



### **The Water Quality Management Planning Rules' Impact on Potential Development**

*By: Jennifer L. Cordes, Esq.*

The current version of the Water Quality Management Planning Rules (“the Rules”), N.J.A.C. 7:15, became effective on July 7, 2008. The Rules assign wastewater planning responsibility to counties and require them to submit an updated Wastewater Management Plan<sup>1</sup> (Plan) to the New Jersey Department of Environmental Protection (NJDEP) by April 7, 2009. If a county fails to submit an updated Plan, the Rules provide that NJDEP may withdraw all future sewer service areas until a Plan is submitted and adopted. If a county refuses to accept wastewater management planning responsibility, a municipality may apply for voluntary assignment of that responsibility.

On March 24, 2010, the NJDEP Commissioner issued Administrative Order No. 2010-03 (Order), in which NJDEP immediately extended the submission deadline for all updated wastewater management plans until April 7, 2011. During this time, NJDEP will not withdraw any wastewater service area designation.

The issuance of this Order notwithstanding, the Rules provide that certain development scenarios would be unaffected by the withdrawal of a sewer service area designation, including projects with both a preliminary or final site plan approval (or subdivision approval where subsequent site plan approval is not required) and wastewater management approval (e.g., treatment works approval, NJPDES permit, local connection approval or local septic approval). For these projects, the existing Wastewater Management Plans and their corresponding wastewater service area designations will remain valid until a new Plan is adopted. Therefore, while Plans are being updated, municipalities and NJDEP will continue to issue approvals for development that is consistent with existing Plans. Projects that receive approvals during this interim period will qualify for addition back into the final Plan. If, however, a site is excluded from the sewer service area of a new Plan, then that property would require an individual subsurface disposal system (i.e., a septic system).

The Rules also remove “environmentally sensitive areas” (i.e., any contiguous area of 25 acres or larger having features such as wetlands, Category One waters, Natural Heritage Priority Sites and Threatened and Endangered Species habitats) from sewer service areas, meaning properties with these characteristics would have to be served by individual on-site septic systems. NJDEP has assisted the counties in the development of their Plans by providing new rough drafts of the sewer service areas based on available data that concerns these features. Municipalities are then asked to provide information on sites that are under construction or that have received development approvals so that they can effectively be grandfathered into the new sewer service area.

If you would like more information concerning the Water Quality Management Planning Rules, please contact Jennifer L. Cordes, Esq. at 609.989.5027 or [jcordes@sternslaw.com](mailto:jcordes@sternslaw.com).

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<sup>1</sup> Wastewater Management Plans specify preferred wastewater treatment alternatives. Once the appropriate wastewater treatment alternative has been selected, an analysis is completed for each service area according to current zoning to predict an area’s future wastewater treatment needs.