS, as reflected in Governor Philip D. Murphy's Executive Order No. 23 (EO 23) and the State's Environmental Justice Law, codified at N.J.S.A. 13:1D-157, et seq., New Jersey's low-income communities and communities of color have been historically subjected to a disproportionately high number of environmental and public health stressors, including pollution from mobile sources, as well as numerous industrial, commercial, and governmental stationary sources; and

WHEREAS, EO 23, dated April 20, 2018, the facts and circumstances of which are adopted by reference herein, established that it is the policy of the State of New Jersey to further the promise of environmental justice in all Executive Branch actions; and

WHEREAS, to further the promise of environmental justice, all New Jersey communities, and especially those disproportionately affected by environmental and public health stressors, must have a meaningful opportunity to participate in decision-making that affects their environment, communities, homes, and health; and

WHEREAS, on September 18, 2020, Governor Murphy signed the Environmental Justice Law, the first in the nation to empower an environmental regulatory agency to deny or condition permits for certain pollution-generating facilities that would cause or contribute to adverse cumulative environmental and public health stressors that disproportionately impact overburdened communities; and

New Jersey is an Equal Opportunity Employer. Printed on Recycled Paper and Recyclable.

WHEREAS, the Department is now at work developing regulations that facilitate a transparent, objective, data-driven process to assess adverse cumulative environmental and public health stressors and determine disproportionate impacts on overburdened communities, which the Department intends to propose pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., in the fall of 2021; and

WHEREAS, upon promulgation of these regulations, in addition to applicants seeking to site new facilities, applicants seeking to renew major source permits or expand of existing facilities in overburdened communities, as each term is defined under the Environmental Justice Law, will be subject to the requirements set forth therein, and

WHEREAS, the Department cannot exercise the full extent of its authority under the Environmental Justice Law until these implementing regulations are duly promulgated; and

WHEREAS, while the Department works diligently to develop, propose and promulgate the regulations necessary to implement the Environmental Justice Law, there is an immediate need for further action to ensure, to the maximum extent allowable by law, that the spirit, intent, and direction of EO 23 and the Environmental Justice Law are realized; and

WHEREAS, in addition to empowering the Department to assess disproportionate impacts, the Environmental Justice Law, consistent with EO 23, requires permit applicants to facilitate meaningful opportunities for overburdened communities to engage in permitting decisions for pollution-generating facilities through an enhanced public participation process that includes, but is not limited to, soliciting feedback through public hearings in the subject overburdened community during which the applicant would address, environmental and public health stressors associated with the proposed facility, existing conditions affecting the overburdened community, and opportunities for the applicant to avoid or reduce adverse environmental or public health stressors in the overburdened community; and

WHEREAS, on January 19, 2021, pursuant to the Environmental Justice Law, the Department published a list of overburdened communities in the State and associated electronic mapping available at <https://www.nj.gov/dep/ej/communities.html>; and

WHEREAS, the Department routinely receives applications seeking permits for facilities, as those terms are defined under the Environmental Justice Law, and which are governed by the Department's existing regulations, including requirements for public comment periods of varying length and, at times discretionary, public hearings; and

WHEREAS, certain Department regulations specify only a minimum period that must be provided to accept public comment for consideration on applications for, or renewals of, permits,



September 20, 2021

Page 3 of 4

registrations, plans or other approvals, which periods are routinely extended where substantial public interest in a particular application exists; and

WHEREAS, within its discretion pursuant to various existing authorities, the Department can require points of further analysis and applies special conditions to facility permits when it deems those conditions necessary to protect the environment and public health, including measures intended avoid or minimize adverse outcomes, and

WHEREAS, the Department has inherent authority to require and extend public comment periods, to require and set the conditions upon which public hearings may be held, to require and set the parameters for analyses necessary to enable Departmental review of a permit application, and to apply conditions to permits authorizing various activities subject to the Department's jurisdiction; and

NOW, THEREFORE, I, Shawn M. LaTourette, Commissioner of the New Jersey Department of Environmental Protection, by virtue of the authority vested in me by N.J.S.A. 13:1B-3, N.J.S.A. 13:1D-9, and under all applicable statutes and regulations, do hereby ORDER and DIRECT:

1. Where facilities seek permits in overburdened communities, to the extent consistent with applicable law, all public comment periods shall be no less than sixty (60) days, irrespective of minimum timeframes as may be established under applicable regulations, and shall be extended by an additional thirty (30) days upon the written request of member(s) of the overburdened community indicating that an extension is necessary to provide the information requested under Paragraph 2(b).
2. In the review of applications for facilities seeking permits in overburdened communities that are or would be subject to the requirements of the Environmental Justice Law, all Divisions of the Department shall, to the maximum extent allowable consistent with applicable statutes and regulations:
 - a. Require each applicant to hold a public hearing in a manner determined by the Department as consistent with the Environmental Justice Law, so as to maximize participation of individuals within the subject overburdened community;
 - b. During the extended public comment period provided for under Paragraph 1 above, encourage those providing public comment, whether verbally or in writing, to provide the Department and the applicant with information regarding existing conditions within the overburdened community and potential facility-wide environmental and public health stressors that could result in adverse impacts upon the overburdened community were the regulated activity approved;



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

New Jersey is an Equal Opportunity Employer. Printed on Recycled Paper and Recyclable.

- c. Require the applicant to respond to and address the concerns raised by individuals in the overburdened community during the public comment process, including, but not limited to, requiring additional analysis deemed necessary by the Department to enable its review of the subject application and evaluation of the concerns raised during the public comment period;
 - d. Strongly encourage each applicant to engage directly with individuals in the overburdened community in advance of and in addition to formal public comment by providing facility-wide information consistent with the Environmental Justice Law and soliciting concerns regarding environmental or public health stressors posed by the facility; and
 - e. Where permits or approvals may be issued, apply such special conditions as may be necessary to avoid or minimize environmental or public health stressors upon the overburdened community to the maximum extent allowable by law.
3. This Order shall take effect immediately and shall apply to all existing permit applications with open and unexpired public comment periods.
 4. Nothing in this Order shall in any way limit the Department's authority to reopen or further extend any public comment period on a case-by-case basis consistent with applicable statutes and regulations.
 5. This Order shall remain in effect until such time as the implementing regulations required by the Environmental Justice Law are duly promulgated or unless extended, revoked, or otherwise modified by me in writing.

Date: September 20, 2021



Shawn M. LaTourette
Commissioner



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
New Jersey is an Equal Opportunity Employer. Printed on Recycled Paper and Recyclable.