

(b) Neither the State Development and Redevelopment Plan nor its Resource Planning and Management 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.

17:32-6.2 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.

17:32-6.3 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.

17:32-6.4 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.

17:32-6.5 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 CONSISTENCY REVIEW

17:32-7.1 Purpose

(a) The State Planning Act recommends but does not require that municipal and county plans be consistent with the State Development and Redevelopment Plan. During the cross-acceptance process, however, many government officials and citizens expressed concern, given the complexity of public plans and processes in general and of the State Plan in particular, about how agencies at each level of government would know whether their plans are consistent with the State Plan. It is the intention of the State Planning Commission, through the Office of State Planning, to assist all levels of government in achieving the highest possible degree of consistency with the State Plan. To that end, this subchapter outlines a voluntary review process which will analyze local, county, regional and State agency plans and provide findings and recommendations regarding the subject plan's incorporation of the various provisions of the State Plan.

(b) Neither the State Development and Redevelopment Plan nor its Resource Planning and Management 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.

(c) No municipal, county, regional or State agency should delay any decision making process due to a pending review of their plans by the Office of State Planning for consistency with the SDRP.

(d) For purposes of this subchapter, "consistency," as defined in N.J.A.C. 17:32-1.4, shall also include the notion of "compatibility," also defined in N.J.A.C. 17:32-1.4.

Amended by R.1993 d.367, effective July 19, 1993.
See: 25 N.J.R. 1839(a), 25 N.J.R. 3238(c).

Case Notes

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).

17:32-7.2 Eligibility

(a) Any municipal or county governing body, commissioner or secretary of a State department, regional or interstate agency may petition the Office of State Planning for a review of the consistency between its plan and the State Development and Redevelopment Plan.

(b) The master plans of municipalities (including elements as defined in the Municipal Land Use Law), and counties (as defined in the County Planning Enabling Act), functional plans of State agencies, and the adopted comprehensive plans of regional and interstate agencies are eligible for review by the Office of State Planning under these rules. Codes, ordinances, administrative rules, regulations and other instruments of plan implementation are not eligible for review. Nothing in these rules shall be interpreted to mean, however, that the staff of the Office of State Planning and Commission may not provide technical assistance and advice to agencies at any level of government on matters falling under the mandates of the Commission or Office, as set forth in the State Planning Act, N.J.S.A. 52:18A-196 et seq.

Amended by R.1993 d.367, effective July 19, 1993.
See: 25 N.J.R. 1839(a), 25 N.J.R. 3238(c).

17:32-7.3 Notification of petition filing

(a) Municipalities shall provide public notice of their filing of a petition under this subchapter, in a newspaper of general circulation within the municipality, prior to their submission of a petition for consistency review. Notice shall also be sent to the petitioning municipality's planning board, to the planning board of the county within which the municipality is located and to the planning boards of adjoining municipalities.

(b) Counties shall provide public notice of their filing of a petition under this subchapter, in a newspaper of general circulation within the county, prior to their submission of a petition for consistency review. Notice shall also be sent to the petitioning county's planning board, to the planning boards of all municipalities within the subject county and to the planning boards of any adjoining counties.

(c) State agencies shall notify the 21 county planning boards of their filing of a petition under this subchapter prior to the agency's submission of a petition for consistency review and shall further cause notice of their petition to be published in the *New Jersey Register*.

(d) Regional and interstate agencies shall provide public notice of their filing of a petition under this subchapter, in a newspaper of general circulation within the New Jersey portion of their jurisdiction, prior to the agency's submission of a petition for consistency review. Notice shall also be sent to the planning boards of all New Jersey municipalities and counties within the agency's jurisdiction.

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

1. The name and address of the person or organization 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 Office of State Planning.

(f) 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).

17:32-7.4 Procedures

(a) Petitions for consistency review may be submitted to the Director of the Office of State Planning, no sooner than 60 days after adoption of the State Development and Redevelopment Plan by the State Planning Commission.

(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, with proof thereof, representing the petitioner. Said form shall contain the following:
 - i. The name and address of petitioner;
 - ii. A list of the documents being submitted;
 - iii. A certified copy of the resolution adopting the plan(s) being submitted; and

- iv. Proof that the notification requirements of this subchapter have been met;
- 2. A resolution of the municipal or county governing body or regional or interstate agency, authorizing submission of the petition, or in the case of a State agency, a transmittal letter on letterhead from the departmental Commissioner or Secretary requesting consideration of the petition; and
- 3. At least three copies of the municipal, county or regional master plan or State agency functional plan and all elements thereof.