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**DEPARTMENT OF ENVIRONMENTAL PROTECTION
NATURAL & HISTORIC RESOURCES**

Real Property Taxation

Proposed Readoption with Amendments: N.J.A.C. 7:35

Authorized by: Lisa P. Jackson, Commissioner,
Department of Environmental Protection

Authority: N.J.S.A. 54:4-3.63 et seq.

Calendar Reference: See Summary below for explanation of exception to
calendar requirement.

DEP Docket Number: 15-07-07/594

Proposal Number:

Submit written comments by October 5, 2007 to:

Gary J. Brower, Esq.
Attention: Docket Number: 15-07-07/594
Office of Legal Affairs
New Jersey Department of Environmental Protection
401 East State Street, 4th Floor
P.O. Box 402
Trenton, New Jersey 08625-0402

The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CDs as well as on paper. Submission of a disk or CD is not a requirement. 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.

The agency proposal follows:

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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.

The Real Property Taxation rules, N.J.A.C. 7:35 (the rules), are promulgated pursuant to P.L. 1974, Chapter 167, an act concerning exemption from taxation of real property owned by certain nonprofit corporations, N.J.S.A. 54:4-3.63 et seq. (the Act). This Act established the Tax Exemption Program, which is administered by the Green Acres Program in the New Jersey Department of Environmental Protection (Department). The Tax Exemption Program allows nonprofit organizations qualifying for exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code that own natural open space land in the State of New Jersey to seek exemption from real property taxes on the open space land. To obtain a certification of eligibility for tax exemption from the Commissioner of the Department, the nonprofit organization must agree to make the land available to the public on an equal basis for recreation and conservation purposes, and must meet all other requirements of the Act and these rules.

Pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-5.1, the Real Property Taxation rules were scheduled to expire on July 1, 2007. Timely filing of this proposal with the Office of Administrative Law resulted in the extension of the expiration date to December 28, 2007. The Department has reviewed these rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Department proposes to readopt the rules with amendments to provide more clarity concerning the current requirements and procedures of the Tax Exemption Program and to establish changed and new requirements. In accordance with the Act, the Department has consulted with the Division of Taxation regarding this proposal. A brief discussion of the rules proposed for readoption, as well as a discussion of the proposed amendments, follows:

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Chapter Title

The Department is proposing to change the title of N.J.A.C. 7:35 from “REAL PROPERTY TAXATION” to “REAL PROPERTY TAXATION OF RECREATION AND CONSERVATION LANDS OWNED BY NONPROFIT ORGANIZATIONS” to provide a more descriptive title for these rules.

Subchapter 1. General Provisions

This subchapter sets forth the purpose and scope of the rules; definitions; identification of what organizations and properties are eligible for consideration for tax exemption under the rules; information on how to contact and obtain information from the Department; application procedures; the process to be followed on a change in use or ownership of an exempt property; a provision regarding nonprofit organization liability to those using the exempt land; and the process to be followed by the Department in amending the rules.

The Department is proposing amendments as described below.

N.J.A.C. 7:35-1.1 Purpose and Scope

At N.J.A.C. 7:35-1.1, Purpose and Scope, the words “In order” at the beginning of the first sentence are proposed for deletion as unnecessary. The Department is also proposing to delete “and regulations” from the phrase “These rules and regulations” as the words “rules” and “regulations” are duplicative.

N.J.A.C. 7:35-1.2 Definitions

Proposed N.J.A.C. 7:35-1.2, Definitions, contains definitions of the terms used throughout the rules. Many of the terms are new and are defined to explain their use in the context of these rules. Some of the new terms are taken directly from N.J.A.C. 7:36, the rules for the Green Acres Program. Other terms and definitions are continued from the existing rules, with modifications as necessary to update or clarify them.

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“Act” is a new term and refers to P.L. 1974, c.167, an Act concerning exemption from taxation of real property owned by certain nonprofit corporations (N.J.S.A. 54:4-3.63 et seq.), which establishes the Tax Exemption Program. This Act, at N.J.S.A. 54:4-3.70, authorizes the adoption and amendment of the rules that are the subject of this proposed readoption with amendments.

The definition of “application” is proposed for amendment to clarify that an application for tax exemption is made to the Department in accordance with the rules. Also, the words “eligibility for” are added to clarify the Department’s role, which is to determine whether or not a property is *eligible* for tax exemption and not to *grant* tax exemption, which is the role of the municipal tax assessor. Also, the words “contiguous land holding, or several holdings” are replaced with the words “parcel or unified group of parcels.” This change is intended to clarify that land that is the subject of an application for tax exemption must be either one parcel or a unified group of parcels (see proposed definition of “parcel” described below).

The existing term “certification of tax exemption” is proposed to be changed to “certification of eligibility for tax exemption” to clarify the Commissioner’s role, which is to determine whether or not a property is *eligible* for tax exemption and not to *grant* tax exemption, which is the role of the municipal tax assessor. The word “by” in the definition is proposed to be changed to “to” as a grammatical correction. Also, the words “and to the provisions of the Act and this Chapter” are proposed to be added to the definition since the requirements of the Act and this Chapter are used by the Department to determine whether or not a property is eligible for tax exemption.

“Change of use” is a new term added to explain that, for the purposes of the rules, a use of land or property for other than recreation and conservation purposes constitutes a change of use, which could affect future eligibility of a property for tax exemption and could result in roll-back taxes pursuant to N.J.S.A. 54:4-3.69 and this chapter.

The definition of “Commissioner” is changed to add the words “or his or her designated representative” thereby making it consistent with N.J.A.C. 7:36, the rules for the Green Acres Program.

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The definition of “Department” is changed to add the words “New Jersey” thereby making it consistent with N.J.A.C. 7:36, the rules for the Green Acres Program.

“Land” or “lands” is a proposed new definition for these terms, which are used frequently in the rules. As defined, land includes not just the real property itself, but also improvements, rights, and privileges that are connected to the land. This definition is identical to the definition used in N.J.A.C. 7:36, the rules for the Green Acres Program.

The definition of “nonprofit organization” is proposed to be changed to make the definition grammatically correct and to explain that a determination letter is issued by the U.S. Department of Treasury and serves as notification that an organization or corporation has been recognized as exempt from Federal income tax under Section 501(c)(3) of the Federal Internal Revenue Code.

“Parcel” is a proposed new definition for a term used frequently in the rules. In the context of the rules, “parcel” means a piece of land with designated boundaries and may include multiple tax lots. This definition is identical to the definition used in N.J.A.C. 7:36, the rules for the Green Acres Program.

The definition of “pretax year” is proposed to be changed to clarify that the application is submitted by the nonprofit organization and to add that the pretax year is the year prior to the year in which tax exemption is anticipated to begin.

“Program” is a proposed new definition for a term that refers to the Green Acres Tax Exemption Program.

“Property” is a proposed new definition for a term used frequently in the rules. In the context of the rules, “property” includes land that is the subject of an application for tax exemption or land that has been certified as eligible for tax exemption.

The definition of the term “public recreation and conservation purposes” is proposed for deletion as it is being replaced by the proposed new definition of the term “recreation and conservation purposes” described below.

The definition of “public use” is proposed for modification. First, the words “conservation or recreation purposes” are replaced with “recreation and conservation purposes” for reasons discussed below in the summary of the proposed definition of the term “recreation and conservation purposes.” Second, the sentence “Such use, and any

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limits thereon, shall be based on the uses best suited to the land, the capacity of the facility and the public benefits or advantages to be derived therefrom.” is removed since the term “recreation and conservation purposes” defines the uses allowed for lands that are to be considered eligible for tax exemption.

The definition of the new term “Recreation and conservation purposes” is identical to the term and corresponding definition used in N.J.A.C. 7:36, the rules for the Green Acres Program.

The definition of “roll-back taxes” is proposed to be amended in several ways. First, “which” is changed to “that” to improve the grammatical structure of the sentence. Second, the word “tax” is added before the word “exempt” for improved clarity. Third, “change in use” is changed to “change of use” for consistency with the term “change of use” which is proposed to be defined in the rules. Fourth, a comma is added after the word “exempt” and removed after “(the year of sale or change of use)” and the word “in” is changed to “during” to make the time period of roll-back taxes more clear. The phrase “the current tax year” is additionally added to clarify that the two year period referred to in the Act at N.J.S.A. 54:4-3.69 and in this definition is the two years preceding the current tax year. Fifth, the citation “N.J.S.A. 54:4-3.69” is added to reference the section of the Act that provides for roll-back taxes.

N.J.A.C. 7:35-1.3 Eligible Organizations

N.J.A.C. 7:35-1.3, Eligible Organizations, is proposed for amendment to clarify that a nonprofit organization must make its land available for public use for recreation and conservation purposes to be considered eligible for the program. Other minor grammatical changes are proposed that do not change the intent or impact of this section.

N.J.A.C. 7:35-1.4 Eligible Real Property

N.J.A.C. 7:35-1.4, Eligible Real Property, lists the qualifications that real property must meet to be eligible for tax exemption.

N.J.A.C. 7:35-1.4(a) is proposed for amendment to improve sentence structure and clarity without changing its meaning.

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N.J.A.C. 7:35-1.4(a)1 is proposed for amendment to clarify that the property must actually be a natural open space area and not merely include an open space area. Also, the words “which is not dominated by buildings or other structures” in existing N.J.A.C. 7:35-1.4(a)1 are removed and replaced with a new provision that any buildings or structures on the land must be used exclusively for, or in support of, recreation and conservation purposes to be eligible for tax exemption. This is consistent with N.J.S.A. 54:4-3.64 which provides that property qualifying for exemption under the Act are lands and improvements thereon that are actually and exclusively used for conservation and recreation purposes.

N.J.A.C. 7:35-1.4(a)2 is proposed for amendment to add the words “maintained and operated for the benefit of the public and be,” consistent with N.J.S.A. 54:4-3.64 and N.J.S.A. 54:4-3.66, to emphasize the importance of maintaining and operating the property for public benefit in addition to keeping it open for public use.

N.J.A.C. 7:35-1.4(a)4 is proposed for amendment to add the words “if any” regarding fees for entrance onto or use of the property to reflect that there are situations where there are no fees. The word “real” is proposed to be removed as unnecessary. Also, the phrase “fees consistent with the cost of maintenance or improvement of the property” is proposed to be replaced with “and reasonable,” which is consistent with N.J.S.A. 54:4-3.66 which states, in part, that “The Commissioner may authorize that reasonable charges may be made for entrance onto or use of such real property.” There may be several ways that the Commissioner can determine whether or not fees are reasonable; consistency with cost of maintenance or improvement of the property may be one of them. The proposed wording change provides applicants more latitude in justifying any fees and gives the Commissioner more flexibility in determining reasonableness of fees.

N.J.A.C. 7:35-1.4(a)5 is proposed for amendment to add the words “if any” regarding restrictions on the use of the property to reflect that there are situations where there are no restrictions. The word “real” is proposed to be removed as unnecessary. Also, the word “land” is proposed to be replaced with the word “property” to clarify that

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this subsection applies to a specific property, as defined in these rules, that is the subject of an application for tax exemption, and not any parcel of land.

N.J.A.C. 7:35-1.4(a)6 is a proposed new paragraph that makes clear that a property must continue to satisfy all requirements in order to continue to be exempt from taxes. If the Department becomes aware that a change has resulted in one or more of the requirements not being satisfied, it will rescind its previous determination of eligibility and notify the appropriate municipal tax assessor. This new paragraph is consistent with the Act at N.J.S.A. 54:4-3.69.

N.J.A.C. 7:35-1.5 Program Information and Forms; Address for Submission

The Department is proposing a new N.J.A.C. 7:35-1.5, Program Information and Forms; Address for Submission. This new section provides the mailing address, phone number, and Internet address that interested parties can use to obtain program information and forms as well as to submit applications.

N.J.A.C. 7:35-1.6 Application Procedures for Initial Certification of Eligibility for Tax Exemption

Existing N.J.A.C. 7:35-1.5, Application procedures, is proposed to be recodified and renamed as N.J.A.C. 7:35-1.6, Application Procedures for Initial Certification of Eligibility for Tax Exemption. This section will now provide the application procedures for initial certifications of exemption, while procedures for recertification of properties for continued eligibility for exemption are proposed to be contained in proposed new N.J.A.C. 7:35-1.7. This section is further proposed for amendment as described below.

Proposed N.J.A.C. 7:35-1.6(a) requests that applications for initial certification be filed by May 15. The Act, at N.J.S.A. 54:4-3.65, provides that the initial application must be filed on or before August 1 of the pretax year. However, due to the volume of applications received by the Department and the time needed to properly review and process them, it is necessary to indicate an earlier preferred deadline for submission of applications for initial certification. The Department has determined, based upon its

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experience in administering this program, that May 15 will provide an appropriate period of time for processing of applications.

Proposed N.J.A.C. 7:35-1.6(a)1 provides the name of the Department's application form to be submitted by applicants, *Application for Real Property Tax Exemption*. This replaces the form number DEP/TE 101, as currently specified in the existing rules at N.J.A.C. 7:35-1.5(a)1. The *Application for Real Property Tax Exemption* form requires information similar to DEP/TE 101. The proposed paragraph also identifies the information required to be submitted pursuant to the form. This information is necessary to allow the Department to determine if the organization and property use qualify for exemption under the Act and this chapter.

Proposed N.J.A.C. 7:35-1.6(a)2 provides the name of the New Jersey Department of Treasury's form, *Initial Statement of Organization Claiming Property Tax Exemption*, which must be submitted by applicants; refers to the current form number; and clarifies that the most current version of that form must be submitted if the form is supplemented or revised. This replaces N.J.A.C. 7:35-1.5(a)6 in the existing rules, which provides an outdated form number and does not specify that the current version of the form should be submitted if the form is supplemented or revised.

Proposed N.J.A.C. 7:35-1.6(a)3 replaces N.J.A.C. 7:35-1.5(a)2 in the existing rules and clarifies that the Federal Internal Revenue Service 501(c)(3) letter of determination certifies the organization both as a nonprofit and as exempt from Federal income tax.

Proposed N.J.A.C. 7:35-1.6(a)4 replaces N.J.A.C. 7:35-1.5(a)3 in the existing rules. While the existing paragraph requires submission of a statement attesting to the applicant's ownership of the property, the proposed new paragraph requires that the applicant submit to the Department a copy of the recorded deed to the property as proof of ownership as this will provide an easier, more definitive proof of ownership. In cases where the recorded deed is not available at the time of application, an unrecorded deed to be followed by a recorded deed submitted on or before August 15 in the year of application, or a certification signed by the head of the nonprofit organization or by legal counsel representing the organization verifying ownership of the property and

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committing to submit the recorded deed on or before August 15 in the year of application, will be accepted by the Department until a recorded deed can be provided. The August 15 deadline will allow the Department time to complete its review of the ownership portion of the application and for the Commissioner to issue a letter determining eligibility or ineligibility on or before September 15, as required by the Act (see N.J.S.A. 54:4-3.67) and by these rules (see N.J.A.C. 7:35-1.5(e) of the existing rules and at N.J.A.C. 7:35-1.6(e) of the proposed rules).

Proposed N.J.A.C. 7:35-1.6(a)5 is identical in content to N.J.A.C. 7:35-1.5(a)4 in the existing rules.

Proposed N.J.A.C. 7:35-1.6(a)6 requires the applicant to submit a labeled tax map identifying the property and proposed N.J.A.C. 7:35-1.6(a)7 requires the applicant to submit a labeled municipal street map identifying both the property and all public access points. These two proposed paragraphs replace N.J.A.C. 7:35-1.5(a)5 in the existing rules and clarify that two separate maps are required. Information on public access points to the property is necessary as part of the Department's analysis of whether the property is truly open for public use for recreation and conservation purposes and to facilitate the Department's inspection of the property.

Proposed N.J.A.C. 7:35-1.6(a)8 is a new paragraph that requires an applicant to provide a map of the property showing any and all public access points, parking areas, roads, driveways, trails, and points of interest. This map will assist Department personnel during their inspection of a property and can also be made available upon request to members of the public who wish to visit the property.

Proposed N.J.A.C. 7:35-1.6(a)9 replaces N.J.A.C. 7:35-1.5(a)7 in the existing rules and clarifies the types of documents that the applicant must submit to the Department that legally establish and define the applicant as a nonprofit organization.

Proposed N.J.A.C. 7:35-1.6(b) is amended from N.J.A.C. 7:35-1.5(b) in the existing rules. The phrase "property that is the subject of the application" replaces the word "land" to clarify which land the Department has the right to enter upon for purposes of a site inspection.

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Proposed N.J.A.C. 7:35-1.6(c) and N.J.A.C. 7:35-1.6(d) replace N.J.A.C. 7:35-1.5(c) and N.J.A.C. 7:35-1.5(d) in the existing rules. The order of the existing subsections has been revised in the proposed rules to coincide with the actual chronology of events: first, the applicant sends to the local tax assessor copies of certain items, with original signatures, that are part of the application made to the Department; second, a public hearing on the applications will be held by the Commissioner or by his or her designated representative.

Proposed N.J.A.C. 7:35-1.6(c) replaces existing N.J.A.C. 7:35-1.5(d), which requires that two copies of each item submitted in the application must be sent to the local tax assessor prior to the hearing on the application. Proposed N.J.A.C. 7:35-1.6(c) clarifies that the applicant is the entity that sends application materials, specifies that the forms must be sent with original signatures since that is what is required by the municipal tax assessors, and indicates the specific forms that need to be sent (the *Application for Real Property Tax Exemption* and the *Initial Statement of Organization Claiming Property Tax Exemption*) since the municipal tax assessors do not need the entire application that is submitted to the Department. Furthermore, proposed N.J.A.C. 7:35-1.6(c) replaces “local tax assessor” with “tax assessor of the municipality(ies) in which the property is located” to clarify which tax assessor needs to receive the items specified in this paragraph.

Proposed N.J.A.C. 7:35-1.6(d) replaces existing N.J.A.C. 7:35-1.5(c) and clarifies that the Commissioner or his or her designated representative is responsible for holding the public hearing; determines the date, time, and location of the hearing; and requires the applicant, rather than the Commissioner, to advertise the hearing in the official newspaper of the municipality in which the property that is the subject of the application is located, and to furnish the Department proof that the public notice was published at least fifteen days in advance of the public hearing date. In the past, the Department had submitted, on behalf of each applicant, a request to each official newspaper to publish a notice of public hearing. However, this resulted in newspapers billing the Department for the public notice, rather than the applicant even though the existing rules specify that the advertising of the public hearing in the newspaper would be “at the expense of the

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applicant.” The Department believes that it is more appropriate for the applicant to make the arrangements and pay the cost of the public notice directly as the party seeking the tax exemption.

Proposed N.J.A.C. 7:35-1.6(e) replaces N.J.A.C. 7:35-1.5(e) in the existing rules and clarifies that the Commissioner may decide that a property is either eligible or ineligible for tax exemption, whereas the wording in the existing subsection could be interpreted to mean that the Commissioner certifies every property for which an application is reviewed as eligible, which is not the case. In addition, the new subsection specifies that the Commissioner’s decision regarding eligibility or ineligibility shall be provided to the applicant and to the municipal tax assessor in writing, which is the Department’s practice, whereas the existing subsection did not specify that the notification must be in writing. The existing subsection specifies that the county board of taxation must also be notified. This notification is proposed to be deleted from the new subsection since it is unnecessary; the Department notifies the municipal tax assessor who, in turn, notifies the county board of taxation of the properties for which the municipal tax assessor has approved tax exemption. The existing subsection specifies that “The Commissioner may consult with the Natural Areas Council and others prior to making a determination.” This sentence is proposed for deletion since the Commissioner, as part of his or her decision-making process, has the authority to consult with various entities, including the Natural Areas Council (as recognized in the Act at N.J.S.A. 54:4-3.66) and it is unnecessary to highlight this particular council in the rules.

Proposed N.J.A.C. 7:35-1.6(f) is a new section that requires a nonprofit organization whose property is granted tax exemption to post the property with Green Acres Tax Exemption Program sign(s) provided by the Department. The purpose of the sign is to let the public know that the property is privately owned land dedicated to public recreation and/or conservation purposes pursuant to N.J.S.A. 54:4-3.63 et seq. For many years, nonprofit organizations have been posting these signs as requested by the Department when the property has been determined to be eligible for tax exemption.

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N.J.A.C. 7:35-1.7 Application Procedures for Recertification of Eligibility for Tax Exemption

Proposed N.J.A.C. 7:35-1.7, Application Procedures for Recertification of Eligibility for Tax Exemption, is a new section, which replaces and expands upon N.J.A.C. 7:35-1.5(f) in the existing rules. This section details the items that an applicant must provide to the Department in support of an application for recertification. Once a property is initially certified as eligible for tax exemption, the nonprofit organization must apply every three years for recertification in order for the Department to determine whether or not the property is still eligible for tax exemption.

Proposed N.J.A.C. 7:35-1.7(a) establishes April 15 as the deadline for submitting applications to the Department for recertification. This replaces the current deadline of July 1 specified in the existing rules at N.J.A.C. 7:35-1.5(f). Due to the volume of applications received by the Department and the time needed to properly review and process them, it is necessary to provide for an earlier deadline for submission of applications for initial certification. The Department has determined, based upon its experience in administering this program, that April 15 will provide an appropriate period of time for processing of applications.

Proposed N.J.A.C. 7:35-1.7(a)1 provides the name of the New Jersey Department of Treasury's form, *Further Statement of Organization Claiming Property Tax Exemption*, which must be submitted by applicants; refers to the current form number; and clarifies that the most current version of that form must be submitted if the form is supplemented or revised. This replaces the information at N.J.A.C. 7:35-1.5(f) in the existing rules, which provides an outdated form number and does not specify that the current version of the form should be submitted if the form is supplemented or revised.

Proposed N.J.A.C. 7:35-1.7(a)2 addresses the situation where the Department determines or it has been reported on the *Further Statement of Organization Claiming Property Tax Exemption* form that there have been physical and/or use changes, or property ownership changes/dispositions, since the property was first granted initial certification of eligibility for tax exemption. It provides the name of the Department's application form to be submitted by applicants in such situations: *Application for*

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Recertification of Exemption from Real Property Taxes. This replaces the form number DEP/TE 102, as currently specified in the existing rules at N.J.A.C. 7:35-1.5(f). The *Application for Recertification of Exemption from Real Property Taxes* form provides information similar to DEP/TE 102. This paragraph also requires submission of the Department's *Property Use Analysis* form, which supplements the *Application for Recertification of Exemption from Real Property Taxes* form and provides more detailed information about the property, its public uses and restrictions to public use, and any changes to the property that may affect its eligibility for continued tax exemption. This paragraph also requires the applicant to submit maps to identify the location of the property and photographs(s) of the Green Acres Tax Exemption Program sign(s) that are required to be posted on property that is granted tax exemption under the Program. Details of the contents of the *Property Use Analysis* form are provided in proposed N.J.A.C. 7:35-1.7(a)2i.

Proposed N.J.A.C. 7:35-1.7(b) provides that, pursuant to N.J.S.A. 54:4-4.4 referenced in the Act at N.J.S.A. 54:4-3.68, as part of the recertification process, the nonprofit organization must send the municipal tax assessor two copies of the *Further Statement of Organization Claiming Property Tax Exemption* form.

Proposed N.J.A.C. 7:35-1.7(c) provides that on or before September 15 of the year of an application for recertification, the Commissioner may hold a public hearing.

Proposed N.J.A.C. 7:35-1.7(d) addresses the situation where it has been reported in the *Further Statement of Organization Claiming Property Tax Exemption* that there have been no physical and/or use changes/dispositions and no property ownership changes since the property was first granted initial certification of eligibility for tax exemption. In such a situation, the Department will continue to deem the property as eligible for tax exemption.

Proposed N.J.A.C. 7:35-1.7(e) provides that, where there have been physical and/or use changes, or property ownership changes/dispositions, since the property was first granted initial certification of eligibility for tax exemption, the Department will apply the provisions of N.J.A.C. 7:35-1.4 to determine whether or not the property meets the qualifications therein for continued eligibility for tax exemption.

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Proposed N.J.A.C. 7:35-1.7(f) provides that, on or before September 15 of the year in which the nonprofit organization files an application for recertification, and after a public hearing (if any) is held on the application, the Commissioner shall make a decision concerning the eligibility or ineligibility for continued tax exemption and shall notify the applicant and the municipal tax assessor in writing, consistent with N.J.S.A. 54:4-3.67.

N.J.A.C. 7:35-1.8 Change of Use or Ownership

Proposed N.J.A.C. 7:35-1.8, Change of Use or Ownership, is a recodification of N.J.A.C. 7:35-1.6, Change of status, in the existing rules with amendments to clarify that, if the use of a tax exempt property changes to a use other than public recreation and conservation or is sold to an entity that is not a nonprofit organization, then the property shall no longer be eligible for tax exemption and shall be subject to roll-back taxes. This clarification is consistent with the Act at N.J.S.A. 54:4-3.69.

N.J.A.C. 7:35-1.9 Save Harmless Liability

Proposed N.J.A.C. 7:35-1.9, Save Harmless Liability, is a recodification of N.J.A.C. 7:35-1.7 in the existing rules with one minor wording change to clarify that the existing reference to the “certified” property is referring to the property that has been determined to be tax exempt. This section provides that liability arising out of the use of the tax exempt property is the responsibility of the nonprofit organization, its servants, licensees, agents, or invitees.

N.J.A.C. 7:35-1.10 Amendments

Proposed N.J.A.C. 7:35-1.10, Amendments, is a recodification of N.J.A.C. 7:35-1.8 in the existing rules with a minor typographical correction changing the word “purpose” to “purposes.” This section provides that the Commissioner, in consultation with the Director of the Division of Taxation, has the authority to adopt, amend, and repeal these rules.

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Social Impact

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. Furthermore, the Act, N.J.S.A. 54:4-3.63 et seq., states that “natural open space areas for public recreation and conservation purposes are rapidly diminishing; that public funds for the acquisition and maintenance of public open space should be supplemented by private individuals and conservation organizations; and that it is therefore in the public interest to encourage the dedication of privately-owned open space to public use and enjoyment.” The proposed readoption of this chapter will extend the positive social impacts of the existing rules by enabling the Department to continue to provide the means for nonprofit organizations to make their land available for recreation and conservation purposes for the public's use and enjoyment while receiving exemption from real property taxation of that land. Even in the rare case in which the Commissioner of the Department determines, in accordance with N.J.S.A. 54:4-3.66, that restrictions on the use of the land are necessary for proper maintenance and improvement of the property or that significant natural features of the land may be adversely affected by unrestricted access, the protection of such land provides a positive social impact by preserving the site's natural resources. The amendments proposed to the rule are not anticipated to have a significant social impact, but will make the rules more clear for those nonprofit groups that preserve land for public use.

Economic Impact

The proposed readoption of this chapter with amendments will continue the positive economic impacts of the existing rules to municipalities and to nonprofit organizations by enabling nonprofit organizations to make their land available to the public for recreation and conservation purposes.

Although the granting of tax exemption for these properties does reduce the total amount of real property taxes collected and available for use by a municipality, many communities have discovered that there is an economic benefit to preserving open space.

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Numerous fiscal impact studies have shown that certain types of development (for example, single family residential housing) actually result in a net tax loss to a community when the costs of services that must be provided to residents are taken into account. Tax-exempt land owned by nonprofit organizations and made available to the public for recreation and conservation purposes often places little or no demand for services on the municipality, thereby mitigating the loss of tax revenue. Therefore, encouraging nonprofit organizations to acquire and maintain open space for public use and enjoyment, rather than developing that land, is one of several ways that communities can realize the economic benefit of protected open space. Additionally, there is a potential positive benefit to the local economy as visitors to protected open space land patronize local businesses in the vicinity. Local governments, businesses, and taxpayers do not incur the costs of acquisition and maintenance of such land since those costs are borne by the nonprofit organizations.

Nonprofit organizations benefit economically because they are granted exemption from paying real property taxes on land that they own and enroll in the Tax Exemption Program. This savings allows nonprofits to use their often scarce financial resources to maintain the land, to acquire additional lands that can be similarly protected and made available to the public for recreation and conservation purposes, and to achieve other goals in concert with their missions.

Environmental Impact

The proposed readoption of this chapter with amendments will continue the positive environmental impact of the existing rules by enabling the Department to continue to provide the means for nonprofit organizations to make their land available for recreation and conservation purposes for the public's use and enjoyment while receiving exemption from taxation of that land. 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. In addition,

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lands protected under the Tax Exemption Program help to protect water quality and quantity in streams, rivers, and drinking water supplies, and help produce oxygen while absorbing carbon dioxide and filtering and processing pollutants.

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. The rules proposed for readoption with amendments are 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. Although one of the requirements for eligibility for tax exemption referenced in the Act (N.J.S.A. 54:4-3.64 and 3.65), and incorporated in the rules, is that the nonprofit organization be qualified for exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code, the Act and the rules are not related to the Federal Internal Revenue Code. “Federal income tax exemption standards have no relation to state law governing property tax exemption.” (Paper Mill Playhouse v. Millburn Tp., 95 N.J. 503, 529 n.2 (1984) (Clifford and Schreiber, JJ., dissenting) (citation omitted). Accordingly, as there are no Federal Standards exceeded by this rule, 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.

Jobs Impact

Pursuant to N.J.S.A. 52:14B et seq. (P.L. 1995, c.166), 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 this proposed readoption with amendments will not have a direct impact on jobs in the State. However, when nonprofit organizations enroll land in the Tax Exemption Program, representatives from the nonprofit

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organization need to prepare and track the organization's applications to the Program and provide land stewardship services to maintain the land for the public's use for recreation and conservation purposes. In many nonprofit organizations, volunteers perform these functions. In some cases, however, nonprofits that own and enroll many properties in the Tax Exemption Program find it necessary to have paid staff or hired consultants to handle the application process and maintain the properties. As land is enrolled in the Tax Exemption Program, there may be additional responsibilities for existing staff or the need to hire additional staff. This has the positive economic benefit of providing paying jobs for people who provide these administrative and land stewardship services.

Agricultural Industry Impact

Pursuant to P.L. 1998, c.48, adopted on July 2, 1998, codified at N.J.S.A. 52:14B-4(a)(2), the Department has evaluated the proposed new rules to determine the nature and extent of their impact on the agricultural industry.

A nonprofit organization that owns a farm, or a property that includes farm fields, may apply to enroll the non-farmed portion of that property in the Tax Exemption Program and continue agricultural uses as long as there is public access to that portion of the property for recreation and conservation purposes. In cases where public access to the entire property is restricted due to the nature of the agricultural operations or the policies of the nonprofit organization, the property will not be eligible for tax exemption under the program. In cases where public access to agricultural areas is allowed for recreation and conservation purposes, e.g., a "pick-your-own" farm, then the farmed portion of the property may be deemed eligible for tax exemption. Even in cases where all or a portion of a farmed property does not qualify for tax exemption under the program, the nonprofit organization may qualify for reduced property taxes under the Farmland Assessment Act of 1964, P.L. 1964, Chapter 48, N.J.S.A. 54:4-23.1 et seq.

Regulatory Flexibility Analysis

Pursuant to N.J.S.A. 52:14B-16 et seq., (P.L. 1986, c.169, known as the New

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Jersey Regulatory Flexibility Act), all rule proposals must include a regulatory flexibility analysis. Some of the nonprofit organizations affected by the proposed readoption with amendments may be small businesses as defined in the Regulatory Flexibility Act. Nonprofit organizations that submit applications to the Tax Exemption Program need to: (a) assemble and maintain various records associated with the real property in support of their applications for tax exemption; (b) complete and submit application forms to the program; (c) maintain and keep the property open to the public for recreation and conservation purposes; and (d) post required signs on the property. Personnel, whether paid or volunteer, are needed to perform these administrative and stewardship functions. The proposed readoption with amendments calls for the use of revised, streamlined application forms that will reduce some of the paperwork and time involved in preparing and submitting applications. This may result in slightly lower costs for the nonprofit organizations applying to and participating in the program. Therefore, there is no expected adverse economic impact of the proposed rule readoption with amendments and no exemptions from the rules or other approaches specifically targeted at small businesses 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, 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

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development and growth, preserve natural and historic resources, shape community character, and provide land for recreation. The rules proposed for re adoption with amendment support smart growth by providing the means for nonprofit organizations that own open space to make it available for recreation and conservation purposes for the public's use and enjoyment.

The Green Acres Program 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 of the goals of the State Plan is to conserve the State's natural resources and systems; another is to preserve and enhance areas with open space, recreational, historic, cultural, and scenic value. The Tax Exemption Program and this rule re adoption proposal with amendments are consistent with these goals of the State Plan as well as with the Plan's many policies regarding planning and protection of the State's open lands and natural resources, water resources, and special resource areas.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 7:35.

Full text of the rules proposed for re adoption with amendments follows. Additions indicated underlined in boldface **thus**; deletions indicated in brackets [thus].

**CHAPTER 35. [REAL PROPERTY TAXATION] REAL PROPERTY
TAXATION OF RECREATION AND CONSERVATION LANDS OWNED BY
NONPROFIT ORGANIZATIONS**

SUBCHAPTER 1. GENERAL PROVISIONS

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7:35-1.1 Purpose and Scope

[In order to] **To** help satisfy the acute need in New Jersey for natural open space areas for public recreation and conservation purposes, the Legislature has found that it is "in the public interest to encourage the dedication of privately-owned open space to public use and enjoyment." (N.J.S.A. 54:4-3.63 et seq.). These rules [and regulations] are supplemental to and not in derogation of existing tax laws.

7:35-1.2 Definitions

The following words and terms, when used in this Chapter, shall have the following meanings, unless the content clearly indicates otherwise.

“Act” means P.L. 1974, c.167, an Act concerning exemption from taxation of real property owned by certain nonprofit corporations (N.J.S.A. 54:4-3.63 et seq.).

“Application” means a request **to the Department, filed in accordance with this Chapter,** for certification of **eligibility for tax exemption** on one [contiguous land holding, or several holdings] **parcel or a unified group of parcels** intended for similar use.

“Certification of **eligibility for** tax exemption” means establishment by the Commissioner of eligibility for exemption pursuant [by to the provisions of P.L. 1951, c.135 (N.J.S.A. 54:4-4.4)] **to the provisions of the Act and this Chapter.**

“Change of use” means a use of land or property for other than recreation and conservation purposes.

“Commissioner” means the Commissioner of the Department of Environmental Protection **or his or her designated representative.**

“Department” means the **New Jersey** Department of Environmental Protection.

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“Land” or “lands” means real property, including any improvement, right-of-way, water, riparian and other rights, easements, privileges, and any other rights or interests in, relating to, or connected with real property.

“Nonprofit organization” means [those organizations or corporations who have] **an organization or corporation that has** applied for and received a determination letter **from the U.S. Department of Treasury granting exemption from Federal income tax** under Section 501(c)(3) of the Federal Internal Revenue Code.

“Parcel” means a piece of land with designated boundaries. A parcel may include multiple tax lots.

“Pretax year” means the year in which the [application is submitted] **nonprofit organization submits an application to the Department. The pretax year is the year prior to the year in which tax exemption is requested to begin.**

“Program” means the Tax Exemption program.

“Property” means land that is the subject of an application for tax exemption or land that has been certified as eligible for tax exemption.

[“Public recreation and conservation purposes” means the use of lands for parks, natural and historic areas, nature education, forests, camping, fishing, water reserve, wildlife preservation, hunting, boating, recreation centers, winter sports and similar uses for public recreation and conservation of natural resources.]

“Public use” means a use or right of use available to the general public or some portion thereof for [conservation or recreation] **recreation and conservation** purposes.

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[Such use, and any limits thereon, shall be based on the uses best suited to the land, the capacity of the facility and the public benefits or advantages to be derived therefrom.]

“Recreation and conservation purposes” means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both.

“Roll-back taxes” means taxes in an amount equal to the taxes [which] **that** would have been payable on the property had it not been **tax** exempt, in the current tax year (the year of sale or change [in] **of** use)[,] and in each of the two tax years immediately preceding [in] **the current tax year during** which the real property was exempt, with interest compounded at eight percent annually **pursuant to N.J.S.A. 54:4-3.69.**

7:35-1.3 Eligible Organizations

Any nonprofit organization [which] **that** qualifies for exemption from Federal income tax under Section 501(c)(3) of the **Federal** Internal Revenue Code and **that** owns land in the State of New Jersey **and makes that land available for public use for recreation and conservation purposes** is eligible to make application under this program.

7:35-1.4 Eligible Real Property

(a) [Real property must meet the following qualifications in order to gain tax exemption] **To be eligible for tax exemption, real property must meet the following criteria:**

1. [It]**The property** must [include] **be** a natural open space area [which is] not dominated by buildings or other structures, **Any buildings or structures that are present must be used exclusively for, or in support of, recreation and conservation purposes, otherwise the buildings or structures and the portion of the property**

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immediately around them shall not be eligible for tax exemption;

2. [It]**The property** must be **maintained and operated for the benefit of the public and be** open for public use on an equal basis;

3. (No change.)

4. Fees charged for entrance onto or use of the [real] property, **if any,** must be determined by the Commissioner to be non-discriminatory [fees consistent with the cost of maintenance or improvement of the property] **and reasonable.**

5. Restrictions on the use of the [real] property by the public, **if any,** must be determined by the Commissioner to be necessary for proper maintenance and improvement of the property or because significant natural features of the [land] **property** may be adversely affected by unrestricted access.

6. If it is determined by the Department, at any time, that the property does not meet one or more of the criteria in this subsection, then the Department shall rescind the certification of eligibility for tax exemption and shall notify the nonprofit organization and the municipal tax assessor accordingly.

7:35-1.5 Program Information and Forms; Address for Submission

Unless otherwise specified, information about the Program and application forms are available from, and any questions and all submissions required under this Chapter should be directed to: Green Acres Program – Tax Exemption, New Jersey Department of Environmental Protection, 501 East State Street, P.O. Box 412, Trenton, NJ 08625-0412; 609-984-0500; www.nj.gov/dep/greenacres.

7:35-[1.5]1.6 Application Procedures for Initial Certification of Eligibility for Tax Exemption

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(a) An applicant **for initial certification of eligibility for tax exemption** must submit to the Department [two copies of] the following documents by August 1 of the pretax year; **however, it is preferred that applicants submit the documents by May 15 of the pretax year:**

1. The Department's [application form DEP/TE 101] **Application for Real Property Tax Exemption, with original signatures. This application form shall: identify the owner of the property; provide site information including municipality, county, block and lot; identify flora, fauna, adjacent land use, and facilities on the property; describe the public use, means of access, fees for use, and restrictions; provide a detailed maintenance, policing, and preservation plan for the property; indicate the name and contact information for the municipal tax assessor and official advertising newspaper of the municipality in which the property is located; include a statement releasing the State of New Jersey from any liability that may arise from the public use of the property; provide supporting documentation to demonstrate the nonprofit status of the applicant organization and its legal ownership of the property; and provide an affidavit signed by the officer of the nonprofit organization attesting to the veracity of the information supplied in the application.**

2. The New Jersey Department of Treasury Initial Statement of Organization Claiming Property Tax Exemption, with original signature (Form I.S. Rev. December 2001 as may be supplemented or revised), available from the Department of Treasury web site at [www.nj.gov/treasury/taxation/pdf/other forms/lpt/initialstment.pdf](http://www.nj.gov/treasury/taxation/pdf/other_forms/lpt/initialstment.pdf) or from the Green Acres Program web site at www.nj.gov/dep/greenacres;

[2] **3. The Federal Internal Revenue Service 501(c)(3) letter of [ruling] determination certifying the organization as a nonprofit organization;**

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[3 . Statement by counsel or other competent declarer attesting to applicant's ownership of the specific property;

4. The property tax bill(s) for the pretax year for all property for which application is being made;

5. The tax map(s) for all property for which application is being made and a municipal map showing the location of the property;

6. The State form I.S. Rev. June 1970 (the initial statement for Exemption of Real Property from Taxation pursuant to [N.J.S.A. 54:4-4.4](#));

7. A copy of the applicant's certificate of incorporation, articles of association or the charter and bylaws.]

4. A copy of the recorded deed to the property showing ownership by the nonprofit organization or, if a recorded deed is not available at the time of application, a non-recorded deed to be followed by a recorded deed no later than August 15 in the year of the application for tax exemption, or a certification signed by the chief executive of the nonprofit organization or by legal counsel representing the nonprofit organization verifying ownership and committing to submit the recorded deed no later than August 15 in the year of application for tax exemption;

5. The property tax bill(s) for the pretax year for all property for which application is being made;

6. The tax map(s) labeled to show all property for which application is being made;

7. A municipal street map labeled to show the location of the property and all

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public access points;

8. A map of the property showing any and all public access points, parking areas, roads, driveways, trails, and points of interest; and

9. Documentation legally establishing the nonprofit organization and defining its purpose. Acceptable documents include a copy of the applicant's certificate of incorporation, articles of association, or the charter and bylaws.

(b) The Department has the right to enter upon the [land] **property that is the subject of the application** for the purposes of a site inspection after application has been made.

(c) Prior to the public hearing required under (d) below, the applicant shall send to the tax assessor of the municipality(ies) in which the property is located two copies, with original signatures, of the items required under N.J.A.C. 7:35-1.6(a)1 and (a)2 above.

[(c)] **(d)** A public hearing [will] **shall** be held **by the Commissioner or by his or her designated representative,** [on the first Thursday after the first Monday in September of the pretax year or] at such **date, time, and location** as designated by the Commissioner. **The applicant shall advertise, at the expense of the applicant,** [The Commissioner will advertise] the **date,** time, and location of the hearing in [an] **the** official [advertising] newspaper of the [area in which the property is located, at the expense of the applicant. The advertising cost is payable in advance of the hearing.] **municipality in which the property for which application is being made is located. The newspaper advertisement must be published at least fifteen days in advance of the date of the public hearing. The applicant shall send to the Department proof of timely publication of the advertisement of the public hearing; proof must be received by the Department at, or preferably prior to, the public hearing.**

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[(d) Prior to the hearing two copies of each item submitted in application will be sent to the local tax assessor. A copy of the Department of Environmental Protection letter of notification of receipt will be sent to the applicant and to the applicable county board of taxation, with original to local tax assessor.]

(e) On or before September 15 of the pretax year, the Commissioner [will] **shall** make [a declaration of certification and shall notify the applicant, the local tax assessor and the county board of taxation. The Commissioner may consult with the Natural Areas Council and others prior to making a determination.] **a decision regarding eligibility or ineligibility for tax exemption and shall notify the applicant and municipal tax assessor of that decision in writing.**

[(f) Not later than July 1 of every third-calendar year succeeding the year of certification the applicant shall submit a form DEP/TE 102 "Application for Recertification of Exemption from Real Property Taxes" and form F.S. Rev. June 1970 "Further Statement" informing the Department of current land use.]

(f) Upon notification of eligibility for tax exemption and the granting of tax exemption by the municipal tax assessor, the nonprofit organization shall post the property with Green Acres Tax Exemption Program sign(s) provided by the Department.

7:35-1.7 Application Procedures for Recertification of Eligibility for Tax Exemption

(a) Once the Department has certified a property as eligible for tax exemption, the nonprofit organization must submit to the Department the following document(s) not later than April 15 of every third year succeeding the year of initial certification of eligibility:

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1. The New Jersey Department of Treasury *Further Statement of Organization Claiming Property Tax Exemption* (Form F.S. Rev. April 2002 as may be supplemented or revised), available from the Department of Treasury web site at www.nj.gov/treasury/taxation/pdf/other_forms/lpt/further.pdf or from the Green Acres Program web site at www.nj.gov/dep/greenacres, with original signature.

2. If the Department determines or it has been reported on the *Further Statement of Organization Claiming Property Tax Exemption* that there have been physical and/or use changes, or property ownership changes/dispositions, then the nonprofit organization must also submit to the Department the Department's *Application for Recertification of Exemption from Real Property Taxes*, with original signatures; the Department's *Property Use Analysis* form; and all other documents as specified at N.J.A.C. 7:35-1.6(a)4 through and including N.J.A.C. 7:35-1.6(a)8.

i. The *Property Use Analysis* form shall include the following information: application number (previously assigned by the Department during the initial certification process); name of preserve (if any); municipality and county in which the property is located; block number(s), lot number(s), and acreage(s) of the parcel(s) that are the subject of the application; a description of the public use(s) of the property, including number of visitors and frequency of visits; active and/or passive recreational/conservation activities available on the property; description and explanation of restrictions (if any) on the public uses of the property; list of building(s), if any, on the property and the use(s) of such building(s); actions taken by the applicant to further the public benefit of the property; description of changes to the property; a copy of the tax map indicating the property; a project location map (street map or other similar map) showing the location of the property and public access points; recent photographs(s) of Green Acres Tax Exemption Program sign posted on the property.

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(b) When applying for recertification of a tax-exempt property, the nonprofit organization shall also send to the tax assessor of the municipality(ies) in which the property is located two copies, with original signatures, of the *Further Statement of Organization Claiming Property Tax Exemption* form.

(c) On or before September 15 of the year in which a nonprofit organization files an application for recertification, the Commissioner may conduct a public hearing on the application.

(d) If it is reported on the *Further Statement of Organization Claiming Property Tax Exemption* form that there have been no physical and/or use changes, and no property ownership changes/dispositions, and the property continues to meet all the criteria of N.J.A.C. 7:35-1.4, then the Department shall continue to deem the property as eligible for tax exemption.

(e) If there have been physical and/or use changes, or property ownership changes/dispositions, then the Department shall apply the provisions of N.J.A.C. 7:35-1.4 and determine whether or not the property meets the qualifications therein for continued eligibility for tax exemption.

(f) On or before September 15 of the year in which a nonprofit organization files an application for recertification, and after a public hearing on the application (if any) is held, the Commissioner shall make a decision regarding eligibility or ineligibility for continued tax exemption and shall notify the applicant and tax assessor of the municipality(ies) in which the property is located of that decision in writing.

7:35-[1.6] 1.8 Change of [status] use or ownership

[When a] **If** property which is exempted under the provisions of this Act **or**

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chapter is applied to a use other than public recreation and conservation purposes, or is sold **or otherwise transferred** to an [organization not qualifying for tax exemption under the Federal Internal Revenue Service Section 501(c)3, then the applicant shall notify the Department that property shall be subject to roll-back taxes.] **entity that is not a nonprofit organization, the applicant shall immediately notify the Department and the municipal tax assessor. That property shall no longer be eligible for tax exemption under this Act and shall be subject to roll-back taxes.**

7:35-[1.7]1.9 Save Harmless liability

The nonprofit organization, its servants, licensees, agents or invitees shall accept all liability arising out of the use of the [certified] **tax exempt** property.

7:35-[1.8]1.10 Amendments

The Commissioner, in consultation with the Director of the Division of Taxation, shall have the power to adopt, amend and repeal these administrative rules to effectuate the purposes of this Act.

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: _____

Lisa P. Jackson, Commissioner