

Development of a Water Pollution Control Plan and a Sewer Service Area Map
(And Integration of Such Plan into Municipal Plans of Conservation and Development
and the Conservation and Development Policies Plan for Connecticut)

November 2008

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Introduction

The creation of a Water Pollution Control Plan with a proper sewer service area map is an important responsibility for every municipality with any amount of sewers. It is also applicable to municipalities without any sanitary sewers. How this gets done, what factors are considered, who is involved and how it is utilized for future planning of the municipality's development will be further explained in this document.

Authorizing State Statutes

Chapter 103 of the Connecticut General Statutes (CGS) "Municipal Sewerage Systems" is the starting point for this effort. Within Chapter 103, Sec. 7-246(b) of the CGS, the authorization to prepare a water pollution control plan and to define where sewers are to be located and where they are not to be is given to the Water Pollution Control Authority (WPCA) of the municipality. Specifically, the pertinent section of this statute reads:

"Each water pollution control authority designated in accordance with this section may prepare and periodically update a water pollution control plan for the municipality. Such plan shall designate and delineate the boundary of: (1) Areas served by any municipal sewerage system; (2) areas where municipal sewerage facilities are planned and the schedule of design and construction anticipated or proposed; (3) areas where sewers are to be avoided; (4) areas served by any community sewerage system not owned by a municipality; (5) areas to be served by any proposed community sewerage system not owned by a municipality; (6) areas to be designated as decentralized wastewater management districts. Such plan shall also describe the means by which municipal programs are being carried out to avoid community pollution problems and describe any programs wherein the local director of health manages subsurface sewage disposal systems."

What is a water pollution control plan and who develops it?

The responsibility for this plan rests solely with the WPCA (as authorized by the statutes). No other board or commission of the municipality has such an authorization by the statutes. Water Pollution Control Plans are best developed by the members of the WPCA (consultants are not necessary for many municipalities) and are typically limited in length to 5 to 10 pages including the sewer service area map. Subject matter includes, but may not be limited to, setting forth policies and objectives for the control of pollution, the establishment of the sewer service area, the establishment of areas where sewers are to be avoided, the establishment of areas where private sewers are allowed, a map

indicating the locations of each of these first three areas, policies regarding privately owned and community systems, identification of capacity of the sewerage system, reference to a detailed facilities plan if appropriate, and any other miscellaneous wastewater or related issue specific to the municipality.

Who develops a sewer service area map?

The Water Pollution Control Authority (WPCA) of the municipality is the only entity authorized to develop the sewer service area map (CGS Sec. 7-246(b)). The determination of what areas are to be served with sewers and what areas are not to be served with sewers is not within the authority of any other municipal board or commission.

The WPCA may undertake the development of the sewer service area map itself (perhaps with the assistance of the town's GIS professionals, if available) or it may seek outside consultant services. In either case, the process should be one of consensus within the municipality among, at a minimum, the WPCA, local sanitarian, Department of Health, Planning and Zoning Commission, Conservation Commission, Inland Wetlands Commission, Economic Development Agency and municipal planner. **The goal is to develop a service area map that all relevant boards and commissions can clearly understand, buy into and support in the future in their respective land use decisions.** The review should address any needs to abate existing pollution from failing septic systems or to provide for an alternative collection system for marginal septic systems, consider current zoning, the local plan of conservation and development (POCD) and a review for consistency with the Conservation and Development Policies Plan for Connecticut (State C&D Plan). Multiple meetings led by the WPCA will likely be necessary to develop a sewer service area that reflects the needs and desires of the entire municipality. The time period to develop a sewer service area map will vary from municipality to municipality based upon individual situations, but it is reasonable to think that it can be accomplished in a 5 to 9 month period if essentially starting from scratch.

What is a sewer system map versus a sewer service area map?

A sewer service area map indicates not only where the current sewers are, but also indicates what properties are currently served as well as what properties are allowed to tie into the sewer in the future either for addressing pollution problems or for supporting potential desired development. In most cases, the service area boundaries should be developed along property lines and not a set distance back from the sewer or the road. In accordance with the authorizing statute, the map should also indicate the areas of the municipality where the use of onsite septic systems are the preferred long-term wastewater alternative. It should not include those areas of the municipality that cannot be properly corrected onsite.

In a survey of municipalities conducted in 2007 and 2008 by the DEP, the Department requested copies of sewer service area maps from municipalities. With respondents in

excess of 100, more than 65% submitted sewer system maps. These municipalities did not have maps that indicate the areas to be served but had maps that only indicate the location of the sewers in the streets or rights of way. Such a map that indicates only the location of the sewers is considered a collection system map. These maps do not meet the intention of CGS Sec 7-246(b).

Suggested Resources for the WPCA in Developing a Sewer Service Area Map

- Previous Water Pollution Control Plan (if available)
- Current sewer service area map (if available)
- Current sewer system map
- Previous facilities plan or engineering report (if available)
- Local Plan of Conservation and Development
- State C&D Plan, including Locational Guide Map
- Local zoning regulations and map

Steps in the Development of a Sewer Service Area Map

- Compile a map of all existing sewers as the starting point. (During the five year update of the C&D Plan to occur in late 2009, OPM would desire that the municipality submit its sewer service area map during this time period. This would assist OPM in the drafting of the C&D Plan for 2011-2015, including the assignment of appropriate development classifications on the Locational Guide Map.)
- Determine the service area of the existing sewers. This may include, but not be limited to, documentation from design calculations for flows, a determination of which parcels have been fully charged benefit assessments, a determination of which parcels have been partially charged benefit assessments, or maps from earlier dates that indicated sewer service areas. The payment of full benefit assessments is a justification for inclusion of that area in the sewer service area. Service area boundaries are best developed along parcel lines and not roadway setbacks.

If a service area for existing sewers is to be justified by benefit assessments, it should be determined that the assessments were levied in accordance with the municipality's assessment policies and the authorizing state statutes. Deferred assessments on partially developed or undeveloped parcels can make the determination of whether the parcel is within or outside of the sewer service area more difficult.

- Determine potential future sewer service areas based upon need to solve existing water pollution problems, i.e. subsurface disposal problems with existing development, not vacant lots. This should include verifiable documentation from

the local sanitarian or regional health district relative to the ability to adequately repair on-site septic systems.

- Determine potential future sewer service areas based upon growth areas desired by the municipality.
- Major wetlands systems, rivers, and open space lands should be excluded from the sewer service area either by a notation on the map that they are not part of the service area or by interior lines within the sewer service area that exclude these obvious areas from service.
- From the iterative process described above, a draft map will have been prepared that can then be compared to the municipality's Plan of Conservation and Development (POCD) and the State C&D Plan.
- Issues related to the municipality's POCD: Does the sewer service area support the vision of the growth and future of the municipality as identified in the POCD? Does the sewer service area support the zoning designations and permitted uses? Are there areas designated as sewer service areas that do not need sewers to achieve the goals of the POCD? Are there areas with zoning classifications and permitted uses that cannot realistically be developed without sewers that are not in the sewer service area? Are there areas needed for affordable housing that should be sewerred?
- Issues related to the State C&D Plan: Is the sewer service area located in either growth or neighborhood conservation areas as indicated in the Locational Guide Map? If so, these areas of the sewer service map are consistent with the C&D Plan. Is any of the sewer service area located in conservation, preservation or rural land classification as indicated in the Locational Guide Map? If so, are the sewers in these areas existing or proposed? If existing, is the area limited to only areas already developed? If the service area is for proposed sewers, is it based upon an assessment of needs to solve an existing water pollution problem? As this review occurs, it is possible that areas with existing sewers will be located in rural lands or conservation areas. No one expects that sewers will be ripped out of the ground or that existing development will be knocked down as the means by which the inconsistency is resolved. Each area will be reviewed based upon the individual circumstances of that area. The goal will be to minimize any further inconsistencies in rural lands or conservation areas.
- After a review of the issues related to both the municipality's POCD and the State C&D Plan, changes may be determined necessary in a number of documents. These could include 1)changes to the sewer service area such that the resulting map is determined to be consistent with both plans, 2)changes to the local POCD, 3)changes to the State C&D, or 4)written justification of areas which are inconsistent with other planning documents.

Why Is Consistency With the State C&D Plan Required?

The development of a Water Pollution Control Plan and sewer service area map in accordance with Sec. 7-246(b) is not the end point if municipalities desire to avail themselves of Clean Water Fund financing in the future.

Similar to other state agencies awarding funding in excess of \$200,000, the DEP is required by the Connecticut General Statutes to assure that the project is consistent with the State C&D Plan prior to awarding Clean Water Funds. This often puts DEP at the forefront of discussions with municipal officials over the need to address consistency with the State C&D Plan when the municipality is seeking Clean Water Fund financing.

Explanation of State Statute Requiring Consistency with the State C&D Plan

The State Plan of Conservation and Development is defined in Sections 16a-24 through 16a-33 of the CGS. The objective of the State C&D Plan is to guide a balanced response to the current and future human, economic, and environmental needs of the State. More specifically related to state financing of various infrastructure needs of the municipalities is CGS Sec. 16a-31(a) (4). This statute reads: “The following actions when undertaken by any state agency, with state or federal funds, shall be consistent with the plan: (4) The authorization of each state grant, any application for which is not pending on July 1, 1991, for an amount in excess of \$200,000, for the acquisition or development or improvement of real property or for the acquisition of public transportation equipment or facilities.”

Wastewater treatment plants pump stations and sewers are real property and therefore, any state grant and/or loan in excess of \$200,000 for wastewater infrastructure acquisition, development or improvement must be consistent with the State C&D Plan. The DEP is obligated to assure that wastewater projects funded by the CWF or projects that discharge to wastewater projects funded by the CWF are consistent. DEP simply does not have the flexibility of ignoring the statute.

How to determine consistency with the State C&D Plan as relates to sewer service areas

The sewer service area map is the key document to determine consistency with the State C&D Plan. Once the proposed sewer service area map is developed, it can be compared with the State C&D Plan to determine if the service area is in a designated Growth and Neighborhood Preservation areas or if the service area includes Rural Land or other conservation/preservation areas. Sewer service areas within Growth and Neighborhood Conservation areas are not a conflict with the State C&D Plan. However, sewer service areas within Rural Lands and other conservation/preservation areas may pose a conflict unless the sewers exist at the time of the comparison or the sewer service area is proposed to solve an existing pollution problem caused by substandard septic systems that cannot be effectively repaired. It should be noted that if pollution problems from failing septic

systems arise in the future in Rural Lands or Conservation/Preservation Areas, sewer service can be extended without modifying the State C&D Plan, if such sewers extensions are minimally sized for the problem area only.

The Department intends to develop a separate Question and Answer Document based upon real cases that municipalities can use in determining how to address current, apparent inconsistencies and how to avoid future inconsistencies as new development applications are reviewed by the municipality. It is expected that this document will be available in January 2009.

The Underlying Issue-Identification and Resolution of Inconsistencies

In the development of the sewer service area map, the municipality must consider the current version of the State C&D Plan and the Locational Guide Map of that plan. In a number of situations, municipal officials have expressed frustration and concern that the Locational Guide Map does not reflect their views of their community nor do they understand the basis for the various land classifications within the State C&D Plan and how they were assigned to segments of their municipality. This is not an issue that the DEP can resolve. Resolution of conflicts between the local plan of conservation and development and the State C&D Plan must occur through one of two opportunities offered under the State C&D Plan statutes. The first opportunity, which is preferred by the Office of Policy and Management (OPM), is during the regular five-year update cycle for the State C&D plan. This update will be initiated in 2009. At each five-year cycle for adoption of a new plan, input is sought from the municipalities as well as from the regional planning agencies. It is at this time that the municipalities can best advise the state as to their preferred classification of the land and to justify recommended changes in the land classifications. The second opportunity, much less preferred because of its micro-view of a single parcel or relatively small areas of land, is through the interim change provision of the CGS Sec. 16a-32.

Municipalities are encouraged to collaborate with the staff of OPM during the revision period of each State C&D plan and reach a satisfactory consensus. For this reason, it is strongly suggested that the WPCA communicate clearly with the municipal planner to explain the WPCA's Water Pollution Control Plan and sewer service area map, as well as the importance of ongoing consistency with state and local land use plans and decisions, so that the planner can be prepared to provide appropriate input to OPM when the State C&D Plan is up for revisions. If this happens, the issue of developing a sewer service area that is consistent with the State C&D Plan is a much simpler task. With a consistent sewer service area map that a municipality then follows, the DEP can meet its statutory obligation of undertaking funding actions that "shall be consistent with the plan".

Incorporation of Sewer Service Area Maps into Municipal POCD

As the final step for creating a consistent message from all town officials, the sewer service area map should be included in the infrastructure section of the municipality's

POCD adopted by the Planning Commission.

This can be done in the decennial update or as an amendment to an adopted POCD when the sewer service area map has been prepared. The goal for all stakeholders within the municipality should be that a consistent message concerning wastewater infrastructure is sent regardless of the municipal messenger. The WPCA, Planning Commission, Zoning Commission, Municipal Planner, Economical Development Commission, and CEO of the municipality should all understand and support the limits of the sewer service area.

When Can the DEP Review a Sewer Service Area Map for Consistency with the C&D Plan?

At a minimum, the DEP will require the creation of a facilities plan to support the need for any wastewater infrastructure project that will seek Clean Water Fund financing. Such a facilities plan will be required to include a sewer service area map that will indicate areas of the municipality that are sewerred, areas that are planned to be sewerred in the future, and areas where sewers are to be avoided in which development must occur that can be sustained by the land. The DEP is required to review and approve the facilities plan including the sewer service area map prior to funding the project. However, only a small number of individual municipalities have wastewater projects funded in any given year. The question then is what happens if a municipality develops a Water Pollution Control Plan before a facilities plan is developed? How can it be determined if the sewer service area map is consistent with the State C&D Plan?

According to CGS 7-246(b), the WPCA of any municipality “may prepare and periodically update a water pollution control plan”. This means that there is no set schedule for submitting a Water Pollution Control Plan, unlike the requirement to update a municipal plan of conservation and development every ten years. However, the same statute continues as follows: “The authority shall file a copy of the plan and any periodic update with the Commissioner of Environmental Protection....” The municipality, when it files the water pollution control plan with the DEP may either just submit the document or may submit the document with a request for the DEP to review the sewer service area map for consistency with the State C&D Plan. The Department may review the sewer service area maps within its resource capabilities at the time of submission. If determined to be consistent based upon the review, the Department may issue an advisory letter to the municipality to that effect. This will help assure that development that occurs, if consistent with the sewer service area map between the time of submission of the map and the next Clean Water fund project, does not jeopardize the funding potential for the municipality.