



## SOMERSET COUNTY PLANNING BOARD

### WQMP PLAN AMENDMENT AND REVISION REVIEW RESPONSIBILITIES AND PROCEDURES

The Somerset County Planning Board has been appointed by the Board of Chosen Freeholders to carry out the responsibilities associated with Wastewater Management Planning (WMP) Agencies as specified in the WQMP Rules. N.J.A.C. 7:15-2.6 defines those responsibilities. Among them are the requirements that they “Maintain a current WMP, including a record of all approved revisions and amendments; and Provide comments on proposed revisions and amendments in their WMP area in accordance with N.J.A.C. 7:15-3.3 and 3.5 of the November 7, 2016 WQMP Rules. This chapter establishes the requirements for assessing the consistency of proposed projects with adopted area wide WQM plans and the WQMP Rules; as well as identifies the types of modifications that can be made to area wide WQM plans and the associated application requirements and procedures. Significant changes to Subchapter 3 of the 2016 WQMP Rule compared to the 2008 version prompted an update to Somerset County’s *WQM Plan Amendment and Revision Review Responsibilities and Procedures*, and the County’s revised responsibilities and procedures to review WQM plan amendments and revisions are described herein.

With the adoption of the new WQMP rules, the NJDEP has transitioned to an electronic WQMP application system. Applications will only be accepted if through the DEP Portal found at the following link: <http://www.njdeponline.com/>. Please note that the NJDEP encourages applicants to request a pre-application meeting to obtain technical and procedural guidance. Information about how to request a pre-application meeting is available at the following link: <http://www.nj.gov/dep/wqmp/applications.html>.

#### **WQMP RULE PROVISIONS APPLICABLE TO SOMERSET COUNTY CONCERNING REVISIONS TO AREAWIDE WQM PLANS**

7:15-3.4(a): Revisions to area wide WQM plans shall be limited to actions that:

- Correct or clarify erroneous or unclear information in the area wide WQM plan provided the change is not a substantive change;
- Update a wastewater service area map to reflect an adjustment to the Highlands Regional Master Plan map
- Transfer or assign wastewater management plan responsibility to another eligible governmental entity
- Revise schedules for submission of wastewater management plans

7:15-3.4(b): Applications for revisions shall include a detailed basis for the revision, including any documentation supporting the assertion that the project or activity qualifies as a revision and other documentation deemed necessary by the Department.

7:15-3.4(c): An applicant may petition the Department to revise an area wide plan, or the Department may propose to revise area wide plan(s) on the Department’s own initiative. Applications for revisions shall be submitted electronically on forms prescribed by the Department.

7:15-3.4(e): Within 60 days of receiving an application for a revision, the Department shall review the application and notify the applicant that additional information is required, the application is disapproved, or that the application qualifies as a revision

7:15-3.4(f): The Department shall distribute the proposed revision to the entities identified in accordance with N.J. 7:15-3.5(f) and provide 21 days for comment.

7:15-3.4 (g): Based on the administrative record, the Department will adopt, adopt with minor changes that do not effectively destroy the value of the notification to affected entities, or disapprove and notify the applicant and affected entities.



## SOMERSET COUNTY PLANNING BOARD

### WQM PLAN AMENDMENT AND REVISION REVIEW RESPONSIBILITIES AND PROCEDURES

7:15-3.4 (h): *The Department shall provide written notification of its decision to the applicant and the affected entities. A revision is effective upon adoption by the Department, unless the adoption notice specifies otherwise.*

7:15-3.4 (i): *The Department shall post adopted revisions to area wide WQM plans on the Department's website.*

## COUNTY WQMP REVISION REVIEW PROCEDURES

The County Planning Board has 21 days from receipt of a revision application provided by NJDEP to review and submit comments to the NJDEP regarding said application. The County's review is primarily to determine consistency with the Somerset County Master Plan and all elements thereof; as well as with the County's Capital Improvement Program and other County functional plans. The NJDEP, which is authorized to adopt revisions, is not required to abide by County review comments and recommendations but can take them into consideration. Below is the sequence of steps that will be taken to accomplish this:

1. County Planning Division Staff will investigate and summarize the proposed revision in the context of County and Local Plans, ordinances, or other relevant documentation and/or in consultation with municipal officials or authorized municipal representatives. Staff findings and a draft letter of recommendations will be forwarded to the Environment and Utility Committee of the Planning Board for review and comment.
2. Proposed revisions will be assessed for consistency with the County Master Plan based on, but not limited to, whether the proposed revision:
  - a. is protective of water quality, public health and safety;
  - b. does not adversely impact implementation of the County Master Plan - Investment Framework (CIF) Map: Priority Preservation Investment Area and/or Limited Growth Investment Area's goals and objectives;
  - c. is substantially consistent with municipal master plans, land use and zoning
  - d. is protective of rural, agricultural, open space and natural resources;
  - e. is part of and/or immediately adjoining a previously adopted Assigned Sewer Service Area;
  - f. does not introduce growth-inducing infrastructure into an area intended for preservation, agriculture and/or limited growth;
  - g. is De Minimis in terms of the size of the wastewater generating facility and land area to be added to an Assigned Sewer Service Area and will not result in WTF capacity constraints;
  - h. appropriate capacity at the receiving Wastewater Treatment Facility (WTF) needed to accommodate the proposed future wastewater flow is demonstrated;
  - i. it does not violate any sanitary sewer utility or authority district or contractual service area agreements;
  - j. appropriate documentation substantiating the need for sanitary sewer service is provided.
3. Staff will refine and finalize the draft letter of recommendations based on the committee's feedback. Staff will discuss the revision with the Planning Board and/or the Environment and Utilities Committee at any regularly scheduled meetings of these groups that may take place within the 21-day review period, prior to sending the letter.
4. Staff was authorized via a resolution adopted by the County Planning Board in 2017 to submit the letter to the NJDEP, which they will accomplish within the allotted 21-day review period.



## SOMERSET COUNTY PLANNING BOARD

### WQM PLAN AMENDMENT AND REVISION REVIEW RESPONSIBILITIES AND PROCEDURES

#### WQMP RULE PROVISIONS APPLICABLE TO SOMERSET COUNTY CONCERNING AMENDMENTS TO AREAWIDE WQM PLANS

7:15-3.3(b): *Site-specific amendments* to WQM Plans are limited to proposed alterations to eligible sewer service area as needed to address a specific project or activity. Site specific amendments are either:

1. Site specific amendments for proposals to add, either solely or in conjunction with other proposals, areas greater than or equal to 100 acres to the sewer service area or that would generate 20,000 gallons per day or more of wastewater; or
2. Site specific amendments for proposals to add less than 100 acres to the sewer service area and that would generate less than 20,000 gallons per day of wastewater.

7:15-3.5 (f): Entities that prepare an amendment to an area wide WQM plan, shall, during such preparation, notify, seek comments from and offer to consult with:

1. All government entities that have regulatory or planning jurisdiction over wastewater, water supply, or land use in any sewer service area being modified. Such governmental entities shall include, but not be limited to: designated planning agencies, wastewater management planning agencies, county planning boards, municipal governing bodies, sewerage authorities, county utilities or municipal authorities, joint meetings, the Passaic Valley Sewerage Commissioners, the Meadowlands Regional Commission, water purveyors, the Pinelands Commission, the Highlands Council, and the Delaware River Basin Commission as appropriate;
2. All vendors of wastewater treatment systems or services under the New Jersey Wastewater Treatment Privatization Act, N.J.S.A. 58:27-1 et seq., with a legal or fiduciary interest in wastewater treatment facilities located within any sewer service area being amended under this section; and
3. For site specific amendments proposing to add 100 acres or more to the sewer service area or where the additional sewer service area would generate 20,000 gallons per day or more of wastewater, the entity shall initiate a public notification process to alert property owners who will experience a change in their wastewater service area designation.

7:15-3.5(g): The Department procedure for amendment of area wide WQM plans is as follows:

1. An applicant may petition the Department to amend the area wide WQM plan, or the Department may propose to amend the area wide WQM plan on the Department's own initiative. Applications for amendments shall be submitted electronically on forms prescribed by the Department;
2. Applications shall include a description of the proposed amendment, including documentation substantiating the need for the amendment, documentation demonstrating compliance with the notification and consultation requirements at (f) above and (h) below, and other documentation as determined by the Department to be necessary to determine compliance with the criteria established at 7:15-4.4 and 4.5.
3. For all site specific amendments, the applicant shall submit a copy of the request to the municipality and county for a letter or resolution regarding the consistency of the proposed wastewater producing project with the land use identified in the municipal master plan and zoning ordinances or the county master plans;
4. Within 90 days of receiving an amendment application, the Department shall review the application and notify the applicant that additional information is required, the application is disapproved, or that the application qualifies as an amendment;
5. If the Department's decision is to proceed further with the amendment application, the Department will notify the applicant and the designated planning agency, if applicable, and include the public notice for the proposed amendment and a list of entities from which a written statement of consent shall be requested. The Department shall publish the public notice in the NJ Register, on its website, and electronically to entities that have requested electronic notifications from the Department. In cases where the Department's decision includes a requirement for a non-adversarial public hearing, the public notice shall provide at least 30 days' notice of the hearing.
6. Requirements concerning written statements of consent are as follows:
  - i. The Department shall identify a list of governmental entities, sewerage agencies, and the BPU-regulated sewer and water utilities from (f) above that may be affected by, or otherwise have a substantial interest in, approval of the



## SOMERSET COUNTY PLANNING BOARD

### WQM PLAN AMENDMENT AND REVISION REVIEW RESPONSIBILITIES AND PROCEDURES

*proposed amendment, and that shall be asked to issue written statements of consent for the proposed amendment. Within 15 days of receiving such list, the applicant shall submit by certified mail (return receipt requested) a copy of the proposed amendment to these parties, with a request that they issue written statements of consent for the proposed amendment within 60 days of their receipt of the request;*

*ii. A written statement of consent shall include a statement that the party concurs with, or does not object to, the proposed amendment. A statement of consent by a governmental entity shall be in the form of a resolution by that unit's governing body. If the party objects to the proposed amendment, the party shall state all reasons for objection in writing; and*

*iii. The applicant shall promptly forward to the Department a copy of all requests for consent (with return receipts) sent to parties and a copy of all statements of consent and other comments received. The Department will consider statements of consent and comments received within 60 days of receipt of the request under (g)6i above;*

*7. Written comments on the amendment or requests to extend the comment period shall be submitted to the Department by the close of the comment period, which shall be no less than 30 days of the date of the NJ Register Notice;*

*8. Interested persons may also request that the Department hold a non-adversarial public hearing; such requests shall be submitted in writing to the Department within 30 days of the date of the NJ Register public notice. A public hearing will be held if there is sufficient public interest, as defined under N.J.A.C. 7:1D-5.2. A public notice providing at least 30 days' notice of the hearing will be published by the Department in the NJ Register, on its website, and electronically to entities that have requested electronic notifications from the Department pursuant to N.J.A.C. 7:15-1.6(d), and will be mailed to the applicable designated planning agency, if any, and to each party who was requested to issue a written statement of consent for the amendment. The public comment period will be extended until 15 days after the hearing. Except when the Department proposes to amend area wide WQM plans on its own initiative, the applicant shall, at the applicant's expense secure and acceptable location for the hearing, mail the public notice, secure a court stenographer, and provide a copy of a verbatim transcript of the hearing to the Department;*

*9. If any data, information, or arguments submitted during the public comment period or in response to a request for written statement of consent raise substantial new issues concerning a proposed amendment, the Department may:*

*i. Reopen or extend the public comment period to give interested persons an opportunity to comment on the information or arguments submitted;*

*ii. Disapprove the proposed amendment and notify the applicant; or*

*iii. Notify the applicant that the amendment cannot be adopted as proposed and that additional information is required in order to determine if a new or revised plan amendment is necessary.*

*10. Based on the administrative record, the Department shall adopt, adopt with minor changes that do not effectively destroy the value of the public notice, or disapprove the amendment, and notify the applicant and affected entities; and*

*11. The Department shall provide written notification of its decision. Notice of the final decision shall also be published in the NJ Register and posted on the Department's website.*

*7:15-3.5(h): If the proposal is located in the Pinelands National Reserve or the Highlands Region, the applicant shall simultaneously submit the application to the Department and the Pinelands Commission or Highlands Council as applicable in order to provide an*



## SOMERSET COUNTY PLANNING BOARD

### WQM PLAN AMENDMENT AND REVISION REVIEW RESPONSIBILITIES AND PROCEDURES

*opportunity for those agencies to provide comment prior to the Department rendering any decision. The application shall be considered incomplete if the applicant has not provided a demonstration that this requirement has been met.*

*7:15-3.5(i:) An application for a site specific amendment located in the Highlands preservation area that requires a Highlands Preservation Area Approval or Approval with Waiver shall be governed by the Highlands Water Protection and Planning Act rules at N.J.A.C. 7:38-9.3, 9.5, 9.6, and 11.6. If the Department determines the application qualifies for an amendment, it shall be processed in accordance with (g)5 through 11 above and reviewed in accordance with the criteria established at N.J.A.C. 7:15-4.4(c).*

*(j) Applications for site specific amendments shall comply with the requirements of this section and the following:*

- 1. Delineation of sewer service area shall be completed in accordance with the procedures set forth at N.J.A.C. 7:15-4.4; and*
- 2. For site specific amendments that propose to add 100 or more acres to the sewer service area or where the additional sewer service area would generate 20,000 gallons per day or more of wastewater, the application shall include a proposed modification to the wastewater treatment capacity analysis prepared in accordance with N.J.A.C. 7:15-4.5(b) to include the proposed project or activity.*

## COUNTY WQMP AMENDMENT REVIEW PROCEDURES

The WQMP Rules provide the County Planning Board with two (2) opportunities to provide comments to the NJDEP concerning proposed site-specific amendments to the area wide WQM Plans of which Somerset County is a part. The first takes place prior to an applicant's submission of an application for an amendment to NJDEP whereby the applicant must notify, seek comments and offer to consult with the County such that the County's comments can be taken into consideration by NJDEP prior to the end of its 90-day review period; and the second takes place after the application has been submitted to and reviewed by NJDEP, and NJDEP has decided to proceed with the Preliminary Public Notification Process. The second opportunity is initiated when the County receives a request for consent from the applicant, after which the County has 60 days to submit a consent resolution. The County's review is primarily to determine consistency with the Somerset County Master Plan and all elements thereof; as well as with the County's Capital Improvement Program and other County functional plans.

The intended purpose of the pre-application review opportunity is to work toward minimizing inconsistencies with county and local master plans and ordinances; and to provide the County and affected municipalities with an opportunity to share any outstanding issues and concerns regarding the proposed amendment with NJDEP so that NJDEP can take them into consideration before making any decisions concerning the application. According to N.J.A.C. 7:15-3.5 (f), entities that prepare an amendment application shall, during such preparation, notify, seek comments from and offer to consult with the Somerset County Planning Board, which is serving as the WMP Agency for the County. N.J.A.C. 7:15-3.5(g)2 specifies that applications shall include documentation demonstrating compliance with this notification and consultation requirement. The Preliminary Public Notice issued by NJDEP after their 90 day review period for a site-specific amendment itemizes the proposal's consistency with the requirements for delineating Sewer Service Areas specified in N.J.A.C. 7:15-4.4. It also specifically references county and municipal documentation submitted in accordance with N.J.A.C. 7:15-3.5(g)2 and states the position of these government entities. The goal is to provide written feedback to NJDEP prior to the end of NJDEP's 90-day application review period described in N.J.A.C. 7:15-3.5(g)4 so that the County's comments can be taken into consideration during the application process. The process for obtaining a statement of consent from the County Planning Board after the application is received by the NJDEP does not commence until after the NJDEP has deemed the proposal to be compliant with N.J.A.C. 7:15-4.4, and the decision



## SOMERSET COUNTY PLANNING BOARD

### WQM PLAN AMENDMENT AND REVISION REVIEW RESPONSIBILITIES AND PROCEDURES

to publish the preliminary notice in the NJ Register has been made. Once the County Planning Board receives a consent request, it has 60 days from receipt of the consent request letter from the applicant to respond by preparing and submitting a resolution to NJDEP in accordance with N.J.A.C. 7:15-3.5(g). The public notification process aims to provide the public with information about the proposed change and an opportunity for general public comment.

The NJDEP, which is authorized to adopt all amendments, is not required to abide by any County review comments and recommendations it receives. NJDEP is only responsible for taking them into consideration. Currently, the Final Adoption notice published in the NJ Register provides the position articulated in the consent resolution and describes the reasons any affected county and/or municipality does not consent to a change.

A. The following sequence of steps that will be taken in response to being contacted by a prospective applicant prior to official submission of the application to NJDEP:

1. When an entity that is preparing an amendment application contacts the County Planning Division pursuant to N.J.A.C. 7:15-3.5 (f), Planning Division Staff will prepare and submit a letter to the applicant which
  - a. acknowledges that the applicant has notified, sought comment from and offered to consult with the County Planning Board during the process of preparing the amendment, which can be included as an attachment to the amendment application as evidence that this requirement has been met;
  - b. requests the submission of an identical copy of the complete application and all associated documents to the County Planning Board at the same time that the application is submitted to NJDEP, as well as copies of all revisions thereof and additional information required by the NJDEP pursuant to N.J.A.C. 7:15-3.5(g)2, 3 and 4;
  - c. advises the applicant to contact the County Planning Division in advance if it would like to schedule a consultation meeting;
  - d. indicates that a copy of the letter will be provided to the NJDEP, the affected mayor and municipal wastewater management planning committee, the affected sewerage authority/utility, the Somerset County Planning Board and Somerset County Board of Chosen Freeholders within approximately 5 business days of the County being provided with the applicant's contact information.
  - e. specifies that for amendments involving proposed development with flows of 20,000 or more and/or that are 100 acres or larger in size for which proposed modifications to the wastewater treatment capacity analysis are required pursuant to N.J.A.C. 7:15-3.5(j) 2 - the applicant will collaborate with the County when developing said modifications, in recognition of the County's responsibilities with regard to N.J.A.C. 7:15-4.5.
2. Planning Division Staff may share publicly available information about the County Master Plan and other relevant land use policies and regulations and any other appropriate information concerning surrounding land use, environmental and infrastructure conditions as part of the consultation process, which occurs before the application is submitted to NJDEP.
3. In a timely manner, County Planning Staff will:
  - a. Prepare and submit an internal memorandum to the County Planning Board's Environment and Utility Committee summarizing the amendment application, timeline for providing feedback to NJDEP prior to the end of the 90-day review period and Staff's assessment regarding consistency of the amendment with the County Master Plan and associated elements, policies and initiatives.
  - b. Draft a response letter for consideration by the Environment and Utility Committee to the NJDEP on behalf of the Planning Board presenting the results of the Committee's assessment of the proposed amendment in terms of consistency with the goals and objectives of the County Master Plan and related plan elements. The letter will:



## SOMERSET COUNTY PLANNING BOARD

### WQM PLAN AMENDMENT AND REVISION REVIEW RESPONSIBILITIES AND PROCEDURES

- i. be finalized and submitted to NJDEP prior to the end of the 90-day review period specified in 7:15-3.5(g)4;
    - ii. specify that the County reserves the right to update its findings and recommendations based on any new information that emerges prior to receipt of a consent request from the applicant;
    - iii. indicate that copies of the letter will be provided to NJDEP, the affected mayor and municipal wastewater management planning committee, the affected sewerage authority/utility, the Somerset County Planning Board and Somerset County Board of Chosen Freeholders.
  - c. Add the proposed amendment and associated response letter to the agenda of the next regularly scheduled or special meeting of the Environment and Utility Committee. The Committee meets on alternating months; a special meeting of the Committee may be convened in order to finalize the response letter prior to the end of the NJDEP's 90-day review period.
  - d. Proposed amendments will be discussed with the Environment and Utility Committee, and the draft letter will be modified by staff according to the Committee's feedback prior to finalization by the full Board at the next regularly scheduled County Planning Board Meeting.
4. Proposed amendments will be assessed for consistency with the County Master Plan based on, but not limited to, whether the proposed amendment:
  - a. is protective of water quality, public health and safety;
  - b. will not adversely impact implementation of the County Master Plan - Investment Framework (CIF) Map: Priority Preservation Investment Area and/or Limited Growth Investment Area's goals and objectives;
  - c. is substantially consistent with municipal master plans, land use and zoning;
  - d. is protective of rural, agricultural, open space and natural resources;
  - e. is part of and/or immediately adjoining a previously adopted Assigned Sewer Service Area;
  - f. does not introduce growth-inducing infrastructure into an area intended for preservation, agriculture and/or limited growth;
  - g. is De Minimis in terms of the size of the wastewater generating facility and land area to be added to an Assigned Sewer Service Area;
  - h. does not violate any known sanitary sewer utility or authority district or contractual service area agreements;
  - i. appropriate capacity at the receiving Wastewater Treatment Facility (WTF) needed to accommodate the proposed future wastewater flow is demonstrated;
  - j. proposed modification to the wastewater treatment capacity analysis pursuant to N.J.S.A. 7:15-3.5(j)2 is acceptable; and
  - k. appropriate documentation substantiating the need for sanitary sewer service is provided.
5. The Future Wastewater Service Area Map for Somerset County adopted by NJDEP in 2013 serves as a foundation for the delineation of the land use investment area categories provided on the County Investment Framework Map adopted in 2014 as an element of the County Master Plan and updates the 1987 County Land Use Management Map. The County Investment Framework's Priority Preservation Investment Areas (PPIA) and/or Limited Growth Investment Areas (LGIA) are not currently served by sanitary sewers and are within designated non-sewer areas. The primary land uses supported in these areas are open space and environmental conservation and protection; rural agriculture and farmland preservation and agricultural activities; and associated low-density residential activities. These areas have limited access to infrastructure as compared to the County's Priority Growth Investment Areas. For more information, please see <https://www.co.somerset.nj.us/government/public-works/planning/master-plan>. Updates to the CIF will be made by the County Planning Board as needed to reflect changes to the Wastewater Service Areas Map and other appropriate considerations.



## SOMERSET COUNTY PLANNING BOARD

### WQM PLAN AMENDMENT AND REVISION REVIEW RESPONSIBILITIES AND PROCEDURES

**B: The following sequence of steps is to be taken with regard to the provision of a written statement of consent by Somerset County:**

1. Upon receipt of a certified mail request for a written statement of consent from the applicant, County Planning staff will initiate the following:
  - a. Provide a memorandum to the Environment and Utility Committee regarding the proposed amendment consent request, 60-day timeframe for submission of the consent resolution, and an overview of the prior assessment pursuant to A4 above, and any changes thereto.
  - b. Prepare a draft Somerset County Planning Board Consent Resolution and include it on the agenda of the next regularly scheduled or special meeting of the Environment and Utility Committee. The Committee meets on alternating months; a special meeting of the Committee may be convened in order to finalize the resolution prior to the end of the NJDEP's 60-day comment period. Forward copies of the adopted consent resolution to NJDEP, the applicant, affected municipality, affected sewerage authority, the NJ Highlands Council and or any WQM planning agency if applicable and within 60 days of receipt of the Consent Request Letter in accordance with N.J.S.A. 7:15-3.5(f).