AN ACT concerning solar panels and impervious surfaces, and
amending and supplementing various parts of the statutory law.

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

1. R.S.12:5-3 is amended to read as follows:

12:5-3. a. All plans for the development of any waterfront upon
any navigable water or stream of this State or bounding thereon,
which is contemplated by any person or municipality, in the nature
of individual improvement or development or as a part of a general
plan which involves the construction or alteration of a dock, wharf,
pier, bulkhead, bridge, pipeline, cable, or any other similar or
dissimilar waterfront development shall be first submitted to the
Department of Environmental Protection [and Energy]. No such
development or improvement shall be commenced or executed
without the approval of the Department of Environmental
Protection [and Energy] first had and received, or as hereinafter in
this chapter provided.

b. The following are exempt from the provisions of subsection
a. of this section:

(1) The repair, replacement or renovation of a permanent dock,
wharf, pier, bulkhead or building existing prior to January 1, 1981,
provided the repair, replacement or renovation does not increase the
size of the structure and the structure is used solely for residential
purposes or the docking or servicing of pleasure vessels;

(2) The repair, replacement or renovation of a floating dock,
mooring raft or similar temporary or seasonal improvement or
structure, provided the improvement or structure does not exceed in
length the waterfront frontage of the parcel of real property to
which it is attached and is used solely for the docking or servicing
of pleasure vessels; and

(3) Development in the coastal area, as defined in section 4 of
P.L.1973, c.185 (C.13:19-4), landward of the mean high water line
of any tidal waters.

c. Notwithstanding the provisions of any law, rule, or
regulation to the contrary, the Department of Environmental
Protection shall not, as a condition of approval required pursuant to

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
subsection a. of this section, include solar panels in any calculation
of impervious surface or impervious cover.

As used in this subsection, “solar panel” means an elevated panel
or plate, or a canopy or array thereof, that captures and converts
solar radiation to produce power, and includes flat plate, focusing
solar collectors, or photovoltaic solar cells and excludes the base or
foundation of the panel, plate, canopy, or array.

(cf: P.L.1993, c.190, s.18)

2. (New section) Notwithstanding the provisions of the
comprehensive management plan or any rule or regulation to the
contrary, the commission shall not include solar panels in any
calculation of impervious surface or impervious cover that may be
required for an application for development in the pinelands area.

As used in this section, “solar panel” means an elevated panel or
plate, or a canopy or array thereof, that captures and converts solar
radiation to produce power, and includes flat plate, focusing solar
collectors, or photovoltaic solar cells and excludes the base or
foundation of the panel, plate, canopy, or array.

3. Section 3 of P.L.1973, c.185 (C.13:19-3) is amended to read
as follows:

3. As used in this act:

"Beach" means a gently sloping unvegetated area of sand or
other unconsolidated material found on tidal shorelines, including
ocean, inlet, bay and river shorelines, and that extends landward
from the mean high water line to either: the vegetation line; a man-
made feature generally parallel to the ocean, inlet, bay or river
waters such as a retaining structure, seawall, bulkhead, road or
boardwalk, except that sandy areas that extend fully under and
landward of an elevated boardwalk are considered to be beach
areas; or the seaward or bayward foot of dunes, whichever is closest
to the ocean, inlet, bay or river waters;

"Commercial development” means a development designed,
constructed or intended to accommodate commercial or office uses.
"Commercial development" shall include, but need not be limited
to, any establishment used for the wholesale or retail sale of food or
other merchandise, or any establishment used for providing
professional, financial, or other commercial services;

"Commissioner" means the Commissioner of Environmental
Protection; [and Energy];

"Department" means the Department of Environmental
Protection; [and Energy];

"Development” means the construction, relocation, or
enlargement of any building or structure and all site preparation
therefor, the grading, excavation or filling on beaches or dunes, and
shall include residential development, commercial development,
industrial development, and public development;
"Dune" means a wind- or wave-deposited or man-made
formation of vegetated sand that lies generally parallel to and
landward of the beach, and between the upland limit of the beach
and the foot of the most inland slope of the dune. Dune includes
the foredune, secondary and tertiary dune ridges, as well as man-
made dunes, where they exist;
"Dwelling unit" means a house, townhouse, apartment,
cooperative, condominium, cabana, hotel or motel room, a room in
a hospital, nursing home or other residential institution, mobile
home, campsite for a tent or recreational vehicle or any other
habitable structure of similar size and potential environmental
impact, except that dwelling unit shall not mean a vessel as defined
in section 2 of P.L.1962, c.73 (C.12:7-34.37);
"Governmental agency" means the Government of the United
States, the State of New Jersey, or any other state, or a political
subdivision, authority, agency or instrumentality thereof, and shall
include any interstate agency or authority;
"Industrial development" means a development that involves a
manufacturing or industrial process, and shall include, but need not
be limited to, electric power production, food and food by-product
processing, paper production, agri-chemical production, chemical
processes, storage facilities, metallurgical processes, mining and
evacuation processes, and processes utilizing mineral products;
"Person" means any individual, corporation, company,
association, society, firm, partnership, joint stock company, or
governmental agency;
"Public development" means a solid waste facility, including an
incinerator and landfill, wastewater treatment plant, public
highway, airport, an above or underground pipeline designed to
transport petroleum, natural gas, or sanitary sewage, and a public
facility, and shall not mean a seasonal or temporary structure
related to the tourism industry, an educational facility or power
lines;
"Public highway" means a public highway as defined in section 3
of P.L.1984, c.73 (C.27:1B-3);
"Reconstruction" means the repair or replacement of a building,
structure, or other part of a development;
"Residential development" means a development that provides
one or more dwelling units; and
“Solar panel” means an elevated panel or plate, or a canopy or
array thereof, that captures and converts solar radiation to produce
power, and includes flat plate, focusing solar collectors, or
photovoltaic solar cells and excludes the base or foundation of the
panel, plate, canopy, or array.
(cf: P.L.1993, c.190, s.3)
4. (New section) Notwithstanding the provisions of any rule or regulation to the contrary, the department shall not include solar panels in any calculation of impervious surface or impervious cover that may be required as a condition of approval of an application to construct or undertake a development in the coastal area, pursuant to the provisions of P.L.1973, c.185 (C.13:19-1 et seq.).

As used in this section, “solar panel” means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.

5. Section 3 of P.L.2004, c.120 (C.13:20-3) is amended to read as follows:

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
"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. Solar
panels shall not be included in any calculation of impervious
surface.
"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;

“Solar panel” means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array;

"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.

(cf: P.L.2004, c.120, s.3)

6. Section 31 of P.L.2004, c.120 (C.13:20-29) is amended to read as follows:

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.

(4) Solar panels shall not be included in any calculation of agricultural impervious cover pursuant to this subsection.

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 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.

(1) P.L.2004, c.120, s.31

7. Section 34 of P.L.2004, c.120 (C.13:20-32) is amended to read as follows:

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, and solar panels shall not be included in the calculation of impervious surface;
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
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protect threatened and endangered animal and plant species sites
and designated habitats.
(cf: P.L.2004, c.120, s.34)

8. Section 8 of P.L.1968, c.285 (C.40:27-6.6) is amended to
read as follows:

8. The governing body of any county having a county planning
board may provide for the review of site plans for land development
along county roads or affecting county drainage facilities as
provided in subsection e. of this section and for the approval of
such development as hereinafter set forth and limited for the
purpose of assuring a safe and efficient county road system. Such
review and approval shall be in conformance with procedures and
standards adopted by resolution or ordinance as appropriate of the
governing body. Notice of the public hearing on a proposed
resolution or ordinance of the governing body establishing
procedures and standards to govern the review and regulation of
land development along county roads or affecting county drainage
facilities as provided in subsection e. of this section, and a copy of
such resolution or ordinance, shall be given by delivery or by
certified mail to the municipal clerk, secretary of the planning
board and secretary of the board of adjustment of each municipality
in the county at least 10 days prior to such hearing. These
procedures and standards shall be limited to:

a. The submission of a site plan, prior to the issuance of a
municipal building permit, drawn in accordance with standards in
the resolution or ordinance for any proposed land development,
excluding single family residential development but including
proposed commercial, industrial, multifamily structures containing
five or more units, or any other land development requiring off-
street parking area or producing surface runoff in excess of
standards set forth in the site plan review and approval resolution or
ordinance of the governing body.

b. The requirement of dedication of additional right-of-way in
accordance with the county master plan adopted by the county
planning board or an official county map adopted by the governing
body. Where by reason of special or unusual conditions said total
additional right-of-way is to be secured from just one side of an
existing road, only one-half of the additional right-of-way may be
required to be dedicated.

c. The requirement of physical improvements subject to
recommendations of the county engineer relating to the safety and
convenience of the traveling public, including drainage facilities, or
other highway and traffic design features as may be deemed
necessary on such county road or roads in accordance with the
engineering and planning standards established in the site plan
review and approval resolution or ordinance of the governing body.
d. The requirement of performance and payment guarantees and procedures for the release of same, maintenance bonds of not more than 2 years' duration from the date of acceptance of improvements, cash contributions, and agreements specifying minimum standards of construction for required improvements. Procedures for, and limitations on the requirement of such guarantees or cash contributions shall be governed by the provisions of this act.

e. The requirement of adequate drainage facilities and easements when, as determined by the county engineer in accordance with county-wide standards, the proposed site plan will cause storm water to drain either directly or indirectly to a county road or through any drainage-way, structure, pipe, culvert or facility for which the county is responsible for the construction, maintenance or proper functioning.

Site plans for land development not along a county road that include less than 1 acre of impervious surfaces are exempt from county site plan review.

f. For the purposes of any county site plan review, solar panels shall not be included in any calculation of impervious surface or impervious cover.

As used in this subsection, “solar panel” means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.

(cf: P.L.1981, c.50, s.1)

9. (New section) An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall not include solar panels in any calculation of impervious surface or impervious cover.

As used in this section, “solar panel” means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.

10. Section 3 of P.L.1981, c.32 (C.40:55D-95) is amended to read as follows:

3. A storm water management plan and a storm water management ordinance or ordinances shall conform to all relevant federal and State statutes, rules and regulations concerning storm water management or flood control and shall be designed: a. to reduce flood damage, including damage to life and property; b. to minimize storm water runoff from any new land development where such runoff will increase flood damage; c. to reduce soil erosion
from any development or construction project; d. to assure the 
adequacy of existing and proposed culverts and bridges; e. to induce 
water recharge into the ground where practical; f. to prevent, to the 
greatest extent feasible, an increase in nonpoint pollution; g. to 
maintain the integrity of stream channels for their biological 
functions, as well as for drainage; and h. to minimize public safety 
hazards at any storm water detention facilities constructed as part of 
a subdivision or pursuant to a site plan. A storm water management 
plan shall also include such structural changes and such additional 
nonstructural measures and practices as may be necessary to 
manage storm water. A storm water management plan and a storm 
water management ordinance or ordinances shall not be construed 
to prohibit solar panels to be constructed and installed on a site. 
Solar panels shall not be included in any calculation of impervious 
surface or impervious cover.

For purposes of this act:

"Nonpoint" pollution means pollution from any 
source other than from any discernible, confined and discrete 
conveyance, and shall include, but not be limited to, pollutants from 
agricultural, silvicultural, mining, construction, subsurface disposal 
and urban runoff sources.

"Solar panel" means an elevated panel or plate, or a canopy or 
array thereof, that captures and converts solar radiation to produce 
power, and includes flat plate, focusing solar collectors, or 
photovoltaic solar cells and excludes the base or foundation of the 
panel, plate, canopy, or array.

(cf: P.L.1991, c.194, s.1)

11. Section 4 of P.L.2009, c.82 (C.45:22A-46.6) is amended to 
read as follows:

a. A developer seeking to change an age-restricted 
development approval to a converted development approval shall 
file an application with the approving board seeking an amendment 
to the previously granted approvals requesting the authority to 
develop the land as a converted development. At such time, the 
developer shall also file a copy of said notice with the municipal 
clerk of the municipality in which the development is located and 
the developer shall provide notice prior to a hearing on the 
application in the manner prescribed by section 7.1 of P.L.1975, 
c.291 (C.40:55D-12).

(1) No application for an amended approval seeking the 
authority to construct a converted development shall be considered 
a "use variance" or other "d' variance" application pursuant to 
subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70). Both 
planning boards that initially granted approvals for the age-
restricted development and zoning boards of adjustment that 
initially granted approvals for the age-restricted development shall
have the legal authority to grant amended approvals for a converted
development without the need to seek relief pursuant to subsection
d. of section 57 of P.L.1975, c.291 (C.40:55D-70), it being the
intent of this act that such converted developments are to be
considered permitted uses in the zoning district in which they are
located.

b. Applications seeking amended approval for a converted
development shall include documentation that all of the following
site improvement and infrastructure requirements have been met:
(1) the site meets the Residential Site Improvement Standards
parking requirement for the residential land uses in a converted
development as established pursuant to N.J.A.C.5:21-4.14 through -
4.16;
(2) the recreation improvements and other amenities to be
constructed on the site have been revised, as needed, to meet the
needs of a converted development;
(3) the water supply system is adequate, as determined pursuant
to N.J.A.C.5:21-5.1, to meet the needs of a converted development;
(4) the capacity of the sanitary sewer system is adequate to meet
the projected flow requirements of a converted development
pursuant to N.J.A.C.7:14A-23.3;
(5) if additional water supply or sewer capacity is needed and
the developer is unable to obtain additional supply or capacity, the
number of dwelling units in the development has been reduced
accordingly;
(6) if additional parking is needed, and the developer is unable
to provide the required parking, the number of dwelling units in the
development has been reduced accordingly; and
(7) if additional parking is provided and increases the amount of
impervious cover by more than one percent, the storm water system
calculations and improvements have been revised accordingly,
except that solar panels shall not be included in any calculation of
impervious surface or impervious cover. As used in this paragraph,
“solar panel” means an elevated panel or plate, or a canopy or array
thereof, that captures and converts solar radiation to produce power,
and includes flat plate, focusing solar collectors, or photovoltaic
solar cells and excludes the base or foundation of the panel, plate,
canopy, or array.

c. If the approving board determines that the requirements of
P.L.2009, c.82 (C.45:22A-46.3 et seq.) have been satisfied, and the
conversion can be granted without substantial detriment to the
public good and will not substantially impair the intent and purpose
of the zone plan and zoning ordinance, the application for the
conversion shall be approved.
(cf: P.L.2009, c.82, s.4)

12. This act shall take effect immediately.
Exempts solar panels from impervious surface or impervious cover designation.