

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

DIVISION OF COASTAL AND LAND USE PLANNING

Adopted Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that on **APR 17 2013**, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Water Quality Management Planning rules, N.J.A.C. 7:15, the Department of Environmental Protection (Department) adopted an amendment to the Northeast Water Quality Management (WQM) Plan. This amendment adopts a Future Wastewater Service Area (FWSA) map for the Borough of Pompton Lakes, Passaic County.

The proposal for this amendment was published in the New Jersey Register on September 4, 2012, at 44 N.J.R. 2206(b) and appeared in The Star Ledger on the same date. The public comment period for the proposed amendment to the Northeast WQM Plan closed 30 days following the publication of the notice.

The proposed amendment was submitted on behalf of the Borough of Pompton Lakes, as the responsible Wastewater Management Planning Agency. The proposed amendment was submitted to the Department 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 (WMP) designating sewer service area (SSA), which shall comply with the Department's regulatory criteria. The adopted map, titled "Future Wastewater Service Area Map, Borough of Pompton Lakes, Passaic

County NJ, Amending the Northeast Water Quality Management Plan" will supersede all wastewater service area mapping currently contained in the WQM Plan for the Borough of Pompton Lakes, including that which was adopted into the WQM Plan as part of an approved WMP.

The adopted 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 adopted FWSA map modifies the previously approved SSAs to exclude environmentally sensitive areas (ESAs) that are not currently connected to sewer systems. Additionally, the map removes areas from sewer service based on local planning initiatives, 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, 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 modification. Therefore, amendments to update a SSA 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 WMP updates be completed pursuant to the requirements set forth in N.J.A.C. 7:15.

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 adopted SSAs. Pursuant to N.J.A.C. 7:15-5.24, ESAs are described 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, versions 2.1 and 3.0 (Landscape Project), as applicable. Areas identified by the Landscape Project as being suitable habitat for threatened and endangered species are not included in the adopted SSAs, 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 adopted SSAs, 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 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 open waters, are afforded a 300-foot buffer. In addition, as required under N.J.A.C. 7:15-5.20(b)3, the adopted 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 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 adopted 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, there are no Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Areas in the Northeast 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 to serve development in these areas are excluded from the adopted 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 adopted 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 ESAs, are unaffected by adoption of this document and compliance is required.

In addition to the ESAs 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 Northeast WQM planning area.

As provided under N.J.A.C. 7:15-5.24(e) through (h), limited ESAs 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.

In accordance with N.J.A.C. 7:15-3.10, the Highlands Water Protection and Planning Council (Council) was provided an opportunity to review and comment on the proposed amendment within the Highlands Region for consistency with the adopted Regional Master Plan (RMP). In correspondence dated September 27, 2012, the Council advised the Borough of Pompton Lakes that the proposed amendment is consistent with the RMP when a Water Use and Conservation Management Plan (WUCMP) is adopted for the deficit HUC 14 watersheds identified within the Borough of Pompton Lakes, pursuant to Executive Order 114 (Corzine). In correspondence dated April 8, 2013, the Council supplemented and clarified the earlier correspondence noting that the Council consents to the adoption of the proposed amendments with the understanding that when a full

WMP for the Borough of Pompton Lakes is submitted to the Department for review, a WUCMP will need to be adopted for deficit HUC 14 subwatersheds.

The notice of this amendment proposal was published in the New Jersey Register on September 4, 2012, at 44 N.J.R. 2206(b). The Department received comments from the Pompton Lakes Municipal Utility Authority (PLMUA) during the comment period.

The PLMUA requested that the Department include in the SSA on the FWSA map several fully developed lots currently connected to the sanitary sewer system along the border of Pompton Lakes Borough and Wanaque Township. The PLMUA provided the Department with specific customer parcel information demonstrating that the following nine fully developed parcels, excluded from the SSA in the proposed FWSA map, are currently served by PLMUA: two parcels (Block 102, Lots 2 and 3) in the vicinity of Ringwood Avenue near the municipality boundary with Wanaque Township; four parcels (Block 902, Lots 1 thru 4) located at the intersections of Ackerman Place and Short Street; and three lots (Block 900, Lots 14 thru 16) situated at Midland Avenue and Short Street. In addition, the proposed FWSA line bifurcated a fully developed parcel (Block 1000, Lot 3) located on Federal Hill Road near the border of Wanaque Township. As all of these lots are developed and connected to the sanitary sewer, the PLMUA requested that the map be adjusted to include the entirety of these lots within the SSA on the FWSA map when adopted by the Department.

Upon review of the PLMUA's comments requesting modification to the FWSA map, the Department has determined that the requested modifications can be made upon adoption of this amendment pursuant to N.J.A.C. 7:15-3.4(g)9ii because the Department has determined that such corrections are minor changes and not substantial changes to the proposed amendment. Minor changes do not

effectively destroy the value of the public notice of the proposed amendments and are technical/administrative corrections or modifications. Substantial changes include those changes to the proposed amendment which the Department has determined would enlarge or curtail who and what will be affected by the proposed amendment, change what is being prescribed, proscribed, or otherwise mandated by the proposed amendment, or enlarge or curtail the scope of the proposed amendment and its burden on those affected by it. Thus, changes which would enlarge or curtail which properties would be affected by the adopted FWSA map and/or the way in which properties would be affected by the adopted FWSA map would be considered substantial. Making such substantial changes on adoption would effectively destroy the value of the public notice and, thus, a new notice and public comment period are required prior to consideration of such changes pursuant to the process set forth in N.J.A.C. 7:15-3.4. As the changes requested by the PLMUA are technical/administrative corrections or modifications which do not effectively destroy the value of the public notice of the proposed amendment, the requested corrections to the FWSA map have been made upon adoption of this amendment.

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.



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4/17/13

Date