

Improving Water Quality Planning and Management

Comments Submitted by: Paul E. Pogorzelski, P.E.

Page 1 of 6
October 10, 2006

1. Wastewater Management Plan Amendment Process

The intended 6 year Wastewater Management Plan (WMP) update process is essentially a mirror of the municipal master planning process. Its components are integral with the municipal master planning process and the WMP is essentially a companion to the utility element of the municipal master plan. Its components encompass all aspects of the master plan with regard to wastewater utility service.

The largest drawbacks of the present WMP amendment process are the costs of preparation, revision costs associated with a relatively subjective NJDEP review process and the length of the review process (often a year or more). Rather than maintaining the present WMP requirements which are onerous, simplifying the components of the WMP to mirror the elements of the municipal master plan, will make for a stronger master plan and will simplify the process of updating the WMP. Creating a standard WMP format similar to the standardization effort that occurred with the Stormwater Regulations, will simplify the adoption and update process and minimize review time by NJDEP.

A standard format that is developed by NJDEP and can be adopted by a municipality, verbatim, is the best way to achieve a simplified process. Having this standard format rely upon available NJDEP information as its basis will facilitate a quick adoption. Offering opportunities for waivers/exceptions through mitigation or some other well defined NJDEP/Local process will help facilitate adoption of a WMP and will greatly reduce costs. By looking back at the Stormwater Regulations as a model, there was education of the new process, standardization of the process, a mandate for the process based upon the Clean Water Act, implementation with penalties for non-compliance and annual certification requirements. Each of these aspects of the Stormwater Regulations served to create a

Improving Water Quality Planning and Management

Comments Submitted by: Paul E. Pogorzelski, P.E.

Page 2 of 6
October 10, 2006

process that, for the most part, was more adaptable than any WMP process that exists or has existed in the past in New Jersey.

2. Scale and Scope of Wastewater Management Plans

Keeping the scope to the local level is important to “Home Rule” and helps compliment the local planning process. While WMP planning process can be excruciating, the end result makes for a complete planning process at the local level and it should remain as part of the local process.

The responsibility for local Utility Authorities is for the proper management of infrastructure and the costs related to the same. WMP planning should be left to the constituent municipalities in such cases since infrastructure can follow any direction or planning area. Such infrastructure management is in many instances, ignorant of planning consequence and, therefore, needs to be guided by local planning efforts. As such, WMP planning should remain with the constituent municipalities when local Utility Authorities are involved.

3. Consistency with State Development and Redevelopment Plan

Since the WMP is essentially a planning tool, it should respect the State Plan. Every municipality is obligated to seek and obtain “Plan Endorsement” in order to meet its obligations for substantive certification for its Affordable Housing (COAH) Obligations. Plan Endorsement considers the Master Plan of the municipality as a basis for determining consistency with the State Plan. Therefore, by obligating the WMP become part of the Master Plan, the process then comes full circle and ensures consistency with the State Plan.

A problem does exist in that the Plan Endorsement process is equally cumbersome as costly as the present WMP process. So some latitude should be given for municipalities to adopt a WMP while waiting for Plan

Improving Water Quality Planning and Management

Comments Submitted by: Paul E. Pogorzelski, P.E.

Page 3 of 6
October 10, 2006

Endorsement. Since Plan Endorsement is expected to involve a review of the WMP element, then the Plan Endorsement process will include revision recommendations for the WMP to be achieved during subsequent revisions.

Additionally, the State Plan encourages development in certain areas and those areas will be the prime targets of the development community. This focus will leave no room for public services such as schools and other inherently beneficial uses who will then be left to find locations that are inconsistent with the State Plan and related WMP planning areas. This inconsistency will again serve to force the public sector to struggle with the grand scale planning issues required for future WMP amendments. Provision needs to be made for inherently beneficial uses.

4. Adequacy of Nonpoint Source Pollution Control

The present controls are adequate. The stormwater regulations impose obligations upon various agencies. Agencies not regulated under those regulations may be subject to a variety of other controls. Where there are loopholes, regulations should be revised as all agencies should be regulated in a fair and equitable basis under any rule.

5. Controlling Saltwater Intrusion

Saltwater intrusion is a critical part of any planning where applicable. Planning for the environmental consequence of saltwater intrusion or the avoidance of such consequences should be guided by the State because of its grand scale implications. Local efforts may not possess the requisite technical expertise nor be able to afford the costs of such experts. Uniform criteria for all areas subject to saltwater intrusion are essential to harnessing saltwater intrusion consequences.

Improving Water Quality Planning and Management

Comments Submitted by: Paul E. Pogorzelski, P.E.

Page 4 of 6
October 10, 2006

6. Coordinating with Statewide Water Supply Plan

This is a long term objective that may or may not be achievable due to the variety of professional opinions and interpretations of science that exist. The state should implement unified criteria for meeting such an objective but should not obligate local compliance until there exists a way to achieve such an objective without years of study and the imposition of costly and time consuming delays at the local level.

For example, how much growth has occurred while waiting for WMPs to be approved? Site specific endorsements have advanced while the bigger picture municipal WMPs have trudged through a very cumbersome and costly state process. Developers benefit while the taxpayers pay the price. When developers do not benefit, they seek immediate relief through political or legal remedies that are often not so readily available at the municipal level.

To the contrary, while the development community was dismayed over the Stormwater Rules, compliance was achieved relatively quickly. That was attributable to the process not the requirements. So when the process becomes too large and cumbersome, the only applicants willing to accept delays are the communities themselves and the developments still keep coming!

Therefore, it is recommended that this be a top-down procedure on a regional platform as watersheds and aquifers are not confined to municipal boundaries. Again, a standardized process with standardized procedures will be critical to achieving this objective.

Improving Water Quality Planning and Management

Comments Submitted by: Paul E. Pogorzelski, P.E.

Page 5 of 6
October 10, 2006

7. Protecting Sensitive Environmental Features

These features should be identifiable using standard state criteria and mapping as the basis for the WMP. While not everyone will agree with the state criteria, it offers the best immediate and free data for use and is already relied upon in the development community for basic planning purposes.

Provision should be made for site specific identification which is the best alternative. Otherwise planning on a municipal-wide basis will be delayed by debate over such topics.

8. E.O. 109

The E.O. 109 process itself is subjective, thereby interjecting an undefined component into the process. A main factor in why municipalities do not engage in the WMP process is because it introduces unknowns that are unpredictable and cannot be budgeted for. Standardizing the E.O.109 process, if possible, to defining very specific answers an E.O. 109 review seeks and what will be done with the answers will make E.O. 109 compliance more “user friendly”.

Some E.O.109 questions might include:

- What will be done with the answers?
- Will zoning changes be mandated as a result?
- Will less impervious coverage be required?
- How will the E.O. 109 changes affect the community?
- Can DEP force changes that result from an EO 109 analysis legally?
- Who decides when alternatives must be reviewed and why?
- Who makes E.O. 109 decisions (alternatives analysis required v. not required) which may cost the community an extra \$0.04 on its tax rate (hypothetical) and what incentive is there for going through such a

Improving Water Quality Planning and Management

Comments Submitted by: Paul E. Pogorzelski, P.E.

Page 6 of 6
October 10, 2006

process to the local politician (ultimate decision maker) that, in many instances, strives for lower taxes?

Additionally, acceptance of data produced by other municipal tasks for review purposes should be the norm. For example, a build-out analysis in conjunction with the stormwater program should be acceptable for whatever is needed for an E.O. 109 analysis without additional effort. By coordinating E.O.109 requirements with the results achieved by other existing requirements that municipalities must comply with, the level of effort, cost of production and time of review will all be minimized. E.O.109 information will be drawn out from the other processes without great additional expense to the taxpayer and the results can then be digested.