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February 13, 2004

MEMORANDUM TO: Members, State Planning Commission
FROM: Vanessa Zoe Morin, Research Analyst
RE: State Planning Commission State Planning Rules

Attached is the State Planning Rule proposal in their entirety. The document is comprised of the changes contained in the rule proposal (additions are **bold** and deletions are [bracketed]) and the proposed changes based on comments and proposed Commission initiated changes ([tracking changes format](#)).

In addition to the technical and grammatical changes, the major proposed changes for the rule adoption are located in the following sections. The PIC reviewed the suggested changes at the February 4th and February 11th meetings and made several recommendations. These suggestions are in addition to those outlined at both PIC meetings.

Changes proposed at the February 4th and February 11th PIC Meetings

Subchapter 1¹

1. Language added to N.J.A.C. 5:85-1.4 describing what is meant by demonstrated interest.

Subchapter 2

2. Clarify that the requirements that a county shall submit both their notice of participation with a Cross-Acceptance Work Program within 45 days of receipt of the Preliminary State Development and Redevelopment Plan.

Subchapter 3

¹In Subchapter 1 and 7 the word "final" has been replaced with "advanced" in all instances for terms regarding advanced plan endorsement petitions.

3. Language added at N.J.A.C. 5:85-3.6(a)1 the specifies items that a municipality provide to the negotiating entity for comparison with the Preliminary Plan and that they must identify infrastructure needs to be included in the Infrastructure Needs Assessment.
4. Language added at N.J.A.C. 5:85-3.7 specifying the process for municipal plans to be incorporated in the negotiating entities report.

Subchapter 4

5. Language added at N.J.A.C. 5:85-4.6(a) that specifies that the draft Statement of Agreements and Disagreement will be made available at the Office of Smart Growth and the web site.
6. Language added at N.J.A.C. 5:85-4.7(a) that specifies that the Impact Assessment will review relative impacts that would likely occur without that draft Final State Development and Redevelopment.

Subchapter 5

7. Language added at N.J.A.C. 5:85-5.1 that specifies that the draft Final State Development and Redevelopment Plan will be made available at the Office of Smart Growth and the web site.

Subchapter 7

8. Clarify that petitioners are encouraged to meet with the Office of Smart Growth for the purpose of a Pre-petition meeting at N.J.A.C. 5:85-7.3.
9. Clarify that petitioners are to submit mandatory not optional elements of their master plan for initial plan endorsement petitions at N.J.A.C. 5:85-7.4(a)8.
10. Clarify that all endorsed plan and centers remain endorsed for a ten year period at N.J.A.C. 5:85-7.11.

Subchapter 8

11. Language added at N.J.A.C. 5:85-8.3(a) to specify that map amendments are permitted on new information related to the goals, strategies, policies and delineation criteria of the State Plan provided that the new information alters the assumptions that were the basis for adopting the State Plan Policy Map for a particular area or areas for areas not subject to an endorsed plan.

Changes presented to the PIC Committee at the February 4th and February 11th Meetings

Subchapter 1

12. Clarify that cross-acceptance and plan endorsement involves full participation of municipalities and the public, in addition to counties at N.J.A.C 5:85-1.2(b).
13. At N.J.A.C. 5:85-1.4 definitional changes that have been added, deleted or clarified in the following categories: general planning principles, cross-acceptance, and plan endorsement (charts below).

General planning principles

Add	Delete	Clarify
Written document		Center; Center boundary; Center designation or designated center; Consistency or consistent; Critical environmental sites

Cross-acceptance

Add	Delete	Clarify
Infrastructure Needs Assessment		Cross-Acceptance Manual; draft Final State Development and Redevelopment Plan; Final State Development and Redevelopment Plan; Impact assessment; Impact assessment; State Development and Redevelopment; Statement of Agreements and Disagreements.

Plan Endorsement

Add	Delete	Clarify
Advanced petition	Final petition	Initial petition; Map amendment; Minor map amendment; Petition; Petitioner; Plan Endorsement Contract; Plan Endorsement Guidelines; Plan endorsement process or plan endorsement or endorsement; Planning and Implementation Agreement

14. Language added at N.J.A.C. 5:85-1.5(b), to specify that technical assistance may be in the form of a Cross-Acceptance Manual and Plan Endorsement Guidelines issued by the State Planning Commission.
15. At both N.J.A.C. 5:85-1.6 and N.J.A.C. 5:85-1.7, technical changes have been made to clarify public participation and notice mechanisms.

Subchapter 2

16. Add language regarding public participation for proposed Cross-Acceptance Work Programs and proposed schedules at N.J.A.C. 5:85-2.3(c).

Subchapter 3

17. Add language stating that a joint public information meeting will be held with each county planning board in each county for the purpose of providing information at N.J.A.C. 5:85-3.1(c) so that the language is consistent with the statute. Language will be deleted referencing that the Office of Smart Growth

- will provide public comments and responses pursuant to N.J.A.C. 1.6(a) because of the informational nature of these meetings.
18. Reorganize N.J.A.C. 5:85-3.6(a) so that the sequence of the subsections reflects the steps in which municipal Cross-Acceptance activities occur.
 19. Specifically list in N.J.A.C. 5:85-3.6(a) the capital improvement program as an item that municipalities provide to the negotiating entity.
 20. Add language at N.J.A.C. 5:85-3.6(c) and at N.J.A.C. 5:85-3.9(a) that clarifies that the Cross-Acceptance Report includes infrastructure needs that should be addressed in the Infrastructure Needs Assessment.
 21. Add language that clarifies that the negotiating entity's Cross-Acceptance Report consider both county and municipal planning issues.
 22. Add language regarding the distribution of Cross-Acceptance Reports by the Office of Smart Growth at N.J.A.C. 5:85-3.10(a).

Subchapter 4

23. Delete redundant reference to county planning board at N.J.A.C. 5:85-4.3(a) and N.J.A.C. 5:85-4.5(a).
24. Reinstate language proposed for deletion at N.J.A.C. 5:85-4.4 regarding municipal representation for negotiating plans.
25. Reorganize N.J.A.C. 5:85-4.5(a)1-3 to include reworded language concerning municipal negotiations that was proposed for deletion at current N.J.A.C. 5:85-4.5(b)3. Add at N.J.A.C. 5:85-4.5(b) those who have registered pursuant to N.J.A.C. 5:85-1.6(b) to those entitled to receive notice of the Statement of Agreements and Disagreements resulting from negotiation sessions at N.J.A.C. 5:85-4.5(b).
26. Add language in N.J.A.C. 5:85-4.6(a) that clarifies that it is the State Planning Commission that adopts the Statement of Agreements and Disagreements after the negotiating committee adopts a draft Statement of Agreements and Disagreements. Language is added to expand the distribution of the draft Statement of Agreements and Disagreements and to provide a time period for review and comment on that document prior to State Planning Commission action.
27. Add language consistent with the State Planning Act that specifies that cross-acceptance concludes with the approval of the Statement of Agreements and Disagreements by the State Planning Commission at N.J.A.C. 5:85-4.6(b).
28. Delete "with and" in N.J.A.C. 5:85-4.7(a) as it is redundant.
29. Delete the word draft before Impact Assessment at N.J.A.C. 5:85-4.7(b) as it is the Impact Assessment that is distributed.

Subchapter 5

30. Add language that specifies upon consideration of formal reports and the draft Final State Development and Redevelopment Plan and Impact Assessment, the State Planning Commission shall approve for distribution a draft Final State Development and Redevelopment Plan, including a draft Infrastructure Needs Assessment at N.J.A.C. 5:85-5.1(a).

Subchapter 7

31. At N.J.A.C. 5:85-7.1(a) language is added to clarify that plan endorsement is a two-step process that includes initial and advanced petition stages. Language is added to clarify that initial plan endorsement is primarily based on planning activities that are already required and existing information that is readily available. There is no requirement that a petitioner seek advanced plan endorsement after it obtains initial plan endorsement. Language also clarifies that petitioners enter into a Planning and Implementation Agreement with the State Planning Commission, at both the initial and advanced petition stages, and a Plan Endorsement Contract prior to commencing the advanced plan endorsement petition stage. Upon approval of an initial petition, petitioners will receive regulatory and funding benefits as specified by State agencies with additional benefits available upon approval of advanced plan endorsement petitions.
32. Changes at N.J.A.C. 5:85-7.1(b) clarify that centers, cores, and nodes may only be designated through the plan endorsement process.
33. The reference to State agencies at N.J.A.C. 5:85-7.2(a) is deleted, because the petition for map amendment for State agencies is outlined at N.J.A.C. 5:85-8.
34. Language clarifying planning and implementation mechanisms was added at N.J.A.C. 5:85-7.2(b).
35. Changes at N.J.A.C. 5:85-7.2(g) were added to provide a contextual framework for State Planning Commission review of petitions and a timeframe for revisions to the Plan Endorsement Guidelines.
36. N.J.A.C. 5:85-7.3 changes added language that specifies the required elements and the purpose for a Pre-petition meeting.
37. Changes at N.J.A.C. 5:85-7.4(a) add language and renumber individual provisions to clarify what is to be included in an initial petition for plan endorsement. Similar language additions have been made at N.J.A.C. 5:85-7.7(a) and N.J.A.C. 5:85-7.14(b) concerning advanced plan endorsement petitions and endorsed plan amendments petitions.
38. Language specifying that a petitioner may enter into a Plan Endorsement Contract prior to filing an initial petition for plan endorsement is added at N.J.A.C. 5:85-7.4(b).
39. The changes at N.J.A.C. 5:85-7.5(b), N.J.A.C. 5:85-7.8(b), and N.J.A.C. 5:85-7.14(d) clarify the notice provisions for the Office of Smart Growth when a petitioner has withdrawn either a plan endorsement petition or a request for an amendment because the petition has been deemed incomplete by the Office of Smart Growth Executive Director.
40. N.J.A.C. 5:85-7.5(e), N.J.A.C. 5:85-7.8(e), and N.J.A.C. 5:85-7.14(g) have been revised to specify that a public hearing by the Office of Smart Growth on a petition is optional unless the petitioner, other governing bodies or at least 10 other interested parties request the public hearing.
41. N.J.A.C. 5:85-7.6(b), N.J.A.C. 5:85-7.9(b), and N.J.A.C. 5:85-7.14(h) were revised to permit a petitioner to request the State Planning Commission to review a petition for plan endorsement and an amendment to an endorsed plan if the Executive Director fails to submit a recommendation within a specified timeframe.

42. Changes to N.J.A.C. 5:85-7.6(a), N.J.A.C. 5:85-7.9(a) and N.J.A.C. 5:85-7.14(i) clarify the documents to be reviewed by the Executive Director of the Office of Smart Growth and the State Planning Commission for consistency with the State Development and Redevelopment Plan.
43. At N.J.A.C. 5:85-7.6(c), N.J.A.C. 5:85-7.9(c), and N.J.A.C. 5:85-7.14(k), the provisions were renumbered and changed to specify the actions the State Planning Commission can take on a plan endorsement petition.
44. The language at N.J.A.C. 5:85-7.6(c) and N.J.A.C. 5:85-7.9(c) was deleted because it became redundant to the actions that have been added in #13 above.
45. The purpose and required elements of an advanced petition was clarified at N.J.A.C. 5:85-7.7(a).
46. N.J.A.C. 5:85-7.7(b) was revised to (1) specify that a petitioner shall enter into a Plan Endorsement Contract that is consistent with the State Development and Redevelopment Plan prior to filing an advanced petition for plan endorsement and (2) to clarify the Office of Smart Growth notice provisions.
47. The reference to the Municipal Land Use Law was deleted in order to clarify the period of endorsement for initial and advanced plan endorsement at N.J.A.C. 5:85-7.11(a).
48. The changes to N.J.A.C. 5:85-7.12(b) clarify the required documents that must be included in the monitoring reports to be submitted to the Executive Director of the Office of Smart Growth.
49. Changes at N.J.A.C. 5:85-7.13(d) specify that the State Planning Commission may revoke an endorsed plan or prior center designation based on its determination as to whether the plan or designated center remains consistent with the State Development and Redevelopment Plan.
50. New language at N.J.A.C. 5:85-7.15(a) and N.J.A.C. 5:85-7.15(b) differentiates between regulatory and funding benefits to petitioners that have achieved initial or advanced plan endorsement.

Subchapter 8

51. Revisions to N.J.A.C. 5:85-8.2 include adding “cores and nodes,” in addition to center designations, as an eligible component of a map amendment petition, and making a grammatical correction.
52. Language was deleted at N.J.A.C. 5:85-8.4(b)(2) that required a State agency to submit its policies and interests with any map amendment petition.
53. Changes at N.J.A.C. 5:85-8.4(b)(4) add language to clarify the required elements of a State agency, an entity, or an individual report for a map amendment petition
54. The revisions to N.J.A.C. 5:85-8.4(b)(5) & (7)-(8) make the requirements consistent for initial and advanced petitions, amendments to an endorsed plan, and map amendments.
55. The changes to N.J.A.C. 5:85-8.5(b) correct the reference to the timeframe for resubmitting an incomplete petition so that it is consistent with N.J.A.C. 5:85-7 requirements; correct the reference to the corresponding section and petitioner notice requirements; and add language specifying that the Office of Smart Growth will provide notice regarding a petitioner’s proposed map amendment petition

- withdrawal to those who have registered with the Office of Smart Growth to receive notice.
56. N.J.A.C. 5:85-8.5(e) was changed so that requirements for public hearings on map amendments are consistent with public hearings for plan endorsement petitions.
 57. Changes to N.J.A.C. 5:85-8.5(f) clarify the extension provisions for a map amendment petition that is consistent with the provisions of initial and advanced petitions and amendments to an endorsed plan.
 58. Changes to N.J.A.C. 5:85-8.6(a) clarify the action of the Office of Smart Growth and State Planning Commission in determining and recommending consistency of a map amendment petition with the State Development and Redevelopment Plan so that it is similar to initial and advanced petitions, and amendments to an endorsed plan.
 59. Changes to N.J.A.C. 5:85-8.6(b) clarify the action of the State Planning Commission in reviewing consistency of a map amendment petition with the State Development and Redevelopment Plan so that it is similar to initial and advanced petitions and amendments to an endorsed plan.

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

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

(a) [Pursuant to the State Planning Act, N.J.S.A. 52:18A-199, ~~the~~The~~the~~The State Planning Commission shall revise and readopt the State Development and Redevelopment Plan **in accordance with the State Planning Act** [every three years]. In so doing, the **State Planning** Commission shall prepare and distribute a “[preliminary plan] **Preliminary Plan**” for cross-acceptance.

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

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

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

(b) The State Planning Commission shall, after due consideration of any public comments and recommendations, **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**, [for] **to commence** cross-acceptance and authorize its transmittal to each county and municipal planning board, governing body and chief executive, **clerk** and to [other] **those** interested persons and organizations **who have registered with the Office of Smart Growth in accordance to N.J.A.C. 5:85-1.6(b)**.

5:85-2.3 [(Reserved)]-~~Cross~~Cross-Acceptance Manual

(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 Cross-Acceptance Report for participating negotiating 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.

(b) Within ~~45~~ 30 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 Smart Growth.

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

SUBCHAPTER 3. PROCEDURES FOR [CONDUCTING THE COMPARISON PHASE OF CROSS-ACCEPTANCE] **COMPARING STATE, REGIONAL, COUNTY, AND MUNICIPAL PLANS**

5:85-3.1 Commencement of [the comparison phase] **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) [The comparison phase of cross-acceptance] **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 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). [The Office of Smart Growth shall provide summaries of public comment and responses pursuant to N.J.A.C. 5:85-1.6(a).]

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

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

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

(b) **(c)** Notices of **Participation or Waiver** [or Participation] shall be transmitted by each county to the Office of [State Planning] **Smart Growth** 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).**

1.-2. (No change.)

[(c)]**(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) [and N.J.A.C. 5:85-3.4], designate an appropriate entity, or itself, to assume the responsibility of negotiating entity for cross-acceptance for each such county. **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

[The Office of State Planning shall encourage the governing bodies of the counties] **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)**. [If a county notifies the Office of State Planning of that county's desire to enter into such an agreement or to involve a regional planning agency or metropolitan planning organization in cross-acceptance, the Office of State Planning shall provide, at the county's request, technical assistance in the preparation of appropriate intergovernmental agreements and designations of negotiating entities.]

5:85-3.4 (Reserved)

5:85-3.5 (Reserved)

5:85-3.6 Municipal participation in the [comparison phase of] cross-acceptance **process**

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

1. Providing to the negotiating entity the most up-to-date copies of the municipal master plans[, land [development regulations] **use ordinances**] and other information and materials, such as master plan reexamination reports, land use ordinances and capital improvement programs, requested by the negotiating entity as necessary for an effective comparison of the State **Development and Redevelopment** Plan with the planning policies of the municipality and identifying infrastructure needs that should be included in the Infrastructure Needs Assessment[.]; **and**

2. [Participation] **Participating** through official representation at cross-acceptance meetings convened by the negotiating entity[.];

[3. Holding a public meeting or hearing with notice provided pursuant to N.J.A.C. 5:85-1.7(d) and including all comments and responses in the municipal Cross Acceptance Report; and

4. After the public hearing, preparing a municipal Cross-Acceptance Report, as based on the Cross-Acceptance Manual, outlining the degree to which its plan is consistent with the Preliminary State Development and Redevelopment Plan, the degree to which its plan conflicts with the provisions of the Preliminary State Development and Redevelopment Plan, and proposed modifications to the Preliminary State Development and Redevelopment Plan or its plan. Public notice of issuance of the Cross Acceptance Report shall be provided pursuant to N.J.A.C. 5:85-1.7(d).]

(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.

~~Within 45 days, should a municipality fail to participate in the cross-acceptance process and fail to file an individual municipal report, the municipality shall be deemed to have concurred and agreed with the cross-acceptance report filed by the negotiating entity.~~

(c) [The negotiating entity shall negotiate plan cross-acceptance with each participating municipal planning board.

~~Within 45 days, should a municipality fail to participate in the cross-acceptance process and fail to file an individual municipal report, the municipality shall be deemed to have concurred and agreed with the cross-acceptance report filed by the negotiating entity.~~

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

2. ~~If~~ If a municipality is not satisfied with the [negotiating entity's~~]~~ Cross-Acceptance Report, in whole or in part, prepared by the negotiating entity pursuant to N.J.A.C. 5:85-3.9(a) or if the negotiating entity does not file a Cross-Acceptance Report, 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 Report shall be submitted to the State Planning Commission within 45 days of either the negotiating entity filing its Cross-Acceptance Report or of the date the Cross-Acceptance Report 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 Smart Growth in the Cross-Acceptance Manual. The Report 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 infrastructure needs that should be addressed in the Infrastructure Needs Assessment. The individual municipal Cross-Acceptance Report 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 Report within 45 days of the filing of the Cross-Acceptance Report 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 Report filed by the negotiating entity. If the negotiating entity for a county fails to file a Cross-Acceptance Report and any municipality within that county fails to file a municipal Cross-Acceptance Report within 45 days of the date by which the negotiating entity was due to file its Cross-Acceptance Report, 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 comparison phase of] **the cross-acceptance process**

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

(b) The Office of [State Planning] **Smart Growth** 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 [pursuant to N.J.A.C. 5:85-1.7(b)].

5:85-3.8 **(Reserved)**

5:85-3.9 Comparison of the Preliminary State Development and Redevelopment Plan with local and county plans and preparation of a [negotiated] cross-acceptance report

(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 establish] and prepare [by preparing] a Cross-Acceptance Report, in accordance with the Cross-Acceptance Manual,], outlining [The Cross-Acceptance Report shall outline the degree to which the [negotiating entities] planning in the county and each municipality is consistent with the Preliminary State Development and Redevelopment Plan and the degree to which [its] 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 infrastructure needs that should be addressed in the Infrastructure Needs Assessment; and submit the Cross-Acceptance Report to the [Office of Smart Growth] State Planning Commission and to [its] municipal planning boards in that county, to the Board of Chosen Freeholders 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.

[1. The degree to which municipal and county plans have incorporated the various provisions of both the current and Preliminary State Development and Redevelopment Plan;

2. A detailed list of findings, recommendations, and objections concerning proposed revisions to the current State Development and Redevelopment Plan as represented in the Preliminary State Development and Redevelopment Plan;

3. The potential for modifications to local and county plans that would contribute to a higher degree of compatibility among local, county and State plans; and

4. The degree to which designated State Plan centers have carried out their respective planning and implementation agendas and any conditions placed on those centers by the State Planning Commission in the course of their original designation.

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

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

[(d)](b) Should a [county] **negotiating entity** fail to file a [cross-acceptance report] **Cross-Acceptance Report**, or any part thereof, in substantial compliance with this chapter, the [county] **negotiating entity** shall be deemed to be in agreement with the provisions [,maps or projections] of the Preliminary State Development and Redevelopment Plan as they pertain to those parts of the report not filed or deemed not to be in substantial compliance.

[(e)](c) The [cross-acceptance report] **Cross-Acceptance Report** of each negotiating entity shall not be filed with the State Planning Commission until the

governing body of each such county, or the designated negotiating entity, shall have authorized the transmittal of the [cross-acceptance report] **Cross-Acceptance Report** 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 **[(Reserved)] Distribution of Cross-Acceptance Reports by the Office of Smart Growth**

The Office of Smart Growth shall provide 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 Smart Growth and on the Office of Smart Growth website.

5:85-3.11 **(Reserved)**

SUBCHAPTER 4. PROCEDURES FOR [CONDUCTING THE NEGOTIATION PHASE OF CROSS-ACCEPTANCE] **NEGOTIATING PLANS**

5:85-4.1 Commencement of [the negotiation phase] **negotiating plans**

(a) [The negotiation phase of cross-acceptance shall commence on a date specified by the State Planning Commission. Any time thereafter, the State Planning Commission can convene a negotiation session with any county that has submitted a cross-acceptance report in accordance with N.J.A.C. 5:85-3.9, or any municipality that has submitted an individual report accordance with N.J.A.C. 5:85-3.10] **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 [county or municipality submitting] **negotiating entity and [any] municipality that has submitted a Cross-Acceptance [report]Report** pursuant to [this chapter] **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)**. [The State Planning Commission shall provide a minimum of 45 days public notice in a newspaper of general circulation of an initial negotiation session with each county or municipality and appropriate notice of all subsequent negotiation sessions.]

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

5:85-4.2 State Planning Commission representation [during the negotiation phase of cross-acceptance] **for negotiating plans**

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

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

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

[(d)](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[(c)](b).

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

5:85-4.3 [County] **Negotiating entity** representation for negotiating plans [during the negotiation phase of cross-acceptance]

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

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

[(c)](b) [All] **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 [and as set forth in N.J.A.C. 5:85-4.6(a)] shall be subject to the action of the county governing body. The determination will be presumed to be acceptable if the governing body fails to act within 45 days from when the determination was received.

5:85-4.4 [(Reserved)] 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.
- (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.

5:85-~~4.5~~ The4.5 The negotiation process

[(a) The purpose of the negotiation phase is to attain compatibility between local, county and State Plans. The process is designed to result in a written statement

specifying areas of agreement or disagreement and areas requiring modification by parties to the negotiation.]

[(b)](a) Negotiation sessions shall be conducted as follows:

1. [Subsequent to pre-negotiation consultation among the staffs of the involved parties, ~~the~~~~The~~~~the~~ **The** staff of the Office of [State Planning] **Smart Growth** will meet with the authorized representatives of each [the] [county planning board] negotiating entity [ies], to reach agreement on issues raised in [county reports and municipal] **the Cross-Acceptance Reports** and **from the** public comment[s] and to identify [unresolved] **those** issues requiring negotiation between the negotiating committee[s] of the State Planning Commission and the [county] authorized representatives of the negotiating entities; and [.]

2. Each municipality that submits an individual municipal Cross-Acceptance Report, pursuant to N.J.A.C 5:85-3.6(c), may choose to discuss and negotiate the issues presented in its Report with the Commission's negotiating committee, with the appropriate negotiating entity represented if the negotiating entity has filed a Cross-Acceptance Report. 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 Smart Growth to reach agreement on those issues raised in the municipal Cross-Acceptance Report and from the public comments requiring negotiation between the negotiating committee and the authorized representatives of the municipality. [The negotiating committees of the Commission and the [county] **negotiating entities** will meet [to confirm agreements and] to negotiate [any unresolved] **those** issues [identified in (b)1. above].]

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

[(c)](b) Agreements reached during negotiation sessions and any remaining disagreements shall be published by the Office of [State Planning] **Smart Growth** in periodic reports which shall be available to the general public at the Office of [State Planning] **Smart Growth** and on the **Office of Smart Growth web site**, 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 Smart Growth pursuant to N.J.A.C. 5:85-1.6(b). [Periodic public meetings shall be conducted by the Commission's negotiating committee for the purpose of taking comments on these reports. The committee shall provide a minimum of 10 days public notice in a newspaper of general circulation of these meetings.]

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

~~(a) Cross-acceptance shall conclude, with a Statement of Agreements and Disagreements, on a date specified by the State Planning Commission. Public notice of the Statement of Agreements and Disagreements shall be provided pursuant to N.J.A.C. 5:85-1.7(d) or (e).~~

~~(a)(b)~~ When the State Planning Commission's negotiating committee believes that the [county and municipal] negotiations have produced the highest degree of agreement among the negotiating [parties] **entities**, the [Committee] **committee** shall submit a **report containing** a summary of its findings, including a [statement of agreements and disagreements] draft Statement of Agreements and Disagreements resulting from each negotiation session, to the State Planning Commission, [the subject county and each county's respective municipalities] **the negotiating entities, and each municipality and county** and to those interested persons and organizations who have registered with the Office of Smart Growth pursuant to N.J.A.C. 5:85-1.6(b). The draft Statement of Agreements and Disagreements shall also be available at the Office of Smart Growth and on the Office of Smart Growth's website.

(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.

~~(b)(c)~~ The [Committee] **State Planning Commission's negotiating committee** shall forward to the State Planning Commission, for its consideration and approval, [an Interim] **a draft Final** State Development and Redevelopment Plan, reflecting recommended changes to the Preliminary State Development and Redevelopment Plan resulting from [the comparison phase, the negotiation phase, and other relevant information and materials] **cross-acceptance**. The [Committee] **State Planning Commission's negotiating committee** shall also forward to the **State Planning Commission** for its consideration and approval [, an Interim] **a draft** Infrastructure Needs Assessment[, and an Interim Statement of Agreements and Disagreements]. 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 Smart Growth 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 Smart Growth and on the Office of Smart Growth's website.

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

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

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

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

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

SUBCHAPTER 5. PROCEDURES FOR [CONDUCTING THE] **ADOPTING THE FINAL PLAN** [REVIEW PHASE OF CROSS-ACCEPTANCE]

5:85-5.1 Commencement of Final Plan approval [the final review phase of cross-acceptance]

[(a) The purpose of the final review phase is to allow review of, and accept comment on, the Interim Plan, Interim Infrastructure Needs Assessment, Interim Statement of Agreement and Disagreements, and the Impact Assessment of the Interim Plan, with the goal of formulating a final State Development and Redevelopment Plan.] **Upon consideration of the formal reports of the negotiating entities and the State Planning Commission's negotiating committee[s], 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 [prepare and distribute] 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, [governing body and chief executive,] county and municipal clerk and to those interested persons and organizations who have registered with the Office of Smart Growth pursuant [in accordance] to N.J.A.C. 5:85-1.6(b).]. The draft Final State Development and Redevelopment Plan shall also be available at the Office of Smart Growth and on the Office of Smart Growth's website.**

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

5:85-5.2 Required public hearings

(a) There shall be [one] **a minimum of six** public hearings on the [Interim] draft Final State Development and Redevelopment Plan in [each of the 21 counties] **different locations throughout the state with notice provided pursuant to N.J.A.C. 5:85-1.7(b) and (c).** [The State Planning Commission may, upon the request of two or more counties, conduct a multi-county hearing in lieu of a separate hearing in each such county. Pursuant to N.J.S.A. 52:18A-202.2d, the public hearings are to be held no sooner than 45 days after the release of the Impact Assessment of the Interim Plan].

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

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

[(d)](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 [Interim] **draft Final** State Development and Redevelopment Plan [and the accompanying documents cited in (c) above].

5:85-5.3 [County and municipal] **Municipal and county** [and municipal] review and comment [during the final review phase of cross-acceptance] **before adoption of Final State Development and Redevelopment Plan**

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

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

5:85-5.4 [Completion of the final review phase of cross-acceptance and adoption]**Adoption** of the **Final** State Development and Redevelopment Plan

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

[(b) Pursuant to N.J.S.A. 52:18A-196 et seq. the]**The** State Planning Commission shall adopt a [final]**Final** State Development and Redevelopment Plan, **which includes the Infrastructure Needs Assessment**, no sooner than 30 days and no later than 60 days after the last public hearing conducted pursuant to N.J.A.C. 5:85-5.2. **Within 45 days of**

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