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## STATE PLANNING RULES

### **N.J.A.C. 5:85** **Effective September 21, 2009** **New Jersey State Planning Commission**

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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.

### 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 to fulfill the purposes and to satisfy the requirements of the State Planning Act, it is necessary and appropriate that:

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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

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Redevelopment Plan be enhanced by early and direct county, municipal and public participation.

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(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.

### 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.

### 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.

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“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.

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“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 provisions in 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 greater than two acres and less than a square mile depicted on the State Plan Policy Map, which includes one or more critical environmentally sensitive features located either outside of a planning area classified as environmentally sensitive by the State Development and Redevelopment Plan or within designated Centers, Nodes and Cores.

“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 Response Template.

“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 Response Template” or “Response Template” means an online format provided by the State Planning Commission to the negotiating entity for the purpose of submitting comment 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 Response Template.

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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.

“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 for plan endorsement, 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 Planning Advocacy.

“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.

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“Historic and cultural site” (HCS) means a site 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.

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“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.

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“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, broadband, 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.

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“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 approved 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 a Plan Implementation Agreement for the petitioner to take the steps needed to achieve consistency with the State Plan, in collaboration with the Office of Planning Advocacy and the relevant State agencies.

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“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.

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“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 Planning Advocacy” or “The Office” means the Office in the Department of State, that staffs the State Planning Commission and provides planning and technical assistance as requested. The Office of Planning Advocacy, 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 Planning Advocacy, web site is <https://nj.gov/state/planning/index.shtml>.

“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 by a municipality, a county, a regional planning entity or any grouping thereof submitted 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 the State Development and Redevelopment Plan Map.

“Petitioner” means a municipality, county, regional or other relevant 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

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documentation used to prepare or implement it.

“Plan Endorsement Advisory Committee” or “[The Advisory Committee](#)” means a citizen based committee appointed by the mayor or governing body to increase public awareness of and participation in the plan endorsement process, and to guide and assist the plan endorsement process, potentially including participating in meetings at the Office of [Planning Advocacy](#) between the petitioner and the relevant State agencies.

“Plan Endorsement Guidelines” means a document issued by the State Planning Commission for the purpose of helping petitioners understand and follow the State Planning Rules as they pursue plan endorsement, pursuant to N.J.A.C. 5:85.

“Plan endorsement process” or “plan endorsement” or “endorsement” means the process undertaken by a municipality, county, regional or other relevant 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 a [Plan Implementation Agreement](#) 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. It is through Plan Endorsement that local, county and State governments may work together to develop coordinated capital investment and planning implementation mechanisms that are consistent with the State Plan and with each other. Completion of the Plan Endorsement requirements makes the petitioner eligible for benefits provided by State agencies.

“Plan Endorsement Renewal” or “endorsement renewal” means the process undertaken by a municipality, county, or regional entity, to petition the State Planning Commission to renew its endorsement at the conclusion of the previous 10 year plan endorsement period, when a petitioner’s previously endorsed plan is brought into consistency with the current State Plan and any additional procedures from the current State Plan Endorsement Guidelines and related support materials.

“Plan implementation mechanisms” means zoning and land use ordinances, maps and schedules, [open space and farmland preservation programs](#), 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.

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“Planning and Implementation Agreement” (PIA) means an agreement between the State Planning Commission and the petitioner that sets forth the planning implementation measures, and a schedule thereof, and specifies benefits, such as technical and financial assistance that will be provided by State agencies to successfully implement the petitioner’s action items agreed to in their endorsement. The PIA ensures implementation of the plan is consistent with State Plan goals, policies and strategies. The PIA will be adopted as part of the resolution of the State Planning Commission granting Plan Endorsement to the petitioner. The municipality’s endorsement will be contingent upon fulfilling the obligations in the PIA.

“Planning Implementation Committee” (PIC) means a subcommittee of the State Planning Commission authorized to review Plan Endorsement petitions, State Policy Map Amendment petitions and other work products in advance of consideration by the State Planning Commission.

“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 working with one or more counties or municipalities, counties working with each other or one or more municipalities, or multiple municipalities working together for the purposes of plan endorsement or to perform 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

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## Development and Redevelopment Plan.

“Smart Growth Areas” means Metropolitan (PA1) and Suburban Planning Areas (PA2), Designated Centers, Cores and Nodes, Highlands Centers, Meadowlands Smart Growth Areas, Pinelands Growth Areas, Villages and Towns, and other designated growth areas as determined by the State Planning Commission and depicted on the New Jersey State Plan Policy Map.

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“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.

“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 Planning Advocacy, to a petitioner that has submitted a municipal self-assessment report, based on input from relevant State agencies, and used to inform community visioning.

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“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.

“State Plan Policy Map” means the geographic application of the State

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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, 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.

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“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.

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

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“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.

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

#### 5:85-1.5 Technical assistance from the Office of Planning Advocacy

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

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(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.

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### **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

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Planning Advocacy, pursuant to these rules by registering with the Office of Planning Advocacy, in the following manner:

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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 e-mail 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 or electronic 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 or electronic communication with petitioners seeking plan endorsement; and

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3. Submission of written or electronic 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 or electronic communication with petitioners seeking map amendments; and

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

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### **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 Planning Advocacy shall seek comments:

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

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

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

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(b) Public notice requirements for the State Planning Commission or the Executive Director pursuant to N.J.A.C. 5:85-3, 4, 7 and 8 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.*

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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 [Planning Advocacy](#) website;

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ii. By publishing a [legal advertisement](#) in at least on newspaper of general circulation in the area in which the meeting or hearing will be held;

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

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iv. By written [or electronic](#) 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 [or electronic](#) notice to the negotiating entity;

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

(3) By written [or electronic](#) notice to the board of [county commissioners](#), county executive or administrator if any, county clerk and county planning board if the county is not the negotiating entity;

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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 [or electronic](#) notice to the petitioner;

(2) By written [or electronic](#) 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 [or electronic](#) notice to the board of [county commissioners](#), 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

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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

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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 published at least 30 days in advance of the hearing in in a legal advertisement 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.

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

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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 county commissioners, 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;

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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

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

(e) All public notice 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 county commissioners, 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;

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4. By notifying the State Planning Commission;

5. By notifying the Executive Director of the Office of Planning Advocacy,

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6. By providing written notice to the mayor, governing bodies, 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 the negotiating entity is conducting cross-acceptance; and

7. By providing written notice to the board of county commissioners, 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.

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(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;

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3. All visioning workshops conducted pursuant to N.J.A.C. 5:85-7.11 shall be noticed at least 10 days in advance using the methods described in N.J.A.C. 5:85-7.11(a);

4. 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 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;

5. 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 ~~county commissioners~~, county executive or administrator, if any, and county planning board and to the county clerk of any county that adjoins the county, region or special resource area for dissemination to the mayor, governing body and each authority, board, commission and department involved in economic development, land use, infrastructure or resource protection in that county; and

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

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

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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 [Planning Advocacy](#),

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(h) Within five days of the Office of [Planning Advocacy](#) being informed that notice has been provided pursuant to (d) through (g) above; receiving a completed petition pursuant to N.J.A.C. 5:85-7 or 8; the issuance of a monitoring report pursuant to N.J.A.C. 5:85-7.23 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 [Planning Advocacy](#), shall:

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

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

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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 [Planning Advocacy](#), shall provide notice of that action:

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1. By posting information concerning said notice on the Office of [Planning Advocacy](#), web site;

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

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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, 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 county commissioners, 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.

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(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 formal action may be taken and the public can comment orally at the hearing or submit written comments within a specified time period.

### **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.

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

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

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(a) The State Planning Commission shall revise and readopt 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.

### **5:85-2.2 Approval of the Preliminary State Development and Redevelopment Plan**

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(a) The State Planning Commission shall solicit comments and recommendations from all State agencies, appropriate Federal and regional agencies, county and municipal governments and from the public regarding possible revisions of the current State Development and Redevelopment Plan by providing notice pursuant to N.J.A.C. 5:85-1.7(a).

(b) The State Planning Commission shall, after due consideration of any public comments and recommendations, including those from municipal, county, regional, State, and Federal governmental agencies, regarding the current State Development and Redevelopment Plan, approve a Preliminary State Development and Redevelopment Plan, with the Cross-Acceptance Manual, to commence cross-acceptance and authorize its [electronic](#) transmittal to each county and municipal planning board, governing body and chief executive, clerk and to those interested persons and organizations who have registered with the Office of [Planning Advocacy](#), in accordance to N.J.A.C. 5:85-1.6(b).

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### **5:85-2.3 Cross-Acceptance Manual**

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(a) The State Planning Commission's Cross-Acceptance Manual, adopted by resolution, shall include, at a minimum, a draft work program, a draft schedule, a sample negotiation agenda, and a sample [online Cross-Acceptance Response Template](#), for participating negotiating [municipal, county and regional](#) entities to complete the cross-acceptance process. The Cross-Acceptance Manual shall provide adequate measures to ensure a timely and through comparison of the Preliminary State Development and Redevelopment Plan with plans of municipalities, counties, regional and State agencies.

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(b) Within 45 days of receipt of the Preliminary State Development and Redevelopment Plan and the Cross-Acceptance Manual, the negotiating entity shall either accept the included draft work plan and schedule or propose revisions to the draft work program and schedule to the Office of [Planning Advocacy](#).

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(c) In the event of the proposed changes to the draft work program and schedule are determined [by the State Planning Commission](#) to be inadequate in any way, the Office of [Planning Advocacy](#), shall specify necessary changes to ensure an effective and efficient cross-acceptance process with adequate opportunity for public participation.

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

#### **5:85-3.1 Commencement of comparing plans**

(a) The purpose of comparing plans is to coordinate planning activities and establish Statewide-planning objectives and to solicit and receive findings, objections, and recommendations to the Preliminary State Development and Redevelopment Plan from the negotiating entities.

(b) Cross-acceptance shall commence on the official date of release, as established by the State Planning Commission, of the Preliminary State Development and Redevelopment Plan.

(c) The State Planning Commission shall conduct a joint public informational meeting [in person or virtually upon request](#), with each county planning board in each county for the purpose of providing information on the Preliminary State Development and Redevelopment Plan not less than 45 nor more than 90 days after the release of the Preliminary State Development and Redevelopment Plan. The State Planning Commission shall provide notice of those meetings pursuant to N.J.A.C. 5:85-1.7(b).

#### **5:85-3.2 Negotiating entities for cross-acceptance**

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(a) The State Planning Commission shall negotiate plan cross-acceptance with each participating county planning board.

(b) The State Planning Commission shall transmit to each county [an electronic](#) copy of the Cross-Acceptance Manual and a request for either a Notice of Participation or a Notice of Waiver when it distributes the Preliminary State Development and Redevelopment Plan.

(c) Notices of Participation or Waiver shall be transmitted [electronically](#) by each county to the Office of [Planning Advocacy](#), no later than 45 days after the official release of the Preliminary State Development and Redevelopment Plan. Notice of that decision shall be provided in accordance with N.J.A.C. 5:85-1.7(d).

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

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

(d) In the event that a county transmits a Notice of Waiver or fails to transmit a Notice of Participation within 45 days after the official date of release of the Preliminary State Development and Redevelopment Plan, the State Planning Commission shall, pursuant to N.J.S.A. 52:18A-202(b), designate an appropriate entity, or itself, to assume the responsibility of negotiating entity for cross-acceptance for each such county. The State Planning Commission shall designate an appropriate negotiating entity, or itself, to participate in cross-acceptance in the place of the non-participating county, after having first consulted with the county and the entity to be designated as the negotiating entity and having secured that entity's commitment to participate in the cross-acceptance process.

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

Counties, especially those located within the purview of an existing regional planning agency or metropolitan planning organization, are encouraged to enter into intergovernmental agreements for consolidated or coordinated participation in cross-acceptance and if such an agreement is entered into notice of that agreement shall be provided pursuant to N.J.A.C. 5:85-1.7(d).

### 5:85-3.4 through 5:85-3.5 (Reserved)

### 5:85-3.6 Municipal participation in the cross-acceptance process

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

1.

1. Participating through official representation at cross-acceptance meetings convened by the negotiating entity.

(b) A municipal planning board may, at its option, and by duly adopted resolution, appoint a committee to represent the full board at negotiation sessions.

(c) If a municipality is not satisfied with the Cross-Acceptance [Report Template](#), in whole or in part, prepared by the negotiating entity pursuant to N.J.A.C. 5:85-3.9(a) or if the

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negotiating entity does not file a Cross-Acceptance [Report Template](#), the municipality may file a separate report with the State Planning Commission, after holding a public meeting or hearing with notice provided pursuant to N.J.A.C. 5:85-1.7(d). The municipal Cross-Acceptance [Response Template](#), shall be submitted to the State Planning Commission within 45 days of either the negotiating entity filing its Cross-Acceptance [Response Template](#), or of the date the Cross-Acceptance [Response Template](#), was due to be filed if no such Report is filed by the negotiating entity and shall be in the form specified by the Office of [Planning Advocacy](#), in the Cross-Acceptance Manual. The [Response Template](#), shall outline the degree to which the municipality's planning is consistent with the Preliminary State Development and Redevelopment Plan, the degree to which its planning conflicts with the Preliminary State Development and Redevelopment Plan and any proposed modification to the Preliminary State Development and Redevelopment Plan or its plan and any [critical](#) infrastructure needs that should be addressed in the Infrastructure Needs Assessment. The individual municipal Cross-Acceptance [Response Template](#), shall also be filed with the negotiating entity and planning board of adjoining municipalities at the same time as it is filed with the State Planning Commission.

(d) If a municipality does not file a municipal Cross-Acceptance [Response Template](#), within 45 days of the filing of the Cross-Acceptance [Response Template](#), by the negotiating entity for the county that includes that municipality, then the municipality shall be deemed to have concurred and agreed with the Cross-Acceptance [Response Template](#), filed by the negotiating entity. If the negotiating entity for a county fails to file a Cross-Acceptance [Response Template](#), and any municipality within that county fails to file a municipal Cross-Acceptance [Response Template](#), within 45 days of the date by which the negotiating entity was due to file its Cross-Acceptance [Response Template](#), then each such municipality shall be deemed to have concurred and agreed with the provisions of the Preliminary State Development and Redevelopment Plan.

### 5:85-3.7 Regional and State agency participation in the cross-acceptance process

(a) The Preliminary State Development and Redevelopment Plan shall be [electronically](#) distributed to all appropriate regional and State agencies as determined by the State Planning Commission. Each such agency shall provide the State Planning Commission within three months a report outlining the degree to which its plans, policies, and regulations are consistent with the Preliminary State Development and Redevelopment Plan, the degree to which its plans, policies, and regulations conflict with the provisions of the Preliminary State Development and Redevelopment Plan, and any proposed modifications to the Preliminary State Development and Redevelopment Plan or its plans, policies, and regulations.

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

### 5:85-3.8 (Reserved)

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### 5:85-3.9 Comparison of the Preliminary State Development and Redevelopment Plan with local and county plans and submission of a Cross-Acceptance Response Template

(a) The negotiating entity shall, after holding cross-acceptance meetings with the official representatives designated by the municipalities, compare municipal and county plans with the Preliminary State Development and Redevelopment Plan and complete the online Cross-Acceptance Response Template provided by the State Planning Commission in accordance with the Cross-Acceptance Manual. The Cross-Acceptance Response Template, shall enable the negotiating entity to outline the degree to which the planning in the county and each municipality is consistent with the Preliminary State Development and Redevelopment Plan and the degree to which those plans conflict with the provisions of the Preliminary State Development and Redevelopment Plan, and any proposed modifications to the Preliminary State Development and Redevelopment Plan, or the municipal plans or county plan and any critical infrastructure needs that should be addressed in the Infrastructure Needs Assessment; and submit the Cross-Acceptance Response Template, to the State Planning Commission and to municipal planning boards in that county, to the board of county commissioners, and county executive, if any, in that county, to the county planning board if the county is not the negotiating entity, and to the planning boards of adjoining counties.

(b) Should a negotiating entity fail to file a Cross-Acceptance Response Template, or any part thereof, in substantial compliance with this chapter, the negotiating entity shall be deemed to be in agreement with the provisions of the Preliminary State Development and Redevelopment Plan as they pertain to those parts of the report not filed or deemed not to be in substantial compliance.

(c) The Cross-Acceptance Response Template of each negotiating entity shall not be filed with the State Planning Commission until the governing body of each such county, or the designated negotiating entity, shall have authorized the transmittal of the Cross-Acceptance Response Template, at a public meeting or hearing for which notice was given pursuant to N.J.A.C. 5:85-1.7(d) or (e).

### 5:85-3.10 Distribution of Cross-Acceptance Response Templates by the Office of Planning Advocacy

The Office of Planning Advocacy shall provide electronic copies of all Cross-Acceptance Reports received by the State Planning Commission to each negotiating entity and to all appropriate State agencies. Those Reports shall be available to the general public at the Office of Planning Advocacy, and on the Office of Planning Advocacy web site.

### 5:85-3.11 through 5:85-3.14 (Reserved)

## SUBCHAPTER 4. PROCEDURES FOR NEGOTIATING PLANS

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#### **5:85-4.1 Commencement of negotiating plans**

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(a) The purpose of the negotiating plans is to attain consistency between municipal, county, regional, and State plans with the Preliminary State Development and Redevelopment Plan. The process is designed to result in a written statement specifying areas of agreements or disagreements and areas requiring modification by parties to the negotiation.

(b) The State Planning Commission shall provide each negotiating entity and municipality that has submitted a Cross-Acceptance [Response Templates](#), pursuant to N.J.A.C. 5:85-3, an opportunity for a sufficient number of negotiating sessions as determined by the State Planning Commission's negotiating committee and shall provide notice of those negotiating sessions pursuant to N.J.A.C. 5:85-1.7(b).

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#### **5:85-4.2 State Planning Commission representation for negotiating plans**

(a) The State Planning Commission may authorize an appropriate committee to represent the Commission to negotiate plans by a duly adopted resolution of the State Planning Commission.

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

(c) All determinations made by the State Planning Commission's negotiating committee regarding revisions to the Preliminary State Development and Redevelopment Plan shall be subject to the approval of the State Planning Commission.

#### **5:85-4.3 Negotiating entity representation for negotiating plans**

(a) A negotiating entity may, at its option, and by duly adopted resolution, appoint a committee from among its members and staff to represent the negotiating entity at negotiation sessions.

(b) When the county planning board is the negotiating entity, all determinations made by the county planning board regarding the Preliminary State Development and Redevelopment Plan shall be subject to the action of the county governing body. The determination will be presumed to be acceptable if the governing body fails to act within 45 days from when the determination was received.

#### **5:85-4.4 Municipal representation for negotiating plans**

(a) Municipalities that are involved in individual negotiation sessions pursuant to N.J.A.C. 5:85-4.1 shall be represented at those sessions by a committee duly authorized by the municipal governing body.

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(b) All determinations made at these sessions by the municipality regarding the Preliminary State Development and Redevelopment Plan shall be subject to the action of the municipal governing body. The determination will be presumed to be acceptable if the governing body fails to act within 45 days from when the determination was received.

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#### 5:85-4.5 The negotiation process

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(a) Negotiation sessions shall be conducted as follows:

1. The staff of the Office of **Planning Advocacy**, will meet in person or virtually upon request with the authorized representatives of each negotiating entity, to reach agreement on issues raised in the Cross-Acceptance Response Template, and from the public comments and to identify those issues requiring negotiation between the negotiating committee of the State Planning Commission and the authorized representatives of the negotiating entities.

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2. Each municipality that submits an individual municipal Cross-Acceptance Response Template, pursuant to N.J.A.C 5:85-3.6(c), may choose to discuss and negotiate the issues presented in its Response Template, with the Commission's negotiating committee, with the appropriate negotiating entity represented if the negotiating entity has filed a Cross-Acceptance Response Template. Prior to such discussion and negotiations, the committee designated by the municipality pursuant to N.J.A.C. 5:85-4.4 shall meet with the staff of the Office of **Planning Advocacy**, to reach agreement on those issues raised in the municipal Cross-Acceptance Response Template, and from the public comments requiring negotiation between the negotiating committee and the authorized representatives of the municipality.

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3. The State Planning Commission's negotiating committee and the authorized representatives of each negotiating entity will meet to negotiate those issues identified in (a)1. above. The State Planning Commission's negotiating committee and the authorized representatives of each municipality involved in individual negotiation sessions pursuant to N.J.A.C. 5:85-4.1 will meet to negotiate those issues identified in (a)2. above.

(b) Agreements reached during negotiation sessions and any remaining disagreements shall be published by the Office of **Planning Advocacy**, in periodic reports, which shall be available to the general public at the Office of **Planning Advocacy**, and on the Office of **Planning Advocacy** website, county offices and State depository libraries. Further distribution shall be made to the State Planning Commission and the parties involved and to those interested persons and organizations who have registered with the Office of **Planning Advocacy**, pursuant to N.J.A.C. 5:85-1.6(b).

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#### 5:85-4.6 Completion of cross-acceptance

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(a) When the State Planning Commission's negotiating committee believes that the negotiations have produced the highest degree of agreement feasible among the negotiating entities, the committee shall submit a report containing a summary of its

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including a draft Statement of Agreements and Disagreements, summarizing the negotiation sessions, to the State Planning Commission, the negotiating entities, and each municipality and county and to those interested persons and organizations who have registered with the Office of Planning Advocacy pursuant to N.J.A.C. 5:85-1.6(b). The draft Statement of Agreements and Disagreements shall also be available at the Office of Planning Advocacy, and on the Office of Planning Advocacy website.

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(b) Cross-acceptance shall conclude when the Statement of Agreements and Disagreements is approved by the State Planning Commission. The State Planning Commission shall not act on the draft Statement of Agreements and Disagreements until at least 14 days after it is distributed pursuant to (a) above.

(c) The State Planning Commission's negotiating committee shall forward to the State Planning Commission, for its consideration and approval, a draft Final State Development and Redevelopment Plan, reflecting recommended changes to the Preliminary State Development and Redevelopment Plan resulting from cross-acceptance. The State Planning Commission's negotiating committee shall also forward to the State Planning Commission for its consideration and approval a draft Infrastructure Needs Assessment. The draft Infrastructure Needs Assessment shall be distributed to the negotiating entities, and each municipality and county and to those interested persons and organizations who have registered with the Office of Planning Advocacy, pursuant to N.J.A.C. 5:85-1.6(b). The draft Statement of Agreements and Disagreements shall also be available at the Office of Planning Advocacy, and on the Office of Planning Advocacy website.

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#### **5:85-4.7 Impact Assessment of the draft Final State Development and Redevelopment Plan**

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(a) The State Planning Commission shall have prepared an assessment of the impacts of the draft Final State Development and Redevelopment Plan relative to the impacts that would likely occur without that draft Final State Development and Redevelopment Plan. The results of the assessment shall identify desirable changes to be incorporated into the Final State Development and Redevelopment Plan.

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

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

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## 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 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 Planning Advocacy, 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 Planning Advocacy, and on the Office of Planning Advocacy website.

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### 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 or held virtually. At least one meeting will be held in person in a central location. Public notice shall be provided pursuant to N.J.A.C. 5:85-1.7(b) and (c).

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(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.

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### 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. The State Planning Commission shall provide an electronic format for providing written comments for this purpose. Municipalities and counties shall utilize the technology and instructions as provided by the State Planning Commission.

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### 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

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State Development and Redevelopment Plan, the Executive Director of the Office of Planning Advocacy shall provide notice of said adoption pursuant to N.J.A.C. 5:85-1.7(i).

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## SUBCHAPTER 6. (RESERVED)

## SUBCHAPTER 7 PLAN ENDORSEMENT

### 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 [Planning Advocacy](#)) provide advice and assistance to regional, county and local planning units.

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(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 [Planning Advocacy](#) 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.

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(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, ensure 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.

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(e) This Plan Endorsement subchapter delineates the process developed by the Office of [Planning Advocacy](#), (successor to Office of [Smart Growth](#)) 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.

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### 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 Planning Advocacy, in administering the plan endorsement process. The Office of Planning Advocacy, shall prepare Guidelines for petitioners seeking to pursue plan endorsement. The Guidelines shall be posted on the Office of Planning Advocacy, website at: <https://nj.gov/state/planning/index.shtml> and shall be periodically updated.

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(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 Planning Advocacy, in consultation with relevant regional, State and Federal agencies and after consideration of public comment.

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(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 Planning Advocacy, website at: <https://nj.gov/state/planning/index.shtml>. Additional State agency benefits, as appropriate and feasible, shall be added to said document as they become available.

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(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 Planning Advocacy, has issued a Certificate of Eligibility.

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### 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;

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3. Regional plans for any regional planning entity regarding a regional planning theme not associated with an intention to amend the State Plan Policy Map;

4. Regional plans for two or more municipalities sharing a common regional planning theme relating to an intention to amend the State Plan Policy Map, provided that each affected municipality individually petition for plan endorsement. 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;

5. A regional entity or county working with one or more municipality as partners, whereby the municipalities pursue plan endorsement independently, but rely on one or more regional or county planning elements towards fulfilling their respective plan endorsement submission requirements where consistent with the State Plan and plan endorsement guidelines;

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

10.

11. Plans that previously received Initial Plan Endorsement from the Commission;

12.

(b)

#### **5:85-7.4 Posting and New Jersey Register publication requirements for the Office of Planning Advocacy.**

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

1. Posting information concerning said documents on the Office of Planning Advocacy website;

2. Written notice concerning said documents to all persons or organizations who have registered with the Office of Planning Advocacy 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 revocation of a plan endorsement or of a previously designated center pursuant to N.J.A.C. 5:85-7.23 or a

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petition to amend pursuant to N.J.A.C. 5:85-7.24, the Office of Planning Advocacy, shall publish notice of the decision in the New Jersey Register.

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### **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 and periodically update 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 and Plan Endorsement Guidelines. Each list of benefits, funding grants or other programs shall specify:

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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 or planning and implementation agreement 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

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implementation mechanism does not exist, the relevant State agency will work with the Office of Planning Advocacy, 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 and implementation agreement to achieve consistency with the goals, policies and strategies of the State Plan; and

5. Facilitate prioritized technical assistance and coordinated, expedited 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 Planning Advocacy, has prepared a list of available State agency benefits entitled "Plan Endorsement Benefits," which shall be periodically updated, and posted on the Office of Planning Advocacy's website at: <https://nj.gov/state/planning>. The Office of Planning Advocacy, 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 Planning Advocacy website.

#### 5:85-7.6 Waivers

(a) Any of the requirements of plan endorsement, pursuant to N.J.A.C. 5:85-7.8, 7.9 and 7.11 may be partially or fully waived at the discretion of the Executive Director in consultation with the relevant State agencies.

(b) A waiver may be granted pursuant to (a) above, 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 Planning Advocacy, in plan endorsement guidelines and related guidance documents and as agreed upon between the Office of Planning Advocacy 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 written justification to the Executive Director.

(d) Within 30 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.

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(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, including procedural requirements, other than N.J.A.C.-7.8, 7.9 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 by the Executive Director in consultation with 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.

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#### **5:85-7.7 Pre-petition submission requirements, scheduling and meeting**

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(a) A prospective municipal petitioner shall request a meeting with the Office of Planning Advocacy, when considering whether to petition for plan endorsement and is required to make the request in writing or electronically in order to initiate plan endorsement. Submission requirements for the request include one electronic color copy of the following:

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

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2. All planning documents, as delineated in N.J.A.C. 5:85-7.13(d) or outlined in the plan endorsement guidelines and related support materials, to the extent that they already exist; and

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

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

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(c) The Office of Planning Advocacy, members of relevant State agencies, and representatives for the petitioner, including at least one elected official, 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.

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(d) A petitioner shall submit its Municipal Self-Assessment Report 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.

#### **5:85-7.8 Advisory committee appointment and membership**

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(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, to ensure maximum participation by the community in planning its future. Appointments shall be made in accordance with any relevant local government ethics law and be designed to avoid any appearance of impropriety. Petitioner shall ensure that committee membership is representative of the whole community, serving without bias toward any one or more interest groups.

1. For a municipal petitioner, 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, of which the mayor is considered a member, for this purpose, 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. If a municipality has an appointed Green Team, it could serve as the Advisory Committee. Additional community representatives as identified in the criteria above should be added to the Green Team for the purposes of Plan Endorsement if necessary.

2. For a county petitioner, the advisory committee shall be appointed by the board of county commissioners, 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 county commissioners. 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 or regional petitioner, the advisory committee shall be appointed by the relevant planning entity or by the governing body of each affected municipality, depending on the nature of the area, at a public meeting for which adequate notice has been provided. The appointment shall take effect upon approval of a resolution of the relevant planning entity. The advisory committee shall consist of between five and 10 members, including at least one member of a relevant planning entity, at least one member of a relevant board of county commissioners, one member of a relevant county planning board, at least two representatives of the public who reside within the area and are not elected or appointed to any public position within said area and at least one additional elected official, such that each political jurisdiction in the area is represented by an elected official at either the local, county or regional level. Membership on the advisory committee shall be subject to the approval of the Executive Director. The public members may not hold an appointed or elected position within the municipality or be employed by said relevant planning entity.

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### 5:85-7.9 Self-Assessment Report, form, content, adoption and submission requirements

(a) Petitioner shall prepare a Municipal Self-Assessment Report. Municipal petitioners shall use the document entitled "Municipal Self-Assessment Guidelines, as posted on the Office of Planning Advocacy's website as a template for the report. The narrative section of the municipal self-assessment report shall include, as a minimum:

1. An introductory section that describes the petitioner's goals and objectives, planning issues, assistance sought from state agencies, including a list of benefits sought as a result of plan endorsement, any requests for mapping amendments to the State Plan, such as planning areas and centers in GIS format, and any requests for waivers pursuant to N.J.A.C. 5:85-7.6(a), including a justification for same;

2. An analysis of existing conditions, opportunities and challenges and key characteristics of the area; a review of planning activities and existing plans. If known, include any other pertinent data to ensure accurate mapping of centers and other features

3. Zoning map in digital form or high-resolution scanned copy if GIS is unavailable, including a zoning schedule;

4. A community vision and public participation section addressing how any existing community vision supports the State Plan vision and visioning requirements will or have been completed;

5. An inventory of recent and upcoming development activities that addresses all major development and redevelopment activities that have occurred recently or are in the planning or approval process or under construction;

6. An inventory of State, Federal & other programs, grants and capital projects that lists and briefly describes all relevant projects or funding, involving state resources;

7. An inventory and copies annual Board of Adjustment and Environmental Commission reports for each of the past 3 years;

8. An inventory of known contaminated sites if not already provided in the Natural Resource Inventory;

9. An inventory of any enforcement actions taken by the NJDEP, and any other known or pending State Agency actions for each of the past 3 years;

10. A statement of planning coordination with state, regional and county agencies; adjacent municipalities and others in its planning efforts; including any inter-municipal initiatives for regional planning, shared services, emergency planning, resiliency to climate change, and to what extent land use and zoning impact all neighboring municipalities;

11. A sustainability statement that addresses how planning and regulations support social, economic and environmental sustainability, including resiliency to climate change, energy efficiency, Green Design, Greenhouse Gas reduction, land and water conservation, agricultural systems, waste management, toxins reduction, environmental justice, and availability of community-wide multi-modal transportation opportunities;

9. An assessment of vulnerable areas, critical assets and infrastructure using guidance outlined in the Plan Endorsement Guidelines or provided by the Department of

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### Environmental Protection:

10. A statement that addresses consistency between population and trend data, community vision, local planning, zoning and land use regulations;

11. A statement of findings and conclusions regarding consistency with each Goal and Strategy of the State Plan, including an assessment of actions needed to achieve consistency;

12. A conclusion summarizing the argument for plan endorsement and proposed centers;

13. For petitioners representing a county or regional petition, specific reference shall be made to identify and evaluate countywide and/or regional 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

If a portion of the municipality is in the Highlands, Pinelands or Sport Exposition Authority (Meadowlands), their MSA should only contain data for that area outside 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 planning entity.

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

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

1. Proof of public notice pursuant to N.J.A.C. 5:85-1.7(f) for all required public meetings in the form of an affidavit of publication;

2. A certified copy of resolution from the governing body, or the relevant 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.

### **5:85-7.10 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

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the petitioner's Self-Assessment Report with the most up-to-date regional and Statewide data, evaluate the report with regard to development, infrastructure, natural resources, social equity and resiliency to climate change, 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 Planning Advocacy.

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

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(c) The Opportunities and Constraints 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.

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

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

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(a) Petitioner shall perform a community visioning process designed to maximize involvement of the community and structured so as to encourage consensus. It is vitally important that the petitioner take efforts to engage socially vulnerable populations who have historically been underrepresented in these processes. Petitioner shall meet minimum requirements for conducting visioning sessions as set forth below and any additional standards from the plan endorsement guidelines and related support materials which may be called for depending on circumstances. Community visioning shall engage the public through a variety of interactive technologies and media, including online means, social media and posting of all workshops and hearings on the municipal website. 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; official Facebook page; articles in local newspapers and written materials posted in municipal buildings, schools and local businesses; and by notice to the Office of Planning Advocacy. 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:

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1. At least two facilitated workshops consisting of interactive discussions with residents and other community stakeholders to identify the community's purpose, core values and vision for a minimum 20-year horizon. At least one of the in-person workshops shall also be held online to enhance and modernize more equitable public

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participation. The workshops shall be noticed in a legal advertisement, which satisfies the requirements at N.J.A.C. 5:85-1.7(j). At these workshops, a variety of materials relating to the community, such as maps, photos and resource inventories shall be made available for review and discussion. The petitioner and/or its advisory committee shall provide further notice of the workshops according to N.J.A.C. 5:85- 1.7(f)3, and shall provide the following additional notice, to the extent available, at least 10 days in advance of the workshops: issuing a press release to local newspapers promoting the workshops, posting notice of the workshops on the official municipal website and posting notice of the workshops in a conspicuous public place; and

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2. At least two public hearings during the course of the visioning process in which a preliminary vision statement is vetted and discussed. At least one of the in-person public hearing shall also be held online to enhance and modernize more equitable public participation. The petitioner and/or 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. The vision statement may be adopted as a part of the master plan. In this case, the hearings for such adoption shall be consistent with N.J.A.C. 40:55D-1 et seq., regarding adoption, revision or amendment of a master plan.

(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 Planning Advocacy, as part of a petition for plan endorsement, which shall include the following:

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1. Proof of public notice pursuant to N.J.A.C. 5:85-1.7(f) for all required public meetings and hearings in the form of an affidavit of publication and proof of electronic postings;

2. A certified resolution from the governing body approving submission of the vision statement to the Office of Planning Advocacy;

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3. Copies of materials used in the visioning process;

4. A copy of the summary report;

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; and

6. A copy of the vision statement.

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### 5:85-7.12 Commencement of consistency review

Upon receipt of all items submitted pursuant to N.J.A.C. 5:85-7.7, 7.8, 7.9 and 7.11(d) and 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, the Executive Director shall commence the consistency review, post notice of receipt of required submissions and the commencement of review pursuant to 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.

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### 5:85-7.13 Consistency review

(a) Within 45 days of receipt of items submitted pursuant to N.J.A.C. 5:85-7.12, relevant Federal, State and regional agencies shall provide comments regarding consistency of the petition to the Executive Director.

(b) Within 90 days of receipt of items submitted pursuant to N.J.A.C. 5:85-7.12, the Office of Planning Advocacy, 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, which shall conclude with issuance of a consistency review report to the petitioner,

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(c) 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 and plan endorsement guidelines 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, areas vulnerable to flooding and climate change-related hazards, and with special consideration of equity/environmental justice issues;

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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) A consistent municipal plan shall contain the following:

i. The submissions required pursuant to N.J.A.C. 5:85-7.12;

ii. The following mandatory planning documents and as outlined in the plan, endorsement guidelines and related support materials:

i. A sustainability statement;

ii. A land use element;

iii. A land use inventory or map;

iv. A zoning ordinance, schedule or map;

v. Documents detailing recent or upcoming major developments as defined by the MLUL;

vi. A circulation element and complete and green streets policy and implementation ordinance;

vii. A municipal stormwater management plan and ordinance;

viii. A wastewater management plan;

ix. A housing element;

x. A petition for substantive certification filed with the Court, compliance with a court-ordered housing plan, or evidence of adequate affordable housing accommodations;

i. A fair share plan and implementing documents/ordinances;

ii. A community facilities plan, inventory and map;

iii. A board of education five-year facilities plan if one exists;

iv. An open space and recreation plan;

v. A natural resource inventory;

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vi. A conservation plan and implementing ordinances;

vii. An environmental justice and social equity action plan;

viii. A climate action plan that addresses:

a. climate adaptation and resiliency, and

greenhouse gas emissions reduction,

ix. A recycling statement of consistency;

x. A municipal recycling ordinance;

xi. A hazard mitigation plan or local annex in a county HMP;

xix. New Jersey State Police letter approving the local emergency operating plan;  
and

xx. A capital improvement program; and

The following conditional items as outlined in the plan endorsement guidelines,  
which may be required depending on local circumstances;

i. A utility service plan;

ii. floodplain ordinance; A water supply plan

iii. A recreation and open space inventory;

iv. An economic development plan;

v. An agricultural retention plan/farmland preservation plan, agricultural advisory committee, right-to-farm ordinance, and implementation program;

vi. A historic and cultural resources inventory, historic preservation plan, and implementation documents and mechanisms;

vii. Incorporation of hazard mitigation measures into relevant planning documents;

viii. A sustainability element;

ix. A historic and cultural resources inventory and historic preservation plan; and

(f) Any additional requirements that are agreed upon between petitioner and the Executive Director, in consultation with the relevant State agencies.

(g) During the consistency review period, the Office of Planning Advocacy, 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 Planning Advocacy, 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

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within 10 days of posting notice pursuant to N.J.A.C. 5:85-7.12 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 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 items submitted pursuant to 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 as described in N.J.A.C. 5:85-7.13 and the petitioner has fulfilled all requirements for plan endorsement as described in this chapter and relevant parts of the Plan Endorsement Guidelines and other support materials. In the event the Executive Director determines the plan is consistent with the State Plan, then the Executive Director shall prepare a recommendation report to the Commission for its consideration, within 60 days of the conclusion of the 90-day consistency review period, containing findings and conclusions to support the determination.

(b) If the Executive Director determines that additional action must be taken to complete the self-assessment, visioning or other action necessary to achieve initial consistency with these steps, the Executive Director shall, in consultation with the relevant State agencies and petitioner, develop an Action Plan within 60 days of the conclusion of the 90-day consistency review period, and petitioner shall continue to pursue plan endorsement as described in further detail below.

#### 5:85-7.15 Draft Action Plan

(a) If the Executive Director 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 Action Plan have been met to achieve initial consistency with these steps, then the petitioner shall work with the Office of Planning Advocacy, to develop a draft Plan Implementation Agreement and Memorandum of Understanding, that outlines longer-term planning implementation mechanisms for the petitioner to undertake during the 10-year endorsement period to achieve and maintain consistency with the goals and vision described in the endorsement plan, the State Plan, and any additional procedures from the Plan Endorsement Guidelines and other support materials.

(b) If the Executive Director determines that the self-assessment and visioning are not acceptable or that the terms and conditions of the Action Plan items have not been met as necessary, to achieve initial consistency, then it shall advise the petitioner in writing of items needing to be addressed.

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### **5:85-7.16 Draft Plan Implementation Agreement and Memorandum of Understanding adoption, submission and completion**

**(c) If petitioner fails to achieve initial consistency or meet the conditions and requirements of the Action Plan within 90 days or within a reasonable period of time as agreed to by the Executive Director, in consultation with relevant State agencies, the petition will be considered to have been withdrawn without prejudice and the petitioner so notified. Notice of any such withdrawal shall be provided by the Office of Planning Advocacy to the petitioner, and the Commission pursuant to N.J.A.C. 5:85-1.7(h) and 7.4(b).**

**(d) Within 60 days of achieving initial consistency, completion of the items outlined in the Action Plan, and negotiation of the draft Plan Implementation Agreement with the petitioner, the Executive Director shall submit the draft Plan Implementation Agreement and Memorandum of Understanding to the State Planning Commission for its consideration.**

**(e) Within 45 of receiving the draft Plan Implementation Agreement and Memorandum of Understanding, the Planning Commission shall determine whether the draft Plan Implementation Agreement and Memorandum of Understanding are appropriate to achieve consistency with the State Plan and any additional procedures from the State Plan Endorsement Guidelines and related support materials.**

**(f) If the State Planning Commission determines that the terms and conditions of the draft Plan Implementation Agreement and Memorandum of Understanding are not appropriate to achieve consistency, then it shall revise the draft Plan Implementation Agreement and Memorandum of Understanding so that it is appropriate to achieve consistency**

**(g) If the Executive Director fails to provide a draft Plan Implementation Agreement and 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.**

**(h) If the Planning Commission determines that the draft Plan Implementation Agreement and Memorandum of Understanding are appropriate to achieve consistency with the State Plan and any additional procedures from the State Plan Endorsement Guidelines, then the Executive Director shall submit draft Memorandum of Understanding and Plan Implementation Agreement to the Petitioner for its consideration.**

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1. Petitioner shall consider adoption of the Memorandum of Understanding to enter into a Plan Implementation Agreement at a public hearing of the relevant governing body or relevant planning entity.
2. Municipal petitioners shall present the Memorandum of Understanding and Plan Implementation Agreement 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.
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:
4. Proof of public notice pursuant to N.J.A.C. 5:85-1.7 for all required public meetings and hearings in the form of an affidavit of publication;
5. A certified resolution from the governing body, or the relevant planning entity for a regional plan or special resource area plan, approving execution of the Memorandum of Understanding;
6. A copy of the meeting minutes of each public meeting and hearing at which the Memorandum of Understanding and Plan Implementation Agreement were reviewed. The minutes shall include a summary of public comments and copies of written comments filed before or during the public hearing(s); and
7. A copy of the certified resolution authorizing execution of the Memorandum of Understanding, a copy of the executed Memorandum of Understanding.
8. If petitioner fails to execute the Memorandum of Understanding to enter into the Plan Implementation Agreement and become endorsed by the State Planning Commission within 60 days of receiving the Memorandum of Understanding and Plan Implementation Agreement, or within a reasonable period of time as agreed to by the Executive Director, in consultation with relevant State agencies, the petition will be considered to have been withdrawn without prejudice and the petitioner so notified. Notice of any such withdrawal shall be provided by the Office of Planning Advocacy to the petitioner, and the Commission pursuant to N.J.A.C. 5:85-1.7(h) and 7.4(b).

9. Within 60 days of the Petitioner's execution of the Memorandum of Understanding

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pursuant to N.J.A.C. 5:85-7.14(b), [the State Planning Commission](#), shall authorize execution of the Memorandum of Understanding [and Plan](#) by resolution at a public hearing.

**10.** [The Executive Director](#), shall submit the fully executed Memorandum of Understanding to the [Petitioner](#).

**11.** [An approved Plan Implementation Agreement may only be amended for good cause shown at the discretion of the Executive Director. Any amendments to a Plan Implementation Agreement shall be provided to the Commission and the public pursuant to N.J.A.C. 5:85-1.7\(h\) and 7.4\(b\), unless undertaken pursuant to N.J.A.C. 5:85-7.22\(c\).](#)

**12.** Centers may be revoked by the Commission in the event petitioner fails to satisfy [Plan Implementation Agreement](#) deadlines, based on a recommendation by the Executive Director, in consultation with relevant State agencies.

### **5:85-7.17 Recommendation report, review of petition, and direct petition**

(a) Within 60 days of satisfaction of action items in an Action Plan [and execution of the Memorandum of Understanding by the petitioner and the State Planning Commission](#), the Executive Director shall prepare a recommendation report to the Commission. The report shall either determine that the plan is consistent or not consistent with the State Plan.

**(b) [Within 45 days of receipt of the Executive Director's recommendation report on consistency pursuant to N.J.A.C. 5:85-7.14\(a\) or 7.18\(a\), or a direct petition pursuant to N.J.A.C. 5:85-7.14\(b\)3 or 7.18\(d\), the Plan Implementation Committee will consider the recommendation report at a regularly-scheduled meeting, occurring no sooner than ten \(10\) days following the provision of public notice of same.](#)**

(c) If the [Plan Implementation Committee](#), requests additional information from petitioner to make its determination, it may add an additional 45 days after receipt of the requested information, [before making a recommendations on the petition. The Plan Implementation Committee will recommend to the Commission that the petition be: considered for approval, considered for approval with revisions, or denied.](#)

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

1. If the [Plan Implementation Committee](#), fails to make a recommendation on the petition within 45 days of receipt of the Executive Director's Report or within 45 days of

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receipt of the requested additional information, or if the petitioner disagrees with the recommendation of the Plan Implementation Committee; or

2. If the Office of Planning Advocacy fails to prepare a draft Plan Implementation Agreement and Memorandum of Understanding pursuant to N.J.A.C. 5:85-7.16,

### **5:85-7.18 Plan endorsement by State Planning Commission**

(a) Within 45 days after receipt of the recommendation report pursuant to N.J.A.C. 5:85-7.16 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 Plan Implementation Committee's recommendation on the petition or the petitioner's direct petition for endorsement based on its determination of consistency. If the Commission determines that the plan that is the subject of the petition, along with any Plan Implementation Agreement, is consistent with the State Plan and any additional requirements from the State Plan Endorsement Guidelines or other support materials, it shall approve the petition for plan endorsement. If the Commission determines the plan that is the subject of the petition along with any Plan Implementation Agreement, is inconsistent with the State Plan, the Commission shall either request the petitioner to make necessary changes to address requirements that must be met in order to achieve consistency with the State Plan, or deny the petition. The Commission's approval or denial of a petition is a final agency action.

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

### **5:85-7.19 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 Planning Advocacy to process those requests.

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

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

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### 5.85-7.20 Period of endorsement

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

(b) In the Highlands Region, as defined by N.J.S.A. 13:20-7, the Highlands Council's certification of a municipality or county in the Highlands Region whose master plan and associated regulations to have been approved by the Highlands Council pursuant to N.J.S.A. 13:20-18.a, to be in conformance with the Highlands Regional Master Plan, qualifies for State aid, planning assistance, technical assistance, and other benefits and incentives that may be awarded or provided by the State to municipalities and counties which have received plan endorsement by the State Planning Commission.

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

### 5:85-7.21 Monitoring of endorsed plans and designated centers

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

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

(c) Annual and biennial reports may include written requests to revise, certain

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requirements of the Plan Implementation Agreement that are unrelated to the State Plan Policy Map. Such requests shall be considered on a case by case basis at the discretion of the Executive Director in consultation with any relevant State agencies based on a determination of whether the item that is proposed to be changed remains applicable or feasible given current circumstances, and whether the proposed modification or replacement item would achieve the same level of consistency with the State Plan. If the Executive Director determines that the subject of the request is not consistent with the State Plan, or is significant enough to warrant consideration by the State Planning Commission, the Executive Director will deny the request in writing, in which case, a petition for an amendment to the Plan Implementation Agreement shall be submitted pursuant to 5:85-7.24.

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

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of receipt of said complaint, the Executive Director shall investigate and report to the Commission. Public notice of any such complaint and any report by the Executive Director shall be provided in accord with N.J.A.C. 5:85-7.4.

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

(a) The Plan Endorsement Renewal process shall build on a petitioner's previous plan endorsement received from the State Planning Commission and brought into consistency with the current State Plan and State Planning Rules.

(b) The Executive Director shall certify to the State Planning Commission that the Petitioner is engaged with the Office of Planning Advocacy and the previous Plan Implementation Agreement is consistent and up to date with the petition as endorsed by the State Planning Commission. Departure from consistency or lack of progress on the previous Plan Implementation Agreement without sufficient cause would make the Petitioner ineligible for simple renewal.

(c) Nine (9) months prior to plan endorsement or center expiration, the Petitioner shall send a letter to the Office of Planning Advocacy requesting certification that the municipality is eligible for Plan Endorsement Renewal. The Executive Director will issue a letter of determination within 90 days. If eligible, approximately (six) 6 months prior to expiration of Endorsement, the Mayor shall submit a letter, along with any required municipal authorization, petitioning the State Planning Commission to renew their Endorsement. The letter shall explain why the municipality is seeking renewal, outline assistance and benefits they seek from the State, and include requests for map amendments (if any). The letter should request an Endorsement Renewal meeting and will be accompanied by:

1. An official Endorsement Statement that includes a recap and overview of the previous (ten) 10 years' activities and how the municipality and municipal vision remain consistent with each of the State Plan goals by including major planning accomplishments from the past (ten) 10 years, including:

- i. Economic development and redevelopment;
- ii. Infrastructure and utilities capacity, capital improvement;
- iii. Transportation/Complete Streets;
- iv. Sustainability (certification through Sustainable NJ program for example);
- v. Center-based development and mixed use;
- vi. Affordable housing compliance;
- vii. Resiliency, hazard planning and mitigation;

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(d) Within two weeks after the meeting, a memo will be drafted by OPA and agreed with by Petitioner, State Agencies, County and relevant others (Highlands, Pinelands for example) of additional required material.

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(e) The Office of Planning Advocacy, with assistance from State Agency partners, will work with the petitioner, to identify and agree to Action Plan and Plan Implementation Agreement items, along with necessary timelines in order to maintain consistency with current State Plan and State Planning Rules. The Action Plan and Plan Implementation Agreement must address inconsistencies as well as update incomplete items from the previous endorsement period. Any requested mapping change will be addressed as part of the Action Plan and will comply with existing mapping protocols.

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(f) The Executive Director will present the staff recommendation to either support or deny the request for Plan Endorsement Renewal to the Plan Implementation Committee. After Plan Implementation Committee's final review and comment, the Office of Planning Advocacy staff will report to the State Planning Commission and will request State Planning Commission approval of the recommended action. The recommendation will include the results of the Plan Endorsement Renewal process, past performance, current status and the agreed upon path forward. Additionally, the revised Plan Implementation Agreement and a Memorandum of Agreement (which would have prior approval from the municipal governing body) shall be included.

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(g) If approved by the State Planning Commission the Plan Endorsement Renewal will be applicable for 10 years and subject to biennial reviews.

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(h) The following plan endorsement requirements as provided below shall apply to plan endorsement renewal process, when applicable.

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5:85-7.4 Posting and New Jersey Register publication requirements

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5:85-7.5 State Agency responsibilities

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5:85-7.6 Waivers

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5:85-7.15 Action Plan and MOU

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5:85-7.17 Draft PIA

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5:85-7.18 Recommendation, report,

5:85-7.19 Plan endorsement by SPC

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5:85-7.20 Extension

5:85-7.21 Period of endorsement

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5:85-7.22 Monitoring

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

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(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

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shall:

1. Direct the Office of Planning Advocacy 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;

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

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

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

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

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

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

#### **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 or biennial report, unless either the endorsement period will end in less than two years or it can be demonstrated that, for special reasons, the proposed amendment cannot wait until the next biennial report is due.

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

1. A detailed justification statement outlining the reasons why the proposed amendment is necessary and consistent with both the plan endorsement petition as approved by the State Planning Commission, and each of the State Plan goals as

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applicable;

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

3. A list of the documents being submitted;

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

5. A certified resolution from the governing body for a municipal petitioner or the relevant 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 or the relevant 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 USGS National Map Accuracy Standards for 1:6,000 with 90% vertices within 16.66 feet of intended location and as provided in the Plan Endorsements Guidelines;

8. 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 a biennial report, if the amendment is not being proposed as part of a biennial report; and

11. A report describing:

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

ii. How the amendment helps the municipality, adjacent municipalities, 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 Planning Advocacy, in accordance with N.J.A.C. 5:85-1.6(b) and post such information on the Office of Planning Advocacy website.

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(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(b) 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.

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(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 Planning Advocacy, 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).

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(h) The Office of Planning Advocacy, shall hold a public hearing if the Executive Director receives a written or electronic 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 or electronic requests from other governmental agencies, advocacy groups or individuals with a demonstrated interest in the petition within 10

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days of the Office of [Planning Advocacy](#), providing notice public notice pursuant to (e) above that a petition to amend has been submitted in accordance with this subchapter.

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(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(b) and forward the report to the Commission, and the petitioner and post the report on the Office of [Planning Advocacy](#) website.

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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 [State Plan Policy Map, local planning or regulatory](#) 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 [Plan Implementation Committee](#), 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.

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(l) Within 45 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 (l) 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.

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## **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" 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.

### **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 including designation of centers, cores and nodes that evolve through the plan endorsement process.

### **5:85-8.3 Map amendments**

(a) Except for areas that are not 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, and 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,

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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.

#### 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 Planning Advocacy, who shall serve as agent for the State Planning Commission in the administration of this subchapter. 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 individual or private entity, 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 the local zoning district in which the State Plan Policy Map is proposed;
- iii. How the amendment will impact adjacent municipalities;
- iv. How the amendment will impact adjoining zoning districts of adjacent municipalities;
- v. How the amendment will impact public sector decisions; and
- vi. The reason(s) why the amendment cannot await the next revision of the State Development and Redevelopment Plan of the petitioner is an individual or private entity;

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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;

5. If any changes to the State Plan Policy Map are proposed, the proposed State Plan Policy Map boundaries shall be depicted in digital files at minimum, conforming to USGS National Map Accuracy Standards for 1:6,000 with 90% vertices within 16.66 feet of intended location and as provided in the Plan Endorsements Guidelines established by the State Planning Commission;

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6. Proper authorization and endorsement as follows:

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

ii. For an individual or private entity, the petition shall include a certified copy of the authorization to submit the petition; and

iii. For an individual or private entity, at the discretion of the petitioner, the petition may include endorsements of the amendment by public and private organizations;

7. Documentation that the public notice requirements at N.J.A.C. 5:85-1.7(g) have been met for the proposed map amendment; and

8. A list of documents being submitted.

(c) The Executive Director of the Office of Planning Advocacy, shall forward one copy of the petition proposed map amendment to the appropriate municipal and county governing bodies and planning boards for their review and comment. If no comment is received within 90 days after electronically mailing said petition, the municipality or county shall be deemed to have no comment on the proposed map amendment.

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(d) If the State Planning Commission initiates a map amendment, the Executive Director of the Office of Planning Advocacy, shall notify the appropriate municipal and county governing bodies and planning boards for their review and comment. If no comment is received within 90 days after electronically mailing said notice, the municipality or county shall be deemed to have no comment on the proposed map

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amendment.

(e) The Office of Planning Advocacy, shall hold a public hearing in an appropriate municipal, county, or regional jurisdiction to receive testimony on the petition or map amendment initiated by the State Planning Commission. Notice of this hearing shall be provided pursuant to N.J.A.C. 5:85-1.7(b).

(f) If an individual or private entity initiates a map amendment, the appropriate municipality within which the amendment is proposed, shall hold a public hearing to receive testimony on the map amendment in accordance with the Open Public Meetings Act, N.J.S.A 10:4-6 to -21;

(g) At least 10 days prior to the public hearing date, the individual or private entity initiating the map amendment, shall provide notice in accordance with N.J.S.A. 40:55D-12(d);

(h) The municipality shall provide the Executive Director with proof that notice of the hearing on the map amendment has been provided pursuant to N.J.A.C. 5:85-1.7(g) in the form of an affidavit of publication;

(i) The municipality shall also provide written notice to each adjacent municipality;

(j) At the conclusion of the public hearing, the municipality shall consider adopting a certified resolution expressing either support or opposition to the map amendment petition;

(k) Within 30 days, a copy of the resolution and meeting minutes at which the hearing on the map amendment petition was held, shall be electronically mailed to the Executive Director. The minutes shall include a summary of public comments and copies of written comments filed before or at the public meeting; and (l) The State Planning Commission may, at its discretion, request the Plan Implementation Committee to hear and review proposed map amendments, including those initiated by the State Planning Commission. Only the State Planning Commission may act on a proposed map amendment petition.

### 5:85-8.5 Determination of completeness and period of review

(a) Within 60 days of the receipt of a petition for a proposed map amendment, the Executive Director of the Office of Planning Advocacy, shall inform the petitioner, any municipality and county impacted by the proposed map amendments, and the State Planning Commission, in writing, whether the proposed map amendment petition is complete and complies with this subchapter.

(b) In cases where the Executive Director of the Office of Planning Advocacy, finds that the petition for a proposed map amendment is not complete or has not been submitted in accordance with this subchapter, the Executive Director shall inform the

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petitioner in writing within 60 days after receipt of the petition for the proposed map amendment of the deficiencies in the petition. If a corrected petition for a proposed map amendment is not resubmitted within 90 days after receipt of the Executive Director's notice, or is resubmitted incorrectly, the petition for the proposed map amendment will be considered withdrawn without prejudice and the petitioner so notified. No further action by the Executive Director will be taken until a new or revised petition for a proposed map

amendment is submitted in accordance with N.J.A.C. 5:85-8.4. The petitioner shall provide notice of any such withdrawal in accordance with N.J.A.C. 5:85-1.7(g). Notice of any such withdrawal shall be provided by the Office of Smart Growth 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).

(c) In cases where the Executive Director of the Office of Smart Growth finds that the petition for a proposed map amendment is submitted in accordance with this subchapter, or is resubmitted correctly pursuant to (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 for proposed map amendments, plan(s) and supporting documents to the State agencies represented on the State Planning Commission and any other relevant State or Federal agency.

(d) The relevant State and Federal agencies receiving copies of the petition for the proposed map amendment pursuant to (c) above shall provide comments to the Executive Director within 45 days.

(e) Within the State and Federal agency 45-day review period, the Office of [Smart Growth](#) may hold a public hearing in an appropriate jurisdiction to receive testimony on the petition for a proposed map amendment with public notice provided pursuant to N.J.A.C. 5:85-1.7(b). The Office of [Planning Advocacy](#) shall hold a public hearing in an appropriate jurisdiction to receive testimony on the map amendment petition with public notice provided pursuant to N.J.A.C. 5:85-1.7(b) if it receives a written request for such a hearing from the governing body of any municipality or county with areas impacted by the petition or a total of at least 10 requests from other governmental agencies, advocacy groups or individuals with a demonstrated interest in the petition within 10 days of the Office of [Planning Advocacy](#), providing public notice pursuant to (c) above that a completed map amendment petition has been submitted.

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(f) The Executive Director of the Office of [Planning Advocacy](#) may request additional information and, at the discretion of the Executive Director, the 90 day review period set forth in N.J.A.C. 5:85-8.6(a) may be extended for an additional 45 days

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after receipt of the requested information. Public notice of any such extensions shall be provided to the petitioner, to those interested persons and organizations who have registered with the Office of [Planning Advocacy](#), in accordance with N.J.A.C. 5:85-1.6(b) and posted on the Office of [Planning Advocacy](#) website.

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## 5:85-8.6 Determination of the Executive Director and State Planning Commission

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(a) In cases where the Executive Director determines that the petition for the proposed map amendment is submitted in accordance with this subchapter, the Executive Director shall determine within 90 days after the conclusion of the State and Federal agency review period whether the petition for the proposed map amendment is consistent

with the State Development and Redevelopment Plan. The Executive Director shall prepare a report containing detailed findings and conclusions concerning the petition for the proposed map amendment. 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 petitioner, any municipality and county impacted by the petition for the proposed map amendment, and the State Planning Commission and post the report on the Office of [Planning Advocacy](#), web site. If the Executive Director determines that the petition for the proposed map amendment is consistent with the State Development and Redevelopment Plan, the Executive Director shall recommend that the map amendment petition be approved by the State Planning Commission. If the Executive Director determines that the petition for a proposed map amendment is inconsistent with the State Development and Redevelopment Plan, the Executive Director shall either recommend the necessary changes that should be required by the State Planning Commission to make the proposed map amendment consistent with the State Development and Redevelopment Plan or recommend that the proposed map amendment petition be denied by the State Planning Commission.

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(b) The State Planning Commission and [Plan Implementation Committee](#) shall review the Executive Director's determination that the petition for the proposed map amendment is complete and the determination as to whether the petition for the proposed map amendment is consistent with the State Development and Redevelopment Plan. Within 60 days after receipt of the recommendation, the State Planning Commission shall affirm, revise or reverse the Executive Director's determination of the petition for the proposed map amendment based on its determination whether the proposed map amendment petition is consistent with the State Development and Redevelopment Plan.

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(c) The Executive Director of the Office of [Planning Advocacy](#), shall, within 30 days after State Planning Commission action as set forth in (b) above, notify the petitioner in writing of the State Planning Commission's determination, findings and recommendations regarding the petition for the proposed map amendment.

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(d) Within 45 days of the State Planning Commission determining whether the petition or the proposed map amendment is complete and consistent with the State

Development and Redevelopment Plan, the Executive Director of the Office of [Planning Advocacy](#), shall place notice of said determination in the New Jersey Register and provide notice pursuant to N.J.A.C. 5:85-1.7(i).

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#### **5:85-8.7 Extension of time requirements**

The Executive Director of the Office of [Planning Advocacy](#), may extend, up to an

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additional 60 days, the time allowed for certain actions under this subchapter in the event that the number of requests for State Plan Policy Map amendments exceeds the resources of the Office of [Planning Advocacy](#), to process those requests in accordance with this subchapter. Public notice of any such extensions shall be provided to the petitioner, to those interested persons and organizations who have registered with the Office of [Planning Advocacy](#), in accordance with N.J.A.C. 5:85-1.6(b) and posted on the Office of Smart Growth website.

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**5:85-8.8 through 5:85-8.10 (Reserved)**