

## CHAPTER 120

**AN ACT** concerning the Highlands Region, creating a Highlands Water Protection and Planning Council, dedicating a portion of the realty transfer fee revenue annually for certain State aid purposes in the Highlands Region and in the pinelands area, supplementing Title 13 of the Revised Statutes, and amending and supplementing various sections of the statutory law.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

C.13:20-1 Short title.

1. This act shall be known, and may be cited, as the "Highlands Water Protection and Planning Act."

C.13:20-2 Findings, declarations relative to the "Highlands Water Protection and Planning Act."

2. The Legislature finds and declares that the national Highlands Region is an area that extends from northwestern Connecticut across the lower Hudson River Valley and northern New Jersey into east central Pennsylvania; that the national Highlands Region has been recognized as a landscape of special significance by the United States Forest Service; that the New Jersey portion of the national Highlands Region is nearly 800,000 acres, or about 1,250 miles, covering portions of 88 municipalities in seven counties; and that the New Jersey Highlands Region is designated as a Special Resource Area in the State Development and Redevelopment Plan.

The Legislature further finds and declares that the New Jersey Highlands is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population, including communities beyond the New Jersey Highlands, from only 13 percent of the State's land area; that the New Jersey Highlands contains other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, includes many sites of historic significance, and provides abundant recreational opportunities for the citizens of the State.

The Legislature further finds and declares that the New Jersey Highlands provides a desirable quality of life and place where people live and work; that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities.

The Legislature further finds and declares that there are approximately 110,000 acres of agricultural lands in active production in the New Jersey Highlands; that these lands are important resources of the State that should be preserved; that the agricultural industry in the region is a vital component of the economy, welfare, and cultural landscape of the Garden State; and, that in order to preserve the agricultural industry in the region, it is necessary and important to recognize and reaffirm the goals, purposes, policies, and provisions of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.) and the protections afforded to farmers thereby.

The Legislature further finds and declares that, since 1984, 65,000 acres, or over 100 square miles, of the New Jersey Highlands have been lost to development; that sprawl and the pace of development in the region has dramatically increased, with the rate of loss of forested lands and wetlands more than doubling since 1995; that the New Jersey Highlands, because of its proximity to rapidly expanding suburban areas, is at serious risk of being fragmented and consumed by unplanned development; and that the existing land use and environmental regulation system cannot protect the water and natural resources of the New Jersey Highlands against the environmental impacts of sprawl development.

The Legislature further finds and declares that the protection of the New Jersey Highlands, because of its vital link to the future of the State's drinking water supplies and other key natural resources, is an issue of State level importance that cannot be left to the uncoordinated land use decisions of 88 municipalities, seven counties, and a myriad of private landowners; that the State should take action to delineate within the New Jersey Highlands a preservation area of exceptional natural resource value that includes watershed protection and other environmentally sensitive lands where stringent protection policies should be implemented; that a regional approach to land use planning in the preservation area should be established to replace the existing uncoordinated system; that such a new regional approach to land use planning should be complemented by increased standards more protective of the environment established by the Department of Environmental Protection for development in the preservation area of the New Jersey Highlands; that the new regional planning approach and the more stringent environmental regulatory standards should be accompanied, as a matter of wise public policy and fairness to

property owners, by a strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands; and that in the light of the various pressures now arrayed against the New Jersey Highlands, these new approaches should be implemented as soon as possible.

The Legislature further finds and declares that in the New Jersey Highlands there is a mountain ridge running southwest from Hamburg Mountain in Sussex County that separates the eastern and the western New Jersey Highlands; that much of the State's drinking water supplies originate in the eastern New Jersey Highlands; and that planning for the region and the environmental standards and regulations to protect those water supplies should be developed with regard to the differences in the topography of the Highlands Region and how the topography affects the quality of the water supplies.

The Legislature therefore determines, in the light of these findings set forth hereinabove, and with the intention of transforming them into action, that it is in the public interest of all the citizens of the State of New Jersey to enact legislation setting forth a comprehensive approach to the protection of the water and other natural resources of the New Jersey Highlands; that this comprehensive approach should consist of the identification of a preservation area of the New Jersey Highlands that would be subjected to stringent water and natural resource protection standards, policies, planning, and regulation; that this comprehensive approach should also consist of the establishment of a Highlands Water Protection and Planning Council charged with the preparation of a regional master plan for the preservation area in the New Jersey Highlands as well as for the region in general; that this comprehensive approach should also include the adoption by the Department of Environmental Protection of stringent standards governing major development in the Highlands preservation area; that , because of the imminent peril that the ongoing rush of development poses for the New Jersey Highlands, immediate, interim standards should be imposed on the date of enactment of this act on major development in the preservation area of the New Jersey Highlands, followed subsequently by adoption by the department of appropriate rules and regulations; that it is appropriate to encourage in certain areas of the New Jersey Highlands, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof; that the maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible wherever appropriate in the New Jersey Highlands; and that all such aforementioned measures should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the region and the entire State.

#### C.13:20-3 Definitions relative to the "Highlands Water Protection and Planning Act."

##### 3. As used in this act:

"Agricultural or horticultural development" means construction for the purposes of supporting common farmsite activities, including but not limited to: the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing;

"Agricultural impervious cover" means agricultural or horticultural buildings, structures, or facilities with or without flooring, residential buildings, and paved areas, but shall not mean temporary coverings;

"Agricultural or horticultural use" means the use of land for common farmsite activities, including but not limited to: the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and

water management, and grazing;

"Application for development" means the application form and all accompanying documents required for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or direction of the issuance of a permit pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or R.S.40:27-1 et seq., for any use, development, or construction;

"Capital improvement" means any facility for the provision of public services with a life expectancy of three or more years, owned and operated by or on behalf of the State or a political subdivision thereof;

"Construction beyond site preparation" means having completed the foundation for a building or structure, and does not include the clearing, cutting, or removing of vegetation, bringing construction materials to the site, or site grading or other earth work associated with preparing a site for construction;

"Construction materials facility" means any facility or land upon which the activities of production of ready mix concrete, bituminous concrete, or class B recycling occurs;

"Council" means the Highlands Water Protection and Planning Council established by section 4 of this act;

"Department" means the Department of Environmental Protection;

"Development" means the same as that term is defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

"Development regulation" means the same as that term is defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4);

"Disturbance" means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation;

"Environmental land use or water permit" means a permit, approval, or other authorization issued by the Department of Environmental Protection pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

"Facility expansion" means the expansion of the capacity of an existing capital improvement in order that the improvement may serve new development;

"Farm conservation plan" means a site specific plan that prescribes needed land treatment and related conservation and natural resource management measures, including forest management practices, that are determined to be practical and reasonable for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of nonpoint source pollution;

"Farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise;

"Highlands open waters" means all springs, streams including intermittent streams, wetlands, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools;

"Highlands Region" means that region so designated by subsection a. of section 7 of this act;

"Immediate family member" means spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption;

"Impact fee" means cash or in-kind payments required to be paid by a developer as a condition for approval of a major subdivision or major site plan for the developer's proportional share of the cost of providing new or expanded reasonable and necessary public improvements located outside the property limits of the subdivision or development but reasonably related to the subdivision or development based upon the need for the improvement created by, and the benefits conferred upon, the subdivision or development;

"Impervious surface" means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed

stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements;

"Individual unit of development" means a dwelling unit in the case of a residential development, a square foot in the case of a non-residential development, or any other standard employed by a municipality for different categories of development as a basis upon which to establish a service unit;

"Local government unit" means a municipality, county, or other political subdivision of the State, or any agency, board, commission, utilities authority or other authority, or other entity thereof;

"Major Highlands development" means, except as otherwise provided pursuant to subsection a. of section 30 of this act, (1) any non-residential development in the preservation area; (2) any residential development in the preservation area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more; (3) any activity undertaken or engaged in the preservation area that is not a development but results in the ultimate disturbance of one-quarter acre or more of forested area or that results in a cumulative increase in impervious surface by one-quarter acre or more on a lot; or (4) any capital or other project of a State entity or local government unit in the preservation area that requires an environmental land use or water permit or that results in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more. Major Highlands development shall not mean an agricultural or horticultural development or agricultural or horticultural use in the preservation area;

"Mine" means any mine, whether on the surface or underground, and any mining plant, material, equipment, or explosives on the surface or underground, which may contribute to the mining or handling of ore or other metalliferous or non-metalliferous products. The term "mine" shall also include a quarry, sand pit, gravel pit, clay pit, or shale pit;

"Mine site" means the land upon which a mine, whether active or inactive, is located, for which the Commissioner of Labor and Workforce Development has granted a certificate of registration pursuant to section 4 of P.L.1954, c.197 (C.34:6-98.4) and the boundary of which includes all contiguous parcels, except as provided below, of property under common ownership or management, whether located in one or more municipalities, as such parcels are reflected by lot and block numbers or metes and bounds, including any mining plant, material, or equipment. "Contiguous parcels" as used in this definition of "mine site" shall not include parcels for which mining or quarrying is not a permitted use or for which mining or quarrying is not permitted as a prior nonconforming use under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.);

"Office of Smart Growth" means the Office of State Planning established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201);

"Planning area" means that portion of the Highlands Region not included within the preservation area;

"Preservation area" means that portion of the Highlands Region so designated by subsection b. of section 7 of this act;

"Public utility" means the same as that term is defined in R.S.48:2-13;

"Recreation and conservation purposes" means the same as that term is defined in section 3 of P.L.1999, c.152 (C.13:8C-3);

"Regional master plan" means the Highlands regional master plan or any revision thereof adopted by the council pursuant to section 8 of this act;

"Resource management systems plan" means a site specific conservation system plan that (1) prescribes needed land treatment and related conservation and natural resource management measures, including forest management practices, for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of nonpoint source pollution, and (2) establishes criteria for resources sustainability of soil, water, air, plants, and animals;

"Service area" means that area to be served by the capital improvement or facility expansion as designated in the capital improvement program adopted by a municipality under section 20 of P.L.1975, c.291 (C.40:55D-29);

"Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or

facility expansions;

"Soil conservation district" means the same as that term is defined in R.S. 4:24-2;

"State Development and Redevelopment Plan" means the State Development and Redevelopment Plan adopted pursuant to P.L.1985, c.398 (C.52:18A-196 et al.);

"State entity" means any State department, agency, board, commission, or other entity, district water supply commission, independent State authority or commission, or bi-state entity;

"State Soil Conservation Committee" means the State Soil Conservation Committee in the Department of Agriculture established pursuant to R.S. 4:24-3;

"Temporary coverings" means permeable, woven and non-woven geotextile fabrics that allow for water infiltration or impermeable materials that are in contact with the soil and are used for no more than two consecutive years; and

"Waters of the Highlands" means all springs, streams including intermittent streams, and bodies of surface or ground water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools.

C.13:20-4 "Highlands Water Protection and Planning Council."

4. There is hereby established a public body corporate and politic, with corporate succession, to be known as the "Highlands Water Protection and Planning Council." The council shall constitute a political subdivision of the State established as an instrumentality exercising public and essential governmental functions, and the exercise by the council of the powers and duties conferred by this act shall be deemed and held to be an essential governmental function of the State. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the council is hereby allocated within the Department of Environmental Protection, but, notwithstanding that allocation, the council shall be independent of any supervision or control by the department or by the commissioner or any officer or employee thereof.

C.13:20-5 Membership of council, appointment, terms, meetings, minutes delivered to Governor.

5. a. The council shall consist of 15 voting members to be appointed and qualified as follows:

(1) Eight residents of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, or Warren, appointed by the Governor, with the advice and consent of the Senate, (a) no more than four of whom shall be of the same political party, (b) of whom five shall be municipal officials residing in the Highlands Region and holding elective office at the time of appointment and three shall be county officials holding elective office at the time of appointment, and (c) among whom shall be (i) at least one resident from each of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren, and (ii) two residents from the county that has the largest population residing in the Highlands Region, of whom no more than one shall be of the same political party; and

(2) Seven residents of the State, of whom five shall be appointed by the Governor, with the advice and consent of the Senate, one shall be appointed by the Governor upon the recommendation of the President of the Senate, and one shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly. The members appointed pursuant to this paragraph shall have, to the maximum extent practicable, expertise, knowledge, or experience in water quality protection, natural resources protection, environmental protection, agriculture, forestry, land use, or economic development, and at least four of them shall be property owners, business owners, or farmers in the Highlands Region or residents or nonresidents of the Highlands Region who benefit from or consume water from the Highlands Region.

b. (1) Council members shall serve for terms of five years; provided, however, that of the members first appointed, five shall serve a term of three years, five shall serve a term of four years, and five shall serve a term of five years. The initial terms of the two council members appointed by the Governor upon the recommendation, respectively, of the President of the Senate and the Speaker of the General Assembly shall be among those council members assigned initial terms of five years pursuant to this paragraph.

(2) Each member shall serve for the term of the appointment and until a successor shall have been appointed and qualified. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only.

c. Any member of the council may be removed by the Governor, for cause, after a public hearing.

d. Each member of the council, before entering upon the member's duties, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability, in addition to any oath that may be required by R.S.41:1-1 et seq. A record of the oath shall be filed in the Office of the Secretary of State.

e. The members of the council shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

f. The powers of the council shall be vested in the members thereof in office. A majority of the total authorized membership of the council shall constitute a quorum and no action may be taken by the council except upon the affirmative vote of a majority of the total authorized membership of the council. No alternate or designee of any council member shall exercise any power to vote on any matter pending before the council.

g. The Governor shall designate one of the members of the council as chairperson. The council shall appoint an executive director, who shall be the chief administrative officer thereof. The executive director shall serve at the pleasure of the council, and shall be a person qualified by training and experience to perform the duties of the office.

h. The members and staff of the council shall be subject to the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.).

i. The council shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

j. A true copy of the minutes of every meeting of the council shall be prepared and forthwith delivered to the Governor. No action taken at a meeting by the council shall have force or effect until 10 days, exclusive of Saturdays, Sundays, and public holidays, after a copy of the minutes shall have been so delivered; provided, however, that no action taken with respect to the adoption of the regional master plan, or any portion or revision thereof, shall have force or effect until 30 days, exclusive of Saturdays, Sundays, and public holidays, after a copy of the minutes shall have been so delivered. If, in the 10-day period, or 30-day period, as the case may be, the Governor returns the copy of the minutes with a veto of any action taken by the council at the meeting, the action shall be null and void and of no force and effect.

#### C.13:20-6 Powers, duties, responsibilities of council.

6. The council shall have the following powers, duties, and responsibilities, in addition to those prescribed elsewhere in this act:

a. To adopt and from time to time amend and repeal suitable bylaws for the management of its affairs;

b. To adopt and use an official seal and alter it at the council's pleasure;

c. To maintain an office at such place or places in the Highlands Region as it may designate;

d. To sue and be sued in its own name;

e. To appoint, retain and employ, without regard to the provisions of Title 11A of the New Jersey Statutes but within the limits of funds appropriated or otherwise made available for those purposes, such officers, employees, attorneys, agents, and experts as it may require, and to determine the qualifications, terms of office, duties, services, and compensation therefor;

f. To apply for, receive, and accept, from any federal, State, or other public or private source, grants or loans for, or in aid of, the council's authorized purposes or in the carrying out of the council's powers, duties, and responsibilities;

g. To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the council or to carry out any power, duty, or responsibility expressly given in this act;

h. To call to its assistance and avail itself of the services of such employees of any State entity or local government unit as may be required and made available for such purposes;

i. To adopt a regional master plan for the Highlands Region as provided pursuant to section 8 of this act;

j. To appoint advisory boards, commissions, councils, or panels to assist in its activities, including but not limited to a municipal advisory council consisting of mayors, municipal council members, or other representatives of municipalities located in the Highlands Region;

k. To solicit and consider public input and comment on the council's activities, the regional

master plan, and other issues and matters of importance in the Highlands Region by periodically holding public hearings or conferences and providing other opportunities for such input and comment by interested parties;

l. To conduct examinations and investigations, to hear testimony, taken under oath at public or private hearings, on any material matter, and to require attendance of witnesses and the production of books and papers;

m. To prepare and transmit to the Commissioner of Environmental Protection such recommendations for water quality and water supply standards for surface and ground waters in the Highlands Region, or in tributaries and watersheds thereof, and for other environmental protection standards pertaining to the lands and natural resources of the Highlands Region, as the council deems appropriate;

n. To identify and designate in the regional master plan special areas in the preservation area within which development shall not occur in order to protect water resources and environmentally sensitive lands while recognizing the need to provide just compensation to the owners of those lands when appropriate, whether through acquisition, transfer of development rights programs, or other means or strategies;

o. To identify any lands in which the public acquisition of a fee simple or lesser interest therein is necessary or desirable in order to ensure the preservation thereof, or to provide sites for public recreation, as well as any lands the beneficial use of which are so adversely affected by the restrictions imposed pursuant to this act as to require a guarantee of just compensation therefor, and to transmit a list of those lands to the Commissioner of Environmental Protection, affected local government units, and appropriate federal agencies;

p. To develop model land use ordinances and other development regulations, for consideration and possible adoption by municipalities in the planning area, that would help protect the environment, including, but not limited to, ordinances and other development regulations pertaining to steep slopes, forest cover, wellhead and water supply protection, water conservation, impervious surface, and clustering; and to provide guidance and technical assistance in connection therewith to those municipalities;

q. To identify and designate, and accept petitions from municipalities to designate, special critical environmental areas in high resource value lands in the planning area, and develop voluntary standards and guidelines for protection of such special areas for possible implementation by those municipalities;

r. To comment upon any application for development before a local government unit, on the adoption of any master plan, development regulation, or other regulation by a local government unit, or on the enforcement by a local government unit of any development regulation or other regulation, which power shall be in addition to any other review, oversight, or intervention powers of the council prescribed by this act;

s. To work with interested municipalities to enter into agreements to establish, where appropriate, capacity-based development densities, including, but not limited to, appropriate higher densities to support transit villages or in centers designated by the State Development and Redevelopment Plan and endorsed by the State Planning Commission;

t. To establish and implement a road signage program in cooperation with the Department of Transportation and local government units to identify significant natural and historic resources and landmarks in the Highlands Region;

u. To promote, in conjunction with the Department of Environmental Protection and the Department of Agriculture, conservation of water resources both in the Highlands Region and in areas outside of the Highlands Region for which the Highlands is a source of drinking water;

v. To promote brownfield remediation and redevelopment in the Highlands Region;

w. To work with the State Agriculture Development Committee and the Garden State Preservation Trust to establish incentives for any landowner in the Highlands Region seeking to preserve land under the farmland preservation program that would be provided in exchange for the landowner agreeing to permanently restrict the amount of impervious surface and agricultural impervious cover on the farm to a maximum of five percent of the total land area of the farm;

x. To establish and charge, in accordance with a fee schedule to be set forth by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), reasonable fees for services performed relating to the review of applications for development and other applications filed with or otherwise brought before the council, or for other services, as may be required by this act or the regional master plan; and

y. To prepare, adopt, amend, or repeal, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary in order to exercise its powers and perform its duties and responsibilities under the provisions of this act.

C.13:20-7 Highlands Region, preservation area; delineated.

7. a. The Highlands Region shall consist of all that area within the boundaries of the following municipalities:

(1) in Bergen County: Mahwah and Oakland;

(2) in Hunterdon County: Alexandria, Bethlehem, Bloomsbury, Califon, Clinton Town, Clinton Township, Glen Gardner, Hampton, High Bridge, Holland, Lebanon Boro, Lebanon Township, Milford, Tewksbury, and Union;

(3) in Morris County: Boonton Town, Boonton Township, Butler, Chester Boro, Chester Township, Denville, Dover, Hanover, Harding, Jefferson, Kinnelon, Mendham Boro, Mendham Township, Mine Hill, Montville, Morris Plains, Morris Township, Morristown, Mount Arlington, Mount Olive, Mountain Lakes, Netcong, Parsippany-Troy Hills, Pequannock, Randolph, Riverdale, Rockaway Boro, Rockaway Township, Roxbury, Victory Gardens, Washington, and Wharton;

(4) in Passaic County: Bloomingdale, Pompton Lakes, Ringwood, Wanaque, and West Milford;

(5) in Somerset County: Bedminster, Bernards, Bernardsville, Far Hills, and Peapack-Gladstone;

(6) in Sussex County: Byram, Franklin, Green, Hamburg, Hardyston, Hopatcong, Ogdensburg, Sparta, Stanhope, and Vernon; and

(7) in Warren County: Allamuchy, Alpha, Belvidere, Franklin, Frelinghuysen, Greenwich, Hackettstown, Harmony, Hope, Independence, Liberty, Lopatcong, Mansfield, Oxford, Phillipsburg, Pohatcong, Washington Boro, Washington Township, and White.

b. (1) The preservation area shall consist of all that area within the boundaries described herein:

Beginning at the New Jersey and New York border and the intersection of State Highway 17 and Interstate 287 in northern Mahwah Township; thence southerly on Interstate 287 to its intersection with Ramapo Valley Road (U.S. Highway 202); thence southwesterly on Ramapo Valley Road (U.S. Highway 202) to its intersection with the Campgaw Mountain County Reservation, immediately south of Marion Drive; thence in a general northeastern direction along the boundary of the Campgaw Mountain County Reservation, until its intersection with Interstate 287; thence southerly on Interstate 287 to its intersection with the Mahwah Township and Oakland Borough corporate boundary; thence northwesterly along the Mahwah Township and Oakland Borough corporate boundary to its intersection with the Ramapo River; thence south on the east bank of the Ramapo River to its intersection with Interstate 287; thence westerly on Interstate 287 to its intersection with West Oakland Avenue; thence southerly and westerly on West Oakland Avenue to its intersection with Doty Road; thence southerly on Doty Road to its intersection with Ramapo Valley Road (U.S. Highway 202); thence westerly and southerly on Ramapo Valley Road (U.S. Highway 202) to its intersection with Long Hill Road (County Road 931); thence southerly on Long Hill Road (County Road 931) to its intersection with the Oakland Borough and Franklin Lakes Borough corporate boundary; thence southerly on the Oakland Borough and Franklin Lakes Borough corporate boundary to its intersection with the Oakland Borough corporate boundary; thence northwesterly along the Oakland Borough corporate boundary to the Wanaque Borough corporate boundary; thence westerly and southerly along the Wanaque Borough and Pompton Lakes Borough corporate boundary to its intersection with Ringwood Avenue (Alternate 511) to its intersection with the southwestern corner of Block 478, lot 7 in Wanaque Borough; thence east along the boundary of Block 478, lot 7 to boundary of Block 479, lot 3 in Wanaque Borough; thence northerly along the boundary of Block 479, lot 3 to the boundary of Block 479, lot 2; thence westerly and northerly to Interstate 287; thence northerly on Interstate 287 to its intersection with the Pompton River; thence northerly along the western bank of the Pompton River to its intersection in Wanaque Borough with the abandoned railroad right of way east of Ringwood Avenue; thence northerly on the abandoned railroad right of way to its intersection with Belmont Avenue; thence easterly on Belmont Avenue to its intersection with Mullen Avenue; thence southerly and easterly on Mullen

Avenue to its intersection with Belmont Avenue thence easterly to Meadow Brook; thence northerly on the eastern bank of Meadow Brook to its intersection with Meadow Brook Avenue in Wanaque Borough; thence easterly on Meadow Brook Avenue to its intersection with Crescent Road; thence northerly on Crescent Road to its intersection with Tremont Terrace; thence northerly on Tremont Terrace to its intersection with Wilson Drive; thence northerly on Wilson Drive to its intersection with Conklintown Road; thence westerly on Conklintown Road to its intersection with Ringwood Avenue (Alternate 511); thence southerly on Ringwood Avenue (Alternate 511) to its intersection with the Wanaque Reservoir public lands; thence southerly and westerly on the Wanaque Reservoir public lands boundary to its intersection with Posts Brook; thence southerly on the eastern bank of Posts Brook to its intersection with Doty Road; thence easterly on Doty Road to its intersection the northeast corner of Block 401, lot 3 in Wanaque Borough; thence southerly along the boundary of Block 401, lot 3 to the intersection with the Bloomingdale Borough and Wanaque Borough corporate boundary; thence southerly on Bloomingdale Borough and Wanaque Borough corporate boundary to its intersection with Union Avenue County Road 511); thence westerly on Union Avenue (County Road 511) to its intersection with Morse Lake Road; thence north on Morse Lake Road to the southeastern corner of Block 57, lot 41 in Bloomingdale Borough; thence westerly along the boundary of Block 57, lot 41 to the boundary of Block 57, lot 40; thence northerly and westerly along the boundary of Block 57, lot 40 to the northeast corner of Block 57, lot 43.01; thence continuing westerly and southerly along the boundary of Block 57, lot 43.01 to the boundary of Block 92.08, lot 77; thence westerly along the boundary of Block 92.08, lot 77 to the northeast corner of Block 92.08, lot 1; thence continuing westerly along the northern boundary of Block 92.08, lot 1 to the southern boundary of Block 49.02, lot 12; thence continuing westerly along the southern boundary of Block 49.02, lot 12 to the southern boundary of Block 49.02, lot 28; thence continuing westerly along the southern boundary of Block 49.02, lot 28 to Woodlot Road; thence westerly across Woodlot Road to the boundary of Block 49.09, lot 8; thence westerly along the southern boundary of Block 49.09, lot 8 to the boundary of Block 49.09, lot 12; thence westerly along the southern boundary of Block 49.09, lot 12 to Overlook Road (Natalie Court); thence westerly across Overlook Road (Natalie Court) to the boundary of Block 49.01, lot 5.04; thence northwesterly along the boundary of Block 49.01, lot 5.04 to the southern corner of Block 49.01, lot 5.05; thence northwesterly along the boundary of Block 49.01, lot 5.05 to a corner of Block 44, lot 182; thence generally westerly following the southern boundary of Block 44, lot 182 to Glenwild Avenue (Carmantown Road) at South Road; thence northerly along the eastern edge of Glenwild Avenue (Carmantown Road) right of way to a point opposite Glade Road; thence south across Glenwild Avenue (Carmantown Road) to the northeast corner of Block 5, lot 28; thence south along the boundary of Block 5, lot 28 to the boundary of Block 5, lot 26.01; thence southerly along the boundary of Block 5, lot 26.01 to Star Lake Road (Ridge Road); thence southwest across Star Lake Road (Ridge Road) to the northern corner of Block 5, lot 26.11 along the boundary of Block 5, lot 26.01; thence westerly along the boundary of Block 5, lot 26.01 to the northern corner of Block 5, lot 26.02; thence southerly and westerly following along the boundary of Block 5, lot 26.02 to the northeastern corner of Block 5, lot 25.02; thence westerly and southerly along the boundary of Block 5, lot 25.02 to the northern limit of the Macopin Road (County Road 693) right of way; thence northerly and westerly on Macopin Road (County Road 693) to its intersection with the Bloomingdale Borough and West Milford Township corporate boundary; thence southerly on the Bloomingdale Borough and West Milford Township corporate boundary to its intersection with the West Milford Township and Butler Borough corporate boundary; thence southerly along this corporate boundary to its intersection with the Kinnelon Borough, Butler Borough and Morris County Corporate boundary; thence westerly, southerly and easterly on the Kinnelon Borough and Butler Borough corporate boundary to its intersection with State Highway 23; thence easterly on State Highway 23 to its intersection with the Kinnelon Borough and Riverdale Borough corporate boundary; thence southerly and easterly on the Riverdale Borough and Pequannock Township corporate boundary to its intersection with Interstate 287; thence southerly on Interstate 287 to its intersection with Old Lane Road Extension; thence westerly, northerly and westerly on Old Lane Road Extension to the intersection of Virginia Drive; thence southerly on Virginia Drive to its intersection with MacLeay Drive; thence southwest on MacLeay Drive to its intersection with West Lake Drive; thence southwest on West Lake Drive to Taylortown Road; thence northerly and westerly on Taylortown Road to its intersection

with Boonton Avenue and Rockaway Valley Road; thence westerly on Rockaway Valley Road to its intersection with Powerville Road (County Road 618); thence northerly on Powerville Road (County Road 618) to its intersection with Kincaid Road; thence easterly on Kincaid Road to its intersection with the Boonton Township and Montville Township corporate boundary; thence northerly, along the corporate boundary to the intersection with the Boonton Township and Kinnelon Borough corporate boundary; thence westerly on the corporate boundary to the intersection with the Boonton Township and Rockaway Township corporate boundary; thence and southerly on the Boonton Township corporate boundary to its intersection with Split Rock Road; thence northerly on Split Rock Road to its intersection with Lyonsville Road; thence southerly and westerly on Lyonsville Road and its continuation as Meriden Lyonsville Road to its intersection with Beaver Brook; thence along the eastern bank of the Beaver Brook southerly to its intersection with Ford Road; thence southerly and westerly along Ford Road to its intersection with Morris Avenue; thence northerly and westerly along Morris Avenue to its intersection with Green Pond Road (County Road 513); thence northerly on Green Pond Road (County Road 513) to its intersection with the Wildcat Ridge Wildlife Management Area; thence westerly on the Wildcat Ridge Wildlife Management Area boundary to its intersection with Hibernia Brook; thence westerly on the southern bank of Hibernia Brook to its intersection with Valley View Drive; thence westerly on Valley View Drive to its intersection with Erie Avenue; thence northerly on Erie Avenue to its intersection with Comanche Avenue; thence southerly on Comanche Avenue to its intersection with West Lake Shore Drive; thence westerly on West Lake Shore Drive to its intersection with Jackson Avenue; thence westerly on Jackson Avenue to its intersection with Miami Trail; thence westerly and southerly on Miami Trail to its intersection with Cayuga Avenue; thence southerly on Cayuga Avenue to its intersection with South Brookside Avenue; thence easterly on South Brookside Avenue to its intersection with Montauk Avenue; thence southerly on Montauk Avenue to its intersection with Old Middletown Road; thence southwesterly on Old Middletown Road to its intersection with Ridge Road; thence westerly on Ridge Road to its intersection with Cathy's Place; thence southerly on Cathy's Place to its intersection with Mt. Hope Road (County Road 666); thence northerly on Mt. Hope Road (County Road 666) to its intersection with the Mt. Hope Park public land boundary; thence southerly and westerly on the Mt. Hope Park public land boundary to its intersection with Block 70001 in Rockway Township (Picatinny Arsenal); thence northeasterly, northerly and southwesterly on the boundary of Block 70001 (Picatinny Arsenal) to its intersection with State Highway 15; thence northerly on State Highway 15 to its intersection with the Rockaway Township and Jefferson Township corporate boundary; thence southwesterly on the Rockaway Township and Jefferson Township corporate boundary south of Interstate 80 to its intersection with the Conrail/NJ Transit right of way; thence westerly on Conrail/NJ Transit right of way to its intersection with the Roxbury Township and Mount Arlington Borough corporate boundary; thence northerly on the Roxbury Township and Mount Arlington Borough corporate boundary to its intersection with the southern corner of Block 22, lot 13 in Mount Arlington Borough; thence northerly and northwesterly on the boundary of Block 22, lot 13 to its intersection with Berkshire Avenue; thence westerly on Berkshire Avenue to its intersection with Mountainview Avenue; thence northerly on Mountainview Avenue to its intersection with the southern corner on Block 8, lot 5.01 in Mount Arlington Borough; thence easterly, northerly, southerly then northerly on the boundary of Block 8, lot 5.01 to its intersection with Littel Way; thence westerly on Littel Way to its intersection with Howard Boulevard (County Road 615); thence northerly on Howard Boulevard, continuing northerly as it becomes Espanong Road, to its intersection with Edison Road (County Road 615); thence easterly on Edison Road (County Road 615) to its intersection with State Highway 15; thence northerly on the eastern edge of the State Highway 15 right of way north of Lake Winona to its intersection with the electrical utility right of way; thence southerly and westerly on the utility right of way to its intersection with State Highway 181; thence southerly on State Highway 181 to its intersection with Prospect Point Road; thence southerly on Prospect Point Road to its intersection with Northwood Road (County Road 609); thence southwesterly on Northwood Road to its intersection with a tributary of the Musconetcong River; thence northerly on the west bank of the tributary of the Musconetcong River to its intersection with the southwestern boundary of Block 70001, lot 4 in Hopatcong Borough; thence southwesterly on the southwestern boundary of Block 70001, lot 4 to its intersection with the southernmost corner of Block 70001, lot 5; thence northwesterly on the boundary of Block 70001, lot 5 to its intersection with Block 70001, lot 1; thence

southwesterly on Block 70001, lot 1 to its intersection with the easternmost point of Block 50002, lot 1; thence southwesterly on Block 50002, lot 1 to its intersection with Mohawk Trail and Block 50003, lot 1 in Hopatcong Borough; thence northwesterly and southwesterly along the northeast border of Block 5003, lot 1 to its intersection with the northwest corner of Block 5002, lot 2; thence southerly along the western boundary of Block 5002, lot 2 to its intersection with the northernmost corner of Block 5002, lot 4; thence southwesterly along Block 5002, lot 4 to its intersection with Block 5002, lot 6; thence northwesterly, southwesterly, southeasterly and southwesterly along the boundary of Block 5002, lot 6 to its westernmost corner; thence westerly on a line to the intersection of Old Sparta Stanhope Road and Lubbers Run; thence northerly on Old Sparta Stanhope Road to its intersection with Sparta Stanhope Road (County Route 605); thence southerly on Sparta Stanhope Road (County Route 605) to the intersection of the Conrail right of way; thence southerly along the Conrail right of way to its intersection with the Byram Township and Stanhope Borough corporate boundary; thence westerly and southerly along the Byram Township and Stanhope Borough corporate boundary to its intersection with the southeastern corner of Block 42, lot 115 in Byram Township; thence northeasterly and westerly on the block limit of Block 42 to its intersection with the southeastern corner of Block 42, lot 112; thence northerly on a line approximately 390 feet east of, and parallel to, State Highway 206 to its intersection with Brookwood Road; thence easterly on Brookwood Road to the southeastern corner of Block 40, lot 18; thence northerly on the boundary of Block 40, lot 18 to its intersection with Block 40, lot 15; thence easterly and northerly on Block 40, lot 15 to its intersection with Block 40, lot 14; thence northeasterly, northerly, and westerly on the boundary of Block 40, lot 14 to its intersection with the southeastern corner of Block 365, lot 5; thence northeasterly on the boundary of Block 365, lot 5 to Lake Lackawanna Road (also known as Lackawanna Drive) and the southeastern corner of Block 226, lot 16; thence northeasterly on the boundary of Block 226, lot 16 to its intersection with Block 226, lot 11; thence westerly, northerly, westerly, southerly, and westerly on the boundary of Block 226, lot 11 to its intersection with State Highway 206; thence southerly on State Highway 206 to its intersection with the northeast corner of Block 70, lot 7.02; thence westerly, southerly, westerly, and southerly on the boundary of Block 70, lot 7.02 to its intersection with Block 70, lot 7.01; thence southerly on the boundary of Block 70, lot 7.01 to its intersection with Block 70, lot 6; thence southerly on the boundary of Block 70, lot 6 to its intersection with Hi Glen Drive, continuing southerly to the northwest corner of Block 59, lot 5; thence southerly on the boundary of Block 59, lot 5 to its intersection with Block 34, lot 16; thence westerly, southerly, easterly and southerly on the boundary of Block 34, lot 16 to its intersection with Block 34, lot 17; thence westerly on the boundary of Block 34, Lot 17 to its intersection with Millstream Lane (as depicted on the municipal map); thence southerly on Millstream Lane (as depicted on the municipal map) to its intersection with Netcong Avenue; thence easterly on Netcong Avenue to its intersection with State Highway 206; thence southerly on the western edge of the State Highway 206 right of way to its intersection with the northeastern corner of Block 36, lot 39.01; thence westerly, southerly and easterly along the boundary of lot 39.01 to the western edge of the State Highway 206 right of way; thence southerly on the western edge of the State Highway 206 right of way to its intersection with the northeastern corner of Block 36, lot 40; thence westerly, northerly, westerly along the boundary of Block 36 Lot 40 to the boundary of Block 36, Lot 42; thence northerly, westerly, southerly along the boundary of Block 36, Lot 42 to Waterloo Road; thence westerly along Waterloo Road to the intersection with the northwestern corner of Block 29, Lot 201.03; thence southerly to the intersection of Block 29, Lot 201.02 and Block 27, Lot 379; thence easterly to the northeast corner of Block 27, Lot 379; thence southerly on a line approximately 143 feet west of, and paralleling, the western edge of the State Highway 206 right of way to the intersection with Acorn Street; thence easterly on Acorn Street to State Highway 206; thence southerly along the western edge of the State Highway 206 right of way to its intersection with the corporate boundary between Byram Township and Stanhope Borough; thence generally southerly along the corporate boundary between Byram Township and Stanhope Borough to the Musconetcong River and the corporate boundary between Byram Township and Mount Olive Township; thence northwesterly along the corporate boundary between Byram Township and Mount Olive Township to its intersection with Allamuchy State Park; thence southerly, westerly and southerly on the Allamuchy State Park boundary to its intersection with Interstate 80; thence southeasterly on Interstate 80 to its intersection with International Drive North; thence southeasterly on

International Drive North to its intersection with Waterloo Valley Road; thence easterly and southerly on Waterloo Valley Road to its intersection with Allamuchy State Park; thence easterly and southerly and westerly on the Allamuchy State Park boundary to its intersection with Lozier Road; thence easterly on Lozier Road to its intersection with Waterloo Road; thence southerly on Waterloo Road to its intersection with 4th Street; thence westerly and southerly on 4th Street to its intersection with Hopkins Drive; thence southerly on Hopkins Drive to its intersection with Netcong Road (County Road 649); thence southerly and westerly on Netcong Road (County Road 649) to its intersection with Sand Shore Road (County Road 649); thence southerly on Sand Shore Road (County Road 649) to its intersection with U.S. Highway 46; thence northerly and easterly on U.S. Highway 46 to its intersection with Gold Mine Road; thence easterly on Gold Mine Road to its intersection with State Highway 206; thence northerly on State Highway 206 to its intersection with Mountain Road; thence southerly and easterly on Mountain Road to its intersection with Mooney Road; thence northerly on Mooney Road to its intersection with U.S. Highway 46; thence easterly and southerly on U.S. Highway 46 to its intersection with Main Street and the Morris Canal Park boundary; thence southerly on the Morris Canal Park boundary to its intersection with Mountain Road; thence northeasterly on Mountain Road to its intersection with Emmans Road; thence southerly and westerly on Emmans Road to its intersection with the Conrail right of way south of Drake's Brook; thence southerly and westerly on Conrail right of way to its intersection with State Highway 206; thence southerly on State Highway 206 to its intersection with the Mount Olive Township and Chester Township corporate boundary; thence northerly and westerly on the Chester Township corporate boundary to its intersection with the Roxbury Township corporate boundary, continuing northerly and westerly on the Roxbury Township and Chester Township corporate boundaries to the intersection with the Black River Wildlife Management Area; thence northerly and easterly on the boundary of the lands of the Morris County Utilities Authority to its intersection with easterly on Righter Road; thence easterly on Righter Road to its intersection with Park Avenue; thence southerly on Park Avenue to its intersection with the Randolph Township and Chester Township corporate boundary; thence southeasterly on the Chester Township corporate boundary to its intersection with North Road (County Road 513); thence southerly and westerly on North Road (County Road 513) to its intersection with the Chester Township and Chester Borough corporate boundary; thence northerly; thence westerly, southerly and easterly around the Chester Borough corporate boundary to its intersection with Main Street (County Road 510); thence southerly on County Route 510 to its intersection with Chester Township and Mendham Township corporate boundary; thence southerly on the Chester Township corporate boundary to its intersection with the Chester Township and Peapack-Gladstone Borough and Somerset County corporate boundary; thence southwesterly on the Chester Township and Peapack-Gladstone Borough and Somerset County corporate boundary to its intersection with the Bedminster Township corporate boundary; thence southerly on the Bedminster Township corporate boundary to its intersection with Pottersville Road (County Road 512); thence westerly on Pottersville Road (County Road 512) to its intersection with Black River Road; thence northerly and westerly on Black River Road to its intersection with the corporate boundaries of Bedminster Township and Tewksbury Township; thence northerly along the corporate boundaries to their intersection with the corporate boundary of Washington Township; thence westerly along the corporate boundaries of Washington Township and Tewksbury Township to the point where it intersects Black River Road; thence northerly and westerly on Black River Road to the intersection of Hacklebarney Road; thence north on Hacklebarney Road to the intersection of Old Farmers Road; thence northerly and westerly on Old Farmers Road to the intersection of Flintlock Drive; thence easterly and northerly on Flintlock Drive to the intersection of Parker Road; thence westerly on Parker Road to the intersection of Old Farmers Road; thence northerly on Old Farmers Road to the intersection with the southwestern corner of Block 36.06 in Washington Township; thence northeasterly on the southern boundary of Block 36.06 to its intersection with Block 36, lot 42; thence northwesterly on the boundary of Block 36, lot 42 to its intersection with the southern corner of Block 36, lot 41; thence northeasterly along the southern boundary of Block 36, lot 41 to its intersection with Block 36, lot 43; thence northwesterly on the eastern boundary of Block 36, lot 41 to its intersection with Block 36, lot 43.01; thence westerly and northwesterly on the boundary of Block 36, lot 43.01 to a point 560 feet southeast from the centerline of East Mill Road; thence easterly, and parallel to East Mill Road, a distance of 1300 feet to a point 560 feet

from the centerline of East Mill Road; thence northerly to its intersection with East Mill Road; thence westerly on East Mill Road to its intersection with the southwestern corner of Block 28, lot 17.01; thence northwesterly on the western boundary of Block 28, lot 17.01 to its intersection with Block 28, lot 17; thence westerly, easterly and northwesterly on Block 28, lot 17 to its intersection with Block 28, lot 300; thence northwesterly on Block 28, lot 300 to its intersection with Block 28, lot 60; thence northwesterly on Block 28, lot 60 to its intersection with Fairview Avenue; thence southwesterly on Fairview Avenue to its intersection with Springtown Brook (Raritan River Tributary); thence northerly and northwesterly on Springtown Brook to its intersection with the southeastern corner of Block 25, lot 47; thence northwesterly and westerly on the boundary of Block 25, lot 47 to a point that is due east of the northernmost corner of Block 25, lot 48; thence due east to the northernmost corner of Block 25, lot 48; thence westerly, northerly and westerly on the northernmost boundaries of Block 25, lots 48, 49, 47.01, 51, and 52.01 to the intersection of Block 25, lot 52.02; thence northwesterly on Block 25, lot 52.02 to Schooley's Mountain Road (County Road 517); thence across Schooley's Mountain Road (County Road 517) to the northeastern corner of Block 33, lot 19.01; thence westerly on Block 33, lot 19.01 to the northernmost corner of Block 33, lot 19; thence southwesterly on a line to the southwestern corner of Block 33, lot 58.01; thence southeasterly on Block 33, lot 58.01 to its intersection with the abandoned railroad right of way (including the Columbia Gas transmission line); thence crossing the abandoned railroad right of way to the southeastern corner of Block 33, lot 58; thence southeasterly on Block 33, lot 58 to West Mill Road (County Road 513); thence crossing to West Mill Road (County Road 513) to the eastern corner of Block 34, lot 46; thence southeasterly and northeasterly on Block 34, lot 46 to its intersection with Block 34, lot 50; thence northeasterly on Block 34, lot 50 to its intersection with Block 34, lot 1.01; thence northeasterly on Block 34, lot 1.01 to its intersection with Block 34, lot 3.01; thence northeasterly on Block 34, lot 3.01 to its intersection with Fairmount Road (County Road 517); thence southerly along Fairmount Road to the intersection of Parker Road; thence northeast along Parker Road to Black River Road; thence east along Parker Road to Pickle Road; thence south on Pickle Road to the intersection of West Fairmount Road (County Road 512); thence southerly on West Fairmount Road (County Road 512) to its intersection with Hollow Brook Road; thence westerly on Hollow Brook Road to its intersection with Homestead Road; thence southerly on Homestead Road to its intersection with High Street (County Road 517) and Hill and Dale Road; thence westerly on Hill and Dale Road to its intersection with Rockaway Road; thence westerly on Rockaway Road to its intersection with Meadow Road; thence southerly on Meadow Road to its intersection with Bissell Road; thence westerly on Bissell Road to its intersection with Welsh Road; thence southerly and westerly on Welsh Road to its intersection with the Tewksbury Township and Clinton Township corporate boundary; thence westerly on the Tewksbury Township and Clinton Township corporate boundary to its intersection with Cokesbury Road (County Road 639); thence northerly and westerly on Cokesbury Road (County Road 639) to its intersection with Cokesbury Califon Road; thence northerly on Cokesbury Califon Road to its intersection with the Lebanon Township and Clinton Township corporate boundary; thence westerly on the Lebanon Township and Clinton Township corporate boundary to its intersection with Mt. Grove Road; thence southerly on Mt. Grove Road to its intersection with Beaver Brook Ravine public land boundary; thence southerly, westerly and northerly on the Beaver Brook Ravine public land boundary to its intersection with Highbridge Cokesbury Road (County Road 639); thence westerly on Highbridge Cokesbury Road (County Road 639) to its intersection with Stone Mill Road; thence north on Stone Mill Road to the Clinton Township and Lebanon Township corporate boundary; thence westerly on the Clinton Township corporate boundary to its intersection with the High Bridge Borough and Lebanon Township corporate boundary; thence west and southerly along the corporate boundary to the intersection with Cregar Road; thence westerly on Cregar Road to its intersection with State Highway 31; thence southerly on State Highway 31 to its intersection with the Spruce Run Reservoir boundary; thence southerly and westerly on the Spruce Run Reservoir boundary to its intersection with Rupell Road; thence westerly on Rupell Road to its intersection with the Clinton Fish and Wildlife Management Area; thence westerly on the Clinton Fish and Wildlife Management Area boundary to its intersection with Charlestown Road (County Road 635); thence southerly on Charlestown Road (County Road 635) to its intersection with South Frontage Road in Union Township; thence westerly on South Frontage Road to the intersection of Baptist Church Road; thence south on Baptist Church Road to the Norfolk Southern Lehigh

Valley railroad right of way; thence easterly along the northern boundary of the Norfolk Southern Lehigh Valley railroad right of way to Mechlin Corner Road; thence north on Mechlin Corner Road to the intersection of Perryville Road; thence easterly and southerly on Perryville Road to its intersection with Race Street; thence easterly on Race Street to its intersection with the Franklin Township and Union Township corporate boundary; thence southerly on the Franklin Township and Union Township corporate boundary to Pittstown Clinton Road (County Road 513) to its intersection with Cook's Cross Road; thence westerly on Cook's Cross Road to its intersection with Bloomsbury Road (County Road 579); thence northerly and westerly on Bloomsbury Road (County Road 579) to its intersection with Little York Pattenburg Road (County Road 614); thence westerly and southerly on Little York Pattenburg Road (County Road 614) to its intersection with Little York Mt. Pleasant Road (County Road 631) and Ellis Road; thence westerly and northerly on Ellis Road to its intersection with Hawkes Schoolhouse Road; thence southerly on Hawkes Schoolhouse Road to its intersection with Milford Warren Glen Road (County Road 519); thence westerly on Milford Warren Glen Road (County Road 519) to its intersection with Dennis Road; thence westerly and northerly on Dennis Road to its intersection with Milford Warren Glen Road (County Road 519); thence northerly on Milford Warren Glen Road (County Road 519) to its intersection with the Musconetcong River; thence southerly and westerly on the southern bank of the Musconetcong River to its intersection with the Delaware River and the State of New Jersey corporate boundary; thence northerly and easterly on the Delaware River and the State of New Jersey corporate boundary to its intersection with the Phillipsburg Town and Pohatcong Township corporate boundary; thence northeasterly on the Phillipsburg Town and Pohatcong Township corporate boundary to its intersection with Interstate 78; thence southerly on interstate 78 to its intersection with the Pohatcong Township and Alpha Borough corporate boundary; thence southerly and westerly on the Pohatcong Township and Alpha Borough corporate boundary to its intersection with Snydersville Road; thence northeasterly on Snydersville Road to its intersection with Interstate 78; thence northeasterly on Interstate 78 to its intersection with the Pohatcong Township and Alpha Borough corporate boundary; thence northeasterly on the Pohatcong Township and Alpha Borough corporate boundary to its intersection with Edge Road; thence northwesterly on Edge Road to its intersection with Interstate 78; thence northerly and easterly on Interstate 78 to its intersection with US Highway 22; thence southeasterly on US Highway 22 to its intersection with the Greenwich Township and Pohatcong Township corporate boundary; thence southerly on the Greenwich Township and Pohatcong Township corporate boundary to its intersection with Warren Glen Bloomsbury Road (County Road 639); thence northerly and easterly on Warren Glen Bloomsbury Road (County Road 639) to its intersection with State Highway 173 in Greenwich Township; thence easterly on State Highway 173 to its intersection with Church Street (County Road 579); thence easterly on Church Street (County Road 579) to its intersection with the Musconetcong River; thence northerly and easterly on the northern bank of the Musconetcong River to its intersection with the eastern most boundary of the Musconetcong Valley Acquisition public lands in Bethlehem Township; thence easterly and southerly on the Musconetcong Valley Acquisition public land boundary to its intersection with the Conrail right of way; thence easterly on the Conrail right of way to its intersection with D. Hull Private Road; thence southerly on the D. Hull Private Road to its intersection with State Highway 173; thence east to the intersection of West Portal Asbury Road (County Road 643); thence easterly and northerly on West Portal Asbury Road (County Road 643); thence easterly and northerly on West Portal-Asbury Road (County Road 643) to its intersection with Maple Avenue in Warren County; thence northerly and easterly on Maple Avenue to its intersection with Shurts Road; thence southerly on Shurts Road, becoming Valley Road in Hunterdon County, continuing on Valley Road to its intersection with Main Street in Hampton Borough; thence northerly on Main Street to its intersection with State Highway 31; thence northerly on State Highway 31 to its intersection with the Musconetcong River; thence northerly and easterly on the northern bank of the Musconetcong River to its intersection with Newburgh Road; thence east on Newburgh Road to the intersection of Schooley's Mountain Road (County Route 517); thence northerly on Schooley's Mountain Road (County Route 517) to the Musconetcong River; thence northerly along the Musconetcong River to East Avenue; thence northeasterly along East Avenue to U.S. Highway 46; thence northerly and easterly along U.S. Highway 46 to the intersection with the Washington Township and Mount Olive Township corporate boundary; thence westerly and southerly along said corporate boundary to the Musconetcong River; thence

northerly along the southern bank of the Musconetcong River to the Stephens State Park boundary; thence northerly, westerly, northerly, westerly along the Stephens State Park boundary to a point opposite the lands of Stephens State Park on the western and northern bank of the Musconetcong; thence across the Musconetcong River to the boundary of the lands of Stephens State Park; thence along the southern boundary of Stephens State Park to the intersection of Willow Grove Road (Warren County Route 604); thence north along the lands of Stephens State Park and Willow Grove Road (Warren County Route 604) to a point opposite the lands of Stephens State Park on the west side of Willow Grove Road (Warren County Route 604); thence crossing Willow Grove Road to the boundary of the lands of Stephens State Park; thence westerly along said State Park boundary lands to the intersection with the Conrail right of way; thence southerly on Conrail right of way to its intersection with Bilby Road; thence northerly and westerly on Bilby Road to its intersection with Old Bilby Road; thence northerly and westerly on Old Bilby Road to its intersection with High Street (County Road 517); thence southerly on High Street (County Road 517) to its intersection with Old Allamuchy Road; thence southerly and westerly on Old Allamuchy Road to its intersection with the Independence Township and Hackettstown Town corporate boundary; thence westerly and southerly on the Hackettstown Town corporate boundary to its intersection with the Hackettstown Town and Mansfield Township corporate boundary; thence southerly and easterly on the Hackettstown Town and Mansfield Township corporate boundary to its intersection with the Conrail railroad right of way at Rockport Road; thence southerly and westerly on the Conrail railroad right of way into Washington Township to a point along the Conrail railroad right of way 1,250 feet southwest of the Washington Township and Mansfield Township corporate boundary; thence proceeding northwesterly 380 feet more or less along a line projected to the southeastern corner of Block 43, lot 10.01 in Washington Township; thence continuing northwesterly and westerly along the boundary of Block 43, lot 10.01 to the northeastern corner of Block 43, lot 10; thence westerly along the boundary of Block 43, lot 10 to the southeastern corner of Block 43, lot 9; thence northerly along the eastern boundaries of Block 43, lots 9, 6 and 5; thence along a line projected from the northern corner of Block 43, lot 5 365 feet more or less across a portion of Block 43, lot 3 to the southeastern corner of Block 43, lot 4; thence northerly and westerly along the boundary of Block 43, lot 4 to Port Colden Road; thence northerly on Port Colden Road to the Shabbecong Creek crossing; thence southwest along the northern bank of the Shabbecong Creek to its intersection with the western boundary of Block 40, lot 86; thence south along Block 40, lot 86 to the northeastern corner of Block 40, lot 87.02; thence westerly along the northern boundary of Block 40, lot 87.02; thence 60 feet more or less along a line projected from the northwestern corner of Block 40, lot 87.02 across a portion of Block 40, lot 87 to the northeast corner of Block 40, lot 87.01 and a corner of Block 40, lot 87; thence westerly along the southern boundary of Block 40, lot 87 to the Washington Township and Washington Borough corporate boundary; thence northerly and westerly along the Washington Township and Washington Borough corporate boundary to the southern corner of Block 40, lot 105; thence northeasterly to the corner and intersection with the boundary of Block 40, lot 87; thence northwesterly along the boundary of Block 40, lot 87 to the intersection with the first southwestern corner of Block 40, lot 110; thence northwesterly along the western boundary of Block 40, lot 110 to the southern corner of Block 40, lot 25; thence northeasterly and northwesterly along the boundary of Block 40, lot 25 to the southern corner of Block 40, lot 28; thence northeasterly and northwesterly along the boundary of Block 40, lot 28 to the intersection of Jackson Valley Road and State Highway 31; thence northerly along western edge of the right of way of State Highway 31 to a point 2,200 feet north of Jackson Valley Road intersection; thence turning 90 degrees west from the right of way edge and proceeding 1,300 feet more or less westerly across a portion of Block 38, lot 5 to the Conrail railroad tracks or right of way; thence south along the eastern edge of Conrail railroad tracks or right of way to the northern corner of Block 38, lot 8; thence south along the western boundary of Block 38, lot 8 to the southern bank of the Pohatcong Creek; thence southwest along the southern bank of the Pohatcong Creek to Mine Hill Road; thence northwesterly along Mine Hill Road to the intersection of Bowerstown Road; thence southwest approximately 310 feet on the northern edge of the Bowerstown Road right of way to its intersection with a 12 foot wide portion of Block 5, lot 18 which provides access to Bowerstown Road; thence 550 feet more or less westerly along the 12 foot wide portion of Block 5, lot 18 to the point it intersects with the western limit of the 100 foot wide New Jersey Power and Light easement; thence turning south

approximately 104 degrees more or less and projecting along a line 200 feet more or less to the northern corner of Block 5, lot 16.04; thence projected southerly along a line 300 feet more or less to the northern corner of Block 5, lot 17; thence continuing southerly along the western boundaries of Block 5, lots 17, 16.01, 16.02, and 16.03 to the western corner of Block 5, lot 16.03; thence projecting southerly along a line 670 feet more or less to the eastern corner of Block 5, lot 22.01; thence continuing southerly along the eastern boundary of Block 5, lot 22.01 to Lannings Trail; thence southeast across Lannings Trail to the northeast corner of Block 6, lot 13.05; thence southwesterly and northwesterly along the eastern boundary of Block 6, lot 13.05 to the eastern corner of Block 6, lot 11; thence southerly along the eastern boundary of Block 6, lot 11 to Lanning Terrace; thence southerly across Lanning Terrace to the northeastern corner of Block 6, lot 19.03; thence southerly along the eastern boundary of Block 6, lot 19.03 to the intersection of the northern boundary of Block 6, lot 20.01; thence following along the boundary of Block 6, lot 20.01 easterly and then generally southwesterly to the eastern corner of Block 6, lot 32; thence southwesterly along the eastern boundary of Block 6, lot 32 to Forces Hill Road; thence easterly on Forces Hill Road to the intersection of Brass Castle Road; thence westerly along the southern edge of the Brass Castle Road right of way to the eastern corner of Block 14, lot 1; thence southwesterly and southeasterly along the boundary of Block 14, lot 1 to the northeastern corner of Block 14, lot 22; thence southeasterly and southwesterly along the boundary of Block 14, lot 22 to Old Schoolhouse Road; thence southwesterly along the northern edge of the right of way for Old Schoolhouse Road to the intersection with the northern edge of the right of way of Little Philadelphia Road; thence southwesterly along the northern edge of the right of way for Little Philadelphia Road to the northeastern corner of Block 15, lot 8.01; thence southwesterly along the northern boundary of Block 15, lot 8.01 to the Washington Township and Franklin Township corporate boundary; thence southeasterly along the Washington Township and Franklin Township corporate boundary to State Highway Route 57; thence southwesterly along State Highway Route 57 to its intersection with Uniontown Road (County Road 519) in Lopatcong Township; thence northerly on Uniontown Road (County Road 519) to the intersection of Upper Belvidere Road Warren County Route 519; thence continuing northerly on Warren County Route 519 which becomes Belvidere Phillipsburg Road to its intersection with South Bridgeville Road (County Road 519); thence easterly and northerly on South Bridgeville Road (County Road 519) to its intersection with Brass Castle Road (County Road 623); thence easterly and southerly on Brass Castle Road (County Road 623) to its intersection with Hazen Oxford Road (County Road 624); thence easterly and southerly on Hazen Oxford Road (County Road 624) to its intersection with Belvidere Road (County Road 624); thence easterly and southerly on Belvidere Road (County Road 624) to its intersection with the northwestern corner of Block 24, lot 10 in Oxford Township; thence southerly, thence easterly on the boundary of Block 24, lot 10 to its intersection with the eastern boundary of Block 24, lot 20; thence southerly on the boundary of Block 24, lot 20 to its intersection with the northern boundary of Block 24, lot 19; thence easterly, thence southeasterly on the boundary of Block 24, lot 19 to its intersection with the northeastern corner of Block 24, lot 13.01; thence southerly on the eastern boundary of Block 24, lot 13.01 to its intersection with Block 24, lot 13; thence southerly on the eastern boundary of Block 24, lot 13 to its intersection with Buckley Avenue; thence easterly on Buckley Avenue to its intersection with the northwestern corner of Block 2, lot 30; thence southerly, thence easterly on the boundary of Block 2, lot 30, continuing easterly on the southern boundaries of Block 2, lots 31, 32, 33, 34, 35, and the southeastern corner of lot 36; thence on a line due south to its intersection with Block 2, lot 18.01; thence easterly, thence southerly on the boundary of Block 2, lot 18.01 to its intersection with the northwestern corner of Block 2, lot 19.02 at Kent Place; thence southerly on the boundary of Block 2, lot 19.02 to its southwestern corner; thence southerly on a line to the southwestern corner of Block 2, lot 61; thence easterly on the southern boundary of Block 2, lot 61 to its intersection with Jonestown Road; thence southerly on Jonestown Road to its intersection with the southwestern corner of Block 1.01, lot 39.02; thence easterly on the southern boundary of Block 1.01, lot 39.02, continuing easterly on the southern boundary of Block 1.01, lots 39 and 39.01 to the intersection with Mine Hill Road; thence northerly on Mine Hill Road to the intersection with Academy Street and the Oxford Mountain public land boundary; thence northeasterly on the Oxford Mountain public land boundary to the intersection with State Highway 31; thence easterly on State Highway 31 to the intersection of Oram's Lane; thence easterly on Oram's Lane to its end and intersection with Block 34, lot 2; thence northerly, thence

easterly on the boundary of Block 34, lot 2 to its intersection with Block 34, lot 2.01; thence easterly on the northern boundary of Block 34, lot 2.01 to its intersection with the Pequest Wildlife Management Area boundary; thence northerly on the Pequest Wildlife Management Area boundary to its intersection with Axford Avenue and the Pequest Wildlife Management Area boundary; thence westerly and northerly on the Pequest Wildlife Management Area boundary to its intersection with the Oxford Township and White Township corporate boundary; thence westerly on the Oxford Township and White Township corporate boundary to its intersection with State Highway 31; thence northerly on State Highway 31 to its intersection with U.S. 46; thence easterly on U.S. 46 to its intersection with Free Union Road; thence northerly on Free Union Road to its intersection with Beechwood Road; thence westerly on Beechwood Road to its intersection with Tamarack Road; thence northerly on Tamarack Road to its intersection with the White Township and Liberty Township corporate boundary; thence northerly and westerly on the White Township and Liberty Township corporate boundary to its intersection with Mountain Lake Road (County Road 617); thence southerly and westerly on Mountain Lake Road to its intersection with North Bridgeville Road (County Road 519); thence northerly on North Bridgeville Road (County Road 519) to its intersection with the White Township and Hope Township corporate boundary; thence easterly and southerly on the White Township and Hope Township corporate boundary to its intersection with the Hope Township and Liberty Township corporate boundary; thence northerly and easterly on the Hope Township and Liberty Township corporate boundary to its intersection with the Frelinghuysen Township and Independence Township corporate boundary; thence northerly and easterly on the Frelinghuysen Township and Independence Township corporate boundary to its intersection with Frelinghuysen Township and Allamuchy Township corporate boundary; thence northerly and easterly on the Frelinghuysen Township and Allamuchy Township corporate boundary to its intersection with the southern boundary of the Interstate 80 right of way in Frelinghuysen Township; thence easterly along the southern boundary of the Interstate 80 right of way to its intersection with the Conrail right of way in Allamuchy Township; thence southerly and westerly on the Conrail right of way to its intersection with the southeastern corner of Block 29, lot 29 in Independence Township; thence northwesterly along the southwest boundary of Block 29, lot 29 in Independence Township to the Pequest River; thence northerly on the western bank of the Pequest River to its intersection with the southern corner of Block 29, lot 44 in Independence Township; thence northwesterly along the southwestern boundary of Block 29, lot 44 in Independence Township to Shades of Death Road; thence southerly and westerly on Shades of Death Road to its intersection with Hope Road (County Road 611); thence southerly and easterly on Hope Road (County Road 611) to its intersection with U.S. 46; thence northerly and easterly on U.S. 46 to its intersection with Old Cemetery Road; thence southerly and easterly on Old Cemetery Road across the Conrail right of way to its intersection with Cemetery Road; thence southerly and easterly on Cemetery Road to its intersection with Barkers Mill Road; thence southerly and easterly on Barkers Mill Road to its intersection with Johnson Road; thence easterly and northerly on Johnson Road to its intersection with U.S. 46 and Ketchum Road; thence northerly and easterly on Ketchum Road to its intersection with Petersburg Road (County Road 614) and Ridge Road; thence northerly and easterly on Ridge Road to its intersection with County Road 517; thence northerly on County Road 517 to its intersection with Stuyvestant Road and Allamuchy State Park boundary; thence northerly along the Allamuchy State Park boundary into Green Township; thence southeasterly and northeasterly along the Allamuchy State Park boundary to its intersection with the Green Township and Byram Township corporate boundary; thence continuing northerly and easterly on the Byram Township and Andover Borough corporate boundary; thence continuing northerly and easterly along the Byram Township and Andover Township corporate boundary to its intersection with the Sparta Township corporate boundary; thence easterly on the Sparta Township corporate boundary to its intersection with Tomahawk Trail; thence easterly and northerly on Tomahawk Trail to its intersection with Green Road; thence northerly on Green Road to its intersection with Sawmill Road; thence easterly and northerly on Sawmill Road to its intersection with State Highway 181; thence northerly on State Highway 181 to its intersection with Blue Heron Road; thence easterly on Blue Heron Road to its intersection with State Highway 15; thence northerly along the western boundary of the State Highway 15 right of way to its intersection with the southern corner of Block 13.13, lot 21 in Sparta Township; thence easterly and thence northerly along the boundary of Block 13.13, lot 21 to its intersection with Block 13.13, lot 22; thence northeasterly

on the boundary of Block 13.13, lot 22 to its intersection with Glen Road (Sussex County Route 620); thence westerly on Glen Road (Sussex County Route 620) to its intersection with the westernmost point of Block 7, lot 57; thence easterly on the boundary of Block 7, lot 57 to its intersection with Block 7, lot 58; thence northerly on the boundary of Block 7, lot 58 to its intersection with the southwestern edge of Block 7, lot 61.02; thence easterly, northerly, then westerly on the boundary of Block 7, lot 61.02 to its intersection with Main Street; thence southwesterly on Main Street to its intersection with the southernmost corner of Block 12, lot 3; thence westerly on the southern boundary of Block 12, lot 3 to its intersection with Sussex County Route 517); thence westerly on Sussex County Route 517 to its intersection with Station Road; thence northerly on Station Road to its intersection with the southernmost point of Block 19, lot 43; thence northerly, thence easterly on the boundary of Block 19, lot 43 to its intersection with Block 19, lot 39; thence following the boundary of Block 19, lot 39 around the parcel in a counterclockwise manner to its intersection with Block 19, lot 99; thence southerly on the boundary of Block 19, lot 99 to its intersection with the western boundary of the State Highway 15 right of way; thence northerly along the western boundary of the State Highway 15 right of way to its intersection with Houses Corner Road; thence easterly and northerly on Houses Corner Road to its intersection with West Mountain Road; thence southerly on West Mountain Road to its intersection with Sparta Munsons Road; thence southeasterly across Sparta Munsons Road to the Conrail right of way; thence northerly and easterly along the northwestern boundary of the Conrail right of way to its intersection with the Ogdensburg Borough and Sparta Township corporate boundary; thence northeasterly to the southwestern end of Heater's Pond and proceeding northerly along the western edge of Heater's Pond to the intersection of Edison Road; thence westerly on Edison Road to the intersection with the New York Susquehanna and Western Railroad right of way; thence northerly along the easterly edge of the New York Susquehanna and Western Railroad right of way to the Ogdensburg Borough and Hardyston Township corporate boundary; thence westerly on the Ogdensburg Borough and Hardyston Township corporate boundary to its intersection with the Franklin Borough corporate boundary; thence easterly and northerly on the Franklin Borough and Hardyston Township corporate boundary to its intersection with Henderson Road (Hamburg Turnpike); thence southerly and easterly on Henderson Road (Hamburg Turnpike) to the intersection of Mountain Road in Hardyston Township; thence northerly on Mountain Road to its intersection with Rudetown Road (County Road 517); thence easterly and northerly on Rudetown Road (County Road 517) to the Black Creek in Vernon Township; thence easterly along Black Creek to its intersection with the boundary of Block 280, lot 22 in Vernon Township; thence easterly along said boundary to the western boundary of Block 280, lot 23; thence following the boundary of Block 280, lot 23 south to the boundary of Block 177, lot 49; thence easterly and northerly along the boundary of Block 177, lot 49 to the boundary of Block 190, lot 18.06; thence easterly along the boundary of Block 190, lot 18.06 to the boundary of Block 190, lot 18.05; thence southeasterly and thence northeasterly along the boundary Block 190, lot 18.05 to the boundary of Block 190, lot 18.01; thence northeasterly along the boundary of Block 190, lot 18.01 to the boundary of Block 190, lot 18.S01; thence southeasterly along the boundary of Block 190, lot 18.S01 to the boundary of Block 190, lot 20; thence southwesterly and easterly along the boundary of Block 190, lot 20 to the boundary of Block 240, lot 1; thence easterly along the boundary of Block 240, lot 1 to County Road 515; thence northerly along County Road 515 to the intersection of Breakneck Road and County Road 515; thence easterly and southerly along the northern edge of the right of way of Breakneck Road to the intersection of the southeastern corner of Block 143, lot 17 in Vernon Township; thence northerly along the eastern boundary of Block 143, lot 17 to the northern corner of Block 143, lot 25; thence northerly 1035 feet more or less along a line projected across Block 143, lot 17 to the southern corner of Block 143, lot 16; thence northerly along the eastern boundary of Block 143, lot 16 to the southern corner of Block 143, lot 15; thence westerly and northerly along the southwestern boundary of Block 143, lot 15 to Pond Eddy Road; thence northerly across Pond Eddy Road to the southern corner of Block 143, lot 10; thence northerly along the eastern boundary of Block 143, lot 10 to the boundary of Block 143, lot 7; thence westerly southerly and generally northerly along the western boundary of Block 143, lot 7 to the limit of Block 143.01; thence northwesterly along the southern limit of Block 143.01 to the eastern corner of Block 143.01, lot 22; thence northwesterly along the northern boundary of Block 143.01, lot 22 and lot 23 to Vernon Warwick Road (State Highway 94); thence easterly and northerly on Vernon Warwick Road (State Highway 94) to its

intersection with Maple Grange Road; thence northerly and westerly on Maple Grange Road to its intersection with Pochuck Creek and Wawayanda State Park/Appalachian Trail public land; thence northerly and westerly along the western and southern Wawayanda State Park/Appalachian Trail public land boundary to its intersection with the western terminus of Thistle Avenue (Walnut Hill Drive); thence easterly and southerly on Thistle Avenue (Walnut Hill Drive) to its intersection with Phlox Terrace; thence southerly on Phlox Terrace to its intersection with Cedar Terrace; thence southerly on Cedar Terrace to its intersection with Clover Lane; thence easterly on Clover Lane to its intersection with Zinnia Drive; thence southerly and westerly on the eastern and southern bank of the tributary of Black Creek to its intersection with Lounsberry Hollow Road; thence northerly on Lounsberry Hollow Road to its intersection with Dorchester Road; thence westerly and southerly on Dorchester Road to its intersection with Rolling Hills Road; thence southerly on Rolling Hills Road to its intersection with a tributary of Black Creek to its intersection with Pochuck Mountain public land boundary; thence southerly and northerly on the Pochuck Mountain public land boundary to its intersection with a tributary of Black Creek; thence northerly on the western bank of the tributary of Black Creek to its intersection with Lake Glenwood; thence along the west shore of Lake Glenwood to Pochuck Creek; thence northerly and westerly on Lake Shore Drive to its intersection with Glenwood Martin Station Road (County Road 565); thence southerly and westerly on Glenwood Martin Station Road (County Road 565) to its intersection with Babtown Road; thence northerly on Babtown Road to its intersection with Maple Avenue; thence northerly on with Maple Avenue to its intersection with Spring Lane; thence northerly on Spring Lane to its intersection with Lakeside Drive; thence northerly on Lakeside Drive to its intersection with Glen Road; thence westerly on Glen Road to its intersection with Lake Walkill Road; thence northerly on Lake Walkill Road to its intersection with the New York State corporate boundary; thence easterly and southerly to its intersection with State Highway 17 and Interstate Highway 287 in northern Mahwah Township, at a point of origin.

(2) Except as otherwise provided in paragraph (1) of this subsection, any natural geographical feature, including a river, stream, or brook, used in paragraph (1) of this subsection for the boundary description of the preservation area shall be considered to lie totally within the preservation area, and any road, railroad, or railroad right of way used in paragraph (1) of this subsection for the boundary description of the preservation area shall be considered to lie totally outside of the preservation area. The use of property block and lot designations include or exclude property from the preservation area. Where a survey gore exists between a property boundary depicted upon a municipal tax map and the limits of a surveyed property noted in paragraph (1) of this subsection, the surveyed property boundary description shall be considered to constitute the preservation area boundary.

c. The planning area shall consist of all that area of the Highlands Region not within the preservation area.

d. The preservation area shall not include any land located within the boundaries of any regional center or town center designated by the State Planning Commission pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.) as of the date of enactment of this act, except to the extent necessary as set forth in the boundary description of the preservation area in subsection b. of this section to reflect appropriate and nearest practicable, on-the-ground, and easily identified reference points.

#### C.13:20-8 Preparation, adoption of master plan for the Highlands Region.

8. a. The council shall, within 18 months after the date of its first meeting, and after holding at least five public hearings in various locations in the Highlands Region and at least one public hearing in Trenton, prepare and adopt a regional master plan for the Highlands Region. The Highlands regional master plan shall be periodically revised and updated at least once every six years, after public hearings.

The council shall not adopt the regional master plan unless it recommends receiving zones in the planning area and capacity therefor for each receiving zone pursuant to the transfer of development rights program authorized in section 13 of this act.

b. Within 60 days after adopting the regional master plan, the council shall submit the plan to the State Planning Commission for endorsement pursuant to the rules and regulations adopted by the State Planning Commission. The State Planning Commission review shall be limited to the planning area only.

C.13:20-9 Consultations, etc. relative to preparation, revisions of regional master plan.

9. a. During the preparation of the regional master plan or any revision thereof, the council shall consult with the Department of Environmental Protection, the Department of Community Affairs, the State Planning Commission, the Department of Agriculture, the State Agriculture Development Committee, the Department of Transportation, and appropriate officials of local government units and State, regional, and federal departments, agencies and other governmental entities with jurisdiction over lands, waters, and natural resources within the Highlands Region, with interested professional, scientific, and citizen organizations, and with any advisory groups that may be established by the council. The council shall also consult with the Department of Transportation in preparing the transportation component of the regional master plan. The council shall review all relevant federal, State, and private studies of the Highlands Region, the State Development and Redevelopment Plan, municipal, county, and regional plans, applicable federal and State laws and rules and regulations, and other pertinent information on the Highlands Region.

b. Prior to adoption of, and in preparing, the regional master plan, the council may, in conjunction with municipalities in the preservation area, identify areas in which redevelopment shall be encouraged in order to promote the economic well-being of the municipality, provided that the redevelopment conforms with the goals of the preservation area and this act, with the standards prescribed pursuant to section 32 of this act, and with the rules and regulations adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act. Any areas identified for possible redevelopment pursuant to this subsection shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.

c. In preparing and implementing the regional master plan or any revision thereto, the council shall ensure that the goals, purposes, policies, and provisions of, and the protections afforded to farmers by, the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules or regulations adopted pursuant thereto, are recognized and not compromised in any manner.

d. Upon adoption of the regional master plan or any revision thereof, copies thereof shall be transmitted to the Governor, the Legislature, the governing body of every municipality and county located in the Highlands Region, and the State Planning Commission.

C.13:20-10 Goals of regional master plan.

10. a. The goal of the regional master plan with respect to the entire Highlands Region shall be to protect and enhance the significant values of the resources thereof in a manner which is consistent with the purposes and provisions of this act.

b. The goals of the regional master plan with respect to the preservation area shall be to:

(1) protect, restore, and enhance the quality and quantity of surface and ground waters therein;

(2) preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains the unique and significant natural, scenic, and other resources representative of the Highlands Region;

(3) protect the natural, scenic, and other resources of the Highlands Region, including but not limited to contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for fauna and flora;

(4) preserve farmland and historic sites and other historic resources;

(5) preserve outdoor recreation opportunities, including hunting and fishing, on publicly owned land;

(6) promote conservation of water resources;

(7) promote brownfield remediation and redevelopment;

(8) promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities within the framework of protecting the Highlands environment; and

(9) prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area.

c. The goals of the regional master plan with respect to the planning area shall be to:

(1) protect, restore, and enhance the quality and quantity of surface and ground waters therein;

- (2) preserve to the maximum extent possible any environmentally sensitive lands and other lands needed for recreation and conservation purposes;
- (3) protect and maintain the essential character of the Highlands environment;
- (4) preserve farmland and historic sites and other historic resources;
- (5) promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities;
- (6) preserve outdoor recreation opportunities, including hunting and fishing, on publicly owned land;
- (7) promote conservation of water resources;
- (8) promote brownfield remediation and redevelopment;
- (9) encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof ; and
- (10) promote a sound, balanced transportation system that is consistent with smart growth strategies and principles and which preserves mobility in the Highlands Region.

C.13:20-11 Contents of regional master plan.

11. a. The regional master plan shall include, but need not necessarily be limited to:
  - (1) A resource assessment which:
    - (a) determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof, with special reference to surface and ground water quality and supply; contiguous forests and woodlands; endangered and threatened animals, plants, and biotic communities; ecological factors relating to the protection and enhancement of agricultural or horticultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the Highlands Region; and
    - (b) includes an assessment of scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources;
  - (2) A financial component, together with a cash flow timetable which:
    - (a) details the cost of implementing the regional master plan, including, but not limited to, property tax stabilization measures, watershed moratorium offset aid, planning grants and other State aid for local government units, capital requirements for any development transfer bank, payments in lieu-of-taxes, acquisition, within five years and within 10 years after the date of enactment of this act, of fee simple or other interests in lands for preservation or recreation and conservation purposes, compensation guarantees, general administrative costs, and any anticipated extraordinary or continuing costs; and
    - (b) details the sources of revenue for covering such costs, including, but not limited to, grants, donations, and loans from local, State, and federal departments, agencies, and other governmental entities, and from the private sector;
  - (3) A component to provide for the maximum feasible local government and public input into the council's operations, which shall include a framework for developing policies for the planning area in conjunction with those local government units in the planning area who choose to conform to the regional master plan;
  - (4) A coordination and consistency component which details the ways in which local, State, and federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the regional master plan, and which details how land, water, and structures managed by governmental or nongovernmental entities in the public interest within the Highlands Region may be integrated into the regional master plan;
  - (5) A transportation component that provides a plan for transportation system preservation, includes all federally mandated projects or programs, and recognizes smart growth strategies and

principles. The transportation component shall include projects to promote a sound, balanced transportation system that is consistent with smart growth strategies and principles and which preserves mobility and maintains the transportation infrastructure of the Highlands Region. Transportation projects and programs shall be reviewed and approved by the council in consultation with the Department of Transportation prior to inclusion in the transportation component; and

(6) A smart growth component that includes an assessment, based upon the resource assessment prepared pursuant to paragraph (1) of subsection a. of this section, of opportunities for appropriate development, redevelopment, and economic growth, and a transfer of development rights program which shall include consideration of public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design, and transit villages. In preparing this component, the council shall:

(a) prepare a land use capability map;

(b) identify existing developed areas capable of sustaining redevelopment activities and investment;

(c) identify undeveloped areas in the planning area, which are not significantly constrained by environmental limitations such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed;

(d) identify transportation, water, wastewater, and power infrastructure that would support or limit development and redevelopment in the planning area. This analysis shall also provide proposed densities for development, redevelopment, or voluntary receiving zones for the transfer of development rights;

(e) identify potential voluntary receiving zones in the planning area for the transfer of development rights through the appropriate expansion of infrastructure or the modified uses of existing infrastructure;

(f) issue model minimum standards for municipal and county master planning and development regulations outside of the preservation area, including density standards for center-based development to encourage, where appropriate, the adoption of such standards;

(g) identify special critical environmental areas and other critical natural resource lands where development should be limited; and

(h) identify areas appropriate for redevelopment and set appropriate density standards for redevelopment. Any area identified for possible redevelopment pursuant to this subparagraph shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.

b. The resource assessment, transportation component, and smart growth component prepared pursuant to subsection a. of this section shall be used only for advisory purposes in the planning area and shall have no binding or regulatory effect therein.

C.13:20-12 Additional contents of regional master plan.

12. In addition to the contents of the regional master plan described in section 11 of this act, the plan shall also include, with respect to the preservation area, a land use capability map and a comprehensive statement of policies for planning and managing the development and use of land in the preservation area, which shall be based upon, comply with, and implement the environmental standards adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act, and the resource assessment prepared pursuant to paragraph (1) of subsection a. of section 11 of this act.

These policies shall include provision for implementing the regional master plan by the State and local government units in the preservation area in a manner that will ensure the continued, uniform, and consistent protection of the Highlands Region in accordance with the goals, purposes, policies, and provisions of this act, and shall include:

a. a preservation zone element that identifies zones within the preservation area where development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but

not limited to land acquisition and the transfer of development rights; and

b. minimum standards governing municipal and county master planning, development regulations, and other regulations concerning the development and use of land in the preservation area, including, but not limited to, standards for minimum lot sizes and stream setbacks, construction on steep slopes, maximum appropriate population densities, and regulated or prohibited uses for specific portions of the preservation area.

C.13:20-13 Use of regional master plan elements for TDR program.

13. a. The council shall use the regional master plan elements prepared pursuant to sections 11 and 12 of this act, including the resource assessment and the smart growth component, to establish a transfer of development rights program for the Highlands Region that furthers the goals of the regional master plan. The transfer of development rights program shall be consistent with the "State Transfer of Development Rights Act," P.L.2004, c.2 (C.40:55D-137 et seq.) or any applicable transfer of development rights program created otherwise by law, except as otherwise provided in this section.

b. In consultation with municipal, county, and State entities, the council shall, within 18 months after the date of enactment of this act, and from time to time thereafter as may be appropriate, identify areas within the preservation area that are appropriate as sending zones pursuant to P.L.2004, c.2 (C.40:55D-137 et seq.).

c. In consultation with municipal, county, and State entities, the council shall, within 18 months after the date of enactment of this act, and from time to time thereafter as may be appropriate, identify areas within the planning area that are appropriate for development as voluntary receiving zones pursuant to P.L.2004, c.2 (C.40:55D-137 et seq.) considering the information gathered pursuant to sections 11 and 12 of this act, including but not limited to the information gathered on the transfer of development rights pursuant to paragraph (6) of subsection a. of section 11 of this act. For the purposes of the council establishing a transfer of development rights program prior to the preparation of the initial regional master plan, the council in identifying areas appropriate for development as voluntary receiving zones shall consider such information as may be gathered pursuant to sections 11 and 12 of this act and as may be available at the time, but the council need not delay the creation of the transfer of development rights program until the initial regional master plan has been prepared. The council shall set a goal of identifying areas within the planning area that are appropriate for development as voluntary receiving zones that, combined together, constitute four percent of the land area of the planning area, to the extent that the goal is compatible with the amount and type of human development and activity that would not compromise the integrity of the ecosystem of the planning area.

d. The council shall work with municipalities and the State Planning Commission to identify centers, designated by the State Planning Commission, as voluntary receiving zones for the transfer of development rights program.

e. In consultation with municipal, county, and State entities, the council shall assist municipalities or counties in analyzing voluntary receiving zone capacity.

f. In consultation with municipal, county, and State entities, the council shall work with municipalities outside of the preservation area to assist these municipalities in developing ordinances necessary to implement the transfer of development rights. The council shall also establish advisory or model ordinances and other information for this purpose.

The council shall make assistance available to municipalities that desire to create additional sending zones on any lands within their boundaries which lie within the planning area and are designated for conservation in the regional master plan.

g. Notwithstanding the provisions of P.L.2004, c.2 (C.40:55D-137 et seq.) to the contrary, the council shall perform the real estate analysis for the Highlands Region that is required to be performed by a municipality prior to the adoption or amendment of any development transfer ordinance pursuant to P.L.2004, c.2.

h. (1) The council shall set the initial value of a development right. The Office of Green Acres in the Department of Environmental Protection and the State Agriculture Development Committee shall provide support and technical assistance to the council in the operation of the

transfer of development rights program. The council shall establish the initial value of a development right considering the Department of Environmental Protection rules and regulations in effect the day before the date of enactment of this act.

(2) The council shall give priority consideration for inclusion in a transfer of development rights program any lands that comprise a major Highlands development that would have qualified for an exemption pursuant to paragraph (3) of subsection a. of section 30 of this act but for the lack of a necessary State permit as specified in subparagraph (b) or (c), as appropriate, of paragraph (3) of subsection a. of section 30 of this act, and for which an application for such a permit had been submitted to the Department of Environmental Protection and deemed by the department to be complete for review on or before March 29, 2004.

i. (1) The council may use the State Transfer of Development Rights Bank established pursuant to section 3 of P.L.1993, c.339 (C.4:1C-51) for the purposes of facilitating the transfer of development potential in accordance with this section and the regional master plan. The council may also establish a development transfer bank for such purposes.

(2) At the request of the council, the Department of Banking and Insurance, the State Transfer of Developments Right Bank, the State Agriculture Development Committee, and the Pinelands Development Credit Bank shall provide technical assistance to the council in establishing and operating a development transfer bank as authorized pursuant to paragraph (1) of this subsection.

(3) Any bank established by the council shall operate in accordance with provisions of general law authorizing the creation of development transfer banks by municipalities and counties.

j. The Office of Smart Growth shall review and coordinate State infrastructure capital investment, community development and financial assistance in the planning area in furtherance of the regional master plan. Prior to the council establishing its transfer of development rights program, the Office of Smart Growth shall establish a transfer of development rights pilot program that includes Highlands Region municipalities.

k. Any municipality in the planning area whose municipal master plan and development regulations have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act, and that amends its development regulations to accommodate voluntary receiving zones within its boundaries which are identified pursuant to subsection c. of this section and which provide for a minimum residential density of five dwelling units per acre, shall, for those receiving zones, be: eligible for an enhanced planning grant from the council of up to \$250,000; eligible for a grant to reimburse the reasonable costs of amending the municipal development regulations; authorized to impose impact fees in accordance with subsection m. of this section; entitled to legal representation pursuant to section 22 of this act; accorded priority status in the Highlands Region for any State capital or infrastructure programs; and eligible for any other appropriate assistance, incentives, or benefits provided pursuant to section 18 of this act.

l. Any municipality located outside of the Highlands Region in any county that has a municipality in the Highlands Region that has received plan endorsement by the State Planning Commission pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), that establishes a receiving zone which provides for a minimum residential density of five dwelling units per acre for the transfer of development rights from a sending zone in the Highlands Region, and that accepts that transfer of development rights shall, for those receiving zones, be eligible for the same grants, authority, and other assistance, incentives, and benefits as provided to municipalities in the planning area pursuant to subsection k. of this section except for legal representation as provided pursuant to section 22 of this act and priority status in the Highlands Region for any State capital or infrastructure programs.

m. (1) A municipality that is authorized to impose impact fees under subsection k. of this section shall exercise that authority by ordinance.

(2) Any impact fee ordinance adopted pursuant to this subsection shall include detailed standards and guidelines regarding: (a) the definition of a service unit, including specific measures of consumption, use, generation or discharge attributable to particular land uses, densities and characteristics of development; and (b) the specific purposes for which the impact

fee revenues may be expended.

(3) An impact fee ordinance shall also include a delineation of service areas for each capital improvement whose upgrading or expansion is to be funded out of impact fee revenues, a fee schedule which clearly sets forth the amount of the fee to be charged for each service unit, and a payment schedule.

(4) An impact fee may be imposed by a municipality pursuant to this subsection in order to generate revenue for funding or recouping the costs of new capital improvements or facility expansions necessitated by new development, to be paid by the developer as defined pursuant to section 3.1 of P.L.1975, c.291 (C.40:55D-4). Improvements and expansions for which an impact fee is to be imposed shall bear a reasonable relationship to needs created by the new development, but in no case shall an impact fee assessed pursuant to this subsection exceed \$15,000 per dwelling unit unless and until impact fees are otherwise established by law at which time the impact fee shall be 200% of the calculated impact fee.

(5) No impact fee shall be assessed pursuant to this subsection against any low or moderate income housing unit within an inclusionary development as defined under P.L.1985, c.222 (C.52:27D-301 et al.).

No impact fee authorized under this subsection shall include a contribution for any transportation improvement necessitated by a new development in a county which is covered by a transportation development district created pursuant to the "New Jersey Transportation Development District Act of 1989," P.L.1989, c.100 (C.27:1C-1 et al.).

C.13:20-14 Submission of revisions to regional master plan by municipalities, counties in preservation area for conformance.

14. a. Within nine to 15 months after the date of adoption of the regional master plan or any revision thereof, according to a schedule to be established by the council, each municipality located wholly or partially in the preservation area shall submit to the council such revisions of the municipal master plan and development regulations, as applicable to the development and use of land in the preservation area, as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

Upon rejecting or conditionally approving any such revised plan or development regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the relevant municipality shall adopt and enforce the plan or development regulations as so changed.

b. Within nine to 15 months after the date of adoption of the regional master plan or any revision thereof, according to a schedule to be established by the council, each county located wholly or partially in the preservation area shall submit to the council such revisions of the county master plan and associated regulations, as applicable to the development and use of land in the preservation area, as may be necessary in order to conform them with the goals, requirements, and provisions of the regional master plan. After receiving and reviewing the revisions, the council shall approve, reject, or approve with conditions those revised plans and associated regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

Upon rejecting or conditionally approving any such revised plan or associated regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the relevant county shall adopt and enforce the plan or associated regulations as so changed.

c. The council may revoke a conformance approval granted pursuant to this section or section 15 of this act, after conducting a hearing, if the council finds that the local government unit has taken action inconsistent with the regional master plan.

d. In the event that any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, as required pursuant to subsection a. or b. of this section, the council shall adopt and enforce such rules and regulations as may be necessary to

implement the minimum standards contained in the regional master plan as applicable to any municipality or county within the preservation area. If any municipality or county fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, as required pursuant to subsection a. or b. of this section, the council shall have all local enforcement authority provided pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., and this act, as well as the authority to issue stop construction orders, as may be necessary to implement the provisions of this act, any rules and regulations adopted pursuant thereto, and the requirements and provisions of the regional master plan.

e. A municipality or county may adopt revisions to its master plan, development regulations, or other regulations for the purposes of this section that are stricter, as determined by the council, than the minimum necessary to obtain approval of conformance with the regional master plan.

f. The requirements of this section shall not apply to any municipality or county located wholly within the planning area. Any municipality or county located partially within the preservation area and partially within the planning area shall be required to comply with the provisions of this section and the regional master plan only with respect to that portion of the municipality or county lying within the preservation area. Voluntary conformance with the regional master plan as it may apply to those portions of a municipality or county lying within the planning area shall be permitted as provided pursuant to section 15 of this act.

C.13:20-15 Municipalities, counties in planning area may petition council relative to revision.

15. a. (1) For any municipality located wholly in the planning area or for any portion of a municipality lying within the planning area, the municipality may, by ordinance, petition the council of its intention to revise its master plan and development regulations, as applicable to the development and use of land in the planning area, to conform with the goals, requirements, and provisions of the regional master plan.

The municipality shall proceed in revising its master plan and development regulations in accordance with the framework adopted by the council pursuant to subsection a. of section 14 of this act.

After receiving and reviewing those revisions, and after consulting with the State Planning Commission, the council shall approve, reject, or approve with conditions the revised plan and development regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

(2) Upon rejecting or conditionally approving any such revised plan or development regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the municipality may adopt and enforce the plan or development regulations as so changed in order for them to be deemed approved in conformance with the regional master plan.

(3) Any municipality approved by the council to be in conformance with the regional master plan pursuant to this subsection shall be entitled to any financial or other assistance or incentives received by a municipality from the State as a benefit or result of obtaining council approval pursuant to section 14 of this act.

(4) Upon the commencement of each reexamination by the municipality of its master plan and development regulations as required pursuant to section 76 of P.L.1975, c.291 (C.40:55D-89) which have been previously approved by the council to be in conformance with the regional master plan pursuant to this subsection, the municipality shall so notify the council and, thereafter, submit to the council the draft revision of its master plan and development regulations for review, by the council, of conformance with the regional master plan. If, after conducting the reexamination, the municipality does not resubmit to the council its master plan and development regulations as they pertain to the planning area and obtain reapproval thereof from the council in accordance with this subsection, or if the council finds the reexamined master plan or development regulations not to be in conformance with the regional master plan, the council may require the municipality to reimburse the council or the State, as appropriate, in whole or in part for any financial or other assistance or incentives received by the municipality from the

State as a benefit or result of obtaining council approval pursuant to this subsection.

(5) A municipality may adopt revisions to its master plan or development regulations for the purposes of this subsection that are stricter, as determined by the council, than the minimum necessary to obtain approval of conformance with the regional master plan.

b. (1) Each county with lands in the planning area may, by ordinance or resolution, as appropriate, petition the council of its intention to revise its master plan and associated regulations, as applicable to the development and use of land in the planning area, to conform with the goals, requirements, and provisions of the regional master plan.

The county shall proceed in revising its master plan and associated regulations in accordance with the framework adopted by the council pursuant to subsection b. of section 14 of this act.

After receiving and reviewing those revisions, and after consulting with the State Planning Commission, the council shall approve, reject, or approve with conditions the revised plan and associated regulations, as it deems appropriate, after public hearing, within 60 days after the date of submission thereof.

(2) Upon rejecting or conditionally approving any such revised plan or associated regulations, the council shall identify such changes therein that it deems necessary for council approval thereof, and the county may adopt and enforce the plan or associated regulations as so changed in order for them to be deemed approved in conformance with the regional master plan.

(3) Any county approved by the council to be in conformance with the regional master plan pursuant to this subsection shall be entitled to any financial or other assistance or incentives received by a county from the State as a benefit or result of obtaining council approval pursuant to section 14 of this act.

C.13:20-16 Council may provide comments, recommendations on projects.

16. a. The council may provide comments and recommendations on any capital or other project proposed to be undertaken by any State entity or local government unit in the Highlands Region.

b. Within the preservation area, any capital or other project of a State entity or local government unit that involves the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more shall be submitted to the council for review, except that no such submission shall be required for (1) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes, or (2) the construction of transportation safety projects and bicycle and pedestrian facilities, provided that the activity does not result in the construction of any new through-capacity travel lanes. The council shall establish procedures for conducting such reviews and shall have the power to approve, approve with conditions, or disapprove the project. No such project shall proceed without the approval of the council; provided that, in the case of a project of a State entity, if the council disapproves the project, the head of the appropriate principal department of State government with primary responsibility for the project may override the council's disapproval upon making a written finding, which shall be submitted to the council and the Governor, that the project is necessary for public health, safety, or welfare and including with that finding a factual basis and explanation in support thereof. In the case of a project of an independent State authority or commission or a bi-state entity, any such finding shall be made by the Governor or such other State governmental official as the Governor may designate for that purpose.

The council shall review any submission pursuant to this subsection within 30 days after receipt. If the council fails to act within the 30-day period, or within such other time period as may be mutually agreed upon by the parties, the project shall be deemed approved.

c. Within the planning area, any capital or other project of a State entity or local government unit that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more shall be submitted to the council for a nonbinding review and comment, except that no such submission shall be required for (1) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair

of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes, or (2) the construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes. The council shall establish procedures for conducting such reviews within 30 days after receipt or within such other time period as may be mutually agreed upon by the parties. The failure of the council to act within the 30-day or other agreed upon time period on any such review pursuant to this subsection shall not be cause for delay of the project, and the project may proceed whether or not the council has conducted the review authorized pursuant to this subsection.

C.13:20-17 Review by council of regional applications for development.

17. a. (1) Subsequent to adoption of the regional master plan, the council may review, within 15 days after any final local government unit approval, rejection, or approval with conditions thereof, any application for development in the preservation area. Upon determining to exercise that authority, the council shall transmit, by certified mail, written notice thereof to the person who submitted the application to the local government unit. The council shall, after public hearing thereon, approve, reject, or approve with conditions any such application or decision within 60 days after transmitting the notice; provided, however, that an application shall not be rejected or conditionally approved unless the council determines that the development does not conform with the regional master plan, as applicable to the local government unit wherein the development is located, or that the development could result in substantial impairment of the resources of the Highlands Region. Such approval, rejection, or conditional approval shall be binding upon the person who submitted the application, shall supersede any local government unit decision on any such development, and shall be subject only to judicial review as provided in section 28 of this act. Pending completion of the review by the council of any final local government approval or approval with conditions of an application for development in the preservation area and the issuance of the council's decision thereon, the applicant shall not proceed with the development.

(2) No cause of action may be filed in the Superior Court to contest a local government unit decision on an application for development in the preservation area if the council exercises its review authority pursuant to this section. Any such cause of action filed before the date that the council exercises its review authority pursuant to this section shall be dismissed by the court for lack of jurisdiction. Upon determination of the council to exercise its review authority pursuant to this section, judicial review of the decision of the local government unit and of the council pursuant to this section shall proceed as provided pursuant to section 28 of this act.

b. Every person submitting an application for development in the preservation area shall be required to provide a notice of the application to the council in accordance with such procedures therefor as shall be established by the council.

c. Notwithstanding any provision of subsection a. or b. of this section to the contrary, for any municipality or county that has adopted an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council, the requirements of this section shall apply only to applications for development that provide for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more. The council, however, may provide, pursuant to subsection d. of section 14 of this act, that the requirements of this section apply to any application for development within the preservation area in any municipality or county that fails to adopt or enforce an approved revised master plan, development regulations, or other regulations, as the case may be, including any condition thereto imposed by the council.

d. Any member of the public may request the council to consider reviewing an application for development in the preservation area as provided in this section.

C.13:20-18 Qualification for State aid, grants.

18. a. Any municipality in the Highlands Region whose municipal master plan and

development regulations, and any county in the Highlands Region whose county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act shall qualify 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 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.) or which otherwise practice or implement smart growth strategies and principles. Any such municipality or county shall also qualify for any State aid that may be provided for smart growth projects.

b. The council shall make available grants and other financial and technical assistance to municipalities and counties for any revision of their master plans, development regulations, or other regulations which is designed to bring those plans, development regulations, or other regulations into conformance with the regional master plan or for implementation of a transfer of development rights program pursuant to this act. The grants and other financial assistance shall pay for the reasonable expenses therefor incurred by a municipality or county and shall be distributed according to such procedures and guidelines as may be established by the council. The council shall make the grants and other financial assistance from any State, federal, or other funds that shall be appropriated or otherwise made available to it for that purpose, including monies required to be made available therefor from the "Highlands Protection Fund" created pursuant to section 21 of this act.

C.54:1-85 "Highlands Municipal Property Tax Stabilization Board," and "Fund"; procedures, definitions.

19. a. (1) There is established in the Department of the Treasury the "Highlands Municipal Property Tax Stabilization Board," which shall consist of three members to be appointed by the Governor, who shall be recognized experts in the field of taxation. Members of the board may also be members of the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4).

(2) Within 120 days after the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.), the board, in consultation with the Highlands Water Protection and Planning Council, shall establish procedures for determining the valuation base of a qualified municipality, whether fiscal stress has been caused by the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) in a qualified municipality, and the amount due a qualified municipality to compensate for a decline in the aggregate true value of vacant land directly attributable to the implementation of the "Highlands Water Protection and Planning Act."

b. The "Highlands Municipal Property Tax Stabilization Fund" is established in the General Fund as a special nonlapsing fund for the purpose of providing State aid to qualified municipalities pursuant to this section. There shall be credited each State fiscal year from the "Highlands Protection Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19) to the Highlands Municipal Property Tax Stabilization Fund such sums as shall be necessary to provide State aid to qualified municipalities pursuant to this section. Every qualified municipality shall be eligible for a distribution from the fund pursuant to the provisions of this section.

c. The assessor of every qualified municipality shall certify to the county tax board on a form to be prescribed by the Director of the Division of Taxation in the Department of the Treasury, and on or before December 1 annually, a report of the assessed value of each parcel of vacant land in the base year and the change in the assessed value of each such parcel in the current tax year attributable to successful appeals of assessed values of vacant land to the county tax board pursuant to R.S.54:3-21 et seq. or attributable to a revaluation approved by the director and implemented or a reassessment approved by the county board of taxation. If a judgment or an appeal is overturned or modified, upon a final judgment an appropriate adjustment shall be made by the director in the payment of the entitlement due next following the judgment.

d. (1) Upon receipt of reports filed pursuant to subsection c. of this section and using

procedures developed by the board pursuant to subsection a. of this section, the county tax board shall compute and certify to the director on or before December 20 of each year, in such manner as to identify for each qualified municipality the aggregate decline, if any, in the true value of vacant land, comparing the current tax year to the base year. The aggregate changes so identified for each qualified municipality shall constitute its valuation base for purposes of this section.

(2) The Director of the Division of Taxation shall, on or before January 10 of each year, provide the board with all relevant information collected pursuant to the provisions of this section and any other information deemed necessary by the board to determine the valuation base.

(3) Upon receipt of the information, the board shall make a final determination on the valuation base of each qualified municipality; calculate the amount due a qualified municipality, in accordance with the procedures developed pursuant to subsection a. of this section, to compensate for a decline, if any, by multiplying its valuation base by its tax rate; and certify to the director and the State Treasurer, on or before February 1 of each year, that amount to which each qualified municipality is entitled.

e. Upon receipt of the certification by the board, the State Treasurer shall certify to each qualified municipality, on or before February 15, its property tax stabilization amount. A copy of the certified amounts shall be forwarded to the Director of the Division of Local Government Services in the Department of Community Affairs.

f. (1) The State Treasurer, upon warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, shall pay to each qualified municipality its entitlement as State aid from the sums available in the "Highlands Municipal Property Tax Stabilization Fund" in two equal installments pursuant to a schedule prescribed by the Division of Local Government Services.

(2) If the amount available in the "Highlands Municipal Property Tax Stabilization Fund" in any year is insufficient to pay the full amount to which each qualified municipality is entitled pursuant to this section, the payments shall be made on a pro rata basis.

(3) Notwithstanding any provisions of this section to the contrary, in the sixth, seventh, eighth, ninth, and tenth years of the State aid program created by this section, a qualified municipality shall be entitled to receive, respectively, 90%, 70%, 50%, 30%, and 10% of the sum it otherwise would have been paid pursuant to this subsection, and thereafter the program shall expire.

g. Any municipality receiving a certification from the State Treasurer pursuant to subsection e. of this section shall anticipate such sums in its annual budget or any amendments or supplements thereto as a direct offset to the amount to be raised by taxation.

h. The Director of the Division of Taxation in reviewing the reports filed pursuant to subsection c. of this section may make such changes therein as the director deems necessary to ensure that the reports accurately reflect the change in the assessed value of vacant land.

i. The Director of the Division of Local Government Services shall make such changes in the budget of any qualified municipality to ensure that all sums received pursuant to this section are utilized as a direct offset to the amount to be raised by taxation and shall make such changes therein as the director deems necessary to ensure that the offset occurs.

j. Any sum received by a qualified municipality pursuant to this section shall not be considered as an exception or exemption under P.L.1976, c.68 (C.40A:4-45.1 et seq.).

k. Notwithstanding the provisions of the "Local Budget Law" (N.J.S.40A:4-1 et seq.), a qualified municipality which is due a property tax stabilization payment pursuant to this section may anticipate the amount of the entitlement in its annual budget for the year in which the payment is made.

l. The State Treasurer may deduct from the State aid a municipality would otherwise receive pursuant to this section an amount equivalent to that portion of any sums received by a municipality pursuant to section 1 of P.L.1999, c.225 (C.58:29-8) that the State Treasurer, in consultation with the Director of the Division of Local Government Services, determines to be duplicative of any State aid received pursuant to this section.

m. The Director of the Division of Taxation and the Director of the Division of Local

Government Services shall each adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement the provisions of this section.

n. As used in this section:

"Base year" means the calendar year 2003;

"Board" means the Highlands Municipal Property Tax Stabilization Board established pursuant to subsection a. of this section;

"Current tax year" means the most recent year for which a report is filed pursuant to subsection c. of this section;

"Highlands preservation area" means the preservation area of the Highlands Region designated by subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

"Qualified municipality" means any municipality located wholly or partially in the Highlands preservation area, provided however, that after the adoption of the Highlands regional master plan by the Highlands Water Protection and Planning Council pursuant to section 8 of P.L.2004, c.120 (C.13:20-8), qualified municipality shall mean only a municipality that has conformed its municipal master plan and development regulations to the Highlands regional master plan pursuant to section 14 of P.L.2004, c.120 (C.13:20-14);

"Tax rate" means that portion of the effective property tax rate for the current tax year which reflects local taxes to be raised for district school purposes and local municipal purposes, calculated by dividing the total of column 12, section C by net valuation on which county taxes are apportioned in column 11, both as reflected in the Abstract of Ratables for the current tax year, and expressed as a rate per \$100 of true value;

"True value of vacant land" or "true value" means the aggregate assessed value of vacant land divided by the average ratio of assessed-to-true value of real property (commonly known as the equalization rate) promulgated by the Director of the Division of Taxation in the Department of the Treasury and published in the table of equalized valuation; and

"Valuation base" means the change in the aggregate true value of vacant land directly attributable to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) in a qualified municipality when comparing the current tax year to the base year.

o. This section shall expire July 1 next following one year after the date the last State aid payment is made to a qualified municipality in the tenth year as provided pursuant to paragraph (3) of subsection f. of this section.

C.54:1-84 "Pinelands Property Tax Assistance Fund"; administration, definitions.

20. a. The "Pinelands Property Tax Assistance Fund" is established in the General Fund as a special nonlapsing fund for the purpose of providing State aid to qualifying municipalities in the pinelands area. The Commissioner of Community Affairs shall serve as administrator of the fund.

b. Every qualifying municipality in the pinelands area shall be eligible for State aid made with monies in the fund. The Commissioner of Community Affairs shall annually distribute to each qualifying municipality in the pinelands area a percentage of the monies annually allocated to the fund equal to the percentage the qualifying municipality received of the total sum distributed from the "Pinelands Municipal Property Tax Stabilization Fund" pursuant to P.L.1983, c.551 (C.54:1-68 et seq.).

c. The State Treasurer shall annually credit, in each of the first five years after the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.), to the "Pinelands Property Tax Assistance Fund" from the "Highlands Protection Fund" established pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), the sum of \$1,800,000.

d. Any State aid made available with monies from the "Pinelands Property Tax Assistance Fund" pursuant to this section shall be in addition to any other moneys appropriated or otherwise made available pursuant to any other federal or State program for the same category of aid.

e. Any qualifying municipality receiving State aid pursuant to this section shall anticipate those sums in its annual budget or any amendments or supplements thereto as a direct offset to the amount to be raised by taxation.

f. The Director of the Division of Local Government Services in the Department of Community Affairs shall make such changes in the budget of any qualifying municipality to ensure that all sums received pursuant to this section are utilized as a direct offset to the amount to be raised by taxation and shall make such changes therein as the director deems necessary to ensure that the offset occurs.

g. Any sum received by a qualifying municipality pursuant to this section shall not be considered as an exception or exemption under P.L.1976, c.68 (C.40A:4-45.1 et seq.).

h. Notwithstanding the provisions of the "Local Budget Law" (N.J.S.40A:4-1 et seq.), a qualifying municipality which is due a payment pursuant to this section may anticipate the amount of the entitlement in its annual budget for the year in which the payment is made.

i. The Director of the Division of Local Government Services shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement the provisions of this section.

j. As used in this section:

"Pinelands area" means the area so designated in section 10 of P.L.1979, c.111 (C.13:18A-11); and

"Qualifying municipality" means any municipality that received State aid distributed from the "Pinelands Municipal Property Tax Stabilization Fund" pursuant to P.L.1983, c.551 (C.54:1-68 et seq.).

k. This section shall expire July 1 next following one year after the date the last State aid payment is made to a qualifying municipality in the fifth year as provided pursuant to subsection c. of this section.

C.13:20-19 "Highlands Protection Fund"; use.

21. a. There is created in the Department of the Treasury a special non-lapsing fund to be known as the "Highlands Protection Fund." The monies in the fund are dedicated and shall be used only to carry out the purposes enumerated in subsection b. of this section. The fund shall be credited with all revenues collected and deposited in the fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), all interest and other income received from the investment of monies in the fund, and any monies which, from time to time, may otherwise become available for the purposes of the fund. Pending the use thereof pursuant to the provisions of subsection b. of this section, the monies deposited in the fund shall be held in interest-bearing accounts in public depositories, as defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on monies deposited into the fund shall be credited to the fund for use as set forth in subsection b. of this section for other monies in the fund.

b. Monies deposited in the "Highlands Protection Fund" shall be used only for:

(1) payments to the "Highlands Municipal Property Tax Stabilization Fund" established pursuant to subsection b. of section 19 of this act in such amounts as are necessary to provide property tax stabilization aid pursuant to that section;

(2) payments of watershed moratorium offset aid pursuant to section 1 of P.L.1999, c. 225 (C.58:29-8);

(3) the making of grants by the Highlands Water Protection and Planning Council pursuant to sections 13 and 18 of this act; and

(4) allocations to the Pinelands Property Tax Assistance Fund established pursuant to section 20 of this act.

C.13:20-20 Council to provide legal representation to local units, conditions.

22. The council shall provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, provided that:

a. the municipal master plan and development regulations, or, in the case of a county

governmental entity, the county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act;

b. the council determines that the act or decision of the local government unit which is the subject of the cause of action is consistent with the regional master plan; and

c. the act or decision of the local government unit that is the subject of the cause of action involves an application for development that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more.

C.13:20-21 Guidelines, instructions to local government units.

23. Within 10 days after the date of enactment of this act, the Department of Community Affairs, in consultation with the Department of Environmental Protection, shall provide guidelines and instructions to all local government units located wholly or partially within the preservation area with respect to the processing, review, and enforcement of applications for development after the date of enactment of this act and before adoption of the regional master plan.

C.13:20-22 Plans, regulations entitled to strong presumption of validity.

24. The municipal master plan and development regulations of any municipality, and the county master plan and associated regulations of any county, located in the Highlands Region which have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act shall be entitled to a strong presumption of validity. In any cause of action filed against such a local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), R.S.40:27-1 et seq., the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or this act, the court shall give extraordinary deference to the local government unit, provided that the municipal master plan and development regulations, or, in the case of a county governmental entity, the county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act. The plaintiff shall have the burden of proof to demonstrate by clear and convincing evidence that the act or decision of any such local government unit was arbitrary, capricious, or unreasonable or in patent abuse of discretion.

C.13:20-23 Regional master plan considered in allocation of prospective fair housing share.

25. a. The Council on Affordable Housing shall take into consideration the regional master plan prior to making any determination regarding the allocation of the prospective fair share of the housing need in any municipality in the Highlands Region under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) for the fair share period subsequent to 1999.

b. Nothing in this act shall affect protections provided through a grant of substantive certification or a judgment of repose granted prior to the date of enactment of this act.

C.13:20-24 Modification of site improvement standards for residential development.

26. Within 90 days after the first meeting of the Highlands Water Protection and Planning Council, the Site Improvement Advisory Board established pursuant to section 3 of P.L.1993, c.32 (C.40:55D-40.3) and the Commissioner of Community Affairs shall consult with the council and the Commissioner of Environmental Protection concerning whether the site improvement standards for residential development adopted pursuant to P.L.1993, c.32 (C.40:55D-40.1 et seq.) are appropriate and sufficiently protective for the Highlands Region, especially for the preservation area; and if it is determined they are not, those standards shall be modified accordingly as soon as practicable thereafter to meet that objective.

C.13:20-25 Council may institute action, proceeding for injunctive relief.

27. The council may institute an action or proceeding in Superior Court for injunctive relief

for any violation of this act, or any rule or regulation adopted pursuant thereto, or, in the preservation area for any violation of, or nonconformance with, the regional master plan. The council may also institute an action or proceeding for injunctive relief for any violation of the regional master plan in the planning area as it relates to a municipality or county that has been approved to be in conformance with the regional master plan pursuant to section 15 of this act. In any action or proceeding brought pursuant to this section, the court may proceed in a summary manner and may also grant temporary or interlocutory relief.

C.13:20-26 Council decision deemed final agency action, appellate review.

28. Any decision rendered or action taken by the council pursuant to this act shall be a final agency action subject to judicial review in the Appellate Division of the Superior Court of New Jersey in accordance with the Rules of Court. The court may grant such relief as it deems just and proper, and to make and enter an order enforcing, modifying, and enforcing as so modified, remanding for further specific evidence or findings, or setting aside in whole or in part, the decision of the council. The findings of fact upon which the council's decision is based shall be conclusive if supported by substantial evidence on the record considered as a whole.

C.13:20-27 Annual report of council.

29. On or before March 31 in each year the council shall make an annual report of its activities for the preceding calendar year to the Governor, the Legislature, and the governing body and the chief executive officer of each municipality and county in the Highlands Region. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

C.13:20-28 Exemptions.

30. a. The following are exempt from the provisions of this act, the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan:

(1) the construction of a single family dwelling, for an individual's own use or the use of an immediate family member, on a lot owned by the individual on the date of enactment of this act or on a lot for which the individual has on or before May 17, 2004 entered into a binding contract of sale to purchase that lot;

(2) the construction of a single family dwelling on a lot in existence on the date of enactment of this act, provided that the construction does not result in the ultimate disturbance of one acre or more of land or a cumulative increase in impervious surface by one-quarter acre or more;

(3) a major Highlands development that received on or before March 29, 2004:

(a) one of the following approvals pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):

(i) preliminary or final site plan approval;

(ii) final municipal building or construction permit;

(iii) minor subdivision approval where no subsequent site plan approval is required;

(iv) final subdivision approval where no subsequent site plan approval is required; or

(v) preliminary subdivision approval where no subsequent site plan approval is required; and

(b) at least one of the following permits from the Department of Environmental Protection, if applicable to the proposed major Highlands development:

(i) a permit or certification pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);

(ii) a water extension permit or other approval or authorization pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.);

(iii) a certification or other approval or authorization issued pursuant to the "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

(iv) a treatment works approval pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

(c) one of the following permits from the Department of Environmental Protection, if

applicable to the proposed major Highlands development, and if the proposed major Highlands development does not require one of the permits listed in subparagraphs (i) through (iv) of subparagraph (b) of this paragraph:

(i) a permit or other approval or authorization issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.); or

(ii) a permit or other approval or authorization issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

The exemption provided in this paragraph shall apply only to the land area and the scope of the major Highlands development addressed by the qualifying approvals pursuant to subparagraphs (a) and (b), or (c) if applicable, of this paragraph, shall expire if any of those qualifying approvals expire, and shall expire if construction beyond site preparation does not commence within three years after the date of enactment of this act;

(4) the reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by one-quarter acre or more. This exemption shall not apply to the reconstruction of any agricultural or horticultural building or structure for a non-agricultural or non-horticultural use;

(5) any improvement to a single family dwelling in existence on the date of enactment of this act, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system;

(6) any improvement, for non-residential purposes, to a place of worship owned by a nonprofit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on the date of enactment of this act, including but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility;

(7) an activity conducted in accordance with an approved woodland management plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3) or the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester;

(8) the construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established;

(9) the routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes;

(10) the construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes;

(11) the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of this act;

(12) the reactivation of rail lines and rail beds existing on the date of enactment of this act;

(13) the construction of a public infrastructure project approved by public referendum prior to January 1, 2005 or a capital project approved by public referendum prior to January 1, 2005;

(14) the mining, quarrying, or production of ready mix concrete, bituminous concrete, or Class B recycling materials occurring or which are permitted to occur on any mine, mine site, or construction materials facility existing on June 7, 2004;

(15) the remediation of any contaminated site pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.);

(16) any lands of a federal military installation existing on the date of enactment of this act that lie within the Highlands Region; and

(17) a major Highlands development located within an area designated as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban), as designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as of March 29, 2004, that on or before March 29, 2004 has been the subject of a settlement agreement and stipulation of dismissal filed in the Superior Court, or a

builder's remedy issued by the Superior Court, to satisfy the constitutional requirement to provide for the fulfillment of the fair share obligation of the municipality in which the development is located. The exemption provided pursuant to this paragraph shall expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

b. The exemptions provided in subsection a. of this section shall not be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

c. Nothing in this act shall be construed to alter the funding allocation formulas established pursuant to the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.).

d. Nothing in this act shall be construed to repeal, reduce, or otherwise modify the obligation of counties, municipalities, and other municipal and public agencies of the State to pay property taxes on lands used for the purpose and for the protection of a public water supply, without regard to any buildings or other improvements thereon, pursuant to R.S.54:4-3.3.

C.13:20-29 Agricultural, horticultural development, review required; enforcement.

31. a. (1) Any agricultural or horticultural development in the preservation area that would result in the increase, after the date of enactment of this act either individually or cumulatively, of agricultural impervious cover by three percent or more of the total land area of a farm management unit in the preservation area shall require the review and approval by the local soil conservation district of a farm conservation plan which shall be prepared and submitted by the owner or operator of the farm management unit. Upon approval of the farm conservation plan by the local soil conservation district, the owner or operator of the farm management unit shall implement the plan on the farm management unit. The local soil conservation district shall transmit a copy of an approved farm conservation plan to the State Soil Conservation Committee, and, if any part of the farm management unit is preserved under any farmland preservation program, to the State Agriculture Development Committee.

(2) Any agricultural or horticultural development in the preservation area that would result in the increase, after the date of enactment of this act either individually or cumulatively, of agricultural impervious cover by nine percent or more of the total land area of a farm management unit in the preservation area shall require the review and approval by the local soil conservation district of a resource management systems plan which shall be prepared and submitted by the owner or operator of the farm management unit.

Prior to the approval of a resource management systems plan by a local soil conservation district, a copy of the resource management systems plan shall be forwarded by the local soil conservation district to the Department of Environmental Protection for review and approval, with or without conditions, or denial within 60 days after receipt by the department. Upon approval of the resource management systems plan by the local soil conservation district and the Department of Environmental Protection, the owner or operator of the farm management unit shall implement the plan on the farm management unit. The local soil conservation district shall transmit a copy of an approved resource management systems plan to the State Soil Conservation Committee, and, if any part of the farm management unit is preserved under any farmland preservation program, to the State Agriculture Development Committee.

(3) A farm conservation plan required pursuant to paragraph (1) of this subsection and a resource management systems plan required pursuant to paragraph (2) of this subsection shall be prepared in accordance with science-based standards, consistent with the goals and purposes of this act, which standards shall be established by the State Board of Agriculture and the Department of Agriculture, in consultation with the Department of Environmental Protection, the State Agriculture Development Committee, Rutgers Cooperative Extension, and the Natural Resources Conservation Service in the United States Department of Agriculture. Within 270 days after the date of enactment of this act, the State Department of Agriculture, in consultation with the Department of Environmental Protection, shall develop and adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), these standards and any other rules and regulations necessary to implement this section.

b. (1) If any person violates any provision of subsection a. of this section, any rule or regulation adopted pursuant to subsection a. of this section, or a farm conservation plan or a resource management systems plan approved pursuant to subsection a. of this section, the Department of Agriculture or the local soil conservation district may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent the violation or violations and the court may proceed in a summary manner.

(2) (a) Any person who violates any provision of subsection a. of this section, any rule or regulation adopted pursuant to subsection a. of this section, or a farm conservation plan or a resource management systems plan approved pursuant to subsection a. of this section shall be liable to a civil administrative penalty of up to \$5,000 for each violation. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. No assessment shall be levied pursuant to this subsection until after the party has been notified by certified mail or personal service and provided an opportunity for a hearing.

(b) Any amount assessed under this subsection shall fall within a range established in a penalty schedule adopted by the Department of Agriculture pursuant to the "Administrative Procedure Act," which shall take into account the seriousness and duration of the violation and whether the violation involves the failure to prepare or to implement a farm conservation plan or resource management systems plan. The schedule shall also provide for an enhanced penalty if the violation causes an impairment to water quality. Any civil administrative penalty assessed under this subsection may be compromised by the Secretary of Agriculture upon the posting of a performance bond by the violator, or upon such terms and conditions as the secretary may establish by regulation.

(c) Any person who fails to pay a civil administrative penalty in full pursuant to this subsection shall be subject, upon order of a court, to a civil penalty of up to \$5,000 for each violation. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate, and distinct offense. Any such civil penalty imposed may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this subsection.

(d) All penalties collected pursuant to this subsection shall either be used, as determined by the council, by the State Agriculture Development Committee for the preservation of farmland in the preservation area or by any development transfer bank used or established by the council to purchase development potential in the preservation area.

c. Nothing in this act, the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan shall be construed to alter or compromise the goals, purposes, policies, and provisions of, or lessen the protections afforded to farmers by, the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), and any rules or regulations adopted pursuant thereto.

d. The provisions of this section shall not be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances.

C.13:20-30 Highlands Preservation Area, major development approvals; required, fee schedule.

32. a. Commencing on the date of enactment of this act and until the effective date of the rules and regulations adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act, all major Highlands development in the preservation area shall require a Highlands Preservation Area approval from the department. The Highlands Preservation Area approval shall consist of the related aspects of other regulatory programs which may include, but need not be limited to, the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water Supply Management Act," P.L.1981,

c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant thereto. For the purposes of this section, the provisions of P.L.1975, c. 232 (C.13:1D-29 et seq.) shall not apply to an application for a permit pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

b. The Highlands Preservation Area approval shall also require:

(1) a prohibition on major Highlands development within 300 feet of any Highlands open waters, and a 300-foot buffer adjacent to all Highlands open waters; provided, however, that this buffer shall not extend into the planning area. For the purposes of this paragraph, major Highlands development does not include linear development for infrastructure, utilities, and the rights-of-way therefor, provided that there is no other feasible alternative, as determined by the department, for the linear development outside of the buffer. Structures or land uses in the buffer existing on the date of enactment of this act may remain, provided that the area of disturbance shall not be increased. This paragraph shall not be construed to limit the authority of the department to establish buffers of any size or any other protections for category one waters designated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation adopted pursuant thereto, for major Highlands development or for other development that does not qualify as major Highlands development;

(2) the quality of all Highlands open waters and waters of the Highlands within the preservation area to be maintained, restored, or enhanced, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, and any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

(3) notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, any diversion of more than 50,000 gallons per day, and multiple diversions by the same or related entities for the same or related projects or developments of more than 50,000 gallons per day, of waters of the Highlands shall require a permit pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be based on consideration of individual and cumulative impacts of multiple diversions, maintenance of stream base flows, minimization of depletive use, maintenance of existing water quality, and protection of ecological uses. Any new or increased diversion for nonpotable purposes that is more than 50% consumptive shall require an equivalent reduction in water demand within the same subdrainage area through such means as groundwater recharge of stormwater or reuse. Existing unused allocation or allocations used for nonpotable purposes may be revoked by the department where measures to the maximum extent practicable are not implemented to reduce demand. All new or increased diversions shall be required to implement water conservation measures to the maximum extent practicable;

(4) a zero net fill requirement for flood hazard areas pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

(5) the antidegradation provisions of the surface water quality standards and the stormwater regulations applicable to category one waters to be applied to Highlands open waters;

(6) a prohibition on impervious surfaces of greater than three percent of the land area of a lot existing on the date of enactment of this act, except that Highlands open waters shall not be included in the calculation of that land area;

(7) a prohibition on development, except linear development for infrastructure, utilities, and the rights-of-way therefor, provided that no other feasible alternative, as determined by the department, exists for the linear development, on steep slopes with a grade of 20% or greater; and

(8) a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats. Notwithstanding the provisions of this paragraph to the contrary, if a major Highlands development complies with all other applicable requirements for a Highlands Preservation Area approval pursuant to this subsection and disturbance to an upland forested area is unavoidable, the department shall allow the disturbance to an upland forested area of no more than 20 feet directly adjacent to a structure and of no more than 10 feet on each side of a driveway as necessary to access a non-forested area of a site.

c. Application for a Highlands Preservation Area approval shall be made on forms made available by the department and shall be accompanied by a fee established in accordance with a fee schedule issued by the department within 10 days after the date of enactment of this act and published in the New Jersey Register. The fee schedule shall be exempt from the rulemaking requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall expire upon the adoption of the rules and regulations required pursuant to subsection a. of section 33 of this act.

d. The requirements and provisions of this section shall not apply in the planning area.

#### C.13:20-31 Adoption of rules, regulations; procedure.

33. a. Within 270 days after the date of enactment of this act, and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Environmental Protection, after consultation with the Department of Agriculture, the Department of Community Affairs, the State Planning Commission, and the Department of Transportation, shall, immediately upon filing proper notice with the Office of Administrative Law, adopt the rules and regulations prepared by the department pursuant to section 34 of this act and any other rules and regulations necessary to establish the Highlands permitting review program established pursuant to section 35 of this act.

b. The rules and regulations adopted pursuant to subsection a. of this section shall be in effect for a period not to exceed one year after the date of the filing. These rules and regulations shall thereafter be adopted, amended, or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act," after consultation with the council, the Department of Agriculture, the Department of Community Affairs, the State Planning Commission, and the Department of Transportation.

c. The requirements and provisions of sections 33 through 43 of this act shall not apply in the planning area.

#### C.13:20-32 Rules, regulations, standards.

34. The Department of Environmental Protection shall prepare rules and regulations establishing the environmental standards for the preservation area upon which the regional master plan adopted by the council and the Highlands permitting review program administered by the department pursuant to this act shall be based. These rules and regulations shall provide for at least the following:

a. a prohibition on major Highlands development within 300 feet of any Highlands open waters, and the establishment of a 300-foot buffer adjacent to all Highlands open waters; provided, however, that this buffer shall not extend into the planning area. For the purposes of this subsection, major Highlands development does not include linear development for infrastructure, utilities, and the rights-of-way therefor, provided that there is no other feasible alternative, as determined by the department, for the linear development outside of the buffer. Structures or land uses in the buffer existing on the date of enactment of this act may remain, provided that the area of disturbance shall not be increased. This subsection shall not be construed to limit any authority of the department to establish buffers of any size or any other protections for category one waters designated by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law, or any rule or regulation adopted pursuant thereto, for major Highlands development or for other development that does not qualify as major Highlands development;

b. measures to ensure that existing water quality shall be maintained, restored, or enhanced, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, in all Highlands open waters and waters of the Highlands, and to provide that any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

c. notwithstanding the provisions of section 23 of P.L.1987, c.156 (C.13:9B-23), or any rule or regulation adopted pursuant thereto, to the contrary, the criteria for the type of activity or activities eligible for the use of a general permit for any portion of an activity located within a freshwater wetland or freshwater wetland transition area located in the preservation area, provided that these criteria are at least as protective as those provided in section 23 of P.L.1987, c.156 (C.13:9B-23);

d. notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, a system for the regulation of any diversion of more than 50,000 gallons per day, and multiple diversions by the same or related entities for the same or related projects or developments of more than 50,000 gallons per day, of waters of the Highlands pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued pursuant thereto shall be based on consideration of individual and cumulative impacts of multiple diversions, maintenance of stream base flows, minimization of depletive use, maintenance of existing water quality, and protection of ecological uses. Any new or increased diversion for nonpotable purposes that is more than 50% consumptive shall require an equivalent reduction in water demand within the same subdrainage area through such means as groundwater recharge of stormwater or reuse. Existing unused allocation or allocations used for nonpotable purposes may be revoked by the department where measures to the maximum extent practicable are not implemented to reduce demand. All new or increased diversions shall be required to implement water conservation measures to the maximum extent practicable;

e. a septic system density standard established at a level to prevent the degradation of water quality, or to require the restoration of water quality, and to protect ecological uses from individual, secondary, and cumulative impacts, in consideration of deep aquifer recharge available for dilution;

f. a zero net fill requirement for flood hazard areas pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

g. the antidegradation provisions of the surface water quality standards and the stormwater regulations applicable to category one waters to be applied to Highlands open waters;

h. a prohibition on impervious surfaces of greater than three percent of the land area, except that Highlands open waters shall not be included in the calculation of that land area;

i. notwithstanding the provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, a limitation or prohibition on the construction of new public water systems or the extension of existing public water systems to serve development in the preservation area, except in the case of a demonstrated need to protect public health and safety;

j. a prohibition on development, except linear development for infrastructure, utilities, and the rights-of-way therefor, provided that no other feasible alternative, as determined by the department, exists for the linear development, on steep slopes in the preservation area with a grade of 20% or greater, and standards for development on slopes in the preservation area exhibiting a grade of between 10% and 20%. The standards shall assure that developments on slopes exhibiting a grade of between 10% and 20% preserve and protect steep slopes from the negative consequences of development on the site and the cumulative impact in the Highlands Region. The standards shall be developed to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, protect threatened and endangered animal and plant species sites and designated habitats, provide for minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing scenic attributes at the site and within the surrounding area, protect upland forest, and restrict impervious surface; and

shall take into consideration differing soil types, soil erodability, topography, hydrology, geology, and vegetation types; and

k. a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats; and standards to protect upland forested areas that require all appropriate measures be taken to avoid impacts or disturbance to upland forested areas, and where avoidance is not possible that all appropriate measures have been taken to minimize and mitigate impacts to upland forested areas and to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats.

C.13:20-33 Highlands permitting review program.

35. a. The Department of Environmental Protection shall establish a Highlands permitting review program to provide for the coordinated review of any major Highlands development in the preservation area based upon the rules and regulations adopted by the department pursuant to sections 33 and 34 of this act. The Highlands permitting review program established pursuant to this section shall consolidate the related aspects of other regulatory programs which may include, but need not be limited to, the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.), "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.), the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), and any rules and regulations adopted pursuant thereto, and the rules and regulations adopted pursuant to sections 33 and 34 of this act. For the purposes of this section, the provisions of P.L.1975, c.232 (C.13:1D-29 et seq.) shall not apply to an application for a permit pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

b. The Highlands permitting review program established pursuant to this section shall include:

(1) a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis if determined to be necessary by the department in order to protect public health and safety;

(2) a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis for redevelopment in certain previously developed areas in the preservation area identified by the council pursuant to subsection b. of section 9 or subparagraph (h) of paragraph (6) of subsection a. of section 11 of this act; and

(3) a provision that may allow for a waiver of any provision of the Highlands permitting review on a case-by-case basis in order to avoid the taking of property without just compensation.

The grant of a waiver pursuant to this subsection by the department shall be conditioned upon the department's determination that the major Highlands development meets the requirements prescribed for a finding as listed in subsection a. of section 36 of this act to the maximum extent possible.

c. The waiver provisions of subsection b. of this section are limited to the provisions of the rules and regulations adopted pursuant to section 34 of this act, and shall not limit the department's jurisdiction or authority pursuant to any other provision of law, or any rule or regulation adopted pursuant thereto, that is incorporated into the Highlands permitting review program.

d. The Highlands permitting review program established pursuant to this section may provide for the issuance of a general permit, provided that the department adopts rules and regulations which identify the activities subject to general permit review and establish the criteria for the approval or disapproval of a general permit.

e. Any person proposing to construct or cause to be constructed, or to undertake or cause

to be undertaken, as the case may be, a major Highlands development in the preservation area shall file an application for a Highlands permitting review with the department, on forms and in a manner prescribed by the department.

f. The department shall, in accordance with a fee schedule adopted as a rule or regulation, establish and charge reasonable fees necessary to meet the administrative costs of the department associated with the processing, review, and enforcement of any application for a Highlands permitting review. These fees shall be deposited in the "Environmental Services Fund," established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33), and kept separate and apart from all other State receipts and appropriated only as provided herein. There shall be appropriated annually to the department revenue from that fund sufficient to defray in full the costs incurred in the processing, review, and enforcement of applications for Highlands permitting reviews.

#### C.13:20-34 Review of applications.

36. a. The Commissioner of Environmental Protection shall review filed applications for Highlands permitting reviews, including any information presented at public hearings or during a comment period, or submitted during the application review period.

Except as otherwise provided by subsection b. of this section, a Highlands permitting review approval may be issued only upon a finding that the proposed major Highlands development:

(1) would have a de minimis impact on water resources and would not cause or contribute to a significant degradation of surface or ground waters. In making this determination, the commissioner shall consider the extent of any impacts on water resources resulting from the proposed major Highlands development, including, but not limited to, the regenerative capacity of aquifers or other surface or ground water supplies, increases in stormwater generated, increases in impervious surface, increases in stormwater pollutant loading, changes in land use, and changes in vegetative cover;

(2) would cause minimal feasible interference with the natural functioning of animal, plant, and other natural resources at the site and within the surrounding area, and minimal feasible individual and cumulative adverse impacts to the environment both onsite and offsite of the major Highlands development;

(3) will result in minimum feasible alteration or impairment of the aquatic ecosystem including existing contour, vegetation, fish and wildlife resources, and aquatic circulation of a freshwater wetland;

(4) will not jeopardize the continued existence of species listed pursuant to "The Endangered and Nongame Species Conservation Act," P.L.1973, c.309 (C.23:2A-1 et seq.) or the "Endangered Plant Species List Act," P.L.1989, c.56 (C.13:1B-15.151 et seq.), or which appear on the federal endangered or threatened species list, and will not result in the likelihood of the destruction or adverse modification of habitat for any rare, threatened, or endangered species of animal or plant;

(5) is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare;

(6) would result in minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing public scenic attributes at the site and within the surrounding area; and

(7) meets all other applicable department standards, rules, and regulations and State laws.

b. A Highlands permitting review approval may be issued to a major Highlands development granted a waiver pursuant to the provisions of subsection b. of section 35 of this act notwithstanding the inability to make the finding required pursuant to subsection a. of this section.

#### C.13:20-35 Violations, certain, civil actions, penalties.

37. a. Whenever the Commissioner of Environmental Protection finds that a person has violated any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, the commissioner may:

- (1) Issue an order requiring any such person to comply in accordance with subsection b. of this section; or
- (2) Bring a civil action in accordance with subsection c. of this section; or
- (3) Levy a civil administrative penalty in accordance with subsection d. of this section; or
- (4) Bring an action for a civil penalty in accordance with subsection e. of this section; or
- (5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

Recourse to any of the remedies available under this section shall not preclude recourse to any of the other remedies prescribed in this section or by any other applicable law.

b. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, the commissioner may issue an order: (1) specifying the provision or provisions of the law, rule, regulation, permit, approval, or authorization of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration of the area which is the site of the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act. Such relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;
- (3) Assessment of the violator for any costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any unauthorized regulated activity for which legal action under this subsection may have been brought;
- (4) Assessment against the violator for compensatory damages for any loss or destruction of wildlife, fish or aquatic life, and for any other actual damages caused by an unauthorized regulated activity;
- (5) A requirement that the violator restore the site of the violation to the maximum extent practicable and feasible.

d. The commissioner is authorized to assess a civil administrative penalty of up to \$25,000 for each violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, and duration. In adopting rules and regulations establishing the amount of any penalty to be assessed, the commissioner may take into account the economic benefits from the violation gained by the violator. No assessment shall be levied pursuant to this section until after the party has been notified by certified mail or personal service. The notice shall: (1) identify the section of the law, rule, regulation, permit, approval, or authorization violated; (2) recite the facts alleged to constitute a violation; (3) state the amount of the civil penalties to be imposed; and (4) affirm the rights of the alleged violator to a hearing. The ordered party shall have 20 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative penalty is in addition to all other enforcement provisions in this act and in any other applicable law, rule, or regulation,

and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. Any civil administrative penalty assessed under this section may be compromised by the commissioner upon the posting of a performance bond by the violator, or upon such terms and conditions as the commissioner may establish by regulation.

e. A person who violates any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, shall be subject, upon order of a court, to a civil penalty not to exceed \$10,000 per day of such violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of actual economic benefit accruing to the violator from the violation. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this act.

f. A person who purposely or negligently violates any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, shall be guilty, upon conviction, of a crime of the fourth degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes. A second or subsequent offense under this subsection shall subject the violator to a fine, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, of not less than \$5,000 nor more than \$50,000 per day of violation, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes. A person who knowingly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under this act shall be guilty, upon conviction, of a crime of the fourth degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not more than \$10,000, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes.

g. In addition to the penalties prescribed in this section, a notice of violation of any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act, shall be recorded on the deed of the property wherein the violation occurred, on order of the commissioner, by the clerk or register of deeds and mortgages of the county wherein the affected property is located and with the clerk of the Superior Court and shall remain attached thereto until such time as the violation has been remedied and the commissioner orders the notice of violation removed.

h. The department may require an applicant or permittee to provide any information the department requires to determine compliance with any provision of section 32 of this act, a Highlands permitting review approval issued pursuant to section 36 of this act, or any rule or regulation adopted pursuant to sections 33 and 34 of this act.

i. Any person who knowingly, recklessly, or negligently makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under this act shall be in violation of this act and shall be subject to the penalties assessed pursuant to subsections d. and e. of this section.

j. All penalties collected pursuant to this section shall either be used, as determined by the council, by the department for the acquisition of lands in the preservation area or by any development transfer bank used or established by the council to purchase development potential in the preservation area.

k. The department shall have the authority to enter any property, facility, premises, or site for the purpose of conducting inspections or sampling of soil or water, and for otherwise

determining compliance with the provisions of sections 32 through 36 of this act.

C.13:9B-5.1 Regulation of freshwater wetlands area.

38. Notwithstanding the provisions of P.L.1987, c.156 (C.13:9B-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, major Highlands development as defined in section 3 of P.L.2004, c.120 (C.13:20-3) that includes a regulated activity as defined in section 3 of P.L.1987, c.156 (C.13:9B-3) in a freshwater wetland or freshwater wetland transition area located in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3) shall also be regulated pursuant to sections 32 through 37 of P.L.2004, c.120 (C.13:20-30 through C.13:20-35).

C.58:1A-5.1 Establishment of permit system for certain diversions of water.

39. Notwithstanding the provisions of subsection a. of section 5 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section 34 of P.L.2004, c.120 (C.13:20-32), shall establish a permit system to provide for review of allocations or reallocations, for other than agricultural or horticultural purposes, of waters of the Highlands, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to provide for the issuance of permits for diversions either individually or cumulatively of more than 50,000 gallons per day of waters of the Highlands in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

C.58:11-24.1 Establishment of septic system density standard.

40. Notwithstanding the provisions of the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section 34 of P.L.2004, c.120 (C.13:20-32), shall establish a septic system density standard at a level to prevent the degradation of water quality or to require the restoration of water quality, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, and to protect ecological uses from individual, secondary, and cumulative impacts, in consideration of deep aquifer recharge available for dilution, which standard shall be applied to any major Highlands development as defined in section 3 of P.L.2004, c.120 (C.13:20-3) located in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

C.58:12A-4.1 Limitation on construction of new or extension of public water systems.

41. Notwithstanding the provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section 34 of P.L.2004, c.120 (C.13:20-32), within the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3), shall limit or prohibit the construction of new public water systems or the extension of existing public water systems to serve development in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3), except in the case of a demonstrated need to protect public health and safety, and except to serve development in the Highlands preservation area that is exempt from the provisions of P.L.2004, c.120 (C.13:20-1 et al.) pursuant to subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28).

C.58:11A-7.1 Designated sewer service areas, certain, approvals revoked.

42. Notwithstanding the provisions of the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) and the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, within the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3), designated sewer service areas for which wastewater collection systems have not been installed on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) are hereby revoked, and any associated treatment works approvals in the impacted areas shall expire on the date of enactment of

P.L.2004, c.120 (C.13:20-1 et al.), except that any designated sewer service area shall not be revoked and any associated treatment works approvals shall not expire if necessary to serve development in the Highlands preservation area that is exempt from the provisions of P.L.2004, c.120 (C.13:20-1 et al.) pursuant to subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28). The Department of Environmental Protection shall implement measures to amend any water quality management plan as appropriate to reflect the revocation of designated sewer service areas pursuant to this section.

C.58:16A-60.1 Zero net fill requirement in flood hazard areas, certain.

43. Notwithstanding the provisions of the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, the Department of Environmental Protection, pursuant to section 34 of P.L.2004, c.120 (C.13:20-32), shall establish a zero net fill requirement within any flood hazard area located in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

44. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read as follows:

C.4:1C-31 Development easement purchases.

24. a. Any landowner applying to the board to sell a development easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall offer to sell the development easement at a price which, in the opinion of the landowner, represents a fair value of the development potential of the land for nonagricultural purposes, as determined in accordance with the provisions of P.L.1983, c.32.

b. Any offer shall be reviewed and evaluated by the board and the committee in order to determine the suitability of the land for development easement purchase. Decisions regarding suitability shall be based on the following criteria:

(1) Priority consideration shall be given, in any one county, to offers with higher numerical values obtained by applying the following formula:

$$\frac{\text{nonagricultural developmental value} - \text{agricultural value}}{\text{landowner's asking price}}$$

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$$\frac{\text{nonagricultural development value} - \text{agricultural value}}$$

(2) The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture; and

(3) The degree of imminence of change of the land from productive agriculture to nonagricultural use.

The board and the committee shall reject any offer for the sale of development easements which is unsuitable according to the above criteria and which has not been approved by the board and the municipality.

c. Two independent appraisals paid for by the board shall be conducted for each parcel of land so offered and deemed suitable. The appraisals shall be conducted by independent, professional appraisers selected by the board and the committee from among members of recognized organizations of real estate appraisers. The appraisals shall determine the current overall value of the parcel for nonagricultural purposes, as well as the current market value of the parcel for agricultural purposes. The difference between the two values shall represent an appraisal of the value of the development easement. If Burlington County or a municipality therein has established a development transfer bank pursuant to the provisions of P.L.1989, c.86 (C.40:55D-113 et seq.) or if any county or any municipality in any county has established a development transfer bank pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) or the Highlands Water Protection and Planning Council has established a development transfer bank pursuant to section 13 of P.L.2004, c.120 (C.13:20-13), the municipal average of the value of the development potential of property in a sending zone established by the bank may be the value used by the board in determining the value of the development easement. If a development

easement is purchased using moneys appropriated from the fund, the State shall provide no more than 80%, except 100% under emergency conditions specified by the committee pursuant to rules or regulations, of the cost of the appraisals conducted pursuant to this section.

d. Upon receiving the results of the appraisals, or in Burlington county or a municipality therein or elsewhere where a municipal average has been established under subsection c. of this section, upon receiving an application from the landowners, the board and the committee shall compare the appraised value, or the municipal average, as the case may be, and the landowner's offer and, pursuant to the suitability criteria established in subsection b. of this section:

(1) Approve the application to sell the development easement and rank the application in accordance with the criteria established in subsection b. of this section; or

(2) Disapprove the application, stating the reasons therefor.

e. Upon approval by the committee and the board, the secretary is authorized to provide the board, within the limits of funds appropriated therefor, an amount equal to no more than 80%, except 100% under emergency conditions specified by the committee pursuant to rules or regulations, of the purchase price of the development easement, as determined pursuant to the provisions of this section. The board shall provide its required share and accept the landowner's offer to sell the development easement. The acceptance shall cite the specific terms, contingencies and conditions of the purchase.

f. The landowner shall accept or reject the offer within 30 days of receipt thereof. Any offer not accepted within that time shall be deemed rejected.

g. Any landowner whose application to sell a development easement has been rejected for any reason other than insufficient funds may not reapply to sell a development easement on the same land within two years of the original application.

h. No development easement shall be purchased at a price greater than the appraised value determined pursuant to subsection c. of this section or the municipal average, as the case may be.

i. The appraisals conducted pursuant to this section or the fair market value of land restricted to agricultural use shall not be used to increase the assessment and taxation of agricultural land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

j. (1) In determining the suitability of land for development easement purchase, the board and the committee may also include as additional factors for consideration the presence of a historic building or structure on the land and the willingness of the landowner to preserve that building or structure, but only if the committee first adopts, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations implementing this subsection. The committee may, by rule or regulation adopted pursuant to the "Administrative Procedure Act," assign any such weight it deems appropriate to be given to these factors.

(2) The provisions of paragraph (1) of this subsection may also be applied in determining the suitability of land for fee simple purchase for farmland preservation purposes as authorized by P.L.1983, c.31 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.152 (C.13:8C-1 et seq.).

(3) (a) For the purposes of paragraph (1) of this subsection: "historic building or structure" means the same as that term is defined pursuant to subsection c. of section 2 of P.L.2001, c.405 (C.13:8C-40.2).

(b) For the purposes of paragraph (2) of this subsection, "historic building or structure" means the same as that term is defined pursuant to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).

45. Section 29 of P.L.1983, c.32 (C.4:1C-36) is amended to read as follows:

C.4:1C-36 Pinelands area, Highlands Region, farmland preservation.

29. Nothing herein contained shall be construed to prohibit the creation of a municipally approved program or other farmland preservation program, the purchase of development easements, or the extension of any other benefit herein provided on land, and to owners thereof, in the Pinelands area, as defined pursuant to section 3 of P.L.1979, c. 111 (C. 13:18A-3), or in

the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3) .

46. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read as follows:

C.4:1C-52 Powers of board.

4. The board shall have the following powers:

a. To purchase, or to provide matching funds for the purchase of 80% of, the value of development potential and to otherwise facilitate development transfers, from the owner of record of the property from which the development potential is to be transferred or from any person, or entity, public or private, holding the interest in development potential that is subject to development transfer; provided that, in the case of providing matching funds for the purchase of 80% of the value of development potential, the remaining 20% of that value is contributed by the affected municipality or county, or both, after public notice thereof in the New Jersey Register and in one newspaper of general circulation in the area affected by the purchase. The remaining 20% of the value of the development potential to be contributed by the affected municipality or county, or both, to match funds provided by the board, may be obtained by purchase from, or donation by, the owner of record of the property from which the development potential is to be transferred or from any person, or entity, public or private, holding the interest in development potential that is subject to development transfer. The value of development potential may be determined by either appraisal, municipal averaging based upon appraisal data, or by a formula supported by appraisal data. The board may also engage in development transfer by sale, exchange, or other method of conveyance, provided that in doing so, the board shall not substantially impair the private sale, exchange or other method of conveyance of development potential. The board may not, nor shall anything in this act be construed as permitting the board to, engage in development transfer from one municipality to another, which transfer is not in accordance with the ordinances of both municipalities;

b. To adopt and, from time to time, amend or repeal suitable bylaws for the management of its affairs;

c. To adopt and use an official seal and alter that seal at its pleasure;

d. To apply for, receive, and accept, from any federal, State, or other public or private source, grants or loans for, or in aid of, the board's authorized purposes;

e. To enter into any agreement or contract, execute any legal document, and perform any act or thing necessary, convenient, or desirable for the purposes of the board or to carry out any power expressly given in this act;

f. To adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act;

g. To call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, commission, or agency as may be required and made available for these purposes;

h. To retain such staff as may be necessary in the career service and to appoint an executive director thereof. The executive director shall serve as a member of the senior executive or unclassified service and may be appointed without regard to the provisions of Title 11A of the New Jersey Statutes;

i. To review and analyze innovative techniques that may be employed to maximize the total acreage reserved through the use of perpetual easements;

j. To provide, through the State TDR Bank, a financial guarantee with respect to any loan to be extended to any person that is secured using development potential as collateral for the loan. Financial guarantees provided under this act shall be in accordance with procedures, terms and conditions, and requirements, including rights and obligations of the parties in the event of default on any loan secured in whole or in part using development potential as collateral, to be established by rule or regulation adopted by the board pursuant to the "Administrative Procedure Act";

k. To enter into agreement with the State Agriculture Development Committee for the purpose of acquiring development potential through the acquisition of development easements on farmland so that the board may utilize the existing processes, procedures, and capabilities of

the State Agriculture Development Committee as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to this act;

l. To enter into agreements with other State agencies or entities providing services and programs authorized by law so that the board may utilize the existing processes, procedures, and capabilities of those other agencies or entities as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to this act;

m. To provide planning assistance grants to municipalities for up to 50% of the cost of preparing, for development potential transfer purposes, a utility service plan element or a development transfer plan element of a master plan pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28), a real estate market analysis required pursuant to section 12 of P.L.2004, c.2 (C.40:55D-148), and a capital improvement program pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29) and incurred by a municipality, or \$40,000, whichever is less, which grants shall be made utilizing moneys deposited into the bank pursuant to section 8 of P.L.1993, c.339, as amended by section 31 of P.L.2004, c.2;

n. To provide funding in the form of grants or loans for the purchase of development potential to development transfer banks established by a municipality or county pursuant to P.L.1989, c.86 (C.40:55D-113 et seq.) or section 22 of P.L.2004, c.2 (C.40:55D-158);

o. To serve as a development transfer bank designated by the governing body of a municipality or county pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158);

p. To provide funding to (1) any development transfer bank that may be established by the Highlands Water Protection and Planning Council pursuant to section 13 of P.L.2004, c.120 (C.13:20-13), for the purchase of development potential by the Highlands development transfer bank, and (2) the council to provide planning assistance grants to municipalities in the Highlands Region that are participating in a transfer of development rights program implemented by the council pursuant to section 13 of P.L.2004, c.120 (C.13:20-13) in such amounts as the council deems appropriate to the municipalities notwithstanding any provision of subsection m. of this section or of section 8 of P.L.1993, c.339, as amended by section 31 of P.L.2004, c.2, to the contrary; and

q. To serve as a development transfer bank for the Highlands Region if requested to do so by the Highlands Water Protection and Planning Council pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

47. Section 11 of P.L.1983, c.560 (C.13:1B-15.143) is amended to read as follows:

C.13:1B-15.143 Appointment of officers, employees; qualifications.

11. Subject to the provisions of Title 11A of the New Jersey Statutes, and within the limits of funds appropriated or otherwise made available, the commissioner may appoint any officer or employee to the department necessary to carry out the provisions of P.L.1983, c.560 (C.13:1B-15.133 et seq.), fix and determine their qualifications, which may include a knowledge of and familiarity with the pinelands area or the Highlands Region and the residents thereof.

48. Section 1 of P.L.1997, c.64 (C.13:1B-15.159) is amended to read as follows:

C.13:1B-15.159 Establishment of natural resources inventory.

1. The Department of Environmental Protection, in cooperation with the Division of Travel and Tourism in the New Jersey Commerce and Economic Growth Commission, in consultation with the Pinelands Commission as it affects the pinelands area designated pursuant to section 10 of P.L.1979, c.111 (C.13:18A-11), and in consultation with the Highlands Water Protection and Planning Council as it affects the Highlands Region designated pursuant to section 7 of P.L.2004, c.120 (C.13:20-7), shall establish a natural resources inventory, using the Geographic Information System, for the purpose of encouraging ecologically based tourism and recreation in New Jersey. This inventory shall contain information on New Jersey's natural, historic, and recreational resources, and shall include, to the greatest extent possible, but need not be limited to, federal, State, county and local parks, wildlife management areas, hatcheries, natural areas, historic sites, State forests, recreational areas, ecological and biological study sites, reservoirs,

marinas, boat launches, campgrounds, waterfront access points, winter sports recreation areas, and national wildlife refuges.

49. Section 1 of P.L.1995, c.306 (C.13:1D-58) is amended to read as follows:

C.13:1D-58 Nonapplicability of C.13:1D-51 et seq.; hearing, determination.

1. a. The provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) shall not apply in the case of conveyances by the State or the department involving an exchange of lands within the pinelands area, as defined in section 10 of P.L.1979, c.111 (C.13:18A-11), or within the Hackensack Meadowlands District, as defined in section 4 of P.L.1968, c.404 (C.13:17-4), or within the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to the federal government or any agency or entity thereof, another State agency or entity, or a local unit, provided the lands to be conveyed are used for recreation or conservation purposes, shall continue to be used for recreation or conservation purposes and it has been determined pursuant to subsection c. of this section that the proposed recreation and conservation purposes for the lands do not significantly alter the ecological and environmental value of the lands being exchanged.

b. Prior to any conveyance of lands that is exempted from the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to subsection a. of this section, the Department of Environmental Protection shall conduct at least one public hearing on the proposed conveyance in the municipality in which the lands proposed to be conveyed are located. The local unit proposing the recreation or conservation use of the lands being exchanged shall present its proposal for the use of the lands being exchanged at the public hearing, including a description of the proposed recreation or conservation use of the lands and any proposed alterations to the lands for the recreation or conservation purposes.

c. As a condition of any conveyance of lands that is exempted from the provisions of P.L.1993, c.38 (C.13:1D-51 et seq.) pursuant to subsection a. of this section, and prior to any public hearing required pursuant to subsection b. of this section, the Pinelands Commission, the New Jersey Meadowlands Commission, or the Highlands Water Protection and Planning Council, as appropriate, after consultation with the local units in which the lands to be conveyed are located, shall determine that the proposed recreation or conservation purpose does not significantly alter the ecological and environmental value of the lands being exchanged. The appropriate commission or council shall determine that the proposed recreation or conservation purpose does not significantly alter the ecological and environmental value of the lands being exchanged, if:

(1) the appropriate commission or council determines that any proposed recreation or conservation use of the lands being exchanged is consistent with the law, rules and regulations governing the protection and development of the pinelands area or pinelands preservation area, as appropriate and as defined in section 10 of P.L.1979, c.111 (C.13:18A-11), the Hackensack Meadowlands District, as defined in section 4 of P.L.1968, c.404 (C.13:17-4), or the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), and the requirements of the law, rules or regulations have been met to the satisfaction of the appropriate commission or council; and

(2) a portion of the lands would be maintained in an undeveloped or pre-conveyance state and no wetlands would be negatively affected in violation of State or federal law, or any rules or regulations adopted pursuant thereto.

The determinations required pursuant to this subsection shall be made available to the public at the time of the public hearing required pursuant to subsection b. of this section.

d. For the purposes of this section, "local unit" means a municipality, county, or other political subdivision of the State, or any agency thereof authorized to administer, protect, develop and maintain lands for recreation and conservation purposes.

50. Section 18 of P.L.1985, c.432 (C.13:1M-18) is amended to read as follows:

C.13:1M-18 Municipal, county regulation of oil, gas exploration.

18. a. Nothing in this act shall be construed to supersede or prohibit the adoption, by the governing body of any municipality or county, of any ordinance or resolution regulating or prohibiting the exploration beyond the reconnaissance phase, drilling for and the extraction of oil and natural gas or uranium. As used in this section, "reconnaissance" means:

(1) A geologic and mineral resource appraisal of a region by searching and analyzing published literature, aerial photography, and geologic maps;

(2) Use of geophysical, geochemical, and remote sensing techniques that do not involve road building, land clearing or the introduction of chemicals to a land or water area;

(3) Surface geologic, topographic or other mapping and property surveying; or

(4) Sample collections which do not involve excavation or drilling equipment or the introduction of chemicals to land or water area.

b. A municipality or county shall submit a copy of any ordinance or regulation specifically pertaining to activities regulated by this act, or a rule or regulation promulgated pursuant to this act, to the department.

c. The department shall, within 90 days of submittal, approve or disapprove any ordinance or regulation submitted pursuant to subsection b. of this section. An ordinance or regulation shall be disapproved only if the department finds it unreasonable and provides in writing its reasons for the finding. The failure of the department to act within 90 days of submittal shall constitute approval.

d. Nothing in this section shall be construed to limit the authority of a municipality or county or board of health to enact ordinances or regulations of general applicability to all industrial or commercial activities, including, but not limited to, ordinances and regulations limiting noise, light, and odor.

e. The department shall not approve any ordinance or regulation submitted pursuant to subsection b. of this section which governs activities within the Pinelands area designated in the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), unless the Pinelands Commission has approved the ordinance or regulation. The department shall not disapprove an ordinance or regulation, or portion thereof, which has been certified by the Pinelands Commission as consistent with the requirements of the Comprehensive Management Plan as required by the "Pinelands Protection Act."

f. The department shall not approve any ordinance or regulation submitted pursuant to subsection b. of this section which governs activities within the Highlands preservation area designated in the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless the Highlands Water Protection and Planning Council has approved the ordinance or regulation. The department shall not disapprove an ordinance or regulation, or portion thereof, which has been certified by the Highlands Water Protection and Planning Council as consistent with the requirements of the Highlands regional master plan as required by the "Highlands Water Protection and Planning Act."

51. Section 25 of P.L.1999, c.152 (C.13:8C-25) is amended to read as follows:

C.13:8C-25 Biennial progress report to Governor, Legislature by the trust.

25. Within one year after the date of enactment of this act, and biennially thereafter until and including 2008, the Garden State Preservation Trust, after consultation with the Department of Environmental Protection, the State Agriculture Development Committee, the New Jersey Historic Trust, the Pinelands Commission, the Highlands Water Protection and Planning Council, and the Office of State Planning in the Department of Community Affairs, shall prepare and submit to the Governor and the Legislature a written report, which shall:

a. Describe the progress being made on achieving the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition and development of lands for recreation and conservation purposes, the preservation of farmland, and the preservation of historic properties, and provide recommendations with respect to any legislative, administrative, or local action that may be required to ensure that those goals and objectives may be met in the future;

b. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes and of farmland preserved for farmland preservation purposes that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition of lands for recreation and conservation purposes and the preservation of farmland;

c. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of any donations of land that have been applied toward meeting the goals and objectives of Article VIII, Section II, paragraph 7 of the State Constitution and this act with respect to the acquisition of lands for recreation and conservation purposes and the preservation of farmland;

d. List, both for the reporting period and cumulatively, and by project name, project sponsor, and location by county and municipality, all historic preservation projects funded with constitutionally dedicated moneys in whole or in part;

e. Indicate those areas of the State where, as designated by the Department of Environmental Protection in the Open Space Master Plan prepared pursuant to section 5 of P.L.2002, c.76 (C.13:8C-25.1), the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, indicate those areas of the State where the allocation of constitutionally dedicated moneys for farmland preservation purposes is planned or is most likely to occur, and provide a proposed schedule and expenditure plan for those acquisitions, developments, and allocations, for the next reporting period, which shall include an explanation of how those acquisitions, developments, and allocations will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible;

f. List any surplus real property owned by the State or an independent authority of the State that may be utilizable for recreation and conservation purposes or farmland preservation purposes, and indicate what action has been or must be taken to effect a conveyance of those lands to the department, the committee, local government units, qualifying tax exempt nonprofit organizations, or other entities or persons so that the lands may be preserved and used for those purposes;

g. List, for the reporting period, all projects for which applications for funding under the Green Acres, farmland preservation, and historic preservation programs were received but not funded with constitutionally dedicated moneys during the reporting period, and the reason or reasons why those projects were not funded;

h. Provide, for the reporting period, a comparison of the amount of constitutionally dedicated moneys annually appropriated for local government unit projects for recreation and conservation purposes in municipalities eligible to receive State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) to the average amount of Green Acres bond act moneys annually appropriated for such projects in the years 1984 through 1998; and

i. Tabulate, both for the reporting period and cumulatively, the total acreage for the entire State, and the acreage in each county and municipality, of lands acquired for recreation and conservation purposes that protect water resources and that protect flood-prone areas.

52. Section 5 of P.L.2002, c.76 (C.13:8C-25.1) is amended to read as follows:

C.13:8C-25.1 Submission of Open Space Master Plan.

5. a. Within one year after the date of enactment of P.L.2002, c.76 (C.13:8C-25.1 et al.), and annually thereafter, the Department of Environmental Protection, in consultation with the Office of State Planning in the Department of Community Affairs, the Pinelands Commission, and the Highlands Water Protection and Planning Council, shall prepare and submit to the Governor and the Legislature an Open Space Master Plan, which shall indicate those areas of the State where the acquisition and development of lands by the State for recreation and conservation purposes is planned or is most likely to occur, and those areas of the State where

there is a need to protect water resources, including the identification of lands where protection is needed to assure adequate quality and quantity of drinking water supplies in times of drought, and which shall provide a proposed schedule and expenditure plan for those acquisitions and developments for the next reporting period, which shall include an explanation of how those acquisitions and developments will be distributed throughout all geographic regions of the State to the maximum extent practicable and feasible.

b. The department shall provide any information the Garden State Preservation Trust deems necessary in preparing its biennial report pursuant to section 25 of P.L.1999, c.152 (C.13:8C-25).

53. Section 26 of P.L.1999, c.152 (C.13:8C-26) is amended to read as follows:

C.13:8C-26 Allocation of funds appropriated; conditions.

26. a. Moneys appropriated from the Garden State Green Acres Preservation Trust Fund to the Department of Environmental Protection shall be used by the department to:

(1) Pay the cost of acquisition and development of lands by the State for recreation and conservation purposes;

(2) Provide grants and loans to assist local government units to pay the cost of acquisition and development of lands for recreation and conservation purposes; and

(3) Provide grants to assist qualifying tax exempt nonprofit organizations to pay the cost of acquisition and development of lands for recreation and conservation purposes.

b. The expenditure and allocation of constitutionally dedicated moneys for recreation and conservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. (1) Notwithstanding the provisions of section 5 of P.L.1985, c.310 (C.13:18A-34) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, the value of a pinelands development credit, allocated to a parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, shall be made utilizing a value to be determined by either appraisal, regional averaging based upon appraisal data, or a formula supported by appraisal data. The appraisal and appraisal data shall consider as appropriate: land values in the pinelands regional growth areas; land values in counties, municipalities, and other areas reasonably contiguous to, but outside of, the pinelands area; and other relevant factors as may be necessary to maintain the environmental, ecological, and agricultural qualities of the pinelands area.

(2) No pinelands development credit allocated to a parcel of land pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto that is acquired or obtained in connection with the acquisition of the parcel for recreation and conservation purposes by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

d. (1) (a) For State fiscal years 2000 through 2004 only, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be

made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

e. Moneys appropriated from the fund may be used to match grants, contributions, donations, or reimbursements from federal aid programs or from other public or private sources established for the same or similar purposes as the fund.

f. Moneys appropriated from the fund shall not be used by local government units or qualifying tax exempt nonprofit organizations to acquire lands that are already permanently preserved for recreation and conservation purposes, as determined by the department.

g. Whenever lands are donated to the State by a public utility, as defined pursuant to Title 48 of the Revised Statutes, for recreation and conservation purposes, the commissioner may make and keep the lands accessible to the public, unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith.

h. Whenever the State acquires land for recreation and conservation purposes, the agency in the Department of Environmental Protection responsible for administering the land shall, within six months after the date of acquisition, inspect the land for the presence of any buildings or structures thereon which are or may be historic properties and, within 60 days after completion of the inspection, provide to the New Jersey Historic Preservation Office in the department (1) a written notice of its findings, and (2) for any buildings or structures which are or may be historic properties discovered on the land, a request for determination of potential eligibility for inclusion of the historic building or structure in the New Jersey Register of Historic Places. Whenever such a building or structure is discovered, a copy of the written notice provided to the New Jersey Historic Preservation Office shall also be sent to the New Jersey Historic Trust and to the county historical commission or advisory committee, the county historical society, the local historic preservation commission or advisory committee, and the local historical society if any of those entities exist in the county or municipality wherein the land is located.

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values

determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection c. of this section; or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

j. (1) Commencing on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) or July 1, 2004, whichever is later, and through June 30, 2009, when the department, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire lands for recreation and conservation purposes using constitutionally dedicated moneys in whole or in part or Green Acres bond act moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the department, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and who has owned the lands continuously since that enactment date, or is an immediate family member of that person.

(2) A landowner whose lands are subject to the provisions of paragraph (1) of this subsection shall choose to have the lands appraised in accordance with this subsection or in accordance with the provisions of either subsection d. or subsection i. of this section to the extent that the subsection is applicable and has not expired.

(3) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(4) This subsection shall not:

(a) apply in the case of lands to be acquired with federal moneys in whole or in part;

(b) apply in the case of lands to be acquired in accordance with subsection c. of this section; or

(c) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

(5) For the purposes of this subsection, "immediate family member" means a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

k. The department shall adopt guidelines for the evaluation and priority ranking process which shall be used in making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres

Preservation Trust Fund and from any other source. The guidelines shall be designed to provide, to the maximum extent practicable and feasible, that such moneys are spent equitably among the geographic areas of the State. The guidelines, and any subsequent revisions thereto, shall be published in the New Jersey Register. The adoption of the guidelines or of the revisions thereto, shall not be subject to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

l. In making decisions concerning the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord three times the weight to acquisitions of lands that would protect water resources, and two times the weight to acquisitions of lands that would protect flood-prone areas, as those criteria are compared to the other criteria in the priority ranking process.

m. The department, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations that establish standards and requirements regulating any activity on lands acquired by the State for recreation and conservation purposes using constitutionally dedicated moneys to assure that the activity on those lands does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to activities on lands acquired prior to the adoption of the rules and regulations.

n. (1) The department, within three months after the date of the first meeting of the Highland Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), shall consult with and solicit recommendations from the council concerning land preservation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

The council's recommendations shall also address strategies and plans concerning establishment by the department of a methodology for prioritizing the acquisition of land in the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, especially with respect to (a) any land that has declined substantially in value due to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and (b) any major Highlands development, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), that would have qualified for an exemption pursuant to paragraph (3) of subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28) but for the lack of a necessary State permit as specified in subparagraph (b) or (c), as appropriate, of paragraph (3) of subsection a. of section 30 of P.L.2004, c.120 (C.13:20-28), and for which an application for such a permit had been submitted to the Department of Environmental Protection and deemed by the department to be complete for review on or before March 29, 2004. The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that meet the criteria of subparagraph (a) or (b) of this paragraph and for that reason should be considered by the department as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

(2) In making decisions concerning applications for funding submitted by municipalities in the Highlands planning area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire or develop lands for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund, in the evaluation and priority ranking process the department shall accord a higher weight to any application submitted by a municipality in the Highlands planning area that has amended its development regulations in accordance with section 13 of P.L.2004, c.120 (C.13:20-13) to establish one or more receiving zones for the transfer of development potential from the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than that which is accorded to comparable applications submitted by other municipalities in the Highlands planning area that have not made such amendments to their development regulations.

o. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005 through 2009, the sum spent by the department in each of those fiscal

years for the acquisition of lands by the State for recreation and conservation purposes using moneys from the Garden State Green Acres Preservation Trust Fund in each county of the State shall be not less, and may be greater if additional sums become available, than the average annual sum spent by the department therefor in each such county, respectively, for State fiscal years 2002 through 2004, provided there is sufficient and appropriate lands within the county to be so acquired by the State for such purposes.

54. Section 38 of P.L.1999, c.152 (C.13:8C-38) is amended to read as follows:

C.13:8C-38 Acquisitions, grants with respect to farmland preservation.

38. a. All acquisitions or grants made pursuant to section 37 of P.L.1999, c.152 (C.13:8C-37) shall be made with respect to farmland devoted to farmland preservation under programs established by law.

b. The expenditure and allocation of constitutionally dedicated moneys for farmland preservation purposes shall reflect the geographic diversity of the State to the maximum extent practicable and feasible.

c. The committee shall implement the provisions of section 37 of P.L.1999, c.152 (C.13:8C-37) in accordance with the procedures and criteria established pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) except as provided otherwise by this act.

d. The committee shall adopt the same or a substantially similar method for determining, for the purposes of this act, the committee's share of the cost of a development easement on farmland to be acquired by a local government as that which is being used by the committee on the date of enactment of this act for prior farmland preservation funding programs.

e. Notwithstanding the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31) or this act, or any rule or regulation adopted pursuant thereto, to the contrary, whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the committee shall determine the value of the development easement by:

(1) conducting a sufficient number of fair market value appraisals as it deems appropriate to determine the value for farmland preservation purposes of the pinelands development credits;

(2) considering development easement values in counties, municipalities, and other areas (a) reasonably contiguous to, but outside of, the pinelands area, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection, and (b) in the pinelands area where pinelands development credits are or may be utilized, which in the sole opinion of the committee constitute reasonable development easement values in the pinelands area for the purposes of this subsection;

(3) considering land values in the pinelands regional growth areas;

(4) considering the importance of preserving agricultural lands in the pinelands area; and

(5) considering such other relevant factors as may be necessary to increase participation in the farmland preservation program by owners of agricultural lands located in the pinelands area.

f. No pinelands development credit that is acquired or obtained in connection with the acquisition of a development easement on farmland or fee simple title to farmland by the State, a local government unit, or a qualifying tax exempt nonprofit organization using constitutionally dedicated moneys in whole or in part may be conveyed in any manner. All such pinelands development credits shall be retired permanently.

g. (1) (a) For State fiscal years 2000 through 2004 only, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the land use zoning of the lands (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if that land use zoning is still in effect at the time of proposed acquisition.

The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this subparagraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(b) After the date of enactment of P.L.2001, c.315 and through June 30, 2004, in determining the two values required pursuant to subparagraph (a) of this paragraph, the appraisal shall be made using not only the land use zoning but also the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (i) in effect at the time of proposed acquisition, and (ii) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the land use zoning of the lands at the time of proposed acquisition, and the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition, have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection e. of this section;

(d) apply to projects funded using constitutionally dedicated moneys appropriated pursuant to the annual appropriations act for State fiscal year 2000 (P.L.1999, c.138); or

(e) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

h. Any farmland for which a development easement or fee simple title has been acquired pursuant to section 37 of P.L.1999, c.152 (C.13:8C-37) shall be entitled to the benefits conferred by the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.).

i. (1) Commencing July 1, 2004 and until five years after the date of enactment of P.L.2001, c.315, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands subject to the appraisal (a) in effect at the time of proposed acquisition, and (b) in effect on November 3, 1998 as if those rules and regulations and associated requirements and standards are still in effect at the time of proposed acquisition. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph. A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

(2) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(3) This subsection shall not:

(a) apply if the Department of Environmental Protection wastewater, water quality and watershed management rules and regulations and associated requirements and standards applicable to the lands at the time of proposed acquisition have not changed since November 3, 1998;

(b) apply in the case of lands to be acquired with federal moneys in whole or in part;

(c) apply in the case of lands to be acquired in accordance with subsection e. of this section;

or

(d) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

j. (1) Commencing on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) or July 1, 2004, whichever is later, and through June 30, 2009, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the committee, a local government unit, or a qualifying tax exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c.120 (C.13:20-1 et al.) and who has owned the lands continuously since that enactment date, is an immediate family member of that person, or is a farmer as defined by the committee.

(2) A landowner whose lands are subject to the provisions of paragraph (1) of this subsection shall choose to have the lands appraised in accordance with this subsection or in accordance with the provisions of either subsection g. or subsection i. of this section to the extent that the subsection is applicable and has not expired.

(3) The requirements of this subsection shall be in addition to any other requirements of law, rule, or regulation not inconsistent therewith.

(4) This subsection shall not:

(a) apply in the case of lands to be acquired with federal moneys in whole or in part;

(b) apply in the case of lands to be acquired in accordance with subsection e. of this section;

or

(c) alter any requirements to disclose information to a landowner pursuant to the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

(5) For the purposes of this subsection, "immediate family member" means a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption.

k. The committee and the Department of Environmental Protection, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall jointly adopt rules and regulations that establish standards and requirements regulating any improvement on lands acquired by the State for farmland preservation purposes using constitutionally dedicated moneys to assure that any improvement does not diminish the protection of surface water or groundwater resources.

Any rules and regulations adopted pursuant to this subsection shall not apply to improvements on lands acquired prior to the adoption of the rules and regulations.

l. (1) The committee, within three months after the date of the first meeting of the Highland Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), shall consult with and solicit recommendations from the council concerning farmland preservation strategies and acquisition plans in the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

The council's recommendations shall also address strategies and plans concerning

establishment by the committee of a methodology for prioritizing the acquisition of development easements and fee simple titles to farmland in the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund, especially with respect to farmland that has declined substantially in value due to the implementation of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.). The recommendations may also include a listing of specific parcels in the Highlands preservation area that the council is aware of that have experienced a substantial decline in value and for that reason should be considered by the committee as a priority for acquisition, but any such list shall remain confidential notwithstanding any provision of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary.

(2) In prioritizing applications for funding submitted by local government units in the Highlands planning area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), to acquire development easements on farmland in the Highlands planning area using moneys from the Garden State Farmland Preservation Trust Fund, the committee shall accord a higher weight to any application submitted by a local government unit to preserve farmland in a municipality in the Highlands planning area that has amended its development regulations in accordance with section 13 of P.L.2004, c.120 (C.13:20-13) to establish one or more receiving zones for the transfer of development potential from the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), than that which is accorded to comparable applications submitted by other local government units to preserve farmland in municipalities in the Highlands planning area that have not made such amendments to their development regulations.

m. Notwithstanding any provision of P.L.1999, c.152 (C.13:8C-1 et seq.) to the contrary, for State fiscal years 2005 through 2009, the sum spent by the committee in each of those fiscal years for the acquisition by the committee of development easements and fee simple titles to farmland for farmland preservation purposes using moneys from the Garden State Farmland Preservation Trust Fund in each county of the State shall be not less, and may be greater if additional sums become available, than the average annual sum spent by the department therefor in each such county, respectively, for State fiscal years 2002 through 2004, provided there is sufficient and appropriate farmland within the county to be so acquired by the committee for such purposes.

55. Section 13 of P.L.1974, c.118 (C.13:13A-13) is amended to read as follows:

C.13:13A-13 Master plan for physical development of park; review of State projects, permits.

13. a. The commission shall prepare, or cause to be prepared, and, after a public hearing, or public hearings, and pursuant to the provisions provided for in subsection 13 b. of this act, adopt a master plan or portion thereof for the physical development of the park, which plan may include proposals for various stages in the future development of the park, or amend the master plan. The master plan shall include a report presenting the objectives, assumptions, standards and principles which are embodied in the various interlocking portions of the master plan. The master plan shall be a composite of the one or more written proposals recommending the physical development and expansion of the park either in its entirety or a portion thereof which the commission shall prepare after meetings with the governing bodies of the affected municipalities and counties, and any agencies and instrumentalities thereof.

b. In preparing the master plan or any portion thereof or amendment thereto the commission shall give due consideration to: (1) the function of the canal as a major water supply facility in the State; (2) the necessity to provide recreational activities to the citizens of this State, including but not limited to, facilities, design capacities, and relationship to other available recreational areas; (3) existing historical sites and potential restorations or compatible development; (4) the range of uses and potential uses of the canal in the urban environments of the older, intensively developed communities through which it passes; and (5) designated wilderness areas to be kept as undeveloped, limited-access areas restricted to canoeing and hiking. In preparing the master plan or any portion thereof or amendment thereto the commission shall consider existing patterns of development and any relevant master plan or other plan of development, and shall insure widespread citizen involvement and participation in

the planning process.

c. The commission shall act in support of local suggestions or desires to complement the park master plan. Consultation, planning, and technical expertise will be made available to local planning bodies that wish to implement land-use policy to enhance the park area. The commission shall act on or refer complaints by citizens' groups or private residents who discover hazardous situations, pollution, or evidence of noncompliance with use regulations.

d. The commission shall review and approve, reject or modify, any State project planned or State permits issued in the park, and submit its decision to the Governor.

e. The commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), on any provision of the park master plan that may impact upon or otherwise affect the Highlands Region or the Highlands regional master plan, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), and any such provision shall be consistent with the Highlands regional master plan adopted by the council pursuant to that act.

56. Section 14 of P.L.1974, c.118 (C.13:13A-14) is amended to read as follows:

C.13:13A-14 Review zone designated.

14. a. The commission shall determine, after a public hearing, or public hearings held in Hunterdon, Somerset, Mercer, and Middlesex counties respectively, the extent and limits of the region to be designated the review zone. Any subsequent modification of the review zone shall be made by the commission only after public hearings in the county or counties in which the modification is to be made. All public hearings required pursuant to this section shall be held only after giving prior notice thereof by public advertisement once each week for two consecutive weeks in such newspaper or newspapers selected by the chairman of the commission as will best give notice thereof. The last publication of such notice shall be not less than 10 days prior to the date set for the hearing.

b. The commission shall approve all State actions within the review zone that impact on the park, and insure that these actions conform as nearly as possible to the commission's master plan and relevant local plans or initiatives. The State actions which the commission shall review will include the operations of the Division of Water Resources concerning water supply and quality; the Division of Parks and Forestry in developing recreation facilities; and the activities of any other State department or agency that might affect the park.

c. The commission shall review and approve, reject, or modify any project within the review zone. The initial application for a proposed project within the zone shall be submitted by the applicant to the appropriate municipal reviewing agency. If approved by the agency, the application shall be sent to the commission for review. The commission shall review each proposed project in terms of its conformity with, or divergence from, the objectives of the commission's master plan and shall: (1) advise the appropriate municipal reviewing agency that the project can proceed as proposed; (2) reject the application and so advise the appropriate municipal reviewing agency and the governing body of the municipality; or (3) require modifications or additional safeguards on the part of the applicant, and return the application to the appropriate municipal reviewing agency, which shall be responsible for insuring that these conditions are satisfied before issuing a permit. If no action is taken by the commission within a period of 45 days from the date of submission of the application to the commission by the municipal reviewing agency, this shall constitute an approval by the commission. The commission's decision shall be final and binding on the municipality, and the commission may, in the case of any violation or threat of a violation of a commission's decision by a municipality, or by the appropriate municipal reviewing agency, as the case may be, institute civil action (1) for injunctive relief; (2) to set aside and invalidate a decision made by a municipality in violation of this subsection; or (3) to restrain, correct or abate such violation. As used herein: (1) "project" means any structure, land use change, or public improvements for which a permit from, or determination by, the municipality is required, which shall include, but not be limited to, building permits, zoning variances, and excavation permits; and (2) "agency" means any body or instrumentality of the municipality responsible for the issuance of permits or the approval of

projects, as herein defined, which shall include, but not be limited to, governing bodies, planning and zoning boards, building inspectors, managers and municipal engineers.

d. To the extent that any action the commission takes pursuant to this section may impact upon or otherwise affect the Highlands Region or the Highlands regional master plan, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), and any such action taken shall be consistent with the Highland regional master plan adopted by the council pursuant to that act.

57. Section 2 of P.L.1997, c.144 (C.27:5-9.1) is amended to read as follows:

C.27:5-9.1 Billboard, outdoor advertising sign; subject to regulation.

2. Any billboard or outdoor advertising sign licensed and permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected on or above any State right-of-way or any real property of the department shall be subject to local government zoning ordinances, applicable local government building permit requirements, and in the pinelands area, shall be subject to the provisions of the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), and in the Highlands Region, shall be subject to the provisions of the "Highland Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), any rules and regulations adopted pursuant thereto, and the Highlands regional master plan adopted by the Highlands Water Protection and Planning Council pursuant to section 8 of that act .

58. R.S.32:14-5 is amended to read as follows:

Lands included in, purpose of park; authority to acquire.

32:14-5. a. Palisades Interstate Park Commission shall, from time to time, select and locate such lands lying between the top or steep edge of the Palisades or the crest of the slope in places where the steep Palisade rocks are absent and the high-water line of the Hudson river, from the New York State line on the north, to a line beginning at the intersection of the southern line of the old Fort Lee dock or landing with the high-water line of the Hudson river and running thence in a westerly direction and at right angles to said high-water line of the Hudson river to the east side of the river road running from Edgewater to Fort Lee, in Bergen county, on the south, and such lands or rights in lands belonging to persons other than the State, as may lie between the exterior bulkhead line established in the Hudson river and the high-water line of the Hudson river, as may, in the opinion of the Palisades Interstate Park Commission, be proper and necessary to be reserved for the purpose of establishing a park and thereby preserving the scenic beauty of the Palisades.

b. The Palisades Interstate Park Commission, in cooperation with the North Jersey District Water Supply Commission and in consultation with the New Jersey Department of Environmental Protection and the Highlands Water Protection and Planning Council, may, from time to time, select and locate such lands lying within the Highlands or Skylands areas of Bergen, Hunterdon, Morris, Passaic, Somerset and Warren counties in the State of New Jersey, including lands in those areas lying within the North Jersey Water Supply District, as may, in the opinion of the Palisades Interstate Park Commission and the North Jersey District Water Supply Commission, in consultation with the department and the Highlands Water Protection and Planning Council, be proper and necessary to be reserved for establishing a park:

- (1) to preserve the scenic beauty of those areas;
- (2) for the purposes of recreation and conservation, which shall include hunting and fishing, or historic preservation; or
- (3) for the purposes of watershed conservation or protecting, maintaining, or enhancing the quality and quantity of water supplies.

c. Except as authorized for the purposes specified by R.S.32:15-1 et seq. and R.S.32:16-1 et seq. with regard to the location, construction, maintenance, and operation of the Henry

Hudson Drive and the Palisades Interstate Parkway in Bergen county, the Palisades Interstate Park Commission shall not acquire by condemnation any lands described in subsections a. and b. of this section. Any such lands shall be acquired by the Palisades Interstate Park Commission only through a sale by a willing seller.

59. Section 5 of P.L.1999, c.402 (C.32:20A-5) is amended to read as follows:

C.32:20A-5 Duties of commission.

5. a. The duties of the commission shall be to:

(1) assess present and projected development, land use, and land management practices and patterns, and identify actual and potential environmental threats and problems, around Greenwood Lake and within its watershed, and determine the effects of those practices and patterns, threats, and problems upon the natural, scenic, and recreational resources of Greenwood Lake and its watershed;

(2) develop recommended regulations, procedures, policies, planning strategies, and model ordinances and resolutions pertaining to the protection, preservation, maintenance, management, and enhancement of Greenwood Lake and its watershed, which would be implemented as appropriate on a voluntary basis by those entities with representatives on the commission;

(3) coordinate environmental clean up, maintenance, and protection efforts undertaken, for the benefit of Greenwood Lake and its watershed, by those entities with representatives on the commission;

(4) coordinate with the New Jersey Department of Environmental Protection's watershed management program for the area that includes Greenwood Lake;

(5) recommend appropriate State legislation and administrative action pertaining to the protection, preservation, maintenance, management, and enhancement of Greenwood Lake and its watershed;

(6) advocate, and where appropriate, act as a coordinating, distributing, or recipient agency for, federal, State, or private funding of environmental cleanup, maintenance, and protection projects for Greenwood Lake and its watershed, which projects may include the work of the commission; and

(7) take such other action as may be appropriate or necessary to further the purpose of this act.

b. The commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), in carrying out its duties as prescribed pursuant to subsection a. of this section. Any action taken by the commission that may impact upon or otherwise affect the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), shall be consistent with the Highlands regional master plan adopted by the council pursuant to section 8 of that act.

60. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to read as follows:

C.40:55D-28 Preparation; contents; modification.

19. Preparation; contents; modification.

a. The planning board may prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare.

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (14):

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based;

(2) A land use plan element (a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (14) hereof and natural conditions, including, but not necessarily limited

to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance; and (c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;

(3) A housing plan element pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;

(4) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration and the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail;

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.). If a municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall address the provision of utilities in the receiving zone as provided thereunder;

(6) A community facilities plan element showing the existing and proposed location and type of educational or cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities, including their relation to the surrounding areas;

(7) A recreation plan element showing a comprehensive system of areas and public sites for recreation;

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other resources, and which systemically analyzes the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

(9) An economic plan element considering all aspects of economic development and sustained economic vitality, including (a) a comparison of the types of employment expected to be provided by the economic development to be promoted with the characteristics of the labor pool resident in the municipality and nearby areas and (b) an analysis of the stability and diversity of the economic development to be promoted;

(10) A historic preservation plan element: (a) indicating the location and significance of historic sites and historic districts; (b) identifying the standards used to assess worthiness for historic site or district identification; and (c) analyzing the impact of each component and element of the master plan on the preservation of historic sites and districts;

(11) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements;

(12) A recycling plan element which incorporates the State Recycling Plan goals, including provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, and for the collection, disposition and recycling of recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land;

(13) A farmland preservation plan element, which shall include: an inventory of farm

properties and a map illustrating significant areas of agricultural land; a statement showing that municipal ordinances support and promote agriculture as a business; and a plan for preserving as much farmland as possible in the short term by leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et al.) through a variety of mechanisms including, but not limited to, utilizing option agreements, installment purchases, and encouraging donations of permanent development easements; and

(14) A development transfer plan element which sets forth the public purposes, the locations of sending and receiving zones and the technical details of a development transfer program based on the provisions of section 5 of P.L.2004, c.2 (C.40:55D-141).

c. The master plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.

d. The master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) of the county in which the municipality is located.

In the case of a municipality situated within the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan, to the Highlands regional master plan adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

61. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as follows:

C.46:15-8 County, State sharing of fee proceeds.

4. a. The proceeds of the fees collected by the county recording officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be accounted for and remitted to the county treasurer.

b. (1) The county portion of the basic fee collected pursuant to paragraph (1) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) shall be retained by the county treasurer for the use of the county.

(2) The State portion of the basic fee, the additional fee, and the general purpose fee shall be paid to the State Treasurer for the use of the State. Payments shall be made to the State Treasurer on the tenth day of each month following the month of collection.

c. (1) Amounts, not in excess of \$25,000,000, paid during the State fiscal year to the State Treasurer from the payment of the State portion of the basic fee shall be credited to the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), in the manner established under that section.

(2) In addition to the amounts credited to the "Shore Protection Fund" pursuant to paragraph (1) of this subsection, amounts equal to \$12,000,000 in each of the first 10 years after the date of enactment of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) and to \$5,000,000 in each year thereafter, paid during the State fiscal year to the State Treasurer from the payment of fees collected by the county recording officer other than the additional fee of \$0.75 for each \$500.00 of consideration or fractional part thereof recited in the deed in excess of \$150,000.00 shall be credited to the "Highlands Protection Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), in the manner established under that section. No monies shall be credited to the "Highlands Protection Fund" pursuant to this paragraph until and unless the full amount of \$25,000,000 has first been credited to the "Shore Protection Fund" pursuant to paragraph (1) of this subsection.

d. All amounts paid to the State Treasurer from the payment of the additional fee shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established under section 20 thereof (C.52:27D-320).

62. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to read as follows:

C.46:15-10.2 Required provisions of annual appropriations act.

2. a. The annual appropriations act for each State fiscal year shall, without other conditions, limitations or restrictions on the following:

(1) credit amounts paid to the State Treasurer, if any, in payment of fees collected pursuant to paragraph (1) or paragraph (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), and the "Highlands Protection Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), pursuant to the requirements of section 4 of P.L.1968, c.49 (C.46:15-8);

(2) appropriate the balance of the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the purposes of that fund;

(3) appropriate the balance of the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund; and

(4) appropriate the balance of the "Highlands Protection Fund" created pursuant to section 21 of P.L.2004, c.120 (C.13:20-19), for the purposes of that fund.

b. If the requirements of subsection a. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements of subsection a. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements of subsection a. of this section, certify to the Director of the Division of Taxation that the requirements of subsection a. of this section have not been met.

63. Section 1 of P.L.1985, c.398 (C.52:18A-196) is amended to read as follows:

C.52:18A-196 Findings, declarations.

1. The Legislature finds and declares that:

a. New Jersey, the nation's most densely populated State, requires sound and integrated Statewide planning and the coordination of Statewide planning with local and regional planning in order to conserve its natural resources, revitalize its urban centers, protect the quality of its environment, and provide needed housing and adequate public services at a reasonable cost while promoting beneficial economic growth, development and renewal;

b. 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 the preparation of and adherence to sound and integrated plans;

c. It is of urgent importance that the State Development Guide Plan be replaced by a State Development and Redevelopment Plan designed for use as a tool for assessing suitable locations for infrastructure, housing, economic growth and conservation;

d. It is in the public interest to encourage development, redevelopment and economic growth in locations that are well situated with respect to present or anticipated public services and facilities, giving appropriate priority to the redevelopment, repair, rehabilitation or replacement of existing facilities and to discourage development where it may impair or destroy natural resources or environmental qualities that are vital to the health and well-being of the present and future citizens of this State;

e. A cooperative planning process that involves the full participation of State, regional, county and local governments as well as other public and private sector interests will enhance prudent and rational development, redevelopment and conservation policies and the formulation of sound and consistent regional plans and planning criteria;

f. Since the overwhelming majority of New Jersey land use planning and development

review occurs at the local level, it is important to provide 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;

g. An increasing concentration of the poor and minorities in older urban areas jeopardizes the future well-being of this State, and a sound and comprehensive planning process will facilitate the provision of equal social and economic opportunity so that all of New Jersey's citizens can benefit from growth, development and redevelopment;

h. An adequate response to judicial mandates respecting housing for low- and moderate-income persons requires sound planning to prevent sprawl and to promote suitable use of land; and

i. These purposes can be best achieved through the establishment of a State planning commission consisting of representatives from the executive and legislative branches of State government, local government, the general public and the planning community.

64. Section 4 of P.L.1985, c.398 (C.52:18A-199) is amended to read as follows:

C.52:18A-199 Duties of the commission.

4. The commission shall:

a. Prepare and adopt within 36 months after the enactment of P.L.1985, c.398 (C.52:18A-196 et al.) , and revise and readopt at least every three years thereafter, the State Development and Redevelopment Plan, which shall provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions and which shall identify areas for growth, agriculture, open space conservation and other appropriate designations;

b. Prepare and adopt as part of the plan a long-term Infrastructure Needs Assessment, which shall provide information on present and prospective conditions, needs and costs with regard to State, county and municipal capital facilities, including water, sewerage, transportation, solid waste, drainage, flood protection, shore protection and related capital facilities;

c. Develop and promote procedures to facilitate cooperation and coordination among State agencies, regional entities, and local governments with regard to the development of plans, programs and policies which affect land use, environmental, capital and economic development issues;

d. Provide technical assistance to local governments and regional entities in order to encourage the use of the most effective and efficient planning and development review data, tools and procedures;

e. Periodically review State, regional, and local government planning procedures and relationships and recommend to the Governor and the Legislature administrative or legislative action to promote a more efficient and effective planning process;

f. Review any bill introduced in either house of the Legislature which appropriates funds for a capital project and may study the necessity, desirability and relative priority of the appropriation by reference to the State Development and Redevelopment Plan, and may make recommendations to the Legislature and to the Governor concerning the bill; and

g. Take all actions necessary and proper to carry out the provisions of P.L.1985, c.398 (C.52:18A-196 et al.).

65. Section 5 of P.L.1985, c.398 (C.52:18A-200) is amended to read as follows:

C.52:18A-200 State Development and Redevelopment Plan.

5. The State Development and Redevelopment Plan shall be designed to represent a balance of development and conservation objectives best suited to meet the needs of the State. The plan shall:

a. Protect the natural resources and qualities of the State, including, but not limited to, agricultural development areas, fresh and saltwater wetlands, flood plains, stream corridors, aquifer recharge areas, steep slopes, areas of unique flora and fauna, and areas with scenic,

historic, cultural and recreational values;

b. Promote development and redevelopment in a manner consistent with sound planning and where infrastructure can be provided at private expense or with reasonable expenditures of public funds. This should not be construed to give preferential treatment to new construction;

c. Consider input from State, regional, county and municipal entities concerning their land use, environmental, capital and economic development plans, including to the extent practicable any State and regional plans concerning natural resources or infrastructure elements;

d. Identify areas for growth, limited growth, agriculture, open space conservation and other appropriate designations that the commission may deem necessary;

e. Incorporate a reference guide of technical planning standards and guidelines used in the preparation of the plan; and

f. Coordinate planning activities and establish Statewide planning objectives in the following areas: land use, housing, economic development, transportation, natural resource conservation, agriculture and farmland retention, recreation, urban and suburban redevelopment, historic preservation, public facilities and services, and intergovernmental coordination.

66. Section 6 of P.L.1985, c.398 (C.52:18A-201) is amended to read as follows:

C.52:18A-201 Office of State Planning.

6. a. There is established in the Department of the Treasury the Office of State Planning. The director of the office shall be appointed by and serve at the pleasure of the Governor. The director shall supervise and direct the activities of the office and shall serve as the secretary and principal executive officer of the State Planning Commission.

b. The Office of State Planning shall assist the commission in the performance of its duties and shall:

(1) Publish an annual report on the status of the State Development and Redevelopment Plan which shall describe the progress towards achieving the goals of the plan, the degree of consistency achieved among municipal, county, regional, and State plans, the capital needs of the State, and progress towards providing housing where such need is indicated;

(2) Provide planning service to other agencies or instrumentalities of State government, review the plans prepared by them, and coordinate planning to avoid or mitigate conflicts between plans;

(3) Provide advice and assistance to regional, county and local planning units;

(4) Review and comment on the plans of interstate agencies where the plans affect this State;

(5) Compile quantitative current estimates and Statewide forecasts for population, employment, housing and land needs for development and redevelopment; and

(6) Prepare and submit to the State Planning Commission, as an aid in the preparation of the State Development and Redevelopment Plan, alternate growth and development strategies which are likely to produce favorable economic, environmental and social results.

c. The director shall ensure that the responsibilities and duties of the commission are fulfilled, and shall represent the commission and promote its activities before government agencies, public and private interest groups and the general public, and shall undertake or direct such other activities as the commission shall direct or as may be necessary to carry out the purposes of P.L.1985, c.398 (C.52:18A-196 et al.).

d. With the consent of the commission, the director shall assign to the commission from the staff of the office at least two full-time planners, a full-time liaison to local and county governments and regional entities, and such other staff, clerical, stenographic and expert assistance as the director shall deem necessary for the fulfillment of the commission's responsibilities and duties.

67. Section 7 of P.L.1985, c.398 (C.52:18A-202) is amended to read as follows:

C.52:18A-202 Advice of other entities; plan cross-acceptance.

7. a. In preparing, maintaining and revising the State Development and Redevelopment Plan, the commission shall solicit and give due consideration to the plans, comments and advice of

each county and municipality, State agencies designated by the commission, the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), and other local and regional entities. Prior to the adoption of each plan, the commission shall prepare and distribute a preliminary plan to each county planning board, municipal planning board and other requesting parties, including State agencies, the Highlands Water Protection and Planning Council, and metropolitan planning organizations. Not less than 45 nor more than 90 days thereafter, the commission shall conduct a joint public informational meeting with each county planning board in each county and with the Highlands Water Protection and Planning Council for the purpose of providing information on the plan, responding to inquiries concerning the plan, and receiving informal comments and recommendations from county and municipal planning boards, local public officials, the Highlands Water Protection and Planning Council, and other interested parties.

b. The commission shall negotiate plan cross-acceptance with each county planning board, which shall solicit and receive any findings, recommendations and objections concerning the plan from local planning bodies. Each county planning board shall negotiate plan cross-acceptance among the local planning bodies within the county, unless it shall notify the commission in writing within 45 days of the receipt of the preliminary plan that it waives this responsibility, in which case the commission shall designate an appropriate entity, or itself, to assume this responsibility. Each board or designated entity shall, within ten months of receipt of the preliminary plan, file with the commission a formal report of findings, recommendations and objections concerning the plan, including a description of the degree of consistency and any remaining inconsistency between the preliminary plan and county and municipal plans. In any event, should any municipality's plan remain inconsistent with the State Development and Redevelopment Plan after the completion of the cross-acceptance process, the municipality may file its own report with the State Planning Commission, notwithstanding the fact that the county planning board has filed its report with the State Planning Commission. The term cross-acceptance means a process of comparison of planning policies among governmental levels with the purpose of attaining compatibility between local, county, regional, 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 cross-acceptance.

c. Upon consideration of the formal reports of the county planning boards, the commission shall prepare and distribute a final plan to county and municipal planning boards, the Highlands Water Protection and Planning Council, and other interested parties. The commission shall conduct not less than six public hearings in different locations throughout the State for the purpose of receiving comments on the final plan. The 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 and to the Highlands Water Protection and Planning Council for any area in the Highlands Region served by the hearing.

d. Taking full account of the testimony presented at the public hearings, the commission shall make revisions in the plan as it deems necessary and appropriate and adopt the final plan by a majority vote of its authorized membership no later than 60 days after the final public hearing.

68. Section 2 of P.L.1989, c.332 (C.52:18A-202.2) is amended to read as follows:

C.52:18A-202.2 Studies; review.

2. a. The Office of State Planning in consultation with the Office of Economic Policy, shall utilize the following:

- (1) Conduct portions of these studies using its own staff;
- (2) Contract with other State agencies to conduct portions of these studies; and
- (3) Contract with an independent firm or an institution of higher learning to conduct portions of these studies.

b. Any portion of the studies conducted by the Office of State Planning, or any other State agency, shall be subject to review by an independent firm or an institution of higher learning.

c. The Assessment Study and the oversight review shall be submitted in the form of a written report to the State Planning Commission for distribution to the Governor, the Legislature, appropriate regional entities, and the governing bodies of each county and municipality in the State during the cross-acceptance process and prior to the adoption of the Final Plan.

d. A period extending from at least 45 days prior to the first of six public hearings, which are required under the State Planning Act, P.L.1985, c.398 (C.52:18A-196 et seq.), to 30 days following the last public hearing shall be provided for counties and municipalities to review and respond to the studies. Requests for revisions to the Interim Plan shall be considered by the State Planning Commission in the formulation of the Final Plan.

69. Section 8 of P.L.1985, c.398 (C.52:18A-203) is amended to read as follows:

C.52:18A-203 Rules, regulations.

8. a. The commission shall adopt rules and regulations to carry out its purposes, including procedures to facilitate the solicitation and receipt of comments in the preparation of the preliminary and final plan and to ensure a process for comparison of the plan with county and municipal master plans and regional plans, and procedures for coordinating the information collection, storage and retrieval activities of the various State agencies, and to establish a process for the endorsement of municipal, county, and regional plans that are consistent with the State Development and Redevelopment Plan.

b. Any municipality or county or portion thereof located in the Highlands preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3) shall be exempt from the plan endorsement process established in the rules and regulations adopted pursuant to subsection a. of this section. Upon the State Planning Commission endorsing the regional master plan adopted by the Highlands Water Protection and Planning Council pursuant to section 8 of P.L.2004, c.120 (C.13:20-8), any municipal master plan and development regulations or county master plan and associated regulations that have been approved by the Highlands Water Protection and Planning Council pursuant to section 14 or 15 of P.L.2004, c.120 (C.13:20-14 or C.13:20-15) shall be deemed the equivalent of having those plans endorsed by the State Planning Commission.

70. Section 9 of P.L.1985, c.398 (C.52:18A-204) is amended to read as follows:

C.52:18A-204 Assistance of personnel of other entities.

9. The commission shall be entitled to call to its assistance any personnel of any State agency, regional entity, or county, municipality or political subdivision thereof as it may require in order to perform its duties. The officers and personnel of any State agency, regional entity, or county, municipality or political subdivision thereof and any other person may serve at the request of the commission upon any advisory committee as the commission may create without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

71. Section 10 of P.L.1985, c.398 (C.52:18A-205) is amended to read as follows:

C.52:18A-205 Provision of data by other entities.

10. Each State agency, regional entity, or county, municipality or political subdivision thereof shall make available to the commission any studies, surveys, plans, data and other materials or information concerning the capital, land use, environmental, transportation, economic development and human services plans and programs of the agency, entity, county, municipality or political subdivision.

72. Section 11 of P.L.1985, c.398 (C.52:18A-206) is amended to read as follows:

C.52:18A-206 Other plans, regulations unaffected; adoption of coastal planning policies.

11. a. The provisions of P.L.1985, c.398 (C.52:18A-196 et al.) shall not be construed to affect the plans and regulations of the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L. 1979, c.111 (C.13:18A-1 et seq.), the New Jersey Meadowlands Commission pursuant to the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et seq.), or the Highlands Water Protection and Planning Council pursuant to the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) for that portion of the Highlands Region lying within the preservation area as defined in section 3 of P.L.2004, c.120 (C.13:20-3) . The State Planning Commission shall rely on the adopted plans and regulations of these entities in developing the State Development and Redevelopment Plan.

b. The State Planning Commission may adopt, after the enactment date of P.L.1993, c.190 (C.13:19-5.1 et al.), the coastal planning policies of the rules and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1 et seq.), the coastal planning policies of the rules and regulations adopted pursuant to subsection b. of section 17 of P.L.1973, c.185 (C.13:19-17) and any coastal planning policies of rules and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) thereafter as the State Development and Redevelopment Plan for the coastal area as defined in section 4 of P.L.1973, c.185 (C.13:19-4).

73. Section 13 of P.L.1981, c.262 (C.58:1A-13) is amended to read as follows:

C.58:1A-13 New Jersey Statewide Water Supply Plan.

13. a. The department shall prepare and adopt the New Jersey Statewide Water Supply Plan, which plan shall be revised and updated at least once every five years.

b. The plan shall include, but need not be limited to, the following:

(1) An identification of existing Statewide and regional ground and surface water supply sources, both interstate and intrastate, and the current usage thereof;

(2) Projections of Statewide and regional water supply demands for the duration of the plan;

(3) Recommendations for improvements to existing State water supply facilities, the construction of additional State water supply facilities, and for the interconnection or consolidation of existing water supply systems;

(4) Recommendations for the diversion or use of fresh surface or ground waters and saline surface or ground waters for aquaculture purposes;

(5) Recommendations for legislative and administrative actions to provide for the maintenance and protection of watershed areas; and

(6) Identification of lands purchased by the State for water supply facilities that currently are not actively used for water supply purposes, including, but not limited to, the Six Mile Run Reservoir Site, with recommendations as to the future use of these lands for water supply purposes within or outside of the planning horizon for the plan.

c. Prior to adopting the plan, including any revisions and updates thereto, the department shall:

(1) Prepare and make available to all interested persons a copy of the proposed plan or proposed revisions and updates to the current plan;

(2) Conduct public meetings in the several geographic areas of the State on the proposed plan or proposed revisions and updates to the current plan; and

(3) Consider the comments made at these meetings, make any revisions to the proposed plan or proposed revisions and updates to the current plan as it deems necessary, and adopt the plan.

d. Prior to the adoption of any revision to the New Jersey Statewide Water Supply Plan pursuant to this section, the department shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), concerning the possible effects and impact of the plan upon the Highlands regional master plan, adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8), and the water and other natural resources of the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

74. Section 10 of P.L.1993, c.202 (C.58:1A-15.1) is amended to read as follows:

C.58:1A-15.1 Actions consistent with Pinelands, Highlands regulation.

10. No action taken by the department pursuant to the provisions of P.L.1981, c.262 (C.58:1A-1 et al.) or P.L.1993, c.202 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the comprehensive management plan for the pinelands area adopted pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8), the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), or the Highlands regional master plan adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

75. Section 6 of P.L.1981, c.293 (C.58:1B-6) is amended to read as follows:

C.58:1B-6 Powers and duties of authority.

6. a. The authority is hereby empowered to design, initiate, acquire, construct, maintain, repair and operate projects or cause the same to be operated pursuant to a lease, sublease, or agreement with any person or governmental agency, and to issue bonds of the authority to finance these projects, payable from the revenues and other funds of the authority. All projects undertaken by the authority shall conform to the recommendations of the New Jersey Statewide Water Supply Plan.

b. The authority shall be subject to compliance with all State health and environmental protection statutes and regulations and any other statutes and regulations not inconsistent herewith. The authority may, upon the request of a governmental agency, enter into a contract to provide services for any project.

c. The authority shall consult with the Water Supply Advisory Council from time to time prior to final action on any project or undertaking authorized pursuant to this section.

d. The authority shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), from time to time prior to final action on any project or undertaking authorized pursuant to this section in the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3). The provisions of section 16 of P.L.2004, c.120 (C.13:20-16) shall apply to the authority.

76. Section 7 of P.L.2000, c.175 (C.58:4B-7) is amended to read as follows:

C.58:4B-7 Development of stormwater, nonpoint source pollution management plan.

7. The Lake Hopatcong Commission shall, in conjunction with each Lake Hopatcong municipality, develop a stormwater and nonpoint source pollution management plan for the region. The stormwater management and nonpoint source pollution plan shall be designed to reduce siltation and prevent pollution caused by stormwater runoff or nonpoint sources that would otherwise degrade the water quality of Lake Hopatcong and its tributaries, interfere with water-based recreation, or adversely affect aquatic life. The goals and purposes of the plan shall be to improve the quality of stormwater runoff entering Lake Hopatcong, identify cost effective measures to control stormwater runoff and nonpoint source pollution, and identify funding mechanisms for implementation of such measures. The commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), in developing the stormwater and nonpoint source pollution management plan pursuant to this section. Any plan developed pursuant to this section that may impact upon or otherwise affect the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), shall be consistent with the Highlands regional master plan adopted by the council pursuant to section 8 of that act.

77. Section 9 of P.L.2000, c.175 (C.58:4B-9) is amended to read as follows:

C.58:4B-9 Notice of amendments, revisions to municipal master plans.

9. Each municipality represented on the commission shall provide the commission notice of proposed amendments and revisions to municipal master plans, zoning and other ordinances

governing land use and development, and applications for specific development projects, and request that the commission review and evaluate the proposed amendment, revision, or application to assess its potential impact upon Lake Hopatcong and its watershed and provide the commission's recommendations for appropriate action thereon. As part of the commission's review and evaluation, the commission shall consider the consistency of the amendment or revision with the Highlands regional master plan, adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8), if it may impact upon or otherwise affect the Highlands preservation area, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), and shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), on any such matter.

78. R.S.58:5-12 is amended to read as follows:

Plans for water supply; estimated cost; report; form of contract.

58:5-12. The district water supply commission shall thereupon proceed to formulate plans for obtaining a water supply or a new or additional water supply for the municipality and any other municipalities that may desire water from such joint water supply, as provided for herein, and to estimate the cost thereof, the annual cost of operating the same, the probable share of the cost which each of the municipalities will be called upon to pay for its share of water supply and plant used in common with the other municipalities, and the cost of any distribution system, water supply or plant acquired or constructed for its individual use, and shall report the plans to the municipalities, together with a form of contract, providing for the raising and payment of the necessary funds to meet the cost of acquisition and operation.

If the plans to be formulated pursuant to this section involve obtaining water from the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the district water supply commission shall consult with the Highlands Water Protection and Planning Council established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4) prior to moving forward with any such plans or entering into any such contracts. The provisions of section 16 of P.L.2004, c.120 (C.13:20-16) shall apply to the district water supply commission.

79. Section 1 of P.L.1993, c.351 (C.58:10A-7.2) is amended to read as follows:

C.58:10A-7.2 Groundwater remedial action; contents of application for permit, request for consent; definitions.

1. a. An application for a permit issued by the Department of Environmental Protection pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.) for the discharge of groundwater to surface water involving a groundwater remedial action necessitated by a discharge from an underground storage tank containing petroleum products or a groundwater remedial action involving petroleum products, shall contain, in addition to a properly filled application form:

(1) such documentation or other information on the permit application as may be prescribed by the department on a checklist made available to a prospective applicant;

(2) if the discharge from the proposed groundwater remedial action is located within a wastewater service district or area of a local public entity, a certified statement that a request, dated at least 60 days prior to the filing of the permit application, had been made to the local public entity to discharge the groundwater into the wastewater collection or treatment facilities of that entity, and that no reply has been received from that entity, or a written statement by the local public entity, dated not more than 60 days prior to the filing of the permit application with the department, that the entity has approved or rejected a written request by the applicant to discharge the treated groundwater into the wastewater collection or treatment facilities of that entity. Notwithstanding that a local public entity has approved the request to discharge groundwater into its facilities, the department may approve the applicant's permit to discharge the groundwater to surface water upon a finding that it is in the public interest;

(3) a certified statement that a copy of the completed application form along with a consent request, as prescribed in subsection b. of this section, have been filed with the clerk of the

municipality in which the site of the proposed groundwater remedial action is located, and setting forth the date of the filing with the host municipality, which filing shall be made prior to, or concurrent with, the filing of the application with the department;

(4) within the pinelands area, documentation from the Pinelands Commission that the application is consistent with the requirements of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) or any regulations promulgated pursuant thereto and section 502 of the "National Parks and Recreation Act of 1978" (Pub.L. 95-625); and

(5) within the Highlands preservation area, documentation from the Highlands Water Protection and Planning Council that the application is consistent with the requirements of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations and the Highlands regional master plan adopted pursuant thereto.

b. The department shall prescribe the form and content of a request for consent filed with a municipality pursuant to paragraph (3) of subsection a. of this section. The municipal consent request shall be limited to an identification of all municipal approvals with which the applicant is required to comply, the status of any applications filed therefor, and whether or not the municipality consents to the application and the specific reasons therefor. The request for consent form shall also advise that documentation and other information relating to the application have been filed and are available for review at the department. A municipality receiving a request for consent form shall have 30 days from the date of receipt of a copy of the application and request for consent form to file with the department the information requested, and its consent of, or objections to, the application. Municipal consent or objection to a groundwater remedial action shall be by resolution of the governing body of the municipality unless the governing body has, by resolution, delegated such authority to a qualified officer or entity thereof, in which case the endorsement shall be signed by the designated officer or official of the entity. Notwithstanding that a municipality objects to a permit application or fails to file a consent or objection to the permit application, the department may approve the applicant's permit application to discharge groundwater to surface water.

c. An application pursuant to subsection a. of this section shall be deemed complete, for the purposes of departmental review, within 30 days of the filing of the application with the department unless the department notifies the applicant, in writing, prior to expiration of the 30 days that the application has failed to satisfy one or more of the items identified in subsection a. of this section. If an application is determined to be complete, the department shall review and take final action on the completed application within 60 days from commencement of the review, or, if the parties mutually agree to a 30-day extension, within 90 days therefrom. The review period for a completed application shall commence immediately upon termination of the 30-day period, or upon determination by the department that the application is complete, whichever occurs first. If the department fails to take final action on a permit application for a general permit in the time frames set forth in this subsection, that general permit shall be deemed to have been approved by the department. The department shall review an application for a permit pursuant to subsection a. of this section and shall take action on that application pursuant to the time frames set forth in this subsection, notwithstanding that all of the municipal approvals have not been obtained, unless such approvals would materially affect the terms and conditions of the permit, except that in such instances the department may condition its approval of the application on the necessary municipal approvals being subject to the terms and conditions of the application.

d. The department may issue a general permit for the discharge of groundwater to surface water pursuant to a groundwater remedial action of discharged petroleum products as provided in subsection a. of this section.

e. (1) The department may not require a municipal consent of a treatment works application for a groundwater remedial action for which a permit application is submitted pursuant to subsection a. of this section.

(2) If a completed application for a treatment works approval for a groundwater remedial action is filed with the department at the same time as an application for a general permit therefor, the department shall concurrently review the two applications, except that the review of the application for the treatment works approval for a groundwater remedial action shall not

be subject to the time frames set forth in subsection c. of this section.

f. The provisions of this section shall apply to applications filed on or after the effective date of this act, except that the Department of Environmental Protection may implement any of the provisions of this section prior to that date.

g. The department may, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to implement the provisions of this act.

h. For purposes of this section:

"General permit" means a permit issued by the department for similar discharges.

"Groundwater remedial action" means the removal or abatement of one or more pollutants in a groundwater source.

"Local public entity" means a sewerage authority established pursuant to P.L.1946, c.138 (C.40:14A-1 et seq.), a municipal authority established pursuant to P.L.1957, c.183 (C.40:14B-1 et seq.), the Passaic Valley Sewerage Commissioners continued pursuant to R.S.58:14-2, a joint meeting established pursuant to R.S.40:63-68 et seq. or a local unit authorized to operate a sewerage facility pursuant to N.J.S.40A:26A-1 et seq., or any predecessor act.

"Underground storage tank" shall have the same meaning as in section 2 of P.L.1986, c.102 (C.58:10A-22), except that as used herein underground storage tanks shall include:

(1) farm underground storage tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) underground storage tanks used to store heating oil for on-site consumption in a nonresidential building with a capacity of 2,000 gallons or less; and

(3) underground storage tanks used to store heating oil for on-site consumption in a residential building.

80. Section 24 of P.L.1993, c.139 (C.58:10B-2) is amended to read as follows:

C.58:10B-2 Rules, regulations, deviations from regulations.

24. a. The department shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations establishing criteria and minimum standards necessary for the submission, evaluation and approval of plans or results of preliminary assessments, site investigations, remedial investigations, and remedial action workplans and for the implementation thereof. The documents for the preliminary assessment, site investigation, remedial investigation, and remedial action workplan required to be submitted for a remediation, shall not be identical to the criteria and standards used for similar documents submitted pursuant to federal law, except as may be required by federal law. In establishing criteria and minimum standards for these terms the department shall strive to be result oriented, provide for flexibility, and to avoid duplicate or unnecessarily costly or time consuming conditions or standards.

b. The regulations adopted by the department pursuant to subsection a. of this section shall provide that a person performing a remediation may deviate from the strict adherence to the regulations, in a variance procedure or by another method prescribed by the department, if that person can demonstrate that the deviation and the resulting remediation would be as protective of human health, safety, and the environment, as appropriate, as the department's regulations and that the health risk standards established in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12) and any applicable environmental standards would be met. Factors to be considered in determining if the deviation should be allowed are whether the alternative method:

(1) has been either used successfully or approved by the department in writing or similar situations;

(2) reflects current technology as documented in peer-reviewed professional journals;

(3) can be expected to achieve the same or substantially the same results or objectives as the method which it is to replace; and

(4) furthers the attainment of the goals of the specific remedial phase for which it is used.

The department shall make available to the public, and shall periodically update, a list of alternative remediation methods used successfully or approved by the department as provided in paragraph (1) of this subsection.

c. To the extent practicable and in conformance with the standards for remediations as

provided in section 35 of P.L.1993, c.139 (C.58:10-12), the department shall adopt rules and regulations that allow for certain remedial actions to be undertaken in a manner prescribed by the department without having to obtain prior approval from or submit detailed documentation to the department. A person who performs a remedial action in the manner prescribed in the rules and regulations of the department, and who certifies this fact to the department, shall obtain a no further action letter from the department for that particular remedial action.

d. The department shall develop regulatory procedures that encourage the use of innovative technologies in the performance of remedial actions and other remediation activities.

e. Notwithstanding any other provisions of this section, all remediation standards and remedial actions that involve real property located in the pinelands area shall be consistent with the provisions of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), any rules and regulations adopted pursuant thereto, and with section 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C. s.471i.

f. Notwithstanding any other provisions of this section, all remediation standards and remedial actions that involve real property located in the Highlands preservation area shall be consistent with the provisions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations and the Highlands regional master plan adopted pursuant thereto.

81. Section 35 of P.L.1993, c.139 (C.58:10B-12) is amended to read as follows:

C.58:10B-12 Adoption of remedial standards.

35. a. The Department of Environmental Protection shall adopt minimum remediation standards for soil, groundwater, and surface water quality necessary for the remediation of contamination of real property. The remediation standards shall be developed to ensure that the potential for harm to public health and safety and to the environment is minimized to acceptable levels, taking into consideration the location, the surroundings, the intended use of the property, the potential exposure to the discharge, and the surrounding ambient conditions, whether naturally occurring or man-made.

Until the minimum remediation standards for the protection of public health and safety as described herein are adopted, the department shall apply public health and safety remediation standards for contamination at a site on a case-by-case basis based upon the considerations and criteria enumerated in this section.

The department shall not propose or adopt remediation standards protective of the environment pursuant to this section, except standards for groundwater or surface water, until recommendations are made by the Environment Advisory Task Force created pursuant to section 37 of P.L.1993, c.139. Until the Environment Advisory Task Force issues its recommendations and the department adopts remediation standards protective of the environment as required by this section, the department shall continue to determine the need for and the application of remediation standards protective of the environment on a case-by-case basis in accordance with the guidance and regulations of the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory authorities as applicable.

The department may not require any person to perform an ecological evaluation of any area of concern that consists of an underground storage tank storing heating oil for on-site consumption in a one to four family residential building.

b. In developing minimum remediation standards the department shall:

(1) base the standards on generally accepted and peer reviewed scientific evidence or methodologies;

(2) base the standards upon reasonable assumptions of exposure scenarios as to amounts of contaminants to which humans or other receptors will be exposed, when and where those exposures will occur, and the amount of that exposure;

(3) avoid the use of redundant conservative assumptions. The department shall avoid the use of redundant conservative assumptions by the use of parameters that provide an adequate margin of safety and which avoid the use of unrealistic conservative exposure parameters and which

guidelines make use of the guidance and regulations for exposure assessment developed by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 42 U.S.C. s.9601 et seq. and other statutory authorities as applicable;

(4) where feasible, establish the remediation standards as numeric or narrative standards setting forth acceptable levels or concentrations for particular contaminants; and

(5) consider and utilize, in the absence of other standards used or developed by the Department of Environmental Protection and the United States Environmental Protection Agency, the toxicity factors, slope factors for carcinogens and reference doses for non-carcinogens from the United States Environmental Protection Agency's Integrated Risk Information System (IRIS).

c. (1) The department shall develop residential and nonresidential soil remediation standards that are protective of public health and safety. For contaminants that are mobile and transportable to groundwater or surface water, the residential and nonresidential soil remediation standards shall be protective of groundwater and surface water. Residential soil remediation standards shall be set at levels or concentrations of contamination for real property based upon the use of that property for residential or similar uses and which will allow the unrestricted use of that property without the need of engineering devices or any institutional controls and without exceeding a health risk standard greater than that provided in subsection d. of this section. Nonresidential soil remediation standards shall be set at levels or concentrations of contaminants that recognize the lower likelihood of exposure to contamination on property that will not be used for residential or similar uses, which will allow for the unrestricted use of that property for nonresidential purposes, and that can be met without the need of engineering controls. Whenever real property is remediated to a nonresidential soil remediation standard, except as otherwise provided in paragraph (3) of subsection g. of this section, the department shall require, pursuant to section 36 of P.L.1993, c.139 (C.58:10B-13), that the use of the property be restricted to nonresidential or other uses compatible with the extent of the contamination of the soil and that access to that site be restricted in a manner compatible with the allowable use of that property.

(2) The department may develop differential remediation standards for surface water or groundwater that take into account the current, planned, or potential use of that water in accordance with the "Clean Water Act" (33 U.S.C. s.1251 et seq.) and the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).

d. The department shall develop minimum remediation standards for soil, groundwater, and surface water intended to be protective of public health and safety taking into account the provisions of this section. In developing these minimum health risk remediation standards the department shall identify the hazards posed by a contaminant to determine whether exposure to that contaminant can cause an increase in the incidence of an adverse health effect and whether the adverse health effect may occur in humans. The department shall set minimum soil remediation health risk standards for both residential and nonresidential uses that:

(1) for human carcinogens, as categorized by the United States Environmental Protection Agency, will result in an additional cancer risk of one in one million;

(2) for noncarcinogens, will limit the Hazard Index for any given effect to a value not exceeding one.

The health risk standards established in this subsection are for any particular contaminant and not for the cumulative effects of more than one contaminant at a site.

e. Remediation standards and other remediation requirements established pursuant to this section and regulations adopted pursuant thereto shall apply to remediation activities required pursuant to the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), P.L.1986, c.102 (C.58:10A-21 et seq.), the "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et al.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et seq.), the "Major Hazardous Waste Facilities Siting Act," P.L.1981, c.279 (C.13:1E-49 et seq.), the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L.1981, c.306 (C.13:1E-100 et seq.),

the "Regional Low-Level Radioactive Waste Disposal Facility Siting Act," P.L.1987, c.333 (C.13:1E-177 et seq.), or any other law or regulation by which the State may compel a person to perform remediation activities on contaminated property. However, nothing in this subsection shall be construed to limit the authority of the department to establish discharge limits for pollutants or to prescribe penalties for violations of those limits pursuant to P.L.1977, c.74 (C.58:10A-1 et seq.), or to require the complete removal of nonhazardous solid waste pursuant to law.

f. (1) A person performing a remediation of contaminated real property, in lieu of using the established minimum soil remediation standard for either residential use or nonresidential use adopted by the department pursuant to subsection c. of this section, may submit to the department a request to use an alternative residential use or nonresidential use soil remediation standard. The use of an alternative soil remediation standard shall be based upon site specific factors which may include (1) physical site characteristics which may vary from those used by the department in the development of the soil remediation standards adopted pursuant to this section; or (2) a site specific risk assessment. If a person performing a remediation requests to use an alternative soil remediation standard based upon a site specific risk assessment, that person shall demonstrate to the department that the requested deviation from the risk assessment protocol used by the department in the development of soil remediation standards pursuant to this section is consistent with the guidance and regulations for exposure assessment developed by the United States Environmental Protection Agency pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 42 U.S.C.s.9601 et seq. and other statutory authorities as applicable. A site specific risk assessment may consider exposure scenarios and assumptions that take into account the form of the contaminant present, natural biodegradation, fate and transport of the contaminant, available toxicological data that are based upon generally accepted and peer reviewed scientific evidence or methodologies, and physical characteristics of the site, including, but not limited to, climatic conditions and topographic conditions. Nothing in this subsection shall be construed to authorize the use of an alternative soil remediation standard in those instances where an engineering control is the appropriate remedial action, as determined by the department, to prevent exposure to contamination.

Upon a determination by the department that the requested alternative remediation standard satisfies the department's regulations, is protective of public health and safety, as established in subsection d. of this section, and is protective of the environment pursuant to subsection a. of this section, the alternative residential use or nonresidential use soil remediation standard shall be approved by the department. The burden to demonstrate that the requested alternative remediation standard is protective rests with the person requesting the alternative standard and the department may require the submission of any documentation as the department determines to be necessary in order for the person to meet that burden.

(2) The department may, upon its own initiative, require an alternative remediation standard for a particular contaminant for a specific real property site, in lieu of using the established minimum residential use or nonresidential use soil remediation standard adopted by the department for a particular contaminant pursuant to this section. The department may require an alternative remediation standard pursuant to this paragraph upon a determination by the department, based on the weight of the scientific evidence, that due to specific physical site characteristics of the subject real property, including, but not limited to, its proximity to surface water, the use of the adopted residential use or nonresidential use soil remediation standards would not be protective, or would be unnecessarily overprotective, of public health or safety or of the environment, as appropriate.

g. The development, selection, and implementation of any remediation standard or remedial action shall ensure that it is protective of public health, safety, and the environment, as applicable, as provided in this section. In determining the appropriate remediation standard or remedial action that shall occur at a site, the department and any person performing the remediation, shall base the decision on the following factors:

(1) Unrestricted use remedial actions, limited restricted use remedial actions and restricted use remedial actions shall be allowed except that unrestricted use remedial actions and limited restricted use remedial actions shall be preferred over restricted use remedial actions. The

department, however, may not disapprove the use of a restricted use remedial action or a limited restricted use remedial action so long as the selected remedial action meets the health risk standard established in subsection d. of this section, and where, as applicable, is protective of the environment. The choice of the remedial action to be implemented shall be made by the person performing the remediation in accordance with regulations adopted by the department and that choice of the remedial action shall be approved by the department if all the criteria for remedial action selection enumerated in this section, as applicable, are met. The department may not require a person to compare or investigate any alternative remedial action as part of its review of the selected remedial action;

(2) Contamination may, upon the department's approval, be left onsite at levels or concentrations that exceed the minimum soil remediation standards for residential use if the implementation of institutional or engineering controls at that site will result in the protection of public health, safety and the environment at the health risk standard established in subsection d. of this section and if the requirements established in subsections a., b., c. and d. of section 36 of P.L.1993, c.139 (C.58:10B-13) are met;

(3) Real property on which there is soil that has not been remediated to the residential soil remediation standards, or real property on which the soil, groundwater, or surface water has been remediated to meet the required health risk standard by the use of engineering or institutional controls, may be developed or used for residential purposes, or for any other similar purpose, if (a) all areas of that real property at which a person may come into contact with soil are remediated to meet the residential soil remediation standards and (b) it is clearly demonstrated that for all areas of the real property, other than those described in subparagraph (a) above, engineering and institutional controls can be implemented and maintained on the real property sufficient to meet the health risk standard as established in subsection d. of this section;

(4) Remediation shall not be required beyond the regional natural background levels for any particular contaminant. The department shall develop regulations that set forth a process to identify background levels of contaminants for a particular region. For the purpose of this paragraph "regional natural background levels" means the concentration of a contaminant consistently present in the environment of the region of the site and which has not been influenced by localized human activities;

(5) Remediation shall not be required of the owner or operator of real property for contamination coming onto the site from another property owned and operated by another person, unless the owner or operator is the person who is liable for cleanup and removal costs pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.);

(6) Groundwater that is contaminated shall not be required to be remediated to a level or concentration for any particular contaminant lower than the level or concentration that is migrating onto the property from another property owned and operated by another person;

(7) The technical performance, effectiveness and reliability of the proposed remedial action in attaining and maintaining compliance with applicable remediation standards and required health risk standards shall be considered. In reviewing a proposed remedial action, the department shall also consider the ability of the owner or operator to implement the proposed remedial action within a reasonable time frame without jeopardizing public health, safety or the environment;

(8) The use of a remedial action for soil contamination that is determined by the department to be effective in its guidance document created pursuant to section 38 of P.L.1993, c.139 (C.58:10B-14), is presumed to be an appropriate remedial action if it is to be implemented on a site in the manner described by the department in the guidance document and applicable regulations and if all of the conditions for remedy selection provided for in this section are met. The burden to prove compliance with the criteria in the guidance document is with the person performing the remediation;

(9) (Deleted by amendment, P.L.1997, c.278).

The burden to demonstrate that a remedial action is protective of public health, safety and the environment, as applicable, and has been selected in conformance with the provisions of this subsection is with the person proposing the remedial action.

The department may require the person performing the remediation to supply the information

required pursuant to this subsection as is necessary for the department to make a determination.

h. (1) The department shall adopt regulations which establish a procedure for a person to demonstrate that a particular parcel of land contains large quantities of historical fill material. Upon a determination by the department that large quantities of historic fill material exist on that parcel of land, there is a rebuttable presumption that the department shall not require any person to remove or treat the fill material in order to comply with applicable health risk or environmental standards. In these areas the department shall establish by regulation the requirement for engineering or institutional controls that are designed to prevent exposure of these contaminants to humans, that allow for the continued use of the property, that are less costly than removal or treatment, which maintain the health risk standards as established in subsection d. of this section, and, as applicable, are protective of the environment. The department may rebut the presumption only upon a finding by the preponderance of the evidence that the use of engineering or institutional controls would not be effective in protecting public health, safety, and the environment. The department may not adopt any rule or regulation that has the effect of shifting the burden of rebutting the presumption. For the purposes of this paragraph "historic fill material" means generally large volumes of non-indigenous material, no matter what date they were emplaced on the site, used to raise the topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous solid waste. Historic fill material shall not include any material which is substantially chromate chemical production waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags or tailings.

(2) The department shall develop recommendations for remedial actions in large areas of historic industrial contamination. These recommendations shall be designed to meet the health risk standards established in subsection d. of this section, and to be protective of the environment and shall take into account the industrial history of these sites, the extent of the contamination that may exist, the costs of remedial actions, the economic impacts of these policies, and the anticipated uses of these properties. The department shall issue a report to the Senate Environment Committee and to the Assembly Agriculture and Waste Management Committee, or their successors, explaining these recommendations and making any recommendations for legislative or regulatory action.

(3) The department may not, as a condition of allowing the use of a nonresidential use soil remediation standard, or the use of institutional or engineering controls, require the owner of that real property, except as provided in section 36 of P.L.1993, c.139 (C.58:10B-13), to restrict the use of that property through the filing of a deed easement, covenant, or condition.

i. The department may not require a remedial action workplan to be prepared or implemented or engineering or institutional controls to be imposed upon any real property unless sampling performed at that real property demonstrates the existence of contamination above the applicable remediation standards.

j. Upon the approval by the department of a remedial action workplan, or similar plan that describes the extent of contamination at a site and the remedial action to be implemented to address that contamination, the department may not subsequently require a change to that workplan or similar plan in order to compel a different remediation standard due to the fact that the established remediation standards have changed; however, the department may compel a different remediation standard if the difference between the new remediation standard and the remediation standard approved in the workplan or other plan differs by an order of magnitude. The limitation to the department's authority to change a workplan or similar plan pursuant to this subsection shall only apply if the workplan or similar plan is being implemented in a reasonable timeframe, as may be indicated in the approved remedial action workplan or similar plan.

k. Notwithstanding any other provisions of this section, all remediation standards and remedial actions that involve real property located in the Pinelands area shall be consistent with the provisions of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), any rules and regulations promulgated pursuant thereto, and with section 502 of the "National Parks and Recreation Act of 1978," 16 U.S.C. s.471i; and all remediation standards and remedial actions

that involve real property located in the Highlands preservation area shall be consistent with the provisions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), and any rules and regulations and the Highland regional master plan adopted pursuant thereto.

l. Upon the adoption of a remediation standard for a particular contaminant in soil, groundwater, or surface water pursuant to this section, the department may amend that remediation standard only upon a finding that a new standard is necessary to maintain the health risk standards established in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12) or to protect the environment, as applicable. The department may not amend a public health based soil remediation standard to a level that would result in a health risk standard more protective than that provided for in subsection d. of section 35 of P.L.1993, c.139 (C.58:10B-12).

m. Nothing in P.L.1993, c.139 shall be construed to restrict or in any way diminish the public participation which is otherwise provided under the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

n. Notwithstanding any provision of subsection a. of section 36 of P.L.1993, c.139 (C.58:10B-13) to the contrary, the department may not require a person intending to implement a remedial action at an underground storage tank facility storing heating oil for on-site consumption at a one to four family residential dwelling to provide advance notice to a municipality prior to implementing that remedial action.

o. A person who has remediated a site pursuant to the provisions of this section, who was liable for the cleanup and removal costs of that discharge pursuant to the provisions of paragraph (1) of subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), and who remains liable for the discharge on that site due to a possibility that a remediation standard may change, undiscovered contamination may be found, or because an engineering control was used to remediate the discharge, shall maintain with the department a current address at which that person may be contacted in the event additional remediation needs to be performed at the site. The requirement to maintain the current address shall be made part of the conditions of the no further action letter issued by the department.

82. Section 1 of P.L.1999, c.225 (C.58:29-8) is amended to read as follows:

C.58:29-8 Annual appropriation to municipalities for lands subject to moratorium on conveyance of watershed lands.

1. There shall be appropriated each State fiscal year from the "Highlands Protection Fund" created pursuant to section 19 of P.L.2004, c.120 (C.54:1-85) to each municipality within which any lands subject to the moratorium on the conveyance of watershed lands imposed pursuant to section 1 of P.L.1988, c.163, as amended by section 1 of P.L.1990, c.19, are located an amount of \$47 per acre of such lands located within the municipality. Notwithstanding the provisions of this section to the contrary, the per acre amount of watershed moratorium offset aid prescribed by this section shall be adjusted annually in direct proportion to the increase or decrease in the Consumer Price Index for all urban consumers in the New York City area as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which the adjustment is made.

83. This act shall take effect immediately.

Approved August 10, 2004.