

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

DIVISION OF COASTAL AND LAND USE PLANNING

Adopted Amendment to the Lower Delaware Water Quality Management Plan

Public Notice

Take notice that on ~~JUN 18 2013~~ pursuant to the provisions of the New Jersey Water Quality Planning Act (WQPA), N.J.S.A. 58:11A-1 et seq., the Statewide Water Quality Management (WQM) Planning rules, N.J.A.C. 7:15, and P.L. 2011, c. 203, the New Jersey Department of Environmental Protection (Department) adopted an amendment to the Lower Delaware WQM Plan. This amendment was submitted on behalf of the Board of Chosen Freeholders of Salem County as the responsible wastewater management planning agency 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.

Notice of the proposed amendment was published in the New Jersey Register on November 5, 2012, at 44 N.J.R. 2912(a). A public hearing was held on December 6, 2012, at the Ware Agricultural Office Complex in Woodstown, New Jersey. The public comment period closed on December 21, 2012.

Prior to the close of the public comment period, the Department was informed that the proposed amendment inadvertently included in SSA environmentally sensitive areas (ESAs), comprising a total of 887 acres, located in Carneys Point and Oldmans Townships which meet the Department's criteria for exclusion from SSA pursuant to the WQM Planning rules at N.J.A.C. 7:15-5.24. The Department has, therefore, adopted the amendment as proposed with the exception of these ESAs and is concurrently proposing in a separate notice in this issue of the New Jersey Register proposed corrections to the previously proposed amendment to exclude these ESAs from SSA and will be accepting public comment on the proposed corrections pursuant to N.J.A.C. 7:15-3.4(g)8i. The separate notice of proposed corrections to the previously proposed amendment discusses in more detail the ESAs in Carneys Point and Oldmans Townships which are being proposed for exclusion from SSA.

Additionally, the notice of the proposed amendment inadvertently indicated that the proposed map, titled "Future Wastewater Service Areas, Salem County New Jersey" would supersede all wastewater service area mapping currently contained in the WQM Plan for areas within Salem County, including that which was adopted into the WQM Plan as part of approved WMPs. However, as reflected by the SSA delineation for Pennsville Township on the proposed map, the proposed amendment did not amend the wastewater service area mapping adopted into the WQM Plan as part of the Pennsville Township WMP, approved on May 13, 2010. Thus upon adoption of this amendment, as was intended with this amendment, the Pennsville Township SSA on the FWSA map remains unchanged. However, because the proposal notice did not indicate that the Pennsville Township WMP would not be superseded by the proposed amendment, the Department has not adopted that portion of the FWSA map that incorporates the SSA delineation of

the Pennsville Township WMP. Rather, in accordance with N.J.A.C. 7:15-3.4(g)8i, the Department is concurrently proposing in a separate notice in this issue of the New Jersey Register proposed corrections to the previously proposed amendment to clarify that the proposed map does not supersede the wastewater service area mapping in Pennsville Township and to add a note to the area of the proposed map not adopted indicating that the Pennsville Township SSA as adopted in the Pennsville Township WMP is not included as part of the proposed amendment.

The adopted map, titled "Future Wastewater Service Areas, Salem County New Jersey," supersedes all wastewater service area mapping currently contained in the WQM Plan for areas within Salem County, with the exception, as discussed above, of Pennsville Township, which has a current, up to date WMP adopted May 13, 2010, and with the exception of those areas in Carneys Point and Oldmans Townships which are ESAs and are being proposed for exclusion from SSA pursuant to the WQM Planning rules at N.J.A.C. 7:15-5.24, as discussed in the notice of proposed correction to a proposed amendment to the Lower Delaware WQM Plan, published in this issue of the New Jersey Register.

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 map modifies the previously approved SSAs to eliminate 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 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, expires on January 17, 2014, and the WQPA, 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 Department and Salem County have held numerous meetings with the public, municipal officials, and affected agencies over the past four years. Further, in accordance with Administrative Order No. 2010-03 (AO #2010-3) signed by Commissioner Martin, a public meeting was held on March 22, 2011, to allow public review and comment on the then-current draft of the Salem 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, ESAs have been assessed to determine what areas are appropriately included in the adopted SSAs. Pursuant to N.J.A.C. 7:15-5.24, ESAs 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 (C1) 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 (Landscape Project). 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). As mentioned above, during the public comment period for the proposed amendment, the Department received comments that several areas in Carneys Point and Oldmans Townships that included ESAs greater than 25 acres were included in SSA. The Department acknowledges that these areas were inadvertently included in the FWSA and is proposing corrections that remove these areas from the FWSA in a separate notice in this issue of the New Jersey Register. Therefore, as also mentioned above, the portions of the map including these areas in SSA are not being adopted at this time.

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 adopted 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-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 and their tributaries 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 Stormwater Management rules (N.J.A.C. 7:38), 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 wetland 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) .

In accordance with N.J.A.C. 7:15-5.24(c), lands within certain coastal planning areas (Coastal Fringe, Coastal Rural, and Coastal Environmentally Sensitive Planning Areas) are not included in the adopted SSA, with some exceptions. Areas previously designated as SSA where wastewater collection infrastructure currently exists and where sewage producing structures are connected to the system remain in the SSA. In previously designated SSA, the SSA designation

remains in limited instances where the lots are considered infill development or to remove undulations in the FWSA boundary as necessary to create a linear boundary that relates to recognizable geographic features in accordance with N.J.A.C. 7:15-5.20(b)2.

Pursuant to 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 from a reliable source where mapping does not exist. 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, will be unaffected by adoption of this amendment 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, which are excluded from the Salem FWSA pursuant to N.J.A.C. 7:15-5.24(d)2 through 4. Specifically, SSA is not extended into beaches, coastal high hazard areas, or dunes in Salem County.

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.

The Department and the Salem County Planning Board received comments during the comment period for the proposed amendment. The following people submitted comments on this amendment:

Number – Commenter Name, Affiliation

1. South Jersey Bayshore Coalition (SJBC) - represented by Cheryl Reardon, Sandy Batty, Kelly Mooij, Francis Rapa, Tim Dillingham, Christine Nolan, Jane Galetto, Cynthia Zirkle, Richard McNutt
2. Jody Carrara, Association of New Jersey Environmental Commissions
3. Suzanne McCarthy, South Jersey Land and Water Trust
4. Timothy Touhey, New Jersey Builders Association
5. Margaret Carmeli, Tyler & Carmeli, P.C., on behalf of Harding Woods, Pittsgrove Township

As noted below in response to specific comments requesting to include or exclude SSA, which was not reflected in the proposed amendment and were found to be a substantial change, the requested changes are not adopted herein. 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 that 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.

Any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable.

As mentioned above and as discussed in response to the relevant comments below, the Department is not adopting portions of the proposed amendment that inadvertently included in SSA ESAs identified under Landscape Project Version 2.1 and that meet the criteria for exclusion pursuant to N.J.A.C. 7:15-5.24. The Department is concurrently proposing in a separate notice in this issue of the New Jersey Register proposed corrections to the previously proposed amendment to exclude these ESAs from SSA and will be accepting public comment on the proposed corrections pursuant to N.J.A.C. 7:15-3.4(g)8i. The separate notice of proposed corrections to the previously proposed amendment discusses in more detail the ESAs in Carneys Point and Oldmans Townships which are being proposed for exclusion from SSA.

A summary of the comments and the Department's responses follows. The number in parentheses after each comment identifies the respective commenter listed above.

1. Comment: The commenter urges the Department to follow the November 5, 2012, Public Notice and its rules by excluding all ESAs from the FWSA map, including areas mapped as endangered and threatened wildlife species habitat. In particular, the commenter supports the mapping that is consistent with the data contained in the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Species (Landscape Maps) Versions 2.1 and 3.1, and

requests that both Landscape Maps be used because Version 2.1 is specifically identified in the Public Notice, and Version 3.1 is specifically referenced under the title "Landscape Project Data" by a link (<http://www.nj.gov/dep/gis/listall.html>) at N.J.A.C. 7:15-5.24(b)1. The commenter claims that the Department is already using Landscape Project Version 3.1 mapping methodology as a basis for placing certain areas in FWSA that were formerly ineligible for inclusion under Version 2.1 and also that Version 3.1 is being utilized in such instances as in making Habitat Suitability Determinations (HSDs) as well as other case-by-case determinations. (1)

2. Comment: In much of the FWSA, the local planning entity has excluded only critical habitat based on Landscape Project Version 2.1. Many of the areas proposed for FWSA are classified as critical wildlife habitat under Version 3.1, but are mapped as FWSA. (2)

Response to Comments 1 - 2: Salem County's proposed FWSA map was submitted to the Department for review prior to the release of Landscape Project Version 3.1. The Salem County Planning Department utilized the Landscape Project mapping available at the time, which was Version 2.1, when completing the wastewater service area delineation. As noted in the proposal notice for this amendment, the Department utilized Version 2.1 while reviewing this amendment. Consequently, areas identified as ESA only under Version 2.1 have been excluded from SSA in accordance with N.J.A.C. 7:15-5.24 upon adoption of this amendment. However, any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable. The Department's review will

utilize the most current Landscape Project version available at the time the amendment or revision application is submitted.

In addition, the webpage referred to by commenter 1 provides the option of selecting any of the State's Geographic Information System (GIS) mapping layers. It does not specify which Landscape Project mapping version to use, but provides the option of looking at all available and pertinent Landscape Project data layers.

With regard to the assertion by commenter 1 that the Department is using Landscape Project Version 3.1 as a basis for placing certain areas in FWSA that were formerly ineligible for inclusion under Version 2.1, the Department is unaware of any HSDs or case-by-case determinations made in Salem County using version 3.1.

3. Comment: The commenters express concerns that future growth which may accompany the proposed FWSA will result in overdrawn aquifers and stream and river flow depletion. N.J.A.C. 7:15-5.25(f) states that the Department will only adopt a WMP, WMP update, or WMP amendment if water supply needs associated with the environmental build-out are demonstrated to be met with existing new or expanded water supplies that do not conflict with the most current New Jersey State Water Supply Plan, regional water supply plans, or TMDLs adopted as WQM plan amendments including, but not limited to, any limitations on withdrawals due to ecological and saltwater intrusion concerns. The commenters also submitted a supplemental water impact study and a summary thereof for consideration. (1, 2)

Response: The Department has accepted the Salem County FWSA map in accordance with P.L. 2011, c. 203, which permits the wastewater management planning agency to prepare and submit to the Department at least that portion of a WMP designating SSA, which shall comply with the Department's regulatory criteria. P.L. 2011, c. 203, expires on January 17, 2014, and the WQPA, 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. Completion of the full Salem County WMP requires a buildout analysis of the adopted FWSA and a demonstration that water supply needs are met in accordance with the requirements set forth in N.J.A.C. 7:15. The commenter has provided valuable information which has been forwarded to the Division of Water Supply to inform future discussions; however, until such time as the buildout of the FWSA is completed, the water supply analysis, on a county-wide scale, cannot be fully assessed. Should a party submit an application to the Department for a site specific amendment to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable, the site specific amendment review shall include a water supply analysis pursuant to N.J.A.C. 7:15-5.25(h)3.

4. Comment: The commenters assert that the Salem Gloucester County Regional Sewer System Plan—which would link eleven Gloucester County Municipalities and potentially most of Salem County's municipalities and abandon most if not all of the wastewater treatment plants in Salem County, convert them to pump stations, and convey the wastewater to the DuPont Chambers Works facility in Carneys Point—would increase water demand and exacerbate the current stream flow depletion, further accelerating saltwater intrusion and stream dewatering and worsening water quality throughout Salem County. (1, 2)

Response: This comment goes beyond the scope of the proposed FWSA map. The DuPont regional sewerage proposal is only conceptual at this stage and was not proposed as part of this amendment.

5. Comment: The commenter supports the exclusion of much of the Game Branch and Game Creek tributaries of Carneys Point and Oldmans Townships from the SSA, where thousands of acres of forest are home to many rare plant and animal species, including one of South Jersey's few documented habitats of the State-endangered bobcat. This, in turn, will help to protect the 393-acre Game Branch Preserve at the heart of this ecosystem and help buffer the preserve from becoming an unsustainable biological island. (1)

Response: The Department acknowledges the support for the exclusion of the ESAs from SSA in these areas.

6. Comment: The commenter asserts that, in Carneys Point Township, the employed mapping method will ultimately protect some very important habitat, but several large geographic areas of proposed FWSA are highly irregular in shape and could ultimately result in extensive landscape fragmentation and inefficient growth and infrastructure investment. The commenter urges an emphasis on creating functional SSA boundaries with enhanced buffers to critical habitats which consider landscape and habitat connectivity or sustainable growth. (1)

Response: The Department acknowledges that the FWSA is irregular in shape due to the exclusion of wetlands and threatened and endangered species habitats. Carneys Point Township wished to align FWSA with their local zoning scheme, which was supported by the County. The FWSA will not be changed for areas in

Carneys Point Township where the Township wishes to remain consistent with their local planning objectives and where ESAs do not exist. However, as mentioned earlier, there are ESAs in Carneys Point Township that were inadvertently included in SSA on the proposed map and that are proposed to be excluded from SSA in a proposed correction to the proposed amendment, which is discussed in more detail in a separate notice in this issue of the New Jersey Register.

7. Comment: The commenter commends Salem County's decision to restrict most of the FWSA mapping to the western corridor, thereby targeting economic growth mainly in the western portions of the County concurrently excluding much of the County's agricultural base and environmentally sensitive rural landscapes. (1)

Response: The Department acknowledges the commenter's support.

8. Comment: The commenter recommends removal of all parcels south of US Route 40 and east of Game Creek in Carneys Point Township from the FWSA, in consideration of biological diversity and sustainable planning. The commenter states that the area is an important agricultural node slated for farmland preservation, is contiguous to a State Wildlife Management Area and partially preserved private club, is used extensively by bald eagles, is downstream from documented bog turtle habitat and contains wetlands with a high probability of bog turtle occurrence. Further, the commenter states that future development encouraged by extension of sewer to the area has the potential to negatively affect the Salem River, which is becoming recognized as a stronghold for threatened and endangered species of freshwater mussels. (1)

Response: The FWSA in this location does not contain ESAs as described at N.J.A.C. 7:15-5.24. The FWSA is consistent with local planning objectives, including higher density lands zoned for General Commercial along US Route 40 and excluding low density lands zoned for Agriculture.

9. Comment: The commenter objects to the proposed FWSA comprising the natural areas exclusive of the DuPont Chambers Works landfill on Block 185, Lot 1, in Carneys Point Township for the following reasons: the site features a large extent of wetlands surrounding Hanby Creek and Whooping John Creek; on the 200-acre DuPont Wildlife Habitat Preserve, certified by the Wildlife Habitat Council, the company has expanded wetlands habitat, built osprey nesting platforms and operates active monitoring programs for screech owls, American kestrels and purple martins; the site features Helms Cove, which is an extremely important stopover for migratory waterfowl and sea gulls, particularly caspian terns as well as documented migratory habitat for State and federally endangered shortnose sturgeon, a fish species struggling with recovery; under the latest version of Landscape Project, this site is primarily Rank 4 critical habitat; and this site's extensive waterways are critical foraging, roosting, wintering and nesting habitat for State-endangered osprey and bald eagle. (1)

Response: This site contains multiple wetlands which were inadvertently included in SSA due to their fragmented nature. Upon further review, the Department has determined that the site contains contiguous wetlands greater than 25 acres which meet the criteria for exclusion from SSA pursuant to N.J.S.A. 7:15-5.24. As discussed above, the Department is proposing in a separate notice in this issue of the New Jersey Register to correct the portions of the proposed amendment that were ESAs inadvertently included in SSA in Carneys Point and Oldmans Townships. The Department has adopted only those portions of the

proposed amendment that are not being proposed for correction at this time. The proposed corrections are discussed in more detail in the separate notice in this issue of the New Jersey Register.

10. Comment: The commenter objects to FWSA designation of the area generally bounded by Shell Road/US Route 130, the Clemente Farm, Interstate 295, and the Village of Deepwater in Carneys Point Township. This site is comprised of wooded uplands and wetlands where the Delaware River tributary Whooping John Creek rises and serves as a greenway between the Game Creek corridor to the east and the DuPont wildlife habitat to the west. (1)

Response: This site contains multiple wetlands which were inadvertently included in SSA due to their fragmented nature. Upon further review, the Department has determined that the site contains contiguous wetlands greater than 25 acres which meet the criteria for exclusion from SSA pursuant to N.J.S.A. 7:15-5.24. As discussed above, the Department is proposing in a separate notice in this issue of the New Jersey Register to correct the portions of the proposed amendment that were ESAs inadvertently included in SSA in Carneys Point and Oldmans Townships. The Department has adopted only those portions of the proposed amendment that are not being proposed for correction at this time. The proposed corrections are discussed in more detail in the separate notice in this issue of the New Jersey Register.

11. Comment: The forest adjacent to Laytons Lake is virtually all freshwater wetlands and much of the site is classified as Rank 4 critical habitat under Landscape Project version 3.1. These woods are also a vernal habitat hotspot. This site should be excluded from the FWSA. (1)

Response: The commenter has correctly identified that contiguous wetlands greater than 25 acres, which meet the criteria for exclusion from SSA pursuant to N.J.S.A. 7:15-5.24, were inadvertently included in the FWSA. As discussed above, the Department is proposing in a separate notice in this issue of the New Jersey Register to correct the portions of the proposed amendment that were ESAs inadvertently included in SSA in Carneys Point and Oldmans Townships. The Department has adopted only those portions of the proposed amendment that are not being proposed for correction at this time. The proposed corrections are discussed in more detail in the separate notice in this issue of the New Jersey Register.

12. Comment: The commenter requests that the entire area between the New Jersey Turnpike and the Two Penny Run should be excluded from the FWSA, as well as the large forested wetland complex in the southern portion of the site, which both feature extensive wetlands and vernal habitat. (1)

Response: This site contains multiple wetlands which were inadvertently included in SSA due to their fragmented nature. Upon further review, the Department has determined that the site contains contiguous wetlands greater than 25 acres which meet the criteria for exclusion from SSA pursuant to N.J.S.A. 7:15-5.24. As discussed above, the Department is proposing in a separate notice in this issue of the New Jersey Register to correct the portions of the proposed amendment that were ESAs inadvertently included in SSA in Carneys Point and Oldmans Townships. The Department has adopted only those portions of the proposed amendment that are not being proposed for correction at this time. The proposed corrections are discussed in more detail in the separate notice in this issue of the New Jersey Register.

13. Comment: The commenter requests that certain portions of the Gateway Industrial Park in Oldmans Township, identified as existing SSA on the FWSA map, be removed based on several threatened and endangered species habitats identified by Landscape Project Version 3.1. (1)

Response: Salem County's proposed FWSA map was submitted to the Department for review prior to the release of Landscape Project Version 3.1. The Salem County Planning Department utilized the Landscape Project mapping available at the time, which was Version 2.1, when completing the wastewater service area delineation. As noted in the proposal notice for this amendment, the Department utilized Version 2.1 while reviewing this amendment. Consequently, areas identified as ESA only under Version 2.1 have been excluded from SSA in accordance with N.J.A.C. 7:15-5.24 upon adoption of this amendment. However, any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable. The Department's review will utilize the most current Landscape Project version available at the time the amendment or revision application is submitted.

Furthermore, as mentioned above, the Department is proposing in a separate notice in this issue of the New Jersey Register to correct the portions of the proposed amendment that were ESAs identified under Landscape Project Version 2.1 and were inadvertently included in SSA in Carneys Point and Oldmans Townships. The Department has adopted only those portions of the proposed amendment that are not being proposed for correction at this time. The proposed corrections are discussed in more detail in the separate notice in this issue of the New Jersey Register.

14. Comment: The commenter objects to the FWSA site between Beaver Creek and Perkintown Road (CR 644), and northwest of Interstate 295. The northern portion of this site, totaling about 60 acres, has been recently developed into a subdivision of 49 single-family homes that are served by individual subsurface sewage disposal systems (ISSDSs). In addition, Oldmans Township's master plan proposes to construct 109 affordable housing units on about 32 acres within the southern portion of this FWSA site. It is the commenter's understanding that the affordable housing project may have major site plan or general development plan approval, but does not have major subdivision approval. However, according to the Township Master plan, this development proposal is subject to any changes in the COAH law resulting from the Legislature or courts. Therefore, it is unclear if the affordable housing proposal will ever be developed. In the event that the 32 acres is developed, the commenter recommends that the affordable housing site be later submitted as an amendment or revision to the Lower Delaware WQM Plan. This site is documented breeding habitat for the State-endangered vesper sparrow. It is Rank 4 critical Habitat under both Landscape Project Version 2.1 and 3.1, and is therefore not suitable for FWSA designation. Given the environmentally sensitive nature of this site, the commenter does not want to see the uncertain affordable housing issue used to open this site to sewer service that could facilitate any inappropriate development.

(1)

Response: The commenter has correctly identified that vesper sparrow habitat as designated by Landscape Project Versions 2.1 and 3.1 in this area has been included in the FWSA. According to Oldmans Township's updated parcel mapping, it appears that the northern portion of this area, which arials show has already been developed, was subdivided into designated open space and several

residential lots. The Department has determined that the undeveloped portions of this area meet the criteria at N.J.A.C. 7:15-5.24 for exclusion from SSA. As discussed above, the Department is proposing in a separate notice in this issue of the New Jersey Register to correct the portions of the proposed amendment that were ESAs inadvertently included in SSA in Carneys Point and Oldmans Townships. The Department has adopted only those portions of the proposed amendment that are not being proposed for correction at this time. Consequently, the residential lots, identified as Block 29.05, Lots 1-7; Block 29.04, Lots 1-11; Block 29.03, Lots 1-6; and Block 29.02, Lots 1-25, remain in the SSA, and the remaining undeveloped lots are proposed for correction to be excluded from SSA. The proposed corrections are also discussed in detail in the separate notice in this issue of the New Jersey Register.

15. Comment: The commenter concurs with the proposed FWSA located south and east of Interstate 295 in Oldmans Township. (1)

Response: The Department acknowledges the commenter's support for the FWSA south and east of Interstate 295; however, this site contains multiple wetlands which were inadvertently incorporated into the SSA due to their fragmented nature. Upon further review, the Department has determined that the site contains contiguous wetlands greater than 25 acres which meet the criteria for exclusion from SSA pursuant to N.J.S.A. 7:15-5.24. As discussed above, the Department is proposing in a separate notice in this issue of the New Jersey Register to correct the portions of the proposed amendment that were ESAs inadvertently included in SSA in Carneys Point and Oldmans Townships. The Department has adopted only those portions of the proposed amendment that are not being proposed for correction at this time. The proposed corrections are

discussed in more detail in the separate notice in this issue of the New Jersey Register.

16. Comment: The commenter objects to the proposed FWSA within Oldmans Township Block 29, an area bordered by Pennsville-Pedricktown Road (CR 601), Straughens Mill Road (CR 643), Beaver Creek and the Kay Gardens subdivision. This area is constrained by freshwater wetlands. Under Landscape Project version 2.1, this site contained a 32-acre Rank 4 critical forest habitat patch. Critical habitat has significantly expanded under Version 3.1 to include grassland/cropland in the northern portion of the site, habitat of State-threatened and State-endangered butterfly species. (1)

Response: The commenter has correctly identified that contiguous wetlands greater than 25 acres in this area were inadvertently included in the FWSA. The Department has determined that the sites meet the criteria at N.J.A.C. 7:15-5.24 for exclusion from SSA. As discussed above, the Department is proposing in a separate notice in this issue of the New Jersey Register to correct the portions of the proposed amendment that were ESAs inadvertently included in SSA in Carneys Point and Oldmans Townships. The Department has adopted only those portions of the proposed amendment that are not being proposed for correction at this time. The proposed corrections are discussed in more detail in the separate notice in this issue of the New Jersey Register.

For clarification, however, Landscape Project Version 2.1 does not identify Rank 4 Forested Habitat on this site. Landscape Project Version 3.1 does identify State-threatened and State-endangered butterfly habitats; however, as mentioned above, Salem County's proposed FWSA map was submitted to the Department for review prior to the release of Landscape Project Version 3.1. The Salem

County Planning Department utilized the Landscape Project mapping available at the time, which was Version 2.1, when completing the wastewater service area delineation. As noted in the proposal notice for this amendment, the Department utilized Version 2.1 while reviewing this amendment. Consequently, areas identified as ESA only under Version 2.1 have been excluded from SSA in accordance with N.J.A.C. 7:15-5.24 upon adoption of this amendment. However, any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable. The Department's review will utilize the most current Landscape Project version available at the time the amendment or revision application is submitted.

17. Comment: For that area bounded by Lerro Road, Pedricktown Marsh (Oldmans Creek), Beaver Creek, and Straughens Mill Road (CR 643), in Oldmans Township, the commenter urges the Department to restrict this FWSA to the lots fronting Railroad Avenue (CR 602) and Mill Street (CR 601), as well as the subdivision to the north (Oldmans Tax Blocks 5 and 5.01) of the village. Providing wastewater infrastructure to Pedricktown Village may benefit Oldmans Township; however, undeveloped areas surrounding Pedricktown are environmentally sensitive and have been upgraded from suitable habitat to Rank 4 critical habitat under Landscape Project Version 3.1. Additionally, the commenter requests removal of the area south of Freed Road to Beaver Creek due to the riparian corridor of Beaver Creek. (1)

Response: Bald Eagle foraging areas are not included in the adopted SSA along Beaver Creek providing a minimum riparian buffer of 500 feet to Beaver Creek, which, pursuant to N.J.A.C. 7:15-5.24(b)3, is more protective than the 300 foot

buffer afforded to the most critical State waterways. Additionally, the entire area bounded by Lerro Road, Pedricktown Marsh (Oldmans Creek), Beaver Creek, and Straughens Mill Road (CR 643), in Oldmans Township, is not identified as threatened or endangered species habitat by Landscape Project Version 2.1; therefore, these areas are designated as within the FWSA upon adoption of this amendment.. Landscape Project Version 3.1 does identify Threatened and Endangered butterfly habitats in the undeveloped portions of this area. As mentioned above, Salem County's proposed FWSA map was submitted to the Department for review prior to the release of Landscape Project Version 3.1. The Salem County Planning Department utilized the Landscape Project mapping available at the time, which was Version 2.1, when completing the wastewater service area delineation. As noted in the proposal notice for this amendment, the Department utilized Version 2.1 while reviewing this amendment. Consequently, areas identified as ESA only under Version 2.1 have been excluded from SSA in accordance with N.J.A.C. 7:15-5.24 upon adoption of this amendment. However, any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable. The Department's review will utilize the most current Landscape Project version available at the time the amendment or revision application is submitted.

18. Comment: The commenter objects to the proposed FWSA south of Beaver Creek, east of Straughens Mill Road (CR 643), and north and west of Interstate 295 in Oldmans Township, which includes critical habitat as identified by Landscape Project Version 3.1. The Landscape Project Version 3.1 documents this site as habitat for State-endangered bronze copper butterfly, breeding habitat for State-threatened horned lark, and foraging habitat for bald eagle. (1)

Response: Bald eagle foraging habitat is not included in the SSA and Landscape Project Version 2.1 does not identify any other threatened or endangered species habitat in this area; therefore, this area is designated as within the FWSA upon adoption of this amendment. Landscape Project Version 3.1 does identify State-endangered bronze copper butterfly habitat as well as State-threatened horned lark in this area. As mentioned above, Salem County's proposed FWSA map was submitted to the Department for review prior to the release of Landscape Project Version 3.1. The Salem County Planning Department utilized the Landscape Project mapping available at the time, which was Version 2.1, when completing the wastewater service area delineation. As noted in the proposal notice for this amendment, the Department utilized Version 2.1 while reviewing this amendment. Consequently, areas identified as ESA only under Version 2.1 have been excluded from SSA in accordance with N.J.A.C. 7:15-5.24 upon adoption of this amendment. However, any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable. The Department's review will utilize the most current Landscape Project version available at the time the amendment or revision application is submitted.

19. Comment: The commenter generally concurs with the proposed FWSA site bounded by Straughens Mill Road (CR 643), Penns Grove-Pedricktown Road (CR 642) and US Route 130. However, because much of this site is constrained by freshwater wetlands, it warrants excluding the larger wetland patches from the FWSA. (1)

Response: The commenter has correctly identified that contiguous wetlands greater than 25 acres, which meet the criteria for exclusion from SSA pursuant to N.J.S.A. 7:15-5.24 in this area were inadvertently included in the FWSA. As discussed above, the Department is proposing in a separate notice in this issue of the New Jersey Register to correct the portions of the proposed amendment that were ESAs inadvertently included in SSA in Carneys Point and Oldmans Townships. The Department has adopted only those portions of the proposed amendment that are not being proposed for correction at this time. The proposed corrections are discussed in more detail in the separate notice in this issue of the New Jersey Register.

20. Comment: The commenter concurs with the proposed FWSA north and east of the Department of Defense Ponds, including the developed portions of the former Camp Pedricktown/Sievers-Sandberg Army Base and the adjacent industrial properties on the east side of US Route 130 in Oldmans Township. (1)

Response: The Department acknowledges support of FWSA in this area.

21. Comment: The commenter objects to the proposed FWSA bounded by Interstate 295, State Highway Route 49, Church Landing Road and the Delaware River (exclusive of several developed sites) in Pennsville Township. This 200-acre natural area in a heavily urban corridor is comprised of forests, forested wetland and emergent wetland habitat, which is Rank 3 critical habitat for State-threatened barred owl under both Landscape Project Versions 2.1 and 3.1. The woods provide important migratory stopover habitat for birds using the Delaware River flyway. As with the DuPont/Helms Cove property not far from this site, forested habitat along the Delaware River south of Trenton is scarce, and

therefore all the more important. Based on the critical habitat and extensive wetlands, this site is not suitable for FWSA under the WQM Planning rules. (1)

Response: As mentioned earlier in this notice, the proposed map was not intended to supersede the Pennsville Township SSA, which was adopted as part of Pennsville Township WMP on May 13, 2010. Under that WMP, the area referred to by the commenter was designated as within the Pennsville Township SSA. Although the wastewater service area delineation on the proposed map indicated that the Pennsville Township SSA would remain unchanged from the delineation set forth by the WMP, the Department has determined not to adopt the portion of the proposed amendment incorporating the Pennsville Township WMP SSA delineation into the FWSA map because the public notice for the proposed amendment did not clarify this aspect of the amendment. The Department is concurrently proposing, in a separate notice in this issue of the New Jersey Register, a proposed correction to this portion of the proposed map that has not been adopted. The correction would clarify that the SSA delineation in Pennsville Township is that which was delineated by the Pennsville Township WMP and that the proposed map does not supersede wastewater service areas delineated by the Pennsville Township WMP.

22. Comment: The commenter objects to the proposed wastewater service area between State Highway Route 45 and Swedesboro Road, just outside Woodstown Borough. It is not part of the existing Woodstown SSA, and there are no existing development or subdivision proposals or approvals for this site. The site is within Pilesgrove Township's Agriculture Retention zoning district, and therefore the zoning does not support future sewer service. If annexed to the Woodstown SSA, inclusion of this site in the FWSA will only exacerbate Woodstown's already stressed sewerage capacity and water supply. While it is not classified as

critical habitat, it is part of a proposed greenbelt in Woodstown's Open Space and Recreation Plan, specifically designed to buffer the community from unsustainable sprawl and keep the existing SSA in check. (1)

Response: This area was proposed to be included in SSA on the basis of local planning objectives. Although agriculturally zoned areas are not typically characteristic of SSA, the characteristics of the area do not warrant its exclusion from SSA pursuant to N.J.A.C. 7:15-5.24. Therefore, this area is designated as within the FWSA upon adoption of this amendment.

23. Comment: The commenter objects to the inclusion of Block 15, Lots 2, 3 and 29, in Woodstown Borough in the FWSA, and asserts that all three lots are critical habitat under both Landscape Project 2.1 and 3.1. The commenter indicates that all three lots are targeted for preservation under the Woodstown Open Space and Recreation Plan and are integral parts of the town's proposed Northern Greenbelt. Landscape Project Version 2.1 had classified Block 15, Lots 3 and 29, as Rank 4 critical grassland habitat based on proximity to an active bald eagle nest. The commenter explains that the site, although Woodstown sought to preserve it in 2009, was eventually granted major subdivision preliminary approval. The commenter believes that in 2011, in response to the Salem County Planning Department's request for an Endangered and Threatened Community review, the Department overlooked the Landscape Project data relative to the site for bald eagles and did not recommend against exclusion of the site from FWSA because it was not suitable habitat for grassland birds. Further, in September 2012, after the New Jersey Conservation Foundation requested the Department to reconsider its decision, stressing bald eagle sightings, the Department again concluded that the site was not habitat on the basis that a tree frequently used by the eagles is not on the subject property. The commenter contends that the tree is

on the subject property. Furthermore, the commenter asserts that the adjacent property (Lot 2) is also an essential component of this threatened and endangered species habitat. The commenter notes that a large potential vernal pool is located on the northern portion of Lot 2. The commenter concludes that the habitat structure of the combined shrub/scrub forest (Lot 2), the specimen tree (Lot 3) and the agricultural field (Lots 3 & 29), along with the low-intensity and low-disturbance land uses, abundant food sources, nearby water foraging sites and proximity (1 mile) to a bald eagle nest site has resulted in a habitat that is favored by the eagles and therefore critical to the species.

The commenter also indicates that freshwater wetlands originate on Lot 29 and lead to the Salem River through a series of stormwater basins and the Chestnut Run tributary. The Salem River, which is 0.8 miles from this location, is Rank 3 critical habitat for a State-threatened freshwater mussel species. Further downstream, the Salem River below Woodstown is classified as a Category 1 Special Resource waterway based on the presence of federally threatened bog turtle. A development proposal for the two eastern lots (3 & 29) proposes to create additional stormwater basins that will handle residential stormwater run-off before discharging to the Salem River system, further threatening rare species that depend on the waterway for survival. (1)

Response: Block 15, Lot 2, is not identified as threatened or endangered species habitat by Landscape Project Version 2.1. Although Landscape Project Version 3.1 does identify State-threatened bobolink habitat on this lot, as mentioned above, Salem County's proposed FWSA map was submitted to the Department for review prior to the release of Landscape Project Version 3.1. The Salem County Planning Department utilized the Landscape Project mapping available at the time, which was Version 2.1, when completing the wastewater service area

delineation. As noted in the proposal notice for this amendment, the Department utilized Version 2.1 while reviewing this amendment. Consequently, areas identified as ESA only under Version 2.1 have been excluded from SSA in accordance with N.J.A.C. 7:15-5.24 upon adoption of this amendment.

The Department's HSD for Block 15, Lots 3 and 29, determined that the lots have been actively farmed for three or more years and, therefore, are not suitable habitat for all species identified, including bald eagle. It is not conclusive after reviewing the information submitted by the commenter that the bald eagles identified as perching on the site were a nesting pair. The Department's protection strategies focus on nesting birds or eagle concentration areas, neither of which the mapping identified this area as. Additionally, wetlands were not identified on the subject property. Landscape Project Version 3.1 does identify State-endangered upland sandpiper as well as State-threatened bobolink habitat on these lots.

Any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable. The Department's review will utilize the most current Landscape Project version available at the time the amendment or revision application is submitted.

24. Comment: The commenter questions whether adopted FWSA maps will be aligned with the criteria for defining priority growth investment areas provided under the draft State Strategic Plan. The commenter believes that the final Salem County FWSA map should fully support the developing strategic vision for the State. (4)

Response: Neither P.L. 2011, c. 203, nor the WQM Planning rules require alignment with the State Planning Act, N.J.S.A. 52:18A-196 et seq., the adopted State Development and Redevelopment Plan (SDRP), or its proposed replacement, the draft State Strategic Plan. However, the Department will take necessary actions to support the State Strategic Plan upon adoption and seek to integrate the SDRP, regional and local land use plans, consistent with the WQM Planning rules. Upon adoption of the State Strategic Plan, the Department will work to establish a clear connection between Strategic Plan-identified "Investment Area" criteria and the WQM Planning process. Further, the WQM Planning rules allow for the inclusion of SSA in ESAs provided it is designed to accommodate center based development and is an element of an endorsed plan approved by the State Planning Commission, in certain circumstances, at N.J.A.C. 7:15-5.24(h).

25. Comment: The commenter is concerned that it may be difficult for property owners to easily determine whether their property has been impacted by the proposed mapping changes, given the absence of municipal maps. (4)

Response: Although the resulting adopted FWSA map does not include local street names, it does identify the names of municipalities, tax parcels lines, county roads, and major State and Federal highways. It is the Department's experience that, as displayed, this available information is sufficient for locating specific properties. As the proposed FWSA boundaries were the focus of the FWSA map, the intent was to provide a balance of graphic and textual information to preserve the ability to adequately view the proposed FWSA boundaries.

26. Comment: The FWSA map does not provide enough detail or justification as to why different areas/properties are proposed to be eliminated from or added to the existing SSA. Salem County and the Department must provide sufficient information on these maps for affected property owners and other interested parties to be able to understand why particular parcels have been removed or added to the proposed SSA. The commenter recommends the use of footnotes that indicate the underlying basis for removal of areas. (4)

Response: As indicated by the commenter, the proposed FWSA map does not include footnotes explaining which regulatory mapping criteria (i.e. wetlands threatened and endangered species etc.) was used as the basis for exclusion of specific areas from the proposed SSA. As noted above, the mapping display is constrained by the actual amount of information included. Similarly, adding footnotes or other textual information associated with every location excluded or removed from the SSA would not be practical or desirable from a display standpoint. The Department notes that all of the GIS data utilized by the Department during this process is available for review and download on the Department's website (<http://www.nj.gov/dep/gis>). Further, pursuant to AO #2010-03, the Department will provide any property owner, upon written request, an explanation of the issues preventing the inclusion of a specific site in the proposed SSA. In addition, the Department and Salem County have provided at numerous meetings, and via numerous correspondence, similar information. The WQPA, 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. A complete county-wide WMP is required to include mapping of all of the environmental resource criteria used as the basis for the SSA delineation.

27. Comment: The commenter questions the Department's reliance on its existing GIS mapping data related to the location of freshwater wetlands, species habitat and stream buffer locations. (4)

Response: The Department believes that the use of GIS is not only the most accessible approach for wastewater management planning agencies but is also appropriate for the scale of planning required in the WQM Planning rules at N.J.A.C. 7:15. Because GIS coverages are readily available, have a high degree of accuracy, and can be viewed at various scales, they provide a means to simplify the wastewater management plan development process that will help ensure plans are developed, kept up to date, and serve the purpose for which they were intended. More detailed, or site by site analysis, is more appropriate for regulatory programs (that is, site plan review, or land use permitting) and is infeasible at a planning level. However, it was recognized by the Department from the beginning of the WMP development process that the Department's existing GIS data utilized to create the first draft of proposed SSA required some verification and "ground truthing" by the WMP agencies. Accordingly, each WMP agency participating in this planning process was contacted by the Department via written correspondence that included a first draft of the proposed SSA. This correspondence noted that the SSA map provided was intended as the starting point from which the County should begin discussions with the municipalities to refine the draft SSA. Where new, more accurate information is available to local entities regarding development, wastewater management planning agencies are encouraged to use it to enhance the GIS data layers the Department provides on its website. Changes based on existing land use/construction since 2002 and approved (having obtained local and wastewater approvals) but not yet constructed projects were a particular focus of the process. In addition, numerous site-specific analyses, including Freshwater Wetlands

(FWW) Letter of Interpretations, HSDs, and FWW and Flood Hazard Area permits were utilized to further modify the draft SSA. As such, development of the SSA did indeed result in extensive field verification, which validates the SSA delineation included in this amendment.

28. Comment: Salem County should have provided a map of the existing SSAs with the FWSA map in order to enable comparison of the potential changes. (4)

Response: The commenter has incorrectly assessed the Salem County FWSA mapping. The Salem County FWSA map depicts existing SSA, existing pump stations, and sewer lines.

29. Comment: It is difficult to understand the impact of the proposed SSAs without acreage analysis. In order to enable the public to fully assess the impact of the mapping changes, Salem County and the Department should quantify any changes in terms of acreage removed or added prior to adoption of the FWSA map. (4)

Response: P.L. 2011, c. 203, expires on January 17, 2014, and the WQPA, 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 analyses proscribed by N.J.A.C. 7:15-5.25(c), (e), and (f) include quantification of acreages both inside and outside of the SSA; therefore, such information will be provided as a part of Salem's full County-wide WMP. The Department notes that providing an acreage analysis is not required by the WQM Planning rules.

30. Comment: The commenter has concerns about how the Department will review and process development or activity proposing use of septic systems. (4)

Response: The adoption of the FWSA map for Salem County provided by P.L. 2011, c. 203, does not affect or alter the WQM Planning rules (N.J.A.C. 7:15) amendment requirements or review process for proposed development within delineated septic areas. Proposed development reliant on an ISSDS on a single lot to discharge equal to or less than 2,000 gallons per day (gpd) of wastewater that can be approved by the local public health department as the acting administrative authority under N.J.A.C. 7:9A, is not subject to N.J.A.C. 7:15. However, any proposed development within the designated septic area utilizing an ISSDS which has been determined to discharge, individually or in combination on a single project property, greater than 2,000 gpd and requires a NJ Pollutant Discharge Elimination System (NJPDES) permit, would necessitate an amendment to the appropriate WQM Plan and therefore be subject to site specific review pursuant to the WQM Planning rules and/or P.L. 2011, c. 203, as applicable.

31. Comment: The commenter raises concerns about the Department's usage of a watershed-based nitrate dilution model to calculate lot density rather than the site specific approach that is currently used in the New Jersey Pinelands. (4)

Response: This comment goes beyond the scope of the proposed amendment. An entire WMP that is to conduct a septic density analysis on a Hydrologic Unit Code (HUC) 11 basis has not been proposed for adoption at this time. However, the Department has responded to similar comments in the comment response document following the adoption of the WQM Planning rules (N.J.A.C. 7:15). For the specific responses to the comments regarding applicability of the Recharge-Based HUC 11-Scale Nitrate Carrying Capacity Planning Tool model

in conducting a HUC-11 septic density analysis as part of the completing a WMP the commenter may refer to the adopted rule notice published in the New Jersey Register on July 7, 2008, at 40 N.J.R. 4000(a).

32. Comment: The commenter raises concerns over the use of a watershed approach in the nitrate dilution model and the potential that the number of units and density that might be permitted within a HUC 11 watershed will cross county as well as municipal boundaries. (4)

Response: This comment goes beyond the scope of the proposed amendment. An entire WMP that is to conduct a septic density analysis on a HUC 11 basis has not been proposed for adoption at this time. Salem County intends to proceed to completion of a full County WMP. The Department recognizes that there will be instances where the relevant spatial extent, both HUC 11 drainage areas and service areas of wastewater management and water supply service providers, will not coincide with county or municipal boundaries. The Department's role has been and will continue to include identifying and assisting in resolving any issues that arise as the WMPs are submitted for review.

33. Comment: The commenter asserts that there has been a lack of transparency in the process to create the draft FWSA maps, as well as a lack of substantive justification for the removal of areas/properties from the existing SSAs. The commenter is disappointed that, unlike Somerset County, Salem County did not individually notify property owners where their property was affected by the mapping procedures. The commenter believes that notice is a critical and necessary step to protect property interests and should have been incorporated into the wastewater management planning process by all counties and the Department. At this juncture, only through this public review and commenting

process would property owners and other stakeholders have an opportunity to rectify any mapping mistakes. Therefore, the commenter strongly encourages the Department and the counties to not rush through the adoption process, but to allow ample time to address any issues. (4)

Response: The Department and Salem County have pursued an open and extensive public review process beyond the minimal requirements of the WQM Planning rules. The Department and Salem County have held numerous meetings with the public, municipal officials, and affected agencies over the past four years. Further, in accordance with AO #2010-3 signed by Commissioner Martin, a public meeting was held on March 22, 2011, to allow public review and comment on the then-current draft of the Salem 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. The Department notes that notice of every individual property impacted by this amendment is not required by the WQM Planning rules, and Salem County did not wish to pursue that option. Any party may submit an application to the Department for a site specific amendment or revision, as applicable, to the WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable.

34. Comment: The commenter is concerned that the Department and counties will be inundated with applications for site-specific amendments and revisions following the adoption of the county FWSA maps. The commenter views the process as being very costly, resource intensive and unnecessarily slow and strongly urges the Department and Salem County to abide by the timeframes and review process set forth in sections 6-8 of P.L. 2011, c. 203. (4)

Response: The Department fully intends to adhere to the specific review timeframes as required by law.

35. Comment: The commenter identifies Harding Woods, site number 30 on the Salem County FWSA map located in Pittsgrove Township, as Block 201, Lot 2, which holds NJPDES Permit NJ0099678. The commenter requests that Block 201, Lot 1.01, an approximately 110 acre parcel owned by Harding Woods, be included in the FWSA in conjunction with the NJPDES/DGW Permit issued to Harding Woods.

Additionally, the commenter states that Block 201, Lot 1.01, is incorrectly shown on the proposed FWSA mapping as a permitted site named "Picnic Grove Mobile Homes" with a NJPDES-T1 Permit (site 33). The proposed FWSA mapping incorrectly includes Block 201, Lot 1.01, as part of, or in conjunction with, Block 201, Lot 1. Block 201, Lot 1, is owned by Par 3 Management, LLC (Par 3) and is a mobile home park covered by different permitting requirements and is not covered by the NJPDES/DGW Permit issued to Harding Woods. Par 3 has no affiliation, ownership rights or interest in Harding Woods' property at Block 201, Lot 1.01 or Lot 2. (5)

Response: Harding Woods, identified as site number 30 on the FWSA map, holds NJPDES Individual Permit NJ0099678 for Block 201, Lot 2. Picnic Grove Mobile Homes, identified as site number 33 on the FWSA map, holds NJPDES T-1 Permit NJG0066214 for Block 201, Lot 1. Parcel data is graphically depicted on the FWSA map; however, the Block and Lot numbers are not. The full Salem County WMP will include a facility table for each NJPDES permitted site identified on the FWSA map. The Department will ensure that the correct Block and Lot numbers are associated with each facility.

Block 201, Lot 1.01 is not a NJPDES permitted site and not identified as such on the map as the commenter indicates. Further, Block 201, Lot 1.01, was not included in the FWSA due to Threatened and Endangered Species Habitat identified on the site using the Landscape Project, as well as the existence of wetlands and riparian corridor buffers. Additionally, the inclusion of new SSA as part of the adoption of the FWSA map constitutes a substantial change and would impermissibly circumvent the WQM Plan amendment procedures at N.J.A.C. 7:15-3.4(g), including the public review process.

Any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable.

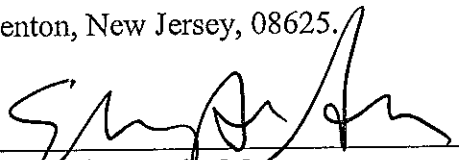
In addition to the specific written comments addressed above, the Department received information submitted to the County from Elsinboro in response to its request for consent. Elsinboro objects to the FWSA delineation as proposed within their boundaries, as the municipality believes that the dwellings along the Delaware and Salem Rivers currently served by septic disposal fields should have access to a sewerage treatment facility and be included in the proposed FWSA. Elsinboro believes that these areas should be included due to the potential for failure of the existing systems, the inability to replace the existing systems based on environmental constraints on the area, and the potential deleterious effect of malfunctioning systems on the environment.

The Department has not accommodated Elsinboro's requests. Doing so would be a substantial change on adoption that 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. However, any party may submit an application to the Department for a site specific amendment or revision, as applicable, to the Lower Delaware WQM Plan to include the aforementioned areas in the SSA in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable.

Adoption 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 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. Further, the WQPA 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 Department, Division of Coastal and Land Use Planning, 401 East State Street, Trenton, New Jersey, 08625.


Elizabeth Semple, Manager
Division of Coastal and Land Use Planning
Department of Environmental Protection

6/18/13
Date