



168 West State St. – Trenton, NJ 08608 – Phone: 609-393-7163 – Fax: 609-393-7072 – Email: mail@njfb.org

December 28, 2015

Robert Martin  
Commissioner  
NJ Department of Environmental Protection  
401 E State Street  
Trenton, NJ 078625-0402

Attn: Gary Brower DOCKET # 10-15-09

Dear Mr. Martin,

We appreciate the opportunity to comment on your efforts to streamline and improve the Water Quality Management Planning (WQMP) rules for the state of NJ. Decisions about future wastewater treatment facilities of any size are critical to farmers wanting to increase the productivity and profitability of their farms by developing value-added products or new crops where expansion of existing water and wastewater facilities will be necessary for the effort to be feasible..

We are happy to note also that these rules do not require municipalities to immediately downzone according to densities determined by the nitrate dilution model in order to have their WMP approved by the New Jersey Department of Environmental Protection (DEP). As the explanatory statement points out, this premature devaluing of farmland, the agricultural business's prime financial asset, cripples efforts for the farm operator to invest in his business and removes any financial incentive to sell easements for permanent preservation.

**7:15- C1 (v.) NJ Farm Bureau** finds that this describes a very welcome way for DEP to work with the community that lacks future nitrate dilution capacity to meet the projected loading from future development” to resolve the issue rather than devaluing the land.

We also noticed that some of the changes seem to reflect Farm Bureau's long held opinion that the nitrate dilution modeling is more appropriate for larger areas than individual properties. We approve applying the formula to a larger area, HUC 11, as basis for septic density instead of HUC 14. We also welcome the clarification that Highlands towns that do not conform to the RMP shall use the same standards and requirements as any other community in the state to calculate future septic density.

NJ Farm Bureau welcomes coordination between DEP regulations and requirements with the Highlands rules and the RMP, essential to remove duplication of applications, studies etc, saving paperwork and staff effort for both agencies as well as the applicant. This should take place immediately after the rules are adopted for a timely effect.

In 7:15-1.5 “**Individual subsurface sewage disposal system: NJ Farm Bureau** welcomes the ability for these systems to include “advanced wastewater pretreatment” and hopes that this stimulates more use of them for better water quality.

In 7:15-1.6 (d) **NJ Farm Bureau** greatly approves your changing the process of noticing the public about DEP actions by no longer putting them in newspapers that no one reads any more and inviting anyone who wants to be informed of any DEP action to consult the DEP website.

**7:15-3.4 (f & g) NJ Farm Bureau** understands that this section indicates that landowners of properties over 100 acres or requiring more than 20,000 gal of wastewater treatment will be notified about a change that would expand the sewer service area to include their property. Why not notify landowners whose properties are being excluded from the sewer service area in the same fashion? The 2008 WQMP rules are said to have removed 150,000 acres from sewer service areas and only added 10,000, probably because most counties did nothing to notify landowners negatively affected by being mapped out of the sewer service area. It is even more important to notify those being harmed by a regulation than those who will benefit.

**7:15-4.4.c3 (d&h): NJ Farm Bureau** is pleased that this section finally makes it clear that Highlands Planning Area towns that do not conform to the RMP may use the same standards in determining septic density as any other community in the state. This should enable those towns to move ahead with their WMPs’.

Although, in general, your new approach to these rules as PLANNING and the changes that are thus made possible are very welcome, there remain several concerns from the farm operator's point of view:

**7:15-1.5 Definitions: NJ Farm Bureau** finds the following concerns:

“**Agriculture dependent endangered and threatened species habitat**” is a new definition added without any contact or input from any NJ farm agency or organization. A property so mapped is ineligible for sewer service area delineation thus preventing a farm operator from adding capacity to increase his profitability and productivity. There must be a separate process for farmers to use, with help from the NJDA and USDA-NRCS, to apply for a special “revision” or “amendment” in order to continue to support the business of agriculture.

Further, a farmland owner required to keep land in a certain state or crop permanently to provide habitat for a certain wildlife species cannot do crop rotation to better the condition of his soil or change crops to meet better market conditions. If any party prevents necessary change to the agricultural land use for the purpose of wildlife habitat, they should buy an easement or purchase the property. Otherwise this regulation mandates one use to the exclusion of any others and could be considered a “taking”.

And decisions about wastewater treatment are permanent while presence of any of the listed species could change yearly because of conditions in populations or habitat elsewhere.

“**Equivalent dwelling unit**”, a number to be used in calculating septic density with the nitrate dilution model, is now to be 500 gallons per day. The Highlands RMP and all other rules set the capacity for residential development at 300 gal/day and nonresidential at 400 gal/day.

What is the scientific basis for this major change that will play a part in setting the numbers of new septic allowed?

**“Non-sewer service area”**, areas not designated as eligible to receive sewer service from a permitted facility, will include most of the farmland in NJ. Are these landowners allowed to increase their sewer service up to 2000 gal/day or is the total on the property not to exceed that number? If the latter, this must be replaced by a special wastewater approval process for farm operators to use when upgrading existing facilities or adding new ones to increase the profitability of their farm.

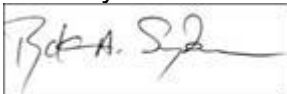
**“Point sources”** of pollution definition includes “combined feeding operations” which are regulated by the NJ Agricultural Waste rules as nonpoint pollution. This should be deleted from the definition.

**7:15-4.4 (j4) NJ Farm Bureau** notes that this section outlines the procedure to follow to include “agriculture dependent wildlife habitat” in a sewer service area. Requiring conservation measures and mitigation to be implemented and monitored by a state agency or nonprofit is unacceptable. As stated above, this would hinder the creation of expanded wastewater treatment for some farm-needed improvement on a farm supposedly mapped as areas 3,4, or 5 on the Landscape Project maps, proven erroneous by our members in many cases. It implies also loss of productive farmland or the need to purchase more land elsewhere, a major expense. There should be a separate process for creating or expanding sewer service on working farms.

**7:15-4.7 Habitat Impact Assessment: NJ Farm Bureau** notes that this section outlines a welcome process to investigate further the question of whether a project will negatively affect a threatened or endangered wildlife species. It would allow an applicant a way to amend the proposal so as to do avoid the damage or reduce it to a minimum.

We are ready to work with you, the NJ Department of Agriculture and any other agricultural agency to make these two changes that will help to maintain the agricultural industry and its capacity to produce valuable food and fiber products as well as the landscape quality of life in this state

Thank you.

A rectangular box containing a handwritten signature in black ink. The signature appears to be "Ryck A. Suydam".

Ryck Suydam, President

Cc: Douglas H. Fisher, Secretary, New Jersey Department of Agriculture .