

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

DIVISION OF COASTAL AND LAND USE PLANNING

Adopted Amendments to the Upper Delaware Water Quality Management Plan and Upper Raritan Water Quality Management Plan

Public Notice

Take notice that on **APR 24 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 amendments to the Upper Delaware WQM Plan and the Upper Raritan WQM Plan. Notice of the amendment proposals was published in the New Jersey Register on September 4, 2012, at 44 N.J.R. 2208(a). These amendments adopt a Future Wastewater Service Area (FWSA) map for Hunterdon County, with the exception of the municipalities of Bethlehem Township, Bloomsbury Borough, Califon Borough, Clinton Town, Clinton Township, Glen Gardner Borough, Hampton Borough, High Bridge Borough, Holland Township, Lebanon Borough, Lebanon Township, Tewksbury Township, and Union Township. Municipal chapters of the Hunterdon County Wastewater Management Plan (WMP) for the municipalities not included in these amendments are being developed cooperatively by the Highlands Water Protection and Planning Council (Highlands Council) and the municipality through the Highlands Council Plan Conformance Process and will be submitted as amendments to the Hunterdon County WMP when completed.

The adopted amendments that are the subject of this notice were submitted by the Board of Chosen Freeholders of Hunterdon County as the responsible wastewater management planning agency. The proposed amendments were submitted to the Department 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 sewer service area (SSA), which shall comply with the Department's regulatory criteria. The adopted map, titled "Future Wastewater Service Areas (FWSA), Hunterdon County New Jersey," will supersede all wastewater service area mapping for Hunterdon County currently contained in the Upper Delaware WQM Plan and Upper Raritan WQM Plan, with the exception of those municipalities mentioned above, and also includes areas outside of Hunterdon County served by wastewater treatment facilities located within Hunterdon County, which have been included as part of an adopted WMP.

The adopted FWSA map identifies areas to be served by sewage treatment facilities/sewer systems as well as areas to be served by septic systems with design flows of equal to or less than 2,000 gallons per day. The adopted map modifies the previously approved SSA to exclude environmentally sensitive areas that are not currently connected to sewer systems. Additionally, the map removes areas from SSA based on local planning objectives, and also includes areas previously excluded from SSA based on local planning objectives. These amendments only modify the wastewater service area mapping portions of the above referenced WQM Plans.

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 modifications. 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 Hunterdon 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 9, 2011, to allow public review and comment on the then-current draft of the Hunterdon 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, environmentally sensitive areas have been assessed to determine what areas must be excluded in the adopted SSAs.

Pursuant to N.J.A.C. 7:15-5.24, environmentally sensitive areas are defined as contiguous areas of 25 acres or larger consisting of habitat for threatened and endangered 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 habitat for threatened and endangered species are not included in the adopted SSAs except as provided under N.J.A.C. 7:15-5.24(e) through (h).

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, not applicable here, must also be excluded from SSA. Specifically, there are no Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Areas in the Upper Delaware WQM planning area or the Upper Raritan WQM planning area.

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 environmentally sensitive areas, are unaffected by adoption of these amendments and compliance is required.

In addition to the environmentally sensitive areas 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 Upper Delaware WQM planning area or the Upper Raritan WQM planning area.

As provided under N.J.A.C. 7:15-5.24(e) through (h), limited environmentally sensitive areas have been included in SSAs. Where applicable, Department Permits or Jurisdictional Determinations have been utilized to determine the extent of the SSA on individual lots.

In accordance with N.J.A.C. 7:15-3.10, the Highlands Council was provided an opportunity to review and comment on the proposed amendment within the Highlands Region for consistency with the adopted Regional Master Plan (RMP). In correspondence dated October 3, 2012, the Council advised Hunterdon County that the proposed amendments are consistent with the RMP when a Water Use and Conservation Management Plan (WUCMP) is adopted for the deficit HUC 14 watersheds in Hunterdon County, pursuant to Executive Order 114 (Corzine). In correspondence dated April 10, 2013, the Council supplemented and clarified its earlier correspondence noting that the Council consents to the adoption of the proposed amendments with the understanding that when a full WMP for Hunterdon County is submitted to the Department for review, a WUCMP will need to be adopted for deficit HUC 14 subwatersheds.

The notice of these amendment proposals was published in the New Jersey Register on September 4, 2012, at 44 N.J.R. 2208(a). A public hearing was held on Monday, October 15, 2012.

The following people commented on these amendments:

Number – Commenter Name, Affiliation

1. George Sniffin, Council President, Water and Sewer Commissioner of the Borough of Milford
2. Robert Martucci, Milford Borough Engineer
3. Steve Dalton, Giordano, Halleran, and Ciesla, on behalf of Ryland Developers, LLC
4. Oliver Elbert, Raritan Township Mayor
5. Timothy J. Touhey, New Jersey Builders Association
6. Guliet D. Hirsch, Archer & Greiner, P.C., on behalf of Hampton Farm, LLC
7. Richard P. Cushing, Gebhardt & Kiefer, on behalf of Hampton Borough

As noted below in response to specific comments, upon review of the comments requesting to modify 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.

1. Comment: The commenters request inclusion of Block 1, Lot 3, in Milford Borough. The commenters note that the lot contains Milford Borough's meter pit and already has a sewer service connection on the lot. The Borough of Milford's resolution consenting to the amendment (RE2012-112), dated November 5, 2012, also states that a sewer service connection exists, and, pursuant to N.J.A.C. 7:15-8.1(b), the lot must be included in the SSA even if the SSA designation is withdrawn. (1, 2)

Response: The parcel in question is identified as environmentally sensitive and has been excluded from SSA consistent with the WQM Planning rules at N.J.A.C. 7:15-5.24. The parcel is identified as wetlands and as habitat for threatened and endangered species, and is within the Milford Bluffs Natural Heritage Priority Site as well as within the special water resource protection area associated with Spring Mill Brook, a Category One water. In addition, as the meter pit located on the parcel is not a sewage generating structure it is unnecessary for the parcel to be included in SSA. Furthermore, no information has been provided to demonstrate that the site is currently serviced by sewer or that it meets the provisions of the WQM Planning rules at N.J.A.C. 7:15-8.1(b). Therefore, this parcel remains excluded from the adopted SSA.

2. Comment: The commenter requests inclusion of Block 1, Lot 21.01, in Milford Borough. The commenter notes that the parcel currently contains a septic system. A Milford Borough Ordinance requires that the lot connect to sewer should the septic system fail, which would not be possible if the parcel is not included in SSA. The Borough of Milford's resolution consenting to the amendment (RE2012-112), dated November 5, 2012, also requests inclusion of this parcel in SSA. (1)

Response: Block 1, Lot 21.01, in Milford Borough, has been excluded from SSA consistent with the WQM Planning rules at N.J.A.C. 7:15-5.24 because it is identified as habitat for threatened and endangered species and is within the Milford Bluffs Natural Heritage Priority Site. In addition, no sewage generating structure is clearly identifiable on the parcel. Any party may submit an application to the Department for a site specific amendment or revision, as applicable, to the Upper Delaware 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. An application for a revision to the WQM Plan based on a failing septic system must demonstrate that it is not feasible to repair or replace the malfunctioning sewage disposal system under N.J.A.C. 7:9A-3.4 and the property where the existing structure is located is contiguous to the existing sewer line, pursuant to N.J.A.C. 7:15-3.5(b)4ix. Therefore, this parcel remains excluded from the adopted SSA. (Note that Block 1, Lot 21.01 was incorrectly identified as Block 1, Lot 26.01, by the commenter at the public hearing.)

3. Comment: The commenters request inclusion of Block 1, Lot 55 and Lot 55.01 in Milford Borough. The commenters noted that that the parcels are partially included in the proposed SSA, contain sewer, and are part of two minor subdivisions that were approved prior to 2008. The Borough of Milford's resolution consenting to the amendment (RE2012-112), dated November 5, 2012, also requested inclusion of these parcels in SSA. (1, 2)

Response: Block 1, Lots 55 and 55.01 were excluded from the proposed SSA in accordance with the WQM Planning rules at N.J.A.C. 7:15-5.24(b). However, the Borough has provided subdivision approvals and demonstrated that a subsequent site plan is not required under the Municipal Land Use Law, N.J.S.A. 40:55d-1 et seq. The Department has also determined that a Treatment Works Approval is not required. Therefore, because Block 1, Lots 55 and 55.01 meet the provisions of the WQM Planning rules at N.J.A.C. 7:15-8.1(b), they have been included in SSA upon adoption of these amendments.

4. Comment: The commenter requests inclusion of Block 7, Lot 26.01, in Milford Borough. The commenter notes that the parcel has sewer service available from Mill Street. The site is owned by the Milford Water Utility and is the location of a water tower. The commenter states that the parcel should be

included in SSA in the event that additional water-treatment requirements and infra-structure updates are needed for the Borough water tower located on site. The Borough also does not agree that the parcel has environmental constraints. The Borough of Milford's resolution consenting to the amendment (RE2012-112), dated November 5, 2012, also requests inclusion of this parcel in SSA. (1)

Response: The parcel in question is identified as environmentally sensitive and has been excluded from SSA consistent with the WQM Planning rules at N.J.A.C. 7:15-5.24. The parcel is identified as habitat for threatened and endangered species. In addition, as the water tower is not a sewage generating structure, it is unnecessary for the parcel to be included in SSA. Therefore, this parcel remains excluded from the adopted SSA.

5. Comment: The commenters request inclusion of Block 29, Lot 5.01, in Milford Borough, except for the 300 foot buffer and steep slopes along the southerly side of the parcel. The commenters note that the parcel is awaiting approval for two wells, and a trunk line runs through the site. The Borough of Milford's resolution (RE2012-112) dated November 5, 2012, also requests inclusion of this parcel in SSA. (1, 2)

Response: The parcel in question is identified as environmentally sensitive and has been excluded from SSA consistent with the WQM Planning rules at N.J.A.C. 7:15-5.24. The parcel is identified as habitat for threatened and endangered species. In addition, as water supply wells are not sewage generating structures, it is unnecessary for the parcel to be included in SSA. Therefore, this parcel remains excluded from the adopted SSA.

6. Comment: The commenter requests inclusion of Block 14, Lots 29.02 and 29.03, in Readington Township. The commenter states that there is no justification to exclude either parcel from SSA. The commenter notes an existing reserve sewer agreement with Readington Township provides an allocation for the parcel of roughly 30,000 gallons per day. Further, the commenter has been paying sewer reservation fees to the municipality. The commenter notes that there are no environmental resources on site and produced a report from 2009 confirming that statement. The commenter believes that the parcel(s) have been excluded based on Readington Township's desire to prevent the development of the property with low and moderate income housing. The commenter has filed a lawsuit challenging actions by Readington Township to rezone the parcel(s). The commenter also requests clarification as to specifically which portions of the parcels are included in SSA. (3)

Response: The Department responded in writing on May 3, 2011, to similar comments submitted by the commenter in response to the March 9, 2011, public meeting where the then-draft Hunterdon County SSA was reviewed. The Department's comments at that time are still applicable and are consistent with the following response to the current comment. The Department agrees that Block 14, Lots 29.02 and 29.03, in Readington Township, are not environmentally sensitive, pursuant to the WQM Planning rules at N.J.A.C. 7:15-5.24. However, Block 14, Lot 29.02, was excluded from SSA based on local planning objectives at the request of Readington Township per its Master Plan and zoning ordinance. Pursuant to the WQM Planning rules at N.J.A.C. 7:15-5.24, the wastewater management planning agency may exclude areas from SSA based on local planning objectives. In the Department's letter of May 3, 2011, the Department stated that it did not object to the inclusion of the referenced property in SSA and stated its determination that inclusion of the parcel in SSA was at the

discretion of Hunterdon County as the wastewater management planning agency for the area. The proposed amendments submitted by the Board of Chosen Freeholders of Hunterdon County as the responsible wastewater management planning agency did not include Block 14, Lot 29.02, in SSA.

However, the proposed SSA included the entirety of Block 14, Lot 29.03. Therefore, Block 14, Lot 29.02, remains excluded from and Block 14, Lot 29.03, remains included in the adopted SSA. (Note that Lot 29.02 was incorrectly identified as Lot 29.01 by the commenter at the October 15, 2012, public hearing).

7. Comment: The commenter opposes the inclusion of the B-2 Commercial District and the B-5 Low Intensity Commercial District along Route 202/31 in the southern portion of Raritan Township. The commenter states that the area in question should be removed pursuant to local planning objectives consistent with the WQM Planning rules at N.J.A.C. 7:15-5.24. The commenter states that the inclusion of the area in question is inconsistent with the Raritan Township Master Plan and zoning ordinance. The commenter further states that inclusion of this area in SSA would require expansion of the Raritan Township Municipal Utilities Authority (MUA) treatment plant due to capacity constraints and entail substantial costs. In addition, the commenter states that other areas of the Township with failing septic systems and a redevelopment area are a higher priority for sewer service. (4)

Response: Subsequent to the public comment period, at the Department's request, the Raritan Township MUA submitted information supporting the commenter's statement regarding capacity limitations at the treatment plant and the costs associated with expansion of that plant. That information shows that the SSA

proposed in this amendment would result in a build out flow of 4.251 million gallons per day (mgd), resulting in a capacity deficit of 0.45 mgd over the current permitted capacity (NJ0022047) for the Raritan Township MUA treatment plant of 3.80 mgd. The Raritan Township MUA also provided a cost estimate to accommodate the additional flow of \$10,000,000 to \$20,000,000. Hunterdon County, as the wastewater management planning agency, has submitted a letter supporting Raritan Township's request.

The commenters have submitted sufficient information to demonstrate that the inclusion of the area in question in SSA is inconsistent with local planning objectives and that there is insufficient capacity at the Raritan Township MUA treatment plant to serve the entire SSA. However, the Department has determined that removing the area in question from SSA upon adoption 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 to SSA has not been made as part of this adoption.

In recognition of the substantial nature of this comment and the facts demonstrated by Raritan Township, pursuant to N.J.A.C. 7:15-3.4, the Department is proposing an amendment to the Upper Raritan WQM Plan to remove the area in question from SSA and designate the area to be served by septic systems with design flows of equal to or less than 2,000 gallons per day. The proposal notice has been published concurrently with this notice of adoption in the same issue of the New Jersey Register. As discussed in that notice, the Department will be accepting public comment on that proposed amendment pursuant to N.J.A.C. 7:15-3.4(g)6.

8. Comment: The commenter is concerned that the final Hunterdon County FWSA map will not fully align with the criteria being used to define priority growth investment areas provided under the draft State Strategic Plan. (5)

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

9. Comment: The commenter encourages a formal Memorandum of Understanding between the Department and the Highlands Council to establish clear responsibilities of both parties. (5)

Response: Municipalities located in the Highlands Planning and/or Preservation Area, as delineated in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et. seq., that are conforming to the Highlands RMP developed and adopted by the Highlands Council, are cooperatively developing a municipal chapter of the Hunterdon County WMP with the Highlands Council consistent with the Highlands Council Plan Conformance Process. All municipal chapters

must meet the minimum requirements of P.L. 2011, c. 203, and the WQM Planning rules (N.J.A.C. 7:15). Such a municipal chapter may only be submitted to the Department by the applicable wastewater management planning agency, which in this case is the Hunterdon County Board of Chosen Freeholders. The Department does not believe that a Memorandum of Understanding with the Highlands Council to address the development of WMPs is necessary.

10. Comment: The commenter asserts that the reliance on existing Department Geographical Information Systems (GIS) mapping data to create the first draft of proposed SSA provided to each county is not reliable and therefore requires extensive field verifications. (5)

Response: The Department believes that the use of GIS is not only the most accessible approach for wastewater management planning agencies but is also appropriate for the scale of planning required in the WQM Planning rules at N.J.A.C. 7:15. Because GIS coverages are readily available, have a high degree of accuracy, and can be viewed at various scales, they provide a means to simplify the wastewater management plan development process that will help ensure plans are developed, kept up to date, and serve the purpose for which they were intended. More detailed, or site by site analysis, is more appropriate for regulatory programs (that is, site plan review, or land use permitting) and is infeasible at a planning level. However, it was recognized by the Department from the beginning of the WMP development process that the Department's existing GIS data utilized to create the first draft of proposed SSA required some verification and "ground truthing" by the WMP agencies. Accordingly, each WMP agency participating in this planning process was contacted by the Department via written correspondence that included a first draft of the proposed SSA. This correspondence noted that the SSA map provided was intended as the

starting point from which the County should begin discussions with the municipalities to refine the draft SSA. Where new, more accurate information is available to local entities regarding development, wastewater management planning agencies are encouraged to use it to enhance the GIS data layers the Department provides on its website. Changes based on existing land use/construction since 2002 and approved (having obtained local and wastewater approvals) but not yet constructed projects were a particular focus of the process. In addition, numerous site-specific analyses, including Freshwater Wetlands (FWW) Letter of Interpretations, HSDs, and FWW and Flood Hazard Area permits were utilized to further modify the draft SSA. As such, development of the SSA did indeed result in extensive field verification, which validates the SSA delineation included in this amendment.

11. Comment: The commenter is disappointed that only a County-wide map has been made available on the county site instead of municipal maps. This makes it difficult for property owners to determine whether their property has been impacted. (5)

Response: The FWSA map located on the County's website and on the Department's website at <http://www.nj.gov/dep/wqmp/docs/20120904ur-ud-hunterdonco-map.pdf> gives the public the ability to zoom closer to any area on the map to more easily identify their property. Although the resulting adopted FWSA map does not include local street names, it does identify the names of municipalities and major highways, and county roads and many local roads are identified by line graphics. As displayed, the level of information available is sufficient for locating specific properties. Further, pursuant to Administrative Order 2010-03, the Department will provide any property owner, upon written request, an explanation of the status of their property.

14. Comment: The commenter commends Hunterdon County for providing New Jersey Pollutant Discharge Elimination System permitting information for the sewage treatment plant facilities located on the proposed map but strongly encourages the County to additionally provide an acreage analysis to the public to better inform them of the impacts of the map. (5)

Response: The Department notes that providing an acreage analysis is not required by the WQM Planning rules.

15. Comment: The commenter appreciates Hunterdon County's inclusion of several mapping notes on the FWSA map; however, the proposed FWSA map does not include the underlying rationale explaining why specific areas are proposed to be removed (or added) to SSA. It is suggested that footnotes be added to explain those bases (i.e. threatened and endangered species habitat, wetlands). (5)

Response: As indicated by the commenter, the proposed FWSA map does not include footnotes explaining which regulatory mapping criteria (i.e. wetlands threatened and endangered species etc.) was used as the basis for exclusion of specific areas from the proposed SSA. As noted above, the mapping display is constrained by the actual amount of information included. Similarly, adding footnotes or other textual information associated with every location excluded or removed from the SSA would not be practical or desirable from a display standpoint. The Department notes that all of the GIS data utilized by the Department during this process is available for review and download on the Department's website (<http://www.nj.gov/dep/gis>). Further, pursuant to 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 Hunterdon 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.

16. Comment: The commenter is disappointed that Hunterdon County, unlike Somerset County, did not individually notify property owners throughout the SSA mapping process. The public review and comment process is a critical step to protect property interests. This public review and commenting process is the only chance property owners and stakeholders have to rectify any mapping mistakes. The commenter encourages the Department and the County to not rush through the adoption process, but allow time to address any issues. (5)

Response: The Department and Hunterdon County have pursued an open and extensive public review process beyond the minimal requirements of the WQM Planning rules. The Department and Hunterdon 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 9, 2011, to allow public review and comment on the then-current draft of Hunterdon County SSA. As a result, the Department and the County have received continuous input from residents, municipal officials, and other affected agencies regarding mapping corrections and other issues. The Department notes that notice

of every individual property impacted by this amendment is not required by the WQM Planning rules.

17. Comment: The commenter is concerned that the Department and Hunterdon County will be inundated with applications for site-specific amendments and revisions once the FWSA map is adopted. These processes are costly, resource intensive, and unnecessarily slow. Therefore, the commenter urges the Department and Hunterdon County to abide by timeframes and review process set forth in sections 6-8 of P.L. 2011, c. 203. (5)

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

18. Comment: The commenter is requesting that the Department defer review and decision on the WMP designation for the Hampton Farm property in Hampton Borough, Block 23, Lot 1 and Block 24, Lot 2, until such time as there is a final decision from the designated Mount Laurel Judge regarding the enforceability/modification of the currently effective Final Judgment on Compliance. The commenter further requests that the Department alone, without the input or involvement of the Highlands Council, make any determination of the sewer service designation for the Hampton Farm Property in Hampton Borough, Block 23, Lot 1, and Block 24, Lot 2. (6)

The commenter believes the wastewater planning for Hampton Borough is currently being handled by the Highlands Council and sees no reason to disturb the process. The commenter requests the Department to not defer the review and decision on the WMP designation for the Hampton Farm property in Hampton Borough, Block 23, Lot 1 and Block 24, Lot 2. (7)

Response: Hampton Borough is not addressed as part of the approved amendments. At this time, no application for a WQM Plan amendment concerning Block 23, Lot 1, or Block 24, Lot 2, has been received by the Department. However, when the Department receives an amendment concerning Hampton Borough, it will and must consider the comments of all citizens and stakeholders, including the Highlands Council and Hampton Farm, LLC.

In addition to the specific written comments addressed above, the Department also received a request from East Amwell Township, as part of the Township's resolution consenting to the amendments (Resolution #123-12), dated October 11, 2012, requesting the removal of the Hunterdon County Fairgrounds from SSA. The Township states that Hunterdon County has withdrawn the NJPDES permit for the facility (NJ0151408) and that the Department revoked the permit in April 2012.

The Department notes that Hunterdon County has withdrawn an application for a Treatment Works Approval and that the NJPDES permit for the Hunterdon County Fairgrounds has been revoked. As such, the Department has modified the FWSA map to remove the applicable NJPDES permit number associated with the SSA. The Department has determined that removal of the NJPDES permit number is a technical/administrative correction or modification that does not effectively destroy the value of the public notice of the proposed amendments. However, the Department has not removed the Hunterdon County Fairgrounds from the SSA. 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.

Adoption of these amendments does not eliminate the need for any permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over any project/activity. Approval of these amendments does not provide any implied approval for any other aspects of any project or needed permits and approvals. Further, the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and implementing regulations require that full county-wide WMP updates be completed pursuant to the requirements set forth in N.J.A.C. 7:15.

The adopted map is available at the Department, Division of Coastal and Land Use Planning, 401 East State Street, Trenton, New Jersey, 08625.

Please note that within this same issue of the New Jersey Register, a notice of a proposed amendment to the Upper Raritan WQM Plan has been published in response to Comment #7 above.



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

4/24/13

Date