

§4347-A. Review of programs by department

1. Comprehensive plans. A municipality or multimunicipal region that chooses to prepare a growth management program and receives a planning grant under this article shall submit its comprehensive plan to the department for review. A municipality or multimunicipal region that chooses to prepare a growth management program without receiving a planning grant under this article may submit its comprehensive plan to the department for review. The department shall review plans for consistency with the procedures, goals and guidelines established in this subchapter. A contract for a planning assistance grant must include specific timetables governing the review of the comprehensive plan by the department. A comprehensive plan submitted for review more than 12 months following a contract end date may be required to contain data, projections and other time-sensitive portions of the plan or program that are in compliance with the department's most current review standards.

[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

2. Growth management programs. A municipality or multimunicipal region may at any time request a certificate of consistency for its growth management program.

A. Upon a request for review under this section, the department shall review the program and determine whether the program is consistent with the procedures, goals and guidelines established in this subchapter. [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. Certification by the former State Planning Office or the department of a municipality's or multimunicipal region's growth management program under this article is valid for 10 years. To maintain certification, a municipality or multimunicipal region shall periodically review its growth management program and submit to the department in a timely manner any revisions necessary to account for changes, including changes caused by growth and development. Certification does not lapse in any year in which the Legislature does not appropriate funds to the department for the purposes of reviewing programs for recertification. [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

C. Upon a request for review under this section, the department may review rate of growth, impact fee and zoning ordinances to determine whether the ordinances are consistent with a comprehensive plan that has been found consistent under this section without requiring submission of all elements of a growth management program. An affirmative finding of consistency by the department is required for a municipality or multimunicipal region to assert jurisdiction as provided in section 4349-A. [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

3. Review of growth management program. In reviewing a growth management program, the department shall:

A. Solicit written comments on any proposed growth management program from regional councils, state agencies, all municipalities contiguous to the municipality or multimunicipal region submitting a growth management program and any interested residents of the municipality or multimunicipal region or of contiguous municipalities. The comment period extends for 45 days after the department receives the growth management program.

(1) Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the growth management program.

(2) Any regional council commenting on a growth management program shall determine whether the program is compatible with the programs of other municipalities that may be affected by the program and with regional policies or needs identified by the regional council; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. Prepare all written comments from all sources in a form to be forwarded to the municipality or multimunicipal region; [PL 2001, c. 578, §20 (AMD).]

C. Within 90 days after receiving the growth management program, send all written comments on the growth management program to the municipality or multimunicipal region and any applicable regional council. If warranted, the department shall issue findings specifically describing how the submitted growth management program is not consistent with the procedures, goals and guidelines established in this subchapter and the recommended measures for remedying the deficiencies.

(1) In its findings, the department shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the department.

(2) If the department finds that the growth management program was adopted in accordance with the procedures, goals and guidelines established in this subchapter, the department shall issue a certificate of consistency for the growth management program.

(3) Notwithstanding paragraph D, if a municipality or multimunicipal region requests a certificate of consistency for its growth management program, any unmodified component of that program that has previously been reviewed by the former State Planning Office or the department and has received a finding of consistency will retain that finding during program certification review by the department as long as the finding of consistency is current as defined in rules adopted by the department; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

D. Provide ample opportunity for the municipality or multimunicipal region submitting a growth management program to respond to and correct any identified deficiencies in the program. A finding of inconsistency for a growth management program may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the program must be resubmitted in its entirety for state review under the department's most current review standards; and [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

E. Provide an expedited review and certification procedure for those submissions that represent minor amendments to certified growth management programs. [PL 2001, c. 406, §10 (NEW).]

The department's decision on consistency of a growth management program constitutes final agency action.

[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

3-A. Review of comprehensive plan. In reviewing a comprehensive plan, the department shall:

A. Solicit written comments on any proposed comprehensive plan from regional councils, state agencies, all municipalities contiguous to the municipality or multimunicipal region submitting a comprehensive plan and any interested residents of the municipality or multimunicipal region or of contiguous municipalities. The comment period extends for 25 business days after the department receives the comprehensive plan. Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the comprehensive plan; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

B. Prepare all written comments from all sources in a form to be forwarded to the municipality or multimunicipal region; [PL 2007, c. 247, §5 (NEW).]

C. Within 35 business days after receiving the comprehensive plan, notify the municipality or multimunicipal region if the plan is complete for purposes of review. If the department notifies the municipality or multimunicipal region that the plan is not complete for purposes of review, the department shall indicate in its notice necessary additional data or information; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

D. Within 10 business days of issuing notification that a comprehensive plan is complete for purposes of review, issue findings specifically describing whether the submitted plan is consistent with the procedures, goals and guidelines established in this subchapter and identify which inconsistencies in the plan, if any, may directly affect rate of growth, zoning or impact fee ordinances.

(1) In its findings, the department shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the department.

(2) If the department finds that the comprehensive plan was developed in accordance with the procedures, goals and guidelines established in this subchapter, the department shall issue a finding of consistency for the comprehensive plan.

(3) A finding of inconsistency must identify the goals under this subchapter not adequately addressed, specific sections of the rules relating to comprehensive plan review adopted by the department not adequately addressed and recommendations for resolving the inconsistency; [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

E. Send all written findings and comments on the comprehensive plan to the municipality or multimunicipal region and any applicable regional council; and [PL 2007, c. 247, §5 (NEW).]

F. Provide ample opportunity for the municipality or multimunicipal region submitting a comprehensive plan to respond to and correct any identified deficiencies in the plan. A finding of inconsistency for a comprehensive plan may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the plan must be resubmitted in its entirety for state review under the department's most current review standards. [PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

If the department finds that a plan is not consistent with the procedures, goals and guidelines established in this subchapter, the municipality or multimunicipal district that submitted the plan may appeal that finding to the department within 20 business days of receipt of the finding in accordance with rules adopted by the department, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

The department's decision on consistency of a comprehensive plan constitutes final agency action.

A finding by the department pursuant to paragraph D that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid for 12 years from the date of its issuance. A finding by the former State Planning Office issued pursuant to this subchapter prior to December 31, 2000 that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid until December 31, 2012. For purposes of section 4314, subsection 3 and section 4352, subsection 2, expiration of a finding of consistency pursuant to this subsection does not itself make a comprehensive plan inconsistent with the procedures, goals and guidelines established in this subchapter.

[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

4. Updates and amendments. A municipality or multimunicipal region may submit proposed amendments to a comprehensive plan or growth management program to the department for review in the same manner as provided for the review of new plans and programs. Subsequent to voluntary certification under this subsection, the municipality or multimunicipal region shall file a copy of an amendment to a growth management program with the department within 30 days after adopting the amendment and at least 60 days prior to applying for any state grant program that offers a preference for consistency or certification.

[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

5. Regional councils. Subject to the availability of funding and pursuant to the conditions of a contract, each regional council shall review and submit written comments on the comprehensive plan or growth management program of any municipality or multimunicipal region within its planning region. The comments must be submitted to the department and contain an analysis of:

A. Whether the comprehensive plan or growth management program is compatible with identified regional policies and needs; and [PL 2001, c. 406, §10 (NEW).]

B. Whether the comprehensive plan or growth management program is compatible with plans or programs of municipalities or multimunicipal regions that may be affected by the proposal. [PL 2001, c. 578, §20 (AMD).]

[PL 2011, c. 655, Pt. JJ, §21 (AMD); PL 2011, c. 655, Pt. JJ, §41 (AFF).]

SECTION HISTORY

PL 2001, c. 406, §10 (NEW). PL 2001, c. 578, §20 (AMD). PL 2003, c. 641, §§13-15 (AMD). PL 2007, c. 247, §§4, 5 (AMD). PL 2011, c. 655, Pt. JJ, §21 (AMD). PL 2011, c. 655, Pt. JJ, §41 (AFF).

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