

**CHAPTER 85**  
**STATE PLANNING RULES**

**Authority**

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

**Source and Effective Date**

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

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 85, State Planning Rules, expires on August 21, 2015. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

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

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

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

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

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

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

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

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 5:85-1.1 Title and citation
- 5:85-1.2 Purpose and authority

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

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

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

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

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

**SUBCHAPTER 4. PROCEDURES FOR NEGOTIATING PLANS**

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

**SUBCHAPTER 5. PROCEDURES FOR ADOPTING THE FINAL PLAN**

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

**SUBCHAPTER 6. (RESERVED)**

**SUBCHAPTER 7. PLAN ENDORSEMENT**

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

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

## APPENDIX. (RESERVED)

## SUBCHAPTER 8. THE STATE PLAN POLICY MAP

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

## SUBCHAPTER 1. GENERAL PROVISIONS

**5:85-1.1 Title and citation**

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

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

**5:85-1.2 Purpose and authority**

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

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

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

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

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

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

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

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

**5:85-1.3 Applicability**

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

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

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

**5:85-1.4 Definitions**

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

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

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

as to whether or not a plan that is the subject of a petition for plan endorsement is consistent with the State Plan as described in N.J.A.C. 5:85-7.13 and the petitioner has fulfilled all requirements for plan endorsement as described in this chapter and relevant parts of the Plan Endorsement Guidelines. In the event the Executive Director determines the plan is consistent with the State Plan, then the Executive Director shall prepare a recommendation report to the Commission for its consideration, within 60 days of the conclusion of the 90-day consistency review period, containing detailed findings and conclusions to support the determination. The Executive Director may then issue a Certificate of Eligibility to petitioner pursuant N.J.A.C. 5:85-7.16. The Commission shall then consider the petition pursuant to N.J.A.C. 5:85-7.19.

(b) If the Executive Director determines that additional action must be taken to complete the self-assessment, visioning or other action necessary to achieve consistency, the Executive Director shall, in consultation with the relevant State agencies and petitioner, develop a draft Memorandum of Understanding and draft Action Plan pursuant to this subchapter. The Action Plan may include designation of an interim center, including a map depicting same. The Executive Director shall submit the drafts to the Commission for its consideration at a public hearing and petitioner shall continue to pursue plan endorsement as described in further detail below.

1. If the State Planning Commission determines that the self-assessment and visioning process steps have been performed, or that a waiver of these requirements has been properly granted, and the terms and conditions of the draft Action Plan and draft Memorandum of Understanding are appropriate to achieve consistency, then the Commission shall execute the Memorandum of Understanding and direct the Executive Director to issue a Certificate of Eligibility pursuant to N.J.A.C. 5:85-7.16.

2. If the State Planning Commission determines that the self-assessment and visioning are not acceptable or that the terms and conditions of the draft Action Plan and draft Memorandum of Understanding are not appropriate to achieve consistency, then it shall revise the draft Action Plan so that it is appropriate to achieve consistency, execute the Memorandum of Understanding and direct the Executive Director to issue a Certificate of Eligibility pursuant to N.J.A.C. 5:85-7.16.

3. If the Executive Director fails to provide a draft Action Plan and draft Memorandum of Understanding to the State Planning Commission and petitioner within the 90-day consistency review period, then petitioner may directly petition the State Planning Commission for plan endorsement, pursuant to N.J.A.C. 5:85-7.18.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).

In (a), substituted "items submitted pursuant to" for "a complete petition as defined in", "60" for "45" and "the conclusion of the 90-day consistency review period" for "receipt of the complete petition", and inserted "as described in N.J.A.C. 5:85-7.13"; and in the introductory

paragraph of (b), deleted a comma following "visioning", inserted the second sentence and substituted "The" for "Then, the" preceding the last occurrence of "Executive Director".

### **5:85-7.15 Action Plan and Memorandum of Understanding adoption, submission and completion**

(a) Within 60 days of the State Planning Commission's execution of the Memorandum of Understanding pursuant to N.J.A.C. 5:85-7.14(b), or within a reasonable period of time as agreed to by the Executive Director, the petitioner shall authorize execution of the Memorandum of Understanding by resolution at a public hearing of the governing body, or the relevant planning entity for a regional, county or special resource area plan, to commit to complete the requirements identified in the Action Plan to achieve endorsement of the petitioner's plan.

1. Petitioner shall consider adoption of the Memorandum of Understanding and Action Plan at a public hearing of the relevant governing body or planning entity.

2. Municipal petitioners shall present the Memorandum of Understanding and Action Plan to both the planning board and governing body, which can be at the same or separate public hearings. The planning board and governing body may choose to hold a joint public hearing to consider adoption of the Memorandum of Understanding and Action Plan.

3. Petitioner shall submit the fully executed Memorandum of Understanding to the Executive Director. Submission of the executed Memorandum of Understanding shall include the following:

i. Proof of public notice pursuant to N.J.A.C. 5:85-1.7 for all required public meetings and hearings in the form of an affidavit of publication;

ii. A certified resolution from the governing body, or the relevant planning entity for a regional plan or special resource area plan, approving execution of the Memorandum of Understanding;

iii. A copy of the meeting minutes of each public meeting and hearing at which the Memorandum of Understanding and Action Plan were reviewed. The minutes shall include a summary of public comments and copies of written comments filed before or during the public hearing(s); and

iv. A copy of the certified resolution authorizing execution of the Memorandum of Understanding, a copy of the executed Memorandum of Understanding, and a copy of the approved Action Plan.

(b) If petitioner fails to execute the Memorandum of Understanding to enter into the Action Plan with the State Planning Commission within 60 days of the Commission's execution of the Memorandum of Understanding, or within a reasonable period of time as agreed to by the Executive

Director, in consultation with relevant State agencies, the petition will be considered to have been withdrawn without prejudice and the petitioner so notified. Notice of any such withdrawal shall be provided by the Office of Smart Growth to the petitioner, and the Commission pursuant to N.J.A.C. 5:85-1.7(h) and 7.4(b).

(c) An approved Action Plan may only be amended for good cause shown at the discretion of the Executive Director. Notice of any amendments to an Action Plan shall be provided to the Commission and the public pursuant to N.J.A.C. 5:85-1.7(h) and 7.4(b).

(d) Interim centers shall remain designated for two years provided petitioner continues making progress in following the Action Plan. Interim centers may be revoked by the Commission in the event petitioner fails to satisfy action plan deadlines, based on a recommendation by the Executive Director, in consultation with relevant State agencies. Boundaries of interim centers shall be used to define boundaries of designated centers and may only be amended if they are shown to be inconsistent with the State Plan as determined by the Commission.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).

In the introductory paragraph of (a), substituted "relevant" for "regional" and "county" for "plan"; in (a)1, deleted "regional" preceding "planning"; in (a)3i, inserted "pursuant to N.J.A.C. 5:85-1.7" and "in the form of an affidavit of publication"; in (a)3ii, substituted "relevant" for "regional"; in (a)3iii, substituted "The minutes shall include" for "and adopted includes"; in (b), inserted "in consultation with relevant State agencies,"; and added (d).

### 5:85-7.16 Certificate of Eligibility

(a) A Certificate of Eligibility for Plan Endorsement represents to the State the commitment of a municipality, county, or regional entity to adopt and implement a plan consistent with the State Plan and based on available resources and infrastructure. The Certificate of Eligibility qualifies a petitioner to State agency assistance in preparing and updating plans for endorsement and authorizes petitioner to pursue parallel planning efforts, including, but not limited to, seeking designation of areas in need of redevelopment that may be appropriate but are outside of smart growth areas pursuant to the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.). The Executive Director shall issue a Certificate of Eligibility as follows:

1. When a petitioner submits a consistent petition pursuant to N.J.A.C. 5:85-7.14(a);
2. In the event additional steps are needed to achieve consistency, within 10 days of receipt of a fully executed Memorandum of Understanding and Action Plan pursuant to N.J.A.C. 5:85-7.15; and
3. To a petitioner that previously received Initial Plan Endorsement from the State Planning Commission and has entered into a Memorandum of Understanding and Action Plan, pursuant to N.J.A.C. 5:85-7.15, if necessary.

(b) Upon issuance of a Certificate of Eligibility, the State agencies shall coordinate planning and regulatory assistance and public investment decisions, to the maximum extent possible in order to assist a petitioner to achieve endorsement and implementation of its plan.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).

In the introductory paragraph of (a), deleted "developing a transfer of development rights (TDR) program pursuant to the State TDR Act (N.J.S.A. 40:55D-137 et seq.) and" preceding "seeking designation"; in (a)1, (a)2 and (a)3, updated the N.J.A.C. references; in (a)1, deleted "complete and" preceding "consistent"; and in (a)2, deleted "respectively" preceding "and".

### 5:85-7.17 Draft Planning and Implementation Agreement

Prior to receiving endorsement, the petitioner shall work with relevant State agencies to develop a draft Planning and Implementation Agreement, that outlines planning implementation mechanisms for the petitioner to undertake during the 10-year endorsement period so that the petitioner will achieve the goals and vision described in the endorsed plan, and State agency benefits needed to successfully implement the plan once endorsed. The draft Planning and Implementation Agreement shall be adopted as part of the Commission resolution granting endorsement of a petition pursuant to N.J.A.C. 5:85-7.19. Petitioner's ability to maintain endorsement over the 10-year period shall be contingent upon fulfilling the obligations of the Planning and Implementation Agreement.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).  
Rewrote the section.

### 5:85-7.18 Recommendation report, review of petition, and direct petition

(a) Within 60 days of satisfaction of action items in an Action Plan, the Executive Director shall prepare a recommendation report to the Commission. The report shall either determine that the plan is consistent or not consistent with the State Plan.

(b) Within 45 days after receipt of the Executive Director's recommendation report, a duly authorized subcommittee of the Commission shall review the Executive Director's recommendation report and shall recommend that the petition be considered for approval, approval with revisions or denial by the Commission at its next regularly scheduled meeting.

(c) If the subcommittee requests additional information from petitioner to make its determination, it may add an additional 45 days after receipt of the requested information, to prepare its recommendations on the petition.

(d) A petitioner may directly petition the Commission for plan endorsement under the following circumstances:

1. If the subcommittee fails to make a recommendation on the petition within 45 days of receipt of the Executive Director's Report or within 45 days of receipt of the requested additional information, or if the petitioner disagrees with the recommendation of the subcommittee; or

2. If the Office of Smart Growth fails to prepare a draft Action Plan and Memorandum of Understanding pursuant to N.J.A.C. 5:85-7.14.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).

Rewrote (a); in (b), inserted the first occurrence of "recommendation"; and in (d)2, updated the N.J.A.C. reference.

#### **5:85-7.19 Plan endorsement by State Planning Commission**

(a) Within 45 days after receipt of the recommendation report pursuant to N.J.A.C. 5:85-7.14 or a direct petition pursuant to N.J.A.C. 5:85-7.18, the Commission shall conduct a hearing to consider the petition and Executive Director's report and affirm, revise or reverse the Executive Director's recommendation on the petition or the petitioner's direct petition for endorsement. If the Commission determines that the plan is consistent with the State Plan, it shall approve the petition for plan endorsement and authorize execution of the Planning and Implementation Agreement. If the Commission determines the plan is not consistent with the State Plan, the Commission shall either request the petitioner to make necessary changes to address requirements that must be met in order to achieve consistency with the State Plan, or deny the petition. The Commission's approval or denial of a petition is a final agency action.

1. Within 30 days of the Commission's action on a petition for plan endorsement, the Executive Director shall notify the petitioner in writing of the Commission's determination, findings and recommendations regarding the petition.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).

In the introductory paragraph of (a), substituted "recommendation report" for "subcommittee's recommendation", and deleted "or 7.18," following "N.J.A.C. 5:85-7.14", ", if relevant" following "Agreement", and ", so that the plan is consistent with the State Plan, prepare an Action Plan" following "changes".

#### **5:85-7.20 Extension of time requirements**

(a) The Executive Director may extend, up to 90 days, the time allowed for State actions under this subchapter, in the event that the number of requests for plan endorsement or amendments thereto exceeds the resources of the Office of Smart Growth to process those requests.

(b) The Executive Director may extend any time period in this subchapter up to an additional 90 days for the purpose of requesting additional information necessary to adequately and appropriately evaluate a petition for plan endorsement, an amendment to a previously endorsed plan or center designation. The period of review shall be extended 30 days after the

receipt of the requested additional information by the Office of Smart Growth.

(c) Public notice of any extensions shall be provided pursuant to N.J.A.C. 5:85-7.4.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).

In (b), substituted "30" for "60"; in (c), substituted "pursuant to N.J.A.C. 5:85-7.4" for "to the petitioner, to those interested persons and organizations who have registered with the Office of Smart Growth in accordance with N.J.A.C. 5:85-1.6(b)"; and deleted (d).

#### **5:85-7.21 Period of endorsement**

(a) Endorsement of any plan shall be valid for 10 years.

(b) In the Pinelands, as defined by N.J.A.C. 7:50-2.11, the Pinelands Commission's certification of a municipality's master plan and land use ordinances pursuant to N.J.A.C. 7:50-3.31 et seq., is deemed equivalent to endorsement by the Commission for the purposes of qualifying municipalities for benefits of plan endorsement, provided the municipality's master plan and land use ordinances remains certified. Pinelands Regional Growth Areas, Pinelands Towns and Pinelands Villages within the municipalities having Pinelands Commission certified plans and implementing land use ordinances are deemed equivalent to designated regional centers, town centers and village centers, respectively, as defined in the State planning rules and State Plan, for the purposes of determining eligibility for State agency benefits of plan endorsement.

(c) Urban complex strategic revitalization plans and corridor plans, including any centers, cores or nodes designated therein, approved prior to January 7, 2002, shall remain endorsed for a period of 10 years from January 7, 2002.

(d) Designated centers, cores and nodes approved prior to January 7, 2002, shall remain endorsed for a period of six years from January 7, 2002.

(e) Designated centers approved after January 7, 2002 and prior to July 1, 2004, other than centers designated in an endorsed plan, shall be endorsed for a period of six years from the date of designation by the Commission.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).

Rewrote (b); in (e), deleted ", cores and nodes" following the first occurrence of "centers"; and deleted (f) and (g).

#### **5:85-7.22 Monitoring of endorsed plans and designated centers**

(a) The Executive Director shall periodically monitor the status and progress of endorsed plans and associated Planning and Implementation Agreements and previously designated centers, during the term of plan endorsement or prior center designation and shall forward all reports to the Commission.

(b) Within one year from the date of endorsement, municipalities, counties or other relevant planning entities having

endorsed plans or previously designated centers shall provide an annual report to the Executive Director on the status of their Planning and Implementation Agreement efforts, with biennial reports due thereafter, unless otherwise agreed. The annual and biennial reports shall include any Board of Adjustment Annual Report on Variances pursuant to N.J.S.A. 40:55D-70.1, planning board reports, and significant updates to other planning materials submitted as part of the petition for plan endorsement, including zoning ordinances or other implementation measures, adopted since plan endorsement, or prior center designation and submission of the last annual report. The report shall state how these items are consistent with the State Plan, the endorsed plan and the terms of the Planning and Implementation Agreement.

(c) At least 30 days prior to adoption of a new or significantly revised plan by municipalities, counties, regional agencies or planning authorities with endorsed plans or previously designated centers, copies of said new or significantly revised plans shall be provided to the Executive Director. Within 30 days after adoption of said new or significantly revised plans identified above, copies shall be provided to the Executive Director. The impacts of the new or significantly revised plan on the endorsed plan shall also be addressed in the next regularly scheduled annual report.

(d) If a complaint is received by the Office of Smart Growth or the Commission of failure to comply with the terms of an endorsed plan or the Planning and Implementation Agreement or a Planning Implementation Agenda prepared in connection with a prior center designation, within 45 days of receipt of said complaint, the Executive Director shall investigate and report to the Commission. Public notice of any such complaint and any report by the Executive Director shall be provided in accord with N.J.A.C. 5:85-7.4.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).  
Rewrote (b) and (d).

### **5:85-7.23 Revocation of plan endorsement or prior center designation**

(a) If the Executive Director finds that a jurisdiction has made substantial changes to its endorsed plan or previously designated center, or has substantially violated the terms of its Planning and Implementation Agreement, so that its endorsed plan or previously designated center are inconsistent with the State Plan, the Executive Director shall:

1. Direct the Office of Smart Growth to conduct a public hearing in the affected jurisdiction to receive public comment on the status and progress of the jurisdiction's implementation of the endorsed plan or previously designated center. 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;

2. Prepare and forward a monitoring report to the Commission recommending that plan endorsement or prior center designation be revoked;

3. Inform the petitioner, county representatives and the Commission in writing of the reasons therefore; and

4. Provide written notice of said recommendation to the relevant planning entity pursuant to N.J.A.C. 5:85-1.7(h) and post notice pursuant to N.J.A.C. 5:85-7.4.

(b) Within 45 days of the issuance of the monitoring report by the Executive Director, the Commission or its duly authorized subcommittee shall review the recommendation report of the Executive Director and the Commission shall affirm, revise, or reverse the recommendation based on its determination of whether the endorsed plan or prior center designation remains consistent with the State Development and Redevelopment Plan. Except for a revision of the recommendation, the Commission determination regarding revocation shall be a final agency action.

(c) Within 45 days after Commission action, as set forth in (b) above, the Executive Director shall provide notice of the decision to the petitioner, pursuant to N.J.A.C. 5:85-1.7(i) and post notice pursuant to N.J.A.C. 5:85-7.4.

(d) Upon revocation by the Commission of an endorsed plan or previously designated center, all benefits and incentives made available to a petitioner shall be rendered null and void.

Amended by R.2009 d.286, effective September 21, 2009.  
See: 41 N.J.R. 1551(a), 41 N.J.R. 3407(b).

In (b), substituted "45" for "60"; and in (c), substituted "45" for "30" and inserted "and post notice pursuant to N.J.A.C. 5:85-7.4".

### **5:85-7.24 Petitions to amend endorsed plans, previously designated centers, Planning and Implementation Agreements**

(a) Petitions to amend endorsed plans, previously designated centers or Planning and Implementation Agreements may be submitted by the original petitioner, in its annual report, unless either the endorsement period will end in less than two years or it can be demonstrated that, for special reasons, the proposed amendment cannot wait until the next biennial report is due.

(b) A petition to amend shall include, at a minimum:

1. A Self-Assessment Report, fully completed and signed by the petitioner or a duly authorized official, representing the petitioner;

2. A statement updating the petitioner's latest annual report, if the petition amendment is not being proposed as part of a biennial report;

3. A list of the documents being submitted;

4. Proof that notice of submission of the petition to amend to the Executive Director has been provided pursuant to N.J.A.C. 5:85-1.7(f) in the form of an affidavit of publication;