

## CHAPTER 85

### STATE PLANNING RULES

#### Authority

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

#### Source and Effective Date

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

#### Chapter Expiration Date

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

#### Chapter Historical Note

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

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

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

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

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

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

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

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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 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,

to the smallest, a Hamlet. Centers range in scale in the following order: Urban, Regional, Town, Village, and Hamlet. Descriptions and criteria for designating each type of center are located in the New Jersey State Development and Redevelopment Plan.

“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, environmentally sensitive features, or farmland, or combinations thereof.

“Center designation” or “designated center” means a center that has been officially recognized as such by the State Planning Commission. Center designations only may occur as part of the plan endorsement process.

“Certificate of eligibility” is a document issued by the Executive Director indicating that a petitioner has taken necessary preliminary steps to prepare for plan endorsement, entered into a Memorandum of Understanding and Action Plan with the State Planning Commission and has agreed to develop, adopt and implement plans that are consistent with the State Plan.

“Community visioning” is a process of involving the public, community and stakeholders in developing a vision statement to guide the future of a municipality, county, or regional entity.

“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 the State Planning Commission determines that a municipal, county, regional, neighborhood or special resource area plan, or an amendment thereto, submitted for plan endorsement pursuant to N.J.A.C. 5:85-7 and endorsed by the State Planning Commission pursuant to N.J.A.C. 5:85-7.19, or a map amendment submitted for approval pursuant to N.J.A.C. 5:85-8 and endorsed by the State Planning Commission pursuant to N.J.A.C. 5:85-8.6 is the same as or has the same effect as the State Development and Redevelopment Plan.

“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 depicted on the State Plan Policy Map, which includes one or more critical environ-

mentally sensitive features located either outside of a planning area classified as environmentally sensitive by the State Development and Redevelopment Plan or within designated centers located within such planning areas.

“Cross-Acceptance Manual” means a document adopted by the State Planning Commission pursuant to N.J.A.C. 5:85-2.3 for the purpose of guiding negotiating entities through the cross-acceptance process. The manual shall contain, at a minimum, a sample work program, a draft schedule, a sample negotiation agenda, and an outline for the Cross-Acceptance Report.

“Cross-acceptance process” or “cross-acceptance” means a process of comparing planning policies among government levels with the purpose of obtaining consistency between municipal, county, regional, and State plans and the State Development and Redevelopment Plan.

“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. The Cross-Acceptance Report can also be submitted by a municipality pursuant to N.J.A.C. 5:85-3.6 or by a regional entity or State agency pursuant to N.J.A.C. 5:85-3.7.

“Days” means calendar days unless otherwise specified.

“Demonstrated interest” means a particularized interest that an individual or an entity can specifically identify having in the action the State Planning Commission may take on a petition filed pursuant to N.J.A.C. 5:85-7 or 8 as a result of specified potential impact that action may have on the individual or entity’s right to use, acquire or enjoy property.

“Display ad” means a notification of a public meeting or hearing in one or more newspapers, other than a legal advertisement, to be conducted by the Office of Smart Growth or the State Planning Commission pursuant to these rules. 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. 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.

“Draft Final State Development and Redevelopment Plan” means a draft of the Final State Development and Redevelopment Plan that has been released for public comment by the State Planning Commission following the cross acceptance process. The draft Final State Development and Redevelopment Plan is the same document as the Interim State Development and Redevelopment Plan that is also referenced in the State Planning Act.

“Endorsed plan” means a municipal, county, regional, neighborhood or special resource area plan, which has been

submitted for consideration in a petition to the State Planning Commission, which petition has been approved as a result of a finding by the State Planning Commission that the plan is consistent with the State Development and Redevelopment Plan, pursuant to N.J.A.C. 5:85-7.

“Environs” means parts of the municipality or municipalities 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 of Statewide or regional significance may also be part of the criteria for identification of a Special Resource Area.

“Executive Director” means the Executive Director of the Office of Smart Growth.

“Final State Development and Redevelopment Plan” means the plan that the State Planning Commission adopts after releasing and receiving comments on the draft Final State Development and Redevelopment Plan which upon adoption becomes the official State Development and Redevelopment Plan that sets forth Statewide planning policies and serves as the official blueprint for development and redevelopment in New Jersey.

“Goal” or “goals” means a desired state of affairs to which planned effort is directed. The goals of the State Development and Redevelopment 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 depicted on the State Plan Policy Map, 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, dedicated open space, pre-historic and archaeological sites, scenic vistas and corridors, natural landscapes of exceptional aesthetic or cultural value.

“Impact assessment” means the assessment of the economic, environmental, infrastructure, community life and intergovernmental coordination of the draft Final State Development and Redevelopment Plan required by the State Planning Act and N.J.A.C. 5:85-4.7.

“Infrastructure Needs Assessment” means the assessment of present and prospective conditions, needs and costs with regard to State, county, and municipal capital facilities, including water, sewerage, transportation, solid waste, drainage, flood protection, shore protection and related capital facilities that is required to be part of the State Development and Redevelopment Plan by the State Planning Act and N.J.A.C. 5:85-5.

“Map amendments” means the changes in the State Plan Policy Map initiated by the State Planning Commission in response to new data or that result from approval by the State Planning Commission of a petition for a map amendment pursuant to N.J.A.C. 5:85-8 or approval by the State Planning Commission pursuant to N.J.A.C. 5:85-7 of a petition for plan endorsement, which includes a proposed map amendment.

“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 municipal and county 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.), respectively.

“Memorandum of Understanding” means a contract between the State Planning Commission and a petitioner to enter into an Action Plan in order for the petitioner to take the steps needed to achieve consistency with the State Plan, in collaboration with the Office of Smart Growth and the relevant State agencies.

“Minor map amendment” means an amendment to the State Plan Policy Map which does not exceed 100 acres and for which additional notice is required pursuant to N.J.A.C. 5:85-1.7(b)7 and (g)4.

“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.

“Neighborhood Plan” means a plan submitted by an Urban Center municipality for plan endorsement that pertains specifically to a specific section of the municipality that has been identified as part of an overall strategy by the municipality for eventual endorsement of the municipal master plan and supporting plan elements for the entire municipality.

“Negotiating entity” or “negotiating entities” 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 compare and negotiate the Preliminary State Development and Redevelopment Plan.

“Negotiation” means the public dialogue between negotiating entities and the State Planning Commission to arrive at a Statement of Agreement and Disagreements.

“Negotiation session” means a session during which the duly authorized representatives of the State Planning Commission and a negotiating entity and any municipality that has submitted a Cross-Acceptance Report, engage in a dialogue with the purpose of attaining the highest degree of agreement on identified issues.

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

“Office of Smart Growth” means the Office in the Department of Community Affairs that staffs the State Planning Commission and provides planning and technical assistance as requested. The Office of Smart Growth serves the same functions as, and is the successor to, the Office of State Planning (N.J.S.A. 52:18A-201). The Office of Smart Growth website is [www.njsmartgrowth.com](http://www.njsmartgrowth.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 the release of the Statement of Agreements and Disagreements.

“Petition” means either a formal request for plan endorsement or an amendment to an endorsed plan submitted by a municipality, a county, a regional planning entity or any grouping thereof to the State Planning Commission for review for consistency with State Development and Redevelopment Plan pursuant to N.J.A.C. 5:85-7 or a formal request by an entity other than a municipality, county or regional agency for a proposed map amendment in an area that is not subject of an endorsed plan pursuant to N.J.A.C. 5:85-8.

“Petition to amend” means a petition to amend either an endorsed plan, a Planning and Implementation Agreement or a prior center designation.

“Petitioner” means a municipality, county or regional planning entity, or any grouping thereof, seeking plan endorsement or an amendment to an endorsed plan pursuant to N.J.A.C. 5:85-7 or an entity other than a municipality, county or regional planning entity or any group thereof seeking an amendment to the State Plan Policy Map for an area that is not subject of an endorsed plan pursuant to N.J.A.C. 5:85-8.

“Plan” means the legally adopted planning documents of a governmental entity submitted for endorsement, as well as the various plan elements, planning studies, and documentation used to prepare or implement it.

“Plan Endorsement Advisory Committee” or “Advisory Committee” means a citizen-based committee appointed by the mayor or governing body to serve as liaison with the State, county, regional agencies and local officials throughout the process, to increase public awareness of and participation in the plan endorsement process, and to guide and assist the plan endorsement process, including participating in meetings at the Office of Smart Growth between the petitioner and the relevant State agencies.

“Plan Endorsement Guidelines” means a document issued by the State Planning Commission for the purpose of guiding petitioners through the plan endorsement process.

“Plan endorsement process” or “plan endorsement” or “endorsement” means the process undertaken by a municipality,

county or regional planning entity or any grouping thereof, to petition the State Planning Commission for a determination of consistency of the submitted plan with the State Development and Redevelopment Plan and wherein upon successful completion of requirements outlined in an Action Plan and Memorandum of Understanding, the State Planning Commission shall make a determination that the submitted plan is consistent with the State Development and Redevelopment Plan, taking into account pertinent State agency statutes, rules, regulations, policies, and programs, and approve a petition for plan endorsement, wherein said plan shall then be considered endorsed.

“Plan implementation mechanisms” means zoning and land use ordinances, maps and schedules, natural resource inventories, capital improvement programs and any other relevant means used to implement plans.

“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 Development and Redevelopment Plan sets forth planning policies that guide growth in the context of those conditions.

“Planning and Implementation Agreement” means an agreement between the State Planning Commission and the petitioner that outlines how the petitioner proposes to achieve the goals and visions described in the endorsed plan and a schedule therefore and specifies benefits, such as technical and financial assistance that will be provided by State agencies to help advance the implementation of the plan.

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

“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 comparing and negotiating with the negotiating entities and the State Planning Commission.

“Prior center designations” or “previously designated centers” means a center designated pursuant to the State Planning Rules and in effect prior to May 17, 2004 that was not designated as part of an endorsed plan.

“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.



"Self-assessment" or "self-assessment report" means the report prepared by a petitioner to provide an overview and analysis of existing conditions of the petitioner, as well a review of existing plans, and an assessment of the consistency of a petitioner's plans and implementation mechanisms with the goals, policies and strategies of the State Development and Redevelopment Plan.

"Special Resource Area" means an area or region, and defined in the State Development and Redevelopment Plan that are worthy of special protection due to unique characteristics or resources of Statewide importance, which are essential to the sustained wellbeing and function of its own region and other regions or systems – environmental, economic, and social – and to the quality of life for future generations.

"Special Resource Area Plan" means a plan for a special resource area that is developed for the purpose of protecting and preserving the integrity of a special resource area of Statewide significance.

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

"State agency benefit" means any benefit, such as technical assistance, financial assistance, priority consideration for grant awards, special grant funding, or other programs, provided by a relevant State agency, that is afforded to any petitioner granted a State Planning Commission determination of consistency of its petition for plan endorsement or issued a Certificate of Eligibility by the Executive Director.

"State Development and Redevelopment Plan" or "State Plan" means the plan prepared and adopted pursuant to the State Planning Act that sets forth Statewide planning policies and serves as the official blueprint for development and redevelopment in New Jersey. It is an expression of Statewide intent and articulates the planning policies that will be needed to reach the goals of the State Planning Act. Local application of these policies occurs through the Plan Endorsement process.

"State Opportunities and Constraints Assessment" means a preliminary written assessment of existing land use patterns, infrastructure availability and natural resources provided by the Office of Smart Growth to a petitioner that has submitted a municipal self-assessment report, based on input from relevant State agencies, and used to inform community visioning.

"State Plan Policy Map" means the geographic application of the State Development and Redevelopment Plan goals, strategies, and policies and is comprised of series of maps corresponding to the 1:24,000 scale United States Geological Survey (U.S.G.S.) 7.5 minutes topographic quadrangle maps. The State Plan Policy Map serves as the official map of the State Development and Redevelopment Plan. Each quadrangle map includes at a minimum planning areas, including changes made in the plan endorsement process, endorsed plans, designated centers, cores, and nodes as well as other

areas including critical environmental sites, historic and cultural sites, parks and natural areas, military installations, the certification signature, and appropriate initialing of revisions, if any, by the Secretary of the Commission, and the text for each planning area and its planning policies.

"State Planning Act" means the enabling legislation for establishing the State Planning Commission, creating the State Plan and delineating the duties of the State Planning Office, as codified at N.J.S.A. 52:18A-196 et seq.

"State Planning Commission" or "Commission" means the commission established under the State Planning Act, which has primary jurisdiction for the administration of developing and implementing the State Plan, coordinating planning among State agencies and other powers and duties as delineated in the State Planning Act.

"Statement of Agreements and Disagreements" means the document approved by the State Planning Commission pursuant to N.J.A.C. 5:85-4.6, which details the highest degree of agreement that is generated during the negotiation of plans between each negotiating entity and the State Planning Commission's negotiating committee.

"Strategy" means a general course of action, which links more general goals of the State Development and Redevelopment Plan with more specific policies.

"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.

"Written notice" means notice that is provided either electronically or by first class mail.

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.

Amended by R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote the section.

Amended by R.2009 d.61, effective April 20, 2009.

See: 40 N.J.R. 3350(b), 41 N.J.R. 1733(a).

Deleted definitions "Advanced petition", "Initial petition", "Municipal Strategic Revitalization Plan", "Plan Endorsement Contract", "Regional strategic plan", "Strategic revitalization plan", and "Urban complex"; added definitions "Action Plan", "Certificate of eligibility", "Community visioning", "Executive Director", "Memorandum of Understanding", "Neighborhood Plan", "Petition to amend", "Plan Endorsement Advisory Committee", "Plan implementation mechanisms", "Self-assessment", "Special Resource Area", "Special Resource Area Plan", "State agency benefit", "State Opportunities and Constraints Assessment", "State Planning Act", and "State Planning Commission"; in definition "Center boundary", inserted ", or combinations thereof"; rewrote definitions "Consistency", "Endorsed plan", and "Plan endorsement process"; in definition "Critical environmental site", inserted "critical"; in definition "Map amendments", deleted "initial or advanced" preceding "plan" and inserted a comma following "endorsement"; in definition "Master Plan", inserted "municipal and county" and ", respectively"; in definition "Office of Smart Growth", inserted ", and is the successor to,"; in definition "Petition", deleted "initial or advanced" preceding "plan endorsement" and "submitted" preceding "to the State", inserted "submitted", and substituted "planning entity" for "agency"; in definition "Petitioner", substituted "or regional planning entity," for ", regional agency", ", seeking" for "seeking initial or advanced", and "planning entity or any group thereof" for "agency"; in definition "Plan", substituted "documents" for "document"; in definition "Planning and Implementation Agreement", inserted "benefits, such as" and substituted "provided by" for "available from"; in definition "Prior center designations", inserted "and", substituted "May 17, 2004" for "the adoption of these rules", and deleted "the" following "part of"; and in definition "State Development and Redevelopment Plan", inserted "or 'State Plan'", and inserted the last two sentences.

### 5:85-1.5 Technical assistance from the Office of Smart Growth

(a) The Office of Smart Growth shall provide technical assistance to negotiating entities and petitioners as may be needed to fulfill their responsibilities under these rules.

(b) Technical assistance may be in the form of a Cross-Acceptance Manual and Plan Endorsement Guidelines issued by the State Planning Commission, advice and consultation on plan comparisons, assistance with population and employment projections and distribution, and other assistance within the resources of the Office of Smart Growth.

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.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote the section.

### 5:85-1.6 Public participation

(a) Public participation shall include written or oral comments concerning cross-acceptance, plan endorsement, and map amendments presented before or during the public comment period at the meetings of the State Planning Commission or any committee thereof, and at any public hearings conducted pursuant to these rules. All applicable meetings shall be carried out in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., unless otherwise specified.

(b) Any member of the public can request notice of meetings or hearings, subsequent documents concerning a particular matter pending before the State Planning Commission, and any action taken by the State Planning Commission or the Office of Smart Growth pursuant to these rules by registering with the Office of Smart Growth in the following manner:

1. Filing a written request for such notice and document specifying subject matter requested; and
2. Providing name, organization, if any, address, phone and fax numbers, and email address.

(c) 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, the State Planning Commission and each negotiating entity shall provide meaningful opportunities for public participation during cross-acceptance.

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

1. Public comment pursuant to N.J.A.C. 5:85-2.2(a) as to what changes, if any, are appropriate in the State Development and Redevelopment Plan prior to the preparation and release of a Preliminary State Development and Redevelopment Plan;
2. Public comment at negotiation sessions conducted pursuant to N.J.A.C. 5:85-4;
3. 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;
4. Written communication with negotiating entities or municipal or county officials involved in cross-acceptance;
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.

(d) At a minimum, the public may participate in plan endorsement through the following means:

1. Public comment to the Commission and its committees when a petitioner is seeking approval of a petition for plan endorsement, a petition to amend or a revocation of plan endorsement or of a designated center pursuant to N.J.A.C. 5:85-7;

2. Written communication with petitioners seeking plan endorsement; and

3. Submission of written comments to the Executive Director at any time up to 30 days after any public hearing on a petition for plan endorsement, a petition to amend or a revocation of plan endorsement or of a designated center.

(e) The State Plan Policy Map is the geographic application of the State Development and Redevelopment Plan goals, strategies, and policies. Petitions to amend the State Plan Policy Map seek to demonstrate that the proposed change better reflects the goals, strategies, and policies of the State Development and Redevelopment Plan. At a minimum, the public may participate in map amendments through the following means:

1. Public comment to the State Planning Commission and its committees when the State Planning Commission is proposing a map amendment pursuant to N.J.A.C. 5:85-8.3(a) or when a petitioner is seeking a map amendment pursuant to N.J.A.C. 5:85-8.3(c);

2. Written communication with petitioners seeking map amendments; and

3. Submission of written comments to the Executive Director of the Office of Smart Growth at any time up to 30 days after any public hearing conducted pursuant to N.J.A.C. 5:85-8.5(e).

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 N.J.A.C. references.

Amended by R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote the section.

Amended by R.2009 d.61, effective April 20, 2009.

See: 40 N.J.R. 3350(b), 41 N.J.R. 1733(a).

In (a), deleted "or hearings" following "meetings", and inserted "unless otherwise specified"; in the introductory paragraph of (d), deleted the first two sentences; and rewrote (d)1 and (d)3.

#### **5:85-1.7 Public notice requirements, form, content and timing**

(a) At least 60 days prior to the release of approval of a Preliminary State Development and Redevelopment Plan pursuant to N.J.A.C. 5:85-2, the Office of Smart Growth shall seek comments:

1. By posting information concerning the intention to approve a Preliminary State Development and Redevelopment Plan on the Office of Smart Growth website;

2. By providing written notice to all persons or organizations who have registered with the Office of Smart

Growth to receive public notice concerning the preparation and adoption of the State Development and Redevelopment Plan pursuant to N.J.A.C. 5:85-1.6(b); and

3. By providing written notice to all mayors, county executives and administrators and all municipal and county clerks, boards of chosen freeholders and planning boards and appropriate regional, State and Federal agencies.

(b) Public notice requirements for the State Planning Commission or the Executive Director pursuant to N.J.A.C. 5:85-3, 4 and 7 are as follows:

1. All meetings shall satisfy notice requirements of the Open Public Meeting Act, N.J.S.A. 10:4-6 et seq.

2. All hearings shall satisfy timing and content requirements as provided for in (j) below.

3. Public notice of meetings or hearings shall be provided as follows:

i. By posting on the Office of Smart Growth website;

ii. By publishing a display ad or legal advertisement in at least one newspaper of general circulation in the area in which the meeting or hearing will be held;

iii. By written notice to all persons or organizations who have registered with the Office of Smart Growth to receive public notice of meetings or hearings concerning a particular matter pursuant to N.J.A.C. 5:85-1.6(b);

iv. By written notice to appropriate regional, State and Federal agencies;

v. If the public notice concerns a meeting regarding cross-acceptance pursuant to N.J.A.C. 5:85-3 or 4:

(1) By written notice to the negotiating entity;

(2) By written notice to the mayor, governing body, clerk and planning board of any municipality which is a subject of the negotiations; and

(3) By written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk and county planning board if the county is not the negotiating entity;

vi. If the public notice concerns a meeting or a hearing regarding a petition filed pursuant to N.J.A.C. 5:85-7 or 8:

(1) By written notice to the petitioner;

(2) By written notice to the mayor, clerk and planning board of any municipality in which the property that is the subject of the petition is located if the municipality is not the petitioner; and

(3) By written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk and county planning board of any county



in which property that is subject of the petition is located if the county is not the petitioner; and

vii. If the public notice concerns a minor map amendment proposed by the State Planning Commission, by providing written notice to all owners of property that is subject of the petition and all owners of property located within 200 feet of the property that is subject of the petition.

(c) In addition to the public notice provisions provided in (b) above, notice of hearings on the draft Final State Development and Redevelopment Plan and the draft Infrastructure Needs Assessment held pursuant to N.J.A.C. 5:85-5.2(a) shall be placed at least 30 days in advance of the hearing in display ads in at least two newspapers which circulate in the area served by the hearing and provided with at least 30 days notice to the governing body and planning board of each county and municipality in the area served by the hearing.

(d) Public notice requirements for a municipality or county pursuant to N.J.A.C. 5:85-3 and 4 are as follows:

1. All meetings shall satisfy notice requirements of the Open Public Meeting Act, N.J.S.A. 10:4-6 et seq.

2. All hearings shall satisfy timing and content requirements as provided for in (j) below.

3. In addition, public notice of meetings or hearings shall be further provided as follows:

i. By publishing a standard legal advertisement in each official newspaper of the municipality or county required to give public notice;

ii. By written notice to the mayor, clerk and planning board of any municipality that adjoins the municipality or county required to provide the public notice;

iii. By written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk and county planning board of any county that adjoins the municipality or county required to provide the public notice;

iv. By written notice to the Executive Director;

v. Municipalities shall provide written notice to the municipal clerk to disseminate to the municipal planning board, board of education, environmental commission, if any and each authority, board, commission, committee, and department involved in economic development, land use, infrastructure or resource protection in that municipality;

vi. Counties shall provide written notice to the county clerk to disseminate to the county planning board and each authority, board, commission, committee and department involved in economic development, land use, infrastructure or resource protection in that county; and

vii. To the mayor, governing body, clerk and planning board of each municipality in that county.

(e) All public notices required to be given by a negotiating entity pursuant to N.J.A.C. 5:85-3 or 4 shall be provided as follows when the negotiating entity is not a county:

1. By publishing a standard legal advertisement in each official newspaper of the county or counties for which the negotiating entity is conducting cross-acceptance;

2. By notifying the mayor, clerk and planning board of any municipality that adjoins the county or counties for which the negotiating entity is conducting cross-acceptance;

3. By notifying the board of chosen freeholders, county executive or administrator, if any, county clerk and county planning board of any county that adjoins the county or counties for which the negotiating entity is conducting cross-acceptance;

4. By notifying the State Planning Commission;

5. By notifying the Executive Director of the Office of Smart Growth;

6. By providing written notice to the mayor, governing body, clerk and planning board, environmental commission, if any and each authority, board, commission, committee and department involved in economic development, land use, infrastructure or resource protection in the municipality for which plan endorsement is being sought; and

7. By providing written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk, county planning board and each authority, board, commission, committee and department involved in economic development, land use, infrastructure or resource protection in the county for which the negotiating entity is conducting cross-acceptance.

(f) Public notice requirements for a petitioner for a plan endorsement pursuant to N.J.A.C. 5:85-7 are as follows:

1. All meetings shall satisfy notice requirements of the Open Public Meeting Act, N.J.S.A. 10:4-6 et seq.

2. All hearings shall satisfy timing and content requirements as provided for in (j) below.

3. Publication of meetings or hearings shall be performed as follows:

i. For municipal or county petitioners, by publishing a standard legal advertisement in each official newspaper of each municipality or county for which the petitioner is seeking plan endorsement, respectively;

ii. For regional petitioners, by publishing a standard legal advertisement in each official newspaper of each county within the region for which the petitioner is seeking

ing plan endorsement, or if said region is within a single county, then by publishing a standard legal advertisement in each official newspaper of said county and each municipality within said region; or

iii. For special resource area petitioners, by publishing a standard legal advertisement in each official newspaper of each county within the special resource area for which the petitioner is seeking plan endorsement or if said special resource area is within a single county, then by publishing a standard legal advertisement in said county and each official newspaper of each municipality within said special resource area;

4. Additional public notice to local governmental entities and neighboring municipalities or counties shall be performed as follows:

i. For municipal petitioners, by written notice to the mayor, governing body, planning board, and municipal clerk for dissemination to the environmental commission (if any) and each authority, board, commission, committee and department involved in economic development, land use, infrastructure or resource protection in the municipality for which plan endorsement is being sought and to the municipal clerk of adjoining municipalities for dissemination to the mayor, governing body and planning board in any municipality adjoining the municipal petitioner; or

ii. For county, regional and special resource area petitioners, by written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk and county planning board and each authority, board, commission, and department involved in economic development, land use, infrastructure or resource protection in that county, region or special area for which plan endorsement is being sought and to the county clerk for dissemination to the mayor, governing body and planning board in; and

5. Petitioners shall provide written notice to the Executive Director of public meetings or hearings held pursuant to N.J.A.C. 5:85-7.

(g) Any entity petitioning for a map amendment pursuant to N.J.A.C. 5:85-8, shall provide public notice as follows:

1. By publishing a standard legal advertisement in each official newspaper of each municipality and county in which the property that is the subject of the petition is located;

2. By providing written notice to the mayor, clerk and planning board of each municipality in which the property that is the subject of the petition is located and of each municipality which adjoins the property that is the subject of the petition;

3. By providing written notice to the board of chosen freeholders, county executive or administrator, if any,

county clerk and county planning board of any county in which the property that is the subject of the petition is located and of each county which adjoins the property that is the subject of the petition;

4. If the petition is for a minor map amendment, by providing written notice to all owners of property that is subject of the petition and all owners of property within 200 feet of the property that is subject of the petition;

5. By notifying the State Planning Commission; and

6. By notifying the Executive Director of the Office of Smart Growth.

(h) Within five days of the Office of Smart Growth being informed that notice has been provided pursuant to (d) through (g) above; receiving a completed petition pursuant to N.J.A.C. 5:85-8; or the issuance of the Executive Director's report on a petition submitted pursuant to N.J.A.C. 5:85-8, the Office of Smart Growth shall:

1. Post information concerning said notice, petition, or report on the Office of Smart Growth website;

2. Provide written notice concerning said notice, petition, or report to all persons or organizations who have registered with the Office of Smart Growth to receive public notice concerning a particular matter pursuant to N.J.A.C. 5:85-1.6(b); and

3. Provide written notice concerning said notice, petition, or report to appropriate regional, State and Federal agencies.

(i) Within 45 days of the State Planning Commission adopting the Final State Development and Redevelopment Plan pursuant to N.J.A.C. 5:85-5 or acting on a petition pursuant to N.J.A.C. 5:85-7 or 8, the Office of Smart Growth shall provide notice of that action:

1. By posting information concerning said notice on the Office of Smart Growth website;

2. By providing written notice to all persons or organizations who have registered with the Office of Smart Growth to receive public notice concerning a particular matter pursuant to N.J.A.C. 5:85-1.6(b);

3. By providing written public notice to appropriate regional, State and Federal agencies;

4. By placing notice of the action by the State Planning Commission in the New Jersey Register;

5. If the public notice concerns adoption of the Final State Development and Redevelopment Plan, by providing written notice to all mayors, county executives and administrators and all municipal and county clerks, governing bodies and planning boards; and

6. If the public notice concerns action on a petition pursuant to N.J.A.C. 5:85-7 or 8:

i. By providing written notice to the mayor, clerk and planning board of any municipality in which property that is the subject of the petition is located if the municipality is not the petitioner; and

ii. By providing written notice to the board of chosen freeholders, county executive or administrator, if any, county clerk and county planning board of any county in which property that is subject of the petition is located if the county is not the petitioner.

(j) All public notice of hearings provided pursuant to (b) and (d) through (g) above shall be provided at least 10 days in advance of the hearings and shall provide the time, date, location, and purpose of the hearing. The public notice shall also specify that the public can comment orally at the hearing or submit written comments within a specified time period.

New Rule, R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Amended by R.2009 d.61, effective April 20, 2009.

See: 40 N.J.R. 3350(b), 41 N.J.R. 1733(a).

Section was "Public notice requirements". Rewrote (b), (d), and (f); in the introductory paragraph of (h), inserted the first occurrence of "the Office of Smart Growth", updated the N.J.A.C. references, and deleted "; or the issuance of a monitoring report by the Executive Director of the Office of Smart Growth pursuant to N.J.A.C. 5:85-7.12 or 7.13" preceding "; the Office of Smart Growth shall."; and in (j), deleted "meetings or" preceding "hearings" twice and preceding "hearing" twice, and deleted the last sentence.

#### 5:85-1.8 Severability clause

If any section, subsection, provision, clause, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of this chapter shall not be affected thereby.

New Rule, R.2009 d.61, effective April 20, 2009.

See: 40 N.J.R. 3350(b), 41 N.J.R. 1733(a).

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

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

(a) The State Planning Commission shall revise and re-adopt the State Development and Redevelopment Plan in accordance with the State Planning Act. In so doing, the State Planning 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.

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 N.J.A.C. reference.

Amended by R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote (a); in (b), amended the N.J.A.C. reference.

## SUBCHAPTER 5. PROCEDURES FOR ADOPTING THE FINAL PLAN

### 5:85-5.1 Commencement of Final Plan approval

Upon consideration of the formal reports of the negotiating entities and the State Planning Commission's negotiating committee, the draft Final State Development and Redevelopment Plan prepared by the negotiating committee and the Impact Assessment, the State Planning Commission shall prepare and approve for distribution a draft Final State Development and Redevelopment Plan, which will also include the draft Infrastructure Needs Assessment. The draft Final State Development and Redevelopment Plan shall be distributed at least 14 days in advance of the first public hearing to each negotiating entity, county and municipal planning board, mayor, board of chosen freeholders, county executive or county administrator, county and municipal clerk and to those interested persons and organizations who have registered with the Office of Smart Growth pursuant to N.J.A.C. 5:85-1.6(b). The draft Final State Development and Redevelopment Plan shall also be available at the Office of Smart Growth and on the Office of Smart Growth's website.

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.

Amended by R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote and undesignated former (a) and deleted (b).

### 5:85-5.2 Required public hearings

(a) There shall be a minimum of six public hearings on the draft Final State Development and Redevelopment Plan in different locations throughout the State with notice provided pursuant to N.J.A.C. 5:85-1.7(b) and (c).

(b) 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 draft Final 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 report and N.J.A.C. references.

Amended by R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Substituted "draft Final" for "Interim" throughout; rewrote (a); deleted former (b) and (c) and recodified former (d) as new (b).

### 5:85-5.3 Municipal and county review and comment before adoption of Final State Development and Redevelopment Plan

Municipalities and counties may submit written comments to the State Planning Commission regarding the draft Final State Development and Redevelopment Plan and the draft Infrastructure Needs Assessment 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.

Amended by R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote and undesignated former (a); deleted (b).

### 5:85-5.4 Adoption of the Final State Development and Redevelopment Plan

The State Planning Commission shall adopt a Final State Development and Redevelopment Plan, which includes the Infrastructure Needs Assessment, 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. Within 45 days of the State Planning Commission adopting the Final State Development and Redevelopment Plan, the Executive Director of the Office of Smart Growth shall provide notice of said adoption pursuant to N.J.A.C. 5:85-1.7(i).

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.

Amended by R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote the section.

### 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. (RESERVED)

## SUBCHAPTER 7. PLAN ENDORSEMENT

### Subchapter Historical Note

Public Notice: Plan Endorsement. See: 39 N.J.R. 2546(a), 3786(a).

Public Notice: Plan Endorsement. See: 40 N.J.R. 3322(a), 3322(b).

Public Notice: Plan Endorsement. See: 41 N.J.R. 3318(b).

### 5:85-7.1 Introduction

(a) The State Planning Act includes the legislative finding that significant economies, efficiencies and savings in the development process would be realized by private sector enterprise and by public sector development agencies if the several levels of government would cooperate in preparing

and adhering to sound and integrated plans. The Legislature further observed that a State Development and Redevelopment Plan needed to be designed for use as a tool for assessing suitable locations for infrastructure, housing, economic growth and conservation. The Legislature emphasized the importance of providing local governments in this State with the technical resources and guidance necessary to assist them in developing land use plans and procedures, which are based on sound planning information and practice, and to facilitate the development of local plans, which are consistent with State and regional plans and programs. To achieve the desired sound planning, the State Planning Act mandates that the Office of State Planning (predecessor to the Office of Smart Growth) provide advice and assistance to regional, county and local planning units.

(b) The State Planning Act specifically authorizes and requires the Office of State Planning to provide planning service to other agencies or instrumentalities of State government, to review the plans prepared by them, and to coordinate planning so as to avoid or mitigate conflicts between plans.

(c) The State Planning Act also requires the Office of State Planning to develop and promote procedures to facilitate cooperation and coordination among State agencies, regional entities, and local governments with regard to the development of plans, programs and policies, which affect land use, environmental, capital and economic development issues.

(d) The goals, policies, targets and indicators of the State Plan have been designed to address the concerns of the need to maintain beneficial growth, improve environmental quality, insure cost-effective delivery of infrastructure and other public services, improve governmental coordination, preserve the quality of community life and redevelop the State's major urban areas. Implementation of the State Plan is expected to achieve a balance among these concerns and to maximize the well-being for the State and its residents.

(e) This Plan Endorsement subchapter delineates the process developed by the Office of Smart Growth (successor to Office of State Planning) to increase the degree of consistency among municipal, county, regional and State agency plans and the State Plan and to facilitate implementation of these plans.

### 5:85-7.2 Purpose and scope

(a) The purpose of this subchapter is to delineate procedural and substantive requirements of plan endorsement, including minimum submission requirements petitioner must meet in order to achieve plan endorsement and qualify for associated benefits; responsibilities of relevant State agencies in participating in plan endorsement; and responsibilities of the Office of Smart Growth in administering the plan endorsement process. A flow chart of the plan endorsement process is appended hereto at subchapter Appendix incorporated herein by reference. The Office of Smart Growth shall

prepare Guidelines for petitioners seeking to pursue plan endorsement. The Guidelines shall be posted on the Office of Smart Growth website at: <http://www.nj.gov/dca/osg> and shall be periodically updated.

(b) This subchapter applies to municipalities, counties, regional planning entities and other relevant planning entities seeking plan endorsement.

(c) The State Planning Commission may approve a petition for plan endorsement submitted by a petitioner based upon recommendations of the Office of Smart Growth, in consultation with relevant regional, State and Federal agencies and after consideration of public comment.

(d) State agencies shall provide State agency benefits upon an approval of plan endorsement as described in the document entitled "Plan Endorsement Benefits" and posted on the Office of Smart Growth website at: <http://www.nj.gov/dca/osg/>. Additional State agency benefits, as appropriate and feasible, shall be added to said document as they become available.

(e) State agencies shall make available certain State agency benefits, and planning assistance, agreed upon by the petitioner and relevant State agencies during the plan endorsement process, once the Office of Smart Growth has issued a Certificate of Eligibility.

### 5:85-7.3 Applicability

(a) Plans to which this subchapter applies and that may be considered for plan endorsement are:

1. Municipal master plans and supporting plan implementation mechanisms submitted by the municipal governing body pursuant to this subchapter;

2. County master plans and supporting plan implementation mechanisms, submitted by the county governing body pursuant to this subchapter. Municipalities within counties that have been granted plan endorsement shall only qualify for State agency benefits associated with plan endorsement upon receiving plan endorsement of said municipality;

3. Regional plans for two or more municipalities sharing a common resource or planning theme submitted jointly by the affected municipal governing bodies and pursuant to this subchapter, provided that each affected municipality individually submit master plans and supporting plan implementation mechanisms. Municipalities within regions that submit regional plans shall only qualify for State agency benefits associated with plan endorsement upon receiving plan endorsement of said municipality. Regional and municipal plan endorsement may be pursued concurrently;

4. Special resource area plans as defined in the State Development and Redevelopment Plan submitted by the relevant regional planning entity;



5. Neighborhood plans in municipalities designated as Urban Centers by the State Planning Commission, submitted by the municipal governing body, provided that endorsement of any neighborhood plan is part of an identified overall strategy for eventual endorsement of the master plan and supporting plan elements for the entire municipality; and

6. Plans that previously received Initial Plan Endorsement from the Commission.

(b) Plans submitted in connection with a petition for initial plan endorsement that have been deemed complete by the Office of Smart Growth prior to April 20, 2009, shall, upon petitioner's request, be considered for initial plan endorsement under the prior State Planning Rules governing plan endorsement.

#### **5:85-7.4 Posting and New Jersey Register publication requirements for the Office of Smart Growth**

(a) Within five days of the Office of Smart Growth either receiving or issuing documents relating to plan endorsement pursuant to this subchapter, notice shall be posted and made by the Office of Smart Growth by:

1. Posting information concerning said documents on the Office of Smart Growth website;

2. Written notice concerning said documents to all persons or organizations who have registered with the Office of Smart Growth to receive public notice concerning a particular matter pursuant to N.J.A.C. 5:85-1.6(b); and

3. Written notice concerning said documents to appropriate regional, State and Federal agencies.

(b) Within 45 day of a State Planning Commission decision on a petition for plan endorsement pursuant to N.J.A.C. 5:85-7.19, a decision on a temporarily reestablished center pursuant to N.J.A.C. 5:85-7.21, a decision on revocation of a plan endorsement or of a previously designated center pursuant to N.J.A.C. 5:85-7.23 or a petition to amend pursuant to N.J.A.C. 5:85-7.24, the Office of Smart Growth shall publish notice of the decision in the New Jersey Register.

#### **5:85-7.5 State agency responsibilities**

(a) The State Planning Commission shall call to its assistance staff of any regional, State or Federal agency, regional planning entity, county municipality, or political subdivision thereof, as it requires to implement the plan endorsement program.

(b) Each State agency member of the State Planning Commission, and any other relevant State agency or authority, at the request of the State Planning Commission or the Executive Director, shall prepare a list of State agency benefits available for endorsed plans that shall be designed to encourage participation in plan endorsement, promote implementation of an endorsed plan and promote the policies and

goals of the State Development and Redevelopment Plan. These benefits shall be made available only in an area that is the subject of a petition for plan endorsement, provided that the plan has been endorsed by the State Planning Commission. Each list of benefits, funding grants or other programs shall specify:

1. The benefits that will take effect once a petition for plan endorsement has been approved by the State Planning Commission pursuant to N.J.A.C. 5:85-7.19;

2. The information that must be included in the petition, the actions that must be taken by petitioner as delineated in an action plan in order for each such benefit to be made available; and

3. Those benefits that only apply in limited areas and the extent and reasons for those limitations.

(c) Each State agency member of the State Planning Commission, where appropriate and feasible, shall commit to making any modifications to State agency rules and programs that may be necessary to allow those benefits to accrue to the petitioner.

(d) Each State agency member of the Commission, and any other relevant State agency or authority, at the request of the Commission or the Executive Director, shall share the following responsibilities:

1. Review and assess the plan submitted by a petitioner and provide a written analysis of those planning documents within the time periods provided in this subchapter;

2. Provide guidance and assistance with respect to programs available through each State agency or authority that may assist a petitioner to achieve plan endorsement and implementation of a petitioner's planning strategy in a manner that is consistent with and promotes the goals and policies of the State Plan;

3. Prepare a list of plan implementation mechanisms that may be required for a petitioner to implement an endorsed plan to effectuate land use patterns that are consistent with the State Plan and provide adequate and appropriate examples of each such mechanism. In the event that an appropriate example of a required plan implementation mechanism does not exist, the relevant State agency will work with the Office of Smart Growth and the petitioner to develop same, which can later be used as an example;

4. Make reasonable recommendations to the petitioner and the Commission concerning requirements for a petitioner to receive plan endorsement and how to adequately implement the plan, once endorsed, by developing reasonable and appropriate planning implementation strategies for inclusion in a planning implementation agreement to achieve consistency with the goals, policies and strategies of the State Plan; and

5. Facilitate prioritized technical assistance and coordinated regulatory review of applications of entities with endorsed plans, where the application is determined to be consistent with the endorsed plan and the goals, policies and strategies of the State Development and Redevelopment Plan and takes into account relevant State agency policies, rules and regulations.

(e) The Office of Smart Growth has prepared a list of available State agency benefits entitled "Plan Endorsement Benefits," which was approved by the State Planning Commission on October 17, 2007 and is presently posted on the Office of Smart Growth website at: <http://www.nj.gov/dca/osg>. The Office of Smart Growth shall, on an ongoing basis, compile and maintain an updated list of all State agency benefits and requirements and make the list available to prospective petitioners and post the updated list on the Office of Smart Growth website.

#### **5:85-7.6 Pre-petition submission requirements, scheduling and meeting**

(a) A prospective petitioner may request a meeting with the Office of Smart Growth when considering whether to petition for plan endorsement and is required to make the request in writing in order to initiate plan endorsement. Submission requirements for the request include:

1. A cover letter to the Office of Smart Growth requesting a pre-petition meeting and stating the goals and intent of the prospective petitioner in seeking plan endorsement;

2. A hard copy in color and a digital copy of existing planning documents; and

3. A list of existing planning documents that have been submitted.

(b) The Office of Smart Growth shall schedule a pre-petition meeting within 30 days after a prospective petitioner satisfies the submission requirements.

(c) The Office of Smart Growth, members of relevant State agencies, and representatives for the petitioner shall attend a pre-petition meeting to discuss the plan endorsement process, goals and intent of a prospective petitioner in seeking plan endorsement, and the preliminary findings of State agency review of submitted planning documents.

(d) A petitioner shall begin to satisfy the requirements of plan endorsement within one year of a pre-petition meeting or the petition shall be considered to be withdrawn without prejudice and petitioner shall be informed in writing of the status of the petition.

#### **5:85-7.7 Advisory committee appointment and membership**

(a) Petitioner shall appoint an advisory committee to guide the plan endorsement process, serve as liaison with the State,

county, regional agencies and locals officials throughout the process and increase public awareness of and participation in the plan endorsement process. Appointments shall be made in accord with any relevant local government ethics law and be designed to avoid any appearance of impropriety.

1. For a municipal plan or a neighborhood plan, the advisory committee shall be appointed by the mayor with the advice and consent of the governing body, at a public meeting for which adequate notice has been provided. The appointment shall take effect by approval of a resolution of the governing body. The advisory committee shall consist of between five and 10 people including at least one representative of the governing body, at least one Class IV member of the planning board, at least one member of another local board, commission or committee; and at least two representatives of the public who reside within the jurisdiction of the petitioner and are not elected or appointed to any public position within said jurisdiction.

2. For a county plan, the advisory committee shall be appointed by the board of chosen freeholders at a public meeting for which adequate notice has been provided and the appointment shall take effect by approval of a resolution of the board of chosen freeholders. The advisory committee shall consist of between five and 10 people including at least one representative of the board of chosen freeholders, at least one member of the county planning board, at least one member of another countywide board, commission or committee, and at least two representatives of the public who reside within the jurisdiction of the petitioner and are not elected or appointed to any public position within said jurisdiction.

3. For a special resource area plan, the advisory committee shall be appointed by the regional planning entity or by the governing body of each affected municipality, depending on the nature of the plan, at a public meeting for which adequate notice has been provided. The appointment shall take effect upon approval of a resolution of the regional planning entity. The advisory committee shall consist of between five and 10 people including at least one representative of the regional planning entity, at least one Class IV member of a planning board from an affected municipality within the region, at least one member of another local board, commission or committee from an affected municipality, and at least two representatives of the public who reside within the jurisdiction of the petitioner and are not elected or appointed to any public position within said jurisdiction. The public members may not hold an appointed or elected position within the municipality or be employed by said regional planning entity.

#### **5:85-7.8 Self-Assessment Report, form, content, adoption and submission requirements**

(a) Petitioner shall prepare a Self-Assessment Report. Municipal petitioners may use the document entitled "Municipal Template Report" as posted on the Office of Smart Growth

website as a template for the report. The self-assessment report shall include, as a minimum:

1. An analysis of existing conditions of the area, a review of existing plans, and an assessment of the consistency of a petitioner's plans and implementation mechanisms with the goals and policies of the State Plan;

2. An inventory of key characteristics of the relevant area, including: current population and trends, housing and economy trends, available public facilities and services, transportation, water and sewer infrastructure, and natural, cultural and recreational resources;

3. Any relevant existing planning documents as listed in the plan endorsement guidelines, to the extent that they were not previously submitted in the pre-petition submission, whereby the zoning map shall be provided in Geographic Information Systems (GIS) format, or if GIS is unavailable, a high resolution scanned copy, and any requests for mapping amendments to the State Plan, planning areas and centers shall be provided in digital GIS format;

4. Findings and conclusions regarding consistency with the State Plan, including an assessment of actions needed to achieve consistency, benefits petitioner seeks as a result of plan endorsement;

5. Any requests for waivers pursuant to N.J.A.C. 5:85-7.9, including a justification for same;

6. For petitioners having designated centers or previously endorsed plans, copies of all monitoring reports created pursuant to this chapter;

7. For petitioners representing a county, specific reference shall be made to identify and evaluate countywide efforts to provide for efficient use of natural and capital resources and to address planning for conditions for which a map change was requested in the latest round of cross acceptance; and

8. For petitioners representing a special resource area, specific reference shall be made to identify and evaluate planning efforts made specifically to provide for protection of the special resource area.

(b) Petitioner shall hold a public meeting in which the advisory committee presents the findings and conclusions of the Self-Assessment Report to the relevant governing body or regional planning entity.

(c) Petitioner shall consider a resolution to pursue plan endorsement and authorize submission of the Self-Assessment Report to the Office of Smart Growth at a public meeting of the relevant governing body or regional planning entity.

(d) Submission of the Self-Assessment Report to the Office of Smart Growth as part of a petition for plan endorsement shall include the following:

1. Proof of public notice for all required public meetings;

2. A certified resolution from the governing body, or the regional planning entity for a regional plan or special resource area plan, approving the Self-Assessment Report; and

3. Copies of the meeting minutes of each public meeting at which the Self-Assessment Report was reviewed and adopted. The minutes shall include a summary of public comments and copies of written comments filed before or during the public meeting.

#### 5:85-7.9 Waivers

(a) Any of the requirements of plan endorsement, pursuant to N.J.A.C. 5:85-7.7, 7.8 and 7.11 may be waived at the discretion of the Executive Director in consultation with the relevant State agencies.

(b) A waiver may be granted provided the Executive Director determines that a petitioner has previously satisfactorily completed the requirement, or has substantially complied with the intent of the requirement. The determination will be based on a consideration of whether standards for plan endorsement as delineated in this subchapter and, if appropriate, whether additional relevant requirements based on guidance provided by the Office of Smart Growth in plan endorsement guidelines and related guidance documents and as agreed upon between the Office of Smart Growth and petitioner, have been met.

(c) A petitioner may request a waiver for any provision of the plan endorsement process pursuant to (a) above, at any time. The request shall include a written justification to the Executive Director.

(d) Within 15 days of receipt of a request for a waiver pursuant to (c) above, the Executive Director shall determine whether the waiver is justified and notify the petitioner in writing of such determination.

(e) The Executive Director shall advise the State Planning Commission of a grant of any waivers pursuant to (a) through (d) above, at the next regularly scheduled Commission meeting following the decision.

(f) Any of the requirements of plan endorsement, other than N.J.A.C. 5:85-7.7, 7.8 and 7.11 may be waived at the discretion of the State Planning Commission, based on a written request by petitioner and a written recommendation of the Executive Director and any relevant State agencies. The recommendation shall be based on a determination of whether intended comprehensive planning goals have been achieved using alternative implementation mechanisms or whether a requirement of plan endorsement is determined to be inappropriate or unnecessary to achieve intended comprehensive planning goals, based on a petitioner's unique circumstances.

### **5:85-7.10 State agency Opportunities and Constraints Assessment and Report**

(a) After receipt of a complete Self-Assessment Report and supporting documentation, the relevant State agencies shall compare the findings and conclusions of the petitioner's Self-Assessment Report with the most up-to-date regional and Statewide data, evaluate the report with regard to development, infrastructure and natural resources, and make an assessment as to whether trend growth apparent in petitioner's report is sustainable based on the resources and infrastructure available in the municipality, region and State. The report shall be made in accordance with this section and any additional agreed upon standards as described in the plan endorsement guidelines and shall be provided to the Office of Smart Growth.

(b) Within 45 days of receipt of the complete Self-Assessment Report, the Office of Smart Growth shall include the assessments provided by the relevant State agencies in an Opportunities and Constraints Assessment Report to the petitioner, summarizing the findings and conclusions of the opportunities and constraints assessment.

(c) The Opportunities and Constraints Assessment Report shall be used to inform the visioning process, described in N.J.A.C. 5:85-7.11, of existing conditions, and State agency assessment of planning related issues arising from these conditions.

(d) The Office of Smart Growth may require a site visit in order to better understand the dynamics of a community, county or region, and to enable the Office of Smart Growth and the State agencies to visualize the attributes and challenges of the area based on first-hand knowledge.

### **5:85-7.11 Community visioning process, vision statement development and adoption, and submission requirements**

(a) Petitioner shall perform a community visioning process designed to maximize involvement of the community and structured so as to encourage consensus. Petitioner shall meet minimum requirements for conducting visioning sessions as set forth below and any additional agreed upon standards from plan endorsement guidelines and related support materials, which may be called for depending on individual circumstances. Community visioning shall engage the public in many ways through a variety of tools. Each step in which the public is invited to participate shall be widely promoted using each of the following promotional efforts, if available: notice on the official municipal, county or regional entity website; notice on locally broadcast cable TV station(s); articles in local newspapers and written materials posted in municipal buildings, schools and local businesses. Findings of the visioning process shall be used to develop a vision statement for inclusion in the master plan. Minimum requirements for conducting a visioning process include:

1. At least two workshops held in public meetings in which information is gathered, interactive activities occur and a variety of materials relating to the community, such as maps, photos and resource inventories, are made available for review and discussion. The advisory committee shall, at least 10 days in advance of said workshops, issue a press release to local newspapers promoting the workshops, and post notice of the workshops on the official municipal website, if available, and in a conspicuous public place; and

2. At least two public hearings during the course of the visioning process in which a preliminary vision statement is vetted and discussed. The advisory committee shall, at least 10 days in advance of said public hearings, issue a press release to local newspapers regarding the vetting of the preliminary vision statement and post notice of the hearing on the official municipal website, if available, and in a conspicuous public place.

(b) A vision statement of community consensus of its intended future shall be prepared using the information gathered in the visioning process.

(c) A summary report identifying actions taken to meet minimum and agreed upon additional requirements for performing the visioning process.

(d) Submission of the vision statement to the Office of Smart Growth as part of a petition for plan endorsement, which shall include the following:

1. Proof of public notice for all required public meetings and hearings;
2. A certified resolution from the governing body, or the planning entity for a county plan, regional plan or special resource area plan, approving the vision statement;
3. Copies of materials used in the visioning process;
4. A copy of the summary; and
5. Copies of the meeting minutes of each public meeting and hearing at which the community vision was developed, reviewed and adopted. The minutes shall include a summary of public comments and copies of written comments filed before or during the public meeting or hearing.

### **5:85-7.12 Complete petition for plan endorsement**

(a) In order for a petition for plan endorsement to be considered complete, the following minimum submission requirements must be met:

1. Submission requirements for pre-petition meeting pursuant to N.J.A.C. 5:85-7.6(a);
2. Existing planning documents, if not already submitted at the pre-petition meeting, and which have been determined to be relevant during the plan endorsement

process by the Office of Smart Growth and the petitioner, such as:

i. For municipal petitioners or a group of municipal petitioners jointly seeking regional plan endorsement:

- (1) A land use plan, including an inventory and map, a zoning ordinance, including schedule and map, an inventory of pending significant development applications;
- (2) An agriculture retention and farmland preservation plan;
- (3) An economic development plan;
- (4) A housing and fair share element;
- (5) Any draft implementation mechanisms;
- (6) A natural resources inventory;
- (7) A conservation plan;
- (8) A transportation and circulation plan;
- (9) A community facilities plan;
- (10) An open space and recreation plan;
- (11) A wastewater quality management plan; and
- (12) A capital improvement plan;

ii. For county petitioners:

- (1) A land use plan, including an inventory and map and an inventory of pending significant development applications;
- (2) An agriculture retention and farmland preservation plan;
- (3) An economic development plan;
- (4) Any draft implementation mechanisms;
- (5) A natural resources inventory;
- (6) A conservation plan;
- (7) A transportation and circulation plan;
- (8) A community facilities plan;
- (9) An open space and recreation plan;
- (10) A wastewater quality management plan; and
- (11) A capital improvement plan; or

iii. For special resource area petitioners:

- (1) A land use plan, including an inventory and map and an inventory of pending significant development applications;
- (2) A redevelopment plan;

(3) An agriculture retention and farmland preservation plan;

- (4) An economic development plan;
- (5) A housing and fair share element;
- (6) Any draft implementation mechanisms;
- (7) A natural resources inventory;
- (8) A conservation plan;
- (9) A transportation and circulation plan;
- (10) A community facilities plan;
- (11) An open space and recreation plan;
- (12) A wastewater quality management plan; and
- (13) A capital improvement plan;

3. Submission requirements for the Self-Assessment Report pursuant to N.J.A.C. 5:85-7.8(a);

4. Submission requirements for the visioning statement pursuant to N.J.A.C. 5:85-7.11(d); and

5. Any other plan implementation mechanisms identified by State agencies to be evaluated as requirements for consistency, pursuant to N.J.A.C. 5:85-7.5(d)3.

(b) Upon receipt of a complete petition, the Executive Director shall post notice that the petition is complete in accordance with N.J.A.C. 5:85-7.4 and send copies of the plan and supporting documents to the State agencies represented on the State Planning Commission and any other relevant State or Federal agency.

### 5:85-7.13 Consistency review

(a) Within 45 days of receipt of the complete petition for plan endorsement, relevant Federal, State and regional agencies shall provide comments regarding consistency of the petition to the Executive Director. State agencies shall have an additional 30 days to perform the consistency review when considering petitions of municipalities reestablishing center designations pursuant to N.J.A.C. 5:85-7.21.

(b) Within 90 days of receipt of the complete petition for plan endorsement, the Office of Smart Growth, in consultation with the relevant Federal, State and regional agencies, shall conduct a review of the plan for consistency with the goals, policies and strategies of the State Plan. The Office of Smart Growth shall have an additional 45 days to perform the consistency review when considering petitions of municipalities reestablishing center designations pursuant to N.J.A.C. 5:85-7.21.

(c) A plan will be found consistent with the State Plan if it includes the submissions delineated in N.J.A.C. 5:85-7.12 and conditional requirements that are agreed upon between petitioner and the Executive Director, in consultation with the relevant State agencies, and if it meets the requirements of



this section. In conducting the consistency review, consideration will be given to the ability of the submitted plan to achieve the targets and indicators contained in the State Plan that are applicable to the petitioner; the extent to which the activities listed to be undertaken in each planning area can or will achieve consistency with the State Plan goals and implement Statewide sound planning policies, taking into account relevant State agency policies, rules and regulations, and whether the plan is based on current information and data. Consistency will be evaluated based on all the provisions of the State Plan with particular emphasis on the following provisions:

1. The Statewide goals, policies and strategies;
  2. The policies that apply to all planning areas;
  3. The intentions for each relevant planning area;
  4. The policy objectives for each relevant planning area;
  5. If any change to a planning area boundary is proposed, the delineation criteria, intent and policy objectives for each planning area impacted by any boundary change;
  6. The delineation criteria and intent for critical environmental sites and historic and cultural sites;
  7. If there is a designated center or a center is proposed for designation, the policies for centers, including the center design policies, and environs; and
  8. If a center is proposed to be designated or a change to the boundary of a designated center is proposed, the criteria for designating the type of center that is proposed to be designated or modified.
- (d) If a municipal plan, submitted as part of a regional plan or county plan has any discrepancies with the regional plan, county plan, respectively, it may be endorsed, so long as it is consistent with the State plan.
- (e) During the consistency review period, the Office of Smart Growth, at the discretion of the Executive Director, may hold a public hearing in an appropriate jurisdiction to receive testimony on the petition. The Office of Smart Growth shall hold a public hearing in an appropriate jurisdiction to receive public comment on the petition if the Executive Director receives a written request for such a hearing within 10 days of posting notice of receipt of a complete petition from:
1. The petitioner;
  2. The governing body of a municipality or county, which is not the petitioner; or
  3. A total of at least 10 written requests from other governmental agencies, advocacy groups or individuals with a demonstrated interest in the petition.

#### **5:85-7.14 Finding of consistency and recommendation report**

(a) After receipt of a complete petition as defined in N.J.A.C. 5:85-7.12, the Executive Director shall make a determination as to whether or not a plan that is the subject of a petition for plan endorsement is consistent with the State Plan 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 45 days of receipt of the complete petition, containing detailed findings and conclusions to support the determination. The Executive Director may then issue a Certificate of Eligibility to petitioner pursuant to 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. Then, 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.

**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 regional planning entity for a regional plan 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 regional 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 for all required public meetings and hearings;
- ii. A certified resolution from the governing body, or the regional 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 and adopted includes 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, 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).

**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, developing a transfer of development rights (TDR) program pursuant to the State TDR Act (N.J.S.A. 40:55D-137 et seq.) and 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 complete and consistent petition pursuant to N.J.A.C. 5:85-7.11 and 7.12;
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. 5:85-7.12 and 7.13, respectively; 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. 5:85-7.14 and 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.

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

If the Executive Director determines, in consultation with relevant State agencies, that a petition would be consistent with the State Plan, if accompanied by a Planning Implementation Agreement, then they shall work with the petitioner to develop a draft Planning and Implementation Agreement, that outlines outstanding planning efforts, planning implementation mechanisms, and State agency benefits needed to successfully implement the plan once endorsed. The draft Planning and Implementation Agreement shall be developed to meet the unique characteristics of the petitioner. 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 endorsement shall be contingent upon fulfilling the obligations of the Planning and Implementation Agreement.

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

(a) Within 45 days of satisfaction of action items in an Action Plan, and if relevant, development of a draft Planning and Implementation Agreement pursuant to N.J.A.C. 5:85-7.17, the Executive Director shall evaluate a complete petition for plan endorsement and prepare a recommendation report to the Commission. The report shall either determine that the plan is consistent or not consistent with the State Plan. If the Executive Director determines the petitioner's plan is not consistent with the State Plan, the Executive Director shall either recommend the necessary changes that should be required by the Commission to make the petitioner's plan and draft Planning and Implementation Agreement consistent with the State Plan or recommend that the petition be denied by the State Planning Commission.

(b) Within 45 days after receipt of the Executive Director's 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. 5:85-7.15.

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

(a) Within 45 days after receipt of the subcommittee's recommendation pursuant to N.J.A.C. 5:85-7.14 or 7.18, 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 au-

thorize execution of the Planning and Implementation Agreement, if relevant. If the Commission determines the plan is not consistent with the State Plan, the Commission shall either request the petitioner to make necessary changes, so that the plan is consistent with the State Plan, prepare an Action Plan 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.

**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 60 days after the receipt of the requested additional information by the Office of Smart Growth.

(c) Public notice of any extensions shall be provided 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).

(d) For petitioners seeking initial or advanced plan endorsement, the Executive Director and petitioner, upon mutual agreement, may extend deadlines for petitioner to make required submissions as needed to satisfy substantive requirements of plan endorsement. Such extended deadlines shall be included in a Memorandum of Understanding between the Executive Director and petitioner and shall be adopted by petitioner at a public meeting.

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

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

(b) Comprehensive Management Plan Regional Growth Areas, Towns, and Villages that are certified by the Pinelands Commission are recognized as equivalent to being endorsed by the Commission, for as long as the municipality within which the Pinelands Growth Area, Town or Village is located, remains certified by the Pinelands Commission.

(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, cores and nodes 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.

(f) Centers endorsed according to sections (d) and (e) above, that have already expired in 2008 or will expire in 2008, may be temporarily reestablished through April 20, 2010, by formally initiating plan endorsement. The process for temporary reestablishment of boundaries is as follows:

1. Petitioners shall formally initiate plan endorsement by submitting documents and attending a pre-petition meeting pursuant to N.J.A.C. 5:85-7.6, appointing an advisory committee and completing a municipal Self-Assessment Report pursuant to N.J.A.C. 5:85-7.7. A petitioner shall request temporary reestablishment of an expired center in the cover letter required pursuant to N.J.A.C. 5:85-7.7;

2. The Executive Director shall, in consultation with relevant State agencies, recommend an interim boundary for the temporarily reestablished center prior to the pre-petition meeting. The interim boundary shall be discussed at the pre-petition meeting, and submitted to the Commission for consideration at its next regularly scheduled meeting to temporarily reestablish the center based on the interim boundary. For petitioners that have attended a pre-petition meeting prior to April 20, 2009, an interim boundary shall be recommended by the Executive Director by May 20, 2009; and

3. A map depicting the interim boundary shall be provided to petitioner at the pre-petition meeting and any modifications to the original boundary will be explained as part of the Opportunities and Constraints Report. For petitioners that have attended a pre-petition meeting prior to April 20, 2009, a map depicting the recommended interim boundary shall be provided to petitioner by May 20, 2009.

(g) A center that has been temporarily reestablished according to (f) above, may be extended for an additional two years, if petitioner qualifies for a Certificate of Eligibility within the one-year period, with the following limitations:

1. The boundaries of the reestablished center may be further modified by the Commission, for good cause shown, based on the consistency review performed in accordance with N.J.A.C. 5:85-7.13 and a recommendation by the Executive Director, in consultation with relevant State agencies;

2. If petitioner fails to comply with the terms of the Memorandum of Understanding and Action Plan the Executive Director shall prepare a report to the State recommending revocation of the reestablished center. The Commission shall consider the report at a public hearing and shall affirm, revise or deny the Executive Director's recommendation to revoke within 60 days of receipt of the report; and

3. If a complaint is received by the Office of Smart Growth or the Commission of the failure of a petitioner with a reestablished center to comply with the terms of a Memorandum of Understanding and Action Plan, the Executive Director shall investigate and prepare a report to the Commission within 45 days of receiving the complaint. If the investigation establishes that a petitioner has failed to comply with the terms of the Action Plan and Memorandum of Understanding, then the Executive Director shall prepare a report to the Commission recommending revocation of the reestablished center. The Commission shall consider the report at a public hearing and shall affirm, revise or reverse the Executive Director's recommendation within 60 days of receipt of the report.

#### **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) Municipalities, counties or other relevant planning entities having endorsed plans or previously designated centers shall provide annual reports to the Executive Director on the status of their Planning and Implementation Agreement efforts, unless otherwise agreed.

1. The annual report 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.

2. If the State Plan has been readopted since a plan was endorsed, the next annual report scheduled to be filed by the petitioner, that is due at least six months following said readoption, shall address whether there are any changes in the readopted State Plan that impact the endorsed plan. If any such changes are identified, a detailed description of either how the endorsed plan and Planning and Implementation Agreement are consistent with the readopted State

Plan, or the changes that will be made in the endorsed plan or Planning and Implementation Agreement, so that they will be consistent with the readopted State Plan, shall be included in the annual report.

(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 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 to the petitioner, to those interested persons and organizations who have requested notice from the Office of Smart Growth in accord with N.J.A.C. 5:85-1.6(b) and posted on the Office of Smart Growth website.

#### **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 60 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 30 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).

(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.

#### **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 annual 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 annual 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;

5. A certified resolution from each governing body or regional planning entity for a county plan, regional plan or special resource area plan, that is impacted by the petition to amend, approving the petition to amend, wherein said certified resolution authorizes the official of the municipality, county or regional planning entity to submit the petition and execute any requested or required amendment;

6. A copy of the meeting minutes of each public meeting or hearing at which the petition to amend was reviewed, and of the hearing during which the resolution approving the petition to amend was approved. The minutes shall include a summary of public comments and copies of written comments filed before or at the public meeting;

7. If any changes to the State Plan Policy Map are proposed, both the proposed and current State Plan Policy



Map boundaries shall be depicted in digital files conforming to national standards of 1:24,000 scale accuracy and as provided in the Plan Endorsements Guidelines;

8. One hard copy in color and one electronic copy of the petitioner's proposed amendment;

9. A narrative description of public participation and planning coordination efforts used to prepare and submit the petition to amend;

10. A statement describing:

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

ii. How the amendment will impact public sector decisions;

iii. The reason(s) why the amendment cannot wait until the next revision of the State Plan; and

iv. The reason(s) why the amendment is not being proposed as part of an annual report, if the amendment is not being proposed as part of an annual report; and

11. A report describing:

i. How the proposed amendment is consistent with the State Plan; and

ii. How the amendment helps the municipality, county, regional and State agencies achieve consistency with the State Plan and the endorsed plan or previously designated centers; or

iii. Why the current planning and implementation agreement item that is proposed to be changed cannot be implemented and why the proposed change will accomplish the same purpose as well or better as the original agreement.

(c) Within 60 days of the receipt of a petition to amend, the Executive Director shall provide written notice to the petitioner and the Commission, as to whether the petition complies with this subchapter.

(d) In cases where the Executive Director finds that the petition to amend has not been submitted in accordance with this subchapter, the Executive Director shall inform the petitioner in writing within 60 days after receipt of the petition to amend, of the deficiencies of the petition. If a revised petition to amend is not resubmitted within 90 days after receipt of the Executive Director's notice, or as otherwise agreed, or is submitted incorrectly, it will be considered withdrawn without prejudice and the petitioner so notified. The Executive Director shall provide notice of any such withdrawal 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 post such information on the Office of Smart Growth website.

(e) In cases where the Executive Director finds that the petition to amend is submitted in accordance with this subchapter, or is resubmitted correctly pursuant to (a) and (b) above, the Executive Director shall provide public notice in accordance with N.J.A.C. 5:85-1.7(h) and send copies of the petition, plan and supporting documents to the State agencies represented on the Commission and any other relevant State or Federal agency.

(f) The relevant State and Federal agencies receiving copies of a petition to amend pursuant to (e) above shall provide comments to the Executive Director within 60 days.

(g) Within the State and Federal agency 60-day review period, the Office of Smart Growth may hold a public hearing in an appropriate jurisdiction to receive public comment on the petition with public notice provided pursuant to N.J.A.C. 5:85-1.7(b).

(h) The Office of Smart Growth shall hold a public hearing if the Executive Director receives a written request for such a hearing from the petitioner, the governing body of a municipality or county, which is not the petitioner or a total of at least 10 written requests from other governmental agencies, advocacy groups or individuals with a demonstrated interest in the petition within 10 days of the Office of Smart Growth providing notice public notice pursuant to (e) above that a petition to amend has been submitted in accordance with this subchapter.

(i) In cases where the Executive Director determines that a petition to amend is submitted in accordance with this section, the Executive Director shall determine within 90 days after the conclusion of the State and Federal agency review period whether the subject of the petition to amend is consistent with the State Plan.

(j) The Executive Director shall prepare a report containing detailed findings and conclusions concerning the consistency of the subject of the petition to amend with the State Plan. The Executive Director shall provide notice of the report pursuant to N.J.A.C. 5:85-1.7(h) and forward the report to the Commission, the petitioner and post the report on the Office of Smart Growth website.

1. If the Executive Director determines that the subject of the petition to amend is consistent with the State Plan, the Executive Director shall recommend that the petition to amend be approved by the Commission.

2. If the Executive Director determines that the subject of the petition to amend is not consistent with the State Plan, the Executive Director shall either recommend the necessary changes that should be required by the Commission to make the subject of the petition to amend consistent with the State Plan, or recommend that the petition to amend be denied by the Commission.

3. If the Executive Director fails to submit a recommendation to the Commission concerning a petition to amend that has been determined to have been submitted pursuant to this subchapter within the 90-day time period set forth in (i) above, the petitioner may request that the Commission take direct action on the petition.

(k) The Commission and any duly authorized subcommittee shall review the recommendation of the Executive Director, that the petition to amend was submitted in accordance with this subchapter, and the determination as to whether the subject of the petition to amend is consistent with the State Plan.

(l) Within 60 days after receipt of the recommendation, the Commission shall conduct a hearing on the petition to amend and affirm, revise or reverse the Executive Director's

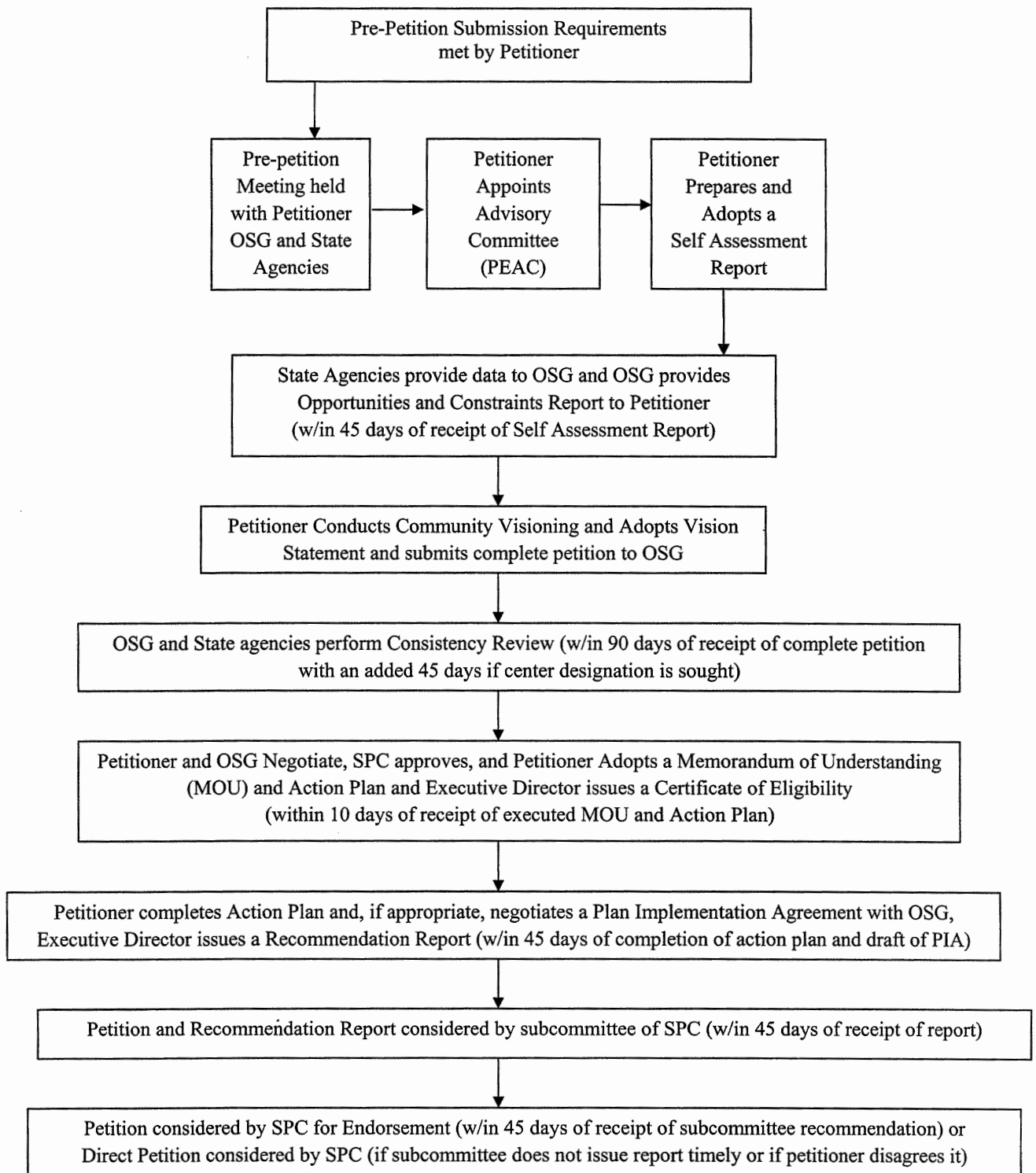
recommendation, based on its determination of whether the subject of the petition is consistent with the State Plan. The Commission determination on the petition to amend shall be a final agency action.

(m) The Executive Director shall, within 30 days after Commission action as set forth in (j) or (k) above, notify the petitioner in writing of the Commission's determination, findings and recommendations regarding the petition to amend.

(n) Within 45 days of the Commission determining whether the petition to amend was submitted in accordance with this section, and is consistent with the State Plan, the Executive Director shall post notice of said determination pursuant to N.J.A.C. 5:85-7.4.

## APPENDIX

## OFFICE OF SMART GROWTH – NEW PLAN ENDORSEMENT FLOW CHART



## SUBCHAPTER 8. 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" and is comprised of a series of maps encompassing the geographic area of the State of New Jersey.

(b) 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 Development and Redevelopment Plan as outlined in (a) 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.

Amended by R.2004 d.186, effective May 17, 2004.  
See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote (a); deleted former (b); recodified former (c) as (b) and substituted "State Development and Redevelopment Plan as outlined in (a) above" for "State Plan as outlined in (a) and (b) above".

**5:85-8.2 Purpose**

In most cases, the State Plan Policy Map reflects the intergovernmental consensus arrived at during the cross-acceptance process. While the cross-acceptance process provides 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 municipalities and counties. In addition, it is necessary to address planning area changes and designation of centers, cores and nodes that evolve through the plan endorsement process.

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.

Amended by R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote the section.

**5:85-8.3 Map Amendments**

(a) Except for areas that are subject to an endorsed plan, the State Planning Commission may initiate amendments to the State Plan Policy Map based on new information related to the goals, strategies, policies and delineation criteria of the State Plan provided that the new information alters the

assumptions that were the basis for adopting the State Plan Policy Map for a particular area or areas. If the State Planning Commission determines that it should initiate a map amendment to the State Plan Policy Map, it shall prepare and distribute to appropriate municipalities, counties, State agencies and regional entities justification for requesting the State Plan Policy Map amendments and hold a public hearing on the proposed map amendment in the vicinity of where the proposed map amendment is located. Public notice of the hearing concerning the proposed map amendment shall be provided pursuant to N.J.A.C. 5:85-1.7(b).

(b) Any proposed change to the State Plan Policy Map by municipality, county, or regional agency shall be conducted through the plan endorsement process set forth in N.J.A.C. 5:85-7.

(c) Any other entity may submit a petition for an amendment to the State Plan Policy Map provided that the concerned area is not subject of 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).

Amended by R.2004 d.186, effective May 17, 2004.

See: 35 N.J.R. 4001(a), 36 N.J.R. 2490(c).

Rewrote the section.

Public Notice: Notice of Completed Petition for Map Amendment.

See: 36 N.J.R. 4177(a).

Petition for Rulemaking.

See: 37 N.J.R. 360(a).

**5:85-8.4 Procedures**

(a) Petitions to amend the State Plan Policy Map shall be submitted to the Executive Director of the Office of Smart Growth, who shall serve as agent for the State Planning Commission in the administration of this subchapter. Ten copies and one electronic copy of the proposed map amendment petition documentation required under (b)1 and 8 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 interest of the entity or individual submitting the petition in the land area under consideration, including, at a minimum:

- i. For a State agency, its public policy (planning or regulatory) interests; and

ii. For an entity or an individual, 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;

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 revision of the State Development and Redevelopment Plan;

4. A report describing:

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

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