

DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

PROPOSED AMENDMENT TO THE UPPER DELAWARE 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 Upper Delaware Water Quality Management (WQM) Plan. This amendment proposal, submitted on behalf of the Township Council of the Township of Pohatcong, as the responsible Wastewater Management Planning agency for the Township pursuant to N.J.A.C. 7:15-5.13, proposes to adopt a Pohatcong Township municipal Wastewater Management Plan (WMP). This proposed amendment has been prepared pursuant to the New Jersey Water Quality Management Planning Act, N.J.S.A. 58:11A-1 et seq., the WQM Planning rules, N.J.A.C. 7:15 and the New Jersey Highlands Council's Highlands Regional Master Plan (RMP).

Pohatcong Township, located entirely in both the Highlands Preservation Area and Highlands Planning Area, as delineated by the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. (Highlands Act), has agreed to conform to the RMP developed and adopted by the Highlands Council in accordance with the Highlands Act and to the Plan Conformance process adopted by the Highlands Council. The Highlands Council has approved the Township's petition for Plan Conformance through Resolution

#2011-23. One of the conditions applicable to each municipality that agrees to conform to the RMP for the entire municipality is the development of a municipal WMP, or municipal chapter of a County WMP, as appropriate, in compliance with the RMP and N.J.A.C. 7:15. The proposed WMP chapter was drafted by the Highlands Council with the Township's consent for adoption provided for through a resolution dated September 15, 2015.

This proposed amendment provides for a Pohatcong Township municipal WMP that identifies wastewater service designations within the municipality. The municipal WMP designates as Future Sewer Service Area areas within the municipality that are currently served, or are planned to be served in the future, by public wastewater treatment facilities or individual NJPDES permitted treatment facilities, and additionally, identifies areas as Septic Areas (those areas with Planning Flows of 2,000 Gallons per Day (GPD) or less). All of the Sewer Service Area (SSA) identified in the proposed municipal WMP is served by the Phillipsburg Sewer Treatment Plant (STP) (NJ0024716), a municipal facility that also provides wastewater treatment to Phillipsburg Town, Alpha Borough, Lopatcong Township and Greenwich Township, all within the Highlands Region, and having an approved and operative total permitted system capacity of 3.5 million gallons per day (MGD).

Major actions included in the proposed WMP consist of providing sewer service to the designated Pohatcong Township Highlands Center and adjusting the previously adopted sewer service area applicable to the Hamptons at Pohatcong via a Map Adjustment. The

approved Petition for Plan Conformance for Pohatcong Township was accompanied by designation of a Highlands Center, the Pohatcong Township Highlands Center. This Highlands Center is located within developed and partially developed areas north and east of the Borough of Alpha, including an industrial zone east of Alpha. The approved Petition for Plan Conformance was also accompanied by approval of a Map Adjustment for Block 93, Lots 4 and 5, the site location for the Hamptons at Pohatcong, a locally-approved inclusionary housing development. The Map Adjustment provides sewer service area designation to a portion of Lot 5, with the remainder of Lot 5 and all of Lot 4 subject to conservation restrictions.

The proposed municipal WMP evaluates the ability of facilities to satisfy current and future wastewater treatment needs, as well as water supply demands of planned development and potential impacts from nonpoint sources of pollution. This proposed amendment has been reviewed in accordance with the Water Quality Management Planning Rules that provide the environmental review standards to be applied to an amendment for a WMP at N.J.A.C. 7:15-5.18, N.J.A.C. 7:15-5.24, and N.J.A.C. 7:15-5.25.

Pursuant to N.J.A.C. 7:15-5.24(a) the area of proposed sewer service was assessed to determine the presence of any environmentally sensitive, coastal planning and special restricted areas as defined at N.J.A.C. 7:15-5.24(b) through (d), respectively. Generally, such areas must be excluded from the proposed SSA, except as provided for under N.J.A.C. 7:15-5.24(e) through (h).

Pursuant to N.J.A.C. 7:15-5.24(b), environmentally sensitive areas (ESA) are defined as any contiguous area 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, special water resource protection areas along Category One waters and their tributaries, and wetlands, alone or in combination.

In accordance with N.J.A.C. 7:15-5.24(a), ESA have not been included in the proposed SSA except for that portion assigned to Block 93, Lot 5, which is associated with the Hamptons at Pohatcong development. The ESA within that area is comprised solely of breeding habitat for the Upland Sandpiper, which, according to the Department's Landscape Project, version 3.1, is a State endangered species.

The Hamptons at Pohatcong is an inclusionary affordable housing development that has been, and continues to be, the subject of court oversight in a case titled EAI Investments, L.L.C. v. Township of Pohatcong, Docket Nos.: HNT-L-507-90; HNT-L-1244-01; HNT-L-625-04. The development was the subject of a May 7, 2012 amendment to the Upper Delaware WQM Plan (see 44 N.J.R. 1730(a)) and allowed for 242 residential units, generating in total 69,750 gallons per day of wastewater, and clustered on 45 acres of the combined 170 acres comprising Block 93, Lots 4 & 5. Further, the amendment did not identify on site any ESA as defined at N.J.A.C. 7:15-5.24(b), as an older version of the Department's Landscape Project was in effect at the time the project review was completed and the Department decided to proceed with the amendment pursuant to

N.J.A.C. 7:15-3.4(g)2.iii. The Department began to use version 3.1 of its Landscape Project starting February 12, 2012, which was after the January 17, 2012 publication of the notice of proposed amendment to the Upper Delaware WQM Plan (See 44 N.J.R. 184(a)).

Pursuant to N.J.A.C. 7:15-5.24(c), coastal planning areas are defined as those areas identified on the CAFRA Planning Map as Coastal Fringe Planning, Coastal Rural Planning, or Coastal Environmentally Sensitive Planning. In accordance with N.J.A.C. 7:15-5.24(a) and (c), coastal planning areas are not included in the proposed SSA.

Pursuant to N.J.A.C. 7:15-5.24(d), special restricted areas are defined as those areas in which Federal 201 grant limitations prohibit the extension of sewer service; beaches, as defined at N.J.A.C. 7:7E-3.22; coastal high hazard areas, as defined at N.J.A.C. 7:7E-3.18; and dunes, as defined at N.J.A. 7:7E-3.16. In accordance with N.J.A.C. 7:15-5.24(a) and (d), special restricted areas are not included in the proposed SSA.

In accordance with N.J.A.C. 7:15-5.25(a) and (b), the proposed WMP was reviewed for compliance with the requirements for existing and future wastewater treatment needs, water supply demands, and nonpoint sources of pollution, pursuant to N.J.A.C. 7:15-5.25(c) through (g), respectively.

In accordance with N.J.A.C. 7:15-5.25(c) and the RMP, an environmental build-out analysis (build-out analysis) was developed for the existing and proposed sewer service

area in the Township on a hydrologic unit code (HUC) 14 basis. The build-out analysis was performed to project wastewater flow for both undeveloped and underdeveloped parcels within the existing and future SSA. Environmentally constrained areas have been excluded for purposes of projecting wastewater flow. Wastewater flows were calculated by applying the appropriate criteria listed at N.J.A.C. 7:14A-23.3 and the current municipal zoning to all remaining non-environmentally constrained parcels of vacant land, underdeveloped residential and commercial property, and any existing parcels currently served by individual subsurface sewage disposal systems (ISSDSs) that are located within the adopted SSA and not currently provided sanitary sewer service. The build-out flow was estimated to be 0.21522 million gallons per day (MGD) and includes that from the planned Highlands Center, 0.126 MGD, and the Hamptons at Pohatcong development, 0.06975 MGD.

Pursuant to N.J.A.C. 7:15-5.25(d) an analysis was performed to assess the existing and future wastewater treatment capacity of the Phillipsburg STP, the only public wastewater treatment plant serving the Township. The existing total wastewater flow for that facility was calculated to be 2.465 million gallons per day (MGD) based on the average of the monthly metered flow over the 12 month period ending December 31, 2014, as reported to the Department in the Discharge Monitoring Reports (DMRs) received for the Phillipsburg STP. The proportion of total flow contributed by Pohatcong Township over the same period was 0.2779 MGD. This existing wastewater flow volume and the projected future additional wastewater flow, derived from the build-out analysis, as described above, were combined to determine the total projected future wastewater flow

from the SSA within Pohatcong Township to be treated by the Phillipsburg STP. This information was then utilized to assess whether that facility has sufficient capacity remaining to accommodate the Township's future wastewater treatment demand.

The analyses performed pursuant to N.J.A.C. 7:15-5.25(c) and (d) as described above demonstrate that the Phillipsburg STP has 1.035 MGD of total wastewater treatment capacity remaining to serve the future additional wastewater needs of all of the contributing municipalities. Further, Pohatcong Township's maximum contracted wastewater flow to the Phillipsburg STP is 0.540 MGD, of which 0.2621 MGD remains available for the Township's future additional wastewater treatment needs. Those needs have been projected to be 0.21522 MGD and do not cause the Township's contracted conveyance capacity to be exceeded.

The proposed WMP incorporates a nitrate dilution analysis in accordance with N.J.A.C. 7:15-5.25(e) and the RMP to evaluate the groundwater impacts and septic system density on a HUC 14 basis from potential development of those areas outside future sewer service area (FSSA). The Nitrate Dilution Model, developed by the Department, was applied on a HUC 14 basis using the following Nitrate targets for the respective land use capability zones as identified in the RMP: 2 mg/l within the Community Zone, 1.87 mg/l within the Conservation Zone, and 0.72 mg/l within the Protection Zone. These targets are equivalent to or more stringent than the requirements at N.J.A.C. 7:15. Utilizing these targets, the model estimates the minimum lot size necessary to comply with the ground water quality standards within the HUC 14. This analysis indicated the potential

for 27 new residential units in the Preservation Area and 26 new residential units in the Planning Area to be served by individual septic systems.

Approval of development served by septic systems in the Highlands Region will be regulated by the Highlands Act rules, N.J.A.C. 7:38. Further, any project involving a septic system outside of the FSSA must have approval under the septic density provisions of the adopted Highlands Land Use/Checklist Ordinance pursuant to the Highlands Council approval of the Township's Petition for Plan Conformance. Because any project approved pursuant to the provisions of the Highlands Land Use/Checklist Ordinance must first demonstrate consistency with the RMP, the applicable septic system density requirements are deemed to be in accordance with the septic density requirements of N.J.A.C. 7:15. However, where the development activity is exempt from the Highlands Act or receives a Highlands Preservation Area Approval from NJDEP, such development shall be in conformance with N.J.A.C. 7:15-5.25(e) regarding septic system densities. Consequently, the Department concluded that groundwater quality will be protected.

A Water Use Analysis performed pursuant to N.J.A.C. 7:15-5.25(f) indicated two Department-regulated water supply purveyors serving the Township through existing water allocation permits: Alpha Municipal Water Works (PWSID #2102001); and Aqua NJ Water Company-Phillipsburg (PWSID #2119001). The current approved water allocation capacities for these utilities are 13 and 182.65 million gallons per month (MGM), respectively. The septic system density/build-out (non-sewered and sewer) analysis identifies the Township's total projected future (new) water demand as 0.000

MGM for the Alpha system, which has a 1.195 MGM available water supply deficit, and 2.209 MGM for the Aqua system, which has a 35.111 MGM available water supply excess. Consequently, there will be no projected impact within the Township's portion of the Alpha system and the future water demand within the Township's portion of the Aqua system can be met within the existing remaining allocation.

The Nonpoint Source Pollution Impact Analysis – Stormwater Standards, as required at N.J.A.C. 7:15-5.25(g)(1), indicated that the Township of Pohatcong has adopted the required stormwater management ordinance in compliance with its NJPDES MS4 stormwater permit (Ordinance #06-6). Consequently, adoption of this ordinance by Pohatcong Township ensures compliance with the performance standards of the Stormwater Management rules, N.J.A.C. 7:8.

The Nonpoint Source Pollution Impact Analyses – Riparian Corridor and Steep Slopes, as required at N.J.A.C. 7:15-5.25(g)(2)-(6), indicated that the Township of Pohatcong has adopted the Highlands Land Use/Checklist Ordinance, which is more stringent than the NJDEP model ordinances. Adoption of this ordinance by Pohatcong Township (Ordinance #15-12) is in compliance with the Plan Conformance approval of the Highlands Council.

The Highlands Land Use/Checklist Ordinance ensures protection of the riparian corridors along all perennial and intermittent streams and lakes within the Township. Pursuant to the RMP and the Highlands Land Use/Checklist Ordinance, Highlands open water

buffers extend to 300 feet from the top of bank (or centerline of a first order stream where no bank is apparent). This requirement applies to all Highlands Open Waters within the Highlands Region, regardless of stream classification in the Surface Water Quality Standards at N.J.A.C. 7:9B. Such buffers will be regulated through the adopted Highlands Land Use/Checklist Ordinance, which is equivalent to or more stringent than the Department's riparian zone standard contained in the Flood Hazard Control Act rules (N.J.A.C. 7:13), Stormwater Management rules (N.J.A.C. 7:8), and Water Quality Management Planning rules (N.J.A.C. 7:15). Consequently, the Riparian Corridor protection standards have been met.

Further, the adopted Highlands Land Use/Checklist Ordinance addresses steep slopes for gradients 10 percent or greater. This protection is more stringent than the requirements at N.J.A.C. 7:15-5.25(g)(6). Consequently, the Steep Slope protection requirements have been met.

This proposed amendment represents only one part of the permit process and other issues may need to be addressed prior to final permit issuance. These issues may include, but are not limited to, the following: compliance with stormwater regulations; antidegradation; effluent limitations; water quality analysis; exact locations and designs of future treatment works; development in wetlands and flood prone areas, or other environmentally sensitive areas which are subject to regulation under Federal or State statutes or rules. Approval of this amendment does not eliminate the need for any permits, approvals or certifications required by any Federal, State, County or municipal review agency with jurisdiction over this project/activity.

Sewer service to any particular project is subject to contractual arrangements between municipalities, authorities and/or private parties, and is not guaranteed by this amendment.

This notice is being given to inform the public that a plan amendment has been proposed for the Upper Delaware WQM Plan. All information relating to the WQM Plan and the proposed amendment is located at the Department, Office of Water Resources Management Coordination, P.O. Box 420, Mail Code 401-02A, 401 East State Street, 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 the Office of Water Resources Management Coordination at (609) 777-4349.

Interested persons may submit written comments on the amendment to WQM Program Docket, Office of Water Resources Management Coordination, at the Department address cited above with a copy sent to the Township of Pohatcong, c/o Casey Ezyske, Natural Resource Management Specialist, of the New Jersey Highlands Council, 100 North Road, Chester, NJ 07930. All comments should reference Program Interest No. 435437, Activity No. WMP150003 and must be submitted within 30 days of the date of this public notice. All comments submitted prior to the close of the comment period shall be considered by the Department in reviewing the amendment request.

Interested persons may request in writing that the Department hold a non-adversarial public hearing on the amendment or extend the public comment period in this notice up to 30 additional days. These requests should reference Program Interest No. 435437, Activity No. WMP150003 and must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must also be submitted within 30 days of the date of this public notice to WQM Program Docket at the Department address cited above. If a public hearing is held, the public comment period in this notice shall be extended to close 15 days after the public hearing.

Colleen Kokas, Director
Office of WRM Coordination
Department of Environmental Protection

Date