

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

DIVISION OF COASTAL AND LAND USE PLANNING

Proposed Amendment to the Mercer County 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 Mercer County Water Quality Management (WQM) Plan. This amendment, submitted by the Mercer County Board of Chosen Freeholders, as both the Wastewater Management Planning Agency for Mercer County and the designated WQM Planning Agency for the Mercer County WQM Planning Area, proposes a Wastewater Management Plan (WMP) for Mercer County. This amendment has been prepared pursuant to the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Quality Management Planning rules, N.J.A.C. 7:15, and P.L. 2011, c. 203. This WMP will replace all previously adopted municipal and municipal utility authority WMPs in Mercer County as well as areas outside of Mercer County served by wastewater treatment facilities located within Mercer County which have been included as part of an adopted WMP. The only exception will be East Windsor Township, Pennington Borough, and Robbinsville Township, which have adopted municipal WMPs that still remain in effect, and which are adopted by reference as the appropriate municipal chapters in the Mercer County WMP.

The proposed WMP 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 WMP also evaluates future wastewater treatment needs, water supply demands, and nonpoint sources of pollution.

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 modifications. 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 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. Finally, P.L. 2011, c. 203, expires on January 17, 2014, and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and implementing regulations require that full county-wide WMP updates be completed pursuant to the requirements set forth in N.J.A.C. 7:15.

The proposed WMP modifies existing sewer service areas and areas served by individual subsurface sewage disposal systems in existing plans in a variety of instances. Regarding the major changes to sewer service area and treatment plants

that are in the WMP, the Significant Action section discusses the modification to certain sewer service areas based on environmental sensitivity and local planning objectives. Specifically, Map 2M and 3M in each municipal chapter shows the changes in sewer service area as a result of this proposed WMP. Additionally, in Hopewell Township, a Discharge to Groundwater (DGW) for Stony Brook Watershed Association Educational Center and a DGW for Pennytown Redevelopment Area are being proposed. No other significant changes are proposed as part of this WMP.

The Department and Mercer 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 December 15, 2010, to allow public review and comment on the then-current draft of Mercer County sewer service area. 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.

In accordance with N.J.A.C. 7:15-5.24, environmentally sensitive areas have been assessed to determine what areas must be excluded 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 wildlife species as identified on the Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, Natural Heritage Priority Sites, Category One 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 wildlife species habitat, the Department utilized the Division of Fish and Wildlife's Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species (Landscape Project). 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).

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 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) through (h). Pursuant to N.J.A.C. 7:8-5.5(h), a 300-foot buffer 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 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 (N.J.A.C. 7:13), the Highlands Water Protection and Planning Act rules (N.J.A.C. 7:38), the Stormwater Management rules (N.J.A.C. 7:8), and the Water Quality Management Planning rules (N.J.A.C.

7:15). Most development within these riparian zones is regulated by these 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).

Pursuant to N.J.A.C. 7:15-5.24(c), certain coastal planning areas, not applicable here, must also be excluded from sewer service area. Specifically, there are no Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Areas in the Mercer County WQM planning area.

In accordance with N.J.A.C. 7:15-5.24(d)1, areas with Federal 201 grant limitations that prohibit the extension of sewers 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, except as provided under N.J.A.C. 7:15-5.24(f)1. Where a narrative approach has been used, it is noted as text on the applicable mapping. 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 these amendments and compliance is required. The Stony Brook Regional Sewerage Authority is the only sewerage facility in Mercer County where USEPA 201 Grant Waivers are required.

In addition to the environmentally sensitive areas with Federal 201 grant limitations that prohibit the extension of sewers identified under N.J.A.C. 7:15-5.24(d)1, there are other special restricted areas, not applicable here, which must also be excluded from sewer service area pursuant to N.J.A.C. 7:15-5.24(d)2

through 4. Specifically, there are no beaches, coastal high hazard areas, or dunes in the Mercer County WQM planning area.

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.

In accordance with N.J.A.C. 7:15-5.25(d), an environmental build-out analysis (build-out analysis) was performed to determine the existing and future wastewater treatment needs of each sewer service area and the specific treatment alternatives proposed to meet those needs. This analysis is intended to ensure that there will be sufficient capacity to accommodate future need. This build-out analysis was conducted for all parcels within the existing and proposed sewer service areas. Projected wastewater flow was calculated in accordance with N.J.A.C. 7:14A-23.3 based upon the current municipal zoning and included potential development of all remaining non-environmentally constrained parcels of vacant land and any existing parcels currently served by individual subsurface sewage disposal systems that are located within the proposed sewer service area and not currently provided sanitary sewer service. Environmentally constrained areas have been excluded from the sewer service area for purposes of projecting wastewater flow, and include wetlands, floodways, and stream corridors. The existing wastewater flow and calculated projected wastewater flow were combined to determine the total projected wastewater flow for each sewer service area.

The build-out analysis in this amendment demonstrates that the potential wastewater generation from each sewer service area does not exceed the permitted capacity for the associated treatment facility, except for the Stony

Brook Regional Sewerage Authority – River Road Sewage Treatment Plant, the Stony Brook Regional Sewerage Authority – Hopewell Sewerage Treatment Plant, and the Ewing Lawrence Sewerage Authority. As stated previously, 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 modifications. 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. 7:15-5.25(e), a build-out analysis was performed to evaluate the groundwater impacts for the development of those areas that are outside of the proposed sewer service area and are to be served by individual subsurface sewage disposal systems with wastewater planning flows of 2,000 gallons per day or less (septic systems). A nitrate dilution model developed by the Department was applied to estimate the minimum lot size necessary to support conformance with the ground water quality standards. With the adoption of the July 7, 2008, amendments to the Ground Water Quality Standards (GWQS) rules at N.J.A.C. 7:9C, as well as the re-adoption of the WQM Planning rules at N.J.A.C. 7:15, areas that are designated for individual subsurface sewage disposal

systems (septic areas) must achieve a planning standard of 2 mg/L nitrate on a hydrologic unit code (HUC) 11 watershed basis. It is, therefore, necessary to determine how much development relying on ground water disposal of wastewater can be supported on a HUC 11 watershed basis within the planning area while attaining this planning standard, using one of the nitrate dilution models described in the WQM Planning rules at N.J.A.C. 7:15-5.25(e)1i. Achieving the planning standard ensures that existing ground water quality will be maintained on a regional basis, thus ensuring compliance with the amended antidegradation policy in the GWQS rules. The analysis was performed by Mercer County for the nitrate target of 2.0 mg/L and resulted in minimum required lot sizes in each HUC 11 watershed. The analysis determined that under current municipal zoning regulations, potential development densities will result in attainment of 2.0 mg/L nitrate in ground water on a HUC 11 watershed basis, and therefore comply with the requirements of N.J.A.C. 7:15-5.25(e).

In accordance with N.J.A.C. 7:15-5.25(f), a build-out analysis was performed to evaluate whether the water supply needs can be met with existing, new or expanded water supplies that do not conflict with the currently adopted New Jersey State Water Supply Plan (NJWSP). The current NJWSP was adopted in August 1996. Pursuant to N.J.A.C. 7:15-5.25(f), the Water Use Analysis demonstrated that the existing water allocation permit(s) for the water supply purveyors within Mercer County meet existing use, could serve future build-out as projected for this WMP, and do not conflict with the current NJWSP adopted as a WQMP amendment for withdrawals due to ecological or salt water intrusion concerns.

In accordance with N.J.A.C. 7:15-5.25(g), an assessment of nonpoint source pollution impacts of planned future development was conducted. In order to

demonstrate that ground water recharge shall be maintained and stormwater runoff quality shall be controlled in accordance with the requirements of the Stormwater Management rules, N.J.A.C. 7:8, Mercer County municipalities have adopted stormwater management plans and ordinances that conform with the requirements of N.J.A.C. 7:8.

In order to demonstrate that environmental standards for riparian zones are met, Mercer County municipalities adopted riparian zone protections in ordinances that prevent new disturbance for projects or activities along Category One streams, except as provided at N.J.A.C. 7:15-5.25(g)3i and ii. Stream corridor buffers for other water body classifications set forth in the Surface Water Quality Standards at N.J.A.C. 7:9B-1.15 that are not established by some of the ordinances, are otherwise established along all surface waters, based on the surface water body's classification, under the following regulations: the Flood Hazard Area Control Act rules (N.J.A.C. 7:13), the Highlands Water Protection and Planning Act rules (N.J.A.C. 7:38), and the Stormwater Management rules (N.J.A.C. 7:8). Most development within these riparian zones is regulated by these programs. The Department will continue to work with these municipalities to incorporate comprehensive stream corridor classifications and buffers into their ordinances.

In order to demonstrate that environmental standards for steep slopes are met, Mercer County municipalities have adopted steep slope ordinances that protect steep slopes from new disturbance for projects or activities, except as provided at N.J.A.C. 7:15-5.25(g)6i and ii.

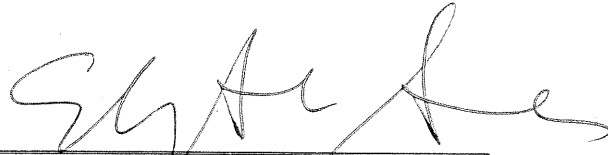
Approval of this amendment would not eliminate the need for any permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over any project/activity. Approval of this

amendment would 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 Mercer County WQM Plan. All information related to the WQM Plan and the proposed amendment is located at the Mercer County Planning Division, 640 South Broad Street, P.O. Box 8068, Trenton, New Jersey 08650-0068. The Department's file is available 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 on the proposed amendment will be held on Wednesday, April 10, 2013, in the community center room at the Ewing Senior and Community Center, 999 Lower Ferry Rd., Ewing Township, New Jersey 08628 from 7:00 P.M. to 9:00 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 address cited above, with a copy sent to Ms. Donna Lewis, Planning Director, Mercer County Planning Division, at the address cited above. All comments must be submitted within 15 days following the April 10, 2013, public hearing. All comments submitted prior to the close of the comment period shall be considered by the Department in reviewing the amendment request.



Elizabeth Semple, Manager
Division of Coastal and Land Use Planning
Department of Environmental Protection

2/7/13

Date