

## **PUBLIC NOTICE**

### **ENVIRONMENTAL PROTECTION**

### **DIVISION OF COASTAL AND LAND USE PLANNING**

#### **Adopted Amendment to the Tri-County Water Quality Management Plan**

#### **Public Notice**

**Take notice** that on **MAY 07 2013**, pursuant to the provisions of the New Jersey Water Quality Planning Act, 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 Department of Environmental Protection (Department) adopted an amendment to the Tri-County WQM Plan. This amendment, submitted on behalf of the Burlington County Board of Freeholders as the responsible Wastewater Management Planning Agency, adopts a Future Wastewater Service Area (FWSA) map for Burlington County. Notice of the Department's proposal of this amendment was published in the New Jersey Register on September 4, 2012, at 44 N.J.R. 2207(a).

The adopted amendment was prepared pursuant to P.L. 2011, c. 203, enacted on January 17, 2012, which permits the Wastewater Management Planning Agency to prepare and submit to the Department at least that portion of a wastewater management plan (WMP) designating sewer service area (SSA), which shall comply with the Department's regulatory criteria.

The adopted map, entitled "Future Wastewater Service Areas (FWSA), Burlington County New Jersey," supersedes all wastewater service area mapping currently contained in the Tri-County WQM Plan for areas within Burlington County, including that which was adopted into the Tri-County WQM Plan as part of approved WMPs, with the exception of a portion of Coastal

Environmentally Sensitive Planning Area that was inadvertently included in the FWSA within Bass River Township, the further details of which are discussed below.

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 2,000 gallons per day or less. The adopted map modifies the previously approved SSA to exclude environmentally sensitive areas (ESAs) that are not currently connected to the 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 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 Department and Burlington 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 29, 2011, to allow public review and comment on the then-current

draft of Burlington 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 must be excluded from the adopted SSAs. Pursuant to N.J.A.C. 7:15-5.24, ESAs are described as contiguous areas of 25 acres or larger consisting of habitat for threatened and endangered wildlife species as identified on the Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, Natural Heritage Priority Sites, Category One special water resource protection areas, and wetlands, alone or in combination. These ESAs are not included in the SSA except as noted below.

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 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)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 SSA, 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, their tributaries, and all Highlands waters, are afforded a 300-foot buffer. In addition, as required under N.J.A.C. 7:15-5.20(b)3, the adopted FWSA map text indicates that development in riparian zones, or designated river areas, may be subject to special regulation under Federal or

State statutes or rules. Riparian zones or buffers are established along all surface waters, based on the surface water body's classification designated at N.J.A.C. 7:9B, under the following regulations: the Flood Hazard Area Control Act rules (N.J.A.C. 7:13), the Highlands Water Protection and Planning Act rules (N.J.A.C. 7:38), the Stormwater Management rules (N.J.A.C. 7:8), and the 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 wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not included in the adopted SSA, except as provided under N.J.A.C. 7:15-5.24(e) through (h).

Pursuant to N.J.A.C. 7:15-5.24(c), certain coastal planning areas must also be excluded from the SSA where applicable. There are no Coastal Fringe Planning Areas or Coastal Rural Planning Areas in the Tri-County WQM planning area of Burlington County. However, a portion of Coastal Environmentally Sensitive Planning Area has been identified within the southern portion of Bass River Township in an area where the State's jurisdiction under the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq., overlaps a portion of the Pinelands National Reserve. Although the area is considered by the Pinelands Comprehensive Management Plan (CMP) as part of New Gretna Village, the lands lie outside the Pinelands Protection and Preservation Areas and within the State's Coastal Zone. The proposed amendment inadvertently included these lands, comprising a total of approximately 264 acres in Bass River Township, as part of the new FWSA. As required pursuant to N.J.A.C. 7:15-5.24(c), this area must be excluded from the FWSA. The Department has, therefore, adopted the amendment as proposed with the exception of this Coastal Environmentally Sensitive Planning Area in Bass River Township. The Department is concurrently proposing in a separate notice in this issue of the New Jersey Register, a proposed correction to the previously proposed amendment to exclude this area from SSA. Public comment on the proposed correction will be accepted pursuant to N.J.A.C. 7:15-3.4(g)8i.

In accordance with N.J.A.C. 7:15-5.24(d)1, areas with Federal 201 grant limitations that prohibit the extension of sewers are excluded from the adopted SSA either where local mapped

information exists delineating these areas, or through a narrative description where mapping does not exist, except as provided under N.J.A.C. 7:15-5.24(f)1. Where a narrative approach has been used, it is noted as text on the adopted FWSA map. Pre-existing grant conditions and requirements (from Federal and State grants or loans for sewerage facilities) which provide for restriction of sewer service to ESAs, are unaffected by adoption of this 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, not applicable here, which must also be excluded from SSA pursuant to N.J.A.C. 7:15-5.24(d)2 through 4. Specifically, there are no beaches, coastal high hazard areas, or dunes in the Tri-County WQM Planning area.

As provided under N.J.A.C. 7:15-5.24(e) through (h), limited ESAs have been included in SSA. Where applicable, Department permits or jurisdictional determinations have been utilized to determine the extent of the SSA on individual lots.

In recognition of the nature and scope of the New Jersey Pinelands Commission's (Commission) regulation and oversight 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, a Memorandum of Understanding (MOU) between the Department and the Commission has been executed in which the Department recognizes the management area designations and boundaries established by the Commission within the Pinelands Area. The MOU provides that 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 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 Comprehensive Master Plan (CMP), as specified in geographic information system (GIS) coverage provided by the Pinelands Commission, shall be deemed to be within a SSA. Such areas included in SSA pursuant to the MOU may include ESAs as described in N.J.A.C. 7:15-5.24(b). Pursuant to the MOU, the

Department has not excluded ESAs delineated at N.J.A.C. 7:15-5.24(b) within a Pinelands Village, Pinelands Town, Regional Growth Area, or substantially developed portions of a Military and Federal Installation Area, from SSA on the adopted map.

However, as a result of the Department soliciting comments, in accordance with N.J.A.C. 7:15-3.7, from the Commission on the proposed amendment pertaining to the Pinelands Area and Pinelands National Reserve to ensure that the amendment is consistent with the intent and programs of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and section 502 of the National Parks and Recreation Act of 1978, 16 U.S.C. 471i, in addition to the MOU, the Department has determined that the adopted FWSA map includes minor irregularities. The irregularities exist where the adopted map boundaries of the FWSA do not align precisely with Pinelands Management Area Districts administrative boundaries, thus creating narrow strips of land where the limits of the FWSA do not extend to the precise edge of the Pinelands Management District Boundary. These minor mapping aberrations are referred to as “gaps” or “gores.” This imprecision is minor and will not affect Pinelands jurisdiction or its ability to administer the Pineland’s CMP. Because similar mapping discrepancies exist within other counties that include Pineland Areas, the Department intends to propose an amendment that will comprehensively correct all Pineland Areas mapping for consistency as required by N.J.A.C. 7:15-3.7 and in accordance with the MOU. Therefore, any minor mapping corrections to the FWSA mapping for the Pinelands Area in Burlington County will be included in a forthcoming proposed amendment.

The notice of this amendment proposal was published in the New Jersey Register on September 4, 2012, at 44 N.J.R. 2207(a). A public hearing was held on October 9, 2012, at the Burlington County Administration Building in Mount Holly, New Jersey.

The following people provided comments on this amendment during the public comment period:

**Number – Commenter Name – Affiliation**

1. Steven Lucas, property owner, Mount Laurel Township
2. Richard Hluchan, attorney representing property owner, Mount Laurel Township

3. Rick Ricciardi, Marathon Engineering representing the New Jersey Builders' Association
4. Raymond Soto, property owner, Mount Laurel Township
5. Michael and Veronica Hayes, property owners, Mount Laurel Township
6. Constance McLean, representing Living Faith Ministries, Mount Laurel Township
7. Carolyn and Dave Ellis, property owners, Mount Laurel Township
8. Pam Carolan, Executive Director Mount Laurel Municipal Utility Authority
9. Gus Zagame, property owner, Mount Laurel Township
10. Robert Lautman, property owner, Mount Laurel Township
11. Mr. Sharma, property owner, Mount Laurel Township
12. Mary Coyne, property owner, Mount Laurel Township
13. Michelle and Wayne Jerrell, property owners, Mount Laurel Township
14. Michelle Stojanov, property owner, Mount Laurel Township
15. Sissel Juliano, property owner, Mount Laurel Township
16. Conrad Daniel, property owner, Mount Laurel Township
17. Alfred DiPietro, property owner, Mount Laurel Township

As noted below in response to specific comments requesting modification to the FWSA map, the Department is adopting the proposed amendments with minor changes pursuant to N.J.A.C. 7:15-3.4(g)9ii. These minor changes do not effectively destroy the value of the public notice of the proposed amendments and are technical/administrative corrections or modifications. Comments requesting to include or exclude SSA, which was not reflected in the proposed amendment and was found to be a substantial change, 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 which would enlarge or curtail which properties would be affected by the adopted FWSA map and/or the way in which properties would be affected by the adopted FWSA map would be considered substantial. Making such substantial changes on adoption would effectively destroy the value of the public notice and, thus, a new notice and public comment period are

required prior to consideration of such changes pursuant to the process set forth in N.J.A.C. 7:15-3.4.

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.

A summary of the comments and the Department's responses follows. The number(s) in parentheses after each comment identifies the respective commenter listed above. Also, it is noted here that several commenters reference a letter they received from the Mount Laurel Township Municipal Utilities Authority (MLTMUA) (see comment numbers 1, 11, 12, and 17). For clarification, the letter, dated September 14, 2012, was sent by Pamela Carolan, Executive Director of the MLTMUA. The purpose of the letter was to advise affected property owners that due to proposed changes to the Tri-County WQM Plan, the MLTMUA determined that their property was "...either entirely or partially in an area that is designated as being outside of the MUA's SSA." Consequently, numerous requests from Mount Laurel Township property owners as well as the MLTMUA have been made for inclusion of additional land in the SSA. Individual circumstances are discussed in the comments below. As mentioned above, where the Department has determined that inclusion of properties proposed to be excluded from SSA is a substantial change, the requested change has not been accommodated upon adoption. It is the County's intention to incorporate these more substantive FWSA mapping correction requests, where appropriate, into the finalized Burlington County WMP, the proposal notice of which will be provided pursuant to N.J.A.C. 7:15-3.4(g).

**1. Comment:** The commenter is concerned that due to a small area of ESA on his property in Mount Laurel Township, he has been excluded from the SSA and will be unable to connect his residence to public sewers in the future without obtaining additional Department approvals, as implied in the letter he received from the MLTMUA. The commenter requests that his property remain in the MLTMUA SSA. (1)



**Response:** More than half of the subject property, Block 703, Lot 6.02, is shown on the FWSA map to be within the SSA, including the existing residence. Therefore, no additional Department approvals would be necessary to connect the existing residence to the MLTMUA system. Because the remaining area of the property includes contiguous wetlands greater than 25 acres, a letter of Interpretation (LOI), issued by the Department pursuant to N.J.A.C. 7:7A-8, would need to be submitted with an application for a WQM plan site specific amendment in order for the Department to reevaluate inclusion of the entire property.

**2. Comment:** The commenter contests the exclusion of Block 510, Lots 3 and 3.01, in Mount Laurel Township from the proposed SSA based on wetlands mapping. The commenter asserts that the property does not have hydric soils which would support wetlands and that the wetlands are instead associated with a drainage corridor that bisects the property. The commenter requests that the property be added back into the SSA. (2)

**Response:** This property was excluded from the SSA based on the presence of wetlands on the parcel that are part of delineated contiguous wetlands greater than 25 acres, pursuant to N.J.A.C. 7:15-5.24. A portion of that contiguous area identified as ESA inadvertently included wetlands that had already been developed, thereby reducing the net area of wetlands to less than the 25 acre threshold required for exclusion from the SSA. Consequently, inclusion of this property in the SSA is permissible under the rule. However, the Department has determined that making such a modification to the FWSA map would constitute 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. Therefore, the requested modification has not been made. As mentioned above, it is the County's intention to incorporate these more substantive FWSA mapping corrections requests, where appropriate, into the finalized Burlington County WMP, the proposal notice of which will be provided pursuant to N.J.A.C. 7:15-3.4(g). Furthermore, 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.

**3. Comment:** The commenter asserts that the Burlington County draft FWSA map is not aligned with the existing State Plan or the draft State Strategic Plan. Further, the commenter identifies “significant, non-environmentally sensitive areas along the Route 295 corridor” designated as PA1 (metropolitan planning area) and PA2 (suburban planning area) under the State Plan, that have been excluded from the SSA. (3)

**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.

The commenter does not specify which parcels along the Route 295 corridor are believed to have been erroneously removed from the SSA based on the delineation of ESAs; therefore, a specific response cannot be given.

**4. Comment:** The commenter asserts that the Department and the County incorrectly removed numerous parcels of land from the SSA, even though the parcels did not include ESAs alone or in combination in a contiguous area of 25 acres or larger. (3)

**Response:** The commenter does not specify which parcels do not meet the criteria set forth in N.J.A.C. 7:15-5.24 for exclusion from the SSA; therefore, a specific response cannot be given. However, the Department notes that delineation of SSA under N.J.A.C. 7:15-5.24(a) not only precludes sewer service from areas identified as environmentally sensitive, it also affords the wastewater management planning agency discretion to exclude additional areas based on local planning objectives or other environmental concerns, not limited to source water protection. Furthermore, any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan for consideration on whether additional

areas and/or facilities can be included in or excluded from SSA in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable.

**5. Comment:** The commenter asserts that numerous lake communities throughout Burlington County are served by septic systems that are not designed in accordance with the Standards for Individual Subsurface Sewage Disposal Systems (ISSDSs), N.J.A.C. 7:9A, and notes in particular that systems are built on undersized lots. The commenter believes that the continued use of these substandard septic systems will contribute to the degradation of water quality; therefore, these areas should be included in the SSA. The commenter asserts that, at a minimum, the Department should require that a septic management strategy be included in the WMP in order to address failing septic. (3)

**Response:** The commenter does not specify a particular geographic area of concern; therefore, a specific response cannot be given regarding why certain areas were excluded from SSA. However, inclusion of parcels currently served by septic systems within the SSA is based on the same considerations used to delineate SSA under N.J.A.C. 7:15-5.24. 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. Pursuant to N.J.A.C. 7:15-3.5(b)4ix, a revision to an area-wide WQM plan may be adopted to allow the connection of an existing structure with a malfunctioning subsurface disposal system upon demonstration by the applicant that it is infeasible to repair or replace the malfunctioning system on site.

Regarding the commenter's request that the County WMP include a septic management strategy, Burlington County is proceeding to develop a complete WMP and will be required under N.J.A.C. 7:15-5.25(e)3 to demonstrate that areas to be served by ISSDSs are subject to a mandatory maintenance program, such as an ordinance, which ensures that all ISSDSs are functioning properly.

**6. Comment:** The commenter asserts that the planning process for designating SSAs has not been transparent. The commenter endorses notification of each individually affected landowner

(as was done in Somerset County) and not just reliance on internet posting or newspaper publication. The commenter believes that public review is the only means to verify and/or correct mapping errors. (3)

**Response:** The Department and Burlington County have pursued an open and extensive public review process which has included meeting with the public, municipal officials, and affected agencies over the past four years. In accordance with AO #2010-3 signed by Commissioner Martin, a public meeting was held on March 29, 2011, to allow public review and comment on the then-current draft Burlington County SSA, the notice of which was published in the New Jersey Register and The Burlington County Times at least 30 days prior to the meeting. As a result, the Department and the County have received continuous input regarding mapping corrections and other issues.

As required by the WQM Planning rules, and as stated above, notice of this amendment was published in the New Jersey Register and The Burlington County beginning a 45 day public comment period, which included a public hearing held on October 9, 2012. The Department notes that notice of every individual property impacted by this amendment is not required by the adopted WQM Planning rules. Further, 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.

**7. Comment:** The commenter questions the Department's reliance on existing GIS mapping data related to the location of wetlands, species habitat and stream buffer locations. The commenter notes that the Department itself acknowledges that GIS mapping requires extensive field verification. Further, the commenter asserts that these circumstances result in delays in the development/redevelopment of appropriate properties and stifle economic growth and recovery. (3)

**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 WMP 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) LOIs, Habitat Suitability Determinations (HSD), 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. Any apparent delays resulting from the current process employed by the Department, however, would be significantly outweighed by the delays that would result from a more detailed, site by site analysis on a county-wide planning level.

**8. Comment:** The commenter states that the Burlington County FWSA map is geographically poor and difficult to read/interpret. Specifically, it should include property lines and street names. In addition, no justification is provided to describe the process by which properties were either included or excluded from the SSA. It would also be beneficial to graphically show the changes being made from the original SSA delineation and indicate the total acreage of areas being added or removed. (3)

**Response:** Although the resulting adopted FWSA map does not include local street names or tax parcel lines, it does identify the names of municipalities, 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. The Department and Burlington County sought to provide a balance of graphic and textual information to preserve the ability to adequately view the proposed FWSA boundaries, which are the focus of the FWSA map.

As indicated by the commenter, the proposed FWSA map does not specify 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 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 Administrative Order 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 Burlington County have provided at numerous meetings, and via numerous correspondence, similar information. 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. 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.

**9. Comment:** The Department and County will be inundated with applications for site-specific amendments and revisions following adoption of the FWSA map. Additionally, the review process is "very costly, resource intensive, and unnecessarily slow." Therefore, the commenter strongly urges the Department and County to abide by the timeframes and review process set forth in Section 6-8 of the 2012 water quality management planning law. (3)

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

**10. Comment:** The commenter expressed concern about the Department's use of a watershed-based Nitrate Dilution Model for calculation of septic density development rather than the more site specific approach used by the Pinelands Commission. (3)

**Response:** As the Recharge-Based HUC 11-Scale Nitrate Carrying Capacity Planning Tool model was not used in the delineation of the SSA, this comment goes beyond the scope of this proposed amendment. A full WMP, which must include a septic density analysis on a HUC 11 basis, where the model is appropriately used, has not been submitted to the Department at this time. However, the Department has previously responded to similar comments submitted in response to its May 21, 2007, proposal 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 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).

**11. Comment:** The commenter anticipates subdividing his property (Block 401, Lots 41 & 42.01) in the future and wants to ensure that it will be eligible for sewer service. A letter he received from the MLTMUA was unclear about the status of his property. (4)

**Response:** Only a portion of Lot 41 has been excluded from the SSA because it includes wetlands and threatened and endangered species habitat as part of an area of contiguous ESAs greater than 25 acres. The remaining portion of Lot 41 and the entirety of Lot 42.01 are shown within the adopted SSA. Further documentation, including an LOI, issued by the Department pursuant to N.J.A.C. 7:7A-8, and an HSD, prepared pursuant to N.J.A.C. 7:15:5.26, would need to be submitted with an application for a WQM plan site specific amendment, in order for the Department to reevaluate inclusion of the entire property. No modification to the FWSA map has been made.

**12. Comment:** The following commenters from Mount Laurel Township express frustration regarding the exclusion of their respective properties from the SSA and wish to be included in the SSA:

The commenters note that although that their property at Block 310, Lot 3.05, includes ESAs, it seems questionable that an adjacent development could be mapped within the SSA, while their property is not. They would like assurance that they will have the ability to connect to the MLTMUA system in the future. (5)

The commenters state that their entire property at Block 602, Lot 15 (approximately 16.2 acres), would not be able to be subdivided for future sale or development, thus devaluing its worth. They also note that other developments built near streams are included in the SSA, while their property with a stream was excluded. Finally, the commenters assert that the MLTMUA letter was ambiguous and want to know what recourse is available to modify the FWSA map and be included in the SSA. (7)

The commenter is concerned that Block 206.05, Lots 11-15, and 32-33, not presently shown in the SSA of the proposed FWSA map would be precluded from future connection to sanitary sewers. He asserts that the letter received from the MLTMUA was vague regarding this issue. (9)

**Response:** Each of the respective property owners has an existing residence located on the portion of their properties that are not within ESAs; however, most of the remaining portions of their properties are part of a contiguous ESA greater than 25 acres. In the development of the County-wide map, application of the general methodology used to delineate SSA under N.J.A.C. 7:15-5.24 resulted in the exclusion of the entirety of their properties to achieve a logical and identifiable SSA boundary throughout the County that also excluded ESAs. In instances where such methodology would be used on a site-specific basis, the non-ESA portions would not be excluded from the SSA pursuant to N.J.A.C. 7:15-5.24 unless based on local planning objectives. Consequently, inclusion of the non-ESA portions of the above referenced properties in the SSA to allow for future connection of the existing residences to the MLTMUA would be permissible



under the WQM Planning rules. However, the Department has determined that making such a modification to the FWSA map would constitute 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. Therefore, the requested modification has not been made. As mentioned above, it is the County's intention to incorporate these more substantive FWSA mapping correction requests, where appropriate, into the finalized Burlington County WMP, the proposal notice of which will be provided pursuant to N.J.A.C. 7:15-3.4(g). Furthermore, 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.

**13. Comment:** The commenter, representing the owners of Block 34, Lot 3, notes that a valid LOI exists for the property and that the Department previously provided correspondence indicating that there was no objection to inclusion of the upland portion of the site in the SSA. Therefore, the commenter requests confirmation that the property will be included in the SSA.  
(6)

**Response:** The commenter is referring to the Department's formal response to a written request for inclusion of the subject property in the SSA. The request, along with supporting documentation was submitted following a public meeting on the draft SSA. The Department's September 16, 2011, letter confirmed that the upland portion of the property could be included in the SSA. The property was included in SSA in the proposed FWSA map and remains included upon adoption of this amendment.

**14. Comment:** The commenter wishes to clarify the intent of the MLTMUA's September 14, 2013, letter that was sent to approximately 250 affected residents. The commenter notes that the MUA had been working with Burlington County regarding the SSA mapping with the intention of including all non-environmentally sensitive properties in the MUA's SSA. It was also noted that due to the mapping scale, it was not clearly discernible whether individual properties were in or out of the SSA. The commenter invited residents to look at the more detailed map available in the MUA's office and advised them to submit written appeals following the hearing, until the

October 23, 2012, close of the comment period. A copy of the subject MLTMUA letter was provided to Department representatives. Finally, the commenter notes that the Department was responsible for the review of amendments for proposed changes to the adopted FWSA map. (8)

**Response:** The Department appreciates the commenter's clarification and cooperation throughout the process.

**15. Comment:** The commenter questioned why Block 309, Lot 1.01, in Mount Laurel Township was excluded from the SSA. (10)

**Response:** The property was removed due to its environmental sensitivity, consistent with the WQM Planning rules at N.J.A.C. 7:15-5.24. The entire parcel is identified as habitat for threatened and endangered species, including the eastern box turtle and bald eagle.

**16. Comment:** The commenter questions why his physical residence located on Block 809.01, Lot 1, in Mount Laurel Township is shown as half in and half out of the draft SSA. (11)

**Response:** It appears that exclusion of part of the residence was based on a mapping error relative to the Township's tax map information. The property is not otherwise constrained and is part of an existing, residential development, sewered to the Hartford Road STP. Therefore, the Department considers the inclusion of the entire residence in the SSA to be a minor technical correction that may be made upon adoption. As such, the entire parcel is included in the SSA as part of this adoption.

**17. Comment:** The commenters, who own respective parcels in Mount Laurel Township, want to know the status of their individual properties, and request that their properties be included in the adopted SSA. The commenters had received a letter from the MLTMUA regarding changes to the SSA. The properties include Block 301.14, Lot 12; Block 401.03, Lot 19 (corrected from previously identified Block 401.02, Lot 19); Block 401.03, Lot 13 (corrected from Block 401.02, Lot 13); Block 304, Lot 8; Block 205, Lots 24 & 25; and Block 152, Lot 4. (12, 13, 14, 15, 16, 17)

**Response:** The non-ESA portions, including the existing residences, of Block 301.14, Lot 12; Block 401.03, Lot 19; Block 401.03, Lot 13; Block 304, Lot 8; and Block 152, Lot 4, are currently shown within the SSA of the Burlington FWSA map. Because the remaining area of these properties include contiguous ESAs greater than 25 acres, further documentation such as an LOI and/or an HSD, as applicable, would need to be submitted with an application for a WQM Plan site specific amendment in order to reevaluate inclusion of the entire properties.

Block 205, Lots 24 & 25, was excluded from the SSA in the proposed map. No ESAs are identified on site, so inclusion of this property in the SSA would be permissible under the rule. However, making such a modification to the FWSA map would constitute 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. Therefore, the requested modifications have not been made.

**18. Comment:** The commenter identified numerous properties in Mount Laurel Township that the commenter believes were erroneously excluded from the MLTMUA SSA. According to the commenter, these properties include existing residences or commercial buildings already being served by the MLTMUA; existing sewage-generating structures currently discharging into privately owned leaching pits/septic systems which should be connected to MLTMUA facilities as soon as possible; and existing structures located on the non-ESAs of properties not presently served by the MLTMUA. Specifically, these subject properties include: Block 205.01, Lots 26, 27 & 30; Block 214, Lots 1.05, 1.15 & 25.01; Block 310, Lot 3.05; Block 401.03, Lot 1; Block 401.05, Lot 7.01; Block 401.09, Lots 63 & 84; Block 408, Lots 2 & 3; Block 501.07, Lot 1; Block 509, Lot 3; Block 600, Lots 11, 11.01, 11.02 & 11.03; Block 601, Lots 2.02, 2.03, 3.02, 8 & 8.04; Block 602, Lots 11.01, 12, 15, 16, 16.01, 22 & 23; Block 606, Lot 20; Block 800, Lots 7.04 & 8.01; Block 801, Lot 8.05; Block 1003, Lots 12 & 12.01; Block 1201, Lot 9.01; and the Ramblewood Country Clubhouse building, located at Block 1103, Lot 2. (8)

**Response:** Properties which contain existing structures that are already being served by the MLTMUA meet the criteria at N.J.A.C. 7:15-8.1(b), and therefore may be added to the SSA

upon adoption of this amendment. These include Block 602, Lot 23; Block 88, Lot 8.01; and the Ramblewood Country Clubhouse at Block 1103, Lot 2.

Inclusion of the remaining properties listed above in the SSA that are either currently discharging into privately owned leaching pits/septic systems, or include ESAs on only a portion of the parcel may be permissible under the rule, however, the Department has determined that making such a modification to the FWSA map would constitute 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. Therefore, the requested modifications for these affected properties have not been made. It is the County's intention to incorporate these more substantive FWSA mapping correction requests, where appropriate, into the finalized Burlington County WMP, the proposal notice of which will be provided pursuant to N.J.A.C. 7:15-3.4(g). In addition, 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 comments addressed above, the Department received information, questions, and comments from several municipalities in response to Burlington County's request for consent. Following are those comments:

The Bordentown Sewerage Authority (BSA), in a letter dated September 30, 2012, requested corrections to inaccurate text in the FWSA map legend; changes to individual municipal maps; and addition of a commercial property (Bordentown Township Block 138.12, Lot 5.02 and Block 137.01, Lot 3.02) to the BSA SSA. The Department has determined that changes to correct inaccuracies in the legend are minor, technical corrections and has made the changes as part of this adoption. The municipal maps were not the subject of the notice or public hearing and were provided by Burlington County for informational purposes, and so are not addressed herein. With regard to including the commercial property in the SSA, although it does not include ESAs, the Department has determined that making such a modification to the FWSA map would constitute 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. Therefore, this requested inclusion has not been made.

Burlington Township, in a letter dated October 11, 2012, requested that notation be added to the map to more clearly describe an inter-facility connection between the Bordentown Township and Burlington City collection systems. In addition, the Township has indicated that there are several discharges to surface water (DSW) locations that are inaccurately mapped and need to be corrected. The Department has determined that these changes are minor, technical corrections and has made the changes upon adoption.

The Township of Edgewater Park, in a letter dated September 19, 2012, requested that the FWSA map include demarcation of existing infrastructure; include the use of parcel mapping; and conform to N.J.A.C. 7:15-5.18(c)3, which notes that FWSA maps should depict “The location of each existing, expanded, or new pumping station and major interceptor and trunk sewer, if any, that would convey sewage within the wastewater management plan area.” The Department has not made the changes requested by the Township. This amendment was prepared 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 WMP designating SSA. While the Department encouraged wastewater management planning agencies to include additional information on the FWSA map, such as existing infrastructure, where applicable and possible, the proposed amendment met the Department’s requirements. 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. A complete county-wide WMP is required to include mapping of all existing infrastructure.

Medford Township, in a letter dated October 26, 2012, requested inclusion of the following parcels in SSA: Block 302, Lot 25.01; Block 401, Lots 3, 5, 6, 7, 8, 9.02 & 13.02; Block 403, Lot 2 & 7; Block 404, Lot 1.01; and Block 714, Lot 1. The Department has not made the requested modification. The subject parcels have been excluded from the SSA due to the presence of wetlands, in accordance with N.J.A.C. 7:15-5.24.

The Medford Lakes MUA provided information regarding technical errors to the FWSA map. Certain connected properties in Medford Township are not shown to be within the MUA's SSA. These properties include residences located on Block 4807, Lots 1, 2.01, 2.02 and 2.03; Shawnee High School (Block 4704, Lot 3); Chipping Woods residential development (Block 4803, Lots 1-17); Medford Pines residential development (Blocks 5001-5015); an office (Block 6409, Lot 2.02); and a strip development and gas station (Block 4802, Lots 14.01-14.04). In addition, there is an existing connection from the clubhouse at Medford Lakes Country Club (Block 20027, Lot 1) and individual buildings at the YMCA camp (Block 5101.01, Lot 1) that are not identified as part of the Medford Lakes MUA SSA. The Department agrees that the parcels in question should have been included in SSA as they are already connected to the sewer system and meet the criteria at N.J.A.C. 7:15-8.1(b).

The Pemberton Township MUA (PTMUA), in a letter dated October 23, 2012, requested inclusion of several areas in their SSA: the northwest corner of Pemberton Township along Route 206; the area bound by North Pemberton Road, a railroad right-of-way, Birmingham Road (Rte. 616) and Arney's Mt. Road (Rte. 668); and Greenberg Farm. The PTMUA also requested that the residential development known as Presidential Lakes be included in SSA as the on-site septic systems that currently serve this community are likely to present a public health hazard in the near future. The first three areas described in Pemberton Township's letter were all in the proposed SSA. Therefore, these areas continue to be included in SSA upon adoption of this amendment. The rationale for not including the Presidential Lakes residential community in the SSA was based on both the Pinelands designation as a forest management area and the location of ESAs that completely surround the development. As noted in the Department's response to comment number 5, pursuant to N.J.A.C. 7:15-3.5(b)4ix, a revision to an area-wide WQM plan may be adopted to allow the connection of an existing structure with a malfunctioning subsurface disposal system upon demonstration by the applicant that it is infeasible to repair or replace the malfunctioning system on site. 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.

Mayor David Patriarca of Pemberton Township, requested the addition of four areas to the SSA: 1) Block 793, Lots 1, 2.01, 3, 4.01, 4.02, 5, 6, 7, 8, 9, 10 & 11, and Block 797, Lots 1, 2.01, 3.01, 3.02, 4 & 5; 2) Block 788, Lots 1 & 12; 3) Block 785, Lots 10.03, 11, 12, 13 & 14; and 4) Presidential Lakes residential development. All of the lots identified except for Block 793, Lot 2.01; Block 797, Lot 1; Block 788, Lots 1 & 12; and Block 785, Lot 10.03, which were excluded due to the identification of habitat for threatened and endangered species and/or wetlands, are included in the adopted FWSA-. Block 793, Lot 2.01; Block 797, Lot 1; Block 788, Lots 1 & 12; and Block 785, Lot 10.03, remain excluded from the SSA pursuant to N.J.A.C. 7:15-5.24 upon adoption of this amendment. Regarding the properties in the Presidential Lakes development, please see the above paragraph regarding the Pemberton Township MUA's comments.

The governing body of the Township of Shamong submitted a Denial of Consent to the proposed WQM Plan amendment. The Township is opposed to the development of any sanitary sewer system infrastructure within the Township's borders. As previously noted, pursuant to the MOU between the Department and the Commission, all lands located within a designated Pinelands Village, Town or Regional Growth Area shall be deemed as SSA. The Village of Indian Mills, located in the center of the Township, and a portion of a designated Regional Growth Area located in the northern section of the Township, have been included in the FWSA map. Therefore, no changes to the FWSA map will be made for Shamong Township.

The Township of Southampton, in a letter dated September 20, 2012, requested inclusion of Block 1202, Lot 6, in the SSA. This property was excluded pursuant to N.J.A.C. 7:15-5.24 because a portion of the property consisted of contiguous ESAs (wetlands) greater than 25 acres. The only portion of the property that does not include ESAs is along Route 206 where there is a residence. The Department has determined that making a modification to the FWSA map to include the non-ESA portion of this property in the SSA would constitute 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. Therefore, the requested modification has not been made.

Mayor Denis McDaniel of Springfield Township, in a letter dated September 10, 2012, requested that the SSA for the proposed Burlington County Fairgrounds site be modified to only include areas where buildings will be sited. The Department has determined that making such a modification to the FWSA map would constitute 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. Therefore, the requested modification has not been made.

The Township of Westhampton, in a letter dated September 18, 2012, requested inclusion of additional parcels to the proposed SSA: Block 401, Lots 2 & 8; and Block 701, Lots 4, 6, 9, 10, 14, 15 & 17. The Department notes that certain properties were proposed to be partially included in the SSA, and in fact remain in the SSA upon adoption of this amendment: Block 401, Lot 2, and Block 701, Lots 9 and 17. The remaining portions of these aforementioned properties contain ESAs. Block 701, Lot 10, had been proposed for inclusion in its entirety, and remains included upon adoption of this amendment. Block 701, Lots 4 and 6, and Block 401, Lot 8, were not proposed for inclusion in the SSA due to the presence of ESAs. Consideration to include the portions of the non-constrained areas of any of the aforementioned properties can only be made through a future amendment request and would require further documentation, such as an LOI or HSD, pursuant to N.J.A.C. 7:15-5.24. Finally, portions of Block 701, Lots 14 and 15, have been proposed for inclusion in the SSA and remain in SSA upon adoption of this amendment. Although there are no ESAs on the remaining portions of the properties and it would be permissible to include them in the SSA under the rule, the Department has determined that modifying the map upon adoption to include the non-ESA portions in SSA would constitute 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. Therefore, the requested modifications have not been made. 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.

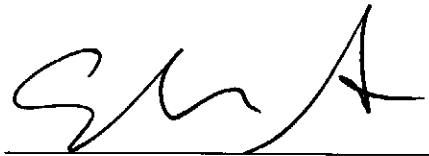
The Borough of Wrightstown has requested the inclusion of Block 501, Lot 7, in the SSA. This property was excluded from SSA due to the presence of contiguous wetlands greater than 25



acres in the eastern and southeastern portion. The remaining areas of the property that do not include ESAs may be included in the SSA per the rule; however, the Department has determined that making such a modification to the FWSA map would constitute 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. Therefore, the requested modification has not been made.

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 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 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

5/7/13

Date

