

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION COASTAL AND LAND USE PLANNING

Proposed Amendment to the Lower Raritan/Middlesex County Water Quality Management Plan

Public Notice

Take notice that the Department of Environmental Protection (Department) is seeking public comment on a proposed amendment to the Lower Raritan/Middlesex County Water Quality Management (WQM) Plan. This amendment proposes a Future Wastewater Service Area (FWSA) Map for Middlesex County. The proposed amendment was submitted on behalf of the Board of Chosen Freeholders of Middlesex County as the responsible wastewater management planning agency pursuant to the WQM Planning rules, N.J.A.C. 7:15, and P.L. 2011, c. 203, as amended and supplemented by P.L. 2013, c.188, which permits the wastewater management planning agency to prepare and submit to the Department at least that portion of a wastewater management plan (WMP) designating sewer service area (SSA) which complies with the Department's regulatory criteria. The proposed map, titled "Future Wastewater Service Areas, Middlesex County New Jersey," would supersede all wastewater service area mapping for Middlesex County currently contained in the Lower Raritan/Middlesex County WQM Plan, which have been included as part of an adopted WMP.

Two FWSA maps for Middlesex County were previously proposed but not adopted. The first proposed amendment was published in the New Jersey Register on May 6, 2013, at 45 N.J.R. 1189(a). The first proposed FWSA map included Monroe Township; however, prior to the scheduled public hearing, Middlesex County issued a revised public notice in the Home News, the Courier News, the Trenton Times, and the Star Ledger newspapers for the hearing stating that the proposal was only for the FWSA map for that portion of Middlesex County within the

Lower Raritan/Middlesex County WQM Planning area with the exception of Monroe Township. A public hearing was held on June 5, 2013. The public comment period ended on June 20, 2013.

The second proposed amendment, which included Monroe Township and made other amendments to the initial proposal, was published in the New Jersey Register on October 7, 2013, at 45 N.J.R. 2272(a). A public hearing on the second proposed amendment was held on November 12, 2013, by the Middlesex County Board of Chosen Freeholders. The public comment period on the Middlesex County WQM Plan closed 15 days later on November 27, 2013. However, the Middlesex County Board of Chosen Freeholders, as the designated planning agency, did not approve the amendment within 60 days, as required by their adopted procedures.

In this current proposal, Middlesex County has determined to proceed with the inclusion of Monroe Township in the FWSA map and has also determined to, again, make some amendments to the initially submitted and proposed FWSA map. As such, the FWSA map for Middlesex County is being repropose and the public notice and comment process is being reinitiated. As discussed further below, this public notice will begin a new 30-day public comment period, including a new public hearing, to accept public comment on the proposed amendment. All comments submitted during the comment period and at the public hearing on the previous notice shall also be considered by the Department in reviewing the current amendment proposal.

The proposed FWSA 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 SSA to exclude environmentally sensitive areas that are not currently connected to sewer systems. Additionally, the map removes areas from SSA based on local planning objectives, and also includes areas previously excluded from SSA based on local planning objectives. This amendment only modifies the wastewater service area mapping portions of the above referenced WQM Plan.

Pursuant to P.L. 2011, c. 203, as amended and supplemented by P.L. 2013, c.188, the Department, in consultation with the applicable wastewater management planning agency, may approve the inclusion of land within a SSA 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 SSA 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. Finally, P.L. 2011, c. 203, as amended and supplemented by P.L. 2013, c.188, shall expire on January 17, 2016, or upon the adoption of rules or regulations that the Department specifically states in a notice in the New Jersey Register are intended to obviate the need for the provisions of P.L. 2011, c.203 and meet the purposes of the “Water Quality Planning Act,” P.L. 1977, c.75 (C.58:11A-1 et seq.), whichever is earlier.

The Department and Middlesex County have held numerous meetings with the public, municipal officials, and affected agencies over the past five years. Further, in accordance with Administrative Order No. 2010-03 (AO #2010-3) signed by Commissioner Martin, a public meeting was held on July 21, 2010, to allow public review and comment on the then-current draft of Middlesex County SSA. 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 from the proposed SSA. 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, version 2.1. Areas identified by the Landscape Project as being suitable habitat for threatened and endangered species are not included in the proposed SSA 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 SSA, 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 SSA, 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 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 (N.J.A.C. 7:13), the Stormwater Management rules (N.J.A.C. 7:8), and the WQM 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 SSA, 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 SSA. Specifically, SSA is not proposed in any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Areas.

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 SSA 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 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 these amendments and compliance is 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 SSA 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 Lower Raritan/Middlesex 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 SSAs. Where applicable, Department permits or jurisdictional determinations have been utilized to determine the extent of the SSA on individual lots.

This preliminary notice represents the Department's determination that the County's proposed SSA is in compliance with the regulatory criteria for identifying SSA pursuant to N.J.A.C. 7:15-5.24 and 5.25. In accordance with P.L. 2011, c. 203, as amended and supplemented by P.L. 2013, c.188, upon adoption of this proposed amendment, 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 Lower Raritan/Middlesex County WQM Plan. All information related to the WQM Plan and the proposed amendment is located at the Department, 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 9:00 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling Coastal and Land Use Planning at (609) 984-6888.

A public hearing to discuss the proposed changes in SSA designation for Middlesex County has been scheduled for Monday, November 24, 2014, in the Freeholders' Public Meeting Room, 1st Floor, of the new Middlesex County Administration Building located at John F. Kennedy Square, 75 Bayard Street, New Brunswick, New Jersey, from 5:30 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, 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. Mirah Becker, P.P., Supervising Planner, Middlesex County Planning Department, at 40 Livingston Avenue, New Brunswick, New Jersey 08901. 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.