

Proposed CMP Amendment: Coordinated Permitting Provisions

Policy & Implementation Committee
April 24, 2020

Purpose of the Amendment

To codify the application process for infrastructure projects proposed by public utilities that qualify for MLUL pre-emption pursuant to N.J.S.A. 40:55D-19 and do not receive municipal approvals.

MLUL Preemption

- N.J.S.A. 40:55D-19:
 - MLUL (nor regulations adopted thereunder) does not apply to:
 - Development proposed for the furnishing of service;
 - Proposed by a public utility;
 - Installation in more than one municipality; and
 - BPU determines the development is reasonably necessary for public service, convenience or welfare
- Public utility must petition Board of Public Utilities (BPU)
- BPU makes determination after notice and hearing
- Municipal approval is preempted

Coordinated Permitting – N.J.A.C. 7:50-4.81 et seq.

- Prior to filing an application with BPU, the public utility shall file a copy of the application with the Commission (N.J.A.C. 7:50-4.81(b))
- Staff reviews the application, requests additional information, and deems the application complete
- Staff issues a Certificate of Filing

Coordinated Permitting Process under Proposed Amendments

- BPU determines the proposed infrastructure project qualifies for the 40:55D-19 pre-emption.
- Applicant provides a copy of the BPU determination to the Commission.
- Proposed amendment requires that the proposed infrastructure project be reviewed in accordance with the public development regulations (N.J.A.C. 7:50-4.53 through -4.57.)

Pinelands Development Application Process for Public Utility Development for which Municipal Review is Pre-empted

- Applicant submits Pinelands development application and fulfills public notice requirements.
- 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 (continued)

- Staff prepares a recommendation report after the comment period closes.
- The application is presented to the Commission at its next meeting.