

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND USE PLANNING

PROPOSED AMENDMENT TO THE UPPER DELAWARE, UPPER RARITAN AND
NORTHEAST WATER QUALITY MANAGEMENT PLANS

Public Notice

Take notice that the New Jersey Department of Environmental Protection (Department) is seeking public comment on a portion of a proposed amendment to the Upper Delaware, Upper Raritan, and Northeast Water Quality Management Plans. In particular, the Department is seeking public comment on that portion of the proposed amendment for areas within the Upper Delaware, Upper Raritan, and Northeast Water Quality Management Plans (all portions of Morris County with the exception of those portions of Jefferson Township, Mount Arlington Borough, Mount Olive Township, and Netcong Borough that are located in the Sussex County Water Quality Management [WQM] Planning Area.) As indicated below, a separate public hearing and comment period will be scheduled in accordance with the Sussex County WQM Plan on that portion of the proposed amendment for areas within the Sussex County WQMP Planning Area. A map of the boundary locations of the WQMP areas and the respective municipalities is available for review on the Department website under Featured Topics at: <http://www.nj.gov/dep/wqmp/wmpnotices.html>.

This amendment proposal, submitted on behalf of the Board of Chosen Freeholders of Morris County as the responsible Wastewater Management Planning Agency, would adopt a future wastewater service area map for Morris 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), Morris County New Jersey", will supersede all wastewater service area mapping currently contained in the WQM Plan for areas within Morris County and areas served by wastewater treatment facilities located within Morris 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 Plans.

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 Water Quality Management Planning Rule (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, 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, Natural Heritage Priority Sites, Category One (C1) special water resource protection areas, and wetlands, alone or in combination. These environmentally sensitive areas are not included in the proposed sewer service area except as noted below.

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 Division of Fish and Wildlife's

Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, 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) – (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 with N.J.A.C. 7:15-5.24(g)2, the Department determined the environmentally sensitive area 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) – (h).

In accordance with N.J.A.C. 7:15-5.24(b)3, areas identified as special water resource protection areas along Category One 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) – (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. Category One waters, their tributaries and all Highlands waters, 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 Highlands Water Protection and Planning 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) – (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) – (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.

In recognition of the New Jersey Highlands Council's authority within the Highlands Region, pursuant to the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et. seq. (Highlands Act), Highlands Act rules (N.J.A.C. 7:38), and the WQMP rule at N.J.A.C. 7:15-3.10, the Highlands Council will be provided an opportunity to review WQM Plan amendments and revisions within the Highlands Region.

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/wmpnotices.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 Upper Delaware, Upper Raritan, and Northeast WQM Plans. 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 all portions of Morris County, with the exception of the those portions of Jefferson Township, Mount Arlington Borough, Mount Olive Township, and Netcong Borough that are located in the Sussex County WQM Planning Area, has been scheduled for August 13, 2012 in the Morris County Library Public Meeting Room, 30 East Hanover Avenue, Whippany, NJ 07981 from 5:30pm to 8:00pm or close of testimony, whichever comes first.

Interested persons may submit written comments on the this 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 Ms. Christine Marion, Planning Director, Morris County Department of Planning and Development, Morris County Planning Board, PO Box 900, Morristown, New Jersey 07963-0900. 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.

An additional public hearing and comment period, in accordance with the Sussex County WQM Plan approved amendment procedures, on the proposed amendment for those portions of

the Morris County FWSA Map located within the Sussex County WQM Planning Area will be scheduled and independently noticed at a later date.