

**Michele N. Siekerka, Esq.**  
President and CEO

March 28, 2019

**Chrissy Buteas**  
Chief Government  
Affairs Officer

**Frank Robinson**  
Vice President  
Government Affairs

**Andrew Musick**  
Vice President  
Government Affairs

**Michael Wallace**  
Vice President  
Government Affairs

**Tony Bawidamann**  
Vice President  
Government Affairs

**Raymond Cantor**  
Vice President  
Government Affairs

**Nicole Sandelier**  
Director Economic Policy  
Research

Commissioner Catherine McCabe  
New Jersey Department of Environmental Protection  
401 East State Street  
Trenton, NJ 08625

**RE: Surface Water Quality Standards (C-1 Rule Proposal)-PRN 2019-028**

Dear Commissioner McCabe:

On behalf of our member companies that provide more than 1 million jobs in the State and make us the largest statewide business association in the country, the New Jersey Business and Industry Association (NJ BIA) respectfully requests a 90-day extension to the C-1 rule proposal. This extension will not prevent the Department of Environmental Protection from adopting the rule within the one year period provided by the Administrative Procedure Act, but it will allow the public sufficient time to understand the rule and provide meaningful comment.

This is a very complex rule proposal with potentially significant impacts throughout a good part of the State. There are nearly 100 stream segments being proposed for upgrade to C-1. Each of these segments is being proposed for re-designation based on specific scientific findings or subjective observations. There are multiple levels of analysis that need to be investigated for each stream segment re-designation. More challengingly, the links within the rule to the underlying supporting data are cumbersome to navigate and do not lend itself to easy analysis or fact checking. It is impossible for the public, in the given 60-day comment period, to be able to analyze the purported science and data that serve as the basis for each segment.

The economic, smart growth, housing, and other impacts of the rule proposal may also be substantial and not easily discernable in reading the proposed rule or its summary. While the rule purportedly only changes the designation of 749 stream miles, its actual impact is far greater. Under the Flood Hazard Control Act all streams and tributaries flowing into C-1 stream segments that are within the same HUC 14 watershed are subject to the 300-foot riparian zone buffer. This adds potentially hundreds of additional stream miles to the rule's impact as well as thousands of adjacent properties. The anti-degradation policies would also make it more difficult and costly, perhaps impossible, to discharge wastewater upstream of a C-1 stream segment. These impacts are not adequately identified or addressed in the rule proposal making it difficult for the public to comment.

Furthermore, the Department has refused to supply the public with maps showing all the impacted streams and tributaries. Failure to supply this information puts the burden on the public to map out all potentially impacted streams and properties. The fact that the Department did not seriously analyze these impacts, and has refused to provide mapping, also brings into question the legal validity of the summary and impact statements and thus the rule.

The rule proposal also states that development served by wastewater treatment plants will not be impacted because sewer service areas are generally outside of the riparian zone buffer areas. This statement totally ignores the fact that while sewer service areas may be outside of the buffers, they will be impacted if the wastewater treatment plants do not have adequate capacity to service projected flows and the plants cannot expand because of the stream's C-1 designation. Under the Department's rules, it is possible that sewer service areas may have projected flows greater than current plant capacities. In these situations, plans are required to address flows, including plant expansions. This rule would prohibit such expansions and thus could prohibit development in an approved sewer service area. It would also prevent any future expansion of the sewer service area, no matter how beneficial this may be to the community or the State or consistent with sound planning.

We wonder if the Department has even analyzed the size of the sewer service areas and if their designated wastewater treatment plants have adequate capacity or a need to expand. Did the Department look to see if any sewer service areas are in designated centers or Planning Areas 1 or 2? These analyses seem to have been left entirely to the public. The Department's failure to even mention this issue makes it nearly impossible for the public to adequately comment in the 60-day period and it is a significant flaw in the rule summary.

NJBIA has already been told by our members that many redevelopment projects may be impacted by this proposal. CSO upgrades in Camden are being jeopardized due to re-designation of the Cooper River. Redevelopment in Camden and other developed municipalities may be much harder to achieve, or even impossible. Some streams being re-designated run through downtown areas, one of which we know to be largely piped. Numerous properties will be impacted. Are any of these properties in Economic Opportunity Zones? These impacts are not adequately addressed in the impact statements. The public needs more time to understand the impacts on redevelopment.

Most disappointingly, there has not been any meaningful stakeholder meetings. As Commissioner, you promised in your confirmation testimony and elsewhere that you would be committed to transparency and a robust stakeholder process. This rule proposal blatantly fails that test. The only known stakeholder meeting was held on January 17, 2019 where the Department informed invitees of their plans on C-1 streams. To our complete surprise, the rule proposal was published on March 4, 2019. In order to be published on that date, it had to have been sent to the Office of Administrative Law by January 31, 2019. There was only two weeks between the stakeholder meeting and submittal. Given the internal review times, this means that the rule was essentially drafted and ready to be proposed before the stakeholder meeting was even held. The Department did not allow itself the benefit of stakeholder input but rather rushed through this proposal. This is not transparency or a robust process.

Given the lack of a real stakeholder process, the complexity of this rule, the potential impacts, and the lack of a meaningful analysis in the rule summary, we respectfully ask that you agree to our request for an extension of the comment period.



Ray Cantor  
Vice President, Government Affairs