

# COASTAL ZONE MANAGEMENT RULES: A General Overview

&

CAFRA  
Section 2  
(~45 minutes total)

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## WHY?

- New Jersey's coastline is a rich and diverse fabric of natural wonders and economic resources
  - Businesses, tourists, and residents are drawn to New Jersey's coast for its many economic and recreational opportunities.
  - Coastal industries contribute enormously to New Jersey's economy.
  - Coastal land provides crucial habitat for a wealth of wildlife:
    - migrating birds
    - commercially valuable fish and shellfish
    - sporting and recreational species



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Our coastline is under threat from human activities. Development along the New Jersey shore has already had an impact on our ecosystem.

Regulation is necessary to prevent:

- destruction of vital wildlife habitat
- increases in rainwater runoff
- destruction of the natural resources
- Ensure health, safety and welfare of people and property



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## 4 Simple Questions Approach to Land Use Regulations Permitting

- \* Is the project located in a regulated area?
- \* Is a permit automatically required, or does the project qualify for an exemption, or is it below the regulatory threshold requiring a permit?
- \* Does the project qualify for a general permit or is an individual permit needed?
- \* What are the development standards that the project must meet to be approved?

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## Coastal Zone Rules



There are three laws that govern the coastal zone:

- CAFRA
- WATERFRONT DEVELOPMENT
- COASTAL WETLAND ACT OF 1970

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## The Coastal Permit Program Rules

These are the rules on how and when to apply for permits

<http://www.state.nj.us/deplanduse/7-7.pdf>

CHAPTER 7  
COASTAL PERMIT PROGRAM RULES  
as of January 20, 2004

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 7:7-1.1 Purpose and scope

(a) This chapter establishes the procedures by which the Department of Environmental Protection will review permit applications and appeals from permit decisions under the Coastal Area Facility Review Act (CAFRA, N.J.S.A. 13:19-1 et seq.), the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.) and the Waterfront Development Law (N.J.S.A. 12:5-3). These procedures also govern the reviews of Federal Consistency Determinations issued pursuant to the Federal Coastal Zone Management Act, 16 U.S.C. 1451 et seq., and Water Quality Certificates issued pursuant to Section 401 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., when the approvals are sought in conjunction with any of the foregoing permit applications.

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## Coastal Zone Management Rules

These are the environmental standards for the Regulations  
<http://www.state.nj.us/dep/landuse/7-7e.pdf>

Chapter 7E  
Coastal Zone Management rules  
N.J.A.C. 7:7E  
(effective February 2, 2004)

### SUBCHAPTER 1. INTRODUCTION

#### 7:7E-1.1 Purpose and scope

(a) This chapter presents the substantive rules of the Department of Environmental Protection regarding the use and development of coastal resources, to be used primarily by the Land Use Regulation Program in the Department in reviewing permit applications under the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq. (as amended to July 19, 1993), Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq., Waterfront Development Law, N.J.S.A. 12:5-3, Water Quality Certification (401 of the Federal Clean Water Act), and Federal Consistency Determinations (307 of the Federal Coastal Zone Management Act). Requests for Water Quality Certification shall also be reviewed in accordance with other applicable statutes and regulations administered by the Department including the Surface Water Quality Standards, N.J.A.C. 7:9B. The rules also provide a basis for recommendations by the Program to the Tidelands Resource Council on applications for riparian grants, leases and licenses.

(b) In 1977, the Commissioner of the Department of Environmental Protection submitted to the Governor and Legislature the Coastal Management Strategy for New Jersey-CAFRA Area (September 1977), prepared by the Department as required by CAFRA, N.J.S.A. 13:19-1e, and submitted for public comment in 1977. The

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## “Special Areas” – Coastal Zone Management Rules

- These are areas that deserve focused attention and special management rules.
- Some locations have one or more areas that are subject to the special areas rules.
- In cases where the general and special area rules differ, the more restrictive special area rule governs.



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## \* Subchapter 3 – Special Areas\*

- Shellfish Habitat (3.2)
- Submerged Aquatic Vegetation (3.6)
- Intertidal and Subtidal Shallows (3.15)
- Dunes (3.16)
- Coastal High Hazard Areas (3.18)
- Beaches (3.22)
- Filled Water's Edge (3.23)
- Wetlands (3.27)
- Wetland Buffers (3.28)

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### \*Subchapter 3 – Special Areas\*

- Coastal Bluffs (3.31)
- Historic and Archeological Resources (3.36)
- Endangered or Threatened Wildlife or Plant Species Habitat (3.38)
- Special Urban Areas (3.43)
- Pinelands National reserve and Pinelands Protection Area (3.44)
- Wild and Scenic River Corridors (3.46)
- Hudson River Waterfront Area (3.48)
- Atlantic City (3.49)

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### Subchapter 4 – Specific Types of Development within General Water Areas

- Recreational Docks and Piers (4.5)
- Maintenance Dredging (4.6)
- New Dredging (4.7)
- Dredged Material Disposal (4.8)
- Breakwaters (4.19)
- Submerged Cables (4.20)
- Artificial Reefs (4.21)

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### Subchapter 4 - “General Water Areas”

- Water or land areas that are not identified as special areas are considered General Areas
- The water’s edge has no *general water area* since all the water’s edge areas are one or more *special area* types.



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### Subchapter 5 – “General Land Areas”

There are limits for impervious coverage and requirements for vegetative cover for “General Land Areas” and certain “Special Areas”

Subchapter 5A = Impervious Cover Limits and Vegetative Cover Percentages in the Upland Waterfront Development Area (outside the CAFRA area)

Subchapter 5B = Impervious Cover Limits and Vegetative Cover percentages in the CAFRA Area

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### Subchapter 6 - “General Location Policies”

This section includes information on:

- The location of linear development (6.1) – *Is the Location acceptable?*
- Basic location rules (6.2)
- Secondary impacts (6.3) – *What is the impacts of allowing the location of the development?*

*An example of a secondary impact would be putting in a sewer line...adding the line itself may cause an environmental impact, but there is also an impact of the new development that might come about by having the sewer line there.*

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### Subchapter 7 – “Use Rules”

- Many types of developments seek locations in the coastal zone.
- The Use Rules are rules and conditions to determine if a use is appropriate to be located within the coastal zone.
- The Use rules do not preempt the location rules which restrict development, unless specifically stated.

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### Subchapter 7 – “Use Rules”

- New Single Family / Duplex (7.2e)
- Reconstructed Single Family / Duplex (7.2f)
- Roads (7.5a)
- Bicycle and Footpaths (7.5c)
- Parking (7.5d)
- Structural Shore Protection (7.11e)

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### Subchapter 8 – “Resource Rules”

- The 3<sup>rd</sup> step in the screening process of the Coastal Zone Management rules is the review of a proposed development in terms of its effect on various resources of the built and natural environment of the coastal zone  
(@ the proposed site and the surrounding region)

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### Subchapter 8 – Resource Rules

- Water Quality (8.4)
- Surface Water Use (8.5)
- Ground Water Use (8.6)
- Stormwater Management (8.7)
- Vegetation (8.8)
- Public Access to the Waterfront (8.11)
- Scenic Resources and Design (8.12)
- Buffers and Compatibility of Uses (8.13)
- Traffic (8.14)

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In the remainder of this section we are focusing on CAFRA



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### CAFRA = Coastal Area Facilities Review Act

*CAFRA applies to projects near coastal waters in the southern part of the State.*

The CAFRA area begins where the Cheesapeake Creek enters Raritan Bay in Old Bridge, Middlesex County. It extends south along the coast around Cape May, and then north along the Delaware Bay ending at the Kilcohook National Wildlife Refuge in Salem County. The inland limit of the CAFRA area follows an irregular line drawn along public roads, railroad tracks, and other features. The CAFRA area varies in width from a few thousand feet to 24 miles, measured straight inland from the shoreline.

Click here to see a Map of the CAFRA boundary line:  
<http://www.state.nj.us/dep/landuse/cafra.htm>

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The CAFRA law regulates almost all development activities involved in:

- Residential
- Commercial
- Public Development
- Industrial development



This includes: construction, relocation, and enlargement of buildings or structures

-AND-

Related work: excavation, grading, shore protection structures, and site preparation.

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Legend

- County Lines
- CAFRA Boundary
- New Jersey

Does your municipality fall within the aqua line?

If the answer is YES, you are regulated under CARFA

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## CAFRA Jurisdiction

Almost any activity on a beach or dune

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## Mean High Water

Mean high water" (MHW) a tidal datum that is the arithmetic mean of the high water heights observed over a specific 19-year Metonic cycle (the National Tidal Datum Epoch). For the New Jersey coast, the two high waters of each tidal day are included in the mean.

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## Mean High Water Line



"Mean high water line" (MHWL) is the intersection of the land with the water surface at the elevation of MHW.

For the purpose of establishing regulatory jurisdiction the surveyed mean high water elevation is used

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## Residential Regulatory Thresholds

- From 0' – 150' (from MHWL) – Any 1<sup>st</sup> development is regulated or any development without intervening development

- From 0' – 150' (from MHWL) – Projects of 3 or more units are regulated

- > 150' – Projects of 25 or more units are regulated



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## Commercial Regulatory Thresholds

- From 0' – 150' (from MHWL) – Any 1<sup>st</sup> development is regulated

- From 0' – 150' (from MHWL) – Projects with 5 or more parking spaces or equivalent parking spaces

- > 150' – Projects with 50 or more parking spaces



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## Urban Aid Municipalities

The regulations are relaxed in urban aid municipalities:

- 150-500' (from the MHWL) same as other municipalities
- >500'(from MHWL) residential developments of 75 or more units are regulated
- > 500' (from MHWL) Commercial areas are regulated only if they have 150 or more parking spaces



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## Public and Industrial Regulatory Thresholds

1,200 or more linear feet of new road, sanitary sewer pipeline, storm sewer system, natural gas pipeline, etc.



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## Municipal Development, Churches and Synagogues

7:7 - 2.1B - 6&7

- Municipal or other government administrative, public works or emergency services buildings that are not specifically included in the definition of public development at N.J.A.C.7-1.3 or parks which are publicly owned or controlled are considered commercial developments.
- Churches, synagogues or other houses of worship are considered commercial developments.

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## Industrial Developments – Regulatory Thresholds



A project would be regulated if you had manufacturing or industrial processes including: electric power production, food and food by-product processing, paper production, chemical processes, storage facilities, metallurgical processes mining and excavation, etc.

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## Non-CAFRA Regulated!

- Elementary and Secondary Educational Facilities

- Reconstruction...As long as the reconstruction follows these parameters:

- The structure was damaged after 7/19/1994
- The structure was damaged by a fire, storm, natural hazard or Act of God
- There is no enlargement or relocation of the footprint (from the original structure)
- There is no increase in the number of units or parking spaces.
- There is no increase in the area covered by building and/or asphalt or concrete



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## Non-Regulated Activities at Residential Development

- Construction of a patio or deck or similar structures does not result in grading, excavation or filling of a beach or dune

- Enlargement of a development as long as:

- no enlargement of the footprint (i.e. A 2<sup>nd</sup> floor addition would be acceptable as long as there is no extension of the exterior walls)
- no increase in the number of units or parking spaces



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## Non-Regulated Activities on Highways by Government Agencies

- Routine Re-Construction
- Functional replacement, repair or maintenance
- Re-striping
- Lane widening, intersection and roadway improvements (as long as there is no increase in the # of travel lanes)
- Signs, lighting, guard rails and traffic control devices



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## Other Non-Regulated Activities

- Expansion of an existing functional amusement pier as long as the pier:
  - Does not exceed the original footprint by more than 25%
  - Is located more than 150' landward of the MHWL, beach or dune, whichever is most landward



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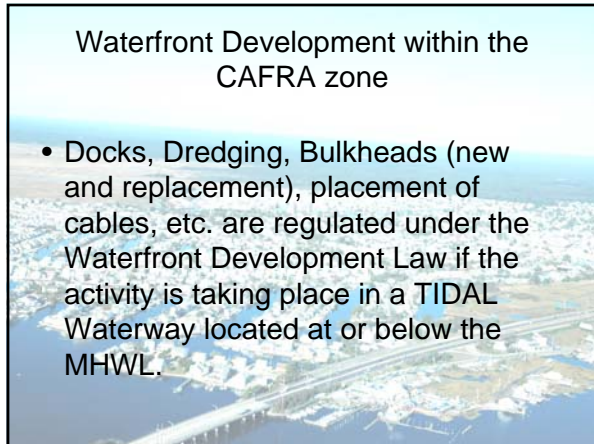
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## Waterfront Development within the CAFRA zone

- Docks, Dredging, Bulkheads (new and replacement), placement of cables, etc. are regulated under the Waterfront Development Law if the activity is taking place in a TIDAL Waterway located at or below the MHWL.



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## JURISDICTIONAL DETERMINATIONS

- Otherwise known as JDs
- Are available for all regulations implemented by the Land Use Regulation Program
- JD's are available for CAFRA, Waterfront Development, Coastal Wetlands & Stream Encroachment
- Letter's of Interpretation are the JD for Freshwater Wetlands and Transition Area

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## Jurisdictional Determinations

OFFICIAL USE ONLY  
NJDEP Pre-Review Form

Project Name # \_\_\_\_\_ Date \_\_\_\_\_ Address # \_\_\_\_\_  
 City \_\_\_\_\_ Subdivision Name \_\_\_\_\_  
 Project Address \_\_\_\_\_  
 Site Number \_\_\_\_\_ SP/DA Date \_\_\_\_\_ SP/DA Date \_\_\_\_\_  
 PWD \_\_\_\_\_  
 Reason for Request \_\_\_\_\_

Information Requested for Jurisdictional Determinations

Applicant Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Agent \_\_\_\_\_  
 Address \_\_\_\_\_  
 Epsilon Telephone Number \_\_\_\_\_

**PROJECT LOCATION**  
 Township \_\_\_\_\_ Lot(s) \_\_\_\_\_  
 Municipality \_\_\_\_\_ County \_\_\_\_\_  
 Site Address (or nearest crossroads) \_\_\_\_\_

**PROJECT DESCRIPTION**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

PLEASE ATTACH A COPY OF THE SITE PLAN OR SURVEY FOR THE PROPOSED PROJECT. LEGAL MAPS, AS LOCATIONS ARE AVAILABLE, PHOTOGRAPHS OF THE EXISTING PROPERTY.  
 8/22/02  
 New Jersey Department of Environmental Protection  
 Land Use Regulation Program  
 Jurisdictional Determination Unit  
 P.O. Box 439  
 100 East State Street  
 Trenton, NJ 08642-0439

If you are unsure whether or not your activity is regulated, you can request a jurisdictional determination. These are available from the Land Use program at NO COST.

There is a special unit assigned to these requests. This unit is supervised by Andrew Gale:  
 Bureau of Coastal Regulation  
 (609) 633-2289

And the Jurisdictional Determination Request form is available online at:  
<http://www.state.nj.us/dep/landuse/forms/jurisdet.pdf>

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## Help is Available Online!

Single Family Homes and  
 Duplexes:  
 A Guide to CAFRA



New Jersey Department of Environmental Protection  
 Land Use Regulation Program  
 August 2002

<http://www.state.nj.us/dep/landuse/forms/sfh2002.pdf>

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Guide to  
New Jersey's  
Coastal  
Permitting Program



New Jersey Department of  
Environmental Protection

<http://www.state.nj.us/dep/landuse/forms/GUIDETOC.pdf>

**Before You Buy- Before You Build**

Are you considering buying property near tidal water? Building an oceanfront home, a retail center, or marina? Do you want to put in a bulkhead or a dock? Or maybe an addition to an existing house in a coastal town? In each of these cases, New Jersey's coastal permit program may affect where and whether you buy, build, or add on. In New Jersey and throughout the United States, coastal property is regulated to protect public safety and the environment.

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## Types of CAFRA Permits Available

- Individual Permits
- General Permits
- Permits – By Rule

*(With this type of permit there is nothing submitted to the Land Use Regulation Program and no paper "authorization" issued)*

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### Coastal General Permits are available for:

- Amusement Pier Expansion
- Beach and Dune Maintenance Activities
- Voluntary Reconstruction (both residential and commercial)
- Hazardous Waste Cleanup
- Landfall of Utilities
- Single Family Homes or Duplexes with expansion/reconstruction, new construction
- Marina Support Facilities
- Public Park Facilities
- Telecommunication Towers
- Avian Nesting Structures
- The placement of revetments or gabions

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### CAFRA PERMIT-BY-RULE Can be Used in the Case of:

- A single family or duplex home expansion on the non-waterward side, the expansion is no more than 400ft<sup>2</sup> and the project is not in a dune, wetland or beach (cumulative since July 19<sup>th</sup>, 1994)
- The placement of safety or beach/dunes signs, etc if no footing is used at public parks
- Construction at a single family home or duplex
  - on a bulkheaded, manmade lagoon lot,
  - there are no wetlands landward of the bulkhead,
  - there is an existing municipal sewer system and all structures and decks, there is a setback of 15 feet from the bulkhead (unless there is an engineering certificate).

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### CARFA PERMIT BY RULE

Permits-By-Rule for “minimal impact activities”.  
If project qualifies for PBR, the project requires  
only Municipal Construction Official review



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### CAFRA PERMIT-BY-RULE May be Used in the Case of:

- The residential and non-residential construction of docks, piers and boat ramps landward of the mean high water (if the waterfront development permit was obtained)
- Voluntary reconstruction if the structure is non-damaged, legally constructed and currently habitable, is within the existing footprint, there is no increase in the size of the footprint and does not increase the number of units.
- Authorization of previously placed fill is allowable at a single family home or duplex if it appears on the Department's 1977/78 Tidelands map and a Tidelands instrument must be obtained.

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## Permit by Rule Online

<http://www.state.nj.us/dep/landuse/forms/pbr.pdf>

Permit-By-Rule:  
A Guide for Single Family/Duplex  
Homeowners & Construction Code  
Officials



New Jersey Department of Environmental Protection  
December 2000

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## Doing Modifications? “When do I need a new individual permit?”

- Under CAFRA you would need a new permit if the project results in greater than a 50% increase in impervious coverage  
- Or -
- Results in development on lot(s) which were not included in the original permit

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## Individual Permit Modifications Online

<http://www.state.nj.us/dep/landuse/forms/cafmod.pdf>

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
REQUEST FOR MODIFICATION TO COASTAL PERMIT  
CHECKLIST FOR ADMINISTRATIVE COMPLETENESS  
(2/2010)

These are the submission requirements for an administratively complete application package to modify an existing coastal permit. (2/2010). Coastal general permits can not be modified. Please read each section and check each one after you have fully completed or completed the information for each applicable requirement. Visit our website at [www.state.nj.us/dep/landuse/forms/cafmod.pdf](http://www.state.nj.us/dep/landuse/forms/cafmod.pdf) for additional help and information.

1. A completed LRSP application form;
2. Permit review fee in the form of a check, money order or government voucher (see fee schedule) - Payable to the Treasurer - State of New Jersey, Environmental Services Fund;
3. Evidence that public notice has been provided in accordance with the following:
  - (a) For major modification of a CAFRA permit or Waterfront Development permit located landward of the mean high water line, except linear or shore protection developments of no rise or more in length:
    - i. Written mailing receipt or other written receipt as evidence that three complete copies of the request for a modification have been submitted to the clerk of the municipality in which the development is proposed, including a letter requesting that the clerk distribute one copy to the planning board and one to the environmental commission. The third copy shall be maintained by the clerk's office;
    - ii. A written mailing receipt or other written receipt as evidence that an amended site plan, completed LRSP application, and the notice found below have been submitted to the persons listed below. The amended site plan need not include a full set of plans, but shall depict the proposed development in relationship to nearby site conditions. The plan may be on an 8 1/2" x 11" sheet of paper provided it generally depicts the proposed development and general site specific location.

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## Applications requirements:

Application online at: <http://www.state.nj.us/dep/landuse/forms/cafrajp.pdf>

- Land Use Regulation Program (LURP) -1 Form
- Appropriate fee (payable "Treasurer – State of New Jersey")
- Site Plans
- Photographs
- Notification letter and certified mail receipts
- Compliance Statement or Environmental Impact Statement (EIS)

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## Timetable for Review

"The Department shall act within 60 days of the public hearing or the close of public comment unless additional information is required in which case the review period is 90 days from when the application was declared (complete for review)"



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