

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

DIVISION OF COASTAL AND LAND USE PLANNING

Proposed Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that the New Jersey Department of Environmental Protection (Department) is seeking public comment on a proposed amendment to the Northeast Water Quality Management (WQM) Plan. This amendment proposal, submitted on behalf of the Board of Chosen Freeholders of Essex County as the responsible Wastewater Management Planning Agency, would adopt a future wastewater service area (FWSA) map for Essex County. This map has been prepared pursuant to P.L. 2011, c. 203, enacted on January 17, 2012, which permits the Wastewater Management Planning Agency to prepare and submit to the Department at least that portion of a wastewater management plan designating sewer service area, which shall comply with the Department's regulatory criteria. If adopted, this map, titled "Future Wastewater Service Areas (FWSA), Essex County New Jersey," will supersede all wastewater service area mapping currently contained in the WQM Plan for areas within Essex County and areas served by wastewater treatment facilities located within Essex County, including that which was adopted into the WQM Plan as part of approved wastewater management plans (WMPs). The map identifies areas to be served by sewage treatment facilities/sewer systems as well as areas to be served by septic systems with design flows of equal to or less than 2,000 gallons per day. The proposed map modifies the previously approved sewer service areas to eliminate environmentally sensitive areas that are not currently connected to sewer systems, as well as removes areas from sewer service area based on local planning initiatives. Additional new areas have been proposed for sewer service area based on local planning initiatives. This proposed amendment only modifies the wastewater service area mapping portions of the above referenced WQM Plan.

Pursuant to P.L. 2011, c. 203, the Department, in consultation with the applicable wastewater management planning agency, may approve the inclusion of land within a sewer service area notwithstanding that existing treatment works may not currently have the assured capacity to treat wastewater from such land without infrastructure improvements or permit modification. Therefore, amendments to update a sewer service area may be approved if such actions are compliant with the applicable sections of the WQM Planning rules (N.J.A.C. 7:15) regardless of whether capacity has been fully assessed. Additional issues which may need to be addressed for any new or expanded wastewater treatment facility proposal include, but are not limited to, compliance with stormwater regulations, antidegradation, effluent limitations, water quality analysis, and exact locations and designs of future treatment works. Additionally, sewer service to any particular project is subject to contractual allocations between municipalities, authorities and/or private parties, and is not guaranteed by this amendment.

In accordance with N.J.A.C. 7:15-5.24, environmentally sensitive areas have been assessed to determine what areas are appropriately included in the proposed sewer service areas. Pursuant to N.J.A.C. 7:15-5.24, environmentally sensitive areas are defined as contiguous areas of 25 acres or larger consisting of habitat for threatened and endangered species as identified on the Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species (Landscape Project), Natural Heritage Priority Sites, Category One (C1) special water resource protection areas, and wetlands, alone or in combination.

In accordance with N.J.A.C. 7:15-5.24(b)1, to determine areas designated as threatened or endangered species habitat, the Department utilized the Landscape Project, versions 2.1 and 3.0, as applicable. Areas identified by the Landscape Project as being suitable habitat for threatened and endangered species are not included in the proposed sewer service areas except as provided under N.J.A.C. 7:15-5.24(e) through (h), or unless a site has undergone a site specific Habitat Suitability Determination prepared in accordance with N.J.A.C. 7:15-5.26 that found the site to be not suitable habitat, or, pursuant to N.J.A.C. 7:15-5.24(g)2, the Department determined the environmentally sensitive areas are not critical to a population of endangered or threatened species the loss of which would decrease the likelihood of the survival or recovery of the identified species.

In accordance with N.J.A.C. 7:15-5.24(b)2, areas mapped as Natural Heritage Priority Sites are not included in the proposed sewer service area, except as provided under N.J.A.C. 7:15-5.24(e) through (h).

In accordance with N.J.A.C. 7:15-5.24(b)3, areas identified as special water resource protection areas along C1 waters and their tributaries are not included in the proposed sewer service areas, except as provided under N.J.A.C. 7:15-5.24(e) through (h). The required buffer width is applied to both sides of a stream measured from the top of bank of an intermittent or perennial stream, or centerline if the bank is not defined, and from the defined edge of a lake, pond or reservoir at bank-full flow or level. C1 waters and their tributaries are afforded a 300-foot buffer. In addition, as required under N.J.A.C. 7:15-5.20(b)3, the proposed FWSA map text indicates that development in riparian zones, or designated river areas, may be subject to special regulation under Federal or State statutes or rules. Riparian zones or buffers are established along all surface waters, based on the surface water body's classification designated at N.J.A.C. 7:9B, under the following regulations: the Flood Hazard Area Control Act rules, the Stormwater Management rules, and the Water Quality Management Planning rules. Most development within these riparian zones is limited by these regulatory programs.

In accordance with N.J.A.C. 7:15-5.24(b)4, areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not included in the proposed sewer service area, except as provided under N.J.A.C. 7:15-5.24(e) through (h).

In accordance with N.J.A.C. 7:15-5.24(d), areas with Federal 201 grant limitations that prohibit the extension of sewers to serve development in these areas are excluded from the proposed sewer service area either where local mapped information exists delineating these areas, or through a narrative description where mapping does not exist. Where a narrative approach has been used, it is noted as text on the proposed FWSA map. Pre-existing grant conditions and requirements (from Federal and State grants or loans for sewerage facilities), which provide for restriction of sewer service to environmentally sensitive areas, are unaffected by adoption of this document and compliance is required.

As provided under N.J.A.C. 7:15-5.24(e) through (h), limited environmentally sensitive areas have been included in sewer service areas. Where applicable, Department Permits or Jurisdictional Determinations have been utilized to determine the extent of the sewer service area on individual lots.

The Department and Essex County have held numerous meetings with the public, municipal officials, and affected agencies over the past four years. Further, in accordance with Administrative Order No. 2010-03 (AO #2010-3) signed by Commissioner Martin, a public meeting was held on September 2, 2010, to allow public review and comment on the then-current draft of Essex County sewer service areas. As a result, the Department and the County have received continuous input from residents, municipal officials, and other affected agencies regarding mapping corrections and other issues.

This preliminary notice represents the Department's determination that the County's proposed sewer service area is in compliance with the regulatory criteria for identifying sewer service areas pursuant to N.J.A.C. 7:15-5.24 and 5.25. In accordance with P.L. 2011, c. 203, the Department will accept site specific amendment and revision applications for those areas covered by this proposed amendment. Information regarding application for these amendments and revisions can be found at <http://www.nj.gov/dep/wqmp/applications.html>.

Approval of this amendment would not eliminate the need for any permits, approvals, or certifications required by any Federal, State, County, or municipal review agency with jurisdiction over any project/activity. Approval of this amendment does not provide any implied approval for any other aspects of any project or needed permits and approvals.

This notice is being given to inform the public that a plan amendment has been proposed for the Northeast WQM Plan. All information related to the WQM Plan, and the proposed amendment is located at the Department, Division of Coastal and Land Use Planning, 401 East State Street, P.O. Box 420, Mail Code 401-07C, Trenton, New Jersey 08625. The Department's file is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An

appointment to inspect the documents may be arranged by calling the Division of Coastal and Land Use Planning at (609) 984-6888.

A public hearing to discuss the proposed changes in sewer service area designation for Essex County, has been scheduled for February 7, 2013, in the Essex County Department of Public Works Public Meeting Room, 900 Bloomfield Avenue, Verona, New Jersey 07044 from 6:00 P.M. to 8:30 P.M. or close of testimony, whichever comes first.

Interested persons may submit written comments on the proposed amendment to WQM Program Docket, Division of Coastal and Land Use Planning, at the Department of Environmental Protection, P.O. Box 420, Mail Code 401-04H, Trenton, New Jersey 08625-0420, with a copy sent to Joseph Stanley at Hatch Mott MacDonald, 27 Bleeker Street, Millburn, New Jersey 07041. All comments must be submitted within 15 days following the public hearing. All comments submitted prior to the close of the comment period shall be considered by the Department in reviewing the amendment request.