

Proposed CMP Amendments

Policy & Implementation Committee

May 31, 2019

Proposed Amendments

- Public development application process:
 - Update CMP to reflect current public notice and comment procedures
- Coordinated permitting:
 - Codify application process for private infrastructure projects that qualify for MLUL pre-emption (N.J.S.A. 40:55D-19) and do not receive municipal approvals

Application Process

Public Development

- Application is submitted to the Commission
- Applicant provides public notice
- Staff determines application is complete
- Staff updates the status report on the Commission's website to provide the dates for oral public comment and submission of written comments
- Oral comments accepted at PC meeting
- Written comments accepted through close of business on day of PC meeting

Application Process

Public Development

- Staff prepares a report on public development
- The Executive Director determines whether the application should be approved, approved with conditions or disapproved
- The Commission acts at its next meeting and must either approve the Executive Director's determination or refer the application to OAL

Proposed Amendments

Public Development Process

- Codify public comment process and update public notice procedures
- Require Commission action within 45 days of the close of public comment period
- After consideration of the Executive Director's recommendation, provide the Commission with the ability to approve, approve with conditions or disapprove public development applications

Application Process

Private Development

- Application submitted to Commission
- Staff determines application is complete and issues Certificate of Filing
- Applicant obtains municipal approvals
- Municipal approvals are provided to Commission staff for review to ensure consistency with the CMP

Application Process

Private Development

- Commission staff reviews municipal approvals and either:
 - Issues a letter of no further review, allowing the approval to take effect
 - OR
 - Determines an approval raises a substantial issue with respect to the CMP and schedules a hearing
- Hearings are typically held before the Executive Director, although applicants have the option of requesting OAL hearings

Application Process

Private Development

- Applicants usually resolve all identified issue(s) prior to the Commission staff hearing, allowing for release of the approval
- If a hearing is held, staff subsequently prepares a report and recommends the Commission approve, conditionally approve or disapprove the development
- The municipality or county must revise or revoke its approval in accordance with the Commission's action

MLUL Pre-Emption

- N.J.S.A. 40:55D-19:
 - MLUL does not apply to development proposed by a public utility for installation in more than one municipality, provided BPU determines the development is reasonably necessary for public service, convenience or welfare
- Public utility must petition BPU
- BPU makes determination after notice and hearing
- Public utility does not need to obtain municipal approvals

Proposed Amendments

Coordinated Permitting Process

- Apply the public development process to all public utility projects that BPU determines are eligible for the MLUL pre-emption
 - Public notice by applicant
 - Public comment (oral and written)
 - Executive Director's report and recommendation
 - Formal Commission action to approve, approve with conditions or disapprove the development

Next Steps

- Finalize amendments and rule proposal; share with AG's office
- Submit amendments to Governor's office for approval
- Review rule proposal with P&I Committee
- Present rule proposal to Commission for authorization

Rulemaking Schedule

- Rule Proposal: 7/12/19 Commission meeting
- Publication in NJ Register: 8/19/19
- Public hearing and 60 day comment period
- Rule Adoption: 12/13/19 Commission meeting
- Effective date: 1/21/20