

CHAPTER 85
STATE PLANNING RULES

Authority

N.J.S.A. 52:18A-203.

Source and Effective Date

R.2008 d.279, effective August 21, 2008.
See: 40 N.J.R. 2631(a), 40 N.J.R. 5196(a).

Chapter Expiration Date

Chapter 85, State Planning Rules, expires on August 21, 2013.

Chapter Historical Note

Chapter 32, State Planning Rules, became effective with Subchapter 1, General Provisions; Subchapter 2, Preparation of Preliminary State Development and Redevelopment Plan, and Subchapter 3, Procedures for Conducting Cross-Acceptance, adopted as R.1988 d.121, effective March 21, 1988. See: 19 N.J.R. 1971(b), 20 N.J.R. 673(a). A Petition for Rulemaking was filed with the State Planning Commission on November 20, 1989. See: 22 N.J.R. 259(b), 22 N.J.R. 565(a). Subchapter 4, Procedures for Conducting the Negotiation Phase of Cross-Acceptance, was adopted as R.1990 d.336, and Subchapter 3 was amended and redesignated Procedures for Conducting the Comparison Phase of Cross-Acceptance, effective July 2, 1990. See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a). Subchapter 5, Procedures for Conducting the Issue Resolution Phase of Cross-Acceptance was adopted as R.1991 d.457, effective September 3, 1991. See: 23 N.J.R. 1778(b), 23 N.J.R. 2654(a). Subchapter 6, Letters of Clarification; Subchapter 7, Voluntary Submission of Plans for Consistency Review, and Subchapter 8, Amendment of the Resource Planning and Management Map, were adopted as R.1992 d.253, effective June 15, 1992. See: 24 N.J.R. 1241(a), 24 N.J.R. 2287(a).

Pursuant to Executive Order No. 66(1978), Chapter 32, State Planning Rules, was readopted as R.1993 d.165, effective March 19, 1993. See: 25 N.J.R. 461(a), 25 N.J.R. 1886(c). The name of Subchapter 2, Preparation of Preliminary State Development and Redevelopment Plan, was changed to Preparation of a Preliminary State Development and Redevelopment Plan by R.1997 d.7, effective January 6, 1997. See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b). The name of Subchapter 5, Procedures for Conducting the Issue Resolution Phase of Cross-Acceptance, was changed to Procedures for Conducting the Final Review Phase of Cross-Acceptance by R.1997 d.7, effective January 6, 1997. See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Pursuant to Executive Order No. 66(1978), Chapter 32, State Planning Rules, was readopted as R.1998 d.120, effective February 4, 1998. See: 29 N.J.R. 5055(a), 30 N.J.R. 860(a).

Chapter 32 of Title 17, State Planning Rules, was recodified as N.J.A.C. 5:85 and readopted as R.2003 d.336, effective July 15, 2003. See: 35 N.J.R. 304(a), 35 N.J.R. 1990(a), 35 N.J.R. 3819(a).

Subchapter 6, Letters of Clarification, was repealed by R.2004 d.186, effective May 17, 2004. See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Chapter 85, State Planning Rules, was readopted as R.2008 d.279, effective August 21, 2008. See: Source and Effective Date.

Subchapter 7, Plan Endorsement, was repealed, and Subchapter 7, Plan Endorsement, was adopted as new rules by R.2009 d.61, effective April 20, 2009. See: 40 N.J.R. 3350(b), 41 N.J.R. 1733(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

5:85-1.1 Title and citation

5:85-1.2 Purpose and authority
5:85-1.3 Applicability
5:85-1.4 Definitions
5:85-1.5 Technical assistance from the Office of Smart Growth
5:85-1.6 Public participation
5:85-1.7 Public notice requirements, form, content and timing
5:85-1.8 Severability clause

SUBCHAPTER 2. PREPARATION OF A PRELIMINARY STATE DEVELOPMENT AND REDEVELOPMENT PLAN

5:85-2.1 Revising the State Development and Redevelopment Plan
5:85-2.2 Approval of the Preliminary State Development and Redevelopment Plan
5:85-2.3 Cross-Acceptance Manual

SUBCHAPTER 3. PROCEDURES FOR COMPARING STATE, REGIONAL, COUNTY, AND MUNICIPAL PLANS

5:85-3.1 Commencement of comparing plans
5:85-3.2 Negotiating entities for cross-acceptance
5:85-3.3 Optional joint county cross-acceptance agreements
5:85-3.4 through 5:85-3.5 (Reserved)
5:85-3.6 Municipal participation in the cross-acceptance process
5:85-3.7 Regional and State agency participation in the cross-acceptance process
5:85-3.8 (Reserved)
5:85-3.9 Comparison of the Preliminary State Development and Redevelopment Plan with local and county plans and preparation of a Cross-Acceptance Report
5:85-3.10 Distribution of Cross-Acceptance Reports by the Office of Smart Growth
5:85-3.11 through 5:85-3.14 (Reserved)

SUBCHAPTER 4. PROCEDURES FOR NEGOTIATING PLANS

5:85-4.1 Commencement of negotiating plans
5:85-4.2 State Planning Commission representation for negotiating plans
5:85-4.3 Negotiating entity representation for negotiating plans
5:85-4.4 Municipal representation for negotiating plans
5:85-4.5 The negotiation process
5:85-4.6 Completion of cross-acceptance
5:85-4.7 Impact Assessment of the draft Final State Development and Redevelopment Plan

SUBCHAPTER 5. PROCEDURES FOR ADOPTING THE FINAL PLAN

5:85-5.1 Commencement of Final Plan approval
5:85-5.2 Required public hearings
5:85-5.3 Municipal and county review and comment before adoption of Final State Development and Redevelopment Plan
5:85-5.4 Adoption of the Final State Development and Redevelopment Plan
5:85-5.5 (Reserved)

SUBCHAPTER 6. (RESERVED)

SUBCHAPTER 7. PLAN ENDORSEMENT

5:85-7.1 Introduction
5:85-7.2 Purpose and scope
5:85-7.3 Applicability
5:85-7.4 Posting and New Jersey Register publication requirements for the Office of Smart Growth
5:85-7.5 State agency responsibilities
5:85-7.6 Waivers

- 5:85-7.7 Pre-petition submission requirements, scheduling and meeting
- 5:85-7.8 Advisory committee appointment and membership
- 5:85-7.9 Self-Assessment Report, form, content, adoption and submission requirements
- 5:85-7.10 State agency Opportunities and Constraints Assessment and Report
- 5:85-7.11 Community visioning process, vision statement development and adoption, and submission requirements
- 5:85-7.12 Commencement of consistency review
- 5:85-7.13 Consistency review
- 5:85-7.14 Finding of consistency and recommendation report
- 5:85-7.15 Action Plan and Memorandum of Understanding adoption, submission and completion
- 5:85-7.16 Certificate of Eligibility
- 5:85-7.17 Draft Planning and Implementation Agreement
- 5:85-7.18 Recommendation report, review of petition, and direct petition
- 5:85-7.19 Plan endorsement by State Planning Commission
- 5:85-7.20 Extension of time requirements
- 5:85-7.21 Period of endorsement
- 5:85-7.22 Monitoring of endorsed plans and designated centers
- 5:85-7.23 Revocation of plan endorsement or prior center designation
- 5:85-7.24 Petitions to amend endorsed plans, previously designated centers, Planning and Implementation Agreements

APPENDIX. (RESERVED)

SUBCHAPTER 8. THE STATE PLAN POLICY MAP

- 5:85-8.1 State Plan Policy Map
- 5:85-8.2 Purpose
- 5:85-8.3 Map Amendments
- 5:85-8.4 Procedures
- 5:85-8.5 Determination of completeness and period of review
- 5:85-8.6 Determination of the Executive Director and State Planning Commission
- 5:85-8.7 Extension of time requirements
- 5:85-8.8 through 5:85-8.10 (Reserved)

SUBCHAPTER 1. GENERAL PROVISIONS

5:85-1.1 Title and citation

This chapter shall be known and may be cited as N.J.A.C. 5:85, State Planning Rules.

Amended by R.2003 d.336, effective August 18, 2003.
See: 35 N.J.R. 304(a), 35 N.J.R. 1990(a), 35 N.J.R. 3819(a).
Amended N.J.A.C. reference.

5:85-1.2 Purpose and authority

(a) This chapter is adopted by the State Planning Commission pursuant to N.J.S.A. 52:18A-203 in order to establish an orderly and efficient process for the preparation, adoption, and implementation of the State Development and Redevelopment Plan. In support thereof, it is determined that in order to fulfill the purposes and to satisfy the requirements of the State Planning Act, it is necessary and appropriate that:

1. The cross-acceptance, plan endorsement, and map amendment processes be structured so as to establish vertically and horizontally integrated and consistent local, county, regional and State plans;

2. The State Planning Commission take all reasonable steps to ensure municipal, county and public participation in cross-acceptance and in plan endorsement; and

3. The detail and substance of the Preliminary State Development and Redevelopment Plan be enhanced by early and direct county, municipal and public participation.

(b) State Planning Commission action pursuant to these rules represent determinations of overall consistency with the State Development and Redevelopment Plan. These actions do not serve to either “validate” or “invalidate” a specific code, ordinance, administrative rule, regulation or other plan implementation mechanism.

Amended by R.1997 d.7, effective January 6, 1997.
See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Deleted (a)2, relating to a review and comment process; and recodified (a)3 through (a)5 as (a)2 through (a)4.
Amended by R.2004 d.186, effective May 17, 2004.
See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

In (a), rewrote 1 and 2, deleted 4; added (b).

5:85-1.3 Applicability

This chapter shall apply to all activities and actions of municipal and county governments, the State Planning Commission, regional and State Agencies, negotiating entities, and petitioners concerning the State Development and Redevelopment Plan.

Amended by R.1997 d.7, effective January 6, 1997.
See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).
Amended by R.2004 d.186, effective May 17, 2004.
See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Inserted “regional and” preceding “State Agencies”, and substituted “negotiating entities, and petitioners concerning” for “and any negotiating entity designated by the Commission in the preparation, review and implementation of”.

5:85-1.4 Definitions

The following terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Action Plan” means an outline of the steps necessary for a petitioner to achieve consistency with the State Development and Redevelopment Plan and endorsement by the State Planning Commission. An Action Plan will provide timelines for the petitioner and relevant State agencies to complete required tasks; the relevant State agencies to review and evaluate petitioner submissions; and the relevant State agencies to provide or make available benefits that shall accrue to petitioner upon endorsement of the petition, as well as any conditions imposed on petitioner for obtaining said benefits.

“Center” means an efficient and compact form of development having one or more mixed-use cores and residential neighborhoods and green spaces. Center designations are based on the area, population, density, and employment of the center being considered and features of the surrounding areas. Centers can range in scale from very large, an Urban Center,