

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 ~~SEP 4 2013~~, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-A-1 et seq., the Statewide Water Quality Management (WQM) Planning rules (N.J.A.C. 7:15-3.4), and P.L. 2011, c. 203, the New Jersey Department of Environmental Protection (Department) adopted an amendment to the Tri-County WQM Plan. This amendment, submitted on behalf of the Gloucester County Board of Freeholders as the responsible Wastewater Management Planning Agency, adopts a Future Wastewater Service Area (FWSA) map for what is referred to as the non-consolidated portion of Gloucester County. The non-consolidated portion includes the municipalities of Franklin Township, Greenwich Township, Harrison Township, Logan Township, Newfield Township, South Harrison Township, Swedesboro Township, Woolwich Township, and portions of East Greenwich, Elk, and Monroe Townships. Notice of the Department's proposal of this amendment was published in the New Jersey Register on August 6, 2012, at 44 N.J.R. 2065(a). A Wastewater Management Plan (WMP) for the consolidated portion of the County, served by the Gloucester County Utilities Authority Wastewater Treatment Facility, was adopted December 10, 2008 (see 41 N.J.R. 671(a), January 20, 2009). Further, a WMP for Woolwich Township was adopted September 21, 2012 (see 44 N.J.R. 2909(b)).

This adopted amendment was prepared pursuant to P.L. 2011, c. 203, enacted 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 sewer service area (SSA), which shall comply with the Department's regulatory criteria.

The adopted map, titled "Future Wastewater Service Areas (FWSA), Non-Consolidated District, Gloucester County New Jersey," supersedes all wastewater service area mapping currently contained in the Tri-County WQM Plan for municipalities included within the non-consolidated portion of Gloucester County, including those which were adopted into the WQM plan as part of the approved WMPs.

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 Gloucester 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 21, 2011, to allow public review and comment on the then-current draft of the non-consolidated Gloucester 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 SSA. 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 special water resource protection areas, and wetlands, alone or in combination.

In accordance with N.J.A.C. 7:15-5.24(b)1, to determine areas designated as threatened or endangered wildlife species habitat, the Department utilized the Division of Fish and Wildlife's Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, versions 2.1 and 3.0 (Landscape Project), as applicable. Areas identified by the Landscape Project as being suitable 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. 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 SSA where applicable. There are no Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Areas in the non-consolidated portion of Gloucester County.

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 the 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 for lands located 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.

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 discovered that the proposed FWSA map inadvertently included in SSA a parcel of land designated as a Pineland's Rural Development Area, which the Pinelands CMP requires to be excluded from SSA. Block 7101, Lots 51 & 52, in Franklin Township, which together total approximately 28 acres, was inadvertently mapped within the SSA. Lot 52 is owned by the Franklin Township Board of Education and includes a school building which is currently served by an individual subsurface sewage disposal system (ISSDS). As such, the footprint of the school building may be shown as a SSA, while the remainder of Lot 52 and all of Lot 51 be designated non-SSA. Because the Department has ascertained that other counties that include Pinelands Areas also have mapping discrepancies, the Department intends to propose an amendment that will comprehensively correct all Pinelands Areas mapping for consistency as required by N.J.A.C. 7:15-3.7 and in accordance with the MOU. Therefore, a correction to exclude this particular parcel in Franklin Township from the FWSA mapping for the Pinelands Area in Gloucester County will be included in the forthcoming proposed amendment.

The notice of this amendment proposal was published in the New Jersey Register on August 6, 2012, at 44 N.J.R. 2065(a). A public hearing was held on September 12, 2012, at the Gloucester County Office of Government Services in Clayton, New Jersey.

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

Number - Commenter Name - Affiliation

1. Nicholas Casey, Vice President, Developments Configure Group, managing partner of Silvergate Associates, property owner, Elk Township
2. Robert Kasuba, Esq., Bisgaier Hoff, LLC, representing Fox Moore, Newfield
3. Michael Floyd, Esq., Archer & Greiner, PC., representing Dean Harper Development Corp. and Dean Harper Inc., Logan Township
4. Annina Hogan, Engineer for Logan Township
5. Rich Riccardi, New Jersey Builders Association
6. Paul Tyshchenko, New Jersey Pinelands Commission
7. Richard J. Hoff, Jr., Bisgaier Hoff, LLC, representing New Greenways, LLC, Franklin Township
8. Robert W. Bucknam, Jr., Archer & Greiner, PC., representing Clean Harbors, Inc. and Bridgeport Disposal, LLC, property Logan Township
9. Robert W. Bucknam, Jr., Archer & Greiner, PC., representing Liberty Property Development, Logan Township
10. Gary Rosenweig, Esq., Archer & Greiner, PC, representing Marilyn Harris, Harrison Township

As noted below in response to specific comments requesting modification to the FWSA map, the Department is adopting the proposed amendment 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.

**1. Comment:** The commenter is concerned about 660 acres of land in Elk Township by a development known as Silvergate. The Silvergate development was proposed for the consolidated and unconsolidated portions of the Township, and was planned to be completed in phases. However, the commenter contends that the Gloucester County Utilities Authority (GCUA) WMP did not allocate flow for the entire project. Silvergate, as currently proposed, is broken up between the consolidated and non-consolidated areas, thereby splitting SSAs between properties that have already been issued permits. As an example, the commenter relates that the permit for Phases I and III requires construction of primary components of the sewer collection system that will handle all of the flow for all of Elk Township. As noted the FWSA map designates only the Silvergate I and III properties to be within the consolidated GCUA SSA, whereas the commenter notes the permitted design flow was based on serving additional portions of the Township that are not within the consolidated area. Likewise, the commenter notes that the Aurora School, which has a failing septic system, has been excluded from the SSA, whereas it was intended that it tie into Silvergate's lines. According to the commenter, there is preliminary approval and flow allocation for development in Silvergate phase II, which is shown to be removed from the consolidated area, per the FWSA map. In concluding, the commenter makes an appeal for a rational approach to the SSA mapping that will tie together all of the developments. (1)



**Response:** The Department would like to clarify that the adopted FWSA map does not change the consolidated/non-consolidated designations as described in the GCUA WMP. Phases I, III, V and VI are shown in the consolidated area and phases II and IV in the non-consolidated area. The FWSA map adopted in this notice is relevant to Silvergate phases II and IV, which are included in a SSA "dependent on future wastewater treatment availability." This designation accurately reflects the current situation in the Township, whereby further planning would be required, pursuant to N.J.A.C. 7:15-5.25(d), in order to address the lack of available treatment capacity to serve these portions of the project.

**2. Comment:** The commenter states that the proposed Foxmoor development in Newfield Township, which includes Block 1001, Lots 16.02 to 16.18 and Block 1001.02, Lots 16.19 to 16.38, is not included in the FWSA, as all of Newfield is designated "service area for wastewater facilities with planning flows of less than 2,000 gpd which discharge to groundwater." Currently, plans for the Foxmoor inclusionary development are on hold due to ongoing litigation in the Law Division of the Superior Court in Gloucester County. The commenter wishes the record to note that should the court decide in favor of the development, an application will be made to amend the Tri-County WQMP pursuant to P.L. 2011, c. 203 to include the subject property in the SSA. (2)

**Response:** The Department acknowledges the commenter's remarks and the intention to seek amendment to the WQM Plan pending the outcome of the litigation.

**3. Comment:** The commenter objects to the exclusion of portions of properties located in Logan Township from the SSA. The commenter notes that, although ESAs are present along the Route 322 corridor and regional commercial zone, consideration should be given to the inclusion of all lots under common ownership in the SSA, as they are part of "one overall master development." Finally, the commenter wishes to note for the record, that his law firm also represents Liberty Venture LLC and Liberty Property & Trust and that, similarly, current development plans include portions of lots shown to be outside of the SSA per the FWSA map. Additional information regarding these properties will be

forthcoming. The commenter asks that all such "power tracts" be included in the SSA.  
(3)

**Response:** The commenter does not identify property by block and lot; therefore, a specific response cannot be given. However, the Department notes that extensive areas along Route 322 have been included in the SSA, while contiguous ESAs greater than 25 acres are excluded pursuant to N.J.A.C. 7:15-5.24. Generally, ESAs, including both mapped wetlands and threatened and endangered species habitat occur in the northern portion of Route 322, north of its intersection with Route 130. The Liberty Venture LLC properties referred to by the commenter are addressed in the Department's response to comment 15.

**4. Comment:** The commenter wishes to endorse the FWSA map, which was prepared through the coordinated efforts of Logan Township, Gloucester County, and the Department. The commenter notes that the FWSA map, which excludes ESAs, is consistent with the Logan Township Master Plan and the State's WQM Planning rules. The commenter states that the Township does not endorse any amendments at this time. Further, proposals for development of parcels not currently included in the SSA should be submitted for consideration through the amendment procedure. (4)

**Response:** The Department concurs that the adopted FWSA was developed in consultation with local planning entities and pursuant to 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 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 commenters assert that the Gloucester County draft FWSA map is not aligned with the existing State Plan or the draft State Strategic Plan. (5, 8, 9).

**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.

**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 sole reliance on internet posting or newspaper publication. The commenter believes that it is "unrealistic to expect ordinary citizens to be aware of changes from a website and newspaper notice." (5, 8)

**Response:** The Department and Gloucester 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 21, 2011, to allow public review and comment on the then-current draft Gloucester County SSA, the notice of which was published in the New Jersey Register, the Gloucester County Times, and the Courier Post news publications, 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, notice of this amendment was published in the New Jersey Register and The Courier Post Newspaper beginning a 45 day public comment period, which included a public hearing held on September 12, 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 asserts 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. (5, 8)

**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) Letter of Interpretation (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 asserts that the Department's approach of removing private property from SSA will delay development/redevelopment and stifle the State's economic growth and recovery. (5)

**Response:** Parcels that are excluded from SSA may be restricted from sewerage, but this does not prohibit their development. Parcels located outside the SSA can be served by ISSDS discharging 2,000 gallons per day or less to ground water. 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 additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable.

**9. Comment:** The commenters take issue with the level of detail on the proposed map. Commenters 5 and 8 state that the Gloucester 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. Commenter 9 contends that the level of detail used to map wetlands is inappropriate at the county level and hampers the ability of property owners to assess whether or not their property has been impacted by the proposed changes (5, 8, 9).

**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 Gloucester 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 commenters, 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 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 Gloucester County have provided at numerous meetings, and via numerous correspondence, similar information. 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. 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.

**10. 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. (5, 8)

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

**11. 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. (5)

**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).

**12. Comment:** The commenter notes that Franklin Township Block 7101, Lots 51 and 52, is shown to be within the SSA. However, per the Pinelands CMP, this parcel is part of a Rural Development Area, for which there is no proposal for sewerage. (6)

**Response:** As noted previously in this notice, the Department acknowledges that this property was erroneously mapped as SSA and intends to propose an amendment correcting this as well as other noted discrepancies between the Pinelands mapping and FWSAs in counties which include Pinelands Areas, in accordance with N.J.A.C. 7:15-3.7 and the MOU. Accordingly, a new notice and public comment period will be provided

with regard to the proposed amendment pursuant to the process set forth in N.J.A.C. 7:15-3.4.

**13. Comment:** The commenter notes that Block 5101, Lots 5-8, and 13 & 14, in Franklin Township are currently identified on the FWSA map as "Franklin Township Sewer Service Area Dependent Upon Future Wastewater Treatment Availability." Inclusionary development is proposed for the property, which is currently the subject of a builder's remedy lawsuit. The commenter wishes to go on record noting that pending the outcome of the litigation, the adopted WQM plan may be subject to future amendment to accommodate this development. (7)

**Response:** The Department acknowledges the commenter's intent to apply for future amendment to the WQM plan. As noted previously in this notice, 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.

**14. Comment:** The commenter contests the exclusion of portions of properties owned by Clean Harbors, Inc. and Bridgeport Disposal, LLC (Clean Harbors property), from the SSA. The Clean Harbors property encompasses an area of approximately 471 acres and includes Block 1501, Lots 3 & 5; Block 1502, Lots 1 & 2, and 4-12; and Block 1503, Lots 1 & 5, in Logan Township. The commenter notes that the proposed commercial development for these parcels is consistent with Logan Township's Zoning and Master Plan and the NJ State Plan. Further, a report dated September 25, 2012, prepared by Marathon Engineers, contests the accuracy of the Department's ESA mapping. Included in the report are valid LOIs/Line Verifications issued by the Department (# 0809-08-0012.1 and # 0809-08-0012.2) for the entire property and a Habitat Suitability Assessment for the bald eagle. Based upon all of the documented information, the commenter concludes that portions of the Clean Harbors property have been removed from the FWSA that are not ESAs as defined under N.J.A.C. 7:15-5.24 and that these areas can be included through the amendment process pursuant to N.J.A.C. 7:15-5.24(e)



through (h). Specifically, it is requested that additional portions of Block 1501, Lots 3 & 5; Block 1502, Lots 5, 11 & 12; and Block 1503, Lot 5, totaling approximately 40.2 acres of the Clean Harbors property be included in the SSA. (8)

**Response:** The FWSA map shows that the major portions of the subject properties, Block 1501, Lot 5; Block 1503, Lot 5; and Block 1502, Lot 5, lie within the SSA. The excluded portions contain contiguous ESAs greater than 25 acres. If the property owner wishes to refute the boundary of the ESAs, further information, such as an LOI or HSD would be required to verify the boundary of either the mapped wetlands or threatened and endangered species habitat. Therefore, no modification to the SSA in Logan Township has been made. The commenter may, as may any party, submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM plan to include additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable. The information provided as part of this comment may be submitted by the commenter as part of such an application.

**15. Comment:** The commenter refutes the exclusion of a portion of properties owned by Liberty Property Trust and Liberty Venture I, L.P. from the SSA, which include Block 1002, Lots 3 & 4; Block 1001, Lots 1, 2, & 12; and Block 1704, Lots 2 and 2.01-21, in Logan Township. According to the commenter, all of the aforementioned properties are intended for development by virtue of their location along the Route 322 Corridor Commercial Zoning District (within the Commodore Business Center), and as per designation as a Regional Commercial Zoning District in the Logan Township Zoning and Master Plans. Specifically, the commenter requests that a portion (approximately 4.3 acres) of Block 1002, Lot 3, be added back into the SSA. The commenter references a report, dated September 26, 2012, prepared by Taylor, Wiseman & Taylor, which provides more detailed information regarding wetland evaluation on the site, including LOIs and a Freshwater Wetlands Statewide General Permit # 11, Transition Area Waiver-Averaging Plan and Water Quality Certification. The commenter proposes that the submitted documentation be accepted, thus satisfying the amendment requirements pursuant to N.J.A.C. 7:15-5.24 (e). (9)

**Response:** A greater part of the subject properties lie within the SSA delineated in the adopted FWSA map. The excluded portions contain contiguous ESAs greater than 25 acres, which must be excluded from a SSA pursuant to N.J.A.C. 7:15-5.24. The commenter may, as may any party, submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM plan to include additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable. The information provided as part of this comment may be submitted by the commenter as part of such an application. If the property owner wishes to refute the boundary of the ESAs, further information, such as an LOI or HSD would be required to verify the boundary of either the mapped wetlands or threatened and endangered species habitat.

**16. Comment:** The commenter wishes to verify that property, known as Block 5, Lots 10 and 11, in Harrison Township, is included in the Richwood SSA. (10)

**Response:** The subject property, Block 5, Lots 10 and 11, is shown within the Richwood SSA on the adopted Gloucester County FWSA map.

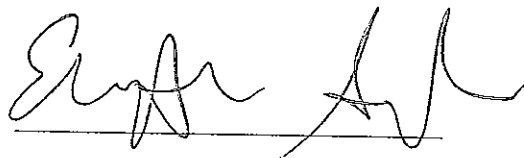
In addition to the specific comments addressed above, the Department received comments from the Township of Greenwich in response to Gloucester County's request for consent and in accordance with N.J.A.C. 7:15-3.4. The Township of Greenwich opposes the proposed amendment. The reasons cited for opposition were included in a January 22, 2010, letter from George W. Shivery, Jr., Mayor of Greenwich Township. The Mayor contends that the WQM Planning rules will have negative fiscal impacts on municipalities; will unreasonably stymy commercial development; and will disallow affordable housing development in areas designated as ISSDS. Further, the effect of removing significant land areas from the SSA will subject municipalities to property tax reduction appeals and eliminate redevelopment of commercial use areas. Overall the mayor contends that "the rules are extensive and without comprehensive analysis for all impacts."

The Department acknowledges the Township's comments and concerns. However, the purpose of the WQM Planning rules is to coordinate the wastewater planning process and encourage growth and development in areas where infrastructure exists and that are not environmentally constrained. When land use planning is coordinated between the public and private sectors, significant economies, efficiencies, and savings are realized by both public and private development projects, and local and regional planning objectives can be achieved.

While removing any property from a SSA may negatively affect its property value, it is difficult to quantify the real economic effect on these properties as many will have existing environmental constraints, for example wetlands, that would have limited their development potential. Though some property values may be decreased in ESAs as a result of removal from a SSA, coordinated wastewater management planning can help prospective buyers and developers avoid purchasing properties that are not suited to their development aspirations or local planning initiatives.

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 necessary permits and approvals. Further, the Water Quality Planning Agency 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.

A handwritten signature in black ink, appearing to be "Eugene A. [unclear]", written over a horizontal line.

Elizabeth Semple, Manager

Division of Coastal and Land Use Planning

Department of Environmental Protection

9/4/13

Date