

**FOR CONSIDERATION AT THE DECEMBER 16, 2010 MEETING OF
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report**

APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

COMMENT PERIOD: 11/17/10 – 12/3/10

Petition for Plan Conformance

County of Passaic

**FOR CONSIDERATION AT THE DECEMBER 16, 2010 MEETING OF
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL**

Petition for Plan Conformance - Final Consistency Review and Recommendations Report

PUBLIC COMMENTS RECEIVED

Written comments regarding Passaic County's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on Friday, December 3, 2010. Comments were provided solely by Helen H. Heinrich PP LLA, Research Associate, representing the New Jersey Farm Bureau.

The comments are summarized in the section that follows with Highlands Council responses provided below, for each.

PUBLIC COMMENT/RESPONSE SUMMARY

1. **Comment:** As most of the County's agriculture is located in the Preservation Area, farmland owners will remain alert to how the County will handle activities on these farms. Though sections dealing in detail with agriculture or horticulture are omitted, the County does have an Agriculture Retention and Farmland Preservation plan in place that should help to support farming.

Response: Plan Conformance by a county is primarily applicable to county facilities and lands, with minimal application to private property development (wherein it simply requires demonstration of Highlands Council or NJDEP approval, waiver, or determination of inapplicability, as applicable, or of municipal Highlands regulatory control prior to issuance of any county approval). Any agriculture or horticulture activities on lands not owned by the County are not addressed through this process, but by the Highlands Land Use Ordinances adopted by municipalities, as applicable. It is critically important to note that all provisions of the municipal Highlands Land Use Ordinances apply only to development activities regulated under the Highlands Land Use Ordinance, and not to exempt activities or those excluded under § 2.1, which specifically states: "Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of this Ordinance shall not apply to Agricultural or Horticultural Use and Development (as defined at § 3.2)." The provisions that are "specifically indicated otherwise," consist primarily of those discussed in the Highlands Area Land Use Ordinance at § 6.10, regarding agricultural development that exceeds the thresholds of new impervious surfaces established by the Highlands Act.

2. **Comment:** Even the County must apply the standards of 1/88 acres in wooded areas and 1/25 acres in open lands. Please be aware that the NJ Farm Bureau suit against the NJDEP's misuse of the Nitrate Dilution Model is still ongoing, so may yet result in an order from the Appellate Division for NJDEP to change the factors in this formula to those more scientifically supportable. What will the Highlands Council do to implement such a decision?

Response: The Highlands Council acknowledges the comment; however, a response is not ripe as the matter is presently in litigation with oral arguments scheduled for March 2011.