

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), 5072(a), 5288(a), 5848(a), 5849(a), 6232(c), 6233(a), 6486(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“one newspaper” for “two newspapers” twice; rewrote the introductory paragraph of (g)9; in (g)10, inserted “or her”; repealed (h); in (i), deleted “in accordance with N.J.A.C. 7:15-3.1” following “established” and updated the first N.J.A.C. reference; rewrote (j); in (k), deleted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).  
Public Notice: Amendments to county and regional water quality management plans.

See: 41 N.J.R. 315(a), 671(a), 677(a), 677(b), 679(a), 815(b), 896(a), 1107(b), 1108(a), 1271(a), 1898(b), 2345(b).

#### 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

and as flow attributed to each of the following sources: residential, commercial, and industrial.

(e) For each DTW mapped outside the wastewater management plan area under (c)1 above, each wastewater management plan shall further identify the future DTW that are necessary to meet wastewater management needs by providing, in narrative, outline, or tabular form, the following information applicable to such DTW at the end of the 20-year period for urbanized municipalities, or at build-out for all other municipalities, and at the end of any shorter or longer period identified under (a) above:

1. Owner and, where known, name of the DTW;
2. Estimate of residential population to be served by the DTW within the wastewater management plan area, disaggregated by municipality and including any major seasonal fluctuations; and
3. Estimated average planning flow of wastewater in accordance with N.J.A.C. 7:15-5.25(d) to be conveyed to the DTW from the wastewater management plan area, in millions of gallons per day, disaggregated by municipality and expressed as total flow and as flow attributed to each of the following sources: residential, commercial and industrial.

(f) The wastewater management plan shall document the basis for the estimated planning flows attributed to residential, commercial, and industrial sources under (d)8 and (e)3 above. Where actual, accurate gauging is available for a sewer system already in existence, such gauging shall be used in preparing these flow estimates, with an allowance for future changes in wastewater flow. There shall be a reasonable relationship between these flow estimates and wastewater service areas identified under (c)4 and 5 above. There shall be a reasonable relationship, consistent with (b) above, between these wastewater service areas and residential population estimates under (d)7 and (e)2 above. The average domestic flow from new development, exclusive of industrial flows, shall be calculated utilizing the projected flow criteria found at N.J.A.C. 7:14A-23.3 or 7:9A-7.4, as applicable, for the type of wastewater facilities proposed. Wastewater flows shall be expressed as a 30-day average flow from DTW that discharge to surface water and as a daily maximum flow from DTW that discharge to ground water. In instances where future specific residential dwelling types are unknown, the residential flow calculation may be computed using 75 gallons per capita per day. No additional provisions for inflow and infiltration shall be made as the above flows include allowances for inflow and infiltration.

(g) Unless expressly stated otherwise in the wastewater management plan, disaggregations of estimated flows by municipality and land use under (d)8 and (e)3 above shall serve only to document the basis for estimates of total flow under those paragraphs, and shall not constitute legally enforceable flow allocations to those municipalities or land uses.

(h) If the Department has waived under N.J.A.C. 7:15-5.16(d) the disaggregation by municipality or land use of existing flow to a DTW, then the disaggregation of estimated flow by municipality or land use under (d)8 and (e)3 above shall be limited to disaggregation of future changes in wastewater flow to that DTW.

(i) A wastewater management plan may identify specific changes to assignments of wastewater management plan responsibility under N.J.A.C. 7:15-5.9, or specific changes to 201 facilities planning responsibilities. Such changes shall take effect upon adoption of the wastewater management plan under N.J.A.C. 7:15-3.4. A wastewater management plan may suggest the establishment, modification, or elimination of districts or franchise areas under N.J.S.A. 40:14A-1 et seq., 40:14B-1 et seq., 58:14-1 et seq., or 48:1-1 et seq., but such districts or franchise areas shall be established, modified or eliminated only in the manner provided by law. Inclusion of such suggestions in an adopted wastewater management plan does not, by itself, accomplish such establishment, modification, or elimination.

Administrative Correction to (e)3 and (f).

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

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

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

Amended by R.1994 d.278, effective June 6, 1994.

See: 25 N.J.R. 3282(a), 26 N.J.R. 2413(b).

Administrative correction.

See: 37 N.J.R. 4245(a).

Public Notice: Proposed Amendment to the Upper Raritan Water Quality Management Plan.

See: 38 N.J.R. 1772(a).

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 "Future wastewater jurisdictions, service areas, and domestic treatment works". Rewrote the section.

#### Case Notes

Exclusion of landowner's property from waste water management plan and changing applicable zoning classifications was preservation of rural lifestyle and agriculture as economically viable business was supported by state plan that targeted area to remain rural, even though denial of sewer access conflicted with township's master plan and zoning ordinances that contemplated commercial and industrial uses for area. *Sod Farm Associates v. Springfield Tp. Planning Bd.*, 297 N.J.Super. 584, 688 A.2d 1058 (A.D.1996), certification denied.

#### 7:15-5.19 Individual subsurface sewage disposal systems and other small domestic treatment works in sewer service areas

(a) In sewer service areas depicted under N.J.A.C. 7:15-5.18(c)4 or 5, a wastewater management plan may require the construction of DTW identified in N.J.A.C. 7:15-4.4(a)1 or 2 to be accompanied by construction of collection system sewers that would be used when the depicted sewer service becomes available. This requirement shall exist only if it is specifically stated in the wastewater management plan.

(b) A wastewater management plan shall require that individual subsurface sewage disposal systems for individual residences can be constructed in depicted sewer service areas

only if legally enforceable guarantees at the local government level are provided before such construction that use of such systems will be discontinued when the depicted sewer service becomes available.

(c) A wastewater management plan shall not apply requirements under (a) or (b) above to individual subsurface sewage disposal systems that do not require certifications from the Department under N.J.S.A. 58:11-25.1 or individual permits from the Department under N.J.A.C. 7:14A, unless that wastewater management plan includes adequate arrangements for enforcement of such requirements by one or more substate governmental units.

(d) Estimated wastewater flows under N.J.A.C. 7:15-5.18(d)8 and (e)3 shall include flows that will be received when use of DTW identified in N.J.A.C. 7:15-4.4(a)1 and 2 is discontinued when depicted sewer service becomes available.

Administrative Correction to (b): Deleted septic.

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

In (b), inserted "at the local government level".

#### 7:15-5.20 Specifications for text and graphics

(a) Wastewater management plans should be concise, using the minimum feasible narrative and mapping. All pages, tables, and figures in wastewater management plans shall be legible and numbered. The text of wastewater management plans, wastewater management plan updates, WQM plan amendments and revisions shall be submitted in hard copy and in an electronic format that is compatible with the Department's software capabilities. Information regarding the Department's software capabilities may be obtained by contacting the Department at New Jersey Department of Environmental Protection, Division of Watershed Management, P.O. Box 418, Trenton, New Jersey 08625, (609) 984-6888. The applicant shall submit a minimum of five hard copies to the Department and, if the Department determines that more are needed based on the particulars of the proposal, the Department will notify the applicant.

(b) All maps in wastewater management plans, wastewater management plan updates, and WQM plan amendments and revisions shall be prepared and submitted in hard copy in a format which is consistent with the Department's mapping standards at N.J.A.C. 7:1D Appendix A and shall be in New Jersey State Plane Feet using the North American Datum of 1983 (NAD83), use 1:24,000 scale United States Geological Survey quadrangle maps as a base and shall meet "United States National Map Accuracy Standards," incorporated herein by reference as amended or updated, for that scale. The United States National Map Accuracy Standards were issued by the U.S. Bureau of the Budget, Revised June 1, 1947, and can be obtained at <http://rockyweb.cr.usgs.gov/nmpstds/nmas.html>. Other maps at other scales may be provided as supplements. Mapping information for wastewater management plans shall also be submitted in digital form compatible with

mapping standards at N.J.A.C. 7:1D Appendix A. The digital maps shall be accurate, at a minimum, to a scale of 1:12,000. The Department recommends that the creation of new digital mapping information for wastewater management plans be prepared in a format that conforms to the "New Jersey Department of Environmental Protection Geographic Information System Mapping and Digital Data Standards" guidance document, as amended or updated. Guidance related to the mapping and digital data standards is available at the Department's website at <http://www.state.nj.us/dep/gis>. Each wastewater management plan shall include the following main maps in (b)3 below already generated by the Department in GIS do not have to submitted to the Department:

1. A map depicting the existing boundaries of the wastewater management plan area and the existing treatment works and wastewater service areas identified under N.J.A.C. 7:15-5.16(a)3 through 8;

2. A map depicting future DTW and wastewater service areas identified at the end of the 20-year period for urbanized municipalities, or at build-out for all other municipalities, under N.J.A.C. 7:15-5.18(c)1 through 5. Wherever feasible, the boundaries of future wastewater service areas shall coincide with recognizable geographic, political or environmental features depicted in Department GIS coverages used for the wastewater management plan. The existing boundaries of the wastewater management plan area shall also be depicted on any map under this paragraph; and

3. One or more maps depicting the existing boundaries of the wastewater management plan area, and the features identified under N.J.A.C. 7:15-5.17. This map shall also state that development in areas mapped as wetlands, flood prone areas, suitable habitat for endangered and threatened species as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife as Rank 3, 4 and 5, Natural Heritage Priority Sites, riparian zones, steep slopes, or designated river areas may be subject to special regulation under Federal or State statutes or rules, and that interested persons should check with the Department for the latest information. Depiction of environmental features shall be for general information purposes only, and shall not be construed to define the legal geographic jurisdiction of such statutes or rules.

(c) Any other mapping required by N.J.A.C. 7:15-5.16 through 5.18, 5.24 and 5.25 may be included on one or more of the main maps listed in (b) above if the information is legible, or on other 1:24,000 scale maps.

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 (a); rewrote the introductory paragraph of (b); in (b)1, inserted "wastewater" and substituted "8" for "9"; in (b)2; inserted "wastewater" twice, inserted "for urbanized municipalities, or at build-out for all other municipalities," and substituted "5" for "and a corresponding map for any shorter or longer period identified under N.J.A.C. 7:15-5.18(a)"; rewrote (b)3; and in (c), inserted ", 5.24 and 5.25" and "if the information is legible".