

CHAPTER 188

AN ACT concerning the wastewater management planning process and amending and supplementing P.L.2011, c.203.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.2011, c.203 is amended to read as follows:

2. As used in this act:

“Commissioner” means the Commissioner of Environmental Protection.

“Department” means the Department of Environmental Protection.

“Designated planning agency” means an agency designated by the Governor to conduct an areawide waste treatment management planning process pursuant to subsection b. of section 4 of the “Water Quality Planning Act,” P.L.1977, c.75 (C.58:11A-4).

“Disturbance” means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

“Individual subsurface sewage disposal system” means a collection of components for disposal of sanitary sewage into the ground which is designed and constructed to treat sanitary sewage in a manner that will retain most of the settleable solids in a septic tank or may incorporate an advanced wastewater pretreatment device and discharges the liquid effluent of a typical domestic strength to a disposal field.

“NJPDES groundwater permit” means a New Jersey Pollutant Discharge Elimination System Discharge to Groundwater permit issued by the department pursuant to the “Water Pollution Control Act,” P.L.1977, c.74 (C.58:10A-1 et seq.), or any rule or regulation adopted pursuant thereto.

“NJPDES surface water permit” means a New Jersey Pollutant Discharge Elimination System Discharge to Surface Water permit issued by the department pursuant to the “Water Pollution Control Act,” P.L.1977, c.74 (C.58:10A-1 et seq.), or any rule or regulation adopted pursuant thereto.

“Revision” means “revisions” as defined by the department’s Water Quality Management Planning rules at N.J.A.C.7:15-1.5.

“Sewer service area” means the land area identified in an areawide water quality management plan from which wastewater generated is designated to flow to a domestic treatment works or industrial treatment works.

“Site specific amendment” means an amendment to a wastewater management plan or a water quality management plan which permits a specific proposed development project or activity, either located in an existing sewer service area or proposing new sewer service area, and having a wastewater planning flow of less than 50,000 gallons per day, or a proposed sewer service area less than 100 acres in size, to become consistent with the applicable wastewater management plan or water quality management plan. A site specific amendment shall not include amendments or changes to the Statewide Water Quality Management Plan or changes to incorporate a total maximum daily load. “Site specific amendment” shall not include an amendment that proposes a new or updated county wastewater management plan for an entire county, or proposes a new or updated municipal chapter of a county wastewater management plan for an entire municipality.

“Wastewater management plan” means a written and graphic description of existing and future wastewater related jurisdictions, wastewater service areas, and selected environmental features and treatment works, and includes a wastewater management plan update.

“Wastewater management planning agency” means a governmental unit that has responsibility to prepare, submit, and periodically update a wastewater management plan

pursuant to the department's rules and regulations and provide comments on proposed amendments and revisions to the wastewater management plan.

“Wastewater service area” means a sewer service area, a general service area approved for wastewater facilities with planning flows of less than 20,000 gallons per day which discharge to groundwater, and a general service area for wastewater facilities with planning flows of less than 2,000 gallons per day which discharge to groundwater, as designated in a wastewater management plan or water quality management plan adopted by the department.

“Water quality management plan” means a plan prepared pursuant to sections 208 and 303 of the federal Clean Water Act of 1977, Pub.L.95-217, 33 U.S.C. s.1251 et seq., and the “Water Quality Planning Act,” P.L.1977, c.75 (C.58:11A-1 et seq.).

“Water Quality Management Planning rules” means the rules and regulations adopted by the department pursuant to the “Water Quality Planning Act,” P.L.1977, c.75 (C.58:11A-1 et seq.), and codified at N.J.A.C.7:15-1.1 et seq.

2. Section 6 of P.L.2011, c.203 is amended to read as follows:

6. a. Following adoption by the department of that portion of the wastewater management plan designating a sewer service area, pursuant to section 4 of P.L.2011, c.203, or in the case of a wastewater management plan or water quality management plan that remains in effect pursuant to N.J.A.C.7:15-5.2(a), the department shall review any application submitted for an amendment or revision to the wastewater management plan or water quality management plan pursuant to the standards and procedures established in the Water Quality Management Planning rules, except as may otherwise be provided in this act.

b. An application for an amendment or revision to a wastewater management plan or water quality management plan may be submitted by or on behalf of any party, including, but not limited to, any county, municipality or individual landowner.

c. The department may require an applicant for a site specific amendment or a revision to a wastewater management plan or water quality management plan to submit to the department a written or graphic description of the proposed footprint of disturbance of the underlying project or activity, sufficient information to determine the water supply needs thereof and the potential wastewater generated therefrom, and any additional documentation necessary to determine compliance with regulatory criteria. There shall be a presumption that an applicant shall not be required to submit engineered subdivision or site plans, or stormwater management plans, to the department, absent the existence of a demonstrated need therefor. If the department finds a demonstrated need that requires the submission of engineered subdivision or site plans, or stormwater management plans, the department shall provide to the applicant, in writing, an explanation of the need and a detailed description thereof.

3. Section 7 of P.L.2011, c.203 is amended to read as follows:

7. When an application is made for a site specific amendment to a wastewater management plan or water quality management plan, and the underlying project or activity requires a NJPDES surface water permit, or requires both a NJPDES surface water permit and a NJPDES groundwater permit, the department shall review the application pursuant to the department's Water Quality Management Planning rules, except as otherwise provided pursuant to this section, as follows:

a. On or before the 60th day after receipt of an application for a site specific amendment to a wastewater management plan or water quality management plan pursuant to this section, the department shall complete a review of the application for administrative and technical

completeness. The application shall be deemed complete after the 60th day following the date of receipt by the department unless the department notifies the applicant in writing that additional information is required. Upon receipt of such additional information, the department shall complete its administrative and technical review, unless the department has advised the applicant in writing that deficiencies remain and that additional information is required.

b. Any application for a site specific amendment pending before the department on January 17, 2012 shall be deemed complete, unless the department notifies the applicant in writing on or before the 60th day after January 17, 2012 that additional information is required.

c. On or before the 180th day after an application for a site specific amendment is deemed complete, the department shall review the application for compliance with regulatory criteria. Notwithstanding the provisions of any law, or rule or regulation adopted pursuant thereto, to the contrary, upon a determination of compliance with regulatory criteria, the department shall publish notice of the application in the DEP Bulletin no more than 30 days after receipt of confirmation that the designated planning agency is prepared to proceed to the public comment period portion of this process. Publication of notice in the DEP Bulletin shall be immediately followed by a 30-day public comment period on the application.

d. If any data, information, or arguments submitted during the public comment period or in response to a request for a written statement of consent appear to raise substantial new questions concerning a proposed site specific amendment, the department may:

(1) reopen or extend the public comment period for not more than 30 additional days in order to provide interested persons opportunity to comment on the information or arguments submitted;

(2) request additional information from the applicant within 30 days after conclusion of the public comment period; or

(3) return the application for a site specific amendment to the applicant for any changes deemed by the department to be necessary and substantial. If based upon the return of the application by the department the applicant submits a revised application, the department shall review the revised application in the same manner as set forth in this section.

e. On or before the 65th day after the conclusion of the public comment period, or receipt of additional information from the applicant, or receipt of the designated planning agency's final decision, or other required agency review, whichever comes later and as may be applicable, the department shall:

(1) adopt the site specific amendment as proposed;

(2) adopt the proposed site specific amendment with changes; or

(3) disapprove the proposed site specific amendment.

f. The department and applicant may consent in writing to an extension of any time period established in this section.

g. The department shall publish notice of the final action on an application for a site specific amendment in the DEP Bulletin.

4. Section 8 of P.L.2011, c.203 is amended to read as follows:

8. When an application is made for a site specific amendment or revision to a wastewater management plan or water quality management plan, and the underlying project or activity requires a NJPDES groundwater permit but does not require a NJPDES surface water permit, the department shall review the application pursuant to the department's Water

Quality Management Planning rules, except as otherwise provided pursuant to this section, as follows:

a. A proposed development or activity having a wastewater planning flow of 8,000 or more gallons per day that results in a discharge to groundwater shall be processed by the department as a site specific amendment to the applicable wastewater management plan or water quality management plan.

b. A proposed development or activity having a wastewater planning flow of more than 2,000 gallons per day and less than 8,000 gallons per day that results in a discharge to groundwater shall be processed by the department as a revision to the applicable wastewater management plan or water quality management plan.

c. (1) A site specific amendment or revision processed by the department pursuant to this section that includes the delineation of a sewer service area shall comply with the regulatory criteria for the delineation of a sewer service area established at N.J.A.C. 7:15-5.24.

(2) Notwithstanding the provisions of any other rule or regulation to the contrary, when in compliance with the regulatory criteria for the delineation of a sewer service area established at N.J.A.C. 7:15-5.24, the underlying development or activity that is the subject of the site specific amendment or revision shall be deemed consistent with the applicable water quality management plan for purposes of applying for any department permit or approval.

d. On or before the 60th day after receipt of an application for a site specific amendment or revision to a wastewater management plan or water quality management plan pursuant to this section, the department shall complete a review of the application for administrative and technical completeness. The application shall be deemed complete after the 60th day following the date of receipt by the department unless the department notifies the applicant in writing that additional information is required. Upon receipt of such additional information, the department shall complete its administrative and technical review, unless the department has advised the applicant in writing that deficiencies remain and that additional information is required.

e. (1) Except as otherwise provided in paragraph (2) of this subsection, the department shall approve, conditionally approve, or disapprove an application for a site specific amendment or revision pursuant to this section on or before the latter of:

(a) the 90th day following the date that the application is deemed complete; or

(b) as may be applicable, the 30th day after:

(i) the conclusion of any required public comment period;

(ii) the date of receipt of additional information from the applicant;

(iii) the date of receipt of the designated planning agency's final decision; or

iv. the date of completion of any other required agency review.

(2) The time period established in paragraph (1) of this subsection may be extended for 30 days by the mutual consent of the applicant and the department.

(3) If the department fails to take action on an application for a site specific amendment or revision pursuant to this section within the period specified in this subsection, the application shall be deemed approved.

5. Section 9 of P.L.2011, c.203 is amended to read as follows:

9. Nothing in this act shall preclude a wastewater management planning agency from preparing and submitting, or the department from accepting, and adopting in a sequential or other manner deemed timely or expedient by the department, other portions of a wastewater management plan in addition to those portions that provide for the designation of a sewer

service area pursuant to the “Water Quality Planning Act,” P.L.1977, c.75 (C.58:11A-1 et seq.).

6. When an application is made for an amendment to a wastewater management plan or water quality management plan, and the amendment does not propose a specific project or activity, the department shall review the application pursuant to this section, provided that the amendment does not delineate as a sewer service area a parcel exceeding 100 acres in size. The amendment shall be reviewed by the department pursuant to the Water Quality Management Planning rules, except as otherwise provided pursuant to this section, as follows:

a. On or before the 60th day after receipt of an application for an amendment to a wastewater management plan or water quality management plan pursuant to this section, the department shall complete a review of the application for administrative and technical completeness. The application shall be deemed complete after the 60th day following the date of receipt by the department unless the department notifies the applicant in writing that additional information is required. Upon receipt of such additional information, the department shall complete its administrative and technical review, unless the department has advised the applicant in writing that deficiencies remain and that additional information is required.

b. Any application for a plan amendment pending before the department on the effective date of this section shall be deemed complete, unless the department notifies the applicant in writing on or before the 60th day after the effective date of this section that additional information is required.

c. On or before the 180th day after an application for a plan amendment is deemed complete, the department shall review the application for compliance with regulatory criteria. Notwithstanding the provisions of any law, or rule or regulation adopted pursuant thereto, to the contrary, upon a determination of compliance with regulatory criteria, the department shall publish notice of the application in the DEP Bulletin no more than 30 days after receipt of confirmation that the designated planning agency is prepared to proceed to the public comment period portion of this process. Publication of notice in the DEP Bulletin shall be immediately followed by a 30-day public comment period on the application.

d. If any data, information, or arguments submitted during the public comment period or in response to a request for a written statement of consent appear to raise substantial new questions concerning a proposed plan amendment, the department may:

(1) reopen or extend the public comment period for not more than 30 additional days in order to provide interested persons opportunity to comment on the information or arguments submitted;

(2) request additional information from the applicant within 30 days after conclusion of the public comment period; or

(3) return the application for a plan amendment to the applicant for any changes deemed by the department to be necessary and substantial. If based upon the return of the application by the department the applicant submits a revised application, the department shall review the revised application in the same manner as set forth in this section.

e. On or before the 65th day after the conclusion of the public comment period, or receipt of additional information from the applicant, or receipt of the designated planning agency’s final decision, or other required agency review, whichever comes later and as may be applicable, the department shall:

(1) adopt the plan amendment as proposed;

- (2) adopt the proposed plan amendment with changes; or
- (3) disapprove the proposed plan amendment.

f. The department and applicant may consent in writing to an extension of any time period established in this section.

g. The department shall publish notice of the final action on an application for a plan amendment in the DEP Bulletin.

h. Nothing in this act shall preclude any county, municipality, or individual landowner, from proposing, or the department from adopting, an amendment to a wastewater management plan or water quality management plan that would delineate as a sewer service area a parcel, not to exceed 100 acres in size, that had been previously included in a formerly adopted sewer service area, provided that the applicant can demonstrate with the use of updated or more accurate information that the parcel complies with the regulatory criteria for the delineation of a sewer service area established at N.J.A.C. 7:15-5.24.

7. Section 11 of P.L.2011, c.203 is amended to read as follows:

11. Sections 1 through 5 inclusive, and 9 and 10 of P.L.2011, c.203 shall take effect immediately, and sections 6, 7, and 8 shall take effect on the 120th day after the date of enactment of P.L.2011, c.203; however, the Department of Environmental Protection may take such anticipatory actions as are necessary in advance of the effective date of sections 6, 7, and 8 to ensure the timely implementation of those sections on the effective date thereof. P.L.2011, c.203, as amended and supplemented by P.L.2013, c.188, shall expire on January 17, 2016, or upon the adoption of rules or regulations that the department specifically states in a notice in the New Jersey Register are intended to obviate the need for the provisions of P.L.2011, c.203 and meet the purposes of the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), whichever is earlier.

8. This act shall take effect immediately and shall expire on January 17, 2016, or upon the adoption of rules or regulations that the department specifically states in a notice in the New Jersey Register are intended to obviate the need for the provisions of P.L.2011, c.203 and meet the purposes of the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), whichever is earlier.

Approved January 15, 2014.