

# MONMOUTH COUNTY WATER QUALITY MANAGEMENT PLAN AMENDMENT PROCEDURES

## I. ADMINISTRATIVE AND GENERAL PROVISIONS

### A. Purpose

These procedures provide for the review, approval, or disapproval by the Monmouth County Board of Chosen Freeholders of proposals to modify the Water Quality Management Plan. These procedures are intended to be consistent with the New Jersey Department of Environmental Protection (NJDEP) rules at N.J.A.C. 7:15, as amended.

### B. Authority

The New Jersey Water Quality Planning Act (N.J.S.A. 58:11A-1, et seq.) authorizes the Governor to designate Areawide Planning Agencies for the purpose of developing, adopting, updating and amending areawide water quality management plans. The Monmouth County Board of Chosen Freeholders was designated as the Areawide Planning Agency for areawide water quality management planning within Monmouth County by Executive Order number 67 of Governor Christine Todd Whitman on April 15, 1997. This act also directs Designated Planning Agencies to coordinate and implement Water Quality Management Plans and programs for the area. Pursuant to Resolution 96-143, the Board of Chosen Freeholders designated the Monmouth County Planning Board to administer the Program. Some of the County Planning Board's major responsibilities are to prepare, revise and process amendments and revisions to the Water Quality Management Plan, as well as other duties noted in N.J.A.C. 7:15-2.5, Role of Designated Planning Agencies. Final decisions on amendment proposals however, are conducted through action of the Board of Chosen Freeholders, upon recommendation of the County Planning Board.

### C. Definitions

#### 1.0 Words defined by N.J.A.C. 7:15

Words used in these procedures shall have the same definition as provided in N.J.A.C. 7:15-1.5, unless specifically redefined herein.

#### 2.0 Supplemental Definitions

The following words and terms used in these procedures shall have the following meanings, unless the context clearly indicates otherwise:

"Adoption" means the adoption by the Governor, or the Governor's designee, of amendments to the Water Quality Management Plan, subsequent to approval by the Monmouth County Board of Chosen Freeholders.

"Affirming Documentation" means an instrument or instruments adopted by a municipality or sewerage agency either affirming consent to the application or that resolves prior inconsistencies between the

project seeking an amendment and previous plans or ordinances in place. Such instruments may include a change in zoning by ordinance; approved use variance; or documentation from the municipal governing body and/or sewerage agency, such as a duly adopted resolution indicating support of the application.

"Amendment Review Committee" or "ARC" means a committee of the County Planning Board, as designated in Monmouth County Planning Board Resolution 97-11, as amended and supplemented.

"Amendment" means a change to the Water Quality Management Plan as defined in N.J.A.C. 7:15-3.3(b) and 3.5.

"Applicant" means the interested party or parties who submit a formal request for a modification to the Water Quality Management Plan, pursuant to Section II-A3, et seq. of these procedures.

"Application" means a complete, formal request for a modification to the Water Quality Management Plan, pursuant to Section II-A3, et seq. of these procedures and N.J.A.C. 7:15-3.4 and/or 3.5.

"Board of Chosen Freeholders" means the Monmouth County Board of Chosen Freeholders.

"Committee" means the Amendment Review Committee, as defined herein.

"County Planning Board" means the Monmouth County Planning Board, authorized under the New Jersey County and Regional Planning Enabling Act (N.J.S.A. 40:27-1 et seq., as amended and supplemented), and also authorized, by the Monmouth County Board of Chosen Freeholders, to perform water quality management planning activities pursuant to Resolution 96-143.

"County Planning Staff" or "Staff" means the staff of the Monmouth County Division of Planning that is assigned tasks for the overall planning of the County and serves as support staff to the Amendment Review Committee.

"Modification" means a change to the Water Quality Management Plan through revision as set forth at N.J.A.C. 7:15-3.4 or amendment as set forth at N.J.A.C. 7:15-3.3(b) and 3.5.

"NJDEP" means the New Jersey Department of Environmental Protection.

"Revision" means a change to the Water Quality Management Plan as defined in N.J.A.C. 7:15-3.4.

"WQMP" means Water Quality Management Plan.

#### **D. Severability**

If any section, subsection, provision, clause or portion of these procedures is adjudged invalid by a court of competent jurisdiction, the remainder of these procedures shall not be affected thereby.

## **II. PROCEDURES FOR PROCESSING AMENDMENTS TO THE WATER QUALITY MANAGEMENT PLAN**

### **A. Applications for Modification**

#### **1.0 Applicants for Modification Proposals**

The Monmouth County Planning Board, on behalf of the Board of Chosen Freeholders of the County of Monmouth, may propose modifications, as defined in Section I.C.2 of these procedures, to the Water Quality Management Plan whenever such modifications are necessary. Other interested parties may make application to modify the WQMP. Under N.J.A.C. 7:15-3.5(e), certain amendments can only be processed by NJDEP. These include amendments for projects or activities proposed, constructed, operated or conducted by the State or Federal Government. Additionally, only NJDEP shall process amendments for activities regulated by the Solid Waste Management Act (N.J.S.A. 13:1E-1 et. seq.).

#### **2.0 Intent of Modification Proposals**

Modifications may be proposed for various reasons including, but not limited to:

- a. Implementation of, or compliance with, an applicable State or Federal law;
- b. Response to new information or circumstances;
- c. Improvement of the economic, social or environmental impact of the WQMP; or
- d. Resolution of issues disclosed during a consistency review procedure.

#### **3.0 Application Components**

Applications for modifications to the WQMP shall be submitted in writing and shall include, at a minimum, the following:

- a. For revisions, application materials described under N.J.A.C. 7:15-3.4(b), and for amendments, application materials described under N.J.A.C. 7:15-3.5(g).
- b. Two paper copies and one electronic copy of the completed application submitted to NJDEP, with two paper copies and one electronic copy of all required attachments.
- c. Two paper copies and one electronic copy of the completed Monmouth County Water Quality Management Plan Supplemental Application Form.
- d. Two paper copies and one electronic copy of all maps required under subsections (a) and (b), above. Paper maps must be provided at original scale (e.g., copies of U.S.G.S. Quadrangles must be submitted at the standard 1:24,000 scale). Electronically submitted maps must be in both a digital format that is consistent with the NJDEP's mapping standards at N.J.A.C. 7:1D Appendix A, and in PDF format. Project locations must be shown as actual property/project site boundaries, not as "representative" shapes.
- e. One digital shapefile and one electronically submitted PDF (as specified above) of the modified Sewer Service Area Maps, when approval of the proposed amendment would result in change to the existing sewer service area boundary.
- f. One paper copy and one electronic copy of all relevant correspondence between the applicant, or the applicant's agent, and the appropriate municipality(ies) and sewerage agency(ies) including but not limited to affirming documentation. The applicant shall continue to provide this information throughout the amendment review process.
- g. One copy each of all affirming documentation issued by municipality(ies), sewerage agency(ies), and others, as appropriate and identified in N.J.A.C. 7:15-3.5(f).
- h. If the proposed modification is located within 3,000 feet of a federal installation, such as Naval Weapons Station Earle, a United States Coast Guard Station, or the National Guard Training

Station in Sea Girt, the applicant must notify that installation of the proposed modification and provide proof of that notification with the application packet.

- i. The County Planning Board and the Amendment Review Committee reserve the right to request pertinent additional information relative to regional wastewater and watershed management and planning.
- j. Submission of electronic copies implies permission for the County of Monmouth to reproduce portions of the application in reports and presentations, such as to County review boards, without compensation to the applicant.

#### **4.0 Pre-Application Meeting**

Prior to submitting a formal application for modification to the WQMP, the applicant may request an informal pre-application meeting by submitting the request in writing concurrently to NJDEP and to County Staff to the ARC using any required NJDEP Request for Pre-Application Meeting process currently in place. County Staff to the ARC will make every effort to coordinate with NJDEP and the applicant to hold a joint pre-application meeting.

### **B. Monmouth County Planning Board Review and Action**

#### **1.0 Submission of Application**

Applications for plan modifications shall be submitted concurrently to the County Division of Planning, for processing and initial review by the County Planning Staff and to NJDEP.

#### **2.0 Monmouth County Planning Board Application Review**

Application review and action by the Monmouth County Planning Board will take place within 60 days for an application for revision or within 90 days of the receipt of the site specific amendment application. If for any reason the application is returned to the applicant, and a revised application is submitted, a new review process shall commence.

#### **2.1 Review for Completeness**

Applications will be reviewed by the County Planning Staff for completeness. Incomplete applications will be returned to the applicant, with an explanation of why the application is deemed incomplete and notification of same to NJDEP. When an application is deemed complete, Staff will notify the applicant of the scheduled date for the Amendment Review Committee evaluation of the application. Staff will draft a summary findings report based on their review of the application materials and provide same to the applicant; members of the Amendment Review Committee; the sewerage agency, as applicable; and NJDEP.

#### **2.2 Committee Review**

Applications, when deemed complete, will be brought before the Amendment Review Committee of the County Planning Board. The Committee will meet on a monthly basis, as needed. Agendas for committee meetings will be sent to the committee members, county sewerage authorities, the Chair of the Monmouth County Planning Board, the Monmouth County Director of Public Works and Engineering, the Monmouth County Health Officer, the Freehold Soil Conservation District, and NJDEP. When an application for an amendment is scheduled for review, agendas will also be sent to the applicant(s) and to the municipality(ies) and Sewerage Agencies affected by the application.

The Committee shall invite representatives from the applicable municipality(ies), Sewerage Agencies and NJDEP to provide comment or participate in Committee discussions. The Committee may also invite representatives from other County Agencies to provide comment, as needed. Based on their findings, the Committee shall:

- a. Return the amendment to the applicant with a request for necessary changes or additional information copying NJDEP on this notification; or
- b. Make a recommendation to the County Planning Board on the proposed application.

### **2.3 Preliminary County Planning Board Action**

After hearing the recommendation of the Amendment Review Committee, the County Planning Board shall:

- a. Return the application to the applicant without formal action, offering the applicant the opportunity to either withdraw the application, submit a revised application for a new review process, or submit a new proposal and notify NJDEP; or
- b. Make a preliminary recommendation on the proposed amendment to the Board of Chosen Freeholders under section II.B.5.0, and notify the applicant and NJDEP.

### **2.4 NJDEP Review of Applications**

Within 60 days of receiving a revision application, the NJDEP 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. Within 90 days of receiving an amendment application, the NJDEP 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.

### **3.0 Public Notice of Amendment and Notice to Affected Entities of Revision**

If NJDEP decides a proposed amendment meets the WQMP rule requirements and the County Planning Board has recommended moving forward, the applicant will receive a Public Notice of Proposed Amendment from NJDEP and the applicant must follow II.B.3.1. If NJDEP decides a proposed revision meets the WQMP rule requirements and the County Planning Board has recommended moving forward, the NJDEP will distribute the proposed revision to entities identified in accordance N.J.A.C. 7:15-3.5(f) and provide 21 days for comment.

### **3.1 Applicant Responsibilities**

For a proposed amendment, within 15 days after receipt of the Public Notice of Proposed Amendment from NJDEP, the applicant must:

- a. Follow the NJDEP notification requirements as identified in N.J.A.C. 7:15-3.5(g)6i.
- b. Request written statements of consent as specified by NJDEP and outlined pursuant to N.J.A.C. 7:15-3.5(g)6ii and iii.

### **3.2 Comment Period**

For a proposed revision, once the affected entities identified pursuant to N.J.A.C. 7:15-3.5(f) receive notification of the proposed revision from NJDEP, such entities shall have 21 days to comment as described under N.J.A.C. 7:15-3.4(f). For a proposed amendment, once the public notice has been published in the New Jersey Register, a public comment period shall commence for 30 days, pursuant to N.J.A.C. 7:15-3.5(g)7.

### **3.3 County Planning Board Responsibilities**

At the close of the public comment period on proposed amendments and the response period for consenting parties, or the close of the comment period on proposed revisions for affected entities, the County Planning Board shall review the written statements of consent and any public comments or affected entities' comments received.

### **4.0 Public Hearing Procedures**

Interested persons may seek a hearing regarding proposed amendments through NJDEP in accordance with N.J.A.C. 7:15-3.5. The NJDEP will grant the request for a hearing regarding proposed amendments if there is sufficient public interest, as defined under N.J.A.C. 7:1D-5.2. Notice of the proposed non-adversarial public hearing will be in the New Jersey Register, providing at least 30 days' notice.

### **5.0 Final County Planning Board Recommendation on the Proposed Modification**

After review of all information received, the County Planning Board shall:

- a. Submit a recommendation to the County Board of Chosen Freeholders, including the reasons therefore, and other supporting background information.
- b. Recommendations may include:
  - i. Approve the modification by resolution;
  - ii. Approve the application by resolution with minor conditions;
  - iii. Submit a letter to NJDEP describing concerns;
  - iv. Disapprove the amendment by resolution; or
  - v. Return the proposed modification to the applicant without formal action, offering the applicant the opportunity to withdraw the application, submit a revised application for a new review process, or submit a new proposal.

## **C. Monmouth County Board of Chosen Freeholders Review and Action**

### **1.0 Board of Chosen Freeholders Action**

After review of the information provided and recommendation of the County Planning Board, the Board of Chosen Freeholders may:

- a. Return the application to the County Planning Board and request additional information and review.
- b. Take one of the following actions:
  - i. Approve the modification by resolution;
  - ii. Approve the modification by resolution with minor conditions;
  - iii. Submit a letter to NJDEP describing concerns;
  - iv. Disapprove the modification by resolution; or
  - v. Return the proposed modification to the applicant without formal action, offering the applicant the opportunity to withdraw the application, submit a revised application for a new review process, or submit a new proposal.
- c. When action is taken:
  - i. Send notification of said action to NJDEP, the County Planning Board, and the applicant within 15 days.
  - ii. Forward supporting background data to NJDEP, as necessary.

## **2.0 Subsequent Adoption**

Water Quality Management Plan amendments approved by the County Board of Chosen Freeholders require subsequent adoption by the Governor of the State of New Jersey, or the Governor's designee, for validity.

### **D. Appeals**

An NJDEP decision on an amendment or revision to an Areawide Water Quality Management Plan is a final agency action, and any appeal of that decision shall be taken to the Superior Court, Appellate Division pursuant to the New Jersey Court Rules, in accordance with N.J.A.C. 7:15-3.6.

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Notes:

1. Draft approved by Monmouth County ARC on 5/3/17 and Monmouth County Planning Board on 6/19/17.
2. Procedure draft revised to incorporate 12/17/18 comments from NJDEP/DAG. Approved by ARC on 7/3/19 and Planning Board on 7/15/19.
3. Revised to incorporate 6/02/20 NJDEP/DAG comments. Approved by ARC on 7/1/20 and Planning Board on 7/20/20.
4. Adopted by the Board of Chosen Freeholders 08/13/20 via Resolution #2020-0578.