



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

ADMINISTRATIVE ORDER NO. 2010 – 03

WHEREAS, the Department of Environmental Protection readopted the Water Quality Management Rules with Amendments (N.J.A.C. 7:15) on effective July 7, 2008 (40 N.J.R. 4000(a)); and

WHEREAS, the Water Quality Management Planning rules (Rules) assigned primary wastewater management planning responsibility to the 21 counties and where counties fail to accept wastewater management planning responsibility, that responsibility defaults to municipalities; and

WHEREAS, water quality is directly linked to the intensity and types of land uses that occur within a watershed and the ability to effectively treat the wastewater generated by that development; and

WHEREAS, wastewater management plans are an important component of areawide water quality management planning because they determine appropriate wastewater management alternatives, which alternatives will have a direct impact on the intensity of future land uses; and

WHEREAS, there is an immediate need to update wastewater management plans because using decades-old plans may result in the overcommitting of the capacity of wastewater treatment facilities resulting in degradation of surface or ground water, the inefficient extension of infrastructure and the foreclosure of available wastewater management alternatives that would otherwise have reduced cumulative environmental impacts, and better served the socio-economic needs of the New Jersey; and

WHEREAS, the Rules at N.J.A.C. 7:15-5.1(a) provide that, except in limited circumstances, where a wastewater management plan has not been adopted in accordance with the schedule established at N.J.A.C. 7:15-5.23, the Department will reject an application for an amendment or revision under N.J.A.C. 7:15-3.4(c) or (g); and

WHEREAS, the Rules, at N.J.A.C. 7:15-5.23(b), provide that if a wastewater management plan in compliance with the schedule in N.J.A.C. 7:15-5.23(a) is not in place on July 8, 2008, the county shall submit a wastewater management plan or wastewater management plan update by April 7, 2009 and, where assignment defaults to the municipality, the municipality shall submit municipal wastewater management plans by July 7, 2009, and that if the wastewater management planning agency fails to comply with this schedule, the wastewater service area designations shall be withdrawn in accordance with N.J.A.C. 7:15-5.23(c) and -8; and

WHEREAS, it is more important for wastewater management plans to be done correctly than it is to be done fast; and the deadlines for submission of new and updated wastewater management plans promulgated in the 2008 Rules have long since passed rendering the deadlines meaningless; and

WHEREAS, the Rules provide that the Department may establish an alternate schedule for wastewater management plan submission under N.J.A.C. 7:15-5.23(f); and

WHEREAS, the majority of counties, and municipalities where the counties have refused assignment, have requested and been granted approval of an alternative schedule for wastewater management plan submission due to the time required to coordinate this planning responsibility among other levels of government and with adjacent planning entities and the complexity of analyses necessary to demonstrate compliance with N.J.A.C. 7:15-5.25; and

WHEREAS, the Department continues to receive additional requests for extension; and

WHEREAS, the uncertainty surrounding the potential withdrawal of wastewater service area designations may cause concern to both public and private entities that may have an interest in retaining wastewater service in a given sewer service area, especially during the current economic crisis; and

WHEREAS, the Department seeks to avoid both unnecessarily hasty submissions of wastewater management plans and uncertainties concerning loss of wastewater service area designations due a wastewater management planning agency's failure to comply with N.J.A.C. 7:15-5.23(b); and

WHEREAS, the Department has determined that it is appropriate to continue to evaluate site specific projects with members of the public, even in the absence of a wastewater management plan that was adopted or updated prior to July 7, 2008; and

WHEREAS, the Department may, pursuant to N.J.A.C. 7:15-3.1(g), informally discuss with an applicant, whose proposed project or activity has been found by the Department to be inconsistent with a water quality management plan or the Rules, possible actions which that applicant might take to attempt to resolve the conflict; and

WHEREAS, the Department is committed to an open and public process that provides a realistic opportunity for public review and input into the wastewater service area designations before the wastewater management plans are formally proposed; and

WHEREAS, it is not the intent or effect of this Administrative Order to change the requirements of the Rules but, rather, to work within those rules and direct DEP staff and so advise the regulated community accordingly;

NOW, THEREFORE, I Bob Martin, Commissioner of the Department of Environmental Protection, pursuant to the authority vested in me by the enabling legislation of the Department of Environmental Protection (N.J.S.A. 13:1D-1 et seq.) and by the Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.) do hereby direct and order the following:

- 1) The Department shall immediately extend the submission deadline for all wastewater management plans until April 7, 2011. The Department shall cause a revision notice of such extension, as required by N.J.A.C. 7:15-3.5(b)3, to be published in the New Jersey Register at the earliest possible date. Nothing in this paragraph shall preclude the Department from further extending the submission deadline of any wastewater management plan for cause in accordance with N.J.A.C. 7:15-5.23(f). Nothing in this paragraph shall preclude or prevent a designated wastewater management planning agency from submitting its wastewater management plan in advance of this date. And nothing shall prevent the Department from acting on that submission prior to this date except that the requirements of paragraph 3 below shall have been met. During this extension period, the Department shall work with the designated wastewater management planning agencies to provide assistance on an expedited basis as the planning agencies actively continue to develop their wastewater management plans.
- 2) The Department shall not withdraw any wastewater service area designation pursuant to N.J.A.C. 7:15-5.23(c) or N.J.A.C. 7:15-8.1 prior to April 7, 2011.
- 3) The Department shall not act upon any environmental buildout analyses provided by the designated wastewater management planning agencies without first making public on its web-site the draft wastewater service area mapping developed in consultation with the wastewater management planning agency. The Department shall invite public comment on the draft wastewater service area delineation for not less than 60-days and shall hold at least one public meeting within the geographic jurisdiction of the wastewater management planning agency. Additional public meetings may be scheduled at the direction of the DEP Commissioner based on public demand. Notice of the time, date, location, general topic of the public meeting and where the public may view the draft wastewater service area shall be published at least 30 days in advance of the meeting date in at least two newspapers of general circulation in the wastewater management planning area and written notification to the wastewater management planning agency and each municipality covered by such plan. The requirements of this paragraph are in addition to the procedures for amending areawide water quality management plans at N.J.A.C. 7:15-3.4. Nothing in this paragraph eliminates or replaces the amendment requirements of N.J.A.C. 7:15-3.4.
- 4) Any property owner may submit a written request to have his or her property included within the future sewer service area as part of a new or updated wastewater management plan. The Department shall include the property in the future sewer service area of the proposed wastewater management plan if it determines that the future sewer service area continues to satisfy the requirements contained in N.J.A.C. 7:15-5.24 and 5.25(h). If petitioner can demonstrate that providing sewer service to the project is consistent with local zoning, or the local master plan, or has valid local building permit or site plan or subdivision approval reliant on sewer service, and meets the criteria at N.J.A.C. 7:15-5.24 and -5.25(h), the Department shall propose to include the property in the sewer service area when the Department proposes the wastewater management plan or wastewater management plan update for notice and comment pursuant to N.J.A.C. 7:15-3.4. The Department shall respond in writing within 90 days of receiving a written request and advise the property owner whether the property can be included in the future sewer

service area of the proposed wastewater management plan, or if additional information is needed.

- 5) Properties that are already included in an adopted sewer service area of an existing wastewater management plan shall not be removed from the future sewer service area as part of an updated wastewater management plan under the Rules if the property owner can demonstrate that the project has the approvals required by N.J.A.C. 7:15-8.1.
- 6) This Administrative Order shall take effect immediately.

Date:

3/24/2010

By:



Bob Martin
Commissioner