

CHAPTER 85
STATE PLANNING RULES

Authority

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

Source and Effective Date

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).

Chapter Expiration Date

Chapter 85, State Planning Rules, expires on July 15, 2008.

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: Source and Effective Date. See, also, section annotations.

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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 the 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 process be structured so as to establish vertically integrated and compatible local, county, regional and State plans;
2. The counties participate in cross-acceptance and the State Planning Commission take all reasonable steps to ensure county participation;

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

4. The State Planning Commission prepare rules pursuant to authority granted by N.J.S.A. 52:18A-202 and 203 of the State Planning Act, which establish detailed procedures for the participation of appropriate governmental units at all levels in the formulation and implementation of 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).

Deleted (a)2, relating to a review and comment process; and recodified (a)3 through (a)5 as (a)2 through (a)4.

5:85-1.3 Applicability

This chapter shall apply to all activities and actions of municipal and county governments, the State Planning Commission, State Agencies, and any negotiating entity designated by the Commission in the preparation, review and implementation of 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).

5:85-1.4 Definitions

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

“Center” means a compact form of development with one or more cores and residential neighborhoods. Centers range in scale from an Urban Center, to a Regional Center, Town Center, Village, or Hamlet. Centers in Fringe, Rural and Environmentally Sensitive Planning Areas must be surrounded by a center boundary distinguishing the center from its environs. Centers in Metropolitan and Suburban Planning Areas and the Environmentally Sensitive/ Barrier Island Planning Area may have a center boundary, although a center boundary is encouraged in the Suburban Planning Area, where environs exist to be protected. Designated Centers endorsed by the State Planning Commission are eligible for priority assistance.

“Center boundary” means the line between a center and its environs. The boundary is defined by physical features, such as rivers, roads, or changes in the pattern of development or by open space or farmland.

“Comprehensive plan” means a document, including maps, to guide all aspects of development and preservation in a coordinated way for a given jurisdiction. It includes an inventory and analysis of current conditions in and around the area and plans and policies to guide future actions.

“Consistency” or “consistent” means that a municipal, county or regional plan, or regulation therein, is substantially the same as or has the same effect as the comparable provisions in the State Development and Redevelopment Plan. Said plan or regulation or provision has been reviewed for consistency pursuant to N.J.A.C. 5:85-7 and guidelines adopted by the State Planning Commission.

“Core” means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality or a center, generally including housing and access to public transportation.

“County” means any board, department, division, office, agency or other subdivision of the county duly authorized by the county governing body, or executive, as appropriate, to carry out the requirements of this chapter.

“Critical environmental site” (CES) means an area generally less than a square mile which includes one or more environmentally sensitive features and is recognized by the State Planning Commission.

“Cross-acceptance” or “cross-acceptance process” means the process of comparing the provisions and maps of municipal, county and regional plans and regulations with the State Development and Redevelopment Plan and the dialogue which occurs among participants during and after this process to achieve consistency among plans.

“Cross-Acceptance Manual” means a document prepared by the Office of State Planning for the purpose of guiding negotiating entities through the cross-acceptance process. The manual shall contain, at a minimum, a prototype work program and schedule, and a final report outline and instructions.

“Cross-Acceptance Report” means a written statement submitted by the negotiating entity to the State Planning Commission describing the findings, recommendations, objections, and other information as set forth in the Cross-Acceptance Manual, resulting from the comparison of plans by the negotiating entity.

“Days” means calendar days unless otherwise specified.

“Designated center” means a center that has been officially recognized as such by the State Planning Commission.

“Display ad” means a notification of a public meeting or hearing to be conducted by the Office of State Planning, or it can be a notification for a map amendment filed by any individual, organization or State agency. For public meeting or hearing, it shall contain the date of the meeting or hearing, the time of the meeting or hearing, the location of the meeting or hearing and the subject matter of such public meeting or hearing. For map amendment notifications, it shall contain the date of filing, by whom, and the subject matter of the filing. The advertisements must be of at least

four inches in width in a newspaper of general circulation in the jurisdictions to which the meeting, hearing or petition pertains.

“Endorsed plan” means a municipal, county or regional plan which has been approved by the State Planning Commission as a result of finding it consistent with the State Plan, pursuant to N.J.A.C. 5:85-7 and guidelines for plan endorsement adopted by the State Planning Commission.

“Environs” means the area outside the center boundaries.

“Environmentally sensitive features” means natural attributes or characteristics whose function as part of a natural system or landscape is considered integral or important. For example, a coastal dune and beach system is an environmentally sensitive feature as is an area of critical habitat or a stream corridor. Environmentally sensitive features are the criteria for mapping the Rural/ Environmentally Sensitive Planning Area, Environmentally Sensitive Area Planning Area, Environmentally Sensitive/Barrier Islands Planning Area and Critical Environmental Sites. Environmentally sensitive features of Statewide or regional significance may also be part of the criteria for identification of a Special Resource Area.

“Final report” means a written statement submitted by the negotiating entity to the State Planning Commission describing the findings, recommendations, objections, and other information as set forth in the Cross Acceptance Manual, resulting from the comparison of plans by the negotiating entity.

“Functional State agency” means the following Departments of the State of New Jersey and any division, office or other subdivision of such Departments:

1. Agriculture;
2. Banking;
3. Board of Public Utilities;
4. Commerce and Economic Growth;
5. Community Affairs;
6. Corrections;
7. Defense;
8. Education;
9. Environmental Protection;
10. Health and Senior Services;
11. Higher Education;
12. Human Services;
13. Insurance;
14. Labor;
15. Law and Public Safety;

16. Personnel;
17. Public Advocate;
18. State;
19. Transportation; and
20. Treasury

“Goal” means a desired state of affairs to which planned effort is directed. The goals of the Plan are general statements of values derived from the State Planning Act of 1986 and public comments.

“Historic and cultural site” (HCS) means a site of generally less than a square mile which includes features or characteristics that have inherent cultural, historic or aesthetic significance of local, regional or Statewide importance. Such features include, but are not limited to, historic sites and districts, greenways and trails, parks, dedicated open space, pre-historic and archaeological sites, scenic vistas and corridors, natural landscapes of exceptional aesthetic or cultural value.

“Identified center” means a place identified during cross-acceptance as having the attributes of a potential center.

“Interim State Development and Redevelopment Plan” or “Interim Plan” means the document, including maps, appendices and other material included by reference, that reflects the changes made in the Preliminary State Development and Redevelopment Plan by the State Planning Commission pursuant to the State Planning Act, N.J.S.A. 52:18A-202:1.

“Master Plan” means a comprehensive plan for the development of a county or municipality used to guide development and development regulations. Master Plans are adopted by planning boards pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-28) and the County Planning Act (N.J.S.A. 40:27-1 et seq.).

“Minor map amendment” means an amendment to the State Plan Policy Map, which is less than 10 percent of the acreage of a planning area within a municipality but not exceeding 100 acres, or five percent of the area of a center, or, if an existing CES or HCS, less than 25 percent of the area but not exceeding 10 acres, or if a new CES or HCS of less than five acres or involving the deletion of an identified or proposed center.

“Municipal report” means a cross-acceptance report prepared by a municipality and filed with the Office of State Planning pursuant to N.J.A.C. 5:85-3.10.

“Municipal Strategic Revitalization Plan” see “Strategic Revitalization Plan.”

“Municipality” means any board, department, division, office, agency, or other subdivision of the municipality duly authorized by the municipal governing body, or executive, as appropriate, to carry out the requirements of this chapter.

“Natural system” means regularly interacting and interdependent components of air, water, land and biological resources.

“Negotiating entity” means a county, or where a county has declined to participate in the cross-acceptance process, some other entity designated by the State Planning Commission to carry out cross-acceptance.

“Negotiation” means the dialogue which occurs among participants during the period of cross-acceptance which could lead to a state of consistency or compatibility in their plans.

“Negotiation session” means a session during which the duly authorized representatives of the State Planning Commission and a negotiating entity, or municipality that has filed an individual municipal report, engage in a dialogue with the purpose of attaining compatibility regarding issues found in reports filed pursuant to N.J.A.C. 5:85-3.9 and 3.10.

“Node” means a concentration of facilities and activities, which are not organized in a compact form.

“Objective” means a more specific articulation of a goal formulated in a manner which enables it to be the object of action.

“Office of State Planning website” is www.njsmart-growth.com.

“Period of Cross-Acceptance” means that period of time extending from date of release of the Preliminary State Development and Redevelopment Plan by the Commission to 30 days beyond the last of six public hearings held by the State Planning Commission pursuant to N.J.A.C. 5:85-5.2(a).

“Plan” means the legally adopted planning document submitted for endorsement, as well as the various plan elements, planning studies, and documentation used to prepare it.

“Plan endorsement” means the process undertaken by regional agencies, counties and municipalities to have master plans, municipal strategic revitalization plans, urban complex strategic revitalization plans, and regional strategic plans endorsed by the State Planning Commission.

“Plan endorsement agreement” is the agreement between a petitioner for plan endorsement and the State Planning Commission setting forth the obligations and responsibilities to further plan consistency and implementation.

“Planning area” means an area of greater than one square mile that shares a common set of conditions, such as population density, infrastructure systems, level of development, or environmental sensitivity. The State Plan sets forth Policy Objectives that guide growth in the context of those conditions. Planning areas are intended to guide the application of the Plan’s Statewide Policies, as well as guiding local planning and decisions on the location and scale of development within the planning area.

“Policy” means a general rule for action focused on a specific issue, derived from more general goals, objectives and strategies. Some policies can be implemented directly through institutional procedures or regulations, others require the establishment of more specific and extensive plans, programs, or standards.

“Preliminary State Development and Redevelopment Plan” means the document, including maps, appendices, and other material included by reference, approved by the State Planning Commission as the basis for the Comparison Phase of cross-acceptance.

“Proposed center” means a place that is surrounded by a center boundary and meets center criteria and is included in either a negotiating entity or municipal cross-acceptance report.

“Regional” means an area encompassing land in more than one municipality, a county, or more than one county, that is bound together by shared characteristics and regional systems.

“Regional agency” and “regional entity” means an agency which performs planning for land development, infrastructure or capital investment planning for a region.

“Regional strategic plan” means a plan developed through a partnership of State, county, regional and municipal agencies for labor markets or other areas that defines the needs, opportunities, vision and regional objectives and strategies for land use, redevelopment, economic development, housing, public facilities and services, environmental protection and conservation, intergovernmental coordination and quality of community life.

“Standard” means a criterion that defines the meaning of a policy by providing a way to measure its attainment. A standard is specified whenever a particular outcome is desirable or well-established.

“State agency” and “State entity” means an agency of the State government, including authorities and cabinet departments, commissions, authorities and State colleges among others.

“State Development and Redevelopment Plan” (SDRP) or “State Plan” means the plan prepared and adopted pursuant to the State Planning Act.

“State entity” see “State agency.”

“State Plan Policy Map” (SPPM) or “Policy Map” means the geographic application of the State Plan goals and policies and the official map of these goals and policies. It includes planning areas, environs and centers, as well as other areas including critical environmental sites, historic and cultural sites, and the text for each planning area and its policy objectives. The Policy Map is comprised of 1:24,000 scale maps.

“Strategic revitalization plan” means a plan by a neighborhood, municipality, group of municipalities or an Urban Complex that assesses community strengths and weaknesses, defines overall physical and social strategies to promote regional efficiencies and cooperation, defines physical and social strategies for creating interjurisdictional coordination and cooperation, specifies physical and social strategies to target public investments for greatest efficiency and impact and satisfies applicable State agency application requirements to receive expedited consideration for State funding and technical assistance.

“Strategy” means a general course of action, linking goals and objectives of the Plan with Plan policies.

“Urban complex” means an Urban Center and two or more municipalities within the surrounding Metropolitan Planning Area that exhibit a strong intermunicipal relationship, based on socio-economic factors and public facilities and services, that is defined, integrated and coordinated through a Strategic Revitalization Plan. Urban complexes are nominated jointly by a county or counties and the affected municipalities and are coterminous with municipal boundaries but not necessarily with county boundaries.

“Urban complex strategic revitalization plan” means a Strategic Revitalization Plan that may substitute for individual municipal Strategic Revitalization Plans within their jurisdiction and that:

1. Describes the relationships that exist within the urban complex;
2. Identifies issues affecting the future growth and viability of the urban complex;

3. Assesses the strengths and weaknesses of the urban complex; and
4. Specifies strategies for regional and cultural cooperation and action.

"Utilities authority means local utility which is any sewerage authority created pursuant to the "Sewerage Authorities Law," N.J.S.A. 40:14A-1 et seq.; any utilities authority created pursuant to the "municipal and county utilities authority law," N.J.S.A. 40:14B-1 et seq.; or any utility, authority, commission, special district or corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the Revised Statutes that provides for gas, electricity, heat, power, water or sewer service to a municipality or the residents thereof, or a Public utility which is any public utility regulated by the Board of Regulatory Commissioners and defined pursuant to N.J.S.A. 48:2-13.

Amended by R.1990 d.336, effective July 2, 1990.
See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Definitions of negotiation session and State Planning Advisory Committee added.

Amended by R.1992 d.253, effective June 15, 1992.
See: 24 N.J.R. 1241(a), 24 N.J.R. 2287(a).

Revised definitions "compatibility" and "consistency".
Amended by R.1997 d.7, effective January 6, 1997.
See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Changed "Final cross-acceptance report" to "Cross-acceptance report"; inserted "Interim State Development and Redevelopment Plan" and "Preliminary State Development and Redevelopment Plan"; deleted "Functional state agency", "Goal", "Objective", "Policy", "Preliminary Plan Map", "Standard", "State Planning Advisory Committee(s)", "Strategy", and "Tier"; and amended several definitions.

Amended by R.2002 d.12, effective January 7, 2002.
See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section.

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).

In "Interim State Development and Redevelopment Plan", inserted "or Interim Plan" preceding "means the document; deleted "Preliminary Plan Map" and "State Planning Advisory Committee(s)"; in "Office of State Planning website" amended the website; in "Consistency", "Endorsed plan", "Municipal Report", "Negotiation session" and "Period of Cross-Acceptance" amended the N.J.A.C. references.

5:85-1.5 Technical assistance from the Office of State Planning during cross-acceptance

(a) During the cross-acceptance process, the Office of State Planning shall provide technical assistance to negotiating entities and municipalities as may be needed to fulfill their responsibilities under these rules.

(b) Technical assistance may be in the form of a cross-acceptance manual, advice and consultation on plan comparisons, assistance with population and employment projections and distribution, and other assistance as may be requested by the negotiating entity which is within the resources of the Office of State Planning.

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

5:85-1.6 Public participation during the cross-acceptance process

(a) Cross-acceptance is intended to be an open and thorough dialog that involves not only governments but the public at-large as well. The State Planning Commission considers an inclusionary approach to cross-acceptance critical to the success of the process. To that end, each negotiating entity shall provide meaningful opportunities for public participation during cross-acceptance and include a plan for public participation in the work program submitted to the Office of State Planning pursuant to N.J.A.C. 5:85-3.5. All applicable meetings and hearings during cross-acceptance shall be carried out in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.

(b) At a minimum, the public may participate in cross-acceptance through the following means:

1. Comments presented during the public comment period at the regular monthly meetings of the State Planning Commission and at any special public hearings conducted pursuant to these rules;
2. Submission of written comments to the State Planning Commission at any time up to 30 days after the last public hearing conducted pursuant to N.J.A.C. 5:85-5.2;
3. Written or verbal communication with municipal and/or county officials involved in cross-acceptance;
4. Public comment at negotiation sessions conducted pursuant to N.J.A.C. 5:85-4;
5. Comments presented at meetings of the various committees of the State Planning Commission as they relate to the work of those committees; and
6. Participation in advisory committees.

New Rule, R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

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 the N.J.A.C. references.

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

5:85-2.1 Revising the State Development and Redevelopment Plan

(a) Pursuant to the State Planning Act, N.J.S.A. 52:18A-199, the State Planning Commission shall revise and readopt the State Development and Redevelopment Plan every three years. In so doing, the Commission shall prepare and distribute a "preliminary plan" for cross-acceptance.

(b) The preparation, approval, and cross-acceptance of a preliminary plan pursuant to these rules notwithstanding, the current State Development and Redevelopment Plan shall continue to constitute the official State Development and Redevelopment Plan until such time as it is revised and readopted by the State Planning Commission in accordance with the State Planning Act and N.J.A.C. 5:85-5.4(b).

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

Section was "Functional state agency review of the Draft Preliminary State Development and Redevelopment Plan".

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 the N.J.A.C. reference.

5:85-2.2 Approval of the Preliminary State Development and Redevelopment Plan and authorization to transmit for cross-acceptance

(a) The State Planning Commission shall solicit comments and recommendations from all State agencies regarding possible revisions of the current State Development and Redevelopment Plan. The State Planning Commission shall also conduct an appropriate number of public meetings and information sessions and utilize such other public outreach mechanisms as are necessary to gather comments and recommendations regarding possible revisions of the current State Development and Redevelopment Plan.

(b) The State Planning Commission shall, after due consideration of any public comments and recommendations regarding the current State Development and Redevelopment Plan, approve a Preliminary State Development and Redevelopment Plan for cross-acceptance and authorize its transmittal to each county and municipal planning board, governing body and chief executive and to other interested persons and organizations.

Recodified from 17:32-2.3 and amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Rewrote (a) and, in (b), inserted reference to public comment and recommendations and substituted "municipal planning board, governing body and chief executive" for "municipality". Former section was "Public comment on Draft Preliminary State Development and Redevelopment Plan".

5:85-2.3 (Reserved)

Recodified to N.J.A.C. 17:32-2.2 by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

SUBCHAPTER 3. PROCEDURES FOR CONDUCTING THE COMPARISON PHASE OF CROSS-ACCEPTANCE

5:85-3.1 Commencement of the comparison phase

The comparison phase of cross-acceptance shall commence on the official date of release, as established by the State Planning Commission, of the Preliminary State Development and Redevelopment Plan.

New Rule, R.1990 d.336, effective July 2, 1990.

See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

5:85-3.2 Negotiating entities for county and municipal cross-acceptance

(a) With the distribution of the Preliminary State Development and Redevelopment Plan to the counties and municipalities, the Office of State Planning shall transmit to each county a copy of the Cross-Acceptance Manual and a request for either a Notice of Participation or a Notice of Waiver.

(b) Notices of Waiver or Participation shall be transmitted by each county to the Office of State Planning no later than 45 days after the official release of the Preliminary State Development and Redevelopment Plan.

1. A Notice of Participation shall be a duly adopted resolution of the county governing body authorizing participation of the county in the cross-acceptance process.

2. A Notice of Waiver is a duly adopted resolution of the county governing body stating its intent to forfeit and waive its statutory authority to participate in cross-acceptance.

(c) In the event that a county transmits a Notice of Waiver or fails to transmit a Notice of Participation within 45 days after the official date of release of the Preliminary State Development and Redevelopment Plan, the State Planning Commission shall, pursuant to N.J.S.A. 52:18A-202(b) and N.J.A.C. 5:85-3.4, designate an appropriate entity, or itself, to assume the responsibility of negotiating entity for cross-acceptance for each such county.

Recodified by R.1990 d.336, effective July 2, 1990.

See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on negotiating entities for county and municipal cross-acceptance recodified from 3.1; on optional joint county cross-acceptance agreements to 3.3.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

In (a), deleted reference to transmission of financial assistance application form; and in (c), amended designation of negotiating entity language.

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 the N.J.A.C. reference.

5:85-3.3 Optional joint county cross-acceptance agreements

The Office of State Planning shall encourage the governing bodies of the counties, especially those located within the purview of an existing regional planning agency or metropolitan planning organization, to enter into intergovernmental agreements for consolidated or coordinated participation in cross-acceptance. If a county notifies the Office of State Planning of that county's desire to enter into such an agreement or to involve a regional planning agency or metropolitan planning organization in cross-acceptance, the Office of State Planning shall provide, at the county's request, technical assistance in the preparation of appropriate intergovernmental agreements and designations of negotiating entities.

Recodified by R.1990 d.336, effective July 2, 1990.

See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on optional joint county cross-acceptance agreements recodified from 3.2; on designating of the negotiating entity by the State Planning Commission to 3.4.

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

5:85-3.4 Designation of negotiating entity by the State Planning Commission in lieu of county participation

(a) In the event that a county advises the Office of State Planning that the governing body of the county has determined that the county will not participate in the cross-acceptance process, or fails to respond within the time period specified in N.J.A.C. 5:85-3.2(b), the State Planning Commission shall designate an appropriate entity, or itself, to participate in cross-acceptance in the place of the non-participating county, after having first consulted with the entity to be designated and having secured that entity's commitment to participate in the cross-acceptance process.

(b) A county may request designation of a specific entity (including a joint program subject to an intergovernmental agreement) as the negotiating entity for that county within the 45 day notice period in N.J.A.C. 5:85-3.2(b).

(c) The State Planning Commission shall accept the recommendation of the county and designate the recommended entity, unless the Commission finds that the recommended designation would interfere with the practical application of the spirit and intent of the State Planning Act.

Recodified by R.1990 d.336, effective July 2, 1990.
See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on designating of the negotiating entity by the State Planning Commission recodified to 3.3; on cross-acceptance work programs and grants-in-aid to 3.5.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Amended N.J.A.C. references and recodified (b)1 as (c).
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 the N.J.A.C. references.

5:85-3.5 Cross-acceptance work programs

(a) Within 45 days after receipt of the Preliminary State Development and Redevelopment Plan, each county serving as the negotiating entity shall submit to the Office of State Planning a proposed work program.

(b) In the event that the negotiating entity is designated pursuant to N.J.A.C. 5:85-3.3 or 3.4, the negotiating entity shall submit to the Office of State Planning, within 30 days of the date of designation, a proposed work program.

(c) In the event that the work program submitted to the Office of State Planning is determined to be inadequate in any way by the Office of State Planning, the Office of State Planning shall provide the negotiating entity with work program changes necessary to overcome the inadequacies and to ensure an effective and efficient cross-acceptance process.

Recodified by R.1990 d.336, effective July 2, 1990.
See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on municipal participation in the cross-acceptance process recodified to 3.6; on cross-acceptance work programs and grants-in-aid from 3.4.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

In (b), amended N.J.A.C. reference; and, in (a) and (b), deleted references to submitting a cross-acceptance grant application.

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 the N.J.A.C. reference.

5:85-3.6 Municipal participation in the comparison phase of cross-acceptance

(a) Each municipality in the State shall participate in the comparison phase of cross-acceptance by:

1. Providing to the negotiating entity the most up-to-date copies of the municipal master plans, land development regulations and other information and materials necessary for an effective comparison of the State Plan with the planning policies of the municipality.

2. Participation through official representation at cross-acceptance meetings convened by the negotiating entity.

Recodified by R.1990 d.336, effective July 2, 1990.

See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on public informational meetings in each county recodified to 3.7; on municipal participation in the cross-acceptance process from 3.5.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Substituted "comparison phase of cross-acceptance" for "cross-acceptance process".

5:85-3.7 Regional agency participation in the comparison phase of cross-acceptance

(a) The Preliminary State Development and Redevelopment Plan shall be distributed to all appropriate regional agencies as determined by the State Planning Commission. Each such agency shall be requested to provide the Commission with a report outlining the degree to which their respective regional plan incorporates the Preliminary State Development and Redevelopment Plan, the degree to which their plan conflicts with the provisions of the Preliminary Plan, and proposed modifications to the Preliminary Plan and/or the regional plan.

(b) The Office of State Planning shall provide each regional agency contacted pursuant to (a) above, notice of all public meetings conducted pursuant to these rules within their respective areas of jurisdiction.

New Rule, R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Former section recodified to N.J.A.C. 17:32-3.8.

5:85-3.8 Public informational meetings in each county in regard to the Preliminary State Development and Redevelopment Plan

No later than 15 days after the official date of release of the Preliminary State Development and Redevelopment Plan, the Office of State Planning shall transmit to each county, or the negotiating entity if known, a schedule for joint public informational meetings to be held in each county of the State. These meetings shall be held not less than 45 days and not more than 90 days after the official date of release of the Preliminary State Development and Redevelopment Plan. The joint informational meetings shall be convened by the negotiating entity and shall provide opportunity for the public to ask questions and make comments.

Recodified by R.1990 d.336, effective July 2, 1990.

See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on technical assistance from the Office of State Planning recodified to 3.8; on public informational meetings in each county from 3.6.

Recodified from 17:32-3.7 and amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

References to date of distribution changed to official date of release. Former section was "Technical assistance from Office of State Planning during negotiation of cross-acceptance".

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

(a) The negotiating entity shall compare municipal and county plans with the Preliminary State Development and Redevelopment Plan and establish:

1. The degree to which municipal and county plans have incorporated the various provisions of both the current and Preliminary State Development and Redevelopment Plan;
2. A detailed list of findings, recommendations, and objections concerning proposed revisions to the current State Development and Redevelopment Plan as represented in the Preliminary State Development and Redevelopment Plan;
3. The potential for modifications to local and county plans that would contribute to a higher degree of compatibility among local, county and State plans; and
4. The degree to which designated State Plan centers have carried out their respective planning and implementation agendas and any conditions placed on those centers by the State Planning Commission in the course of their original designation.

(b) Within six months of the official release of the Preliminary Plan, each negotiating entity shall prepare and file with the State Planning Commission, its municipal planning boards and the planning boards of adjoining counties, a cross-acceptance report. The cross-acceptance report shall present the results of the comparison exercise cited in (a) above in the form specified by the Office of State Planning in the Cross-Acceptance Manual. The cross-acceptance report shall also contain a proposed negotiation agenda for consideration during the negotiation phase as described in N.J.A.C. 5:85-4.

(c) Any cross-acceptance report, or any parts thereof, not filed within six months of the official release of the Preliminary Plan may, at the discretion of the State Planning Commission, still be given consideration by the State Planning Commission or be an item of negotiation during the negotiation phase of cross-acceptance.

(d) Should a county fail to file a cross-acceptance report, or any part thereof, in substantial compliance with this chapter, the county shall be deemed to be in agreement with

the provisions, maps or projections of the Preliminary State Development and Redevelopment Plan as they pertain to those parts of the report not filed or deemed not to be in substantial compliance.

(e) The cross-acceptance report of each negotiating entity shall not be filed with the State Planning Commission until the governing body of each such county, or the designated negotiating entity, shall have authorized the transmittal of the cross-acceptance report at a public hearing.

Recodified by R.1990 d.336, effective July 2, 1990.

See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on negotiating entity reports recodified to 3.12; on comparison of State plan and local and county plans from 3.10.

Amended by R.1990 d.336, effective July 2, 1990.

See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on individual municipal reports recodified to 3.13; on negotiating entity reports from 3.11; (a) deleted; (b) recodified to (d); new (a), (b) and (c) added.

Recodified from 17:32-3.11, 17:32-12 and amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Substantially amended section. Former section was "Public participation in the cross-acceptance process".

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 the N.J.A.C. reference.

5:85-3.10 Individual municipal reports in regards to cross-acceptance

(a) If a municipality is not satisfied with the cross-acceptance report, in whole or in part, prepared by the negotiating entity, the municipality may file a separate report with the State Planning Commission. The municipal report shall be submitted to the State Planning Commission within 45 days of the negotiating entity filing its cross-acceptance report and shall be in the form specified by the Office of State Planning in the Cross-Acceptance Manual. The municipal report shall not be filed with the State Planning Commission until the local governing body has authorized the transmittal at a public hearing. The individual municipal report shall also be filed with the appropriate county or negotiating entity and the planning boards of adjoining municipalities at the same time as it is filed with the State Planning Commission.

(b) In the event that a cross-acceptance report is not filed with the State Planning Commission within six months of the official release of the Preliminary Plan, a municipality may still file a separate report, comments or recommendations with the State Planning Commission and they will be given full consideration.

(c) Any municipal report not filed by the date specified in (a) above may, at the discretion of the Commission, still be given consideration by the Commission or be an item of negotiation during the negotiation phase of cross-acceptance.

(d) Should a municipality fail to participate in the comparison phase of cross-acceptance and/or fail to file an individual municipal report, the municipality shall be deemed to have concurred and agreed in the final report

filed by the negotiating entity and to have waived its statutory right to file a separate report under N.J.S.A. 52:18A-202.

Amended by R.1990 d.336, effective July 2, 1990.

See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on Office of State Planning Report repealed; on individual municipal reports recodified from 3.12.

Recodified from 17:32-3.13 and amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Substantially amended section. Former section was "Review of Preliminary Plan Maps by the negotiating entities during the cross-acceptance process".

5:85-3.11 Completion of comparison phase of cross-acceptance

The comparison phase of cross-acceptance shall conclude on a date specified by the State Planning Commission.

Amended by R.1990 d.336, effective July 2, 1990.

See: 22 N.J.R. 621(c), 22 N.J.R. 2033(a).

Text on adoption of the State Plan repealed; new text on completion of comparison phase added.

Recodified from 17:32-3.14 and amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Former section recodified to N.J.A.C. 17:32-3.9.

5:85-3.12 (Reserved)

Recodified to N.J.A.C. 17:32-3.9 by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

5:85-3.13 (Reserved)

Recodified to N.J.A.C. 17:32-3.10 by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

5:85-3.14 (Reserved)

Recodified to N.J.A.C. 17:32-3.11 by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

SUBCHAPTER 4. PROCEDURES FOR CONDUCTING THE NEGOTIATION PHASE OF CROSS-ACCEPTANCE

5:85-4.1 Commencement of the negotiation phase

(a) The negotiation phase of cross-acceptance shall commence on a date specified by the State Planning Commission. Any time thereafter, the State Planning Commission can convene a negotiation session with any county that has submitted a cross-acceptance report in accordance with N.J.A.C. 5:85-3.9, or any municipality that has submitted an individual report in accordance with N.J.A.C. 5:85-3.10.

(b) The State Planning Commission shall provide each county or municipality submitting a report pursuant to this chapter, an opportunity for a sufficient number of negotiating sessions as determined by the Commission's negotiating committee. The State Planning Commission shall provide a minimum of 45 days public notice in a newspaper of general circulation of an initial negotiation session with each county or municipality and appropriate notice of all subsequent negotiation sessions.

(c) All negotiation sessions referenced in N.J.A.C. 5:85-4.5 shall be open to the public.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

In (a), amended N.J.A.C. references.

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 the N.J.A.C. references.

5:85-4.2 State Planning Commission representation during the negotiation phase of cross-acceptance

(a) The State Planning Commission may authorize an appropriate committee to represent the Commission during the negotiation phase of cross-acceptance by a duly adopted resolution of the Commission.

(b) A minimum of three members of the authorized negotiating committee, and one member of the staff of the Office of State Planning, authorized by the Director, shall be present at any given negotiation session. Each negotiation session shall be chaired by the committee chairman or a duly authorized substitute.

(c) In the event that at least three members of the authorized committee are unable to attend a scheduled negotiation session, the Chairman of the State Planning Commission is authorized to appoint other members of the Commission to participate in the negotiation session.

(d) The Commission may, at its discretion, direct the committee to reconsider a determination made at any given negotiation session as described in the periodic reports referenced in N.J.A.C. 5:85-4.5(c).

(e) All determinations made by the Commission's negotiating committee regarding revisions to the Preliminary State Development and Redevelopment Plan and as set forth in N.J.A.C. 5:85-4.6(a) shall be subject to the approval of the State Planning Commission in the form of an interim plan.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

In (d), inserted text "made at any given negotiation session"; and in (e), amended N.J.A.C. reference.

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 the N.J.A.C. references.

5:85-4.3 County representation during the negotiation phase of cross-acceptance

(a) Pursuant to N.J.S.A. 52:18A-202(b), the State Planning Commission shall negotiate plan cross-acceptance with each county planning board.

(b) A county planning board may, at its option, and by duly adopted resolution, appoint a committee from among its members and staff, including at least, but not limited to, two county planning board members, to represent the full board at negotiation sessions.

(c) All determinations made by the county planning board regarding the Preliminary State Development and Redevelopment Plan and as set forth in N.J.A.C. 5:85-4.6(a) shall be subject to the action of the county governing body. The determination will be presumed to be acceptable if the governing body fails to act within 45 days from when the determination was received.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

In (c), amended N.J.A.C. reference and substantially amended the second sentence.

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 the N.J.A.C. reference.

5:85-4.4 Municipal representation during the negotiation phase of cross-acceptance

(a) Municipalities that are involved in individual negotiation sessions pursuant to N.J.A.C. 5:85-4.1 shall be represented at those sessions by a committee duly authorized by the municipal governing body. A member of the county planning board or member of its duly authorized negotiating committee shall also be present at these sessions.

(b) All determinations made at these sessions by the municipality regarding the Preliminary State Development and Redevelopment Plan and as set forth in N.J.A.C. 5:85-4.6(a) shall be subject to the action of the local governing body. Failure of the governing body to act within 45 days from when the determination was received, will presume the determination acceptable.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

In (b), amended plan name and N.J.A.C. reference.

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 the N.J.A.C. references.

5:85-4.5 The negotiation process

(a) The purpose of the negotiation phase is to attain compatibility between local, county and State Plans. The process is designed to result in a written statement specifying areas of agreement or disagreement and areas requiring modification by parties to the negotiation.

(b) Negotiation sessions shall be conducted as follows:

1. Subsequent to pre-negotiation consultation among the staffs of the involved parties, the staff of the Office of State Planning will meet with the authorized representatives of the county planning board, to reach agreement on issues raised in county reports and municipal and public comments and to identify unresolved issues requiring negotiation between the negotiating committees of the State Planning Commission and the county.

2. The negotiating committees of the Commission and the county will meet to confirm agreements and to negotiate any unresolved issues identified in (b)1 above.

3. Municipalities that submit individual municipal reports, pursuant to N.J.A.C. 5:85-3.10, may choose to discuss and negotiate the issues presented in their report with the Commission's negotiating committee, with the appropriate negotiating entity represented. Prior to such discussion and negotiations, municipalities shall meet with the staff of the Office of State Planning to identify unresolved issues and to recommend revisions to the Preliminary State Development and Redevelopment Plan requiring negotiation between the committee and the municipality.

(c) Agreements reached during negotiation sessions and any remaining disagreements shall be published by the Office of State Planning in periodic reports which shall be available to the general public at the Office of State Planning, county offices and State depository libraries. Further distribution shall be made to the Commission and the parties involved. Periodic public meetings shall be conducted by the Commission's negotiating committee for the purpose of taking comments on these reports. The committee shall provide a minimum of 10 days public notice in a newspaper of general circulation of these meetings.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

In (a), added second sentence.

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 the N.J.A.C. reference.

5:85-4.6 Completion of the negotiation phase of cross-acceptance and approval of an Interim State Development and Redevelopment Plan

(a) When the State Planning Commission's negotiating committee believes that the county and municipal negotiations have produced the highest degree of agreement among the negotiating parties, the Committee shall submit a summary of its findings, including a statement of agreements and disagreements resulting from each negotiation session, to the State Planning Commission, the subject county and each county's respective municipalities.

(b) The Committee shall forward to the State Planning Commission, for its consideration and approval, an Interim State Development and Redevelopment Plan reflecting recommended changes to the Preliminary State Development and Redevelopment Plan resulting from the comparison phase, the negotiation phase, and other relevant information and materials. The Committee shall also forward to the Commission for its consideration and approval, an Interim Infrastructure Needs Assessment, and an Interim Statement of Agreements and Disagreements.

(c) The negotiation phase of cross-acceptance shall end with the approval of the Interim Plan by the State Planning Commission. The approval of an Interim Plan notwithstanding, the current State Development and Redevelopment Plan shall continue to constitute the official State Development and Redevelopment Plan until such time as it is revised and readopted by the State Planning Commission in accordance with the State Planning Act and N.J.A.C. 5:85-5.4(b).

Amended by R.1991 d.457, effective September 3, 1991.

See: 23 N.J.R. 1778(b), 23 N.J.R. 2654(a).

Negotiation phase extended to 150 days after approval of State Development and Redevelopment Plan.
Recodified from 17:32-3.7 and amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Deleted (c), relating to negotiation of deferred issues; and recodified (d) as (c) and substantially amended. Former section was "Public participation in the negotiation phase of cross-acceptance".
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 the N.J.A.C. reference.

5:85-4.7 Impact Assessment of the Interim State Development and Redevelopment Plan

(a) Pursuant to N.J.S.A. 52:18A-202.1 and 202.2, the State Planning Commission shall have prepared an assessment of the impacts of the Interim State Development and Redevelopment Plan relative to the impacts that would likely occur without a Plan. The results of the assessment shall identify desirable changes to be incorporated into the final State Development and Redevelopment Plan.

(b) The Impact Assessment shall be distributed to the Governor, the Legislature, and the governing bodies of each county and municipality, and made available to the general public. A period extending from 45 days prior to the first of the public hearings conducted pursuant to N.J.A.C. 5:85-5.2, to 30 days following the last of those hearings shall be provided for counties, municipalities, and other interested parties to review and respond to the Impact Assessment.

(c) After consideration of the results of the Impact Assessment, the State Planning Commission may choose to either amend or not amend the Interim Plan as appropriate.

New Rule, R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Former section was recodified to N.J.A.C. 17:32-4.6.

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 the N.J.A.C. reference.

SUBCHAPTER 5. PROCEDURES FOR CONDUCTING THE FINAL REVIEW PHASE OF CROSS-ACCEPTANCE

5:85-5.1 Commencement of the final review phase of cross-acceptance

(a) The purpose of the final review phase is to allow review of, and accept comment on, the Interim Plan, Interim Infrastructure Needs Assessment, Interim Statement of Agreement and Disagreements, and the Impact Assessment of the Interim Plan, with the goal of formulating a final State Development and Redevelopment Plan.

(b) The final review phase shall commence on a date set by the State Planning Commission following the Commission's approval of any amendments to the Interim State Development and Redevelopment Plan reflecting changes made by the Commission based on their consideration of the Impact Assessment of the Interim Plan pursuant to N.J.S.A. 52:18A-202.1, and N.J.A.C. 5:85-4.7. Concurrent with the release of the amended Interim Plan, the Commission shall also release, with appropriate amendments, the

Interim Infrastructure Needs Assessment, and the Interim Statement of Agreements and Disagreements.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Substantially amended section.

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 the N.J.A.C. reference.

5:85-5.2 Required public hearings

(a) There shall be one public hearing on the Interim State Development and Redevelopment Plan in each of the 21 counties. The State Planning Commission may, upon the request of two or more counties, conduct a multi-county hearing in lieu of a separate hearing in each such county. Pursuant to N.J.S.A. 52:18A-202.2d, the public hearings are to be held no sooner than 45 days after the release of the Impact Assessment of the Interim Plan.

(b) Pursuant to N.J.S.A. 52:18A-202c, the State Planning Commission shall give at least 30 days public notice of each hearing in advertisements in at least two newspapers which circulate in the area served by the hearing and at least 30 days notice to the governing body and planning board of each county and municipality in the area served by the hearing.

(c) The Interim State Development and Redevelopment Plan, Interim Infrastructure Needs Assessment, and Interim Statement of Agreements and Disagreements, shall be distributed to county and municipal planning boards and other interested parties not less than 14 days prior to the public hearings.

(d) The public hearings shall be convened by the State Planning Commission, or by a committee of the Commission designated for that purpose, whereupon comments will be taken on the Interim State Development and Redevelopment Plan and the accompanying documents cited in (c) above.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Amended report and N.J.A.C. references.

5:85-5.3 County and municipal review and comment during the final review phase of cross-acceptance

(a) Counties and municipalities may submit written comments to the State Planning Commission regarding the effect of the Interim State Development and Redevelopment Plan, or Interim Infrastructure Needs Assessment on the agreements and disagreements reached during the negotiation phase of cross-acceptance, at any time up to 30 days after the last public hearing conducted pursuant to N.J.A.C. 5:85-5.2.

(b) Counties and municipalities may submit written comments to the State Planning Commission regarding the Impact Assessment of the Interim State Development and Redevelopment Plan at any time up to 30 days after the last public hearing conducted pursuant to N.J.A.C. 5:85-5.2.

Amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Amended report references.

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 the N.J.A.C. references throughout.

5:85-5.4 Completion of the final review phase of cross-acceptance and adoption of the State Development and Redevelopment Plan

(a) The final review phase shall end 30 days after the last public hearing conducted pursuant to N.J.A.C. 5:85-5.2.

(b) Pursuant to N.J.S.A. 52:18A-196 et seq. the State Planning Commission shall adopt a final State Development and Redevelopment Plan no sooner than 30 days and no later than 60 days after the last public hearing conducted pursuant to N.J.A.C. 5:85-5.2.

Recodified from 17:32-5.5 and amended by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

Substituted "final review phase" for "issue resolution phase". Section was "Public participation during the issue resolution phase of cross-acceptance".

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 the N.J.A.C. references throughout.

5:85-5.5 (Reserved)

Recodified to N.J.A.C. 17:32-5.4 by R.1997 d.7, effective January 6, 1997.

See: 28 N.J.R. 4084(a), 29 N.J.R. 150(b).

SUBCHAPTER 6. LETTERS OF CLARIFICATION

5:85-6.1 Purpose

(a) For the State Development and Redevelopment Plan to serve as a useful guide to officials in both the public and private sectors in making planning and investment decisions, it must be well understood and accurately interpreted. The purpose of this subchapter, therefore, is to enhance this understanding and to assure that clarifications of the State Plan reflect as closely as possible the intentions of the State Planning Commission in its approval of the State Plan. This purpose is served by creating a process for these officials and the general public to obtain clarification of these provisions.

(b) Neither the State Development and Redevelopment Plan nor its State Plan Policy Map is regulatory and neither should be referenced or applied in such a manner. It is not the purpose of this process to either "validate" or "invalidate" a specific code, ordinance, administrative rule, regulation or other instrument of plan implementation.

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).

In (a), inserted "State" following "its approval of the" in the second sentence; in (b), substituted "State Plan Policy Map" for "Resource Planning and Management Map".

5:85-6.2 Eligibility

(a) Any individual or organization, public or private, may petition the State Planning Commission for a letter of clarification regarding any goal, strategy, objective, policy, criterion or definition contained in the State Development and Redevelopment Plan.

(b) The State Planning Commission will not issue letters of clarification that involve the application of State Plan provisions to specific parcels of land or that seek to either "validate" or "invalidate" a specific code, ordinance, administrative rule, regulation or other instrument of plan implementation.

5:85-6.3 Procedures

(a) The individual or organization shall submit the petition in writing to the Director of the Office of State Planning, who shall act as agent for the State Planning Commission in the administration of these rules, citing:

1. The exact provision of the State Development and Redevelopment Plan on which the clarification is being requested;
2. The nature of the provision that makes it unclear to the petitioner; and
3. As much detail as possible on the specific circumstances surrounding the potential application of the provision that makes its application of interest or concern to the petitioner.

(b) Except as provided in (c) below, the Director of the Office of State Planning shall provide a clarification in writing to the petitioner within 60 days of receipt of the petition.

(c) Where the purposes of these rules are served, the Director of the Office of State Planning may, prior to rendering a clarification to the petitioner, seek the counsel of the State Planning Commission, one of its duly authorized subcommittees, if any, a State department or the Office of the Attorney General, in which case the Director shall so inform the petitioner in writing within the 60 day period specified in (b) above and provide a clarification within 120 days of receipt of the petition.

(d) The Director of the Office of State Planning shall file monthly reports of such clarifications with the State Planning Commission.

(e) The Director of the Office of State Planning may consider "unofficial" requests for clarification of the Plan that may be submitted from time to time as "official" petitions for clarification if the Director determines that the

request contains sufficient information to be processed in accordance with this subchapter.

5:85-6.4 Suspension or extension of time requirements

(a) At the request of the Director of the Office of State Planning, the State Planning Commission may suspend or extend the time allowed for certain actions under these rules in the event that the number of requests for clarifications exceeds the resources of the Office of State Planning to process those requests in accordance with these rules.

(b) The Director of the Office of State Planning shall notify petitioners of any suspension or extension of time periods resulting from (a) above.

5:85-6.5 Tenure of clarifications

Clarifications rendered by the Director of the Office of State Planning shall stand until the State Planning Commission adopts the next triennial revision of the State Development and Redevelopment Plan.

SUBCHAPTER 7. VOLUNTARY SUBMISSION OF PLANS FOR PLAN ENDORSEMENT

5:85-7.1 Purpose

(a) The State Planning Act recommends but does not require that municipal, county, and regional plans be consistent with the State Development and Redevelopment Plan. State agencies are expected to review and coordinate their plan, programs and regulations to make them consistent with the State Development and Redevelopment Plan. During the State Plan cross-acceptance process, governments at all levels compared respective public plans and processes in general with the State Plan. The process of plan endorsement covered by this subchapter is designed to build on that effort. Entities that receive plan endorsement, in accordance with the State Plan, shall be entitled to a variety of benefits, including, but not limited to, priority for funding, coordination of planning with other agencies in meeting unique needs of the entity seeking endorsement, expedited permit review, and eligibility for approval of State Plan Policy Map amendments to implement regional and local growth management policies. It is the intention of the State Planning Commission, through the Office of State Planning, to assist all levels of government in coordinating plans and together achieving consistency with the State Plan. To that end, this subchapter outlines a voluntary review process, which will compare municipal, county, regional and State agency plans and provide findings and recommendations that would coordinate and integrate these plans in a manner consistent with the State Development and Redevelopment Plan. Plans found to be consistent with the SDRP will be endorsed by the State Planning Commission.

(b) The purpose of plan endorsement is to increase the degree of consistency among municipal, county, regional and State agency plans and the State Plan and to facilitate the implementation of said plans. The State Plan outlines six objectives that derive from this purpose:

1. To encourage municipal, county, regional, and State agency plans to be coordinated and support each other to achieve the goals of the State Plan;
2. To encourage counties and municipalities to plan on a regional basis, while recognizing the fundamental role of the municipal master plan and development regulations;
3. To consider the entire municipality including centers, cores, nodes and environs, within the context of regional systems;
4. To provide an opportunity for all government entities and the public to discuss and resolve common planning issues;
5. To provide a framework to guide and support State investment programs and permitting assistance in the implementation of municipal, county and regional plans that meet Statewide objectives; and
6. To learn new planning approaches and techniques from municipal, county, regional and State agencies for dissemination throughout the State and possible incorporation into the State Plan.

(c) It is not the purpose of the plan endorsement process to either "validate" or "invalidate" a specific code, ordinance, administrative rule, regulation or other instrument of plan implementation, although those relevant to the implementation of the petitioner's plan shall be reviewed for consistency with the plan that is under consideration.

(d) From January 7, 2002, the petitioners shall delineate centers in endorsed plans, and the State Planning Commission shall designate centers as part of plan endorsement.

Amended by R.1993 d.367, effective July 19, 1993.

See: 25 N.J.R. 1839(a), 25 N.J.R. 3238(c).

Amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section.

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).

In (d), deleted the second sentence.

Case Notes

Unlike master development and redevelopment plans, ordinances are not required to be submitted for review by State Planning Commission. *Mount Olive Complex v. Township of Mount Olive*, 774 A.2d 704 (2001).

Department of Environmental Protection order directing staff to apply departmental policies and regulations in manner consistent and compatible with State Development and Redevelopment Plan to extent permitted by law was intra-agency statement not subject to formal rule-making process under Administrative Procedures Act. *New Jersey Builders Ass'n v. New Jersey Dept. of Environmental Protection*, 306 N.J.Super. 93, 703 A.2d 323 (A.D. 1997).

5:85-7.2 Eligibility

(a) Any municipal or county governing body, or regional or State agency may petition the State Planning Commission for plan endorsement of its plan.

(b) Plans eligible for endorsement are:

1. Master plans of municipalities and counties;
2. Municipal strategic revitalization plans;
3. Urban complex strategic revitalization plans;
4. Regional strategic plans; and
5. State agency functional plans.

(c) If a municipal plan is submitted as part of a regional petition, it shall be endorsed if the municipal plan is found consistent with the State Development and Redevelopment and the regional plan.

(d) Urban complex strategic revitalization plans, regional strategic plans and county master plans approved by the State Planning Commission shall not be entitled to the benefits of plan endorsement in those municipalities where those municipalities have not incorporated the recommendations and implementation features of the urban complex strategic revitalization plan, regional strategic plan or county master plan in its municipal master plan and ordinances.

(e) The State Planning Commission shall give priority consideration to petitions for endorsement involving regional strategic plans and urban complex strategic revitalization plans as a way of encouraging municipalities to participate in regional strategic plans or urban complex strategic revitalization plans for endorsement.

(f) Where an urban complex strategic revitalization plan is not possible, a municipal strategic revitalization plan is encouraged.

(g) Codes, ordinances, administrative rules, regulations and other instruments of plan implementation are not eligible for endorsement, but those relevant to the implementation of the petitioner's plan shall be reviewed for consistency with the plan that is under consideration for endorsement.

(h) The Office of State Planning may provide technical assistance and advice to municipal, county, regional and State agencies on matters related to duties and responsibilities of the Commission or Office, as set forth in the State Planning Act, N.J.S.A. 52:18A-196 et seq., regardless of whether such agencies are petitioning or plan to petition the State Planning Commission for plan endorsement.

(i) Plans shall be endorsed only if they are internally consistent and demonstrate consistency according to the guidelines for plan endorsement adopted by the State Planning Commission.

Amended by R.1993 d.367, effective July 19, 1993.
See: 25 N.J.R. 1839(a), 25 N.J.R. 3238(c).
Amended by R.2002 d.12, effective January 7, 2002.
See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).
Rewrote the section.

5:85-7.3 Notification of petition filing

(a) A pre-petition meeting with the Office of State Planning and appropriate agencies and entities is a requirement before filing for plan endorsement.

(b) After the pre-petition meeting, municipalities shall provide public notice of their filing of a petition under this subchapter, in two newspapers of general circulation within the municipality or one newspaper and the petitioner's website, if available, prior to their submission of a petition for plan endorsement. Notice shall also be sent to the petitioning municipality's planning board, environmental commission, utilities authority, board of education and other boards and authorities as appropriate, to the governing body and planning board of the county within which the municipality is located and to the governing bodies and planning boards of adjoining counties and municipalities.

(c) After the pre-petition meeting, counties shall provide public notice of their filing of a petition under this subchapter, in two newspapers of general circulation within the county, or one newspaper and the petitioner's website, if available, prior to their submission of a petition for plan endorsement. Notice shall also be sent to the petitioning county's planning board, utilities authority, improvement authority, economic development commission or department, and other boards and authorities as appropriate, to the governing bodies, environmental commissions, boards of education and planning boards of all municipalities within the subject county and to the governing bodies and planning boards of adjoining municipalities and counties.

(d) After the pre-petition meeting, regional agencies shall provide public notice of their filing of a petition under this subchapter, in two newspapers of general circulation within their jurisdiction, or one newspaper and the petitioner's website, if available, prior to the agency's submission of a petition for plan endorsement. Notice shall also be sent to county and municipal governing bodies, the planning boards, environmental commissions, boards of education, utilities authorities improvement authorities, economic development commissions or departments, and other board and authorities as appropriate, of all municipalities and counties within the agency's jurisdiction and to the governing bodies and planning boards of any adjacent counties and municipalities.

(e) Before filing a petition for plan endorsement, petitioners shall conduct a public meeting on the petition for plan endorsement to discuss the plan and planning and implementation agenda and receive and consider public comments thereof.

(f) All notifications required under this section shall contain, at a minimum, the following information:

1. The name and address of the petitioner filing the petition for plan endorsement;
2. A description of the action being requested; and
3. The location and time at which copies of the petition and supporting documentation can be examined.

(g) Newspaper notices may be published as a standard legal advertisement.

Amended by R.1993 d.367, effective July 19, 1993.

See: 25 N.J.R. 1839(a), 25 N.J.R. 3238(c).

Amended by R.2001 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section.

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).

In (e), substituted "meeting" for "hearing" following "conduct a public".

5:85-7.4 Procedures

(a) Petitions for plan endorsement shall be submitted to the Director of the Office of State Planning, who shall serve as agent for the State Planning Commission in the administration of these rules.

(b) A petition shall consist of the following:

1. A form, prepared by the Office of State Planning, fully completed and signed by the petitioner or a duly authorized official, representing the petitioner. Said form shall contain the following:
 - i. The name and address of petitioner;
 - ii. A list of the documents being submitted; and
 - iii. A certified copy of the resolution adopting the plan(s) being submitted;
2. Proof that the notification requirements of this subchapter have been met;
3. A resolution from each governing body requesting plan endorsement and designating the official of the municipality, county or regional agency to submit the petition and execute the agreement;
4. Copies of the minutes of the public meeting where the plan endorsement petition was reviewed and of the meeting at which the petition was approved. The minutes shall include a summary of public comments and copies of written comments filed before, or presented at, the public meeting;
5. Boundaries of current and proposed SPPM planning areas, centers, cores, nodes, critical environmental sites and historic and cultural sites, parks and military installations on municipal zoning maps and on draft film at a scale of 1:24,000 and corresponding to U.S.G.S. 7.5 minutes topographic quadrangle maps or in digital files conforming to national standards of 1:24,000 scale accuracy and as provided in guidelines established by the Office of State Planning;

6. Ten copies, and one electronic copy, of the petitioner's plan, proposed Planning and implementation agenda, land development regulations, and other supporting materials and implementation measures;

7. A narrative description of public participation and planning coordination efforts used to prepare and adopt the plan, develop the planning and implementation agenda, and submit the plan endorsement petition;

8. Written documentation indicating good-faith efforts to include neighboring jurisdictions in the plan endorsement process; and

9. Regional petitions must include written documentation indicating good faith efforts to include all municipalities and counties within the region of participation in the regional plan and, where applicable, a list of municipalities and counties that would not or could not participate in the regional plan.

(c) The State Planning Commission may, at its discretion, appoint one or several subcommittees to hear and review the petitions, but only the Commission may take final action on a petition for plan endorsement.

(d) All meetings of the State Planning Commission, or its duly authorized subcommittee(s), to consider petitions shall be conducted in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-1 et seq., and opportunity shall be provided to the public at all said meetings to comment on petition(s) being considered prior to action being taken.

Amended by R.1993 d.367, effective July 19, 1993.

See: 25 N.J.R. 1839(a), 25 N.J.R. 3238(c).

Amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section. Recodified (c) through (g) with amendments as N.J.A.C. 17:32-7.5.

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).

In (b), substituted "meeting" for "hearing" following "public" throughout 4, and substituted "and" for "or" following "copies," in 6.

5:85-7.5 Determination of completeness and period of review

(a) Within 30 days of the receipt of a petition for plan endorsement, the Director of the Office of State Planning shall inform the petitioner, county representatives, and the State Planning Commission, in writing, whether the petition is complete and complies with this subchapter.

(b) In cases where the Director of the Office of State Planning finds that the petition is not complete or has not been submitted in accordance with this subchapter, the Director shall inform the petitioner in writing within 30 days after receipt of the petition of the deficiencies in the petition. If a corrected petition is resubmitted, the petition will be considered in accordance with (c) below. If a corrected petition is not resubmitted within 45 days after receipt of the Director's notice, or is resubmitted incorrectly, the petition will be considered withdrawn without prejudice and the petitioner so notified. No further action by the Director will be taken. The petitioner shall provide notice of withdrawal in accordance with N.J.A.C. 5:85-7.3.

(c) In cases where the Director of the Office of State Planning finds that the petition is submitted in accordance with this subchapter, or is resubmitted correctly pursuant to (b) above, the Director shall send copies of the petition, plan(s) and supporting documents to the State agencies represented on the State Planning Commission and any other relevant State or Federal agency, post a summary of the petition on the Office of State Planning website and put notice of Director's action on the website and in the New Jersey Register. This action will provide notice to individuals or organizations that they may register to receive future notices of hearings, copies of modifications and actions on the petition.

(d) The relevant State and Federal agencies receiving copies of the petition as noted in (c) above shall provide comments to the Director within 45 days.

(e) After the 45 day review by State and Federal agencies, the Director shall, within 90 days, review said plan(s) and comments received from State and Federal agencies and prepare a determination, findings and recommendations regarding the degree to which the subject plan is consistent with the provisions of the State Development and Redevelopment Plan and how effectively that has been done, in accordance with the guidelines for plan endorsement adopted by the State Planning Commission. The Director's review of regional petitions will include a review of consistency between the regional plan and accompanying county and municipal plans in the region.

(f) Within the State and Federal agency 45-day review period, the Office of State Planning shall hold a public hearing in an appropriate jurisdiction to receive testimony on the petition. Notice of this hearing shall be provided through a press release to two newspapers of general circulation within the municipality, county or region and posted on the Office of State Planning website 14 days before the hearing. Ten days before the hearing, the Office shall publish a display ad in one of the newspapers of general circulation. Copies of the minutes of this public meeting shall include a summary of public comments and copies of written comments filed before, or presented at the public hearing.

(g) The Director of the Office of State Planning May request additional information and, at the discretion of the Director, the 90 day review period may be extended for an additional 45 days.

Recodified from N.J.A.C. 17:32-7.4 (c) through (g) and amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Former N.J.A.C. 17:32-7.5, Public notification of Director of State Planning or Commission's review, recodified to N.J.A.C. 17:32-7.7. 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).

In (b), amended the N.J.A.C. reference; in (c), substituted "summary" for "copy" preceding "of the petition".

5:85-7.6 Determination of the Director and State Planning Commission

(a) In cases where the Director determines that the petition is submitted in accordance with this subchapter and the Director determines that the petitioner's plan is consistent or inconsistent with the guidelines for plan endorsement adopted by the State Planning Commission, the Director shall forward the report to the petitioner, county representatives and the State Planning Commission and post on the Office of State Planning website.

(b) In cases where the Director determines that the petition is inconsistent with the guidelines for plan endorsement adopted by the State Planning Commission, the Director shall forward a report to the petitioner, county representatives and the State Planning Commission with a recommendation and indicate what steps can be taken by the petitioner to move the plan, in whole or in part, toward consistency. The Director shall provide public notice of the action in the New Jersey Register and post on the Office of State Planning website.

(c) In cases where the Director determines that the petition is consistent with the guidelines for plan endorsement adopted by the State Planning Commission, the Director shall forward the report to the State Planning Commission, county representatives and the petitioner with the recommendation for plan endorsement and a plan endorsement agreement. The Director shall provide public notice of the action in the New Jersey Register and post on the Office of State Planning website.

(d) Within 60 days after receipt of the recommendation, the State Planning Commission or its duly authorized subcommittee shall review the Director's determination that the plan(s) of the petitioner is consistent with the guidelines for plan endorsement adopted by the State Planning Commission.

(e) The State Planning Commission, or its duly authorized subcommittee, reviews the determination of the Director and the basis of the findings and recommendations. Within 60 days of its decision to do so, the Commission shall act to affirm, revise or reverse the determination, findings and recommendations of the Director and will act on the petitioner's request for plan endorsement.

(f) The Director of the Office of State Planning shall, within 30 days after State Planning Commission action as set forth in (d) or (e) above, notify the petitioner in writing of the Commission's determination, findings and recommendations regarding the petition.

(g) Within 45 days of the State Planning Commission determining that the petitioner's plan is consistent or inconsistent, the Director of the Office of State Planning shall place notice of said determination in the New Jersey Register and post on the Office of State Planning website.

(h) Notice of these actions as provided above in this section shall be provided in accordance with N.J.A.C. 5:85-7.7.

New Rule, R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Former N.J.A.C. 17:32-7.6, Suspension or extension, recodified to N.J.A.C. 17:32-7.8.

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).

In (h), amended the N.J.A.C. reference.

5:85-7.7 Public notification of the Director of State Planning or Commission's disposition of plan endorsement

(a) Within 30 days of their receipt of the Director's or State Planning Commission's notification pursuant to N.J.A.C. 5:85-7.6 and 7.11, the petitioner shall provide public notice in the following manner:

1. Municipalities shall provide public notice in two newspapers of general circulation within the municipality or one newspaper and the petitioner's website, if available. Notice shall also be sent to the petitioning municipality's planning board, environmental commission, utilities authority, board of education and other boards and authorities as appropriate, to the governing body and planning board of the county within which the municipality is located and to the governing bodies and planning boards of adjoining counties and municipalities.

2. Counties shall provide public notice in two newspapers of general circulation within the county or one newspaper and the petitioner's website, if available. Notice shall also be sent to the petitioning county's planning board, utilities authority, improvement authority, economic development commission or department, and other boards and authorities as appropriate, to the governing bodies and planning boards of all municipalities within the subject county and to the governing bodies and planning boards of adjoining counties and municipalities.

3. Regional agencies shall provide public notice of their filing of a petition under this subchapter, in two newspapers of general circulation or one newspaper and the petitioner's website, if available within their jurisdiction. Notice shall also be sent to the governing bodies and planning boards of all municipalities and counties, utilities authorities, improvement authorities, economic development commissions or departments, and other boards and authorities as appropriate, within the agency's jurisdiction and the governing bodies and planning boards of adjoining counties and municipalities.

(b) Pursuant to N.J.A.C. 5:85-7.6(g) and 7.11, public notice of the action of the State Planning Commission or the Director of the Office of State Planning within 45 days shall be provided in the New Jersey Register and posted on the Office of State Planning website.

(c) All notifications required under (a) above shall contain, at a minimum, the following information:

1. The name and address of the petitioner that filed the petition;
2. A description of the action that was requested; and
3. A description and date of the disposition of the petition by the Director of the Office of State Planning and/or the State Planning Commission and that copies of the findings and recommendations are available from the Office of State Planning and from the petitioner.

(d) Newspaper notices may be published as a standard legal advertisement.

Amended by R.1993 d.367, effective July 19, 1993.

See: 25 N.J.R. 1839(a), 25 N.J.R. 3238(c).

Recodified from N.J.A.C. 17:32-7.5 and amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section.

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).

In the introductory paragraph of (a) and in (b), amended the N.J.A.C. references.

5:85-7.8 Extension of time requirements

(a) The Director of the Office of State Planning may extend, up to 60 days, the time allowed for certain actions under this subchapter in the event that the number of requests for plan endorsement and/or amendments thereto exceeds the resources of the Office of State Planning to process those requests in accordance with this subchapter.

(b) The Director of the Office of State Planning shall notify petitioners and/or county representatives of any extension of time periods resulting from (a) above.

Recodified from N.J.A.C. 17:32-7.6 and amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section.

5:85-7.9 Period of endorsement

(a) Except as provided under N.J.A.C. 5:85-7.11, plan endorsement of any municipal plan shall be for a period of six years and endorsement of county and regional plans shall be for 10 years or until readoption of the State Development and Redevelopment Plan, whichever comes first.

(b) Except as provided under N.J.A.C. 5:85-7.11, State Planning Commission approvals of existing endorsed urban complex strategic revitalization plans, corridor plans and designated centers shall be for a period as provided under (a) above, from January 7, 2002.

(c) The State Planning Commission automatically endorses those portions of municipalities certified by the Pinelands Commission as conforming to the Pinelands Comprehensive Management Plan as long as the Pinelands Commission certifies the municipality.

(d) Except as provided under N.J.A.C. 5:85-7.11, jurisdictions with designated centers, received in petitions before March 1, 2001, approved under N.J.A.C. 5:85-8 after map amendments adopted on anticipated date by the State Planning Commission shall be in effect as provided in (a) above from the date of designation by the State Planning Commission.

New Rule, R.2002 d.12, effective January 7, 2002.
See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).
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 the N.J.A.C. references throughout.

5:85-7.10 Monitoring of endorsed plans and designated centers

(a) The Director of the Office of State Planning shall periodically monitor the status and progress of endorsed plans and designated centers and the plan endorsement agreement and/or planning and implementation agenda during the term of plan endorsement and/or center designation and forward all reports to the State Planning Commission.

(b) Municipalities, counties or regional agencies with endorsed plans and/or designated centers approved under this subchapter or under N.J.A.C. 5:85-8 prior to map amendments adopted on anticipated date by the State Planning Commission shall be required to provide reports, biennially or within six months after a new or revised plan, ordinance or regulation is adopted, to the Director of the Office of State Planning and the general public on the status of their plan endorsement agreement and/or planning and implementation agenda efforts. The report submitted to the Director shall also include copies of any revisions to the petitioner's plan, reexamination reports, land development regulations, Board of Adjustment reports or other implementation measures adopted since plan endorsement and/or center designation by the State Planning Commission or the last report submitted and, in the report, how these items are consistent with the guidelines for plan endorsement adopted by the State Planning Commission and the endorsed plan, including plans of designated centers, and terms of a plan endorsement agreement and/or planning and implementation agenda.

(c) If a complaint is received by the Office of State Planning or the State Planning Commission of failure to comply with the terms of an endorsed plan, including plans of designated centers, plan endorsement agreement or planning and implementation agenda, the Director of the Office of State Planning shall investigate and report to the State Planning Commission.

New Rule, R.2002 d.12, effective January 7, 2002.
See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).
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).
Rewrote the section.

5:85-7.11 Revocation of plan endorsement and/or center designation

(a) If at any time the Director finds that a jurisdiction has made substantial changes to or has substantially violated the terms of its endorsed plan and/or designated center, planning and implementation agenda or plan endorsement agreement so that its endorsed plan, and/or designated center, may be inconsistent with the guidelines for plan endorsement adopted by the State Planning Commission, and the endorsed plan, plans of the designated centers, or the terms of a plan endorsement agreement and/or planning and implementation agenda, the Director shall prepare and forward a monitoring report to the State Planning Commission recommending that plan endorsement and/or center designation be revoked, and, where appropriate, the plan endorsement agreement invalidated and shall inform the petitioner, county representatives and the State Planning Commission in writing of the reasons therefor. If the Director recommends revocation of plan endorsement or center designation, notice of said recommendation shall be published in the New Jersey Register and posted on the Office of State Planning website.

(b) Prior to the Director recommending that plan endorsement and/or center designation be revoked, the Office of State Planning shall hold a public hearing in the jurisdiction to receive testimony on the status and progress of the jurisdiction's implementation of the endorsed plan and/or designated center. Notice of this hearing shall be provided by the Director of the Office of State Planning in accordance with N.J.A.C. 5:85-7.5(f). Copies of the minutes of this public hearing shall include a summary of public comments and copies of written comments filed before, or presented at, the public hearing.

(c) Notice of possible action by the State Planning Commission, or its duly authorized subcommittee, to consider the monitoring report of the Director of the Office of State Planning shall be provided by the Director of the Office of State Planning through a press release to two newspapers of general circulation within the municipality, county or region and on the Office of State Planning website 14 days before the meeting. Ten days before the meeting, the Office shall publish a display ad in one of the newspapers of general circulation.

(d) Within 60 days of the issuance of the monitoring report by the Director, the State Planning Commission, or its duly authorized subcommittee, shall review the report of the Director and the basis of findings and recommendations, and the State Planning Commission may act to affirm, amend or revoke plan endorsement and/or center designation.

(e) The Director of the Office of State Planning shall, within 30 days after State Planning Commission action, as set forth in (d) above, notify the petitioner and county representatives in writing of the Commission's determina-

tion, findings and recommendations regarding the review of the monitoring report on the endorsed plan and/or designated center and the plan endorsement agreement and/or planning and implementation agenda.

(f) Notice of the action by the State Planning Commission shall be provided in accordance with N.J.A.C. 5:85-7.6(g).

New Rule, R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

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).

Rewrote (a); in (b) and (d), inserted references to center designations following references to plan endorsements and references to designated centers following references to endorsed plans; rewrote (e); in (f), amended the N.J.A.C. reference.

5:85-7.12 Petitions to amend endorsed plans, plan endorsement agreements, and/or planning and implementation agendas, or seeking minor map amendments

(a) Petitions to amend the endorsed plans, plan endorsement agreements and/or planning and implementation agenda of an endorsed plan shall be submitted to the State Planning Commission and Director of the Office of State Planning, who shall serve as agent for the State Planning Commission in the administration of this subchapter.

(b) Petitions to amend an endorsed plan, plan endorsement agreement and/or the planning and implementation agenda of an endorsed plan may be submitted by a county, municipality, regional, or State agency, but only during the biennial reporting of the status and progress of the planning and implementation agenda and plan endorsement agreement, unless it can be demonstrated that, for special reasons, the proposed amendment cannot await the next biennial reporting.

(c) A petition to amend an endorsed plan, plan endorsement agreement and/or a planning and implementation agenda of an endorsed plan shall include, at a minimum:

1. The petitioner's name, address and telephone number, including the same information for the duly authorized agent, if any, who will present the petition, with proof of authorization;

2. A statement describing the petitioner's interest in the endorsed plan, plan endorsement agreement and/or the planning and implementation agenda, including at a minimum, its public policy (planning and/or regulatory) interests;

3. A statement describing:

i. How the amendment promotes local, regional and State goals and objectives;

ii. How the amendment will impact public sector decisions; and

iii. The reason(s) why the amendment cannot await the next biennial reporting;

4. A report describing:

i. How the proposed amendment is consistent with the guidelines for plan endorsement adopted by the State Planning Commission and the endorsed plan; and

(1) How the amendment helps the municipality, county, regional and State agencies achieve consistency with the State Development and Redevelopment Plan and the endorsed plan; or

(2) Why the current endorsed plan, plan endorsement agreement and/or the planning and implementation agenda cannot be implemented;

5. Copies of the minutes of the public meeting where the resolution to petition to amend the endorsed plan, plan endorsement agreement and/or planning and implementation agenda was reviewed and approved. The minutes shall include a summary of public comments and copies of written comments filed before or at the public meeting; and

6. Ten copies, and one electronic copy, of the petitioner's proposed amendment.

(d) Municipalities shall provide public notice of their filing of a proposed amendment in two newspapers of general circulation within the municipality or one newspaper and the petitioner's website, if available, prior to their submission of the proposed amendment. Notice shall also be sent to the petitioning municipality's planning board, environmental commission, utilities authority, board of education and other boards and authorities as appropriate, to the governing body and planning board of the county within which the municipality is located and to the governing bodies and planning boards of adjoining counties and municipalities.

(e) Counties shall provide public notice of their filing of a proposed amendment in two newspapers of general circulation within the county or one newspaper and the petitioner's website, if available, prior to their submission of a proposed amendment. Notice shall also be sent to the petitioning county's planning board, utilities authority, improvement authority, economic development commission or department, and other boards and authorities as appropriate, to the governing bodies, environmental commissions, boards of education and planning boards of all municipalities within the subject county and to the governing bodies and planning boards of adjoining counties and municipalities.

(f) Regional agencies shall provide public notice of their filing of a proposed amendment in two newspapers of general circulation or one newspaper and the petitioner's website, if available within their jurisdiction. Notice shall also be sent to the governing bodies and planning boards of all municipalities and counties, utilities authorities, improvement authorities, economic development commissions or departments, and other boards and authorities as appropriate, within the agency's jurisdiction and to the governing bodies, environmental commissions and boards of education and planning boards of adjoining counties and municipalities.

(g) Proper authorization and endorsement for a municipality, county or regional agency, shall include a resolution of the governing body authorizing submission of the petition.

(h) The Director shall publish notice of the petition in the New Jersey Register, put notice of the petition on the Office of State Planning website and post a summary of the petition on the website. This action should provide notice to individuals or organizations that they may register to receive future notices of hearings, copies of modifications and actions on the petition.

(i) The Director shall, after consultation with all the parties to a plan endorsement agreement, complete a review of a petition to amend an endorsed plan, plan endorsement agreement and/or planning and implementation agenda and prepare a determination and findings regarding the degree to which the subject amendment is consistent with the guidelines for plan endorsement adopted by the State Planning Commission and the endorsed plan.

(j) The Director shall forward the determination, findings and recommendations to the State Planning Commission, the petitioner and parties to the plan endorsement agreement.

(k) The State Planning Commission, or its duly authorized subcommittee, may, at its discretion, review the determination, findings and recommendations of the Director of the Office of State Planning regarding amending the endorsed plan, plan endorsement agreement and/or planning and implementation agenda. The Commission, or its duly authorized subcommittee, shall declare its intention to review the Director's determination within 30 days of its receipt of the Director's report pursuant to (e) above.

(l) If the Commission, or its duly authorized subcommittee, does not declare its intention to review the Director's findings and recommendations within the 30-day period, the Director's determination shall stand.

(m) If the Commission, or its duly authorized subcommittee, decides to review the determination of the Director, within 60 days of its decision, the State Planning Commission may act to affirm, revise or reverse the determination, findings and recommendations of the Director.

(n) The Director of the Office of State Planning shall, within 30 days after State Planning Commission action, or nonaction, as set forth in (l) or (m) above, notify the petitioner and parties to the plan endorsement agreement in writing of the Commission's determination, findings and recommendations regarding the amendment to the endorsed plan, plan endorsement agreement and/or planning and implementation agenda and shall issue a notice pursuant to N.J.A.C. 5:85-7.6(g).

(o) Counties, municipalities and regional agencies with endorsed plans desiring minor map amendments shall follow the procedures established under N.J.A.C. 5:85-8.7.

New Rule, R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

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).

In (c), inserted "and/or" following "agreement" and substituted "meeting" for "hearing" following "public" in 5 and substituted "and" for "or" in 6; in (h), substituted "summary" for "copy" preceding "of the petition"; in (n) and (o), amended the N.J.A.C. references.

5:85-7.13 State agency notification of endorsement approval, amendment, or revocation

The Director shall provide written notification of the Commission's or Director's approval, amendment, or revocation of plan endorsement within 30 days, along with a copy of the plan endorsement agreement and revision to the State Plan Policy Map, to State agency commissioners, secretaries and administrative heads.

New Rule, R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

5:85-7.14 State agency functional plans (Reserved)

SUBCHAPTER 8. AMENDMENT OF THE STATE PLAN POLICY MAP

5:85-8.1 State Plan Policy Map

(a) The official map of the State Development and Redevelopment Plan is entitled the "State Plan Policy Map" (SPPM) and is comprised of a series of maps corresponding to the 1:24,000 scale United States Geological Survey (U.S.G.S.) 7.5 minutes topographic quadrangle maps comprising the geographic area of the State of New Jersey.

(b) Each said quadrangle map is labeled "SPPM" and reflects at a minimum the following State Planning Commission approved delineations and information:

1. Planning areas;
2. Endorsed plans;
3. Identified, proposed or designated centers;
4. Center boundaries;
5. Cores and nodes;
6. Critical environmental sites and historic and cultural sites;
7. Parks and natural areas;
8. Military installations; and

9. The certification signature, and appropriate initialing of revisions, if any, by the Secretary of the Commission.

(c) Any other graphic representation, at any scale, of delineations and other pertinent data contained on the State Plan Policy Map that is included in the State Development and Redevelopment Plan or any other document, is for illustrative purposes only and is not to be considered the official map of the State Plan as outlined in (a) and (b) above.

Amended by R.2002 d.12, effective January 7, 2002.
See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).
Rewrote the section.

5:85-8.2 Purpose

(a) In most cases, the State Plan Policy Map reflects the intergovernmental consensus arrived at during the cross-acceptance process. While the cross-acceptance process provided sufficient data, coordination and dialogue to prepare the State Plan Policy Map, new research, conditions and events may also suggest appropriate changes to the State Plan Policy Map. The purpose of this subchapter, therefore, is to create a process for amending the State Plan Policy Map after adoption of the State Development and Redevelopment Plan in order to accommodate such newly discovered or newly important conditions, situations or knowledge that emerge as the State Plan is applied by State and regional agencies, as well as to update the State Plan Policy Map as progress is made by municipalities and counties in their own planning, beyond cross-acceptance, for consistency with the State Development and Redevelopment Plan. In addition, it is necessary to address future conditions (planning area changes and designated centers) that evolve through the plan endorsement process. It is the intention of the State Planning Commission to endorse consistent plans and to enter into plan endorsement agreements with local governments and State agencies for incorporation into future State agency policy decisions.

(b) It is not the purpose of this process to provide for amendments to the State Plan Policy Map to reflect, or "validate," land use changes or to serve as a legal basis for making such changes. There is no site specific change of land use that is inherently inconsistent with the State Plan. To the extent that such a change of use may be inconsistent with another public entity's plan, code, ordinance or regulation formulated to be consistent with the State Plan, and as a result be disapproved by that entity, resolution of the issue resides with that public entity and the interested or aggrieved party.

(c) Individuals, organizations and State agencies considering submitting a petition to the State Planning Commission to amend the State Plan Policy Map are encouraged to submit petitions for a letter of clarification pursuant to N.J.A.C. 5:85-6, where the petition to amend may involve a clarification of a provision of the State Development and Redevelopment Plan relative to the geographic area in question.

Amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section.

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).

In (a), inserted "State Plan Policy" preceding "Map" in the second sentence; in (c), amended the N.J.A.C. reference.

5:85-8.3 Eligibility

(a) The State Planning Commission may initiate amendments to the State Plan Policy Map based on new information related to the policies and delineation criteria of the State Plan. The State Planning Commission shall prepare and distribute to appropriate municipalities, counties, State agencies and regional entities justification for requesting State Plan Policy Map amendments.

(b) Any State agency, county or municipal governing body, and private citizen or organization may submit a petition to the State Planning Commission to amend the State Plan Policy Map.

(c) Municipalities, counties and regional agencies without endorsed plans pursuant to N.J.A.C. 5:85-7 may not petition for a map amendment under this subchapter unless the map amendment meets the criteria established for a minor map amendment. For minor map amendments, the procedures established under this subchapter shall apply. For any other map amendment, the procedures established by N.J.A.C. 5:85-7 shall apply.

(d) The State Planning Commission may consider the following petitions:

1. Petitions to amend planning areas supported by new or updated capacity based planning information, as defined in the State Development and Redevelopment Plan, that would realign the boundary(ies) of planning areas;
2. Petitions to amend centers supported by new or updated capacity based planning information, as defined in the State Development and Redevelopment Plan, that:
 - i. De-designate, or otherwise eliminate, a center that was identified, proposed or designated in the State Plan; or
 - ii. Delineate, or adjust the delineation of, a "center boundary" of an existing designated center(s);
3. Petitions to include new critical environmental sites or historic and cultural sites on, or modify or remove existing critical environmental sites or historic and cultural sites from, the State Plan Policy Map based on new information related to the criteria for such sites found in the State Development and Redevelopment Plan;

4. Petitions to include parks, natural areas and military installations, or modify or remove parks, natural areas and military installations from, the State Plan Policy Map based on new information related to the criteria for such sites found in the State Development and Redevelopment Plan; and

5. Petitions to amend, modify or eliminate cores and nodes in an endorsed plan.

Amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

In (a), substituted "State Plan Policy Map" for "Resource Planning and Management Map"; inserted new (b); recodified former (b) as (c) with substantive amendments.

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).

Added a new (a); recodified former (a) as (b); recodified former (b) as (c) and amended the N.J.A.C. references throughout; recodified former (c) as (d).

5:85-8.4 Notification of petition filing

(a) Notice of minor map amendments shall be provided in accordance with N.J.A.C. 5:85-8.4 and 8.7(b). Notice of all other map amendments shall be provided in accordance with N.J.A.C. 5:85-8.4, and with N.J.A.C. 5:85-8.7(b) if the map amendment involves no more than 10 different owners of lots as shown on current tax records.

(b) Municipalities shall provide public notice of their filing of a petition under this subchapter, in two newspapers of general circulation within the municipality or in one newspaper and the petitioner's website, if available, prior to their submission of a petition to amend the State Plan Policy Map. Notice shall also be sent to the petitioning municipality's planning board, environmental commission, utilities authority, board of education, and other boards and authorities as appropriate, to the governing body and planning board of the county within which the municipality is located and to the governing planning boards of adjoining municipalities.

(c) Counties shall provide public notice of their filing of a petition under this subchapter, in two newspapers of general circulation within the county or in one newspaper and the petitioner's website, if available, prior to their submission of a petition to amend the State Plan Policy Map. Notice shall also be sent to the petitioning county's planning board, utilities authority, improvement authority, economic development commission or department and other boards and authorities as appropriate, and to the governing bodies, environmental commissions, boards of education and planning boards of all municipalities within the subject county and to the governing bodies and planning boards of adjoining counties and municipalities.

(d) Regional agencies shall provide public notice of their filing of a petition under this subchapter, in two newspapers of general circulation within the county(ies) and municipality(ies) effected by the petition or one newspaper and the petitioner's website, if available, prior to their submission of a petition to amend the State Plan Policy Map. Notice shall also be sent to the governing body, planning board, environ-

mental commission, utilities authority, board of education, and other boards and authorities as appropriate, of the subject county(ies) and to the governing bodies and planning boards of adjoining states, counties and municipalities.

(e) Except as provided in N.J.A.C. 5:85-8.7, an individual or organization shall provide notice of their filing of a petition under this subchapter, in two newspapers of general circulation within the county(ies) and municipality(ies) effected by the petition or one newspaper and the petitioner's website, if available, prior to their submission of a petition to amend the State Plan Policy Map. Notice shall also be sent to the governing body, planning boards environmental commission, utilities authority, board of education, and other boards and authorities as appropriate, of the subject county(ies) and to the governing bodies and planning boards of adjoining states, counties and municipalities.

(f) State agencies shall provide notice of their filing of a petition under this subchapter, in two newspapers of general circulation within the county(ies) and municipality(ies) effected by the petition, or one newspaper and the petitioner's website, if available, prior to their submission of a petition to amend the State Plan Policy Map. Notice shall also be sent to the governing body, planning board, environmental commission, utilities authority, board of education, and other boards and authorities as appropriate, of the subject county(ies) and the governing bodies and planning boards of adjoining counties and municipalities.

(g) All notifications required under this section shall contain, at a minimum, the following information:

1. The name and address of the petitioner filing the petition;
2. A description of the action being requested;
3. Where copies of the petition and supporting documentation can be examined; and
4. Instructions to forward comments on said petition to both the petitioner and the Director of the Office of State Planning within 30 days of the publication notice.

(h) Newspaper notices may be published by municipalities, counties and regional agencies as a standard legal advertisement. State agency, individual or organization newspaper notices shall be published as a display ad.

Amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section.

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).

Added a new (a); recodified former (a) through (c) as (b) through (d); recodified former (d) as (e) and amended the N.J.A.C. reference; recodified former (e) through (g) as (f) through (h).

5:85-8.5 Procedures

(a) Petitions to amend the State Plan Policy Map shall be submitted to the Director of the Office of State Planning, who shall serve as agent for the State Planning Commission in the administration of these rules. Ten copies and one electronic copy of the petition documentation required under (b)3 and 4 below shall be submitted.

(b) A petition to amend the State Plan Policy Map shall include at a minimum:

1. Petitioner's name, address and telephone number, including the same information for the duly authorized agent, if any, who will represent the petitioner, with proof of authorization;

2. A statement describing the petitioner's interest in the land area under consideration, including, at a minimum:

i. For a public entity, its public policy (planning and/or regulatory) interests;

ii. For an individual or organization, his, her or its financial, ownership or contractual interests and a description of any pertinent regulatory actions occurring during the immediate past five years or planned/anticipated in the next three years regarding the use of the property; and

3. A statement describing:

i. How the amendment promotes local, regional and State goals and objectives;

ii. How the amendment will impact public sector decisions; and

iii. The reason(s) why the amendment cannot await the triennial revision of the State Development and Redevelopment Plan; and

4. A report describing:

i. How the proposed amendment is consistent with the provisions of the State Development and Redevelopment Plan and any municipal, county or regional plan endorsed by the State Planning Commission, citing the pertinent provisions in each plan; and

ii. How the amendment helps the municipality, county regional agencies achieve consistency with the State Development and Redevelopment Plan, and any municipal, county or regional plan endorsed by the State Planning Commission;

5. Copies of the minutes for the public meeting where the map amendment petition resolution was reviewed and of the meeting at which, it was approved. The minutes shall include a summary of public comments and copies of written comments filed before, or presented at, the public meeting;

6. Boundaries of current and proposed State Plan Policy Map planning areas, centers, cores, nodes, critical environmental sites and historic and cultural sites, parks and military installations on municipal zoning maps and on map(s), at a scale of 1:24,000 on drafting film and corresponding to U.S.G.S. 7.5 minutes topographic quadrangle maps or in digital files conforming to national standards of 1:24,000 scale accuracy and as provided in guidelines established by the Office of State Planning; and

7. Proper authorization and endorsement as follows:

i. For a municipality, county or regional agencies, the petition shall include a resolution of the governing body authorizing submission of the petition;

ii. For a State agency, the petition shall include a transmittal letter on letterhead from the departmental Commissioner or Secretary requesting consideration of the petition;

iii. For a private organization, the petition shall include a certified copy of the authorization to submit the petition; and

iv. For an individual, at the discretion of the petitioner, the petition may include endorsements of the amendment by public and private organization.

(c) In cases where the petition to amend the State Plan Policy Map is submitted by an entity other than the municipality or county within which the subject geographic area is located, the Director of the Office of State Planning shall forward one copy of the petition to the appropriate municipal and county governing body(ies) and planning board(s) for their review and comment. If no comment is received within 90 days after mailing said petition, the municipality and/or county shall be deemed to have no comment on the petitioner's request.

(d) If the State Planning Commission initiates a map amendment, the Director of the Office of State Planning shall notify the appropriate municipal and county governing body(ies) and planning board(s) for their review and comment. If no comment is received within 90 days after mailing said notice, the municipality and/or county shall be deemed to have no comment on the proposed map amendment. The Director of the Office of State Planning shall also put notice that the State Planning Commission has resolved to initiate a map amendment on the Office of State Planning website and in the New Jersey Register. This action should provide notice to individuals or organizations that they may register to receive future notices of hearings, copies of proposed amendments and actions on the proposed amendments.

(e) The Office of State Planning shall hold a public hearing in an appropriate jurisdiction to receive testimony on the petition or map amendment initiated by the State Planning Commission. Notice of this hearing shall be provided through a press release to two newspapers of general circulation within the municipality, county or region and on the Office of State Planning website 14 days before the hearing. Ten days before the hearing, the Office shall publish a display ad in one of the newspapers of general circulation. Copies of the minutes of this public hearing shall include a summary of public comments and copies of written comments filed before, or presented at, the public hearing.

(f) The State Planning Commission may, at its discretion, appoint one or several subcommittees to hear and review petitions and map amendments initiated by the State Planning Commission. Except as provided otherwise in this subchapter, only the Commission may act on a petition.

(g) Upon receipt of a complete petition, the Director of the Office of State Planning shall put notice of the petition on the Office of State Planning website and in the New Jersey Register and post a summary of the petition on the website. This action should provide notice to individuals or organizations that they may register to receive future notices of hearings, copies of modifications and actions on the petition.

(h) The Director of the Office of State Planning shall ensure prompt review of the petition and submit both the petition and the Director's recommendation(s) to the State Planning Commission or its duly authorized subcommittee(s), if any.

(i) All meeting(s) of the State Planning Commission, or its duly authorized subcommittee(s), to consider petitions shall be conducted in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-1 et seq., and opportunity shall be provided to the public at all said meetings to comment on petition(s) being considered prior to action being taken.

(j) The State Planning Commission or the Director of the Office of State Planning shall consider the complete petition in accordance with this subchapter within a period of 120 days after receipt of the petition, or 210 days in the event a petition is forwarded for municipal or county comment pursuant to (c) above, or in a period of time established pursuant to N.J.A.C. 5:85-8.9.

Amended by R.2002 d.12, effective January 7, 2002.
See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section. Recodified (f) through (i) with amendments as N.J.A.C. 17:32-8.6

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).

Rewrote the section.

5:85-8.6 When the Director of the Office of State Planning may disapprove petitions

(a) The Director of the Office of State Planning may disapprove petitions to amend the State Plan Policy Map under the following circumstances:

1. The petition is incomplete, contains false information or is improperly submitted;
2. The petition involves land areas that have been the subject of a previous petition submitted and disposed of in accordance with N.J.A.C. 5:85-7 or this subchapter within the previous six years;
3. The petition involves land areas that are actively under regulatory review at any level of government (active regulatory review includes the filing of an application

under the Municipal Land Use Law, the County Planning Act or any other State, county or Federal permit process);

4. The petition requests an amendment that conflicts with the criteria for planning areas, centers, critical environmental sites, historic and cultural sites, parks and military installations set forth in the State Development and Redevelopment Plan;

5. The petition is based on an improper application of, or a misunderstanding of, the role of the State Development and Redevelopment Plan, as described in N.J.A.C. 5:85-8.2(b);

6. In the case of planning areas, the petition involves or results in a land area smaller than one square mile in size; or

7. For reasons not anticipated in this rule but, in the judgment of the Director of the Office of State Planning, the petition conflicts with the purposes described in N.J.A.C. 5:85-8.2 for providing this amendment process, in which case the Director shall advise the State Planning Commission to act in emergency and subsequently, but with reasonable speed, to promulgate appropriate amendments to these rules.

(b) In cases where petitions are disapproved pursuant to (a) above, the Director of the Office of State Planning shall inform the petitioner and the State Planning Commission in writing of the reasons therefor, provide notice in the New Jersey Register and on the Office of State Planning website.

Recodified from N.J.A.C. 17:32-8.5(f) through (i) and amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Former N.J.A.C. 17:32-8.6, Notification of disposition, recodified to N.J.A.C. 17:32-8.8.

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).

In (a), amended the N.J.A.C. references in 2, 5 and 7.

5:85-8.7 Disposition of minor map amendments

(a) The Director of the Office of State Planning may take final action on a petition for a minor map amendment as defined in N.J.A.C. 5:85-1.4 if the proposed amendment is consistent with the provisions of the State Development and Redevelopment Plan and a municipal, county or regional plan endorsed by the State Planning Commission.

(b) Said petitions are subject to all the requirements of this subchapter. In addition to the requirements for notification as provided in N.J.A.C. 5:85-8.4, notice shall be provided to owners of property which is the subject of the petition and all property owners within 200 feet of the boundary of the proposed map amendment and the Director shall put notice of the petition on the Office of State Planning website and in the New Jersey Register and post a summary of the petition on the Office of State Planning website. This action should provide notice to individuals or organizations that they may register to receive future notices of hearings, copies of modifications and actions on the petition.

(c) The Director shall forward a report containing his or her determination and findings to the petitioner, the county and the State Planning Commission. The Director's determination shall be placed in the New Jersey Register and on the Office of State Planning website.

(d) The State Planning Commission, or its duly authorized subcommittee, may, at its discretion, review the determination and findings of the Director of the Office of State Planning regarding amending the State Plan Policy Map. The Commission, or its duly authorized subcommittee, shall declare its intention to review the Director's determination within 30 days of its receipt of the Director's report pursuant to (c) above.

(e) If the Commission, or its duly authorized subcommittee, does not declare its intention to review the Director's findings and recommendations within the 30-day period under (d) above, the Director's determination shall stand.

(f) If the Commission, or its duly authorized subcommittee, decides to review the determination of the Director, the State Planning Commission may, within 60 days of decision, act to affirm, revise or reverse the determination and findings of the Director.

(g) The Director of the Office of State Planning shall, within 30 days after State Planning Commission action, or nonaction, as set forth in (e) or (f) above, notify the petitioner in writing, provide notice in the New Jersey Register and on the Office of State Planning website of the Commission's determination and findings regarding the amendment to the State Plan Policy Map.

New Rule, R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Former N.J.A.C. 17:32-8.7, Suspension or extension of time requirements, recodified to N.J.A.C. 17:32-8.9.

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).

In (a), amended the N.J.A.C. reference; in (b), rewrote the second sentence.

5:85-8.8 Notification of disposition

(a) The Director of the Office of State Planning shall, within 30 days after State Planning Commission action, notify the petitioner in writing and provide notice in the New Jersey Register and on the Office of State Planning website, of the Commission's disposition of the petition. Within 30 days of receipt of this notice, the petitioner shall provide public notice as follows:

1. Municipalities shall provide public notice of the disposition of their petition under this subchapter, in two newspapers of general circulation within the municipality or one newspaper and the petitioner's website, if available. Notice shall also be sent to the petitioning municipality's planning board, environmental commission, utilities authority, board of education, and other boards and authorities as appropriate, to the governing body and planning board of the county within which the municipality is located and to the governing bodies and planning boards of adjoining counties and municipalities.

2. Counties shall provide public notice of the disposition of their petition under this subchapter, in two newspapers of general circulation within the county or one newspaper and the petitioner's website, if available. Notice shall also be sent to the petitioning county's planning board, utilities authority, improvement authority, economic development commission or department and all other boards and authorities as appropriate, and to the governing bodies, environmental commission, boards of education and planning boards of all municipalities within the subject county and to the planning boards of any adjoining counties and municipalities.

3. Regional agencies shall provide public notice of the disposition of their petition under this subchapter, in two newspapers of general circulation within the county or one newspaper and the petitioner's website, if available. Notice shall also be sent to the petition county's planning board, utilities authority, improvement authority, economic development commission or department and all other boards and authorities as appropriate, and to the governing bodies, environmental commissions, boards of education and planning boards of all municipalities within the subject county and to the governing bodies and planning boards of any adjoining counties and municipalities.

4. An individual or organization shall provide notice of the disposition of their petition under this subchapter, in two newspapers of general circulation within the county(ies) and municipality(ies) effected by the petition. Notice shall also be sent to the governing body and planning board, environmental commission, utilities authority, board of education, and other boards and authorities as appropriate, of the subject county(ies) and municipality(ies) and to the governing bodies and planning boards of any adjoining counties and municipalities.

5. State agencies shall provide notice of the disposition of their petition under this subchapter, in two newspapers of general circulation or one newspaper and the petitioner's website, if available, within the county(ies) and municipality(ies) effected by the petition. Notice shall also be sent to the governing body, planning board, environmental commission, utilities authority, board of education, and other boards and authorities as appropriate, of the subject county(ies) and municipality(ies) and to the governing bodies and planning boards of any adjoining counties and municipalities.

(b) All notifications required under (a) above shall contain, at a minimum, the following information:

1. The name and address of the petitioner that filed the petition;
2. A description of the action that was requested; and
3. A description and date of the Director's or State Planning Commission's disposition of the petition.

(c) Municipal, county and regional newspaper notices may be published as a standard legal advertisement. State agency, individual or organization newspaper notices shall be published as a display ad.

(d) The Director of the Office of State Planning shall, within 30 days after State Planning Commission action, provide notice of the disposition of any amendment to the State Plan Policy Map initiated by the State Planning Commission to the appropriate municipal and county governing body(ies) and planning board(s) and provide notice in the New Jersey Register and on the Office of State Planning website.

Recodified from N.J.A.C. 17:32-8.6 and amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section.

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).

Rewrote (a); added (d).

5:85-8.9 Extension of time requirements

(a) The Director of the Office of State Planning may extend for 60 days the time allowed for certain actions

under this subchapter in the event that the number of requests for amendments to the State Plan Policy Map exceeds the resources of the Office of State Planning to process those requests in accordance with this subchapter.

(b) The Director of the Office of State Planning shall notify petitioners of any extension of time periods resulting from (a) above.

Recodified from N.J.A.C. 17:32-8.7 and amended by R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).

Rewrote the section.

5:85-8.10 State agency notification of amendment to the State Plan Policy Map

The Director shall provide written notification of the Commission's or Director's approval of an amendment to the State Plan Policy Map within 30 days, along with a copy of revision to the State Plan Policy Map, to State agency commissioners, secretaries and administrative heads.

New Rule, R.2002 d.12, effective January 7, 2002.

See: 33 N.J.R. 1511(a), 34 N.J.R. 285(a).