

CHAPTER 256

AN ACT concerning forest stewardship, supplementing Title 13 of the Revised Statutes, amending and supplementing P.L.1964, c.48, and amending P.L.2004, c.120 and P.L.2005, c.367.

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

C.13:1L-29 Findings, declarations relative to forest stewardship.

1. a. The Legislature finds and declares that forest lands are critical to the environmental welfare of the State; that forest lands help clean and refresh the air by filtering dust and particulates; that forest lands absorb carbon dioxide and release oxygen, helping to reduce global warming; that forest lands help clean and protect the waters of the State, promote replenishment of aquifers, stabilize soils, provide shade, and provide habitat essential to sustaining New Jersey's native biodiversity, including habitat critical for endangered and threatened species and species of special concern; and that it is proper to consider the management of forests in a sustainable manner as an agricultural or horticultural use which yields public benefits.

b. The Legislature further finds and declares that forest lands are critical to the social welfare of the State; that forest lands are a necessary and important part of community and urban environments, and are essential to the maintenance of quality of life in the State; that forest lands afford outdoor recreational opportunities and irreplaceable aesthetic benefits; and that forest lands promote the health of the citizenry by contributing to the availability of clean air and water.

c. The Legislature further finds and declares that forest lands contribute to the economic well being of the State through increased property values, ecotourism, business opportunities, and forest products, and through helping to preserve New Jersey as a place where both employers and skilled and talented employees choose to reside.

d. The Legislature further finds and declares that forest lands are an irreplaceable component of the environment worthy of conservation and stewardship and that they must be nurtured to guarantee sustained and improved yields of forest benefits; that the State's publicly and privately owned forest lands are now seldom managed effectively due to a lack of guidance, resources, and incentives for improved forest stewardship; and that care and management of forest lands could be enhanced through the establishment of a forest stewardship program.

e. The Legislature therefore determines that it is in the public interest to establish a forest stewardship program to develop and promote the long-term active management of the State's forest resources in order to preserve and enhance those resources and realize the benefits thereof.

C.13:1L-30 Definitions relative to forest stewardship.

2. As used in sections 1 through 8 of P.L.2009, c.256 (C.13:1L-29 through C.13:1L-36):
"Department" means the Department of Environmental Protection.

"Forest stewardship plan" means a plan prepared and implemented by an owner of forest land, and approved by the department, pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31).

"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.

"Owner" means an owner of forest land.

“Sustainability” means, with respect to forest land, having the ability to: (1) maintain its ecological processes, biodiversity, resource productivity, regeneration capacity, and vitality; and promote forest health, preclude the spread of invasive non-native species, maintain forest integrity and contiguity, preserve New Jersey’s native biodiversity, and protect endangered and threatened species and species of special concern and the habitat that sustains them; and (2) realize the potential to fulfill now and for future generations, relevant ecological, environmental, economic, and social functions, including but not limited to protection and improvement of air quality and of water supply and water quality, stabilization of soils, prevention and suppression of uncontrolled wildfires, service of markets for forest products, provision of recreational opportunities, and improvement of quality of life.

“Sustainable manner” means employing practices for the use and care of forest land that promote sustainability and do not cause damage to other ecosystems, and avoiding acts and omissions that undermine sustainability.

C.13:1L-31 Forest stewardship program, plan.

3. a. The department shall establish a forest stewardship program under which an owner, in conjunction with a forester or other professional selected by the owner from a list of foresters approved by the department, or from a list of other professionals authorized by the department in consultation with the forest stewardship advisory committee established pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36), may prepare a forest stewardship plan for land, five acres or greater in area, submit the plan to the department for approval, and implement the plan as approved, or as subsequently amended with the approval of the department.

A forest stewardship plan, at a minimum, shall:

(1) conform with the rules and regulations adopted pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36) designed to ensure the sustainability of forest lands;

(2) list the owner’s long term stewardship goals for the forest land; and, for each year that the plan applies, list the activities to be implemented that year, including the activities designed to ensure the sustainability of the forest land as well as activities designed to eliminate excessive and unnecessary cutting, and provide the rationale for each activity listed; and

(3) establish the monitoring, recordkeeping, and reporting necessary to document implementation of the forest stewardship plan, including documentation of activities and inspections performed.

Notwithstanding the provisions of section 6 of P.L.2009, c.256 (C.13:1L-34), a forest stewardship plan submitted for land in the pinelands area shall comply with the standards of the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.).

b. The department may elect to inspect the forest land, prior to determining whether to approve a forest stewardship plan, in order to assess the appropriateness and sufficiency of the proposed plan.

After the department approves a forest stewardship plan, the forest land shall be subject to inspection by the department during one of the first three years following approval and at least once every three years following the first inspection.

c. A forest stewardship plan shall be valid for a period of 10 years, unless sooner terminated by the owner or revoked by the department. To continue, without interruption, participation in the forest stewardship program, an owner shall prepare a new or revised

forest stewardship plan pursuant to subsection a. of this section and, in accordance with procedures established by the department, obtain the department's approval of the new or revised forest stewardship plan prior to the expiration date of the current forest stewardship plan.

d. A forest stewardship plan approved pursuant to this section shall be considered to be a woodland management plan pursuant to section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.3) when the approved forest stewardship plan is submitted as part of an application for valuation, assessment and taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

C.13:1L-32 Forest certification program.

4. a. For the purposes of section 1 of P.L.2005, c.367 (C.52:32-45), the department shall establish a forest certification program under which the department may certify that forest land is managed in a sustainable manner, provided that:

(1) the owner has obtained a forest stewardship plan approved by the department pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31); and

(2) the owner and a forester or other professional selected by the owner from a list of foresters approved by the department, or from a list of other professionals authorized by the department in consultation with the forest stewardship advisory committee established pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36), has annually attested to full compliance with the forest stewardship plan for at least two years.

b. Certification pursuant to subsection a. of this section, or renewal thereof, shall be in accordance with procedures established by the department and shall be valid for five years, except that the department may withdraw certification if the department determines that the owner has failed to maintain full implementation of the forest stewardship plan. To maintain in good standing the certification of forest land beyond the date that a forest stewardship plan expires, the owner shall obtain the department's approval of a new or revised forest stewardship plan pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31) prior to the expiration date of the current forest stewardship plan.

C.13:1L-33 "Forest Stewardship Incentive Fund."

5. a. There is established in the General Fund a special nonlapsing fund, to be known as the "Forest Stewardship Incentive Fund." Moneys in the fund shall be dedicated to:

(1) providing grants to persons for the purpose of developing and implementing a forest stewardship plan pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31);

(2) paying the costs of the department to develop, implement, and administer the provisions of P.L.2009, c.256 (C.13:1L-29 et al.); and

(3) providing for the stewardship and management of State forests.

b. The fund shall be credited with:

(1) the amount allocated for programs that enhance the stewardship and restoration of the State's forests pursuant to section 7 of P.L.2007, c.340 (C.26:2C-51) from the "Global Warming Solutions Fund," established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50);

(2) any other moneys as may be appropriated to the fund by the Legislature or otherwise provided to the fund; and

(3) any return on the investment of moneys deposited in the fund.

c. In each State fiscal year, the amount credited to the Forest Stewardship Incentive Fund shall be appropriated to the fund for the purposes set forth in this section.

d. The department may award individual grants of up to \$1,500 from the fund to pay for the cost of developing a forest stewardship plan pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31). If the cost of developing a forest stewardship plan exceeds \$1,500, the department may also award 80 percent of the cost that exceeds \$1,500 to the owner, up to a maximum grant of \$2,500. Grants from the fund may be made to local government units, nonprofit organizations, and private owners of forest land. Notwithstanding the provisions of this subsection to the contrary, the amount of the grants prescribed by this subsection may be adjusted annually by the department in direct proportion to the increase in the Consumer Price Index for all urban consumers in the New York City area as reported by the United States Department of Labor.

e. The department may award individual grants through a cost-sharing program established pursuant to subsection c. of section 8 of P.L.2009, c.256 (C.13:1L-36) to private owners who have obtained a forest stewardship plan approved by the department pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31). The department shall expend no more than \$150,000 in any State fiscal year for grants awarded through the cost-sharing program.

C.13:1L-34 Enactment of conflicting ordinance, rule, regulation prohibited.

6. No local government unit may enact, on or after the date of enactment of P.L.2009, c.256 (C.13:1L-29 et al.), any ordinance, rule, or resolution, as appropriate, that conflicts with, prevents or impedes the implementation of a forest stewardship plan approved pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31) or impose a fee in excess of \$100 in any calendar year for the cutting of trees on any land that is the subject of an approved forest stewardship plan. The provisions of P.L.2009, c.256 (C.13:1L-29 et al.) supersede any such ordinance, rule, or resolution, as appropriate, enacted or adopted on or prior to the date of enactment of P.L.2009, c.256 (C.13:1L-29 et al.).

C.13:1L-35 Forest sustainability criteria, indicators.

7. a. The department, utilizing guidance provided by the United States Forest Service and in consultation with the forest stewardship advisory committee established pursuant to subsection d. of section 8 of P.L.2009, c.256 (C.13:1L-36), and with the benefit of public comment, shall develop and establish forest sustainability criteria and indicators appropriate to the circumstances encountered in New Jersey, as a basis for monitoring, recording, and assessing the extent, condition, and sustainability of all New Jersey forests, whether publicly or privately owned. The department shall prepare a report setting forth the findings and assessments based on these forest sustainability criteria and indicators by February 1 of the third year after the date of enactment of P.L.2009, c.256 (C.13:1L-29 et al.), and every seven years thereafter, which report shall include any recommendations for legislative or administrative action. The Commissioner of Environmental Protection shall transmit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

b. The department shall consider the findings and assessments set forth in the forest sustainability criteria and indicators report prepared pursuant to subsection a. of this section to determine how to adapt the rules and regulations adopted pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36) to ensure the sustainability of forest lands, to set priorities for

the management of State-owned forest lands, and to assist in establishing priorities for the use of State funds for the acquisition of forest lands.

C.13:1L-36 Rules, regulations.

8. The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary for the implementation of P.L.2009, c.256 (C.13:1L-29 et al.), including rules and regulations:

a. setting forth policies, guidelines and best management practices that establish standards designed to ensure the sustainability of forest lands, which may be applicable to any publicly and privately owned forest land;

b. establishing, in consultation with the forest stewardship advisory committee established pursuant to subsection d. of this section, professional standards and requirements of persons in addition to foresters on the list approved by the department, authorized to prepare forest stewardship plans pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31);

c. establishing, in consultation with the forest stewardship advisory committee established pursuant to subsection d. of this section, a cost-sharing program modeled upon the federal forest land enhancement program established pursuant to 16 U.S.C. s.2103 to provide individual grants to private owners to assist with a portion of the costs associated with the implementation of forest stewardship plans approved by the department pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31); and identifying eligibility criteria, establishing the reimbursement rate, and developing a priority ranking system for grant applications; and

d. establishing a forest stewardship advisory committee, consistent with the federal requirements for the establishment of a State Forest Stewardship Coordinating Committee pursuant to 16 U.S.C. s.2113, to advise the department (1) on issues related to forest stewardship and recommend programs, actions and standards, including rules and regulations, policies, guidelines and best management practices, for the conservation and stewardship of forest lands, and (2) with respect to the standards and requirements to be established pursuant to subsection b. of this section.

C.54:4-23.7a Definitions applicable to C.54:4-23.7a and C.54:4-23.7b.

9. As used in this section and section 10 of P.L.2009, c.256 (C.54:4-23.7a and C.54:4-23.7b):

"Forest stewardship plan" means a plan prepared and implemented by an owner of forest land, and approved by the Department of Environmental Protection, pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31).

"Owner" means an owner of forest land.

"Woodland management plan" means a plan prepared and implemented by an owner of forest land or woodland pursuant to section 3 of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.3) and any rule or regulation adopted pursuant thereto.

C.54:4-23.7b Provision of plan with application.

10. a. Notwithstanding any provision of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, an owner who annually submits an application pursuant to subsection c. of section 3 of P.L.1964, c.48 (C.54:4-23.3) may provide a forest stewardship plan or a woodland management plan to accompany the application.

b. When a forest stewardship plan is submitted with an application pursuant to subsection a. of this section, the forest land shall not be deemed to be actively devoted to agricultural or horticultural use for the two successive years immediately preceding the tax year in issue if the forest stewardship plan has expired during those two years and a new forest stewardship plan has not been approved prior to the expiration date of the current forest stewardship plan.

c. In the case where a forest stewardship plan was approved more than two years preceding the tax year in issue, the forest land shall be deemed to be actively devoted to agricultural or horticultural use and to have been so devoted for at least the two successive years immediately preceding the tax year in issue if the owner has implemented in full the approved forest stewardship plan for at least the two successive years immediately preceding the tax year in issue.

d. In the case where a forest stewardship plan was approved less than two years preceding the tax year in issue, the forest land shall be deemed to be actively devoted to agricultural or horticultural use and to have been so devoted for at least two successive years immediately preceding the tax year in issue if:

(1) the owner has implemented in full the forest stewardship plan once it was approved; and

(2) for at least the remaining portion of the two-year period immediately preceding the tax year in issue, prior to the approval of the forest stewardship plan, the forest land qualifies, pursuant to sections 5 and 6 of the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.5 and C.54:4-23.6), to be deemed to have been actively devoted to agricultural or horticultural use. Additionally, if the land was devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, and is not appurtenant woodland, the owner must have established a woodland management plan more than two years preceding the tax year in issue and complied with that plan until such time as a forest stewardship plan was approved pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31).

e. The Department of Environmental Protection, in consultation with the Department of Agriculture and the Department of the Treasury, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary for the implementation of this section.

11. Section 30 of P.L.2004, c.120 (C.13:20-28) is amended to read as follows:

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 a forest stewardship plan approved pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31), or the normal harvesting of forest products in accordance with a forest management plan or forest stewardship 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.

12. Section 1 of P.L.2005, c.367 (C.52:32-45) is amended to read as follows:

C.52:32-45 Preference in contracts for wood, paper products derived from sustainably managed forests, procurement systems.

1. a. Notwithstanding the provisions of any other law to the contrary, the Director of the Division of Purchase and Property in the Department of the Treasury, the Director of the Division of Property Management and Construction in the Department of the Treasury, or any State agency having authority to contract for the purchase of goods or services, shall whenever possible give preference to wood or paper products derived from sustainably managed forests or procurement systems when entering into or renewing a contract for the purchase of such goods or related services. Any preference provided pursuant to this subsection may not supersede any preference given to recycled paper and paper products pursuant to P.L.1987, c.102 (C.13:1E-99.11 et seq.).

In preparing the specifications for any contract for the purchase of goods and services the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, or any State agency having authority to contract for the purchase of goods or services shall include in the invitation to bid, where relevant, a statement that any response to the invitation that proposes or calls for the use of wood or paper products derived from sustainably managed forests or procurement systems shall receive preference whenever possible.

b. The provisions of subsection a. of this section shall not apply:

(1) To any binding contractual obligations for the purchase of goods or services entered into prior to the effective date of P.L.2005, c.367 (C.52:32-45 et seq.);

(2) To bid packages advertised and made available to the public, or to any competitive and sealed bids received by the State, prior to the effective date of P.L.2005, c.367 (C.52:32-45 et seq.); or

(3) To any amendment, modification, or renewal of a contract, which contract was entered into prior to the effective date of P.L.2005, c.367 (C.52:32-45 et seq.) where the application would delay timely completion of a project or involve an increase in the total moneys to be paid by the State under that contract.

c. For the purposes of P.L.2005, c.367 (C.52:32-45 et seq.), "derived from sustainably managed forests or procurement systems" means the source of the wood or paper product is a forest or system for procuring wood or paper products that is certified by the Department of Environmental Protection under the forest certification program established pursuant to section 4 of P.L.2009, c.256 (C.13:1L-32) or by an independent third party using one or more of the following certification programs or standards:

(1) The Sustainable Forestry Initiative program;

(2) The American Forest Foundation American Tree Farm System program;

(3) The sustainable forest management system standards of the Canadian Standards Association;

(4) The Forest Stewardship Council certification program;

- (5) The Pan-European forest certification system;
- (6) The Finnish Forest Certification System;
- (7) The United Kingdom Woodland Assurance Standard;
- (8) The International Organization for Standardization (ISO) standard 14001; or
- (9) Any other certification program or standard that the State Treasurer or the Commissioner of Environmental Protection determines may be used to certify that wood or paper products are derived from sustainably managed forests or procurement systems.

13. Section 3 of P.L.1964, c.48 (C.54:4-23.3) is amended to read as follows:

C.54:4-23.3 Agricultural use of land.

3. Land shall be deemed to be in agricultural use when devoted to the production for sale of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding, boarding, raising, rehabilitating, training or grazing of any or all of such animals, except that "livestock" shall not include dogs; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government, except that land which is devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, or devoted as sustainable forestland, and is not appurtenant woodland, shall not be deemed to be in agricultural use unless the landowner fulfills the following additional conditions:

a. The landowner establishes and complies with the provisions of a forest stewardship plan for this land, approved by the Department of Environmental Protection pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31), or a woodland management plan for this land, prepared in accordance with policies, guidelines and practices approved by the Division of Parks and Forestry in the Department of Environmental Protection, in consultation with the Department of Agriculture and the Dean of Cook College at Rutgers, The State University, which policies, guidelines and practices are designed to eliminate excessive and unnecessary cutting;

b. The landowner, and a forester from a list of foresters approved by the Department of Environmental Protection or other professional from a list of other professionals authorized by the department in consultation with the forest stewardship advisory committee established pursuant to section 8 of P.L.2009, c.256 (C.13:1L-36), annually attest to compliance with subsection a. of this section; and

c. The landowner annually submits an application, as prescribed in section 13 of P.L.1964, c.48 (C.54:4-23.13), to the assessor, accompanied by a copy of the plan established pursuant to subsection a. of this section; written documentation of compliance with subsection b. of this section; a supplementary woodland data form setting forth woodland management actions taken in the pre-tax year, the type and quantity of tree and forest products sold, and the amount of income received or anticipated for same; a map of the land showing the location of the activity and the soil group classes of the land; and other pertinent information required by the Director of the Division of Taxation as part of the application for valuation, assessment and taxation, as provided in P.L.1964, c.48 (C.54:4-23.1 et seq.). The landowner shall, at the same time, submit to the Commissioner of the Department of Environmental Protection an exact copy of the application and accompanying

information submitted to the assessor pursuant to this subsection. For the purposes of this amendatory and supplementary act, "appurtenant woodland" means a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.

For the purposes of section 7 of P.L.2009, c.213 and P.L.1964, c.48 (C.54:4-23.1 et seq.):

(1) agricultural use shall also include biomass, solar, or wind energy generation, provided that the biomass, solar, or wind energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor; and

(2) "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner, except with respect to preserved farmland, "biomass" means the same as that term is defined in section 1 of P.L.2009, c.213 (C.4:1C-32.4).

14. Section 5 of P.L.1964, c.48 (C.54:4-23.5) is amended to read as follows:

C.54:4-23.5 Land deemed actively devoted to agricultural or horticultural use.

5. a. Except as otherwise provided in subsection b. of this section, land, five acres in area, shall be deemed to be actively devoted to agricultural or horticultural use when the amount of the gross sales of agricultural or horticultural products produced thereon, any payments received under a soil conservation program, fees received for breeding, raising or grazing any livestock, income imputed to land used for grazing in the amount determined by the State Farmland Evaluation Advisory Committee created pursuant to section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under this act, have averaged at least \$500.00 per year during the two-year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$500.00 within a reasonable period of time.

In addition, where the land is more than five acres in area, it shall be deemed to be actively devoted to agricultural or horticultural use when the amount of the gross sales of agricultural or horticultural products produced on the area above five acres, any payments received under a soil conservation program, fees received for breeding, raising or grazing any livestock, income imputed to land used for grazing in the amount determined by the State Farmland Evaluation Advisory Committee created pursuant to section 20 of P.L.1964, c.48 (C.54:4-23.20), and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for valuation, assessment and taxation under this act, have averaged at least \$5.00 per acre per year during the two-year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to an average of at least \$5.00 per year within a reasonable period of time; except in the case of woodland and wetland, where the minimum requirement shall be an average of \$0.50 per acre on the area above five acres.

As used in this section, "livestock" shall not include dogs.

For the purposes of this section, the presence of an intervening public thoroughfare shall not preclude a finding of contiguity.

Land previously qualified as actively devoted to agricultural or horticultural use under the act; but failing to meet the additional requirement on acreage above five acres shall not be subject to the roll-back tax because of such disqualification, but shall be treated as land for which an annual application has not been submitted.

In determining the eligibility of land for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.), the assessor of the taxing district in which the land is located shall, upon request by the owner of the land, exempt the owner from the income requirements of this section if the owner demonstrates to the satisfaction of the assessor that the failure to meet the income requirements was due to an injury, illness or death of the person responsible for performing the activities which produce the income necessary to meet the income eligibility requirement of this section. The request of the owner shall be accompanied by a certificate of a physician stating that the person was physically incapacitated or by a certified copy of the death certificate, as the case may be. The assessor may only grant an exemption once for a particular illness, injury or death.

b. The gross sales, payments, imputed income, and fees received pursuant to the requirements of this section shall not apply to land that (1) is the subject of a forest stewardship plan approved by the Department of Environmental Protection pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31) which is fully implemented, and (2) otherwise qualifies under the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), for valuation, assessment and taxation as land in agricultural or horticultural use pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3).

15. Section 14 of P.L.1964, c.48 (C.54:4-23.14) is amended to read as follows:

C.54:4-23.14 Application form; contents.

14. Application for valuation, assessment and taxation of land in agricultural or horticultural use under this act shall be on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury, and provided for the use of claimants by the governing bodies of the respective taxing districts. The form of application shall provide for the reporting of information pertinent to the provisions of Article VIII, Section 1, paragraph 1(b) of the Constitution, as amended, and this act. A certification by the landowner that the facts set forth in the application are true may be prescribed by the director to be in lieu of a sworn statement to that effect. Statements so certified shall be considered as if made under oath and subject to the same penalties as provided by law for perjury. Any landowner, except those who have submitted a woodland management plan or a forest stewardship plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3), who is an applicant for valuation, assessment and taxation pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) for lands not previously qualified under the act shall submit with the application a map of land use classes and soil groups that conforms with standards established by the Division of Taxation in consultation with the Secretary of Agriculture. The director shall devise a form for the extension of filing time for the valuation application, which form shall include the name and address of the applicant, the reason for the extension, and a space for the approval or rejection of the assessor.

16. This act shall take effect one year following the date of enactment, but the Commissioner of Environmental Protection may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 17, 2010.