

In (b), substituted "(b)6" for "(b)5" in 1 through 4, added a new 5, and reclassified 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).

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) 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 Correct, clarify, or update erroneous, unclear, or outdated statements in Statewide and areawide WQM Plans regarding: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(g);

4. Provide for the following substantive changes in Statewide and areawide WQM plans where the Department determines 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 and 3.7, 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 service area or discharge type (for example, discharge to surface water or ground water) is proposed and the discharge is not to a waterbody segment for which a TMDL has been proposed or adopted under N.J.A.C. 7:15-7. 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 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 20,000 gpd or less in planned wastewater flow to an on-site NJPDES-permitted discharge to ground water for a 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 wastewater flow (see N.J.A.C. 7:15-5.16(b)8) or design capacity (see N.J.A.C. 7:15-5.16(b)9) to a NJPDES-permitted discharge to ground water from less than 20,000 gpd to more than 20,000 gpd, provided (b)4v below is satisfied 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 sewer development such that a significant potential or incentive is created for additional

revisions or amendments to open new areas to sewered development; or

5. Provide for any modification in an adopted regional stormwater management plan that does not require an amendment under N.J.A.C. 7:15-3.4(b)5.

(c) The documents that are automatically adopted into the Statewide or areawide WQM Plans under N.J.A.C. 7:15-3.4(b)1 through 4, and 7:15-3.4(i) shall not be revised under this section.

(d) The procedure for revision of Statewide and areawide WQM plans is as follows:

1. The Governor or his designee shall adopt revisions to areawide WQM plans and the Commissioner shall adopt revisions to the Statewide WQM Plan. Such revisions shall take effect immediately, unless the adoption notice specifies otherwise.

2. The Department shall, on an annual basis, make publicly available a list of adopted revisions to WQM plans. Under N.J.A.C. 7:15-3.4, interested persons may submit petitions to amend WQM plans to repeal or modify such revisions.

(e) Designated planning agencies shall revise areawide WQM Plans in accordance with procedures established by such agencies and approved by the Department. All revisions to areawide WQM plans are valid only upon their adoption by the Governor or his designee.

(f) The Governor or his designee shall certify adopted WQM Plans in accordance with United States Environmental Protection Agency regulations.

Administrative Correction to (b)3: Changed 5.24(g) to 5.23(g).

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

Amended by R.1997 d.108, effective May 5, 1997.

See: 28 N.J.R. 729(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 29 N.J.R. 2142(a).

Added (b)1i and ii; added (b)4; and in (c), amended N.J.A.C. references.

Amended by R.2004 d.48, effective February 2, 2004.

See: 35 N.J.R. 119(a), 35 N.J.R. 1328(a), 36 N.J.R. 670(a).

In (b), added 5.

Public Notice: Revisions to the Water Quality Management Plans for Calendar Year 2004.

See: 37 N.J.R. 795(a).

Public Notice: Revisions to the Water Quality Management Plans for calendar year 2005.

See: 38 N.J.R. 1231(a).

7:15-3.6 Coordination with Coastal Zone and Hackensack Meadowlands programs

(a) In accordance with N.J.A.C. 7:7E-1.2(h), the Department's Rules on Coastal Zone Management, N.J.A.C. 7:7E, including, but not limited to, provisions concerning the Hackensack Meadowlands Development Commission at N.J.A.C. 7:7E-1.5(a) and 7:7E-3.45, shall provide the basic policy direction for WQM planning in the New Jersey Coastal Zone defined at N.J.A.C. 7:7E-1.2(b), including, but not limited to, the Hackensack Meadowlands District described in N.J.S.A. 13:17-4.

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

In (b): "written statements of consent" was "endorsements".

7:15-5.23 Schedule for submission of wastewater management plans

(a) Each wastewater management planning agency shall periodically prepare and submit wastewater management plans as requests to amend areawide WQM plans under N.J.A.C. 7:15-3.4. The first such submission shall be made in accordance with the schedule established in (b) through (e) below. Thereafter, an updated wastewater management plan shall be submitted at least once every six years from the date of the previous submission. Alternative schedules for submission of wastewater management plans may be established and changed under (f) or (g) below. Early submissions of wastewater management plans may also be made under (j) below.

(b) The following governmental units shall submit wastewater management plans by October 2, 1990 or within 12 months after the creation of the governmental unit, whichever is later, if such units have wastewater management plan responsibility under N.J.A.C. 7:15-5.4 through 5.7:

1. Designated planning agencies;
2. The Passaic Valley Sewerage Commissioners;
3. County utilities authorities;
4. Regional authorities; and
5. Multi-county joint meetings.

(c) Other sewerage authorities, municipal authorities, joint meetings, and municipalities that have wastewater management plan responsibility under N.J.A.C. 7:15-5.6 through 5.8 shall submit wastewater management plans during the period specified in the following table or within 12 months of the creation of the governmental unit, whichever is later:

**Table I
Wastewater Management Plan Submission Schedule**

Location of Wastewater Management Plan	Period of Submission
Burlington, Cape May, Middlesex, Ocean, Passaic, and Union Counties	October 3, 1990 through October 2, 1991
Atlantic, Morris, Salem, Sussex, and Warren Counties	October 3, 1991 through October 2, 1992
Bergen, Essex, Gloucester, Hunterdon, and Monmouth Counties	October 3, 1992 through October 2, 1993
Camden, Cumberland, Hudson, Mercer, and Somerset Counties	October 3, 1993 through October 2, 1994

(d) Notwithstanding the schedule in (b) and (c) above, if an entire wastewater management plan area is already addressed by one or more wastewater management plans identified in N.J.A.C. 7:15-5.2, the governmental unit that has wastewater management plan responsibility for that wastewater management plan area under N.J.A.C. 7:15-5.4 through 5.8 shall submit an updated wastewater management plan for that wastewater management plan area be-

tween October 3, 1994 through October 2, 1995, or within 12 months of the creation of the governmental unit, whichever is later.

(e) Each WQM plan amendment or WQM plan revision that makes or changes alternative assignments of wastewater management plan responsibility under N.J.A.C. 7:15-5.9 shall include a schedule for submission of the corresponding wastewater management plan. This requirement does not apply to automatic expansions of wastewater management plan areas under N.J.A.C. 7:15-5.11(b).

(f) Alternative schedules for submission of wastewater management plans, different from those set forth under (a) through (e) above, shall be established and subsequently changed only if such alternative schedules or changes thereto are adopted as amendments to areawide WQM plans under N.J.A.C. 7:15-3.4, or as revisions to WQM plans under (g) below. Amendments or revisions that change alternative schedules may establish different alternative schedules, or, where reasonable, may restore schedules set forth under (a) through (e) above. Reasons that may justify the establishment or changing of alternative schedules include, but are not limited to:

1. Coordination of wastewater management plans with the preparation of municipal or county master plans under N.J.S.A. 40:55D-28 or N.J.S.A. 40:27-2, or with reexaminations under N.J.S.A. 40:55D-89;
2. Coordination between adjacent wastewater management plan areas;
3. The need for additional time to perform specific examinations required under N.J.A.C. 7:15-5.18(a)2;
4. Coordination of wastewater management plans with the schedules of the NJPDES programs or of financial assistance programs under N.J.A.C. 7:22; and
5. The need to stagger the submission of wastewater management plans so that the Department can better manage its corresponding workload under N.J.A.C. 7:15-3.4.

(g) With the consent of the Department and the wastewater management planning agency, an alternative schedule for submission of wastewater management plans may be established and changed by a WQM plan revision under N.J.A.C. 7:15-3.5, rather than by a WQM plan amendment under N.J.A.C. 7:15-3.4.

(h) The Department may at any time request a wastewater management planning agency to submit written reports on the progress that such agency is making in meeting its wastewater management plan responsibility. Such agency shall submit such reports to the ORP within 90 calendar days of receiving such requests.

(i) Each wastewater management plan that updates one or more already existing wastewater management plan shall comply with N.J.A.C. 7:15-5.20 and include:

1. Updated maps and descriptions of the then existing wastewater jurisdictions, service areas, and facilities under N.J.A.C. 7:15-5.16;
2. Updated maps of environmental features under N.J.A.C. 7:15-5.17; and
3. Updated maps and descriptions of future wastewater jurisdictions, service areas, and facilities under N.J.A.C. 7:15-5.18, with due regard to changes in factors discussed in that section, such as adoption of new or amended zoning ordinances or municipal or county master plans.

(j) At the written request of a person who seeks a WQM plan amendment that requires a wastewater management plan under N.J.A.C. 7:15-5.1(a), a wastewater management planning agency may submit a wastewater management plan at any time prior to the period when such submission is required under (b) through (g) above. The establishment of an alternative schedule under (f) or (g) above is not required for such early submission.

Administrative Correction to Table 1 and (d): Inserted correct dates.

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

Administrative Correction to (d): incorporated omitted correction made at 22 N.J.R. 2001(b).

See: 25 N.J.R. 547(a).

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

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

In (h), "ORP" was "BWQP".

Case Notes

Staggering submission dates does not give rise to equal protection complaint. *New Jersey Builders Ass'n v. Fenske*, 249 N.J.Super. 60, 591 A.2d 1362 (A.D.1991).

Staggered submission plan is not unconstitutional taking of property. *New Jersey Builders Ass'n v. Fenske*, 249 N.J.Super. 60, 591 A.2d 1362 (A.D.1991).

SUBCHAPTER 6. WATER QUALITY LIMITED SURFACE WATERS

Authority

N.J.S.A. 13:1D-1 et seq., 58:10A-1 et seq., and 58:11A-1 et seq.

Source and Effective Date

R.1997 d.108, effective May 5, 1997.

See: 28 N.J.R. 729(a), 28 N.J.R. 2779(a), 28 N.J.R. 3494(a), 28 N.J.R. 3858(a), 29 N.J.R. 2142(a).

7:15-6.1 Purpose and scope

This subchapter describes the process which is used to identify water quality limited segments or waterbodies, identify those segments or waterbodies requiring the development of TMDLs or other actions and to set the priorities for development of the necessary TMDLs or other actions. The procedures in this subchapter and the adoption of waterbody segment lists shall supersede any existing listing of water quality limited segments or effluent limited segments in areawide WQM Plans and any other Departmental documents other than the Statewide WQM Plan.

7:15-6.2 Identification of water quality limited segments

(a) The Department shall identify those water quality limited segments where it is known that the water quality does not meet or is not expected to meet the applicable surface water quality standards in N.J.A.C. 7:9B, or surface water quality standards adopted by the USEPA for the State, subsequent to imposition and implementation of the controls in (a)1 through 4 below. Where the segments are known to not meet the applicable surface water quality standards, the segments shall be listed until the controls of (a)1 through 4 below and the implementation of a TMDL or other action result in the segment meeting the applicable surface water quality standards:

1. Technology based effluent limitations required by Sections 301(b), 306, 307, or other sections of the Federal Act and established pursuant to N.J.A.C. 7:14A-13.2, 13.3 and 13.4;

2. Effluent standards, limitations or prohibitions that are more stringent than technology based effluent limitations, as required by local, State or Federal law, regulation or treaty, including effluent limitations imposed in accordance with N.J.A.C. 7:14A-12, effluent limitations imposed in accordance with N.J.A.C. 7:14A-13.2 and 13.3 which are based on water quality management plans adopted in accordance with N.J.A.C. 7:15, or State minimum treatment requirements and effluent standards in N.J.A.C. 7:14A-12 and N.J.A.C. 7:9-5;

3. Other pollution control requirements, such as best management practices in accordance with N.J.A.C. 7:14A-6.2(b)1, required by local, State or Federal law, regulation or treaty; and

4. Site specific allocations and site specific water quality based effluent limitations (in the absence of a TMDL) for any pollutant or pollutant parameter for which water quality based effluent limitations are required to be developed in accordance with N.J.A.C. 7:14A-13.5.

(b) The Department shall identify those water quality limited segments for which controls on thermal discharges under Section 301 of the Federal Act, or site specific requirements such as provided for in the Surface Water Quality Standards at N.J.A.C. 7:9B-1.14(c)11 are not stringent enough to ensure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.