

ENVIRONMENTAL PROTECTION

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

**Adopted Amendments to the Atlantic County, Cape May County, Lower Delaware, Ocean County,
and Tri-County Water Quality Management Plans**

Public Notice

Take notice that on **JAN 15 2016**, 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 (WQM) Planning rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted amendments to the Atlantic County, Cape May County, Ocean County, Lower Delaware, and Tri-County WQM Plans. The Department, as provided at N.J.A.C. 7:15-3.4(c) and (g), adopted these amendments to modify sewer service area (SSA) boundaries depicted on the Future Wastewater Service Area (FWSA) maps adopted by the Department for Atlantic County on November 6, 2013 (see 45 N.J.R. 2499(a)), Burlington County on May 7, 2013 (see 45 N.J.R. 1415(a)), Camden County on June 18, 2013 (see 45 N.J.R. 1856(a)), Cape May County on November 6, 2013 (see 45 N.J.R. 2488(a)), Cumberland County on January 15, 2015, the non-consolidated portion of Gloucester County on September 4, 2013 (see 45 N.J.R. 2268(b)), the consolidated portion of Gloucester County on December 8, 2008 (see 41 N.J.R. 671(a)), and Ocean County on February 7, 2013 (see 45 N.J.R. 474(b)). In recognition of the nature and scope of the New Jersey Pinelands Commission's (Commission) oversight and regulation of land use and development within the Pinelands Area, and for purposes of implementing the Department's WQM Planning rules at N.J.A.C. 7:15, the Department and the Commission executed a Memorandum of Understanding (MOU),

dated April 9, 2012, to establish a framework pursuant to which the Department's WQM Planning rules will be administered in the Pinelands Area. The adopted amendments will modify the Sewer Service Area SSA delineation in portions of the counties within the Pinelands Area in order to be consistent with the Pinelands Comprehensive Management Plan (CMP).

For consistency with the CMP and the MOU, the Department deems all lands located within a Pinelands Village, Pinelands Town, Regional Growth Area, substantially developed portions of a Military and Federal Installation Area, and any other area designated by the Commission for the development of centralized waste water treatment and collection facilities to either address a public health problem in accordance with N.J.A.C. 7:50-6.84(a)2 or pursuant to a memorandum of agreement executed in accordance with N.J.A.C. 7:50-4.52(c), to be within an SSA. The boundaries of these areas are specified in geographic information system (GIS) coverage provided by the Commission and may include environmentally sensitive areas (ESAs) as described in N.J.A.C. 7:15-5.24(b). In recognition, however, of the Commission's oversight and regulation in the Pinelands Area and pursuant to the MOU, the Department shall not require the removal of ESAs from SSAs in these areas.

The adopted changes modify the SSAs designated on the aforementioned FWSA maps to add areas to the SSA, falling within the terms of the MOU that are not currently within an SSA, and to remove areas from an SSA where the CMP would not authorize sewer service within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Ocean Counties. Areas adopted for removal from an SSA are not located within a Pinelands Village, Pinelands Town, Regional Growth Area or substantially developed portions of a Military and Federal Installation Area, nor are they designated by the Commission for the development of centralized waste water treatment and collection facilities pursuant to either N.J.A.C.

7:50-6.84(a)2 to address a public health problem or a memorandum of agreement pursuant to N.J.A.C. 7:50-4.52(c) of the CMP.

The mapping changes adopted by the Department more exactly align SSA boundaries with the management area designations and boundaries established by the Commission within the Pinelands Area. For example, where the previous extent of an SSA did not extend to the centerline of a roadway which forms the limit of a designated area boundary established by the Commission, the adopted map change moves the SSA limit from the edge of a parcel boundary to a road centerline, perhaps 10 or 15 feet. Additionally, in accordance with the MOU, all lands within designated management areas in the Pinelands Area, including, but not limited to, rivers, airport runways, cemeteries, public open space, and other existing land uses/types which are not customarily included in the SSA, are now within SSA. The effect of these changes will be that the SSA boundaries in the adopted FWSA maps will align with the management area designations and boundaries established by the Commission. These adopted changes result in the addition of 13,003 acres to SSA throughout the affected counties and the removal of 1,070 acres from SSAs, as discussed below.

The following lands within Regional Growth Areas are now included in an SSA; in Atlantic County, 277 acres are added to SSAs within Egg Harbor, Hamilton, and Galloway Townships; in Burlington County, 201 acres are added to SSAs within Evesham, Medford, Pemberton, Shamong, Southampton and Tabernacle Townships, and Medford Lakes Borough; in Camden County, 70 acres are added within Berlin, Waterford and Winslow Townships, and Berlin and Chesilhurst Boroughs; in Gloucester County, 256 acres are added to SSAs within Monroe Township; and in Ocean County, 2,269 acres are added to

SSAs within Barnegat, Berkeley, Jackson, Manchester, Ocean, Stafford, and Toms River Townships, and Beachwood and South Toms River Boroughs.

The following lands within Pinelands Towns are now included in an SSA: in Atlantic County, 39 acres are added to SSAs within Buena Vista, Galloway and Mullica Townships, Egg Harbor City, Hammonton Town and Buena Borough; in Burlington County, 0.1 acres are added to the SSA within Wrightstown Borough; in Cape May County, 0.1 acres are added to the SSA within Woodbine Borough; and in Ocean County, 476 acres are added to SSAs within Manchester Township and Lakehurst Borough.

The following lands within Pinelands Villages are now included in an SSA: in Atlantic County, 149 acres are added to SSAs within Buena Vista, Galloway, Hamilton, Mullica and Weymouth Townships, Estell Manor and Port Republic Cities and Folsom Borough; in Burlington County, 92 acres are added to SSAs within Bass River, Pemberton, Shamong, Southampton, Tabernacle, Washington and Woodland Townships; in Camden County, 51 acres are added to SSAs within Waterford and Winslow Townships; in Cape May County, 31 acres are added to SSAs within Upper and Dennis Townships; in Cumberland County, 2,703 acres added to an SSA within Maurice River Township; and in Ocean County, 1,812 acres are added to SSAs within Barnegat, Jackson, Lacey, Little Egg Harbor, Manchester, Ocean and Stafford Townships.

The following lands within substantially developed portions of Military and Federal Installation Areas are now included in an SSA: in Atlantic County, 298 acres of the Atlantic City Airport and FAA Technical Center are added to SSAs within Egg Harbor, Galloway, and Hamilton Townships; in Burlington County

2,797.3 acres of the Joint Base McGuire-Dix-Lakehurst (JBMDL) are added to SSAs within New Hanover, North Hanover, Pemberton and Springfield Townships, and Wrightstown Borough; in Ocean County, 1,348.4 acres of the JBMDL are added to SSAs within Jackson, Manchester and Plumsted Townships, and Lakehurst Borough.

The following lands within areas designated by the Commission for the development of centralized wastewater treatment and collection facilities pursuant to either N.J.A.C. 7:50-6.84(a)2 to address a public health problem or a Memorandum of Agreement established by the Commission pursuant to N.J.A.C. 7:50-4.52(c) are now included in an SSA: in Atlantic County 93 acres of a Rural Development Area in Galloway Township and 4 acres of a Forest Area in Buena Vista Township are added to SSAs.

Approximately 1,070 acres of land are removed from SSAs depicted on the FWSA maps previously adopted by the Department in Atlantic, Burlington, Camden, Cape May, Gloucester, and Ocean Counties. These lands have been removed from SSAs because they are located outside of Pinelands Villages, Pinelands Towns, Regional Growth Areas, and substantially developed portions of Military and Federal Installation Areas, and the Commission has not otherwise designated these areas for the development of centralized wastewater treatment and collection facilities.

The following lands within substantially developed portions of Military and Federal Installation Areas have been removed from an SSA; 5 acres of land within JBMDL in Pemberton Township in Burlington County and Manchester Township in Ocean County.

In the Preservation Area District of Atlantic County, 0.1 acres of land are removed from an SSA within Mullica Township. In the Preservation Area District of Burlington County, 10.8 acres of land are removed from the SSAs in Bass River, Shamong, Washington, and Woodland Townships. In the Preservation Area District of Ocean County, 3.3 acres of land are removed from an SSA in Manchester Township.

In Agricultural Production Areas of Atlantic County, 4.1 acres are removed from SSAs within Buena Vista Township, Hammonton Town, Buena and Folsom Boroughs. In Agricultural Production Areas of Burlington County, 7.5 acres are removed from SSAs within Pemberton, Southampton, Shamong and Tabernacle Townships. In Agricultural Production Areas of Camden County, 25.1 acres are removed from SSAs within Waterford and Winslow Townships. In Agricultural Production Areas of Gloucester County, 80.1 acres are removed from the SSA within Monroe Township.

In the Special Agricultural Production Areas of Burlington County, 0.5 acres of land are removed from SSAs in Washington and Woodland Townships.

In Forest Areas of Atlantic County, 79 acres of land are removed from SSAs within Buena Vista, Galloway, Hamilton, Mullica and Weymouth Townships, and Egg Harbor and Estell Manor Cities, Hammonton Town and Folsom Borough. Included in these adopted changes are four existing single family dwellings that are connected to a sewage collection and treatment system. The parcels lie along the north eastern shore of Lake Lenape in Hamilton Township, Atlantic County, specifically Block 588, lots 64, 65, 75.01 and 75.02. The Commission has represented to the Department that the Commission will not seek to physically remove the sewer system connections for these properties. In Forest Areas of

Burlington County, 5.1 acres are removed from SSAs within Pemberton, Southampton and Medford Townships. In Forest Areas of Camden County, 3.5 acres are removed from SSAs within Waterford and Winslow Townships. In the Forest Area of Cape May County, 116 acres are removed from the SSA within Dennis Township. In the Forest Area of Gloucester County, 14 acres are removed from the SSA within Monroe Township. In Forest Areas of Ocean County, 52.4 acres are removed from SSAs within Barnegat, Jackson, Manchester, Ocean and Stafford Townships. Included in these adopted changes are four existing single family dwellings that are connected to a sewage collection and treatment system. The parcels front Hilltop Street in Manchester Township, Ocean County, and are known as Block 82.01, lots 62, 63, 65.01 and 66.01. The Commission has represented to the Department that the Commission will not seek to physically remove the sewer system connections for these properties.

In Rural Development Areas of Atlantic County, 39 acres are removed from SSAs within Buena Vista, Galloway, Hamilton, and Mullica Townships and Folsom Borough. In Rural Development Areas of Burlington County, 26 acres are removed from SSAs within Bass River, Evesham, Medford, Pemberton, Shamong, Southampton and Tabernacle Townships, and Medford Lakes Borough. In Rural Development Areas of Camden County, 133 acres are removed from SSAs within Berlin, Waterford and Winslow Townships. In Rural Development Areas of Cape May County, 6.7 acres are removed from the SSA within Dennis Township. In Rural Development Areas of Gloucester County, 313.2 acres are removed from SSAs within Franklin and Monroe Townships. In Rural Development Areas of Ocean County, 144 acres are removed from SSAs within Jackson and Manchester Townships.

These amendments were previously proposed but not adopted. The first proposed amendment was published in the New Jersey Register on July 22, 2014, at 46 N.J.R. 1720(a). However, there were

procedural flaws with the first proposal. The proposal did not allow for a 30-day notice of the public hearing in accordance with WQMP rules. Designated Planning Agencies were also not properly notified and did not give formal consent to having the Department initiate the amendment to the respective WQMPs. Additionally, the affected counties were not notified in accordance with WQMP rules. All of these factors required the Department to re-open the public comment period and properly notify the Designated Planning agencies and counties. The notice of this amendment was published in the New Jersey Register on April 6, 2015 at 47 N.J.R. 739(a). A public hearing concerning this proposal was held on Wednesday, May 13, 2015 at the Richard J. Sullivan Center for Environmental Policy and Education, 15C Springfield Road, New Lisbon, New Jersey, 08562. Comments were received from the open public comment period and the public hearing and are summarized below with the Department's responses. The public comment period ended on May 28, 2015.

The following people provided comments on at least one of these two amendments during the applicable comment period:

Number - Commenter Name, Affiliation:

1. Margit Meissner-Jackson, Sierra Club
2. Jeff Tittle, Sierra Club, New Jersey Chapter
3. Carol Ann Short, New Jersey Builders Association
4. Michele R. Donato, Save Barnegat Bay, INC
5. Mark Demitroff, Buena Vista (Richland), NJ resident
6. Pam Carlsen, Matawan, NJ resident
7. Frank E. Callahan, Barnegat, NJ resident
8. John F. Luard, Locust, NJ resident

9. Linda Roseman, Freehold, NJ resident
10. Phil Nosca, Manalapan, NJ resident
11. Joyce Kuschwara, Brick, NJ resident
12. MaryLou Miekley, Toms River, NJ resident
13. Carleton Montgomery, Pinelands Preservation Alliance
14. Carolyn Heuser, Freehold, NJ resident
15. Donald Frederickson, Ocean County resident
16. Britta Wenzel, Save Barnegat Bay
17. Bill Wolfe, Bordentown, NJ resident
18. Theresa Lettman, Pinelands Preservation Alliance

1. Comment: Commenter questions the motives and impartiality of a Pinelands Commission staff member who worked with the Department to ensure that SSA boundaries in the Pinelands Area were delineated in accordance with the 2012 Memorandum of Agreement between the Department and the Commission. (5)

Response: Comments of this nature should be directed to the State Ethics Commission for review. They are not within the purview of the Department.

2. Comment: The commenter objects to the SSA boundaries in the Pinelands Area because they include all lands located in Pinelands Villages. The commenter asserts that this violates the 1999 Memorandum of Agreement between the Pinelands Commission and the State Planning Commission, because doing so

equates Pinelands Villages with Centers of Place and/or Priority Growth Zones where public sewer and water are required. (5)

Response: The Department is adopting SSA boundaries in the Pinelands Area that are fully consistent with the Pinelands Comprehensive Management Plan and the 2012 Memorandum of Agreement between the Department and the Pinelands Commission. Pinelands Villages have been included in the SSA in recognition of the fact that they are areas in which sewer service is permitted by Pinelands regulations. The 1999 Memorandum of Agreement between the Pinelands Commission and the State Planning Commission is irrelevant to this WQMP amendment. All Pinelands Villages are eligible for sewer service pursuant to Pinelands regulations, whether they are viewed as Villages, Hamlets, Centers of Place or Priority Growth Zones by the State Planning Commission. Neither the Department nor the Commission requires that development in Pinelands Villages be served by public sewer or public water. The same is true for Pinelands Towns and Pinelands Regional Growth Areas, two other Pinelands management areas being included as SSAs. Some Pinelands Towns and Regional Growth Areas currently have public sewer, some have plans for sewer service in the future and some may never be sewerred. They are all areas eligible for sewer service under the Pinelands Comprehensive Management Plan and are simply being recognized as such by the Department.

3. Comment: The commenter refers to a number of OPRA requests filed with the Department, the Pinelands Commission and Buena Vista Township concerning the effects of the SSA changes on his property, as well as various emails he sent to Department and Commission staff and a meeting he had with the Commission's Executive Director. While the exact nature of his objection is unclear, the

commenter is concerned that his property (Block 4802, Lot 2 in Buena Vista Township, Atlantic County) may have been included in the SSA. (5)

Response: The commenter's property is unaffected by the adopted SSA changes. His property was not included in the SSA previously and it is not included now. It remains in a Pinelands Forest Area, where sewer service is not permitted under the Pinelands Comprehensive Management Plan. The SSA map amendments displayed on the Department's website were not to scale as some amendments were too small to see at the county-level mapping. This may have led the commenter to believe a portion of his property was being added to the SSA. For future SSA amendments and revisions, the Department will produce and make available maps that more clearly depict the affected areas so as to avoid further confusion.

4. Comment: The commenter asserts that the Department cannot in good conscience support measures that further undermine the goals of the Pinelands Comprehensive Management Plan. (5)

Response: The corrected SSA boundaries in the Pinelands Area are fully consistent with and supportive of the goals of the Comprehensive Management Plan. In adopting the corrected maps, the Department is assuring that the SSA boundaries align with the appropriate Pinelands management area boundaries.

5. Comment: The commenter questions whether the 2012 Memorandum of Understanding between the Department and the Commission gives either or both agencies the "unilateral" ability to add lands to the SSA, particularly lands that are in a Pinelands Forest or Rural Development Area. (5)

Response: Pursuant to the 2012 Memorandum of Understanding, SSA boundaries in the Pinelands Area are to coincide with the boundaries of Pinelands Regional Growth Areas, Pinelands Villages, Pinelands Towns and the substantially developed portions of Military and Federal Installation Areas. These are the Pinelands management areas within which sewer service is permitted under the Pinelands Comprehensive Management Plan. Lands in other Pinelands management areas, such as the Pinelands Forest and Rural Development Areas, are included in the SSA only where the Commission has approved an application to extend sewer service to existing development for purposes of addressing a documented public health problem pursuant to N.J.A.C. 7:50-6.84(a)2. or if they have been designated for sewer service pursuant to an intergovernmental agreement executed by the Commission in accordance with N.J.A.C. 7:50-4.52(c). The 2012 Memorandum of Understanding does not provide the Department with the authority to add other lands outside the Regional Growth Areas, Pinelands Villages, Pinelands Towns or substantially developed portions of a Military and Federal Installation Area to the SSA or approve a Water Quality Management Plan amendment that does so. Such an approval would be inconsistent with the Pinelands Comprehensive Management Plan and the Pinelands Protection Act. Additionally, the Pinelands Commission does not have the ability to change SSA boundaries. The Commission only has the authority to approve changes in Pinelands management area boundaries (for example, the expansion of a Regional Growth Area) in accordance with the procedures set forth in the CMP. Only the Department has the authority to adopt changes to the SSA, and this must be done pursuant to N.J.A.C. 7:15 and in a manner consistent with the Pinelands CMP.

6. Comment: Commenter is opposed to the changes to the SSA for various reasons and believes that since the Department did not perform proper environmental analysis (i.e. Secondary Impact Analysis or Groundwater Depletion Analysis, impacts of storm water runoff and non-point pollution.), the adopted

amendments inappropriately allow for SSA in environmentally sensitive areas. Therefore, the commenter asserts the Department is in violation of the Clean Water Act, Pinelands Protection Act, State Department and Redevelopment Plan, Water Quality Plan, and Administrative Procedure Act. (2, 4, 5, 11, 12, 17, & 18)

Response: The Department and the Pinelands Commission entered into an MOU to effectuate coordination between the agencies regarding SSA delineation in the “Pinelands Area” as defined by N.J.S.A. 13:18A-11. As part of the Continuing Planning Process (“CPP”) required by the Water Quality Planning Act, N.J.S.A. 58:11A-7, the Department is required to integrate and unify the statewide and areawide water quality management planning processes and is required to coordinate and integrate the CPP with related Federal, State, regional and local comprehensive, functional and other relevant planning activities, programs and policies. The Pinelands Commission is the planning entity authorized in Section 502 of the “National Parks and Recreation Act of 1979,” and is an independent political subdivision of the State of New Jersey created pursuant to Section 4 of the Pinelands Protection Act, N.J.S.A 13:18A-1 et seq. (“PPA”), charged with implementing the requirements of the PPA, which include establishing minimum standards for the development and the use of land in the Pinelands Area.

Per the terms of the MOU and, again, in recognition of the nature and scope of the Commission’s planning, regulation and oversight of land use and development in the Pinelands Area, the Department has not removed ESAs from Regional Growth Areas, Pinelands Towns, Pinelands Villages, substantially developed portions of a Military and Federal Installation Area or any other area where the Commission has permitted the development of centralized wastewater treatment and collection facilities in accordance

with N.J.A.C. 7:50-6.84(a)2 to address a public health problem or pursuant to a Memorandum of Agreement executed by the Commission in accordance with N.J.A.C. 7:50-4.52(c).

ESAs, as described at N.J.A.C. 7:15-5.24(b), are contiguous areas of 25 acres or larger consisting of areas of wetlands, threatened and endangered wildlife species habitat, Special Water Resource Protection Area buffers around designated Category 1 streams and/or Natural Heritage Priority Sites. There are no designated Category 1 streams in the Pinelands Area and therefore no Special Water Resource Protection Area buffers. Thus, this type of ESA is not present in the Pinelands Area.

Each of the remaining types of ESAs described at N.J.A.C. 7:15-5.24(b) occur within some portion of the lands located in a Pinelands Regional Growth Area, Pinelands Town or Pinelands Village. However, where an ESA may occur within a Pinelands Area SSA, the regulatory provisions of the CMP will ensure such areas are adequately protected. Natural Heritage Priority Sites identify areas with populations of threatened and endangered flora and fauna. Within the Pinelands Area, threatened and endangered flora and fauna populations are specifically afforded regulatory protection. N.J.A.C. 7:50-6.33 provides that "No development shall be carried out unless it is designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of those threatened or endangered animal species designated by the Department Environmental Protection pursuant to N.J.S.A. 23:2A-1 et seq." N.J.A.C. 7:50-6.27 provides that "No development shall be carried out by any person unless it is designed to avoid irreversible adverse impacts on the survival of any local populations of those plants designated by the Department of Environmental Protection as endangered plant species pursuant to N.J.A.C. 7:5C-5.1 as well as the following plants (see listing at N.J.A.C. 7:50-6.27) which are hereby found and declared to be threatened or endangered plants of the Pinelands." The Commission's regulatory jurisdiction over the

protection of threatened and endangered flora and fauna habitats applies to the development of any new sewage producing structure and any subsequent development served by such infrastructure.

Wetlands are a vital component of the Pinelands ecosystem, and transition areas to protect them have been in place since the CMP was adopted in 1980. The regulatory protections afforded to wetlands and transition areas adjacent to wetlands are specified at N.J.A.C. 7:50- 6.1 through 6.14. The CMP notes at N.J.A.C. 7:50-6.6 that “development shall be prohibited in all wetlands and wetlands transition areas established pursuant to N.J.A.C. 7:50-6.14 in the Pinelands except as specifically authorized in this Part.” In addition, the CMP provides at N.J.A.C. 7:50-6.14 that “No development, except for those uses which are specifically authorized in this subchapter, shall be carried out within 300 feet of any wetland, unless the applicant has demonstrated that the proposed development will not result in a significant adverse impact on the wetland, as set forth in N.J.A.C. 7:50-6.7.”

Together, the aforementioned provisions of the CMP ensure that ESAs within a Pinelands Regional Growth Area, Pinelands Town, Pinelands Village or substantially developed portion of a Military and Federal Installation will be subject to appropriate site specific review, evaluation and protection.

7. Comment: Commenter asserts that this adopted amendment did not allow for a proper public comment period and the department does not have the authority to adopt changes in seven counties, and thus is in violation of the Water Quality Plan Act and Administrative Procedure Act. (2, 4, & 11)

Response: The Department recognizes that with the original Public Notice published in the NJ Register on July 22, 2014, a proper public comment period was not established. Therefore, a second Public

Notice was published in the NJ Register on April 6, 2015 and a second public hearing was scheduled in accordance with 7:15-3.4(g)5. That hearing was held on May 13, 2015, with a public comment period extending through May 28, 2015. As such, the Department has complied with the Water Quality Plan Act and Administrative Procedure Act. Additionally, the Department does have the authority to adopt changes statewide. (See N.J.A.C. 7:15-2.3(a)).

8. Comment: Commenter asserts that these changes to the SSA will result in more impervious surface, more run off, and thus more pollution. Commenter also asserts that these changes will increase development, causing an over pumping of the aquifers, lowering of the water table, drying out streams and wetlands, and having an adverse effect on Barnegat Bay.(1, 2, 7, 10, 11, 14, & 17)

Response: The development of any lands added to the SSA pursuant to this amendment remains subject to the land use and environmental standards of the Department and the CMP, including those related to residential density, stormwater management and wetlands protection. The CMP is “designed to promote orderly development of the Pinelands so as to preserve and protect the significant and unique natural, ecological, agricultural, archaeological, historical, scenic, cultural, and recreational resources of the Pinelands.” (See N.J.A.C. 7:50-1.3. and N.J.S.A. 13:18A-9.) As such, the Pinelands Commission regulates land use and development intensity and exercises development review authority over all development to be located within the Pinelands Area. In accordance with the PPA, N.J.S.A. 13:18A-8 and the Federal Act, 16 U.S.C. 471i(f), the Commission developed a comprehensive statement of policies for planning and managing development and land use in the Pinelands Area, the CMP, which includes land use and development intensity standards for various management areas, as well as site specific development standards.

The Commission is charged under the PPA to determine the amount of human development and activity certain ecosystems within the Pinelands Area can sustain, while still maintaining overall ecological values thereof, with special reference to ground and surface water quality and endangered, unique and unusual plant and animals and biotic communities. (See N.J.S.A. 13:18A-8(a)(1)). Further, the PPA requires the CMP to include a land use capability map and statements of policies for planning and managing development and land use which must consider a variety of land and water protection and management techniques, and regulate the use of land and water resources, among other things. Each management area is subject to different minimum standards for land use distribution and densities. (See N.J.A.C. 7:50-5.21 to 5.36). As such, the Commission has determined that certain areas are more compatible with growth and development than others.

In addition, the CMP allows for the installation of sewers in certain portions of the Pinelands Area, but does not require it. The designation of Regional Growth Areas, Pinelands Villages, Pinelands Towns and certain portions of the Military and Federal Installation Area as within SSAs provides the opportunity for sewers in these areas, but does not require or guarantee that sewers or a sewage collection system will be developed. The CMP identifies Pinelands Villages and Towns as “appropriate for infill, residential, commercial and industrial development that is compatible with their existing character.” (See N.J.A.C. 7:50-5.13(f)). The decision to provide public sanitary sewer service lies within the discretion and authority of each Pinelands municipality and is subject to compliance with the CMP. The designation of SSA enables those municipalities to explore the option of constructing sewerage infrastructure and/or a sewage collection system, including a package treatment plant. Any adopted

development of wastewater treatment works in the Pinelands Area is subject to the review and approval of the Pinelands Commission in accordance with the provisions of the CMP.

Therefore, the Department defers to the Pinelands Commission concerning the administration of the CMP and its substantive regulations with regard to the extension of sewage collection infrastructure, but notes that any new discharge of treated wastewater to ground or surface water cannot occur until a demonstration of compliance with the Department's New Jersey Pollutant Discharge Elimination System (NJPDES) and Treatment Works regulations has been made and all necessary and applicable permits are issued. The designation of SSA does not guarantee the provision of sanitary sewer service to an area, as any new or expanded wastewater treatment facility proposal must demonstrate compliance with State ground or surface water quality antidegradation effluent limitations, stormwater regulations, and the site specific design and function of any adopted wastewater treatment works.

9. Comment: Commenter is pleased that the Commission and the Department have coordinated in order to bring consistency in regards to wastewater planning and regulatory framework for the Pinelands Regions. (3)

Response: The Department acknowledges the comment.

10. Comment: Commenter states that a public notice was not published in Atlantic and Ocean County newspapers. (5 & 13)

Response: Notice of this amendment was published in the Courier Post on April 10, 2015 and April 8, 2015, The Press of Atlantic City on April 10, 2015, The South Jersey Times on April 9, 2015 and the Burlington Times on April 10, 2015. NJAC 7:15-3.4(g)3 requires that public notice be given for the proposed amendment in a newspaper of general circulation. The Department has made every effort to make this proposed amendment available to the public, including the publication in newspapers, in the New Jersey Register and on the DEP website.

11. Comment: Commenter is opposed to the amendment and states that no sewers, no pipelines, and no development should be allowed in the Pinelands as it recognized as a UNESCO Biosphere Reserve and therefore should be preserved. (6, 7, 9, & 12)

Response: The Commission is charged under the PPA to determine the amount of human development and activity certain ecosystems within the Pinelands Area can sustain, while still maintaining overall ecological values thereof, with special reference to ground and surface water quality and endangered, unique and unusual plant and animals and biotic communities. (See N.J.S.A. 13:18A-8(a)(1). Further, the PPA requires the CMP to include a land use capability map and statements of policies for planning and managing development and land use which must consider a variety of land and water protection and management techniques, and regulate the use of land and water resources, among other things. Each management area is subject to different minimum standards for land use distribution and densities. (See N.J.A.C. 7:50-5.21 to 5.36). As such, the Commission has determined that certain areas are more compatible with growth and development than others. It is these areas, the Regional Growth Area, Pinelands Towns and Pinelands Villages, that are included in the SSA by the Department and zoned for appropriate levels of development by Pinelands municipalities.

It is worth noting that of the 938,000 acres in the Pinelands Area, nearly 70 percent (660,000 acres) are located in areas designated by the Commission for conservation or agriculture. Only 13 percent or 124,000 acres are located in areas designated for growth (Regional Growth Areas, Pinelands Towns and Pinelands Villages). The land preservation efforts of the Commission, Department and numerous other governmental and non-profit organizations have resulted in the permanent protection of 460,000 acres in the Pinelands Area to date. Most of this protected land is located in designated conservation and agricultural areas. The amendments being adopted by the Department fully recognize the efforts of the Commission to protect and enhance the environmentally sensitive portions of the Pinelands Area by including only designated development areas in SSA.

12. Comment: Commenter is opposed to amending wastewater plans for the Pinelands due to the need to protect undeveloped lands. (8)

Response: The Department must allow for the expansion of sewer service area in all parts of the State when allowed under the regulations of the Water Quality Management Planning rules, N.J.A.C. 7:15. In the Pinelands Area, the Department must adopt wastewater plans and SSA boundaries that are consistent with the CMP. Areas being added to SSAs are already located in designated development areas in the Pinelands Area, and zoned for some level of residential or nonresidential development by Pinelands municipalities. The adopted SSA amendments do not open up new areas for development; they merely recognize existing development designations and zoning plans, while ensuring that lands in the environmentally sensitive and agricultural portions of the Pinelands Area (such as the Forest Area and Special Agricultural Production Area) remain outside the SSA.

13. Comment: Commenter argues that these amendments are without the consent of municipalities and WQMP rules require such consent.(13)

Response: The Department acknowledges the specific lack of consent to this amendment by municipalities within the Pinelands and notes that an applicant may be directed to seek consent from a specific list of governmental entities, sewerage authorities and BPU-regulated sewer and water utilities that may be effected by a proposed amendment. See N.J.A.C. 7:15-3.4 (g)4. Seeking consent is not a mandatory requirement. In this instance, the Department determined that the basis for not requesting consent from municipalities would substantially duplicate the previous actions related to management area designations and boundaries established by the Commission within the Pinelands Area.

14. Comment: Commenter asserts that by allowing environmentally sensitive areas into the SSA, it violates the WQMP rules and that there is no legal requirement for Pinelands Villages to be included in the SSA. The commenter asserts that the SSA designation conflicts with municipal zoning, and the SSA maps under consideration provide insufficient information to justify Department approval. (13 & 18)

Response: In recognition of the nature and scope of the Commission's planning, regulation and oversight of land use and development in the Pinelands Area and for purposes of implementing the WQM Planning Rules, N.J.A.C. 7:15, the Department and the Commission executed a MOU in 2012. In that MOU, the Department recognized the management area designations and boundaries established by the Commission in the Pinelands Area for purposes of delineating SSAs. The MOU provides that all lands located within a Pinelands Village shall be deemed to be within a SSA. The amendments being adopted merely ensure that the SSA boundaries align with Pinelands Village boundaries.

The MOU is an agreement between two State agencies, the Department and the Commission, intended to facilitate procedural aspects between the two agencies for WQM planning purposes. The CMP allows for the installation of sewers in Pinelands Villages, but does not require it. See N.J.A.C. 7:50-5.27. Consistent with the CMP, the Department is adopting amendments that locate Pinelands Villages in SSAs. Like the CMP, the designation of a Pinelands Village as within a SSA provides the opportunity for sewers, but does not require or guarantee that sewers or a sewage collection system will be developed. The CMP identifies Pinelands Villages as “appropriate for infill residential, commercial and industrial development that is compatible with their existing character.” See N.J.A.C. 7:50-5.13(f). The decision to provide public sanitary sewer service to a Pinelands Villages lies within the discretion and authority of each Pinelands municipality that has a Pinelands Village, subject to compliance with the CMP. The designation of SSAs in the Pinelands Villages enables those municipalities to explore the option of constructing sewerage infrastructure and/or a sewerage collection system, including a package treatment plant.

The Department defers to the Commission concerning the administration of the CMP and its substantive regulations with regard to the extension of sewerage collection infrastructure, but notes that any new discharge of treated wastewater to ground or surface water cannot occur until a demonstration of compliance with the Department’s New Jersey Pollutant Discharge Elimination System (NJPDDES) and Treatment Works regulations has been made and all necessary and applicable permits are issued. The designation of SSA does not guarantee the provision of sanitary sewer service to an area as any new or expanded wastewater treatment facility proposal must demonstrate compliance with State ground or surface water quality antidegradation effluent limitations, stormwater regulations, and the site specific design and function of any proposed wastewater treatment works.

Additionally, any proposed development of wastewater treatment works in the Pinelands is subject to review and approval by the Commission in accordance with the CMP. Should a municipality wish to increase permitted residential densities or the permitted intensity of nonresidential development in a Pinelands Village zoning district, such a change would require Commission review and approval to ensure that the zoning plan for that Pinelands Village remains consistent with the CMP. The CMP specifies that municipal zoning plans for Pinelands Villages may not provide for an additional increment of development that is greater than the number of principal structures that existed in the Pinelands Village in 1979. See N.J.A.C. 7:50-5.16. The designation of SSAs within Pinelands Villages does not authorize municipalities to change their zoning to permit additional development, beyond what has been approved by the Commission through its review and certification of municipal master plans and land use ordinances. It merely allows municipalities to retain the option of seeking to provide sewerage infrastructure in Pinelands Villages.

15. Comment: Commenter points out there were no exhibits (maps) present at public hearing. (17)

Response: There are no specific regulatory or statutory requirements for having exhibits at public hearings associated with WQMP amendments. However, the maps were available on the Department's website from the date this amendment was sent for public notice.

16. Comment: Commenter claims that the MOU between the Department and the Commission does not take into consideration the Statewide Master Plan for Water Supply.(18)

Response: This comment is beyond the scope of this amendment.

17. Comment: Commenter questions why the Village of Belleplain sewer service area in Dennis Township, Cape May County, does not match the Pinelands Village boundary. Commenter states that the sewer service area is larger than the Pinelands Village area certified by the Pinelands Commission. Commenter does not specify whether it is proposed sewer service area changes or the current sewer service area that they are referring to. (18)

Response: The SSA boundary depicted on the Future Wastewater Service Area (FWSA) map adopted by the Department for Cape May County on November 6, 2013 did not align with the Pinelands Village boundary for Belleplain. In order to correct the discrepancy, 16 acres are added to the SSA and 86 acres are removed from the SSA by these amendments. As a result of these changes, the SSA boundary matches the Pinelands Village boundary, which is consistent with the MOU.

Adoption of these amendments does 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 these amendments does not provide any implied approval for any other aspects of any project or needed permits and approvals. Further, 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 adopted map is available at the NJDEP's Office of Water Resources Management Coordination,
401 East State Street, Trenton, New Jersey or online at <http://www.nj.gov/dep/wqmp/wmpnotices.html>.



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

1-15-16

Date