



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
STATE PLANNING COMMISSION
OFFICE OF SMART GROWTH
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JON S. CORZINE
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APPROVED April 19, 2006
POLICY DIRECTIVE

Plan Endorsement process for CAFRA Municipalities that have temporarily re-established coastal centers pursuant to the NJDEP Coastal Zone Management Rules

This Directive is issued by the Executive Director of the Office of Smart Growth (OSG) and submitted to the State Planning Commission (SPC) for their approval for the purpose of giving municipalities located in jurisdiction of the Coastal Area Facility Review Act (CAFRA municipalities) clear guidance on how to achieve Plan endorsement in an efficient manner and to provide transparency to the public on how OSG and our state agency partners will approach these petitions as we move through the process. This Office, working closely with the NJDEP and the other state agencies, is committed to assisting CAFRA municipalities to achieve a balance between their legitimate economic interests and the protection of their most ecologically sensitive and fragile areas inherent to the coastal region.

Background

In adopting CAFRA, the Legislature recognized that New Jersey's bays, harbors, sounds, wetlands, inlets and tidal portions of the fresh, saline and partially saline streams and tributaries and their adjoining uplands together constitute an exceptional, unique, irreplaceable and delicately balanced natural environmental resource called the coastal area. The Legislature also recognized the legitimate economic aspirations for the CAFRA municipalities for which development should be permitted.

Consistent with the legislative intent of CAFRA, OSG, DEP and the other state agencies are working with the CAFRA municipalities to encourage the development of compatible land uses in the coastal area in order to improve their overall economic position within the framework of a comprehensive environmental design strategy. We seek the preservation of this most ecologically sensitive and fragile area from inappropriate development and strive to provide adequate safeguards for the construction of any developments in the coastal area. Otherwise, the coastal area will suffer continuing and ever-lasting adverse economic, social and aesthetic effects.



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CAFRA requires that any rules or regulations adopted to implement CAFRA be closely coordinated with the provisions of the State Development and Redevelopment Plan (State Plan). In response to CAFRA and recognizing that center based development is the State Plan's preferred vehicle for accommodating growth while protecting the environs, DEP amended the Coastal Zone Management rules for determining impervious cover limits and vegetative cover percentages for sites in the CAFRA area. Determinations are based on the site's location in a CAFRA center, core or node, Coastal Planning Area or coastal center with higher impervious cover allowed in a coastal or CAFRA center. The rules were intended to encourage development in areas with existing development and infrastructure, discourage sprawl development, and protect the sensitive natural resources.

The coastal centers were adopted by NJDEP in February 2000 as an interim measure to accommodate planned imminent development until the municipalities containing coastal centers had been given adequate opportunity to undertake the comprehensive planning analysis through the State Planning Commission's Plan Endorsement process, a prerequisite to obtaining CAFRA center status. A five-year expiration date was imposed on the boundaries of coastal centers, expiring on February 7, 2005.

Action Plan

OSG, DEP and the other state agencies recognize that many local governments have committed substantial time and money to obtain plan endorsement from the State Planning Commission over the past five years. In recognition of this effort, on February 6, 2006, DEP adopted amendments to the Coastal Zone Management rules that temporarily re-establish the boundaries of certain coastal centers located on the mainland that expired on February 7, 2005.

The re-established coastal centers, known as mainland coastal centers, are subject to conditions that mandate the continued commitment of CAFRA municipalities to the Plan Endorsement process and assure environmental impacts in these areas are minimized while these interim measures exist.

First, the boundaries of mainland coastal centers are temporarily re-established only if those municipalities with coastal centers filed a petition for initial plan endorsement with OSG and received a determination from the Executive Director of OSG prior to March 15, 2006 that the initial petition was complete pursuant to the State Planning Rules and Plan Endorsement Guidelines.



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Second, wetlands, endangered and threatened wildlife habitat, Natural Heritage Program priority sites, open space, special water resource protection areas and Coastal Critical Environmental Sites are not considered part of the mainland coastal centers except in those cases where a CAFRA permit applications were received by DEP prior to February 7, 2005.

The mainland coastal center boundaries remain effective until they expire on March 15, 2007 or until the municipality's petition for initial plan endorsement has been endorsed by the SPC and DEP has determined the appropriateness of the SPC approved center boundary as a CAFRA center boundary, whichever occurs first.

Consistent with these rules, nine municipalities have re-established mainland coastal centers. These are:

1. Egg Harbor Township, Atlantic County
 - Egg Harbor coastal town
 - West Atlantic City coastal town
2. Lower Township, Cape May County
 - Schellenger's Landing coastal town
 - Town Bank/North Cape May coastal town
 - Villas coastal village
3. Middle Township, Cape May County
 - Cape May Court House coastal regional center
 - Del Haven coastal village
 - Goshen coastal hamlet
 - Green Creek coastal hamlet
 - Rio Grande coastal regional center
 - Swainton coastal hamlet
 - Whitesboro/Burleigh coastal village
4. Upper Township, Cape May County
 - Marmora/Beesley's Point/Palermo coastal town
 - Petersburg coastal village
 - Seaville coastal hamlet
 - Tuckahoe coastal hamlet
5. Barnegat, Ocean County
 - Barnegat coastal town
6. Brick Township, Ocean County
 - Brick Township coastal town



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7. Dover Township, Ocean County
 - Toms River coastal regional center
8. Lakewood, Ocean County
 - Lakewood coastal regional center
9. Ocean Township, Ocean County
 - Waretown coastal village

OSG's review of the planning documents submitted with the petitions has raised significant concerns about the consistency of the CAFRA municipalities' planning documents with the goals, policies and strategies of the State Plan and State Plan Policy Map, as well as CAFRA. In order for the DEP to approve a center endorsed by the State Planning Commission as a CAFRA center, the Department must be able to make a finding that the center is consistent with the purposes of the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., and the Coastal Zone Management Rules. The Department must specifically find that the endorsed center would not result in unacceptable harm to the coastal ecosystem or the resources of the built or natural environment, or would otherwise be clearly inconsistent with the purposes of the Coastal Area Facility Review Act, and the Coastal Zone Management Rules.

In an effort to work with CAFRA municipalities to address these significant issues and in recognition of the substantial time and resources CAFRA municipalities have expended to obtain plan endorsement, the Executive Director of OSG recommends the following approach for consideration of these completed petitions.

According to the State Planning Rules, the Executive Director may request additional information after a petition is deemed complete, and within her discretion, extend the 60-day OSG consistency review period by an additional 45 days.

OSG and the state agencies have determined that in the case of the CAFRA municipalities that have been deemed complete, the 45-day extension is not sufficient to adequately address consistency issues that would allow the CAFRA municipalities the ability to achieve plan endorsement and receive public comment while also meeting the demands of CAFRA. As a result, the Executive Director proposes extending the consistency review process for a six-month period in order for OSG and the state agency partners to work with CAFRA municipalities to resolve consistency issues and achieve endorsement no later than March 15, 2007. The process for doing so is as follows:





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The Executive Director directs OSG staff to review the petition within 45 days of the date a petition was deemed complete, and, in consultation with the other state agencies, compile a report to each CAFRA municipality of issues that must be addressed before this Office can recommend endorsement. OSG will issue the report 15 business days after the 45-day state agency review period concludes or 15 business days after the SPC adopts this Policy Directive, whichever comes later.

During the six months, OSG, the CAFRA municipalities and our state agency partners will adopt an action plan containing a schedule to adequately address the consistency issues raised in the state agency report within the 6 month extension period. This action plan will outline specific tasks that must be completed for each CAFRA municipality, such as amendments to the land use element of the master plan, and will provide a negotiated, but firm, timeline for each deliverable in order to allow OSG and the state agencies adequate time to review them.

Each CAFRA municipality that wishes to take advantage of this extension in order to continue to work towards achieving endorsement before March 15, 2007 will enter into a memorandum of understanding (MOU) with OSG incorporating the concerns raised in the state agency consistency report and the action plan. OSG will arrange a meeting with each of the affected CAFRA municipalities and the state agencies upon issuance of the report to adopt the action plan and execute an MOU.

DEP will provide maps of the re-established mainland coastal center boundaries to OSG and the CAFRA municipalities to be incorporated into the MOU.

The Executive Director of OSG shall prepare a report within 60 days after the conclusion of the six month extended review period and submit the report to the State Planning Commission and the petitioner, and post the report on the OSG website. The report shall contain detailed findings and conclusions concerning the consistency of a CAFRA municipality's petition and proposed Planning and Implementation Agreement with the State Plan. If any of the CAFRA municipalities fail to meet the firm timeline set forth in the MOU and action plan, OSG will prepare the report to the SPC immediately upon the default and based on the documents currently before the state agencies. In that case, the report will be due to the SPC within 60 days of a municipality's default.

If the Executive Director of OSG has not made a recommendation to the State Planning Commission within the 60-day time period, the petitioner has the right to request action be taken on the petition by the State Planning Commission within 90 days after receiving the request.



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The Executive Director of the Office of Smart Growth shall, within 30 days of the Commission's determination, notify the petitioner of that determination and within 45 days provide public notice pursuant to the State Planning Rules.

The approach outlined in this Policy Directive is intended to provide coordination and transparency for planning the future growth for the CAFRA municipalities, to allow for sufficient public comment throughout the process, and to give CAFRA municipalities assurance that DEP will approve a center that has been endorsed by the SPC as a CAFRA center.

OSG will closely coordinate its review and recommendations with DEP and the other state agencies in order to meet the requirements of the State Planning Rules, the Plan Endorsement Guidelines, CAFRA and the Coastal Zone Management rules.

This Policy Directive will be distributed to Staff and posted on the OSG website once approved by the SPC.