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ENVIRONMENTAL PROTECTION

NATURAL AND HISTORIC RESOURCES

Green Acres Program Rules

Proposed Readoption: N.J.A.C. 7:36

Authorized by Bob Martin, Commissioner

Department of Environmental Protection

Authority: N.J.S.A. 13:8A-1 et seq., 13:8A-19 et seq., 13:8A-35 et seq., 13:8c-1 et seq., and P.L. 1961, c.46; P.L. 1971, c.165; P.L. 1974, c.102; P.L. 1978, c.118; P.L. 1983, c.354; P.L. 1987, c.265; P.L. 1989, c.183; P.L. 1992, c.88; P.L. 1995, c.204; P.L. 1999, c. 152; P.L. 2007, c. 119; and P.L. 2009, c. 117.

Calendar Reference: See summary below for an explanation of the exception to calendar requirement.

DEP Docket No.: 01-11-01

Proposal Number:

Submit written comments by _____, 2011 to:

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DEP Docket Number: 01-11-01
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The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CD as well as on paper. Submittal of a disk or CD is not a requirement. Submittals on disk or CD must not be access-restricted (locked or read-only) in

order to facilitate use by the Department of the electronically submitted comments. The Department prefers Microsoft Word 6.0 or above. Macintosh formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation with the commenter's name and affiliation following the comment.

This rule proposal can be viewed or downloaded from the Department's web site at <http://www.state/nj/us/dep/rules>.

The agency proposal follows:

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Pursuant to N.J.S.A. 52:14B-5.1, the Green Acres Program rules, N.J.A.C. 7:36, were scheduled to expire on January 3, 2011. The Department proposes to readopt the rules without amendment. In accordance with N.J.S.A. 52:14B-5.1c, the expiration date has been extended to July 2, 2011 as a result of the filing this notice of proposal to readopt the rules without amendment with the Office of Administrative Law.

The Green Acres rules, N.J.A.C. 7:36, implement the purposes and objectives of the Green Acres laws in order to help ensure that there is access to and an adequate supply of lands

for public outdoor recreation or conservation of natural resources. The rules provide the criteria under which, and procedures by which Green Acres will award funding to counties, municipalities, and nonprofit organizations for funding for the acquisition and development of land for outdoor recreation and conservation purposes. The rules establish the procedures by which the Department will ensure that lands acquired or developed with Green Acres funding, and all other lands held by a local government unit for recreation and conservation purposes at the time the local government unit received Green Acres funding, permanently remain in use for recreation and conservation purposes. Finally, the rules establish the procedures and standards for the limited circumstances under which a local government unit or a nonprofit may obtain the prior approval of the Commissioner and the State House Commission to use, for other than outdoor recreation and conservation purposes, those lands it holds that are subject to Green Acres restrictions, and the compensation requirements for such approvals.

The rules proposed for readoption without amendment are organized to chronologically describe the procedures for applying for and using Green Acres funding. Subchapters 1 and 2 contain general provisions and definitions. Subchapter 3 describes the eligibility of local government units applying for Green Acres loans and matching grant funds for acquisition and development projects. Subchapters 4 through 9 describe the process local government units must follow to obtain and expend Green Acres funding to acquire land for recreation and conservation purposes. Subchapters 10 through 14 describe the process by which local government units may develop outdoor recreational facilities with Green Acres funding. Subchapters 15 through 20 describe the process nonprofits must follow to obtain and expend Green Acres matching grants. Subchapters 21 through 24 describe the process by which nonprofits may develop outdoor

recreational facilities with Green Acres funding. Finally, Subchapters 25 and 26 describe the maintenance, retention, and use requirements for Green Acres funded parkland and, in the case of local government units, certain unfunded parkland. These subchapters also describe the process a local government unit or nonprofit must follow to obtain approval when seeking to dispose of or divert parkland.

There are two appendices to the rules proposed for re adoption without amendment. Appendix 1 is a listing of the Densely Populated Counties, Densely Populated Municipalities, Highly Populated Counties, and Highly Populated Municipalities. This list is used to determine eligibility for nonprofit development projects and may be used as a basis for funding awards for local acquisition and development projects. Appendix 2 is the Local and Nonprofit Survey Overview, which defines the required format, field methodology, and the presentation of findings on the plan of survey and in the corresponding metes and bounds description of any property being acquired with Green Acres funding.

The rules proposed for re adoption without change are intended to provide clear standards and processes for local government unit and nonprofit applicants and funding recipients.

The Department anticipates seeking public input from stakeholders in 2011 as part of its ongoing review of the Green Acres Program rules to determine where amendments can be made to improve them.

Social Impact

The Department anticipates that the rules proposed for readoption without amendment will have a beneficial social impact on applicants for Green Acres funding and also the general public. The rules will maintain the Department's funding program which increases the availability of land and facilities for public recreation and conservation purposes. This funding has resulted in the preservation of nearly 140,000 acres and the development of hundreds of recreational facilities statewide.

Among other findings in the Garden State Preservation Trust (GSPT) Act, N.J.S.A. 13:8C-2 declares that the acquisition and preservation of open space properties in New Jersey enhances the quality of life of the citizens of New Jersey and is a paramount policy of the State. The rules proposed for readoption without amendment will extend the positive social impacts of the existing rules by enabling the Department to continue to provide the means for local government units and nonprofits to obtain and use Green Acres funding to acquire and develop land for recreation and conservation purposes for the public's use and enjoyment. Land acquired under this program must be open to the public unless the Commissioner of the Department determines that public use of the land poses an unacceptable risk to natural resources on the land. Even in those extremely rare cases where public access to the land might be limited, the acquisition of such land benefits the public by preserving the site's natural resources. In addition, the continued development of recreational facilities on parkland with Green Acres funding will help to meet the public's need for active and passive recreational opportunities.

The rules proposed for re-adoption without amendment will continue to ensure that the public will be able to enjoy permanently protected recreation and conservation lands. Consistent with the Department's long-term policies and the GSPT Act, the rules proposed for re-adoption without amendment will continue to prohibit local government units and nonprofits from conveying, disposing of, or diverting parkland to other uses except under limited circumstances. In those rare instances where a disposal or diversion of parkland must be considered as part of addressing a compelling public need or achieving a significant public benefit (such as construction of roads, sewer lines, water lines or other public infrastructure when no alternative non-parkland sites exist), the rules proposed for re-adoption without amendment give guidance regarding the process to apply for and compensate for such disposal or diversion. In most cases, applicants will be required to replace the parkland disposed of or diverted with lands of equal or greater economic, environmental, recreation, and conservation value, at a minimum ratio of 1 to 1 (when the diversion involves the granting of an easement on parkland for a public project), 2 to 1 (when the diversion involves a private subsurface easement on parkland or a diversion or disposal of parkland for a public project) or 4 to 1 (when the diversion or disposal is for a surface easement or fee taking for a private project.). For certain "minor" projects or applications involving easements over or under parkland or the taking of less than five acres and five percent of a park, the rules will continue to allow applicants to offer cash compensation to be used for park improvements. On balance, continuation of this compensation policy will ensure that, although there might be a disposal or diversion of a specific parcel of land, there will be a net gain in public parkland in addition to the social benefits to be derived from the project for which the disposal or diversion of parkland is proposed

Economic Impact

The rules proposed for re adoption without amendment will continue the positive economic impacts of the existing rules by enabling the continued distribution of Green Acres funding to local government units and nonprofits to acquire and preserve land for recreation and conservation purposes and to develop outdoor recreational facilities. Local government units benefit economically because they can acquire land or develop outdoor recreational facilities with a matching grant and/or a low-interest loan from Green Acres. Development loans are repayable over a term of not more than twenty years; acquisition loans are repayable over a term of not more than thirty years. From 1983 (when the “Green Trust” revolving loan program was established) through 2010, Green Acres has made loans totaling approximately \$473 million. The interest rate on these loans was generally two percent although loans to Urban Aid municipalities (municipalities that qualify for the Municipal (Urban) Aid Program under N.J.S.A. 52:27D-178) were at zero percent interest. In most cases, local government units find Green Acres funding preferable to and more economical than financing such activities independently.

These advantageous rates for local government loan recipients are made possible by the Green Acres program’s own low cost of funds. The Green Acres program obtains its funding mainly from voter-approved tax-exempt bond issues, such as those issued by the Treasurer or by the Garden State Preservation Trust. Last year, the interest rate on an open-space bond issue was

3.7 percent, which compares favorably with other forms of financing, making the program a cost-effective vehicle for open space acquisitions.

Many studies have found that proximity to protected open space increases property values. For example, a 2007 study performed for the Department by outside experts found that proximity to various types of open space (for example, water features and parks), generally increases residential property values. (See Valuing New Jersey's Natural Capital, Part II: Ecosystem Services, pp. 27-37, available at www.nj.gov/dep/dsr/naturalcap.) A 2009 study by outside experts found that the protection of open space not only increases property values, but that this increase and the accompanying reduction in municipal service requirements outweighs any reduction in ratables, resulting in a net fiscal benefit to local jurisdictions. (D. Vandegrift and M. Lahr 2009. Open space, house prices, and the tax base. Published on-line in The Annals of Regional Science, 11/3/09. Available at <http://www.springerlink.com/content/0570-1864/?k=Vandegrift> . Print publication pending in 2011.)

Nonprofit organizations engaged in open space land preservation benefit economically because they can receive a matching grant from the State for up to 50 percent of the project cost of acquiring land or developing recreational facilities. A nonprofit can use financial resources it has on hand, funds it has raised for the specific land acquisition or park development project, or the value of lands or services donated to the nonprofit as part of the approved project to match the State grant. From 1989 (when the nonprofit grant program was established) through 2010, Green Acres has made grants to nonprofits totaling almost \$180 million.

Upon accepting Green Acres funding, the local government unit or nonprofit must agree to maintain, protect, and permanently keep open to the public, unless the Commissioner approves otherwise, the lands it acquires or develops utilizing Green Acres funding. Local government units and/or nonprofit organizations that acquire land with financial assistance from Green Acres are responsible for all maintenance and protection costs related to their funded parkland.

Certain acquisition project costs, including the costs of surveys and appraisals, are eligible for Green Acres funding. Costs to obtain title insurance and other reasonable and related legal and administrative costs may be eligible for reimbursement. For development projects, Green Acres will fund the cost of eligible and approved construction by local government units or nonprofits as a loan or matching grant, as applicable. If funds are available, Green Acres will fund certain professional services, such as engineering fees, up to 13 percent of the cost of construction, as well as other incidental costs. In some instances, local government units and nonprofits may hire consultants to prepare the Green Acres application. This is completely discretionary and many applicants file approvable applications without using these services. For both acquisition and development projects, associated costs will vary based on the size and scope of the project.

It is anticipated that the rules proposed for re adoption without amendment will have no economic impact on industries involved in providing services related to the transfer of property ownership or the development of recreational facilities. When acquiring land, the rules proposed for re adoption without amendment require the local government unit or nonprofit to contract for appraisal, survey, and legal services, and to obtain title insurance on the lands acquired with

Green Acres funding. Local government units and nonprofits are also required to contract for engineering, construction, and legal services for development projects. These costs associated with acquisition and development projects are generally incurred whether or not Green Acres funding is used. Therefore, the rules proposed for readoption without change do not change these costs.

The rules proposed for readoption without amendment will require a local government unit or nonprofit that seeks to dispose of or divert parkland to incur certain costs in pursuing a disposal or diversion. While the Department has attempted to streamline the application and compensation process to the extent feasible for minor disposals or diversions of parkland, procedural and substantive requirements apply to proposals that are classified as major disposals or diversions of parkland. In most cases, the local government unit or nonprofit applying for a disposal or diversion of parkland may be able to transfer these costs to the entity benefiting from the disposal or diversion. However, even in cases where such costs cannot be mitigated, the Department believes that these rules regarding procedures for major disposals or diversions of parkland are necessary to protect parkland from disposal or diversion except under the most compelling circumstances and to ensure that the public is adequately informed of and compensated for the disposal or diversion of parkland.

From 1961 through 2010, Green Acres made possible the acquisition of more than 648,000 acres of open space (including State-owned parks and forests). These lands provide many benefits to New Jersey beyond the obvious recreational and scenic ones. Examples of those benefits (termed “ecosystem goods and services”) include provision of habitat for many

threatened and endangered species (which helps support a \$1.2 billion/year ecotourism industry in New Jersey), sequestration of carbon dioxide (a major greenhouse gas contributing to global warming), soil retention, flood mitigation, and enhanced environmental education opportunities. Further information and estimated values for some of these ecosystem services are provided in the report, Valuing New Jersey's Natural Capital, Part II: Ecosystem Services, available at www.nj.gov/dep/dsr/naturalcap.

Environmental Impact

The rules proposed for re adoption without amendment will continue the positive environmental impact by enabling the Department to continue to provide funding under the Green Acres Program to help local government units and nonprofits acquire and preserve land for recreation and conservation purposes. As acknowledged in the GSPT Act, the protection and preservation of the existing diversity of animal and plant species is essential to sustaining both the environment and the economy of the State, and the conservation of adequate habitat for endangered, threatened, and other rare species is necessary to preserve this biodiversity.

Lands acquired or developed by local government units or nonprofits with Green Acres funding, or parkland held by the local government unit at the time of receipt of Green Acres funding, cannot be diverted for uses other than recreation and conservation without the approval of the Commissioner of the Department and the State House Commission. In addition, as a condition of funding, nonprofits must donate to the State a permanent conservation restriction or historic preservation restriction, as applicable, on the lands acquired or developed with Green

Acres funding. Thus, the natural, historic, and recreational resources of these lands will be permanently protected. Development project applicants must submit an environmental assessment that addresses impacts of and alternatives to the proposed recreation project prior to approval of the funding request.

The rules proposed for readoption without amendment will have a positive environmental impact on parkland proposed for disposal or diversion and parkland throughout the State by maintaining the strength of the Department's analysis of disposal and diversion requests. In particular, N.J.A.C. 7:36-26.1(e) explicitly authorizes the Department to take into account the environmental impact of a proposed disposal or diversion on other parkland and on other natural resources in determining whether to approve an application. In addition, the requirements related to tree replacement are also designed to assist the Department in more fully evaluating the environmental impact of such proposals and to ensure that applicants adequately compensate for the natural resource impacts of such proposals.

Federal Standards Statement

Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. (as amended by P.L. 1995, c.65) require State agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. N.J.A.C. 7:36 is not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements. Accordingly, Executive

Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. do not call for a Federal standards analysis for these rules proposed for re adoption without amendment.

Jobs Impact

Pursuant to N.J.S.A. 52:14B-4(a)2, all rule proposals must contain a jobs impact statement assessing the number of jobs to be generated or lost if the proposed rule takes effect.

The Department anticipates that the rules proposed for re adoption without amendment allow for continued job creation. The rules proposed for re adoption without amendment will allow continued funding for land acquisition and park development projects which employ a variety of individuals and firms.

As part of an approved project, local government units and nonprofits must retain the services of certain businesses such as appraisal, survey, title insurance, and legal firms for acquisition projects. For development projects, local government units and nonprofits are required to contract for engineering, construction, and legal services. Many local government units and nonprofits also hire consultants to prepare applications for Green Acres funding. Accordingly, the rules proposed for re adoption without amendment will continue the demand for certain survey, appraisal, title insurance, engineering, construction, and legal professionals.

In those rare instances where a business is displaced as a result of an approved land acquisition project, the local government unit must comply with the Relocation Assistance Act,

N.J.S.A. 20:4-1 et seq., and the Relocation Assistance Law at 1967, N.J.S.A. 52:31B-1 et seq. If funds are available, reasonable relocation costs may be eligible for reimbursement under the rules proposed for re adoption without amendment.

The application requirements for major disposals or diversions of parkland may, in some cases, lead to employment for consultants associated with the application process, including, but not limited to, appraisers, surveyors, engineers, construction experts, natural resources experts and law firms.

Agriculture Industry Impact

Pursuant to N.J.S.A. 52:14B-4(a)(2), the Department has evaluated the rules proposed for re adoption without amendment to determine the nature and extent of their impact on the agricultural industry.

It is not the intention of the Department to reduce the amount of active and viable farmland in New Jersey. In fact, it is the Department's policy to promote the retention of farmland through preservation and cooperative projects with the Department of Agriculture and the County Agricultural Development Boards. The rules proposed for re adoption without amendment allow for the continued acquisition of farmland by local government units, but they contain guidelines under which active farmland can be considered for funding. Under the rules proposed for re adoption without amendment, a local government unit may only apply to Green Acres to acquire active farmland if the owner is a willing seller or the property is on the market,

is undergoing subdivision, or is integral to the proposed acquisition project. The local government unit must first take certain steps to ensure that the purchase of a farmland property with Green Acres funding will not unnecessarily undermine an existing or proposed project under the State or county farmland preservation programs. For nonprofits, which do not have the right of eminent domain, the acquisition of farmland can only be accomplished if there is a willing seller.

Often, local government units and nonprofits use Green Acres funding to preserve farmland through the acquisition of a conservation easement on the land. Conservation easements on agricultural lands help maintain contiguous open space, preserve woodlands and protect wildlife habitat and water quality. Such easements have been used very effectively in greenway projects linking public lands. Protected farmland buffers greenway parcels from incompatible development and retains the scenic quality of viewsheds. Easement purchases also assist farmers by providing working capital that can be invested into the agricultural operation. Public access easements, often in the form of trails through and along farmland, are designed to minimize their impact on the agricultural use of the property.

If farmland is acquired with Green Acres funding, the rules proposed for readoption without amendment would continue the Department's practices of allowing the local government unit or nonprofit to enter into agricultural leases to continue production on the land, provided certain environmental safeguards are incorporated into the lease and provided the public is still afforded reasonable access to the land.

Regulatory Flexibility Statement

Local government units are not small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Nonprofits, some of which may be small businesses under the Act, must have as one of their primary purposes the acquisition or preservation of land to qualify for Green Acres funding assistance. The costs involved in acquiring and developing land for recreation and conservation purposes under the Green Acres Program thus are often part of a nonprofit's normal operating costs. Under the rules proposed for readoption without amendment, some of the costs of acquisition, specifically land, survey, and appraisal costs, are eligible for 50 percent reimbursement as are construction and engineering costs for an approved development project.

Nonprofits must follow the application procedures and comply with the grant conditions imposed by the Green Acres Program. The administrative costs of applying for, and complying with, the conditions of the grant are minimized because Green Acres provides technical assistance as requested in the application process. Also, much of the documentation required for a Green Acres project is produced during the nonprofits' normal land acquisition and development activities, so the nonprofits can rely on existing staff and available resources.

Because costs of application and compliance are unique to each project, the resources available to a nonprofit to meet those costs vary. Among the factors that affect the cost of a project are the following: the size or number of individual parcels contained in the project site, the availability of volunteer labor, donations from interested persons, the location of the project

site, the environmental sensitivity of the project site, and the cost of acquisition or development. Through the course of Green Acres funded acquisition and development projects, nonprofits need to retain the services of certain businesses, such as appraisal, survey, title insurance, engineering, construction, and legal firms. While the nonprofits must contract for these services, a portion of such costs are eligible for reimbursement, if funds are available. The nonprofits must keep and submit billing records to receive reimbursement of allowable costs.

In some cases nonprofits may incur substantial technical costs when applying for approval for the disposal or diversion of parkland. However, in such circumstances the filing of an application is entirely within the nonprofit's discretion. Presumably, therefore, a nonprofit will only apply for a disposal or diversion of parkland in situations where there will be an overall social, economic and/or environmental benefit.

The purposes of the Green Acres Program include assisting nonprofits in the acquisition and development of recreation and conservation land for the public benefit, and ensuring the permanent protection of open space and parkland. The requirements imposed are the minimum necessary for efficient management of the program. Therefore, no lesser requirements or exemptions for small business nonprofits are provided.

Smart Growth Impact

Executive Order No. 4(2002) requires State agencies that adopt, amend or repeal any rule adopted pursuant to Section 4(a) of the Administrative Procedure Act (N.J.S.A. 52:14B-4(a)) to

describe the impact of the proposed rule on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the rule's impact on smart growth and the implementation of the State Plan.

According to the New Jersey Department of Community Affairs' web page at www.state.nj.us/dca/osg/smart, smart growth is “well-planned, well-managed growth that adds new homes and creates new jobs, while preserving open space, farmland, and environmental resources.” Land preservation is a central component of the statewide land use planning that promotes smart growth. Open space can protect the quality and quantity of surface and groundwater resources, guide development and growth, preserve natural and historic resources, shape community character, and provide land for recreation. The Green Acres rules, proposed for readoption without amendment, provide a framework for funding the open space and environmental resource preservation efforts of local government units and nonprofits.

Green Acres regularly prepares New Jersey's Statewide Comprehensive Outdoor Recreation Plan (SCORP), to provide statewide policy direction on open space and recreation issues. One of the primary goals of the SCORP is to “implement open space and recreation planning policies and projects that are consistent with New Jersey's smart growth principles and the Statewide Development and Redevelopment Plan.” One goal of the State Plan is to preserve and enhance areas with open space, recreational, historic and scenic value. As the SCORP points out, the State Plan contains no less than 34 policies designed to improve statewide planning and coordination of open space and recreation policy among all levels of government.

Parks and open space play critical roles in urban revitalization projects that, in turn, attract new residential development to New Jersey's cities. By enhancing the quality of life for urban residents, open space preservation and park development can reduce the demand for new residential housing developments in the suburban or rural areas, which often destroy undeveloped woodlands and farms.

These rules proposed for readoption without amendment support the Department's goal of creating a "green infrastructure" that will preserve New Jersey's natural resources and provide close-to-home recreation opportunities in the State's urban, suburban, and rural areas. Greenway projects that help achieve this goal minimize the impacts of sprawl and landscape fragmentation through strategic efforts to conserve interconnected open space – smart conservation that complements New Jersey's smart growth efforts. Identifying the appropriate land and preserving sufficient land to achieve this goal requires thoughtful planning and adequate funding. The rules proposed for readoption without amendment facilitate the funding of land preservation and park development projects by Green Acres and describe, among other things, the planning required by local government units and nonprofits to obtain that funding.

Green Acres historically has encouraged local government units and nonprofits to pursue land acquisition and park development projects that are consistent with the State Plan through the program's priority ranking system. Under the rules proposed for readoption without amendment, the ranking system awards additional points to projects that reflect smart growth goals.

The rules proposed for readoption without amendment will also continue the Department's policy of requiring applicants for the disposal or diversion of parkland to analyze the consistency of such proposals with the State Plan. Specifically, N.J.A.C. 7:36-26.1(e) explicitly authorizes the Department to use inconsistency with the goals and objectives of the State Plan as a basis for denying such applications.

Housing Affordability Impact

Pursuant to N.J.S.A. 52:14B-4(a), the Department has evaluated the rules proposed for readoption to determine what, if any, impact they will have on the affordability of housing. The Department has determined that the rules will have an insignificant impact on housing affordability, both because the scope of the rules proposed for readoption is minimal in terms of their relationship to housing and because it is extremely unlikely that the rules proposed for readoption would evoke a change in the average costs associated with housing in New Jersey.

In terms of scope, the Green Acres rules at N.J.A.C. 7:36 constitute the rules governing acquisitions of preserved open space. They do not involve housing itself, nor do they involve master planning requirements, zoning ordinances, construction codes, or other areas related to housing.

As regards the average costs associated with housing, the Economic Impact section of this proposal document notes that a number of peer-reviewed studies (including two conducted for the Department by outside experts) show that proximity to preserved open space does tend to

increase the value of existing homes, although most studies have estimated the increase to be less than 5 percent. However, that increase does not affect the average costs associated with housing in New Jersey for several reasons: (1) Between January 2000 and July 2010, Green Acres acquired fee simple title or a conservation easement on an average of 10,000 acres/year. This represents about 0.65 percent of the total amount of urban land in the State in 2007 (the most recent year for which such data is available). Excluding land on which housing development is unlikely (wetlands, water bodies, and barren land), the 10,000 acres represents about 0.48 percent of the non-urban land in the State in that year. On a statewide basis, these figures are insignificant; (2) At the local level, it is impossible to determine whether the preservation of additional open space by Green Acres will affect the price of developable land in a given municipality. The price depends on the supply of and demand for such land, and on other factors that vary from one municipality to another, including the supply of affordable housing in a given municipality; and (3) Even if open space preservation did have some effect on the price of nearby developable land in a given municipality, it is unlikely that this would affect the supply of affordable housing in that municipality. For these reasons, the Department believes that the rules proposed for readoption will have an insignificant impact on housing affordability.

Smart Growth Development Impact

Pursuant to N.J.S.A. 52:14B-4(a), the Department has evaluated the rules proposed for readoption without amendment to determine what, if any, impact these rules will have on smart growth development. As indicated in the Housing Affordability Impact statement above, the scope of the rules proposed for readoption is minimal in terms of their relationship to housing.

The Green Acres Program rules constitute the rules governing acquisitions of preserved open space. They do not involve housing itself, nor do they involve master planning requirements, zoning ordinances, construction codes, or other areas related to housing. The rules do not impact the type or number of housing units, increase or decrease the availability of affordable housing in any manner, or affect new construction within Planning Areas 1, 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption without amendments may be found in the New Jersey Administrative Code at N.J.A.C. 7:36.

Based on consultation with staff, I hereby certify that the above statements, including the Federal Standards Analysis addressing the requirements of Executive Order No. 27 (1994), permit the public to understand accurately and plainly the purposes and expected consequences of this proposal. I hereby authorize this proposal.

Date: _____

Bob Martin, Commissioner
Department of Environmental Protection