

SOMERSET COUNTY PLANNING BOARD
COUNTY WASTEWATER MANAGEMENT PLAN
PUBLIC INVOLVEMENT PROCESS SUMMARY
October 2009

1) How is municipal input being obtained?

The County Planning Division is working with Municipal Wastewater Management Committees to prepare GIS feature maps; draft proposed future Sewer Service Area boundaries; compile facility data; identify solutions to water and/or sewer capacity constraints if applicable; adopt environmental protection ordinances; and prepare the municipal WMP Chapters and associated maps required for inclusion in the County WMP. Municipal WMP Committees are appointed annually by the mayor at the request of the County Planning Board and are comprised of an elected official, professional planner or planning board member and municipal utility authority representative or engineer.

2) Is the County interacting with private property owners?

Both the County and Municipal WMP Committees have been responding to inquiries from private property owners and developers regarding how their sites have been affected by NJDEP draft Modified Sewer Service Area (SSA) boundaries on an on-going basis. Basic information is being provided. The working maps illustrating the draft NJDEP Modified SSA boundaries or proposed revisions therefore are not being shared or released to the public by the County Planning Division or Municipal WMP Committees, since they are deliberative and currently subject to change. The NJDEP has indicated to the County that, as the draft Modified SSA boundaries are deliberative and subject to change, the decision to sharing this mapping would be left to each Individual County.

However, once an agreement has been reached on the draft proposed future sewer service area boundaries among the Municipal Wastewater Management Committees, County and NJDEP, illustrative maps will be posted on the County and NJDEP websites (and municipal website at the municipality's discretion). The County and/or NJDEP will be issuing press releases announcing the availability of the draft refined SSA maps on their websites.

The SSA maps to be released will illustrate the draft proposed future SSA boundaries agreed to by the Municipal WMP Committee, County and NJDEP for use in performing the Build-out and Capacity Analysis. The maps will be accompanied on the website by 1) a written summary of the SSA delineation requirements specified by the WQMP Rules; 2) an overview of the process used by the NJDEP, the County and Municipalities to develop the refined boundaries and other pertinent documents providing information and guidance to property owners.

Although individual property owner notification is not required by the WQMP Rules, **the County will provide written notification to all property owners who may have been removed from the previously adopted SSA.** The notification letter will request that inquiries be submitted in writing using a "response form" available at the county website. It will also direct property owners to maps and related guidance documents on the County

website that describe NJDEP procedures, requirements and standards for making corrections to the draft proposed future SSA boundaries, and the documentation that must be submitted to substantiate them. The letter will also describe the process the County, Municipal WMP Committees and NJDEP will use for addressing questions and requests for corrections.

All requests for corrections to the draft proposed future SSA boundaries will be evaluated by Municipal WMP Committees, NJDEP and the County. Written responses to property owner requests will be provided by the County, but will be coordinated with the Municipal WMP Committee and NJDEP. This coordinated approach necessitates the submission of all property owner requests in writing in electronic format using the response form provided on the County Website.

The County will establish a timeline for property owner review and comment period. After the deadline for submitting responses, no further requests for corrections to the draft proposed future SSA boundaries will be addressed until after the Build-out and Capacity Analysis is performed. This is necessary in order to 1) determine if capacity constraints exist, 2) identify capacity solutions and 3) complete the Draft County WMP in accordance with the December 2009 deadline.

All property owner requests for site-specific adjustments to the draft proposed future SSA boundary must be consistent with the WQMP Rules and substantiated with the documentation required by NJDEP in order for the correction to be considered by NJDEP, the County and Municipality.

Please note that in addition to any corrections made as a result of the property owner notification process, changes to the draft proposed future SSA boundaries may be required to address capacity constraints identified through the WMP Build-out and Capacity Analysis. The maps that are posted on the County and NJDEP Website will be draft to reflect additional adjustments to the draft proposed future SSA boundaries with a list of all changes made.

3) Is the County fielding general WMP questions?

The County is currently answering general questions from both public and private sector representatives regarding the overall WMP process requirements and timeline; status of the County WMP work tasks; the Water Quality Management Planning Rules and other related topics. In addition to addressing individual e-mail and phone inquiries, written guidance documents and other information are being prepared by the County Planning Board and posted on the County Website.

However, once the draft WMP maps are posted on the County Website and the notification process commences, members of the general public will also be required to submit comments regarding the draft proposed future SSA Boundary map or other aspects of the County WMP in writing using the forms provided on the County Website within a specified time period. The County will share all submitted comments with applicable Municipal WMP Committees and NJDEP, and will be taken into consideration during the County WMP Process.

4) How is the County disseminating information to the public?

The County Planning Board has added a Wastewater Management Planning icon to its webpage so that documents and information regarding the County Wastewater Management Plan and process can be readily accessed by the public, including meeting announcements, PowerPoint Presentations, draft maps, guidance documents, response forms and other information as they become available.

5) Will municipalities be required to endorse their WMP chapters?

The WQMP Rules do not require municipalities to issue written resolutions prior to the submittal of any draft versions of the WMP to the NJDEP for review. However, prior to adoption of the final draft County Wastewater Management Plan and associated Municipal WMP Chapters by NJDEP, the County will require that the municipalities to adopt a resolution endorsing both their chapter and the overall WMP. Municipal chapters will include a copy of the adopted or pending adoption ordinances. All ordinances required by the WQMP Rules must be adopted before the County WMP can be adopted.

6) Is a public hearing required prior to the submission of the County WMP to the NJDEP?

The WQMP rules do not require any public hearings prior to the submission of any draft versions of the County WMP to the NJDEP, including the final draft. However, the NJDEP has determined that it will hold at least one public hearing on each proposed wastewater management plan in the county covered by the plan prior to the adoption of the final draft wastewater management plan. The WQMP Rules require that the final draft proposed wastewater management plans be noticed by NJDEP for public comment in the New Jersey Register. This notice will announce a public comment period and the public hearing at least 30-days before the public hearing is held. The County will be required to post the same notice in newspapers of general circulation within the county. The hearing will be recorded by a court transcriber to ensure that oral comments are accurately captured. Written comments may be submitted in writing at any time up until 15 days after the public hearing.

7) What actions will be taken by the Highlands Council?

The proposed Sewer Service Areas in both Conforming and “Non-Conforming” Highlands Municipalities must be consistent with the Highlands Regional Master Plan. The final draft County WMP will be reviewed by the Highlands Council for a determination of consistency with the Highlands Regional Master Plan. The Highlands Council will submit its comments to NJDEP prior to NJDEP adoption of the County WMP.

The WMP Build-out and Capacity Analysis, delineation of proposed future SSAs and determination of allowable septic densities in Highlands “Conforming” Municipalities are being led by the Highlands Council. The Highlands Council’s procedures and requirements differ from those of NJDEP. NJDEP WMP process and requirements are emphasized in this

document. Conforming Municipalities and property owners within these communities with specific questions about WMP requirements in the Highlands Region are encouraged to contact the Highlands Council in writing via e-mail to highlands@highlands.state.nj.us

8) How will the final draft Wastewater Management Plan (WMP) be distributed for public review and comment?

Electronic copies of the Final Draft WMP for Somerset County will be made available to WMP stakeholders in accordance with the WQMP Rules, and a copy will be posted on the County Planning Board Webpage. An electronic and paper copy will be available for public review at the County Planning Board Office and Municipal Buildings.

9) What is the criteria being used to draft and modify the proposed future Sewer Service Areas (SSAs)?

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. Please see questions 11 and 12 below for additional information concerning exceptions to this general guidance.

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.

10) How will the public be notified when the first draft proposed future sewer service area maps are available for review?

The, NJDEP will employ a “broadcast notification” approach, using press releases and public advertisements to inform the public of the release of refined draft proposed future SSA maps on a town-by-town basis or for the entire county. These maps will be posted on the Somerset County and NJDEP Websites, as well as municipal websites where available. See questions 2 and 11 for additional information regarding citizen comments on these maps.

The WQMP Rules do not require either NJDEP or local jurisdictions to notify individual property owners, since the rules were proposed and adopted in accordance with the State’s rule-making requirements. However, NJDEP will not discourage county or local jurisdictions from implementing expanded public notification processes.

11) Will adjustments to the draft proposed future SSAs be allowed and when?

The primary vehicle for identifying and addressing proposed future SSA boundary adjustments as part of the County WMP Process is Municipal WMP Committee review of the

draft NJDEP modified SSA maps, which must be completed prior to performing the Build-out and Capacity Analysis. County Planning Staff are proposing adjustments to NJDEP GIS Draft Modified SSA data layer to reflect corrections identified and supported by both the County and Municipal WMP Committees. An Excel Table is used to describe each adjustment and why it has been proposed to NJDEP. Some of the corrections involve alignment of SSA and parcel boundaries where appropriate and removing large tracts of preserved open space from the SSA. Other corrections address temporal problems with NJDEP data layers or to address local and regional land use planning priorities. The draft SSA boundary shape file and corresponding table are then forwarded to NJDEP staff, who examines the changes for consistency with the WQMP Rules. The County and Municipal WMP Committees must work with NJDEP to resolve any conflicts they identify. Once conflicts with the Draft proposed future SSA have been substantially resolved, municipalities will be notified by the County and the draft proposed future SSA Boundary map will be posted on the County website. This work is being completed and the draft proposed future SSA Maps are being posted on the County Website on a town-by-town basis.

As noted in # 2 above, property owners will have an opportunity to comment upon and provide documentation substantiating requests for further corrections to the draft proposed future SSA boundaries within a prescribed period of time. Only properties removed from the most recent 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.

12) Under what circumstances are adjustments to the draft proposed future SSAs allowed by NJDEP?

- A. Adjustments to the draft proposed future 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.

13) What kind of documentation must be provided to substantiate requests for adjustments to the draft proposed future SSA Boundaries?

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.

14) How are requests for the addition of NEW properties to the draft proposed future SSAs being handled?

All requests that the County and NJDEP receive from private entities to have new properties added to the proposed future SSA **during the County WMP process** prior to performing the Build-out and Capacity Analysis will be forwarded to Municipal WMP Committees. The County Planning Board will **not** take any action on these requests unless they are verified by the Municipal WMP Committee to be consistent with municipal master plans and zoning; meet the environmental constraint requirements of N.J.A.C. 7:15-5.24 in Piedmont Municipalities; or the Highlands Regional Master Plan in Highlands Municipalities; and available treatment plant capacity is identified through the Build-out and Capacity Analysis. Once the municipality, county and NJDEP have reached agreement on the refined SSAs to be used in the Build-out and Capacity Analysis, no additional new properties will be considered for inclusion in SSA boundaries until after NJDEP adoption of the County WMP. Instead, applicants will be required to follow NJDEP WQMP Amendment process as specified in N.J.A.C. 7:15-3.4, assuming sufficient wastewater and water supply/availability exists.

The County Planning Board will provide an overview of the site-specific WQMP Amendment and Revision Processes on the County Planning Board Website.

15) Can neighborhoods with ongoing septic system failures be added to the proposed draft future SSA?

If a Municipal WMP Committee wishes to expand the proposed draft SSA to include areas currently served by individual septic systems, they can do so without providing compelling proof to NJDEP that the septic systems are failing, provided there is capacity at the designated sewage treatment plant and provided connections of such clusters would not contribute to sprawl and would not be better served by a local treatment facility. However, if the Build-out and capacity analysis results show sewage capacity constraints exist at the treatment plant, the NJDEP, Highlands Council (as applicable), County and Municipalities would have to prioritize areas in the most critical need to receive sanitary sewer service. At this point, NJDEP would require documentation of pervasive septic failures, in the form of a letter from the local health officer, that addresses the history of surface saturation due to soil types and conditions, reported visual proof/odor of discharge, significantly undersized lot sizes; and that indicates the failing systems cannot reasonably be addressed through rehabilitation or replacement. The Municipal WMP Committee would be required to provide a map showing the location of and proximity of the affected neighborhood to the sanitary sewer collection system.

Property owners with failing septic systems should contact their Municipal WMP Committees to request inclusion of their properties in the proposed draft Sanitary Sewer Service Area.

16) Is there any “legal shield” for the County and municipalities that follow the WQMP Rules in preparing the County WMP and associated Municipal WMP Chapters?

The NJDEP will provide support for any legal challenge of any changes to Sewer Service Area boundaries required by the NJDEP to meet the WQMP Rule. Changes initiated by the County and/or municipalities that exceed the Rule requirements will have to be defended by the entity that initiated the change.

17) How will NJDEP adoption of the WMP for Somerset County be affected if the completion of some municipal chapters is delayed?

NJDEP has indicated that it will consider approving completed individual municipal WMP Chapters so that cooperating municipalities and the County are not held up in the event the completion of WMP Chapters is delayed for other municipalities. Because several municipalities are served by regional treatment plants, the allocation of projected wastewater flow to service areas within incomplete municipal Chapters will be required in order to allow the other municipalities to proceed. The County will cooperate fully with NJDEP and the affected municipalities to advance the completion of remaining municipal WMP Chapters as expeditiously as possible. Please note that the WQMP Rules authorize NJDEP to roll-back future sewer service areas in municipalities without completed Municipal WMP Chapters.

18) What is the WMP process following the adoption of the WMP for the County?

The County will continue to work cooperatively with all of its municipalities and NJDEP to address amendment requests after NJDEP Adoption of the County WMP.

The County will continue to work cooperatively with utility authorities, treatment plant operators, and other appropriate entities regarding implementation of capital improvement plans designed to address capacity constraints identified in the County WMP.

In areas where water supply deficits are identified through the WMP Build-out and Capacity Analysis, the County will follow-up with municipalities to assure appropriate local Water Supply and Conservation Plans and Ordinances are adopted and implemented in accordance with NJDEP timeline.

More detailed information in the WQMP Amendment Process is available through the NJDEP Website. Proposed Amendments in the County's Highlands Municipalities must be consistent with the Highlands Regional Master Plan and meet the Highlands Council's requirements.

19) How can I find out more about the unique approach to Wastewater Management Planning required in the Highlands Region?

The County Planning Board is working in consultation with the Highlands Council and NJDEP to provide written guidance describing the WMP process, requirements and standards that must be applied in the Highlands Region through the County Planning Board Website. These guidelines will be specific to conforming and non-conforming municipalities. The WMP process for the County's Conforming Highlands Municipalities will be coordinated with the Highlands Plan Conformance Process and timeline. Certain Highlands WMP requirements

will apply to Non-conforming Highlands Municipalities pursuant to the Highlands Act and Executive Order 114.

20) What if more information is needed by Municipalities?

The County Planning Board, in consultation with NJDEP will provide additional guidance on the public involvement, due process, property owner notification, and all other aspects of the Wastewater Management Planning Process as needed. Written inquiries should be submitted via e-mail to: Planningbd@co.somerset.nj.us.

For more information, please visit the Somerset County Planning Board Website:
www.co.somerset.nj.us/planweb/wastewater/index.htm