

In (b), substituted “(b)6” for “(b)5” in 1 through 4, added a new 5, and recodified former 5 as 6 and substituted “5” for “4” preceding “above”; in (g), added the third sentence in 3.

Public Notice: Amendments to county and regional water quality management plans.

See: 36 N.J.R. 1611(b), 1611(c), 2085(a), 2940(a), 2940(b), 3436(a), 3436(b), 3437(a), 3591(a), 3591(b), 4178(a), 4542(b), 4846(a), 4846(b), 4848(b), 5165(a), 5168(a), 5170(a), 5171(a), 5458(b), 5458(c).

Public Notice: Amendment to county and regional water quality management plans.

See: 37 N.J.R. 141(b), 907(b), 1235(a), 1888(a), 1888(b), 2704(a).

Public Notice: Amendments to county and regional water quality management plans.

See: 38 N.J.R. 3324(a), 3324(b), 3672(b), 3672(c), 3673(a), 4252(a), 4509(a), 4756(a), 4756(b), 4757(a), 5414(a).

Public Notice: Amendments to county and regional water quality management plans.

See: 39 N.J.R. 109(b), 260(a), 699(a), 699(b), 799(a), 1318(a), 1318(b), 1524(a), 1813(b), 2280(a), 2280(b), 2371(a), 3412(b), 3560(b), 3561(a), 3787(b), 3998(a), 4959(a).

Public Notice: Amendments to county and regional water quality management plans.

See: 40 N.J.R. 215(a), 757(b), 812(a), 2138(a), 2139(a), 2574(b), 3754(a), 4237(b), 4237(c), 4835(b).

Amended by R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).

Rewrote (b)4; in the introductory paragraph of (c), deleted “and (j)” following “(i)” and substituted “plan” for “Plan” following the fourth occurrence of “WQM”; in (d)3, substituted “BPU-regulated” for “BRC-regulated” twice; rewrote (e); in (f), substituted “DWM” for “ORP” and inserted “or her”; in the introductory paragraph of (g), substituted “The” for “Except as provided in (h) below the”; in (g)1, substituted “Applications” for “Requests”, “Division of Watershed Management” for “Office of Regulatory Policy” and “418, 401 East State Street, 7th Floor” for “029”, and deleted “in writing” following “submitted”; rewrote the introductory paragraph of (g)2; in (g)2i through (g)3, substituted “application” for “request” throughout; in (g)3, inserted “, the Department of Transportation.”; in (g)4i, substituted “BPU-regulated” for “BRC-regulated”; in (g)4iii, (g)6 and (g)7, substituted “DWM” for “ORP” throughout; in (g)7, substituted “one newspaper” for “two newspapers” twice; rewrote the introductory paragraph of (g)9; in (g)10, inserted “or her”; repealed (h); in (i), deleted “in accordance with N.J.A.C. 7:15-3.1” following “established” and updated the first N.J.A.C. reference; rewrote (j); in (k), deleted “present and future” preceding “201”, deleted “that are” following the first occurrence of “Plans” and substituted “Watershed Management” for “Water Resources”; and rewrote (l).

#### Case Notes

Where Department of Environmental Protection failed to act within 60 days upon county’s petition to amend water quality management plan, builder had continuing right to seek legal recourse so long as Department failed to act. *Toll Bros., Inc. v. State, Dept. of Environmental Protection*, 242 N.J.Super. 519, 577 A.2d 845 (A.D.1990).

Failure to timely act on application to amend does not require automatic approval. *Toll Bros., Inc. v. State, Dept. of Environmental Protection*, 242 N.J.Super. 519, 577 A.2d 845 (A.D.1990).

Interested party may bring action to compel Department of Environmental Protection to act. *Toll Bros., Inc. v. State, Dept. of Environmental Protection*, 242 N.J.Super. 519, 577 A.2d 845 (A.D.1990).

#### 7:15-3.5 Water quality management plan review, revision, and certification

(a) The Department and the designated planning agencies shall periodically review Statewide and areawide WQM Plans in order to propose appropriate amendments under N.J.A.C.

7:15-3.4, and to prepare appropriate revisions under this section.

(b) An application for a revision shall be submitted in writing to the Department in accordance with (d) below. The Department and the designated planning agencies shall prepare revisions to Statewide and areawide WQM Plans under this section whenever such revisions are necessary to:

1. Correct, clarify, or update erroneous, unclear, or outdated statements in Statewide and areawide WQM Plans regarding:

i. Development and wastewater treatment facilities existing at the time of the most recently adopted areawide WQM plan or amendment affecting the site; or

ii. Proposed projects, provided that all other Department approvals were received, in full compliance with applicable regulations, at the time of the most recently adopted areawide WQM plan or amendment affecting the site;

2. Transfer or assign wastewater management plan responsibility under N.J.A.C. 7:15-5.13;

3. Revise schedules for submission of wastewater management plans under N.J.A.C. 7:15-5.23(f);

4. Provide for the following substantive changes in Statewide and areawide WQM Plans where the Department determines, based on its assessment that the project for which the revision is proposed complies with the environmental standards established at N.J.A.C. 7:15-5.24 and 5.25, as applicable, that no significant individual or cumulative impacts will occur to environmentally sensitive areas or other natural resources (such as water supplies) due to the proposed revision (individually or in combination with past revisions in the area), that the changes are consistent with N.J.A.C. 7:15-3.6, 3.7, and 3.10 and that certain directly affected municipal and county agencies and other interests as identified by the Department have been provided an opportunity to review and comment on the proposed revision:

i. Any increase in flow (including both increased loadings and no increased loadings) from industrial treatment works where no change in wastewater service area or discharge type (for example, discharge to surface water or ground water) is proposed, the discharge is not to an impaired waterbody segment for which a TMDL has been proposed or adopted under N.J.A.C. 7:15-6.3 and where the applicant demonstrates there is adequate water supply in accordance with the most recent New Jersey State Water Supply Plan for the proposed additional flow. If the discharge is to an impaired waterbody and the discharge contains any of the parameters that are the basis for the impaired listing, the expansion may be allowed if the expansion is consistent with the WLAs set forth in an adopted TMDL developed for the affected waterbody for the listed parameters in the

discharge. The Department may process such revisions prior to or simultaneously with a NJPDES permit for the same change in flow;

ii. The transfer of sewer service area from one domestic treatment works to another, provided that all affected wastewater management plans are current in accordance with the schedule at N.J.A.C. 7:15-5.23, the approved sewer service areas in the areawide WQM plan are currently contiguous in the area to be transferred, neither domestic treatment works is subject to a sewer connection ban, the proposed revision includes only areas currently designated for sewer service, both the sending and receiving wastewater management planning agencies concur with the proposed revision, and no new or expanded treatment works other than sewer line extensions is proposed as part of the revision;

iii. Any increase of 8,000 gpd or less in planning flow to an on-site discharge to ground water for an existing public school or public institution, using the same general type of treatment works (for example, direct discharge to ground water, spray irrigation);

iv. Any change in the estimated planning flow (see N.J.A.C. 7:15-5.16(b)8) or permitted flow (see N.J.A.C. 7:15-5.16(b)9) of less than 8,000 gallons per day to an existing NJPDES-regulated discharge to ground water, provided (b)4v below is satisfied unless the sewer service area is not changing and the same general type of treatment works is proposed;

v. Expansion of a future sewer service area to contiguous lots, where the expansion involves less than 100 acres, contributes less than 8,000 gallons per day of additional wastewater flow, and does not create a significantly new pattern of sewered development such that a significant potential or incentive is created for additional revisions or amendments to open new areas to sewered development. A revision under this subparagraph shall be processed only if the applicant demonstrates that the receiving domestic treatment works has sufficient capacity under the projected build-out to serve the proposed development in addition to its existing approved sewer service area, and any affected wastewater management plan is current in accordance with the schedule at N.J.A.C. 7:15-5.23;

vi. The utilization of individual subsurface sewage disposal systems where the project for which the revision is requested involves less than 100 acres and generates less than 8,000 gallons per day of wastewater flow (or a total of fewer than 23 residential dwelling units), only where the WMP is not in compliance with the schedule at N.J.A.C. 7:15-5.23 and the applicant demonstrates that the project for which the revision is proposed meets the nitrate planning standard at N.J.A.C. 7:15-5.25(h)2;

vii. The utilization of a RWBR project to reduce either existing or proposed wastewater discharges to surface waters below the head of tide or ground water discharges located within HUC 14 drainage areas which are wholly below the head of tide;

viii. The utilization of a RWBR project to reduce existing wastewater discharges to surface waters above the head of tide or ground water discharges located within HUC 14 drainage areas any part of which is above the head of tide, provided the following are met:

(1) The utilization of RWBR will not increase or create an exceedance of the water availability in any HUC 11 in accordance with the assessment of water availability identified in the New Jersey State Water Supply Plan; and

(2) The utilization of RWBR does not cause an adverse effect on any downstream designated use, including without limitation, water supply, sewage treatment plant discharges, or aquatic life support;

ix. Connection of an existing structure with a malfunctioning subsurface sewage disposal system that is not currently within an approved sewer service area to an identified sewage treatment plant, provided the applicant demonstrates that it is not feasible to repair or replace the malfunctioning subsurface sewage disposal system under N.J.A.C. 7:9A-3.4 and the property where the existing structure is located is contiguous to the existing sewer line; or

x. The utilization of individual subsurface sewage disposal systems or a NJPDES-regulated discharge to ground water for a clustered residential development, where the applicant ensures that a minimum of 70 percent of the property is permanently restricted from development, subject to a conservation restriction prepared in accordance with N.J.A.C. 7:15-1.7, and provided that the following conditions are met:

(1) Where individual subsurface sewage disposal systems will be utilized, the density necessary to achieve the two mg/L nitrate planning standard in N.J.A.C. 7:15-5.25(e) and (h)2 is met for the overall project site and the ground water quality criteria of 10 mg/L is met at the edge of the developed portion of the clustered residential development;

(2) Except to account for unique site conditions, the development shall be located to maximize continuity of the preserved area and in areas that do not contain Natural Heritage Priority Sites or habitat patches identified as Rank 3, 4, or 5 on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife; and

(3) Existing agricultural land uses allowed to continue on the restricted portion are required to implement Best Management Practices by implementing the

period at the end; and added (b)3; in (d), substituted "and" for "through" following "5.4" and substituted "July 7, 2008" for "the effective date of this subchapter"; in (f), substituted "as" for "for wastewater management plans" and "thereto" for "thereof" and inserted "through (d)" and "or her"; and added (g).

#### **7:15-5.4 Responsibility of County Boards of Chosen Freeholders**

A county board of chosen freeholders shall have wastewater management plan responsibility for a wastewater management plan area consisting of all of its county except as provided in N.J.A.C. 7:15-5.13.

Administrative Correction: Effective date by December 1, 1989.

See: 22 N.J.R. 2001(b).

Amended by R.1993, d.59, effective February 1, 1993.

See: 24 N.J.R. 344(b), 25 N.J.R. 547(a).

"Department" was "BWQP".

Amended by R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).

Section was "Responsibility of designated planning agencies". Re-wrote the section.

#### **7:15-5.5 (Reserved)**

Repealed by R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).

Section was "Responsibility of Passaic Valley Sewerage Commissioners".

#### **7:15-5.6 Responsibility of sewerage authorities and municipal authorities**

(a) The Passaic Valley Sewerage Commissioners (PVSC), joint meetings, county utilities authorities, and every sewerage authority and every municipal authority that performs sewerage-related functions in at least part of its district shall provide, upon the request of the WMP agency, the following sewerage-related information regarding its district or wastewater service area to the wastewater management planning agency or agencies responsible for a wastewater management plan area in which it lies partially or wholly within:

1. The name and NJPDES discharge permit number of any DTW owned or operated by the entities in (a) above;
2. The existing permitted flow of each named DTW in million gallons per day;
3. The actual wastewater flow, by municipality, for each municipality within the sewer service area of each named DTW in million gallons per day;
4. The capacity allocation to each municipality within the sewer service area of each named DTW in million gallons per day;
5. A description of the legal or financial arrangement concerning the capacity allocation in (a)4 above;
6. Identification of committed flow not presently connected to each named DTW in million gallons per day for each municipality within the sewer service area;

7. Any information relevant to a future DTW expansion demonstrated to be needed in accordance with N.J.A.C. 7:15-5.25(d), including, but not limited to, stream studies or effluent characteristics;

8. Identification of any wasteload allocations in a total maximum daily load assigned to any named DTW and a proposed schedule to meet any non-compliance with the wasteload allocation;

9. Maps, prepared in accordance with the requirements at N.J.A.C. 7:15-5.20, showing the name, NJPDES discharge permit number, and the existing collection and conveyance systems of any named DTW; and

10. Any other information needed to satisfy the requirements of N.J.A.C. 7:15-5.16.

(b) Except as provided in (c) below, a municipal authority performs "sewerage-related functions" if it:

1. Owns, leases, constructs, operates, or maintains sewerage facilities, or is a party to a contract providing for or relating to sewerage facilities;
2. Regulates the construction or use of sewerage facilities;
3. Is a permittee or co-permittee under N.J.A.C. 7:14A for a DTW, or has applied to be such a permittee or co-permittee;
4. Seeks WQM plan amendments for sewerage facilities;
5. Receives or seeks to receive Federal or State financial assistance for sewerage facilities; or
6. Is required by statute, rule, contract, court order, Department order, consent agreement, or other legal obligation to perform any of the activities listed in (b)1 through 5 above.

(c) The activities listed in (b)1 through 6 above shall not be considered "sewerage-related functions" if such activities are:

1. Performed solely to carry out the municipal authority's water supply, solid waste, chemical or hazardous waste, or hydroelectric power functions; or
2. Pertain solely to sewage that arises on property owned or leased by the municipal authority, and that is conveyed to sewerage facilities not owned, leased, operated, or maintained by the municipal authority.

(d) The Department may, at any time, send a letter to any municipal authority, requesting that authority to declare in writing whether or not that authority performs any of the sewerage-related functions listed under (b) and (c) above. If that authority does not make such a declaration within 90 calendar days of receipt of the letter, the Department shall, in the absence of information to the contrary, presume that the authority performs sewerage-related functions.

(e) Where one or more entity has responsibility for an area within one or more wastewater management planning areas, each entity shall provide all necessary sewerage-related information in accordance with (a) above regarding their district to each wastewater management planning agency responsible for wastewater management planning within the entity's district.

(f) For purposes of (e) above, "overlap" exists when the district of one authority is partially or completely within, or identical to, the district of one or more other authorities.

Administrative Correction in (e)4: Changed "of" to "or".  
See: 22 N.J.R. 2001(b).

Amended by R.1993, d.59, effective February 1, 1993.  
See: 24 N.J.R. 344(b), 25 N.J.R. 547(a).

In (d), "ORP" was "BWQP".  
Amended by R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).

Rewrote the introductory paragraph of (a); added (a)1 through (a)10; in the introductory paragraph of (b), deleted the former first sentence; rewrote (d) and (e); and deleted (g).

#### 7:15-5.7 (Reserved)

Repealed by R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).  
Section was "Responsibility of joint meetings".

#### 7:15-5.8 Responsibility of municipalities

(a) Upon the request of the WMP agency, every municipality shall provide the following information to the wastewater management planning agency:

1. Ordinances as required to demonstrate compliance with N.J.A.C. 7:15-5.25(f)3iii, (g)1, (g)3 or (g)6;

2. A map, prepared in accordance with the requirements at N.J.A.C. 7:15-5.20, identifying any public water supply service areas;

3. Where applicable, a septic management plan in accordance with N.J.A.C. 7:15-5.25(e)3;

4. In addition to (a)1 through 3 above, for urbanized municipalities provide:

- i. Population projections; and
- ii. Employment projections; and

5. In addition to (a)1 through 3 above, for municipalities not subject to (a)4 above provide:

- i. The current zoning map and associated ordinances; and
- ii. A modified zoning map and associated ordinances as revised to demonstrate compliance with N.J.A.C. 7:15-5.25, as applicable.

Repeal and New Rule, R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).  
Section was "Responsibility of municipalities".

#### 7:15-5.9 (Reserved)

Repealed by R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).

Section was "Alternative assignment of wastewater management plan responsibility: general statement".

#### 7:15-5.10 (Reserved)

Repealed by R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).

Section was "Wastewater management plan responsibility as condition for financial assistance".

#### 7:15-5.11 (Reserved)

Repealed by R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).

Section was "Wastewater management plan responsibility for complete wastewater service area".

#### 7:15-5.12 (Reserved)

Repealed by R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).

Section was "Joint wastewater management plan responsibility".

#### 7:15-5.13 Alternative assignment of wastewater management plan responsibility

(a) Alternative assignments of wastewater management plan responsibility, different from the assignment set forth in N.J.A.C. 7:15-5.4, shall be made and subsequently changed as revisions to WQM plans under N.J.A.C. 7:15-3.5.

(b) The Department may assign wastewater management plan responsibility to a municipality, if the municipality requests such responsibility and provided that the county WMP agency has not submitted or stipulates it does not intend to submit a WMP. As part of the application, municipalities requesting wastewater management plan responsibility must certify that the information it was required to submit at N.J.A.C. 7:15-5.8 was submitted to the county. Requests for municipal wastewater management plan responsibility shall be made by the municipality as part of an application for a revision to an areawide WQM plan or plans under N.J.A.C. 7:15-3.5. A municipality that becomes the wastewater management planning agency for itself through alternate assignment of wastewater management plan responsibility may submit a wastewater management plan directly to the Department.

(c) A municipality that becomes the wastewater management planning agency in accordance with (b) above shall have 90-days after the date of adoption of the revision assigning it wastewater management planning responsibility to submit its wastewater management plan.

Repeal and New Rule, R.2008 d.163, effective July 7, 2008.

See: 39 N.J.R. 1870(a), 39 N.J.R. 2583(b), 40 N.J.R. 4000(a).

Section was "Voluntary establishment of wastewater management plan responsibility".