

## Appendix H – Middlesex County Wastewater Management Plan Revision and Amendment Procedures

WHEREAS, the Statewide Water Quality Management Planning Rules (N.J.A.C. 7:15) provide that the New Jersey Department of Environmental Protection (NJDEP) and the designated wastewater planning agencies (DPAs) may propose revisions and amendments to the Middlesex County Wastewater Management Plan whenever such revisions and amendments are necessary or desirable; and

WHEREAS, Wastewater Management Plans (WMPs) for designated areas may be amended by DPA's pursuant to their procedures for plan amendment consistent with N.J.A.C. 7:15-3.4 and;

WHEREAS, the Middlesex County Board of Chosen Freeholders is the DPA for the Middlesex County Wastewater Management Plan;

NOW THEREFORE BE IT RESOLVED, that the following shall constitute the official procedures of the County of Middlesex for the maintenance, revision and amendment, as necessary, of the Middlesex County Wastewater Management Plan:

01. Short Title

This resolution shall be known and may be cited as the Middlesex County Wastewater Management Plan Revision and Amendment Procedures.

02. Purpose

- A. This Resolution shall set forth the procedures by which the County of Middlesex shall maintain, revise and amend the Middlesex County Wastewater Management Plan, hereinafter known as the MC WMP.

The MC WMP shall be maintained pursuant to the requirements of the New Jersey Water Quality Planning Act (N.J.S.A. 58:11A-1 et. seq.), the New Jersey Department of Environmental Protection (NJDEP), and the Water Quality Management Planning rules (N.J.A.C. 7:15).

03. Responsible Agency

- A. The completion of studies, data collection and preparation of documents and reports constituting the maintenance and revision of the MC WMP shall be administered by the staff of the Middlesex County Office of Planning (MCOP) with recommendations from the Middlesex County Water Resources Association (MC WRA). Revisions of the MC WMP are valid only upon their adoption by the Governor or his designee.
- B. The approval and adoption of amendments to the Middlesex County Wastewater Management Plan shall be accomplished through formal action of the Board of Chosen Freeholders of the County of Middlesex with the advice of the Middlesex County Planning Board and the Middlesex County Water Resources Association and adoption by the Governor or his designee.

MC Wastewater Management Plan Revision & Amendment Procedures (continued)

04. Maintenance of the Middlesex County Wastewater Management Plan
- A. The Middlesex County Wastewater Management Plan shall be maintained in accordance with the requirements of N.J.A.C. 7:15.
  - B. The Middlesex County Wastewater Management Plan shall include at a minimum the following:
    - 1. the existing and future sewer service area map with text that discusses the treatment plants' existing and future capacities as directly related to the Middlesex County sewer service area boundaries;
    - 2. the nitrate dilution analysis by watershed;
    - 3. the review of relevant ordinances and compliance by municipality; and .
    - 4. a septic management data base and proof of pump-out of each tank by municipality
  - C. The Middlesex County Wastewater Management Plan shall be reviewed every six years.
  - D. Proposed amendments prepared by Middlesex County Office of Planning staff to the Middlesex County Wastewater Management Plan resulting from the activities completed under Section 04.A, B., C. above, and approved by the County Planning Board and the Middlesex County Water Resources Association shall be forwarded to the Middlesex County Board of Chosen Freeholders and the New Jersey Department of Environmental Protection (NJDEP) for action under section 06, Amendment Procedures.
05. Revision of the Middlesex County Wastewater Management Plan
- A. Revisions to the Middlesex County Wastewater Management Plan shall be considered and processed in accordance with this section.
  - B. The following substantive changes may be processed as revisions to the MC WMP where the Department (NJDEP) determines no significant individual or cumulative impacts will occur to environmentally sensitive areas or other natural resources (such as water supplies) due to the proposed revision (individually or in combination with past revisions in the area), and that certain directly affected municipal and county agencies and other interests as identified by the NJDEP have been provided an opportunity to review and comment on the proposed revision. Revisions are defined as follows:
    - 1. The transfer of sewer service area from one domestic treatment works to another, provided that all affected wastewater management plans are current in accordance with the schedule at N.J.A.C. 7:15-5.23, the approved sewer service areas in the areawide WQM plan are currently contiguous in the area to be transferred, neither domestic treatment works is subject to a sewer connection ban, the proposed revision includes only areas currently designated for sewer service, both the sending and receiving wastewater management planning agencies concur with the proposed revision, and no new or expanded treatment works other than sewer line extensions is proposed as part of the revision;

MC Wastewater Management Plan Revision & Amendment Procedures (continued)

05. Revision of the Middlesex County Wastewater Management Plan (continued)

- B.
2. Any increase of 8,000 gallons per day (gpd) or less in planning flow to an on-site discharge to ground water for an existing public school or public institution, using the same general type of treatment works (for example, direct discharge to ground water, spray irrigation);
  3. Any change in the estimated planning flow (see N.J.A.C. 7:15-5.16(b)8) or permitted flow (see N.J.A.C. 7:15-5.16(b)9) of less than 8,000 gpd to an existing NJPDES- regulated discharge to ground water, provided (b)4v below is satisfied unless the sewer service area is not changing and the same general type of treatment works is proposed;
  4. Expansion of a future sewer service area to contiguous lots, where the expansion involves less than 100 acres, contributes less than 8,000 gpd of additional wastewater flow, and does not create a significantly new pattern of sewered development such that a significant potential or incentive is created for additional revisions or amendments to open new areas to sewered development. A revision under this subparagraph shall be processed only if the applicant demonstrates that the receiving domestic treatment works has sufficient capacity under the projected build-out to serve the proposed development in addition to its existing approved sewer service area, and any affected wastewater management plan is current in accordance with the schedule at N.J.A.C. 7:15-5.23;
  5. The utilization of individual subsurface sewerage disposal systems where the project for which the revision is requested involves less than 100 acres and generates less than 8,000 gpd of wastewater flow (or a total of fewer than 23 residential dwelling units) only where the WMP is not in compliance with the schedule at N.J.A.C. 7:15-5.23 and the applicant demonstrates that the project for which the revision is proposed meets the nitrate planning standard at N.J.A.C. 7:15-5.25(h)2;
  6. The utilization of a Reclaimed Water for Beneficial Reuse (RWBR) project to reduce either existing or proposed wastewater discharges to surface waters below the head of tide or ground water discharges located within HUC 14 drainage areas which are wholly below the head of tide;
  7. The utilization of a RWBR project to reduce existing wastewater discharges to surface waters above the head of tide or ground water discharges located within HUC 14 drainage areas any part of which is above the head of tide, provided the following are met:
    - a. The utilization of RWBR will not increase or create an exceedance of the water availability in any HUC 11 in accordance with the assessment of water availability identified in the New Jersey Water Supply Plan; and
    - b. The utilization of RWBR does not cause an adverse effect on any downstream designated use, including without limitation, water supply, sewerage treatment plant discharges, or aquatic life support;

MC Wastewater Management Plan Revision & Amendment Procedures (continued)

05. Revision of the Middlesex County Wastewater Management Plan (continued)

- B. 8. Connection of an existing structure with a malfunctioning subsurface sewerage disposal system that is not currently within an approved sewer service area to an identified sewerage treatment plant, provided the applicant demonstrates that it is not feasible to repair or replace the malfunctioning subsurface sewerage disposal system under N.J.A.C. 7:9A-3.4 and the property where the existing structure is located is contiguous to the existing sewer line; or
- 9. The utilization of individual subsurface sewerage disposal systems or a NJPDES-regulated discharge to ground water for a clustered residential development, where the applicant ensures that a minimum of 70 percent of the property is permanently restricted from development, subject to a conservation restriction prepared in accordance with N.J.A.C. 7:15-1.7, and provided that the following conditions are met:
  - a. Where individual subsurface sewerage disposal systems will be utilized, the density necessary to achieve the 2.0 mg/L nitrate planning standard in N.J.A.C. 7:15-5.25(e) and (h)2 is met for the overall project site and the ground water quality criteria of 10 mg/L is met at the edge of the developed portion of the clustered residential development;
  - b. Except to account for unique site conditions, the development shall be located to maximize continuity of the preserved area and in areas that do not contain Natural Heritage Priority Sites or habitat patches identified as Rank 3, 4, or 5 on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife; and

C. The procedure for revision of the MC WMP is as follows:

- 1. All revisions will be made by the Middlesex County Office of Planning (MCOP) and sent directly to the NJDEP for review and final approval.

06. Procedures for Amendment of the Middlesex County Wastewater Management Plan

- A. Where as a result of County review, new or changed circumstances; the receipt of a written, documented petition from any interested person; State or Federal requirements; or, the Consistency Review Process (as defined by the Statewide Water Quality Management Planning rules at N.J.A.C. 7:15-3.1 or 3.2) a deficiency of the Middlesex County Wastewater Management Plan is determined to exist, an amendment to the plan shall be prepared.
- B. All changes to the Middlesex County Wastewater Management Plan other than revisions governed by Section 05. above, shall be defined as amendments to the Middlesex County Wastewater Management Plan and shall be subject to the requirements of Section 06.

MC Wastewater Management Plan Revision & Amendment Procedures (continued)

06. Procedures for Amendment of the Middlesex County Wastewater Management Plan (continued)
- C. Petitions for amendments and revisions shall be submitted to the Middlesex County Planning Board. The County will forward applications to the NJDEP.
1. A pre-application meeting may be requested by the applicant. If a pre-application meeting is desired, a completed NJDEP "Water Quality Management Plan Amendment and Revision Pre-Application Form" must be provided to the NJDEP and to Middlesex County. If a pre-application meeting is scheduled with the County or the NJDEP the other respective agency must be notified and be invited to attend by the applicant.
  2. Amendment and Revision applications shall include where appropriate, but not be limited to, the following materials:
    - a. The name and location (municipality, street(s), block and lot) of the project.
    - b. Identification of the name, address and phone number of the principal contact person for the project.
    - c. A written description of the project to include wastewater quantities to be generated (thirty (30) day average daily flow), the number of residential dwelling units and population to be served, the square footage of (and employment to be located in) non-residential uses to be served; and identification of the agency(ies) responsible for sewer and/or pumping facilities and wastewater treatment facilities design, construction, operation and maintenance.
    - d. A map or maps at a suitable scale to provide clear representation of:
      1. the location and extent of the project proposed specifying actual property boundaries;
      2. the location and sizes of all sewers and/or pumping facilities required to serve the project;
      3. the location of all new wastewater treatment facilities required to serve the project; and
      4. the location and extent of all wetlands, surface water, and riparian areas, and critical habitat areas for endangered or threatened species as defined by the NJDEP that are within or impacted by the project;
      5. the location of stormwater management facilities that are within or impacted by the project; and
      6. such other information that may be deemed appropriate by the county staff, the MCPB or the DEP to be required to assure water quality objectives are met.

MC Wastewater Management Plan Revision & Amendment Procedures (continued)

06. Procedures for Amendment of the Middlesex County Wastewater Management Plan (continued)

- C. 2. d. 7. official endorsements shall also be requested from all affected municipalities and implementing agencies. identification of additional endorsing parties (individual governmental entities, sewerage agencies and Board of Public Utility-regulated sewer or water utilities) may be made by DEP.
- e. If the amendment or revision is requested by an entity other than Middlesex County the information above must be submitted to the Chairman of the Middlesex County Planning Board, 40 Livingston Avenue, New Brunswick, NJ 08901 and concurrently to the New Jersey Department of Environmental Protection, Land Use Management, Division of Land Use Planning, Mail Code 401-07C, P.O. Box 420, Trenton, NJ 08625 in order for an amendment to the Middlesex County Wastewater Management Plan to be considered for adoption.
- f. All mapping associated with the submission of a plan amendment must be submitted to Middlesex County in both hard copy and digitally in Arc View format in conformance with NJDEP map accuracy standards and with metadata in conformance with NJDEP requirements.
- g. Documentation must be provided that the governing body(ies) and planning board(s) of the municipality(ies) where the project is located or which would be potentially affected by the proposed project, have been notified in writing with descriptive information of the proposed project and have the opportunity to provide comment regarding the project to the Middlesex County Water Resources Association, the Middlesex County Planning Board and the Middlesex County Board of Chosen Freeholders as part of the plan amendment review and approval process.
1. If a municipal approval action for a project results in a significant change to the project with respect to water resources management aspects addressed under N.J.A.C. 7:15 the project must be resubmitted to the County for consideration of the municipally required changes.
- h. In all cases, documentation must be provided by the applicant demonstrating that the affected treatment works has sufficient capacity to treat the wastewater from the specific project that is proposed to be located within the geographic boundaries of Middlesex County. This written communication must be mailed to the Middlesex County Office of Planning Wastewater Management Plan Review staff, c/o Alexander Zakrewsky, 40 Livingston Avenue, New Brunswick, NJ 08901. Any proposed project located outside of the boundaries of Middlesex County that is sending its wastewater to the Middlesex County Utilities Authority must also notify the Middlesex County Office of Planning Wastewater Management Plan Review staff, c/o Alexander Zakrewsky, 40 Livingston Avenue, New Brunswick, NJ 08901.

MC Wastewater Management Plan Revision & Amendment Procedures (continued)

06. Procedures for Amendment of the Middlesex County Wastewater Management Plan (continued)
- C.
    - 2. i. No action may be taken until all required materials specified in a. through g. above have been submitted and deemed complete by the County and the NJDEP.
  - D. The DEP and Middlesex County will review all amendment requests. Review of amendment requests by Middlesex County shall include review by the Middlesex County Planning Board and the Middlesex County Water Resources Association under section 06.E below. Within ninety (90) days of receiving an amendment request, Middlesex County and the DEP may either:
    - 1. Disapprove the amendment request and return it to the applicant. Either Middlesex County or the DEP may disapprove the amendment request.
    - 2. Request changes or more information from the applicant. Either Middlesex County or the DEP may request changes or additional information. When resubmitted the County and DEP again have ninety (90) days to render a decision.
    - 3. Decide to proceed further with the amendment request under section 06.F below.
  - E. The Middlesex County Planning Board shall review and take a position on all amendments to the Middlesex County Management Plan as may be prepared under this section subject to the following:
    - 1. Wherever reasonably possible, all directly affected parties shall be informed by the Middlesex County Planning Board of the amendment and shall be invited to participate in the Middlesex County Water Resources Association (WRA) discussions of amendments. Such parties shall include the NJDEP, Division of Watershed Management and any agency which may have responsibility to implement the recommendations of an amendment.
    - 2. The WRA shall forward its comments and a record of the discussion regarding amendments of the MC WMP to the Middlesex County Planning Board.
  - F. Should Middlesex County and DEP decide to proceed, the DEP shall prepare the public notice of the proposed amendment and the public hearing. Public notice of the proposed amendment shall be published in two newspapers of general circulation, as specified in 1 and 2 below. The Middlesex County Board of Chosen Freeholders shall hold a public hearing to receive public comment on proposed amendments to the Middlesex County Wastewater Management Plan. The public comment period extends for fifteen (15) days beyond the date of the hearing.
    - 1. Public notice providing at least thirty (30) days notice of the public hearing on an amendment shall be arranged for publication by the DEP in the New Jersey Register;

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06. Procedures for Amendment of the Middlesex County Wastewater Management Plan (continued)

- F. 2. If notices providing at least thirty (30) days notice shall be published in The Home News Tribune and notices shall be published in additional newspaper(s) as follows:
- For amendments affecting Piscataway, South Plainfield, Middlesex Borough, and Dunellen – The Courier News;
  - For Plainsboro, Cranbury, Monroe, and Jamesburg – The Trenton Times;
  - For Carteret, East Brunswick, Edison, Helmetta, Highland Park, Metuchen, Milltown, New Brunswick, North Brunswick, Old Bridge, Perth Amboy, Sayreville, South Amboy, South Brunswick, South River, Spotswood, and Woodbridge -- The Star Ledger
3. Official endorsements shall also be requested from all affected municipalities and implementing agencies. Identification of additional endorsing parties (individual governmental entities, sewerage agencies and Board of Public Utility-regulated sewer or water utilities) may be made by DEP.
4. Request(s) for endorsement(s) and a copy of the amendment shall be sent by certified mail (return receipt requested) within fifteen (15) days of notification of a decision to proceed to each party from which an endorsement is being requested, with a request that they endorse the proposed amendment within sixty (60) days of their receipt of the request. Additionally, 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. Requests for endorsement(s) for amendments initiated by an entity other than the County shall be distributed by the initiating entity.
5. A verbatim transcript of the public hearing shall be prepared.
6. All costs associated with 06.F for notification, requests for endorsements and/or public hearing record arising from amendments initiated or requested by entities other than Middlesex County shall be arranged for by and at the expense of the party initiating or requesting the amendment.
- G. Within sixty (60) days following the end of the comment period, the Board of Chosen Freeholders shall consider the approval of the proposed amendment as an Amendment to the Middlesex County Wastewater Management Plan. Notification of applicant(s) if appropriate will also be provided.

MC Wastewater Management Plan Revision & Amendment Procedures (continued)

06. Procedures for Amendment of the Middlesex County Wastewater Management Plan (continued)
- H. If approved by the Board of Chosen Freeholders any amendment to the Middlesex County Wastewater Management Plan shall be forwarded by the Middlesex County Board of Chosen Freeholders to the NJDEP for adoption. Amendments shall not take effect until adopted by the Governor or his designee. Pursuant to N.J.A.C. 7:15-3.4(f), approved amendments must be provided to the NJDEP within fifteen (15) days of approval along with background information for that amendment. Middlesex County approval resolutions must indicate that WMP amendments approved by Middlesex County are valid only after the adoption of such amendments by the Governor or his designee.
  - I. Any amendment not approved by the Board of Chosen Freeholders shall be returned to the Middlesex County Planning Board with all relevant comments received as a result of the public hearing, written responses submitted and/or the Freeholders' deliberations on the plan amendment. The NJDEP shall also be notified along with the applicant within fifteen (15) days of the decision.
    - 1. Where changes are necessary such changes shall be prepared by the Middlesex County Planning Board staff and be reviewed with the Middlesex County Water Resources Association.
    - 2. The Middlesex County Planning Board shall review the revised amendment(s) and if endorsed by the Planning Board, the revised amendment(s) shall be submitted to the Freeholders for approval consideration.
    - 3. Another public hearing shall not be required unless the change is substantial, or unless requested by the Planning Board or the applicant, or unless more than one year has passed since the date of Freeholder consideration of the original amendment(s).
  - J. Any appeals of amendments shall be through a court of competent jurisdiction.
  - K. Pursuant to N.J.A.C. 7:15-3.4(h), a special expedited amendment procedure is used for publicly owned or operated schools, health care facilities or correctional facilities, and for new sewers, pumping stations or other conveyance and treatment works partially within and at the margin of depicted sewer service areas and serving an area of less than 10 acres and endorsed by the owner or operator of the treatment works at the time of submission. The provisions of the expedited procedure are as follows, the rest of the procedure specified in section .06 remains unchanged.
    - 1. This procedure replaces the endorsement process in 06.F.4 above with a requirement that a list of potentially affected or interested parties, provided to the applicant by DEP and the county, receive a copy of the proposed amendment and the public notice by certified mail (return receipt requested) within five (5) days of receipt of the list.
    - 2. The public notice of the proposed amendment shall include a scheduled public hearing under .06F above, only if the DEP requires such a hearing.
    - 3. The public notice shall be published as specified in F.2. above.

MC Wastewater Management Plan Revision & Amendment Procedures (continued)

06. Procedures for Amendment of the Middlesex County Wastewater Management Plan (continued)

4. Unless a public hearing is scheduled under K.2. above, interested persons shall have ten (10) working days for amendments proposed under this section to submit comments, request a thirty (30) day extension of the public comment period or request a public hearing. Extensions of the public comment period may be granted to the extent they appear necessary, and public hearings will be granted under section 06.F above if there is significant public interest.
- L. Certain amendments shall be processed only by the DEP. As specified under N.J.A.C. 7:15-3.4(c), (i), (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 projects or 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.

07. Fee Schedule

Any applicant, other than the County itself, must post with the County a non-refundable review fee pursuant to the following schedule:

- A. Exemption from the review fee shall be granted for:
  1. Applications by a municipality for governmental purposes
  2. Applications by legally designated non-profit agencies for facilities that directly serve a public purpose such as meeting facilities, health facilities and schools open to the general public.
  3. Administrative language changes not involving changes to mapping, flow calculations or requiring republication of one or more elements of the Water Quality Management Plan.
- B. Revision Application Review Fee of \$1,000.00 (Non-Refundable) shall be assessed for any project listed under N.J.A.C. 7:15-3.4(b).
- C. An Amendment Application Review Fee of \$2,400.00 (Non-Refundable) shall be assessed for any wastewater project not listed under N.J.A.C. 7:15-3.4(b).
- D. Posting of an Escrow Account may be required.

All applicants proposing a plan amendment that requires technical analysis and republication of the Middlesex County Wastewater Management Plan and/or the Middlesex County Water Quality Management Plan shall be required to post an escrow fee equal to the estimated direct and indirect cost of professional services deemed necessary by the County to carry out such work. All unused escrow funds shall be returned to the applicant upon completion of the Amendment process.
- E. All direct costs associated with proposed and final approvals as part of the County's Amendment and Revision procedures for the application including producing maps and reports for public review, providing for professional services at meetings, and public hearing requirements including publication of public notice(s), shall be borne by the applicant.