

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Title of Rule: Rules Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Onsite Wastewater Treatment Systems

Rule Identifier: 250-RICR-150-10-6

Rulemaking Action: Proposed Amendment

Important Dates:

Date of Public Notice: February 18, 2022

End of Public Comment: March 21, 2022

Rulemaking Authority:

R.I. Gen. Laws Chapter 42-17.1 Environmental Management; Chapter 5-56 Installers of Individual Sewage Disposal Systems; Chapter 5-56.1 Designers of and Chapter 23-19.15 Rhode Island Cesspool Act of 2007

Summary of Rulemaking Action:

This rule change is necessary to make the OWTS Rules (250-RICR-150-10-6) consistent with the recently adopted "Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act" (Freshwater Wetlands Rules) (250-RICR-150-15-3), which go into effect July 1, 2022. The proposed changes are listed below.

Section 6.8 Definitions

6.8(A)(38) The definition of "freshwater wetland" has been deleted and replaced with the definition from the Freshwater Wetlands Rules. The definition of a freshwater wetland is now limited to the wetland resource itself, which includes, but is not limited to, marshes, swamps, bogs, emergent and submergent plant communities, rivers, streams, ponds, and vernal pools. The definition no longer includes any surrounding regulated area, which was formerly referred to as perimeter wetlands and riverbank wetlands.

6.8(A)(84) "Tributary wetland" has been changed to "tributary freshwater wetland."

6.8(A)(89) The definition of "watercourse" has been changed as follows:

"Watercourse" means any freshwater wetlands, coastal wetlands as defined in R.I.G.L. 46-23-6-2(iii)(E), river, stream, brook, pond, lake, swamp, marsh, bog, fen, wet meadow, area subject to storm flowage, or any other standing or flowing body of water, including such watercourses that may be affected by the tides.

Section 6.9(F) Prohibitions

The term "jurisdictional area" (as defined in the Freshwater Wetlands Rules) has been added to the prohibition regarding installation of leachfields in areas designated as freshwater wetlands. Adding jurisdictional area here maintains the same approach used in the existing OWTS Rules wherein the definition of a freshwater wetland includes the wetland proper and the surrounding regulated area.

Section 6.16(C)(4)

The phrase "any watercourse, wetlands, or surface water bodies" has been changed to "any watercourse" since the definition of "watercourse" includes wetlands and surface water bodies.

Section 6.19(B)(11)

The phrase "all watercourses, wetlands" has been changed to "all watercourses".

Section 6.20(A)(1) and (1)(b)

The term "jurisdictional area" (as defined in the Freshwater Wetlands Rules) has been added in both instances to describe the potentially affected area in order to maintain the same approach used in the existing OWTS Rules wherein the definition of a freshwater wetland includes the wetland proper and the surrounding regulated area.

Section 6.20(A)(1)(c)

The phrase "joint OWTS/Freshwater Wetlands application" has been replaced with "joint OWTS/Freshwater Wetlands Permit application" since "Freshwater Wetlands Permit" is the new name for a specific type of application that is acceptable under the provision for a joint application.

Section 6.20(A)(3)

The phrase "any wetland or watercourse" has been changed to "any watercourse."

Section 6.23(C)

In the Drinking Water Supply Watershed Critical Resource Area setback table, the term "freshwater" has been added to the terms "adjacent wetlands" and "tributary wetlands."

Section 6.23(D)

In the Salt Pond and Narrow River Critical Resource Area setback table, the term "freshwater" has been added to "tributary wetlands."

Section 6.24(A)

"Freshwater" has been added to the reference to the "DEM Wetlands Program."

Section 6.37(C)(1)(f)

The term "buffer" is incorrectly used here since it now has a specific definition in the Freshwater Wetlands Rules. Buffer is replaced here with "setback."

Section 6.42(C)(3)

In the description of the drinking water supply critical resources areas, Bristol County Water Authority has been deleted from the list of public water systems with a drinking water supply reservoir because the Kickemuit Reservoir is no longer an active source of supply.

Section 6.51(E)

The phrase "surface waters, wetlands" has been changed to "watercourse."

Section 6.51(F)(1)

“Freshwater” has been added to the term “tributary wetlands.”

Section 6.53(F)(3)(c)

“Watercourse” is used to replace “body of water or wetland.”

Section 6.54(B)

In 3 parts of the Fee Table, the phrase “joint OWTS/Freshwater Wetlands application” has been replaced with “joint OWTS/Freshwater Wetlands Permit application” since “Freshwater Wetlands Permit” is the new name for a specific type of application that is acceptable under the provision for a joint application.

Section 6.60 and Section 6.61 (Figures 2 and 3)

The term “buffer” is deleted in the key since it now has a specific definition in the Freshwater Wetlands Rules.

Section 6.91 Figure 33

Figure 33 has been replaced with a map that no longer includes the Bristol County Water Authority Kickemuit Reservoir.

Additional Information and Public Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until March 21, 2022 by contacting the appropriate party at the address listed below:

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In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by a governmental agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of the publication of this notice.

Regulatory Analysis Summary and Supporting Documentation:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

For full regulatory analysis or supporting documentation contact the agency staffperson listed above.