

SOMERSET COUNTY PLANNING BOARD  
COUNTY WASTEWATER MANAGEMENT PLAN

**Properties Impacted by Proposed Changes to Sewer Service Area Boundaries**

N.J.A.C. 7:15-5.24 requires WMP agencies to exclude Environmentally Sensitive Areas (ESAs) from future sewer service areas. ESAs are defined as 25 or more contiguous acres (land on more than one lot can be combined to meet the threshold) consisting of undeveloped property containing in whole or in combination any of the following: Threatened and Endangered Species Habitat, Natural Heritage Priority Sites, Category 1 Riparian Buffers and Wetlands.

SSAs in the Highlands are restricted to the Existing (Unconstrained) Community Settlement Overlay Zone, Lake Community Zone and Existing Areas Served by Sanitary Sewers. A lower acreage threshold and additional GIS environmental constraint features are used in the Highlands as well.

Only properties removed from the most recent NJ Department of Environmental Protection (NJDEP) previously adopted sewer service areas or with documented failing septic systems under limited circumstances are eligible for adjustments to the draft proposed future SSA boundaries provided all of the below NJDEP requirements are met. Please note that the County WMP process can not be held up waiting for property owners to obtain NJDEP Wetland delineations (Letters of Interpretation or LOIs), treatment works approvals for sewer connections (TWAs), Habitat Suitability Determinations, Final Local Subdivision or Site Plan Approval or other documents which would allow projects and properties to be grandfathered into the sewer service area.

**Adjustments to the Draft Proposed Future SSAs Allowed by NJDEP**

- A. Adjustments to the draft proposed future sewer service area (SSA) boundaries will be permitted by NJDEP pursuant to N.J.A.C. 7:15 5.24 and 7:15-3.5(b)ii prior to the adoption of the County WMP provided they are consistent with the WQMP Rules, appropriately substantiated and adequate sewer capacity is available. Areas removed from NJDEP previously adopted SSAs are eligible to be returned to the SSA if they comprise:
  - i. "Development projects that are under construction or have been completed; or
  - ii. proposed projects that have received, prior to the adoption of the County WMP, both a local preliminary or final local site plan or subdivision approval where subsequent site plan approval is not required under Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., (MLUL) or a municipal construction permit; and NJDEP treatment works approval (TWA) or NJPDES permit if one is required, until such time as one of those qualifying approvals expires".
- B. If an area that can be further subdivided or developed and that does not have final local approvals or TWAs was removed from the previously approved SSA based solely on the presence of wetlands as shown in NJDEP GIS Wetlands data layer, the SSA boundaries can be corrected in accordance with a NJDEP Wetlands Letter of Interpretation (LOI) or Division of Land Use Regulation (DLUR) Permit. LOIs and DLUR Permits used for this purpose must be obtained prior to the date of adoption of the County WMP by NJDEP.
- C. In special circumstances, the LOIs issued by NJDEP includes wetland buffers for T & E species. In these cases, the "exceptional resource value wetland buffer" is extended to 150 ". At the request of the County, NJDEP will determine whether the LOI buffer is also protective of the Ranked 3, 4, and 5 species on site and the DLUR LOI could be used to delineate the Draft SSA.
- D. If an area was removed from the previously adopted SSA due to the presence of NJDEP Landscape Project Habitat Rank 3, 4, or 5 (not just wetlands), SSA can be returned provided the project has obtained final subdivision approvals and TWA (if applicable) prior to NJDEP adoption of the County WMP. SSA will only be delineated on the parcel for the approved development as indicated on approved site plans.
- E. Areas proposed for development that were removed from the previously adopted SSA due to the presence of NJDEP Landscape Project Habitat Rank 3, 4, or 5 (not just wetlands), where final local approvals and TWAs have not been obtained cannot be returned to the SSA during the County WMP Process unless they have completed a Habitat Suitability Determination (HSD) application in accordance with N.J.A.C 7:15-5.26 which demonstrates that the habitat

was not suitable for the identified species and the findings of that application have been reviewed and found acceptable to the Department.

- F. Note: It may not be possible to complete the HSD application and its review during the County WMP Process. Where an HSD review has been completed which the NJDEP determined that the habitat was not suitable for the identified species prior to the final adoption of the WMP, the site may be included as an adjustment to the SSA mapping. However, where the HSD application and review is completed after the adoption of the WMP the site can be included only through either a revision or amendment to the adopted WMP.
- G. Sites containing ESAs may also be included in a SSA through the Municipal Plan Endorsement Process, where the designation of the SSA is accompanied by adequate protections outside of the sewer service area and provided NJDEP “determines that the environmentally sensitive areas to be included in the SSA are not critical to a population of endangered or threatened species, the loss of which would decrease the likelihood of the survival or recovery of the species in the State”. Typically these adjustments will require a WQMP Amendment or Revision because of the timing of the County WMP adoption.
- H. The County in coordination with Municipal WMP Committees will request NJDEP to provide more detailed habitat suitability information for proposed inherently beneficial publically supported community facilities that are proposed to be removed from the SSA due to the presence of Habitat Rank 3, 4, or 5 during the preparation of the draft proposed future SSA boundaries.

Requests for adjustments to the draft SSA Boundaries submitted after the public comment period associated with the SSA boundary maps will not be addressed until after the Build-out and Capacity Analysis is performed provided they are received prior to adoption of the WMP by NJDEP. After the County WMP is adopted by NJDEP, the WQMP Revision or Amendment Process must be followed for any proposed adjustments to or expansions of the SSA boundary.

### **Documentation Required by NJDEP**

Depending on the site-specific circumstances, the following documents will be required in order for a correction to proceed during the County WMP Process. Each request shall be submitted electronically to the County Planning Board and municipal WMP Committee using the “response forms” provided on the County Website, must be accompanied by electronic copies of the documents required by NJDEP to substantiate the change and must be submitted to the County in accordance with the comment period deadline established by the county. The NJDEP requires the following documentation:

- A. Evidence that the development has been built or is under construction (for example local building permits if required);
- B. Evidence that a development has local preliminary and/or final site plan approval or subdivision approval where subsequent site plan approval is not required under MLUL and a copy of the approved site plan if additional future development can be accommodated on site;
- C. Evidence that the development has either a NJDEP - NJPDES permit or Treatment Works Approval if required;
- D. Evidence that a NJDEP – NJPDES permit or Treatment Works Approval is not required (for example, a letter from the Sewerage Authority stating the approved development will generate less than 8,000 GPD and no sanitary line connection across more than one lot or right-of-way will occur);
- E. If NJDEP GIS Wetlands data layer is the only environmental constraint shown on the property and is the reason it was removed from the previously adopted SSA, a NJDEP Wetlands LOI and associated wetlands delineation map and/or DLUR permits must be submitted;
- F. If the presence of Landscape Project Habitat Rank 3, 4, and 5 and/or Natural Heritage Priority Sites is the basis for removal of property from the previously adopted SSA, a completed a Habitat Suitability Determination (HSD) application in accordance with N.J.A.C 7:15-5.26 which demonstrates that the habitat was not suitable for the identified species and the findings of that application have been reviewed and found acceptable to the Department. The application must be submitted to NJDEP and deemed complete before the response deadline established by the County associated with the property owner notification process. Otherwise the application for the HSD must be submitted as part of an application for a WQMP Amendment or Revision following the adoption of the County WMP by NJDEP.

Requests for the addition of NEW properties to the draft proposed future SSAs are not being considered at this time, except for neighborhoods with ongoing septic system failures under limited circumstances.