



State of New Jersey
Department of Environmental Protection and Energy
Environmental Regulation
Office of Regulatory Policy
CN 401
Trenton, NJ 08625-0401

Scott A. Weiner
Commissioner

Martin A. Bierbaum
Director

October 4, 1991

Mr. Grover Webber
Cape May County Planning Board
Cape May Court House, NJ 08210

Dear Mr. Webber:

I am pleased to inform you that, as of the date of this letter, pursuant to the Statewide Water Quality Planning rules, N.J.A.C. 7:15-3.4, the Department of Environmental Protection and Energy has approved the Cape May County Water Quality Management Plan Amendment Procedures enclosed with your letter dated September 25, 1991.

Wherever in these procedures reference is made to the Department of Environmental Protection this shall mean the Department of Environmental Protection and Energy. Similarly, wherever reference is made to the BPU (Board of Public Utilities) this shall mean the Board of Regulatory Commissioners.

Your efforts in the preparation of these procedures is appreciated.

Sincerely,

Barry Chalofsky, P.P.
Assistant Director

C A P E M A Y C O U N T Y

WATER QUALITY MANAGEMENT PLAN
AMENDMENT PROCEDURES

1. PURPOSE

To provide for the amendment of the Water Quality Management Plan (WQMP) for Cape May County as necessary to maintain the Plan as a technically sound and legally defensible basis for the review of projects and activities.

The Cape May County Planning Board acting for the Board of Chosen Freeholders shall propose or process amendments to the WQMP for Cape May County whenever such amendments are necessary or desirable.

Amendments to the WQMP may be proposed to:

- a. Implement or comply with applicable state or federal law
- b. Respond to new circumstances
- c. Improve the economic, social or environmental impact of the WQMP
- d. Resolve issues disclosed through the consistency review process.

2. AUTHORITY

The Cape May County Board of Chosen Freeholders is a designated areawide planning agency under the New Jersey Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.), which authorizes the New Jersey Department of Environmental Protection (DEP) and county and regional agencies designated by the Governor to develop areawide Water Quality Management Plans.

The authority to prepare Water Quality Management Plans and administrative procedures governing the approval of these plans is assigned to the County Board of Chosen Freeholders pursuant to N.J.S.A. 58:11A-1 et seq.

3. 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.

4. DEFINITIONS

The following words and terms as used in these procedures

shall have the following meanings, unless the context clearly indicates otherwise:

"Adoption" means the adoption by the Governor or his designee of amendments to the Cape May County WQMP subsequent to approval by the Cape May County Board of Chosen Freeholders.

"Amendments" are formal changes to the WQMP that may be proposed, approved, and adopted pursuant to these procedures.

"County Planning Board" or "Planning Board" means the 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) to prepare and adopt a master plan for the physical development of the county and to review and approve subdivisions and site plans affecting county roads and drainage facilities, and also authorized by the Board of Chosen Freeholders to perform water quality planning activities.

"Designated Management Agency" means an agency designated in the WQMP to implement one or more of the policies, objectives, and recommendations of the Plan.

"Water Quality Management Plan" or "Plan" means a plan prepared pursuant to Sections 208 and 303 of the Federal Clean Water Act (33 U.S.C. 1251 et seq.) and the Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.)

5. PROCEDURES FOR WATER QUALITY MANAGEMENT PLAN AMENDMENT

a. Approval of Plan by Cape May County: Relationship to Federal, State and Local Water Quality Management Policies.

A Water Quality Management Plan for Cape May County shall be maintained by Cape May County in accordance with the provisions of Section 208 of the Federal Clean Water Act, the New Jersey Water Quality Planning Act, and all other applicable Federal, State, and County laws, rules and regulations, policies, and interagency agreements.

(1) Coordination with Other Designated Planning Agencies

Any conflicts between Cape May County and any other designated planning agency shall be referred to the DEP for mediation.

(2) Coordination with State Requirements

The provisions of the WQMP for Cape May County shall be consistent with State statutes and rules, and components of the Statewide Water Quality Management Plan identified under N.J.A.C. 7:15-3.1(f).

As specified under N.J.A.C. 7:15-3.4(c), (i), and (j), only the DEP shall process amendments for projects or activities either proposed, constructed, operated or conducted by the State or Federal Government. Additionally, only the DEP shall process amendments for activities that are regulated by the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) or that address effluent limitations, schedules of compliance, total maximum daily loads, wasteload allocations, load allocations, or listings of water quality limited segments.

6. PREPARATION OF THE PLAN AND AMENDMENTS

The Cape May County Planning Board shall be responsible for the preparation and administration of the Water Quality Management Plan for Cape May County and its amendments.

7. PLAN AMENDMENTS

a. Amendments by Petition:

- (1) Any organization, agency of government, or any other party(ies) with an interest in or affected by the areawide WQMP may submit to the Cape May County Planning Board written, documented petitions to amend the Plan.
- (2) Copies of all proposed amendments shall be sent to the Cape May County Planning Board, County Library Building, 2nd Floor, Cape May Court House, New Jersey 08210 and further copies sent to the State of New Jersey, Department of Environmental Protection, Bureau of Water Quality Planning (BWQP), CN 029, Trenton, New Jersey 08625-0029.

b. Components

Proposals and petitions to amend the Plan shall be in writing and shall include at a minimum:

- (1) The complete text of the amendment, including maps, figures, and tables as appropriate,

(2) A Basis and Background Report to include:

- A detailed description of the need for and basis of the amendment,
- Identification of individuals, agencies, and other interested persons potentially affected, and how they would be affected, favorably and otherwise, by adoption of the amendment,
- An analysis of the extent to which the amendment conforms with existing law and regulations; and
- Such other information specified by the Planning Board as required for the proper preparation, consideration, approval, and administration of the amendment.

8. REVIEW OF PLAN AND AMENDMENTS

Amendments to the WQMP for Cape May County shall be subject to approval by the County Board of Chosen Freeholders, and adoption by the Governor of the State of New Jersey (or his designee), and by the United States Environmental Protection Agency.

- a. The Planning Board and DEP shall review petitions to amend the Plan for completeness, and may require additional information to be provided by the petitioner prior to further consideration. The County and the DEP have 90 days from receiving an amendment request to review the submission and either disapprove the amendment request, return it for additional information or revision, or decide to proceed with the request.
- b. When an amendment request is returned to the petitioner, by either the county or the DEP, for additional information or revision upon re-submission, the County and DEP again have 90 days to render a decision.
- c. Either the County or the DEP may disapprove the amendment request and return it to the applicant.
- d. When a decision to proceed is reached by the County and DEP the applicant will receive written notification (refer to 9.a. below). The DEP and the County will identify governmental entities, sewerage agencies, and BPU-regulated sewer or water utilities that shall be requested by the applicant to endorse the proposed

amendment. Within 15 days of receiving such notification, the applicant shall submit by certified mail (return receipt requested) a copy of the proposed amendment to these parties, with a request that they endorse the proposed amendment within 60 days of their receipt of such requests.

- e. An endorsement shall include a statement that the party concurs with, or does not object to, the proposed amendment. Tentative, preliminary, or conditional statements shall not be considered to be endorsements. An endorsement by a governmental unit shall be in the form of a resolution by that unit's governing body.
- f. The applicant shall promptly forward to the County^{FILE} a copy of all endorsements and comments received, and a copy of all requests for endorsements (with return receipts) sent to parties that did not provide endorsements or comments within 60 days of their receipt of such requests.
- g. Where a party identified above refuses to endorse or does not act on an endorsement, the reasons, if known, for that refusal or inaction shall be considered in rendering the final decision.

9. PUBLIC NOTICE AND HEARING BY PLANNING BOARD

- a. If the County and DEP decide to proceed, notice of a formal proposal of a Water Quality Management Plan or amendment to the Plan shall be prepared by the BWQP and posted in the N.J. Register (NJR) by DEP and in The Press (Pleasantville) by the Planning Board or by the petitioner at the discretion of the Planning Board.

Copies of the notice shall be delivered by the Planning Board or the petitioner within seven (7) days of the date of publication of the notice to the governmental entities, sewerage agencies, and BPU-regulated sewer or water utilities and Municipal Clerk for each municipality affected by the amendment, identified in 8. d. above as parties from which endorsements are requested.

Any interested party(ies) may submit written comments to the Planning Board within thirty (30) days of the date of publication of the notice, except in the case of an expedited amendment (see sec. 11). Public comments may also include a request for a 30 day extension and/or a written request for a public hearing, indicating the interest of the party filing the request, and the reasons why a public hearing is

considered to be warranted. A thirty (30) day extension may be granted if such an extension appears necessary. If a public hearing is held, the public comment period shall be extended to fifteen (15) days following the hearing.

- b. If the Planning Board or the DEP determine that there is significant interest in holding a public hearing, a public hearing shall be held by the Board prior to the approval of the Plan or amendment. Notice of the time and place of the hearing shall be published at least 30 days prior to the hearing in two newspapers and the NJR.
- c. Notice of the hearing, together with a copy of the proposed Plan or amendment, shall be delivered by the applicant in person or by certified mail at least thirty (30) days prior to the hearing to each party who was requested to endorse same. The Planning Board may notify additional parties.
- d. At the close of the comment period and when the sixty (60) day period for endorsements has ended, the Planning Board shall consider all comments on the proposed Plan or amendment, and shall issue to the County Board of Chosen Freeholders within thirty (30) days of the end of the public comment period or the 60-day period for endorsement, whichever is later, a recommendation to approve or disapprove the proposed Plan or amendment. This time limit on review may be suspended by the Planning Board, with the consent of the petitioner as appropriate. If there is a public hearing, the comment period extends fifteen (15) days beyond the date of the hearing. In the event a public hearing is held, transcripts (applicant responsibility) of same will be on file with the Cape May County Planning Board.

10. APPROVAL AND ADOPTION

- a. Approval of the Plan or amendment shall be by the County Board of Chosen Freeholders. The County Board of Chosen Freeholders shall consider the recommendation of the Planning Board, the record of the public hearing and other public comments, and all other relevant information, and shall render their decision within sixty (60) days of the end of the public comment period or the 60-day period for endorsement, whichever is later. Suspensions of the time limits effected by the Planning Board for its review under 9.d. shall likewise serve to extend the time limit for the decision by the County Board of Chosen Freeholders.

Failure to render a decision within the time limit as provided shall be considered disapproval of the Plan or amendment unless otherwise specified by the County Board of Chosen Freeholders.

- b. The Planning Board shall receive written notice of the decision of the County Board of Chosen Freeholders. In the case of a petition to amend the Plan, a similar notice shall be delivered in person or by certified mail by the Cape May Planning Board to the petitioner and the BWQP.
- c. The County shall submit within 15 days of approval a copy of the amendment, together with supporting documentation, to the DEP, BWQP for adoption by the Governor or his designee.

Any Plan or amendment approved by the County shall not take effect until adopted by the Governor or his designee. A copy of the adopted Plan or Amendment shall be sent to the governing body of every municipality in the County by the Cape May County Planning Board.

11. EXPEDITED AMENDMENT PROCEDURE

A special expedited amendment procedure shall be followed for publicly owned or operated schools, health care facilities or correctional facilities, and for new sewers or pumping stations on the margin of and partially within depicted sewer service areas resulting in a sewer service area modification of less than ten (10) acres. This procedure replaces the endorsement process in 8.d.- g. with a requirement that the applicant provide to a list of potentially affected or interested parties a copy of the proposed amendment and the public notice by certified mail (return receipt requested) within five (5) days of receiving such a list provided by the DEP and the County. For projects at the margin of sewer service areas the endorsement of the owner or operator of the affected domestic treatment works must be submitted with the amendment request. The public notice requirements are the same as above except for the length of the comment period which is reduced to ten (10) working days (with opportunity for a 30 calendar day extension).

12. APPEAL

Appeal of an action by the Board of Chosen Freeholders shall be to a court of competent jurisdiction.