

Water Quality Management Plan, provide an opportunity for public comment and adopt the amendment in accordance with N.J.A.C. 7:15-6.4.

Public Notice: Amendments to the Statewide Water Quality Management Plan.

See: 41 N.J.R. 4321(a).

Public Notice: 2010 Integrated Water Quality Monitoring and Assessment Methods Document.

See: 41 N.J.R. 2055(a), 4835(a).

7:15-6.3 Total maximum daily loads

(a) Pursuant to the process set forth in (b) and (c) below, the Department shall develop total maximum daily loads (TMDLs) for water quality limited segments in accordance with:

1. The Federal requirements at 40 CFR 130.7(c) and (e), incorporated herein by reference, including all future amendments and supplements; and

2. The following USEPA guidance documents, incorporated herein by reference, including all future amendments and supplements available at available at www.nj.gov/dep/watershedmgt/tmdl.htm:

- i. USEPA. 2002. EPA Review of 2002 Section 303(d) Lists and Guidelines for Reviewing TMDLs under Existing Regulations issues in 1992. Office of Wetlands, Oceans and Watersheds Memorandum from: C.H. Sutfin, dated October 2002;

- ii. USEPA. 2002. Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs. Office of Wetlands, Oceans and Watersheds Memorandum from: R.H. Wayland, III, dated November 22, 2002; and

- iii. USEPA. 2006. Establishing TMDL "Daily" Loads in Light of the Decision by the U.S. Court of Appeals for the D.C. Circuit in *Friends of the Earth, Inc. v. EPA, et al.*, No.05-5015, (April 25, 2006) and Implications for NPDES Permits. Office of Water Memorandum from: B. H. Grumbles, dated November 15, 2006.

(b) A TMDL document shall include the following components:

1. An identification of segment(s), pollutant(s) of concern, pollutant sources and the priority for the subject TMDL as identified in the 303(d) list;

2. A description of applicable water quality standards and the water quality target(s) selected for the pollutant(s) of concern;

3. Identification of critical conditions considering seasonal variation;

4. The loading capacity of the segment with respect to the pollutant(s) of concern under the identified critical con-

ditions and identification of the means used to relate actual and predicted water quality to pollutant loads;

5. Allocation of the loading capacity among the following:

- i. Load allocations for nonpoint sources of pollutant load;

- ii. Wasteload allocations for point sources of pollutant load;

- iii. A margin of safety required to included the overall load reductions required to account for uncertainties in the data used in the analysis, the model or other tool use to link water quality and pollutant loads, or the effectiveness of controls available to reduce pollutant loads; and

- iv. An optional reserve capacity to allow for future growth;

6. An implementation plan that shall include the strategies designed to achieve attainment of the Surface Water Quality Standards or other more stringent target, a proposed schedule for implementation, and the methods to measure the effectiveness of the strategies; and

7. A summary of the opportunities provided and outcomes of public participation in the development of the TMDL.

(c) In addition to the public participation opportunities identified at N.J.A.C. 7:15-6.4, the Department may provide opportunities for public participation in the TMDL development process, based upon anticipated interest, which may include the following:

1. The Department may hold one or more informational meetings, at any point during the development of a TMDL and solicit comments on the components of the TMDL; and

2. The Department may inform or consult with the public through web postings or electronic communication with groups or individuals that have an interest in the affected watershed, regarding components of the TMDL.

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See: 41 N.J.R. 4321(a).

7:15-6.4 Amendment procedures

(a) The Department shall propose an amendment to the Statewide Water Quality Management Plan for a revised List of Water Quality Limited Segments or to the applicable areawide Water Quality Management plan(s) for a TMDL document(s) as follows:

1. The Department shall publish a notice of proposed amendment to the Statewide or applicable areawide WQM Plan in the New Jersey Register, on the Department's website at www.state.nj.us/dep and in a newspaper(s) of general circulation in the affected area(s). The public

notice shall specify the means to access the subject document electronically or by hard copy and the procedure for submitting comments. The Department may determine to hold a nonadversarial public hearing in anticipation of sufficient public interest. If so, the location, time and place of the hearing will be identified in the notice. A minimum comment period of 30 days will be provided. If a public hearing is to be held, at least 30 days notice of the hearing will be provided and the comment period will remain open until 15 days after the public hearing;

2. The Department may alternatively determine to hold a nonadversarial public hearing in response to expression of sufficient public interest, as defined under N.J.A.C. 7:1D-5.2, received within 30 days of the publication of the notice in (a)1 above. If the Department determines to hold a nonadversarial public hearing in response to a request, notice of the public hearing shall be provided on the Department's website at www.state.nj.us/dep and in a newspaper(s) of general circulation in the affected area. The Department shall additionally provide notice of the public hearing to those requesting the hearing. The Department shall provide a 30-day notice period prior to the public hearing and a 15-day public comment period after the hearing;

3. At the conclusion of the public comment period, the Department will make any appropriate revisions to the document(s) and for TMDLs, prepare a response document to the comments. The Department shall either:

- i. Establish the List of Water Quality Limited Segments or the TMDL as proposed;
- ii. Establish all or portions of the List of Water Quality Limited Segments or the TMDL with changes which do not effectively destroy the value of the public notice regarding the proposed List of Water Quality Limited Segments or TMDL, as applicable; or
- iii. Re-propose in accordance with (a)1 above, all or portions of the List of Water Quality Limited Segments or the TMDL with substantive changes; and

4. The Department shall submit the established List of Water Quality Limited Segments or the established TMDL, including the response to comments received, to the U.S. Environmental Protection Agency (EPA) for approval.

(b) Upon receipt of a response from EPA, the Department shall:

1. Amend the document in accordance with EPA comments and repropose the amendment if EPA requests substantive changes that effectively destroy the value of the original public notice; or

2. Adopt the document(s) as an amendment to the Statewide Water Quality Management Plan or areawide Water Quality Management plan(s), as applicable, by placing a notice in the New Jersey Register and the Department's website at www.state.nj.us/dep/wms/bwqsa for the

List of Water Quality Limited Segments and www.nj.gov/dep/watershedmgt/tmdl.htm for TMDLs. This step constitutes final agency action.

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See: 43 N.J.R. 1451(b), 3039(b).

SUBCHAPTER 7. (RESERVED)

SUBCHAPTER 8. WITHDRAWAL AND REDESIGNATION OF WASTEWATER SERVICE AREAS

7:15-8.1 Withdrawal of wastewater service area designations

(a) Except as provided in (b) and (d) below, wastewater service area designations shall be withdrawn in areas which fail to adopt and maintain a wastewater management plan in accordance with the requirements of N.J.A.C. 7:15-5.2(b), 5.13 and 5.23. Withdrawal of wastewater service area designations under this subsection shall not impact areas where sewers are physically installed and wastewater generating structures are lawfully connected to the collection and treatment system at the time of withdrawal.

(b) Wastewater service area designations for the following are not withdrawn under (a) above:

1. Projects involving the lateral connection of an infill area to an existing public sewer line, where sanitary or combined sewer infrastructure lawfully exists in the right-of-way adjoining the lot or lots such that a connection can be made without crossing any property lines other than that of the lot to be served and where such connection does not require the extension of a collection system. The sewer line, lots, and improvements on the lots must exist on the date that wastewater service area was withdrawn;

2. Except as provided in (d) below, projects that have received, prior to the effective date of the wastewater service area withdrawal, both a local preliminary or final site plan approval or subdivision approval where subsequent site plan approval is not required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., (MLUL) or a municipal construction permit; and a Department TWA or NJPDES permit, if one is required, until such time as one of those qualifying approvals expires;

3. Projects that have received a site specific WQM plan amendment or revision adopted prior to the date of wastewater service area withdrawal remain valid for a period of six years from the date of adoption of the amendment or revision; and