

Guidance Related to the Wastewater System and Potable Water Supply Rules
Effective September 29, 2007

Guidance Document
2008-03

Issued: Christine Thompson February 14, 2008

Revision of Permits that included approval of a Replacement System or Replacement Area for Wastewater Disposal

The requirements for replacement areas were revised in the Wastewater System and Potable Water Supply Rules that became effective on September 29, 2007. Under the new rules, if the primary wastewater system is a mound wastewater disposal system constructed at 100% of the design flows, a replacement area is not required to be identified. Alternatively, if the primary wastewater system is a non-mound type design, a replacement area is not required to be identified if the leachfield for the primary wastewater system is constructed at 150% of the standard size and incorporates a pressure distribution system.

A permittee may request that their permit be amended to remove the approval of a replacement area. If the only change is the removal of the replacement area, the request will be processed as a minor amendment. If the wastewater system is to be modified with the addition of a pressure distribution it will not qualify as a minor amendment. If other actions that require a permit modification are proposed, in addition to the elimination of the replacement area, the provisions of this guidance may apply (depending on the nature of the other actions) and the application will be processed as a major amendment. The application for amendment of the permit must include revised plans that remove the replacement area. The designer's certification is required but an installation certification is not required unless the permit authorizes construction that occurs subsequent to issuance of the permit. The requirements for removal of a replacement area are as follows:

When the lot has been permitted for a mound wastewater disposal system:

A system subject to a state Wastewater System and Potable Water Supply Permit, that was issued under the 1982 version of the Rules or a subsequent version of the Rules, and which, if already constructed, is in compliance with the permit, including installation requirements, shall be presumed to qualify under this guidance.



**Guidance Document
2008-03**

When the lot has been permitted for a non-mound system:

A system subject to a state Wastewater System and Potable Water Supply Permit, that was issued under the 1982 version of the Rules or a subsequent version of the Rules, provided that the leachfield portion of the system is sized for at least 150% of the design flow and includes the use of pressure distribution in accord with §1-906 of the Rules, shall be presumed to qualify under this guidance. If the wastewater system has been installed it must be in accord with its permit including any installation certifications.

On a case by case basis, and subject to a major permit amendment, it may be possible to expand an existing leachfield to the 150% size and/or to retrofit a pressure distribution system into an existing wastewater system to bring it into compliance with §1-906 of the Rules. In such a case, an installation certification of the retrofit will be required.

Use of the discontinued replacement area

While it may be possible to propose use of the discontinued replacement area for some other project, there is no presumption attached to its former status as a permitted replacement area. Any application proposing the use of a formerly approved replacement area will require a new determination that the site and design are in full accord with the current Rules. This may require new soil tests and/or redesign of the wastewater disposal system unless the existing information is sufficient for the designer to certify compliance with the current Rules. Any future approval will require a fully complying replacement area unless the proposed primary wastewater system meets the requirements for waiver of the replacement area per §1-804 of the Rules.

Failed water supply and/or wastewater systems

If the existing water supply and/or wastewater system are failed, any permit will be conditioned to require correction of the failure prior to the elimination of the designated replacement area. If the originally approved replacement area is the best available area for a replacement wastewater system, it must be used for that purpose.

Improved lot subdivisions

Subdivision of an improved lot is subject to another guidance document which includes different provisions related to the replacement area requirements.

Guidance Document
2008-03

Municipal permits

A person owning a project subject to a municipal wastewater system permit, including those qualifying for the exemption under the provisions of §1-304(a)(3)(the Municipal Permit exemption), that established an approved replacement area, may apply for a permit under the Rules to eliminate the replacement area. Approval to eliminate the replacement area will be granted when it is determined that the primary wastewater system was designed in full accord with the 1982 version of the Rules, or a subsequent version of the Rules and, if already installed, that it was installed in full accord with its approved plans.

“Clean Slate” properties

Notwithstanding the provisions of § 1-304(a)(1)(the “Clean Slate” exemption), for state permitted systems, a licensed designer must demonstrate that either the wastewater system complies with all applicable provisions of the Rules or the requirements of the existing permit in order to abandon the replacement area.