

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF WATER RESOURCES
Statutory Authority: 7 Delaware Code, Section 6010 (7 Del.C. §6010)

REGISTER NOTICE

Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems

PROPOSED

1. Brief Synopsis of the Subject, Substance and Issues:

The Department of Natural Resources and Environmental Control, Division of Water Resources, Ground Water Discharges Section, held a public hearing on September 13, 2004 to receive comments on proposed amendments to the **Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment & Disposal Systems**. The proposed amendments and a notice of the September 13, 2004 public hearing were published in the Delaware Register of Regulations on August 1, 2004. In response to public comments, evidence and information provided to the agency regarding Section 5.11015(a) and Section 9.01015 since the public hearing, the Department is revising the number of lots which would require the utilization of a community wastewater treatment and disposal system instead of individual on-site wastewater treatment and disposal systems from 200 lots to 50 lots. therefore, these sections of the regulations are being published in their modified form and presented at a public hearing to provide the public an additional opportunity to submit comments before all of the amendments are promulgated in the manner required by law.

2. Possible Terms of the Agency Action:

N/A

3. Statutory Basis or Legal Authority to Act:

7 Del.C. Chapter 60

4. List of Other Regulations That May be Impacted or Affected by the Proposal:

Regulations Governing the Design, Installation & Operation of On-Site wastewater treatment and Disposal Systems (Amended March 11, 2002)

5. Notice Of Public Comment:

The Department Of Natural Resources And Environmental Control, Division Of Water Resources, Ground Water Discharges Section, Held A Public Hearing On September 13, 2004 To Receive Comments On Proposed Amendments To The **Regulations Governing The Design, Installation And Operation Of On-site Wastewater Treatment & Disposal Systems**. The Proposed Amendments And A Notice Of The Public Hearing Were Published In The Delaware Register Of Regulations On August 1, 2004. In Response To Public Comments, Evidence And Information Provided To The Agency Since The Public Hearing Regarding Section 5.11015(A) And Section 9.01015, The Department Is Revising The Number Of Lots Which Would Require The Utilization Of A Community Wastewater Treatment And Disposal System Instead Of Individual On-site Wastewater Treatment And Disposal Systems From 200 Lots To 50 Lots. The Department Will Conduct A Public Hearing On **Monday, January 10, 2004 At 6:00 P.m.** In The Dnrec Auditorium At 89 Kings Highway, Dover, De To Provide The Public An Additional Opportunity To Comment On These Revisions. Comments On The Proposed Revisions Should Be Submitted In Writing To Lisa Vest, Office Of The Secretary, Dnrec, 89 Kings Hwy., Dover, De 19901. Copies Of The Department's Proposed Revisions To Section 5. 11015 (A) And Proposed Section 9.01015 Are Available By Contacting Jack Hayes At (302) 739-4761.

***PLEASE NOTE: ONLY THE TWO SECTIONS BEING AMENDED ARE BEING PUBLISHED. PLEASE REFER TO THE AUGUST 2004 ISSUE OF THE REGISTER OF REGULATIONS BEGINNING AT PAGE 283 TO VIEW THE ENTIRE PROPOSED REGULATION.**

[HTTP://WWW.STATE.DE.US/RESEARCH/REGISTER/AUGUST2004/PROPOSED/8%20DE%20REG%20283%2008-01-04.HTM](http://www.state.de.us/research/register/august2004/proposed/8%20DE%20REG%20283%2008-01-04.htm)

5.11000 Community Systems

5.11010 Without first applying for and obtaining a construction permit, no person shall install a community on-site wastewater treatment and disposal system.

5.11015 A community on-site wastewater treatment and disposal system shall be required when any of the following conditions exist:

(a) ~~Lot size is less than two (2) acres and more than 55% of the subdivision or planned unit development contains soil interpretative units identified as being suitable for on-site wastewater treatment and disposal systems that require pressurization~~ Proposed number of dwelling units is > fifty (50); or

(b) Where overall density of the subdivision or planned unit development is more than one dwelling unit per ½ acre.

SECTION 9.0000 -- PRELIMINARY WASTEWATER TREATMENT & DISPOSAL REVIEW

9.01000 It is the policy of the Department to facilitate compliance with these Regulations through review of proposed development projects as early as possible in the development process to avoid unnecessary conflicts and expense. Any development project, which may or may not constitute a major subdivision, can submit a feasibility study to satisfy other local government approval processes. Any project that proposes to use individual on-site and/or community/large wastewater treatment and disposal systems must submit a letter of intent prior to initiating any preliminary soil investigations.

9.01010 The letter of intent must contain the following details:

(a) The name of the Developer and landowner

(b) The size of parcel and ~~number of proposed lots or projected flow rates~~ tax parcel number(s)

(~~e~~) ~~Indication of type of system(s) — individual versus large/community~~

(~~d~~ c) Projected start date of site/soil investigative work

9.01015 If the proposed number of dwelling units is > fifty (50) or a large on-site wastewater treatment and disposal system(s) (LOWTDS) is proposed, proceed to the requirements of Section 5.12000, if not, proceed to Section 9.01020 . If a preliminary review is desired prior to the submission of a SIR, the site evaluator may submit a feasibility study in accordance with Section 9.01017.

9.01017 A feasibility study for a LOWTDS shall contain the following information:

(a) Site plan drawn to scale not to exceed one (1) inch equals two hundred (200) feet

(b) Illustrate topography on two (2) foot contour intervals unless the Department approves the use of an alternate scale due to extreme variations in the elevation on the site

(c) Conduct a soil suitability evaluation of the project site following the procedures prescribed in section 5.01000. The area of investigation should be concentrated within the proposed LOWTDS. The Site Evaluator must demonstrate the area proposed for the LOWTDS represents the best soils on the project site. The extent and nature of the soil evaluation shall be determined by the Class D site evaluator.

(d) Based on preliminary design criteria established by the Class D site evaluator, as a result of the soils evaluation, a preliminary engineering study prepared by a Class C engineer must be included which demonstrates the suitability of the evaluated area for the proposed number of lots. The engineering study must include, at a minimum, the proposed method of disposal, proposed treatment levels, and proposed design flow rates, along with preliminary calculations/layout to demonstrate there is sufficient area for both the initial and replacement system.

(e) The Department may ask for any additional information deemed necessary on a case-by-case basis to make a statement of feasibility.

9.01020 A feasibility study shall be filed with the Department setting forth the proposed manner of compliance with these Regulations. The feasibility study shall contain the following information:

(a) Site plan must be drawn to scale not to exceed one (1) inch equals two hundred (200) feet

(b) Illustrate topography by two (2) foot contour intervals unless the Department approves the use of an alternate scale due to extreme variations in elevation on the site

(c) Illustrate the approximate location of all wells, watercourses, roads and on-site wastewater treatment and disposal systems within one hundred fifty (150) feet of the perimeter of the property

(d) Conduct a soil suitability evaluation of the project site following procedures prescribed in Section 5.01000. The extent and nature of the soil evaluation shall be determined by a Class D site evaluator. The site evaluator shall coordinate the planning of the soils evaluation with the Department prior to initiating work

(e) Indicate the type of limiting zone, its depth, and list the results of the site and soils analysis on the appropriate forms

(f) Each soil interpretative unit identified for potential on-site wastewater treatment and disposal shall have at least one (1) percolation test conducted within it to establish representative percolation rates for each interpretative unit

(g) Lot numbers and approximate lot areas shall be provided

(h) A general site location map shall be included on the preliminary plan for reference identification of the area

(i) Proposed stormwater management areas

(j) Location of any jurisdictional wetlands, if delineated

(k) Any other information required by the Department on a case by case basis.

9.02000 The Department shall conduct a general review of the preliminary plan and give the owner/developer a ~~soil investigation report~~ statement of preliminary subdivision feasibility which shall contain a statement of on-site wastewater treatment and disposal feasibility. This Section shall not be construed to relieve the applicant of the responsibility of obtaining individual site evaluations and permits from the Department for each lot prior to commencement of construction of any on-site wastewater treatment and disposal system.

9.03000 If, in the estimation of the Department, more than fifty five (55) percent of the proposed absorption facilities for the subdivision will require pressurized systems, due to limiting conditions, a community wastewater treatment and disposal system shall be utilized unless average lot density is greater than two (2) acres.

8 DE Reg. 861 (12/01/04)