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ENVIRONMENTAL PROTECTION

NATURAL AND HISTORIC RESOURCES

DIVISION OF PARKS AND FORESTRY

Forestry

Proposed Repeal and New Rule: N.J.A.C. 7:3-3.4

Proposed Amendments: N.J.A.C. 7:3-1.1, 1.2, 1.3, 3.1, 3.3, 3.7, 3.8, and 3.9

Proposed New Rules: N.J.A.C. 7:3-1.4, 3.3, 3.5, 3.6, 5, and 6

Proposed Repeals: N.J.A.C. 7:3-3.2, 3.7, and 4

Authorized By: Bob Martin, Commissioner, Department of Environmental Protection

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

Authority: N.J.S.A. 13:1B-15.100 through 102, 13:1B-15.106, 13:1D-9, 13:1L-1 et seq., 45:1-9, 52:14B-1 et seq., and 54:4-23.1 et seq.

DEP Docket No.: 05-17-03

Proposal Number: PRN 2017 - 060

A **public hearing** concerning this proposal will be held on Wednesday, May 24, 2017, at 6:00

P.M. at:

Rutgers EcoComplex

1200 Florence-Columbus Rd.

Bordentown, NJ

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Submit comments by (60 days after publication) electronically at

www.nj.gov/dep/rules/comments.

The Department of Environmental Protection (Department) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Alice A. Previte, Esq.

Attention: DEP Docket Number 05-17-03

Office of Legal Affairs

Department of Environmental Protection

401 East State Street, 7th Floor

Mail Code 401-04L

P.O. Box 402

Trenton, New Jersey 08625-0402

Written comments may also be submitted at the public hearing. It is requested (but not required) that anyone providing oral testimony at the public hearing provide a copy of any prepared text to the stenographer at the hearing.

This rule proposal can be viewed or downloaded from the Department's web page at www.nj.gov/dep/rules.

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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.

N.J.A.C. 7:3, Forestry, governs the Department's forestry programs, including the List of Approved Foresters and Certified Tree Experts. The Department proposes to add new Forest Stewardship Program rules, N.J.A.C. 7:3-5, and new rules governing the Forest Stewardship Advisory Committee, N.J.A.C. 7:3-6; amend the rules governing the List of Approved Foresters, N.J.A.C. 7:3-3; and repeal the rules governing Certified Tree Experts, N.J.A.C. 7:3-4. The Department also proposes miscellaneous amendments to the chapter to correct cross-references, and correct grammar throughout the chapter; to amend rules related to construction of the chapter and to severability; and to add a new section that provides information on how to submit documents and other communications.

Forest Stewardship Program, N.J.A.C. 7:3-5

In 2009, the Legislature directed the Department to establish a forest stewardship program. See P.L. 2009, c. 256 (Forest Stewardship Law), §§ 1 through 3, and 8, codified at N.J.S.A. 13:1L-29 through 31 and 36. Accordingly, the Department is proposing new rules and amendments to its forestry rules at N.J.A.C. 7:3. The proposed rules establish that private landowners (referred to in the proposed rules as "owners") are eligible to participate in the program if they hold a property on which there are five acres or more of forest land under their management, and they are willing and able to manage the property in accordance with an approved forest stewardship plan. Participation is voluntary. Since 1991, the United States

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Department of Agriculture (USDA) Forest Service has offered a forest stewardship program, administered in New Jersey by the Department's Forest Service. The Department's intent is for the design of the Forest Stewardship Program proposed at N.J.A.C. 7:3-5 to be consonant with the Federal guidance that underpins the USDA program, but to conform with State law and be tailored to address New Jersey-specific circumstances.

Other provisions of P.L. 2009, c. 256, apply to the Department of the Treasury, Division of Taxation, and address the tax treatment of property that is subject to an approved forest stewardship plan. In the State of New Jersey, tax treatment of properties falls under the purview of the Department of the Treasury, not the Department of Environmental Protection. These other provisions of P.L. 2009, c. 256, are not within the Department's administrative scope and are not, therefore, addressed in the proposed new rules and amendments. However, these other provisions create an interface between the Forest Stewardship Program proposed at N.J.A.C. 7:3-5 and New Jersey's Farmland Assessment Program administered under rules promulgated by the Department of the Treasury. Through this interface, the law makes available to owners of forest land in New Jersey who choose to participate in the Forest Stewardship Program, a new and alternative method of qualifying certain forest lands to be valued for property tax purposes under the Farmland Assessment Program.

To understand the proposed Forest Stewardship Program, and its context and potential implications, it is necessary to have some knowledge of the New Jersey's Farmland Assessment Program and the USDA Forest Service's forest stewardship program.

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New Jersey's Farmland Assessment Program

Through an amendment to the State constitution and subsequent enactment of the Farmland Assessment Act in 1964, New Jersey established the Farmland Assessment Program to deter the loss of agricultural lands to development by substantially lessening the economic pressure imposed by taxation at full market value. As a fact sheet distributed by the New Jersey Agricultural Experiment Station at Rutgers University explains, “[p]olicy makers and New Jersey’s public long ago recognized the market benefits of farmland and farming do not reflect their full values to society. The public benefits of agriculture include clean air, clean water, water recharge, wildlife habitat, open space, decreased crime, decreased congestion, freedom from sprawl, pastoral views, local food security and diversity, and a rural lifestyle” (“Know some facts about ... New Jersey’s Farmland Assessment Act,” Carleo, Jenny and Rabin, Jack, eds., April 2009). By the mid-20th century, as more and more land was becoming developed, concern heightened about the rate of change in the use of land, and this led to the establishment of the Farmland Assessment Program.

The Farmland Assessment Program promotes retention of farmland through property tax relief. Under the Farmland Assessment Program, land determined to be in agricultural or horticultural use can be valued for property tax purposes at its value in such use, rather than at full market value. The Farmland Assessment Act at N.J.S.A. 54:4-23.2 provides, “[f]or general property tax purposes, the value of land, not less than 5 acres in area, which is actively devoted to agricultural or horticultural use and which has been so devoted for at least the 2 successive years immediately preceding the tax year in issue, shall, on application of the owner, and

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approval thereof as hereinafter provided, be that value which such land has for agricultural or horticultural use.”

Amendments to the Farmland Assessment Act enacted in 1986, included provisions that addressed qualification of woodland for valuation under farmland assessment. The amendments recognized and differentiated “appurtenant woodland,” defined at N.J.S.A. 54:4-23.3(c) as “a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.” The implementing Farmland Assessment Act rules establish that woodland shall be presumed to be appurtenant woodland if “its area is equal to or less than the area of the farmland property qualifying for agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees” (N.J.A.C. 18:15-2.8(a)). Appurtenant woodland qualifies for valuation under farmland assessment, without the owner needing to comply with a forestry plan or meeting other additional conditions. On some properties, all woodland qualifies as appurtenant woodland.

The 1986 amendments to the Farmland Assessment Act established additional conditions that woodland that does not qualify as appurtenant woodland (that is, non-appurtenant woodland) must meet in order to qualify for valuation for property tax purposes under farmland assessment. The owner must manage the non-appurtenant woodland in compliance with a woodland management plan. Also, the owner must submit, with the annual application for farmland assessment, a woodland data form that includes attestation by an Approved Forester as to the owner’s compliance with the woodland management plan and documents the annual income

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received, usually from sale of forest products. The amount of the income must at least equal \$500.00 for the first five acres and \$0.50 per acre for each additional acre. In 2014, the owners of 5,700 properties in New Jersey held approved woodland management plans. In tax year 2014, owners qualified over 234,000 acres of non-appurtenant woodland for farmland assessment (“State of New Jersey Farmland Assessment Act of 1964, Chapter 48, Laws of 1964: Fifty-First Report of Data From FA-1 Forms for 2014 Tax Year,” Division of Taxation, New Jersey Department of the Treasury, Trenton, New Jersey, December 2014).

P.L. 2009, c. 256, which includes the Forest Stewardship Law, also amends the Farmland Assessment Act. See P.L. 2009, c. 256, §§ 9, 10, and 13 through 15. These amendments provided an alternative method by which an owner could qualify non-appurtenant woodland to be valued for property tax purposes under farmland assessment. Instead of qualifying for farmland assessment by complying with a woodland management plan and meeting income requirements, an owner could prepare a forest stewardship plan, approved by the Department as conforming to proposed new N.J.A.C. 7:3-5, and qualify by complying with the provisions of that plan. See N.J.S.A. 54:4-23.3.a. This new method will become available to owners when the proposed Forest Stewardship Program rules at N.J.A.C. 7:3-5 are operative.

In order to qualify for farmland assessment under either a woodland management plan or a forest stewardship plan, an owner must annually apply for farmland assessment and include a copy of the relevant plan and a woodland data form with the annual application. Through the application, the owner is requesting the approval of the local assessor for a property to be valued for local property tax purposes under farmland assessment in the forthcoming calendar year (the next tax year). Applications are due by August 1 of the pre-tax year, the year prior to the tax

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year in question. The owner must document the management practices being out carried out in the pre-tax year, and the owner and an Approved Forester must certify that the owner is managing the property in compliance with the relevant plan. On the woodland data form the owner reports the amount of income received from sale of forest products in the pre-tax year, even if that amount is zero. Although to qualify for farmland assessment based on a woodland management plan, an owner must show income from the woodland, as discussed above, there is no minimum income requirement for qualifying with a forest stewardship plan.

The Farmland Assessment Act provides that qualifying land shall have the value for property tax purposes “which such land has for agricultural or horticultural use.” See N.J.S.A. 54:4-23.2. A recent amendment of the Farmland Assessment Act clarified the valuation provision as it applies to land subject to an approved forest stewardship plan. See P.L. 2013, c. 43. “In the case of land that is the subject of a forest stewardship plan approved by the Department of Environmental Protection ... which is fully implemented, and otherwise qualifies under the ‘Farmland Assessment Act of 1964’ for valuation, assessment and taxation as land in agricultural or horticultural use pursuant to N.J.S.A. 54:4-23.3, no proofs required pursuant to this subsection of gross sales, payments, fees, or imputed income, or of clear evidence of anticipated yearly gross sales, payments, fees, or imputed income, need be included with the form or otherwise submitted. However, the applicant shall include documentation demonstrating implementation of the forest stewardship plan, including documentation of scheduled activities, a forest inventory and yield parameters to document forest productivity, and inspections performed, in accordance with rules and regulations adopted for the forest stewardship program by the Department of Environmental Protection.” P.L. 2013, c. 43 (citations omitted).

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USDA Forest Service's Forest Stewardship Program

In response to a directive in the Cooperative Forestry Assistance Act at 16 U.S.C. § 2103a, the USDA Forest Service launched a forest stewardship program in 1991, “to encourage the long-term stewardship of nonindustrial private forest lands by assisting owners of such lands to more actively manage their forest and related resources by utilizing existing State, Federal, and private sector resource management expertise and assistance programs.” On its website, the USDA Forest Service explains that its Forest Stewardship Program “provides technical assistance, through State forestry agency partners, to nonindustrial private forest owners to encourage and enable active long-term forest management. A primary focus of the USDA program is the development of comprehensive, multi-resource management plans that provide landowners with the information they need to manage their forests for a variety of products and services” (<http://www.fs.fed.us/spf/coop/programs/loa/fsp.shtml>). Since 1992, the New Jersey Forest Service, which is part of the Department, has administered the USDA program for New Jersey forest owners.

The USDA Forest Service has issued guidance entitled “Forest Stewardship Program National Standards and Guidelines” (National Forest Stewardship Guidelines) to assist state agencies with program implementation, and has revised and supplemented these guidelines over the years. The most recent revision was in October 2015. The National Forest Stewardship Guidelines and supplements are available from the USDA forest service at the “Forest Stewardship” link www.fs.fed.us/cooperativeforestry. The National Forest Stewardship Guidelines represent broadly accepted standards for forest stewardship programs and are familiar

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to the Approved Foresters who advise the owners with Department-approved Federal forest stewardship plans for their lands. The National Forest Stewardship Guidelines explain that “[a] Forest Stewardship Management Plan serves as the foundation for engaging forest landowners in a plan that addresses individual landowner objectives while adhering to National and State Forest Stewardship Management Plan guidelines” (p. 12 in the 2015 version). In 2014, owners of slightly fewer than 2,000 properties in New Jersey held plans that the Department approved as satisfying the National Forest Stewardship Guidelines. These plans covered nearly 150,000 acres of forest lands.

At present, a forest stewardship plan approved as conforming to the National Forest Stewardship Guidelines’ plan criteria (a Federal guidelines plan) cannot be used to satisfy the plan requirements in the Farmland Assessment Act at N.J.S.A. 54:4-23.3.a, unless the Department has also approved it as meeting the criteria for a woodland management plan in the Farmland Assessment Act rules at N.J.A.C. 18:15-2.10. Therefore, in the absence of the proposed Forest Stewardship Program rules, an owner with a forest stewardship plan can qualify woodland to be valued for property tax purposes under farmland assessment only if the woodland is accepted by the assessor as appurtenant woodland or if the owner is managing the woodland in accordance with a plan approved as a woodland management plan.

Most owners in New Jersey with Federal guidelines plans have prepared their plans to also meet woodland management plan requirements. Plans approved by the Department as meeting both the National Forest Stewardship Guidelines’ plan criteria and woodland management plan criteria are referred to as “dual plans.” The owner can file the plan with the assessor as a woodland management plan and use compliance with the plan to qualify the

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property's non-appurtenant woodland for farmland assessment. Once the proposed Forest Stewardship Program rules at N.J.A.C. 7:3-5 are operative, a dual plan will no longer be necessary. An approved forest stewardship plan will meet the criteria in the National Forest Stewardship Guidelines and will, pursuant to the Forest Stewardship Law at N.J.S.A. 13:1L-31.3.d, meet the plan requirements of the State's Farmland Assessment Act Program. The Department has designed the Forest Stewardship Program proposed at N.J.A.C. 7:3-5 to satisfy the requirements of Forest Stewardship Law, and also to conform to the National Forest Stewardship Guidelines. There is no conflict between the State law and the Federal guidelines but rather, as discussed below, the provisions are congruent, compatible, or complementary.

Basis for Proposed Forest Stewardship Program Requirements

The proposed Forest Stewardship Program is based on the State's Forest Stewardship Law and the USDA Forest Service's National Forest Stewardship Guidelines. As discussed below, the proposed rules take into account other intersecting Federal and State laws in order to create an appropriate interface, but the Department has relied on the State's Forest Stewardship Law and the National Forest Stewardship Guidelines as the foundation for the proposed program. The two sources have much in common. Both regard enhanced conservation and stewardship of forest land as benefits to be gained through establishment of a forest stewardship program. In the preface to the State's Forest Stewardship Law, the Legislature found and declared that "forest lands are an irreplaceable component of the environment worthy of conservation and stewardship" but that "forest lands are now seldom managed effectively due to a lack of guidance, resources, and incentives for improved forest stewardship" and concluded that "care

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and management of forest lands could be enhanced through the establishment of a forest stewardship program.” State law mandates that the Department’s rules be “designed to ensure the sustainability of forest lands” (N.J.S.A. 13:1L-31.a(1)) and defines “sustainability” quite broadly as, “with respect to forest land, having the ability to: (1) maintain its ecological processes, biodiversity, resource productivity, regeneration capacity, and vitality; and promote forest health, preclude the spread of invasive non-native species, maintain forest integrity and contiguity, preserve New Jersey's native biodiversity, and protect endangered and threatened species and species of special concern and the habitat that sustains them; and (2) realize the potential to fulfill now and for future generations, relevant ecological, environmental, economic, and social functions, including but not limited to protection and improvement of air quality and of water supply and water quality, stabilization of soils, prevention and suppression of uncontrolled wildfires, service of markets for forest products, provision of recreational opportunities, and improvement of quality of life” (N.J.S.A. 13:1L-30).

Similarly, the USDA Forest Service’s National Forest Stewardship Guidelines explain that the purpose of the Federal forest stewardship program is to provide assistance to landowners “where good stewardship ... will enhance and sustain the long term productivity of multiple forest resources and produce healthy, resilient forest landscapes” (p. 3 in the 2015 version). The USDA Forest Service further indicates the intent of the program on its website at www.fs.fed.us/spf/coop/programs/loa/fsp.shtml by stating, “[f]orest [s]tewardship plans motivate landowners to become more active in planning and managing their forests, greatly increasing the likelihood that their forests will remain intact, productive and healthy, and that the social, economic and environmental benefits of these lands will be sustained for future generations.”

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Both the State's Forest Stewardship Law and the USDA Forest Service's National Forest Stewardship Guidelines promote active management. The legislative findings and declarations that underpin the Forest Stewardship Law conclude with the determination that "it is in the public interest to establish a forest stewardship program to develop and promote the long-term active management of the State's forest resources in order to preserve and enhance those resources and realize the benefits thereof." Similarly, the National Forest Stewardship Guidelines indicate that the purpose of the program is to encourage long-term stewardship, which will be accomplished by assisting the owners of forest lands "to more actively manage their forest and related resources" (p. 3 in the 2015 version).

Under both the State's Forest Stewardship Law and the National Forest Stewardship Guidelines, owner participation in the forest stewardship program is voluntary. While the Forest Stewardship Law at N.J.S.A. 13:1L-31.3.a establishes that a forest stewardship plan must conform with the rules proposed at N.J.A.C. 7:3-5, it also makes clear that, within those bounds, it is the owner who determines the plan's goals. Likewise, the National Forest Stewardship Guidelines advise that, within the confines established in the guidelines, setting the goals and objectives of a plan is the owner's prerogative. The guidelines explain that a forest stewardship plan is "a plan that addresses individual landowner objectives while adhering to national and State Forest Stewardship Management Plan guidelines" (p. 12 in the 2015 version).

If an owner elects to participate, both programs require the owner to obtain the Department's approval of the forest stewardship plan. Both programs require the owner to prepare the plan with a forester or other forestry professional. Both programs require the owner to agree to manage the property according to the approved plan. Both programs seek to

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encourage long-term stewardship of forest lands. Both programs allow lands that are not forested but are suitable for growing trees to be considered to be forest land if the plan provides for their reforestation. Under both programs, forest stewardship plans must consider threatened and endangered species.

Both the Forest Stewardship Law and the National Forest Stewardship Guidelines call for documentation of implementation and monitoring of outcomes. The Forest Stewardship Law at N.J.S.A. 13:1L-31.a(3) requires the forest stewardship plan to “establish monitoring, recordkeeping, and reporting necessary to document implementation ...” The 2003 “Principles and Guides for a Well-Managed Forest” report, required to be considered under the National Forest Stewardship Guidelines, states that monitoring of implementation is expected. The National Forest Stewardship Guidelines call for monitoring that entails visitation of properties, carried out by the USDA Forest Service, the Department, or “other qualified resource management professions to verify that current forest conditions are consistent with the landowner stewardship objectives and the result of sustainable management, as defined in the landowner’s approved Forest Stewardship Management Plan” (p. 14 in the 2015 version).

While the requirements in the State’s Forest Stewardship Law and the USDA Forest Service’s guidance are compatible, their scopes are not identical. Some topics are addressed in one but not the other, or are addressed with more specificity in one than in the other. In order to ensure that forest stewardship plans meet both the Forest Stewardship Law and the guidance of the National Forest Stewardship Guidelines, where one does not address a particular program parameter or does so more generally than the other, precedence has been given to the other in the proposed rules. As a result, the Department has taken direction from one or the other of these

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sources with respect to certain provisions of the proposed Forest Stewardship Program rules. For example, the affirmation in proposed N.J.A.C. 7:3-5.1(a) that the Department shall approve forest stewardship plans specifically “pursuant to this subchapter” derives from the Forest Stewardship Law, which states at N.J.S.A. 13:1L-31.a(1) that a forest stewardship plan shall “conform with the rules and regulations adopted pursuant to section 8 of P.L. 2009, c.256 (C.13:1L-36) ...” The National Forest Stewardship Guidelines, of course, do not mention State rules. Rather, the USDA Forest Service relies on state agencies to ensure that the forest stewardship plans they approve satisfy the National Forest Stewardship Guidelines.

Another example is the length of the plan period. The Forest Stewardship Law at N.J.S.A. 13:1L-31.3.c specifies, “[a] forest stewardship plan shall be valid for a period of 10 years, unless sooner terminated by the owner or revoked by the department,” whereas the length of the plan period is not addressed in the National Forest Stewardship Guidelines. Another example is the requirement proposed at N.J.A.C. 7:3-5.1(e)1 that the owner prepare the plan in consultation with an individual on the Department’s List of Approved Foresters. The Forest Stewardship Law at N.J.S.A. 13:1L-31.a establishes that the owner is to prepare a forest stewardship plan “in conjunction with a forester or other professional selected by the owner from a list of foresters approved by the department ...” whereas the National Forest Stewardship Guidelines indicate only that the professional involved in preparing the plan or verifying that it meets minimum standards must be “a professional resource manager” (p. 13 in the 2015 version). Proposed N.J.A.C. 7:3-5.1(b) requires that a property must be privately held to be eligible for the Forest Stewardship Program. In this case, the National Forest Stewardship Guidelines state that the land must be “nonindustrial private forest” and explain that this includes

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land owned “by any private individual, group, association, corporation, Indian tribe or other private legal entity ...” (p. 4 in the 2015 version). The Forest Stewardship Law does not address whether an eligible property must be privately owned.

Another example of a provision that derives from the National Forest Stewardship Guidelines is the requirement at proposed N.J.A.C. 7:3-5.1(b) that plans shall apply to the entirety of the property, whereas State law does not address this aspect of a plan. Also, the “Principles and Guides for a Well-Managed Forest,” which is required to be considered under the National Forest Stewardship Guidelines, explicitly states, “[c]onformance to all local, state and federal laws is required.” While the obligation to conform to all applicable legal requirements is implicit, the State’s Forest Stewardship Law does not include such an explicit statement.

In addition to conforming to the Forest Stewardship Law and the National Forest Stewardship Guidelines, the proposed program lies at the nexus of a number of other laws. The fact that a substantial portion of owners who obtain the Department’s approval of a forest stewardship plan are expected to use their compliance with the plan to qualify the property’s non-appurtenant woodland for valuation for property tax purposes under farmland assessment means that the Forest Stewardship Program needs to be tailored to ensure its compatibility with the Farmland Assessment Program. For example, both the Farmland Assessment Act at N.J.S.A. 54:4-23.2 and the State Constitution establish that for land to be eligible to be taxed based on its value in agricultural or horticultural use, the land must be “actively devoted” to such use. This reinforces the mandate that the Forest Stewardship Program requires plans to prescribe active management. In addition to the documentation requirements discussed in the following

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paragraph, other instances of intersection between the Forest Stewardship Program and the Farmland Assessment Program are cited in the “General Provisions” and “Required Contents of a Plan” sections below.

Amendments to the Farmland Assessment Act enacted in 2013, require at N.J.S.A. 54:4-23.14.a that an owner provide documentation of several specific items with an application for farmland assessment in order to qualify non-appurtenant woodland for differential taxation, based on compliance with an approved forest stewardship plan. The amended law indicates that the purpose of the documentation is to demonstrate “implementation of the forest stewardship plan ... in accordance with rules and regulations adopted for the forest stewardship program by the Department of Environmental Protection.” Several provisions in the proposed rules will aid owners in meeting these documentation requirements. The Department anticipates that an owner will be able to satisfy the requirement in the law for documentation demonstrating implementation of “scheduled activities” through reference to the management schedule that N.J.A.C. 7:3-5.2(a)5 requires an owner to include in a plan, and the record of the implementation of prescriptions and practices that N.J.A.C. 7:3-5.11(a)1 requires the owner to maintain. The forest inventory information that N.J.A.C. 7:3-5.6(a)4 requires an owner to provide in a plan will satisfy the law’s requirement for documentation of “a forest inventory.” The parameters that N.J.A.C. 7:3-5.6(c)1 requires an owner to identify for each objective, together with the monitoring record that N.J.A.C. 7:3-5.11(c) requires the owner to maintain, will satisfy the law’s requirement for “yield parameters to document forest productivity.”

General Provisions

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The general provisions of the Forest Stewardship Program are set forth at proposed N.J.A.C. 7:3-5.1. As mentioned above, participation in the program is voluntary and enables the owner of a qualifying property to manage the property, and in particular, its forest stands, under a forest stewardship plan that is approved by the Department. In order to qualify, the property must be privately held, and must consist of five or more acres on which the owner can engage in forest management. Land that is subject to an easement or other legal constraint that disallows such management does not qualify. There must be access to the property, both for implementation of the plan and for inspection; accordingly, a landlocked property also does not qualify. Land for which there is no legal access is “landlocked,” as defined at proposed amended N.J.A.C. 7:3-1.3. The five-acre criterion reflects the Farmland Assessment Act requirement at N.J.S.A. 54:4-23.2 that, to qualify for valuation as land actively devoted to agriculture or horticultural use, the area of the land must be not less than five acres.

A property is to be comprised of all contiguous lots held by a single owner, but the required five or more acres of forest land within the property need not be contiguous. The property’s forest land can be a single area of qualifying land, or made up of two or more qualifying areas, each of which is one-half acre or more. Whether land qualifies as forest land depends on its canopy cover. To qualify as forest land, the land must have canopy cover of at least 10 percent, or be capable of achieving that level of canopy cover and be scheduled to be afforested or reforested to at least that level under the plan. “Canopy cover” is proposed to be defined at N.J.A.C. 7:3-1.3 as the proportion of the forest floor covered by a vertical projection of the tree crowns, expressed as a percent of an area of forest land.” This definition is based on the approach currently used in the USDA Forest Service’s Forest Inventory and Analysis (FIA)

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research program for classifying land as forest land (see http://www.fia.fs.fed.us/library/database-documentation/current/ver60/FIADB%20User%20Guide%20P2_6-0-2_final-opt.pdf). In addition, proposed N.J.A.C. 7:3-5.1 establishes that land devoted to producing Christmas trees or nursery stock and land, such as an orchard, on which trees are grown primarily for the fruit they produce is not to be considered forest land. This corresponds with the treatment of such lands under the Farmland Assessment Program. Christmas trees, nursery-grown trees and shrubs, and fruits harvested from orchards are classified under Farmland Assessment as crops, and the land on which they are grown is valued for taxation purposes as cropland, not as woodland.

The Department will consider an owner of a qualifying property to be a participant in the Forest Stewardship Program if the owner satisfies the obligations listed at proposed N.J.A.C. 7:3-5.1(e). The owner must prepare a forest stewardship plan in consultation with an Approved Forester, submit the plan for review, and obtain the Department's approval of the plan. The owner must manage the property in accordance with the approved plan, and carry out required monitoring and recordkeeping. If circumstances require that the plan be amended, the owner must secure the Department's approval of such amendment. Further, the plan must be valid, not expired, terminated, or revoked. These requirements will be of particular relevance to an owner who wants to qualify non-appurtenant woodland for taxation under farmland assessment through compliance with a forest stewardship plan. The Farmland Assessment Act at N.J.S.A. 54:4-23.3a.c directs the assessor to disapprove an owner's farmland assessment application for non-appurtenant woodland if the Department finds that owner is not "in compliance" with the forest stewardship plan. This disapproval will affect more than the single tax year to which the application pertains. At N.J.S.A. 54:4-23.7b.d(1), the Farmland Assessment Act requires that

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non-appurtenant woodland can qualify for valuation under farmland assessment only if the owner has implemented an approved plan for two calendar years prior to the tax year for which farmland assessment is sought. Once the Department has determined that the owner is not managing a property in compliance with a forest stewardship plan, the property's non-appurtenant woodland will not again be eligible for valuation under farmland assessment until the Department finds that the owner is managing the property in compliance with the plan for at least two successive calendar years.

An owner who holds a woodland management plan or a forest stewardship plan approved prior to the operative date of the proposed rules as meeting the plan criteria in the National Forest Stewardship Guidelines (that is, a "Federal guidelines plan") does not need to submit an entirely new plan in order for the Department to approve the plan as a forest stewardship plan conforming to proposed new N.J.A.C. 7:3-5. Such owner has the option of preparing and submitting a plan conversion under N.J.A.C. 7:3-5.14. Once a plan or plan conversion is approved, the plan as revised and supplemented constitutes a forest stewardship plan approved by the Department as conforming with proposed N.J.A.C. 7:3-5.

Proposed N.J.A.C. 7:3-5 refers to the "owner" of property. However, the owner may not always be a single human being. In some cases, the owner may be a partnership, an association, a nonprofit, a corporation, or other legally recognized entity. If the owner is not a single human being, various individuals may act on behalf of the owner, such as to submit a plan to the Department. The rule identifies the individuals and the circumstances under which they may act. For example, if the owner is a corporation, then an employee of the corporation or a member of the governing board may sign and submit a plan for approval. The Forest Stewardship Law,

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codified at N.J.S.A. 13:1L-30, defines “owner” as an owner of forest land. The proposed definition of this term is broader. Instead of referring to the “owner of forest land,” the proposed definition at N.J.A.C. 7:3-1.3 refers to the person or persons who own a property, to reflect both the fact that a property may have more than one owner and, consistent with the National Forest Stewardship Guidelines, the fact that a forest stewardship plan applies to the entirety of a property, not just its forest land.

An approved forest stewardship plan is valid for 10 years, and the plan period cannot be extended, although the owner may terminate the plan and the Department may revoke its approval of the plan. At the time of plan approval, the Department will establish the start date of the plan period. In order for a property to continue under the Forest Stewardship Program beyond the initial 10-year period, the owner must obtain the Department’s approval of a subsequent plan. A plan is not effective before the date that it is approved. Therefore, in order to ensure that there is no gap between the end of one forest stewardship plan and the beginning of the subsequent plan, an owner must prepare, submit, and obtain approval of the new plan before the expiration of the existing plan. See the Forest Stewardship Law, N.J.S.A. 13:1L-31.c. A gap between the end date of one plan and the start date of a subsequent plan may disrupt the eligibility of some or all of the property’s forest lands for valuation for property tax purposes under farmland assessment. See the Farmland Assessment Act, N.J.S.A. 54:4-23.7b.b. If subsequent to approval, the Department determines that the information in a plan, plan amendment, or plan conversion is false, the Department may revoke approval of the plan.

The Department’s approval of a plan may not be sufficient for the owner to be authorized to proceed with implementing the plan. For example, if the property is located in the Pinelands

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Area, the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.) and its implementing rules must also be satisfied. If the property includes freshwater wetlands and the plan does not qualify for exemption from the permitting requirements of the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A, the owner must satisfy those permitting requirements before implementing the plan. Likewise, if the property includes a flood hazard area and the plan does not qualify for a permit-by-rule under the Flood Hazard Area Control Act rules at N.J.A.C. 7:13, the owner must satisfy those permitting requirements before implementation. These examples are not an exhaustive list of the additional approvals that may be required.

Forest Stewardship Plan Criteria

Proposed N.J.A.C. 7:3-5.2, Plan criteria, provides the criteria a forest stewardship plan must meet in order to qualify to be approved under the Forest Stewardship Program rules proposed at N.J.A.C. 7:3-5. It establishes that a forest stewardship plan must contain the six components listed at N.J.A.C. 7:3-5.2(a) and identifies the subsequent section of the rules that addresses each component.

The plan criteria section also establishes that management of the forest land and its natural resources under a plan must be based on the principle of conservation. The SAF Dictionary of Forestry provides several definitions for “conservation.” The second definition is the one most relevant to forest stewardship plans: “2. the management of a renewable natural resource with the objective of sustaining its productivity in perpetuity while providing for human use compatible with sustainability of the resource —*note* for a forest this may include managed, periodic cutting and removal of trees followed by regeneration conservation.” Proposed

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N.J.A.C. 7:3-5.2(b) models its explanation of the principle of conservation on this definition and requires that management of the land under a plan must be based on the principle of conservation.

The plan criteria section establishes the requirement that a plan must prescribe active management and indicates that the purpose of the active management must be to sustain and enhance forest productivity and the forest's yield of ecosystem services. The definition of "ecosystem service" proposed at N.J.A.C. 7:3-1.3 is taken from the USDA Forest Service's planning rule for National Forest System Land Management Planning, 36 CFR Part 219, Subpart A. An ecosystem service is specifically a service that is useful to people and may be any benefit that people obtain from an ecosystem. The range of potential benefits is wide and may include, for example, cleaner air, aquifer recharge, or aesthetic enhancement.

A plan may not call for the removal of trees to the extent that the canopy cover is reduced to less than 10 percent, which is the minimum cover necessary for land to be considered to be forest land, unless the tree removal is part of a prescription that leads to forest regeneration within the plan period. The section also establishes that a plan must be designed to be implemented in a "sustainable manner" and in a manner that protects and preserves the cultural resources identified in the plan. "Sustainable manner" is defined in proposed N.J.A.C. 7:3-1.3 as it is defined in the Forest Stewardship Law (N.J.S.A. 13:1L-30).

Required Contents of a Plan

N.J.A.C. 7:3-5.3 through 5.8 of the proposed Forest Stewardship Program rules provide detail for each component of a forest stewardship plan. As discussed above, these components

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consider the requirements of the Forest Stewardship Law and the National Forest Stewardship Guidelines for Federal guidelines plans. They also consider the requirements of the Farmland Assessment Act and its implementing rules pertaining to qualifying land for valuation for property tax purposes under farmland assessment through compliance with a forest stewardship plan.

Title Page

The first required component of a forest stewardship plan is its title page. Proposed N.J.A.C. 7:3-5.3 requires that the title page provide basic information about the plan, the property subject to the plan, and the owner of the property. For administrative purposes, the proposed rule requires the title page to include space for the New Jersey Forest Service to mark the plan with an identification number and enter relevant dates, such as the date of receipt, the date of approval, and the start and end dates of the plan period. The title page also contains the required certifications of the owner and the Approved Forester whom the owner consulted in the preparation of the plan. The Forest Stewardship Law requires that the owner prepare the plan “in conjunction with” a professional on the Department’s List of Approved Foresters. The National Forest Stewardship Guidelines specify as well that a plan must document authorship, and state that a plan must be “prepared or verified as meeting the minimum standards ... by a professional resource manager” (p. 13 in the 2015 version) and that “Landowners must be involved in plan development ...” (p. 12 in the 2015 version). The required certifications ensure that both the owner and the Approved Forester have been involved in preparing the plan and that each affirm that the plan meets the requirements of proposed N.J.A.C. 7:3-5 and applicable Federal and State

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law. The owner must also certify an intention to implement the plan and indicate whether the plan is intended to be submitted with an application for farmland assessment.

Background and Goals

The second required component of a forest stewardship plan is a background and goals section, prepared in accordance with proposed N.J.A.C. 7:3-5.4. The background must include a description of the property's location, and whether the property is in the Highlands Region or the Pinelands Area. Both the Highlands Region and the Pinelands Area are of unique environmental value in the State. Forest stewardship plans for lands in those regions may be subject to the regulatory requirements applicable to those areas, such as the Pinelands Comprehensive Management Plan adopted pursuant to P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.). Forest management activities carried out in accordance with a forest stewardship plan approved by the Department under proposed N.J.A.C. 7:3-5 may be exempt from the Highlands Water Protection Act, N.J.S.A. 13:20-1 et seq. See N.J.S.A. 13:20-28.a(7). Accordingly, it is necessary that the Department know whether the property is located in either area. The background must include relevant history of the property including past activities and occurrences, such as weather events, that are relevant to the present condition of the property's forest lands, and whether the property has had a prior forestry plan. The background must also disclose whether the permitting requirements of the Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A, or the Flood Hazard Control Act Rules, N.J.A.C. 7:13, apply and whether any easement or other legal constraint is relevant to the plan. Each of these may influence the

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objectives the owner selects for the plan or limit the owner's ability to achieve selected objectives.

Following presentation of background information, a plan's background and goals section must identify the long-term goals for the property and its forest land. The Forest Stewardship Law at N.J.S.A. 13:1L-31.a(1) specifies that the rules governing forest stewardship plans shall be "designed to ensure the sustainability of forest lands." Accordingly, the proposed rules require that ensuring the sustainability of the property's forest lands be one of the goals in a forest stewardship plan. However, the proposed rules allow the list of long-term goals to include any other long-term stewardship goals or other compatible goals that may be identified by the owner. The Forest Stewardship Law at N.J.S.A. 13:1L-31.a(2) specifically requires the listing of the owner's long-term stewardship goals for the forest land. Ensuring the sustainability of the property's forest land is a stewardship goal and may, in some plans, be the sole goal. The SAF Dictionary of Forestry defines "stewardship" as "the administration of land and associated resources in a manner that enables their passing on to future generations in a healthy condition." The proposed definition of the term "stewardship goal" at N.J.A.C. 7:3-1.3 includes the SAF definition. Requiring sustainability of the forest land as a goal, while encouraging the owner to identify other goals, is the approach recommended in the "Stewardship Handbook for Family Forest Owners," and the National Forest Stewardship Guidelines advise consideration of the principles found in this handbook. With respect to a plan's goals, the handbook explains, "[s]tewardship is the pursuit of a forest owner's personal goals within a set of principles that result in the overall and long-term health and vigor of a forest or woodlot." In a forest stewardship plan, the presentation of goals must indicate whether the owner intends to manage

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the property's forest land in coordination with the management of one or more neighboring properties and, if this is the case, provide an explanation of how this is to be accomplished. This explanation enables the Department to understand the owner's intent with regard to the goals. Coordinated management across multiple land ownerships is encouraged in the National Forest Stewardship Guidelines, which provide, "Not all forest conservation issues and priorities can be effectively addressed by [the State agency] working with individual landowners at the single parcel level" (p. 8 in the 2015 version).

Proposed N.J.A.C. 7:3-5.4(d) requires a plan's background and goals section to state that the owner is obligated to carry out the monitoring, recordkeeping, and reporting as required at proposed N.J.A.C. 7:3-5.11. This requirement is pursuant to the Forest Stewardship Law at N.J.S.A. 13:1L-31.a(3), which states that a forest stewardship plan must "establish the monitoring, recordkeeping, and reporting necessary to document implementation of the forest stewardship plan, including documentation of activities and inspections performed."

Property Overview

The third required component of a forest stewardship plan is a property overview section prepared in accordance with N.J.A.C. 7:3-5.5. As stated above, the plan applies to the entirety of the property, not just its forested portions. The property overview section must explain how the property's boundaries are marked, such as by a fence, roadway, signage, or natural feature, such as a stream. Such physical demarcation is necessary, since the boundaries provide reference in any on-site inspection of the property. The section must also include the use that is being made of each part of the property, including any forest land and any land proposed to be

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forested under the plan. While not required, an owner who wishes to submit the plan with an application for farmland assessment is advised to consider using, as relevant, categories used in the Farmland Assessment Program, such as “cropland harvested,” “cropland pastured,” and “permanent pasture,” so that the assessor can more readily determine that the use of the land in the plan is consistent with the categories in the application for farmland assessment.

The property overview section must also include a description of various attributes of the property, including its topography, distinctive landscape features, hydrology, ecology, and biodiversity. The section must discuss the role that fire plays in the ecology of the property, identify any State-listed and Federally-listed endangered and/or threatened plant or animal species documented for the property in databases maintained by the Department and the United States Fish and Wildlife Service, and identify threats to the sustainability of the forest land or the forest ecosystem, including factors that impair forest health or impede natural succession, assess the condition of the forest land with respect to carbon sequestration, and identify cultural resources present on the property. If relevant to the plan’s objectives, the section must also discuss recreational opportunities, fish and wildlife habitat, forest product production, and aesthetics, or the potential for agroforestry. This information provides necessary context for the plan, as these attributes likely will influence the management practices selected and the methods or timing of their implementation.

The USDA Forest Service refers to such property attributes as “resource elements.” The National Forest Stewardship Guidelines list examples of “resource elements,” and states, “[t]he plan preparer will consider, describe and evaluate resource elements present and their importance to the ownership when they are present” (p. 13 in the 2015 version). The USDA-listed resource

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elements are: soil and water; biological diversity; range; agroforestry; aesthetic quality and desired timber species; recreation; wood and fiber production; fish and wildlife; threatened and endangered species; forest health and invasive species; conservation-based estate planning/legacy planning information; archeological, cultural, and historic sites; wetlands; fire; carbon sequestration and climate resilience; and forests of recognized importance. To aid plan preparers, the 2013 supplement to the National Forest Stewardship Guidelines provides additional guidance with respect to the resource elements and accepts that “[t]he plan may not address one or more of these resource elements if they were not observed on the property or were not identified as one of the landowner’s management objectives.” Consistent with these guidelines, proposed N.J.A.C. 7:3-5.5 requires the property overview section to discuss some or all of these resource elements. All plans must discuss biological diversity, threatened and endangered species, forest health and invasive species, agricultural, cultural, and historic sites, wetlands, and the property’s function as a carbon source and a carbon sink. If applicable to the plan, the section must also discuss aesthetics and desired timber species, recreation, wood and fiber production, fish and wildlife, agroforestry, range, and conservation-based estate planning. The plan addresses soil and water resources on a stand-by-stand basis in the forest stands section of a plan, discussed below in the summary of proposed N.J.A.C. 7:3-5.6.

Although the property overview section must identify State-listed and/or Federally-listed endangered and/or threatened plant or animal species, proposed N.J.A.C. 7:3-5.5(e) prohibits a plan from including the precise locations of these species. A plan, once submitted to the Department, becomes a public record accessible under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. (OPRA). The Department’s General Practice and Procedure rules prohibit the

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disclosure, except under certain limited circumstances, of “[p]ortions of records containing the precise location of endangered and/or threatened animal species or endangered plant species or plant species of concern” in order to protect these species (See N.J.A.C. 7:1D-3.2(a)3). Any information in a plan that is not subject to disclosure would need to be redacted from the document before it is released under OPRA. Rather than risking inadvertent disclosure of the location of these species or imposing the burden of redaction on an assessor to whom an owner provides a plan pursuant to N.J.A.C. 18:15-2.7 as part of application for farmland assessment, the Department proposes that the plan not include precise location information at all.

Forest Stands

The fourth required component of a forest stewardship plan is a forest stands section prepared in accordance with N.J.A.C. 7:3-5.6. The proposed rules establish that all of the property’s forest land must be assigned to a stand. The land in a stand must be continuous, although a continuous forest area may be subdivided into two or more stands in recognition of the divergent character of the sections or for the purpose of planning different management regimens for each. Each stand must be at least 0.5 acre in area.

The forest stands section must identify each of the property’s stands, provide the name or number by which the stand will be referred to throughout the plan, and give its acreage.

Proposed N.J.A.C. 7:3-5.6 itemizes additional information that the section must provide for each stand. This information includes characterization of the stand’s soils, provision of an array of inventory information, and description of the infrastructure to be employed if any route to be

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used to access the stand crosses a waterbody, waterway, wetland, any transition area associated with the wetland, flood hazard area, and/or a riparian zone.

The forest stands section must also indicate, for each stand, the future condition that the owner desires for the stand and explain how this relates to the long-term goals for the property. A description of the desired forest condition is one of the criteria for a forest stewardship plan specified in the National Forest Stewardship Guidelines (p. 12 in the 2015 version). Another of the criteria specified in the National Forest Stewardship Guidelines is a clear statement of the owner's objectives (p. 12 in the 2015 version). In conformance with this criterion, proposed N.J.A.C. 7:3-5.6 requires that the forest stands section provide one or more objectives for each stand, and that each objective include specification of a measurable planned result that the owner will seek to attain within the plan period, in order to make progress toward the desired future condition. For example, if the desired future condition is reforestation of a stand that consists of several fields that have in recent years been used to produce hay, then an objective for the stand might be to establish no fewer than 800 trees per acre within the 10-year plan period, exclusive of invasive species. If the property has been subject to a prior forest stewardship plan approved under the proposed rules, whether the plan expired within the past 10 years or is not yet expired, the forest stands section must also report for each stand, each objective applicable to the stand under the prior plan, the monitoring data collected, and the progress realized toward the objective under the prior plan. This information should provide context, and may be able to show opportunities for course correction, as the plan is prepared and reviewed.

Pursuant to the requirement for monitoring in the Forest Stewardship Law (N.J.S.A. 13:1L-31.a(3)), proposed N.J.A.C. 7:3-5.6(c) requires that the forest stands section provide, for

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each objective, the method to be used to monitor progress toward the measurable, planned result specified in the objective. The method will specify one or more parameters to be measured and provide a baseline value for each parameter. With respect to the reforestation example cited above, the monitoring method could be a protocol for estimating the number of seedlings, saplings, and mature trees in the area delineated as the stand, and the baseline values would be the number of seedlings, saplings, and mature trees estimated to be present in the stand at the time the plan is prepared, as determined by applying the protocol.

As noted above, a forest stewardship plan must prescribe active management; however, the proposed rules do not require active management of all stands during a plan period. Instead, the owner may indicate in the plan that progress toward the objectives for a specific stand can be made during a plan period without active management, due to natural processes and as a consequence of prior management. If the property has multiple stands, the proposed rules allow a plan to focus active management on some stands, while leaving others to be only passively managed. For each actively managed stand, proposed N.J.A.C. 7:3-5.6(e) requires that, for each objective specified for the stand, the forest stands section list the prescriptions or practices to be carried out toward achievement of the objective. This requirement is pursuant to the Forest Stewardship Law, which requires a forest stewardship plan to list the activities to be implemented each year of the plan period (N.J.S.A. 13:1L-31.a(2)), and is also in accord with the National Forest Stewardship Guidelines, which give as one of the criteria for a forest stewardship plan the inclusion of “practices and activities aimed at reaching the desired forest condition” (p. 12 in the 2015 version). With respect to the reforestation example cited above, the practices listed for the stand might include clearance of any invasive tree and woody plant species. The

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practices also might include removing invasive herbaceous species, so that emerging tree seedlings will not be overshadowed or crowded out and, if natural regeneration of desirable tree species proves not to be sufficiently productive, planting tree seedlings. “Prescription” and “practice” or “management practice” are new terms proposed at N.J.A.C. 7:3-1.3. The proposed definitions are based on definitions in the SAF Dictionary of Forestry, modified to apply in the specific context of a forest stewardship plan.

Proposed N.J.A.C. 7:3-5.6(e) further requires that a plan include the rationale for each practice or prescription listed, and indicates if the practice or prescription is designed to ensure the sustainability of the forest land or eliminate excessive and unnecessary cutting. These requirements reflect the provisions of the Forest Stewardship Law at N.J.S.A. 13:1L-31.a(2). In addition, N.J.A.C. 7:3-5.6(e) requires the plan to include further information to be given for each practice or prescription, including the extent to which it will be carried out and whether it could impact a wetland, transition area, flood hazard area, or riparian zone, a Federal or State-listed threatened or endangered species, or a cultural resource. This is information that plan preparers will take into consideration in developing the plan and that the Department will consider in assessing whether a plan submitted for review and approval conforms with this subchapter.

Management Schedule

The fifth required component of a forest stewardship plan is a management schedule prepared in accordance with N.J.A.C. 7:3-5.7. A management schedule is a table that provides a summary overview of the practices to be carried out under the plan in all of the property’s stands. A management schedule is comparable to the “schedule of activities” that the Farmland

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Assessment Act rules at N.J.A.C. 18:15-2.10(a)6i require in a woodland management plan.

Requiring the plan to include such a schedule is in accord with the National Forest Stewardship Guidelines, which include in the criteria for a forest stewardship plan documentation of a “timeline for practice and activity implementation” (p. 12 in the 2015 version). To the extent feasible, the plan must list the practices in chronological order, and for each practice indicate the stands affected, the extent to which practices are to be carried out (such as the number of acres impacted), and the year or range of years in which the practice is to be implemented. With respect to the reforestation example, the schedule might indicate that in Year 1 and Year 5 the entirety of the stand is to be surveyed to identify and mark any invasive tree and woody plant species present; beginning in Year 1, the marked woody invasive species are to be removed from a two or three acre area each year until all the marked invasive tree and woody plant species have been removed; in each year invasive herbaceous species are also to be removed from the same two to three acre area; and in Year 5 the stand is to be surveyed to assess whether natural regeneration is yielding at least 800 trees per acre exclusive of invasive species and, if not, in Year 6 the natural regeneration is to be supplemented with the planting of tree seedlings sufficient to meet the target level.

Appendices

The final required component of a forest stewardship plan is appendices prepared in accordance with N.J.A.C. 7:3-5.8. The appendices are to include not only maps, but also copies of the documentation relied on in the plan pertaining to Federally listed and State-listed threatened and endangered species. Maps must be prepared and labelled in accordance with

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specified standards, identify property boundaries, and display specified features, such as waterbodies and wetlands, the property's stands, access routes, and soil group classifications.

These requirements reflect the requirement in the National Forest Stewardship Guidelines that a forest stewardship plan include “[a]n ownership map drawn to scale, or photo, which accurately depicts vegetation cover types, hydrology and other significant forest related resources with a legend” (p. 13 in the 2015 version). They also mirror the requirement in the Farmland Assessment Act rules at N.J.A.C. 18:15-2.10(a)8 for the map of the property to be provided in a woodland management plan.

Plan approval and implementation

An owner who wants to participate in the Forest Stewardship Program must submit the completed plan, plan conversion, or plan amendment to the Department for review and approval. Proposed N.J.A.C. 7:3-5.9 contains general information relevant to such submissions, including how the plan, plan conversion, or plan amendment is to be submitted. Once the Department establishes an online portal, these documents will be submitted electronically. The Department will review the plan, plan conversion, or plan amendment for completeness and conformance with the subchapter. This review is governed by proposed N.J.A.C. 7:3-5.10. As part of the review, the Department may, as permitted under N.J.S.A. 13:1L-31.b, inspect the property that is the subject of the plan, plan conversion, or plan amendment. The Department will notify the owner and the Approved Forester in writing whether the submittal is approved.

Under the Forest Stewardship Law at N.J.S.A. 13:1L-31.a(3), an owner participating in the Forest Stewardship Program must document plan implementation by carrying out

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monitoring, recordkeeping, and reporting. The proposed monitoring, recordkeeping, and reporting requirements are set forth at N.J.A.C. 7:3-5.11. Conformance with these requirements is one of the factors that the Department, pursuant to N.J.A.C. 7:3-5.1(e), will take into consideration in determining whether the owner is managing the property in compliance with an approved forest stewardship plan. The owner must maintain records that document both the implementation of the prescription and practices in the plan and the compliance inspections that have been carried out by the Department and, during any on-site inspection, make the records available for review. Such records will also be useful for owners who want to qualify non-appurtenant woodland for farmland assessment with a forest stewardship plan, as the Farmland Assessment Act at N.J.S.A. 54:4-23.14(a) establishes that such applicants need to include “documentation demonstrating implementation of the forest stewardship plan,” including activities carried out and inspections performed, in their farmland assessment applications.

Proposed N.J.A.C. 7:3-5.11 also requires the owner to maintain records of monitoring. Monitoring consists of measuring parameters established in the monitoring method in the approved plan, as required at proposed N.J.A.C. 7:3-5.6(c). Monitoring must take place during the third, sixth, and ninth year of the plan period, and the owner must maintain a monitoring record in which the measured values are recorded. When compared to the baseline values provided in the plan pursuant to proposed N.J.A.C. 7:3-5.6(c)4 and the desired future condition specified pursuant to proposed N.J.A.C. 7:3-5.6(b)2, the subsequently measured values are indicative of the extent to which an objective has been achieved at the time the measurement is taken. Considered sequentially the measurements should show whether the cumulative trend is toward attainment of the objective during the plan period. The owner must make monitoring

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records available to the Department and the Approved Forester. The records should be useful to owners who want to qualify non-appurtenant woodland for farmland assessment with a forest stewardship plan, as the Farmland Assessment Act at N.J.S.A. 54:4-23.14(a) establishes that such applicants need to include “yield parameters to document forest productivity” in their applications, documented “in accordance with rules and regulations adopted for the forest stewardship program by the Department ...” The monitoring requirements are also consistent with the 2003 “Principles and Guides for a Well-Managed Forest” report, which the National Forest Stewardship Guidelines require the State to consider in developing State guidelines for a forest stewardship program. The 2003 report, p. 6, states, “[m]onitoring of implementation is expected.”

Proposed N.J.A.C. 7:3-5.12(a) identifies the circumstances under which an owner must amend a plan, which include modification of the owner’s long-term goals for the property, a change in land use, conversion of forest land to non-forest use or a use otherwise inconsistent with the sustainability of the forest land, or a change in ownership of the forest land on the property. Amendment of a plan is also required when an on-site inspection carried out by the Department indicates that the information in the plan is no longer true, or an objective, prescription, or practice in the plan is no longer appropriate. This could result, for example, from a change to adjacent property, a change in the law, or the occurrence of a weather event that makes one or more original plan objectives obsolete. An inspection may also result in a finding, based on direct observation or monitoring measurements, that an amendment is required as one or more objectives will not be met as anticipated in the plan. Additionally, as proposed at N.J.A.C. 7:3-5.12(b), the owner may choose to amend the plan at any time for the owner’s own

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reasons. An amendment requires a new title page (including signed and dated certifications) and an explanation of the amendment, and is submitted in the same manner as a new forest stewardship plan.

If there is a change in the ownership of all or a portion of property subject to an approved forest plan, then proposed N.J.A.C. 7:3-5.13(a) deems the forest stewardship plan revoked, unless the conditions of proposed N.J.A.C. 7:3-5.13(b) are met. Avoiding such revocation may well be of concern to an owner who wants to apply for valuation of the land for property tax purposes under farmland assessment. As mentioned above, under the Farmland Assessment Act, N.J.S.A. 54:4-23.7b(d)1, non-appurtenant woodland is deemed to be actively devoted to agricultural or horticultural use for valuation purposes only if the owner has managed the property in compliance with an approved plan for two calendar years prior to the tax year for which farmland assessment is sought. Revocation would disrupt the applicability of the plan to a particular property, with the consequence that the property's non-appurtenant woodland loses its eligibility for valuation under farmland assessment for at least two tax years.

Under the proposed rules, it may be possible for the transferred portion of a property, any retained portion, or both portions to avoid such revocation and retain eligibility for valuation under farmland assessment. The simplest situation is if ownership of all of the property subject to the plan is transferred as a whole. If the new owner continues to manage the property under the plan, and applies for an amendment to the plan to identify the new owner, then the existing plan will not be deemed revoked. More complicated is when ownership of a portion of the property subject to a forest stewardship plan is transferred, and a portion is retained. In such a case, the retained portion must qualify under N.J.A.C. 7:3-5.1(b), meaning it must have at least

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five acres of land that qualifies as forest land and not be landlocked. If the retained property continues to qualify under N.J.A.C. 7:3-5.1(b), and the owner continues to manage the retained property in accordance with the applicable portions of the plan, and within one year the owner applies to amend the plan to reflect the reduction in the size of the property and make any other necessary changes (such as to the objectives or goals), or applies for a new plan, then the plan will not be deemed revoked and will continue uninterrupted. Similarly, in order that the transferred portion of the property remains subject to a forest stewardship plan, the transferred portion must also qualify under N.J.A.C. 7:3-5.1(b), either by itself or combined with one or more contiguous lots held by the new owner. The new owner must, within one year, apply to amend the existing plan or apply for a new plan.

The Department recognizes that some owners who hold a Federal guidelines plan approved as satisfying the National Forest Stewardship Guidelines, a woodland management plan approved as satisfying the criteria in the Farmland Assessment Act rules at N.J.A.C. 18:15-2.10, or a dual plan approved as satisfying both, may want to replace these with a plan approved as a forest stewardship plan under N.J.A.C. 7:3-5. Given the commonalities among forestry plans, and in order to provide such an owner the opportunity to avoid preparing a full new plan, the Department proposes, at N.J.A.C. 7:3-5.14, a procedure for converting such a plan into a forest stewardship plan. This procedure entails preparing a plan conversion that includes a new title page for the plan that meets the requirements of N.J.A.C. 7:3-5.3 and providing any information required for a forest stewardship plan pursuant to N.J.A.C. 7:3-5.2(a) that is not already included in the plan. The Department will review the proposed plan conversion in accordance with N.J.A.C. 7:3-5.10. Once a plan conversion is approved, the plan as revised and

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supplemented becomes a forest stewardship plan approved under N.J.A.C. 7:3-5. The plan period remains unchanged and ends on the expiration date of the original plan, except that in no case may the plan period of a converted plan exceed 10 years.

Definitions

In addition to the definitions mentioned above, the Department proposes at N.J.A.C. 7:3-1.3 definitions of terms that are used in proposed new N.J.A.C. 7:3-5. Many of these are terms commonly used in the professional practice of forestry, and some of the proposed definitions are from the SAF Dictionary of Forestry. These are “age,” “age class,” “age-class distribution,” “agroforestry,” “basal area,” “biomass,” “crown,” “crown class,” “diameter breast height” or “DBH,” “diameter class” or “DBH class,” “forest health,” “forest management,” “forest type,” “full stocking,” “goal,” “ground cover,” “litter,” “monitor” or “monitoring,” “objective,” “overstory,” “regeneration,” “site preparation,” “stand,” “stand table,” “stock table,” “stocking level,” “structure,” “tree,” “understory,” and “volume.” The proposed definitions of “forest stewardship plan,” “local government unit,” “owner,” “sustainability,” and “sustainable manner” are from N.J.S.A. 13:1L-30. The proposed definition of “State Forester” is based on N.J.S.A. 13:1L-17, but broadened to include the State Forester’s designee, in order that the State Forester may delegate some of the duties assigned to the State Forester to other qualified employees of the Department.

The definition of “Highlands Region” is the same as in the Highlands Water Protection and Planning Act Rules at N.J.A.C. 7:38-1.4, and the definition of “Pinelands Area” is the same as in the Pinelands Comprehensive Management Plan rules at N.J.A.C. 7:50-2.11. The proposed

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definitions of “National Register of Historic Places” and “New Jersey Register of Historic Places” are the same as the definitions for those terms in the New Jersey Register of Historic Places rules at N.J.A.C. 7:4-1.3. The proposed definitions of “critical habitat,” “destruction or adverse modification,” and “Federally-listed threatened or endangered species” are the same as in the Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq., or in the implementing rules promulgated by the United States Fish and Wildlife Service, 50 CFR Part 17. The proposed definitions of the terms “flood hazard area” and “riparian zone” are the same as in the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-1.2; the proposed definition of “transition area” is the same as in the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A-1.4; the proposed definition of “lot” is the same as in the Municipal Land Use Law at N.J.S.A. 40:55D-4; and the proposed definition of “public utility” is the same as in the Department of Public Utilities Act of 1948 at N.J.S.A. 48:2-13.a. The Department of the Treasury’s Farmland Assessment Act rules at N.J.A.C. 18:15 provides the proposed definition of “contiguous” and, while the term “property” is not defined in the Farmland Assessment Act rules, the proposed definition of “property” reflects its usage in that chapter.

The proposed definitions of “USDA” and “USFWS” refer to the respective Federal agencies. “National Forest Stewardship Guidelines” is defined as the guidance document entitled “Forest Stewardship Program National Standards and Guidelines,” issued by the USDA Forest Service to encourage long-term stewardship of private lands that will enhance and sustain the productivity of multiple forest resources. The proposed definition incorporates the Federal guidance document by reference, as amended and supplemented. The proposed definition of “Natural Heritage Database” refers to the computerized file maintained by the Department. The

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proposed definition of “State-listed threatened or endangered species” refers to lists of species promulgated by the Department pursuant to State law. The proposed definition of “species of special concern” explains that the term refers to additional lists of plant and animal species maintained by the Department.

In addition, the Department proposes definitions of the terms “Federal guidelines plan,” “forest inventory,” “forest productivity,” “government unit,” “harvesting,” “individual,” “invasive species,” “landlocked,” “native,” “nonprofit,” “person,” “privately held,” “site index,” “size class,” “species composition,” and “State entity” to clarify their usage in the proposed Forest Stewardship Program rules at N.J.A.C. 7:3-5.

List of Approved Foresters, N.J.A.C. 7:3-3

The Forest Stewardship Law requires the Department to maintain a list of foresters or other professionals approved by the Department. A professional on the list must aid the property owner in preparing a forest stewardship plan (N.J.S.A. 13:1L-31.a), plan amendment, or plan conversion. Prior to the enactment of the Forest Stewardship Law, the Farmland Assessment Act had necessitated the Department’s establishment of such a list. Under the existing rules, if an owner of forest land that is not appurtenant woodland wants to apply for valuation of the land for property tax purposes under farmland assessment, “a forester from a list of foresters approved by the Department” must determine that the owner is complying with an approved woodland management plan and attest to this compliance in the owner’s application for farmland assessment (N.J.S.A. 54:4-23.3(b)). Existing N.J.A.C. 7:3-3, Approved Forester List, has

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governed the list, establishing both the application procedure and criteria a forester must satisfy to be entered on the list and the continuing obligations a forester must meet to remain on the list.

The Department proposes that this same list shall satisfy the “list of foresters” required under the Forest Stewardship Law. The Department proposes to amend N.J.A.C. 7:3-3 in part to reflect this expansion of applicability of the list. Proposed amended N.J.A.C. 7:3-3 acknowledges the role of Approved Foresters in preparation not only of woodland management plans but also forest stewardship plans. The proposed amendments make some additional changes, such as strengthening the standards both for gaining admission to the list and remaining on the list and establishing the criteria that the Approved Forester must determine are met before the forester may provide attestation of compliance with the owner’s plan in an application for farmland assessment. Also, the amendments update the list of information an individual is required to provide in a request for an adjudicatory hearing submitted to the Department to appeal a denial of the individual’s application for inclusion on the list, a determination to remove the individual from the list, or a denial of the individual’s application for reinstatement to the list.

The Department proposes to change the heading of N.J.A.C. 7:3-3 from “Approved Forester List” to “List of Approved Foresters” and amend the chapter as necessary to refer to the list as the “List of Approved Foresters,” rather than the existing term. The Department also proposes to amend the scope of the subchapter at N.J.A.C. 7:3-3.1, including the section heading, and acknowledge that the subchapter governs both the Department’s establishment and the Department’s maintenance of the list. This includes updating the list, as needed, to add individuals to and remove individuals from the list and, when appropriate, to reinstate individuals to the list. The proposed amended section also identifies that the subchapter contains

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the procedure and criteria for an individual to become an Approved Forester, and establishes authorities granted to an Approved Forester.

The Department proposes to repeal the existing purpose of the rules at N.J.A.C. 7:3-3.2 and recodify the remaining sections; the rule contains a narrative of the Farmland Assessment Act's requirement that an owner of non-appurtenant woodland who desires to qualify the land for taxation under farmland assessment must establish and comply with a woodland management plan. This narrative is not necessary, inasmuch as the subchapter addresses the qualifications and role of an Approved Forester. The requirements for woodland management plans are established at N.J.A.C. 18:15-2.10. The requirements for qualifying land for taxation under farmland assessment are contained in the Department of the Treasury's Farmland Assessment Act rules at N.J.A.C. 18:15.

The application procedure for becoming an Approved Forester is set forth at recodified N.J.A.C. 7:3-3.2. The proposed amended rule replaces "person" with "individual," since the proposed amended rules define "person" broadly as including corporations and other non-people entities. "Individual" is a proposed new term that is more appropriate in the context of an Approved Forester. Corporations and other non-people entities cannot become Approved Foresters; only individual human beings can be Approved Foresters. Amendments also update contact information by replacing the address in the existing rule with a reference to proposed new N.J.A.C. 7:3-1.4, Submissions and communications. In addition to contact information, N.J.A.C. 7:3-1.4 provides for electronic submittal of applications, once the Department establishes an online portal. The most substantial amendments to proposed recodified N.J.A.C. 7:3-3.2 are the consolidation of the qualifications required of an applicant for the List of

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Approved Foresters, and some changes to the showings and documentation required in an application.

The qualifications of an Approved Forester are set forth at existing N.J.A.C. 7:3-3.4(a). The Department proposes to relocate the specification of required qualifications to proposed N.J.A.C. 7:3-3.2(c). The education requirement at proposed N.J.A.C. 7:3-3.2(c)1 is the same as in the existing rule, except that the choice of satisfying the education requirement through obtaining a bachelor's degree from Rutgers, in the forest management option within the natural resource management curriculum, has been omitted. This is because Rutgers no longer offers a forest management option, and it is misleading to suggest that this alternative exists. The experience requirement proposed at N.J.A.C. 7:3-3.2(c)2 continues to require two years' work experience. Under existing N.J.A.C. 7:3-3.4(a)2i and ii, an applicant may satisfy the work experience requirement by showing experience in preparing forestry plans or in carrying out forestry management practices, but does not need to demonstrate both. Proposed N.J.A.C. 7:3-3.2(c)2 differs from existing N.J.A.C. 7:3-3.4(a)2 by requiring the applicant to have experience both in preparing plans and in carrying out forestry practices. The plan preparation experience can be in preparing forest stewardship plans, Federal guidelines plans, or equivalent plans for properties in another state, not just woodland management plans as specified in the existing rule. As a demonstration of experience in plan preparation, the proposed amended rule requires an applicant to provide copies of two plans that the applicant has prepared, in addition to the applicant's post-secondary school transcripts and signed application form, as part of an application to become an Approved Forester. The last proposed addition to the qualifications required of an Approved Forester is that the Department shall ask an applicant to demonstrate a

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basic knowledge of farmland assessment, and an understanding of how an owner may qualify forest land for valuation, assessment, and taxation under farmland assessment. The Department proposes to amend the heading of the section to reflect the new contents.

Proposed new N.J.A.C. 7:3-3.3 enumerates the professional services that an individual who is an Approved Forester is authorized to provide. The existing rule has no comparable provision. The proposed rule identifies two roles: aiding a property owner with the preparation of a forestry plan, plan amendment, or plan conversion, and attesting to an owner's compliance with the approved plan in the owner's farmland assessment application. In a farmland assessment application, an Approved Forester attests to compliance on the woodland data form that the owner submits as part of an application for farmland assessment. The proposed rule identifies standards that an Approved Forester must determine are met before he or she may certify to compliance. The Approved Forester must determine that the owner has a valid woodland management or forest stewardship plan, the woodland data form is the correct one for the tax year at issue, the form is properly completed and the information on it is true and accurate, and the property is being managed in accordance with the approved plan.

The Department proposes to repeal N.J.A.C. 7:3-3.4. As discussed above, the minimum qualifications an applicant must have to be approved for inclusion on the List of Approved Foresters in existing N.J.A.C. 7:3-3.4(a) are proposed to be relocated to N.J.A.C. 7:3-3.2(c). The ethics and professional standards in existing N.J.A.C. 7:3-3.4(b) and the semi-annual report requirements in existing N.J.A.C. 7:3-3.4(c) are proposed to be relocated to new sections as well. Existing N.J.A.C. 7:3-3.4(b) requires the Approved Forester to follow the SAF Code of Ethics and recognized professional standards. The Department proposes to include these requirements

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at proposed new N.J.A.C. 7:3-3.4, Standards of conduct. The proposed rule provides the same two examples of recognized standards as are provided in the existing rule. In addition, the proposed new section establishes that the Approved Forester must perform professional activities in accordance with applicable Federal and State law, and must advise owners to also conduct activities in accordance with applicable law.

The continuing education requirements of proposed N.J.A.C. 7:3-3.5 are based upon existing N.J.A.C. 7:3-3.4(c)5. The existing rule requires an Approved Forester to provide evidence that he or she has completed annual continuing education sponsored by SAF, the Department, Rutgers University, or a comparable program. The proposed rule adds the USDA Forest Service to the list of authorized providers. Under the existing rule, the purpose of the continuing education is to “maintain forestry skills.” The proposed rule establishes a broader scope for continuing education, allowing not only courses designed to enable the forester to maintain skills, but also to develop new forestry skills, obtain updated information on forest management topics, and/or earn or retain certification relevant to offering professional services as an Approved Forester. Under the proposed rule, as in existing N.J.A.C. 7:3-3.4(c)5, the Approved Forester must provide evidence of having completed continuing education requirements. See proposed N.J.A.C. 7:3-3.6(c)3.

Proposed new N.J.A.C. 7:3-3.6 governs semi-annual reports. Existing N.J.A.C. 7:3-3.4(c), proposed for repeal, requires each Approved Forester to submit semi-annual reports to the Department. Under the existing rule, the semi-annual report is to be submitted on January 30 and July 30, and cover the preceding six-month period. The proposed rule provides an Approved Forester additional time to submit each report, and specifies that the reports are to cover

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activities during the period January through June, and July through December, as applicable.

The due date for the end of year report is proposed to be moved to February 15, giving Approved Foresters two additional weeks to prepare and submit the report. For the mid-year report, the Department proposes to allow a full month and a half of additional time. The change to the due date of the mid-year report is intended to remedy the conflict that has existed between the existing mid-year report's July 30 due date and the August 1 deadline to submit farmland assessment applications. Often Approved Foresters have heavy workloads assisting their clients when farmland assessment applications are due. Extending the date for mid-year reports to September 15 prevents the farmland assessment applications and the mid-year reports from being due almost simultaneously and thereby enables Approved Foresters to have better distribution of their workloads. The Department intends that the semi-annual reports will be submitted electronically, through an online portal or similar method. Until that method is established, the rules allow an Approved Forester to submit the report by either e-mail or in hard copy.

The proposed rule requires semi-annual reports to include much of the same types of information as are required to be reported in such reports under the existing rule, but the scope of the requirements in the existing rule is broadened to pertain also to forest stewardship plans approved under N.J.A.C. 7:3-5. The proposed semi-annual reporting requirements require the Approved Forester, where applicable, to separately report information for woodland management plans, forest stewardship plans, and other types of forestry plans, as well as to provide the information in total. In addition, the proposed rule adds a new reporting category and modifies or merges most reporting categories established in the existing rule.

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The Approved Forester must specify his or her name and contact information as he or she wants it to be presented, and provide information pertaining to his or her credentials and the forestry services he or she offers. This is a new reporting category, intended to provide the Department with information that it will provide to the public in its online posting of the List of Approved Foresters. The proposed rule retains the existing requirement that an Approved Forester report the number of woodland management plans prepared during the reporting period and the acreage covered by those plans, but modifies this requirement to specify that only approved plans are to be reported. During the reporting period, the Approved Forester may have helped prepare plans that are complete, but have not been submitted or are still under review by the Department. The Approved Forester shall not report such plans until the subsequent reporting period in which they are approved. The existing rule requires the Approved Forester to report the number of forest stand improvement projects, forestation projects, and Christmas tree planting projects completed during the reporting period and the acreage covered by those projects. The proposed rule merges this into a single requirement to report all management practices implemented during the reporting period and give the extent of their implementation. The Department has avoided the use of the terminology “projects completed,” found in the existing rule, in recognition that implementation of management practices commonly continues from one reporting period to the next. A semi-annual report should reflect the extent to which the practice is carried out in the reporting period in question. The proposed rules continue to require the reporting of wood harvested, but also require that the Approved Forester report any other forest products harvested as well. In addition to reporting the number of acres affected by the harvest, the amount of product harvested, and the total market value of the product harvested,

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as is required in the existing rule, the proposed rule also requires the Approved Forester to report the number of sites at which harvest occurred.

The proposed rule retains the existing requirement that the semi-annual report include reporting of the professional education that the Approved Forester participated in during the reporting period. Rather than providing detail within the listing of the semi-annual reporting requirements, as is done in the existing rule, as to the purpose of the professional education requirement and the organizations eligible to sponsor an educational program, the proposed rule references proposed new N.J.A.C. 7:3-3.5, discussed above, which addresses these topics.

The Department intends that the proposed new reporting category and modifications to the existing reporting categories will result in management activities carried out under forest stewardship plans being reflected in the Approved Foresters' semi-annual reports and will provide the Department a more complete picture of forestry-related activity throughout the State. The Department uses the information provided in semi-annual reports to track forestry activity and to satisfy Federal reporting requirements. As is the case under the existing rule, the proposed rule indicates that the Department may require additional information be reported.

Existing N.J.A.C. 7:3-3.7 is proposed to be recodified as N.J.A.C. 7:3-3.9 and the terminology and cross-references in the section are proposed to be updated. In the existing section, the requirement that a request for an adjudicatory hearing be filed within 21 days of receipt of the notice of decision is set forth at N.J.A.C. 7:3-3.3(c), 3.5(b), 3.6(d), and 3.7(b). The amendments propose instead to provide a consolidated statement of this requirement at N.J.A.C. 7:3-3.9(a). The list of information that is to be provided in a request for an adjudicatory hearing is proposed to be relocated from existing N.J.A.C. 7:3-3.7(d) to proposed N.J.A.C. 7:3-3.9(b)

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and supplemented, such as with the obligation to request a barrier-free hearing location if one is needed.

The Department proposes other amendments to the subchapter. As discussed above, “person” is replaced with “individual.” Similarly, “forester” is also replaced with “individual.” Under the Forest Stewardship Law (N.J.S.A. 13:1L-31.a), the owner is to prepare a forest stewardship plan “in conjunction with a forester or other professional selected by the owner from a list ... approved by the department ...” The law does not require that all individuals on the list be foresters; however, proposed N.J.A.C. 7:3-3.1(e)1i does require that the selected professional be an Approved Forester. Proposed N.J.A.C. 7:3-3.2(c), like existing N.J.A.C. 7:3-3.4(a)1, requires an applicant for inclusion on the List of Approved Foresters have a degree in forest management or an equivalent specialty. The Forest Stewardship Law (N.J.S.A. 13:1L-36.b), directs the Department to adopt rules that establish, “in consultation with the forest stewardship advisory committee ... professional standards and requirements of persons in addition to foresters on the list approved by the department, authorized to prepare forest stewardship plans ...” Until that advisory committee is formed, the Department cannot fulfill the requirements of the law and establish standards and requirements for persons other than foresters to be included on the list. Consequently, rules related to professional standards and requirements of individuals other than foresters cannot be included in this rulemaking. The proposed rules establishing the Forest Stewardship Advisory Committee are discussed below.

The Department also proposes to delete the definition of “Approved Foresters List” and add definitions of “farmland assessment,” “List of Approved Foresters,” and “woodland data form” at N.J.A.C. 7:3-1.3 and to amend the definitions of “Approved Forester,” “Society of

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American Foresters Code of Ethics,” and “woodland management plan” for clarity and to better reflect their usage in proposed amended N.J.A.C. 7:3-3, List of Approved Foresters.

Forest Stewardship Advisory Committee, N.J.A.C. 7:3-6

N.J.S.A. 13:1L-36.d directs the Department to establish by regulation a Forest Stewardship Advisory Committee (Committee) to advise the Department on issues related to forest stewardship and other related matters. N.J.S.A. 13:1L-36.d also requires that the Department’s rules for the Committee be consistent with the Federal requirements for a State Forest Stewardship Coordinating Committee at 16 U.S.C. § 2113. Accordingly, the Department is proposing new N.J.A.C. 7:3-6, Forest Stewardship Advisory Committee, to establish the membership, responsibilities, and operation of the Committee. In drafting the rules, the Department relied on the Federal statute as interpreted by the National Forest Stewardship Guidelines (pp. 6 and 7 in the 2015 version). The Federal law instructs the Secretary of the USDA to establish, in consultation with the State Forester of each state, a State Forest Stewardship Coordinating Committee that meets the requirements of the law. The Federal law provides that a state forestry committee may replace the required Federal committee, if the membership is comparable to what is required under the Federal law (16 U.S.C. § 2113(b)(1)(D)). The Department intends that proposed N.J.A.C. 7:3-6 be comparable to the Federal requirements and that the proposed Forest Stewardship Advisory Committee serve as New Jersey’s Forest Stewardship Coordinating Committee.

The Federal law requires the State Forester or his or her designee to be a member of the committee and serve as chairperson. 16 U.S.C. § 2113(b)(1)(B). “State Forester” is proposed to

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be defined at N.J.A.C. 7:3-1.3 as including the State Forester’s designee; accordingly, the proposed rule refers only to the “State Forester.” The National Forest Stewardship Guidelines (p. 6 in the 2015 version) bases its prescription of the membership of a State Forest Stewardship Coordinating Committee on the Federal law. To the extent practicable, the committee is to include individuals representing the USDA Forest Service, the USDA Natural Resource Conservation Service (NRCS), the USDA Farm Service Agency, and the Cooperative Extension Service; the NRCS State Technical Committee, local government, soil and water conservation districts, consulting foresters, environmental organizations, forest products industry, forest landowners, land-trust organizations, conservation organizations, the state fish and wildlife agency, tribal representatives, and any other relevant interests as deemed appropriate. The list of ex officio members proposed at N.J.A.C. 7:3-6.1(b) and appointed Committee members proposed at N.J.A.C. 7:3-6.1(d) are based upon this Federal requirement. The proposed ex officio members are heads of government agencies or bureaus or leaders of nonprofit agencies. The Department recognizes that they may prefer to delegate their committee obligations to a member of their staff or, if applicable, a member of their organization’s governing board. Proposed N.J.A.C. 7:3-6.1(c) affirms that an ex officio may name a designee to serve in his or her place as a member of the committee. The only membership category listed in the Federal law and the National Forest Stewardship Guidelines that is not proposed to be included on the Committee is “tribal representatives.” As of the date of this rulemaking, New Jersey has no Federally-recognized Native American Indian tribe. See the Notice of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs (80 Fed. R. 1942 (January 14, 2015)), in the Document Library, www.indianaffairs.gov/. Should a

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tribe in New Jersey gain Federal recognition, the Commissioner will appoint a representative of the tribe to the Committee pursuant to N.J.A.C. 7:3-6.2(e), which allows the Commissioner to appoint up to three additional members to the Committee to represent other relevant interests.

The proposed rules do not allow a Department employee to serve as an appointed member of the Committee. The Department is represented through the State Forester and the Director of the Division of Fish and Wildlife, each of whom serves ex officio. Each appointed member serves a term of three years, with the initial members serving staggered terms, as required at 16 U.S.C. § 2113(b)(1)(C). See proposed N.J.A.C. 7:3-6.3. The appointed member may resign, or the Commissioner may terminate the appointment, in which case a new member will be appointed to serve the unexpired portion of the term.

The Committee's functions at proposed N.J.A.C. 7:3-6.4 are those assigned to it under N.J.S.A. 13:1L-35 and 13:1L-36.d; the Federal Cooperative Forestry Assistance Act at 16 U.S.C. § 2113(b); the Food, Agriculture, Conservation, and Trade Act of 1990 at 16 U.S.C. § 2103(c); and the National Forest Stewardship Guidelines. Proposed N.J.A.C. 7:3-6.5 and 6.6 address the organization of the Committee and the role of the chairperson. They establish that the Committee, provided a quorum is present, may take action by the affirmative vote of a majority of the members at a meeting. They provide direction on matters, such as frequency of Committee meetings, agenda preparation and distribution, election of a Vice-Chair, creation of subcommittees and temporary officer positions, attendance records, and the keeping of minutes. They establish that the Committee may adopt bylaws, but these would be subject to the approval of the State Forester.

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Certified Tree Experts, N.J.A.C. 7:3-4

The Department proposes to repeal N.J.A.C. 7:3-4, Certified Tree Experts. In 2010, the Legislature enacted the Tree Experts and Tree Care Operators Licensing Act, N.J.S.A. 45:15C-11 et seq., which created an independent board, the New Jersey Board of Tree Experts, within the Department. As stated in section 23 of the Tree Experts and Tree Care Operators Licensing Act (P.L. 2008, c. 237, § 23), once the New Jersey Board of Tree Experts promulgates rules necessary to carry out the provisions of the Tree Experts and Tree Care Operators Licensing Act, the repeal of the existing Tree Experts Act, N.J.S.A. 45:15C-1 et seq., will be effective. The Tree Experts Act authorizes the activities of the Board of Tree Experts. Once the Tree Experts Act is repealed, the Board of Tree Experts will no longer exist, and the rules of the Board of Tree Experts will not be necessary, as they will be replaced by the rules of the New Jersey Board of Tree Experts. Accordingly, the Department proposes to repeal N.J.A.C. 7:3-4, Certified Tree Experts, and reserve the subchapter. The New Jersey Board of Tree Experts published its proposed rules on June 20, 2016 (48 N.J.R. 995(a)) and the notice of adoption is published elsewhere in this issue of the New Jersey Register, and the chapter is effective upon publication, April 17, 2017.

Associated with the proposed repeal of N.J.A.C. 7:3-4 is the proposed deletion of several definitions at N.J.A.C. 7:3-1.3, which will not be required. These definitions are “advertising” or “advertisement,” “Board of Tree Experts” or “Board,” “certificate,” and “Certified Tree Expert” or “CTE.”

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Miscellaneous Amendments

In addition to the proposed new rules, amendments, and repeals discussed above, the Department proposes to correct cross-references, correct grammar throughout the chapter, and amend rules related to severability. Proposed amendments also include how to communicate with the Department, and how to submit documents.

Existing N.J.A.C. 7:3-1.2, Severability, applies only if a court finds some portion of the chapter to be invalid, based on its applicability to a particular person. The proposed amendments broaden its applicability to also apply in an instance where a court finds some portion of the chapter to be invalid, based on its applicability in a particular circumstance. This broadening is consistent with comparable provisions in other Department rules, such as N.J.A.C. 7:2, the State Park Service Code.

Proposed new N.J.A.C. 7:3-1.4, Submissions and communications, provides contact information for the New Jersey Forest Service. Rather than repeating the contact information throughout the chapter, the proposed new rules and amendments refer to the new section, whenever such information is required. Ultimately, the Department intends that Forest Stewardship Plans and other documents will be submitted electronically. The USDA Forest Service, for example, has developed the Stewardship Mapping and Reporting Tool (SMART) that enables Forest Stewardship Plans to be developed and transmitted electronically. The New Jersey Forest Service anticipates using such web-based tools not only for Forest Stewardship Plans, but also for applications, reports, and other documents prepared pursuant to this chapter. The proposed rule provides that the Department can require a paper copy of a submittal, if the Department finds that the electronic submission is insufficiently legible in electronic format; a

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paper copy is needed for review or field use, such as for collaboration with assessors or other governmental officials, on-site inspections, or documentation of annotations; the submittal requirement can be satisfied only through provision of the item on paper (such as a requirement to provide a certified transcript); or the electronic portal is dysfunctional.

Social Impact

The Department anticipates that the proposed new rules, repeals, and amendments related to the Forest Stewardship Program, the List of Approved Foresters, and the Forest Stewardship Advisory Committee will have a positive social impact. The remaining proposed rules will not have a social impact.

Forest Stewardship Program

The proposed Forest Stewardship Program rules at N.J.A.C. 7:3-5 are intended to offer private landowners the opportunity to manage their forest lands under a plan that is designed to ensure the sustainability of their forest lands. Approximately 42 percent of New Jersey's land is forested and of this 42 percent, approximately two-thirds is held privately. The public will benefit if many of these owners take advantage of the Forest Stewardship Program. Forest lands provide benefits to all people who live, vacation, and/or work in the vicinity of the forest lands. Forests help replenish and clean the waters of the State, including the aquifers that provide a reliable supply of safe drinking water. They help stabilize soils and provide buffers and wind breaks that ameliorate the effects of excessive wind and storms. Although on occasion trees toppled by winds cause damage, trees more commonly act as windbreaks and provide protection

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to houses and other structures by buffering the wind. On hot sunny days, the tree canopy provides shade, lowers ambient temperatures, and reduces the energy demand for air conditioning. Privately owned forest lands afford outdoor recreational opportunities and complement and extend the vistas of publicly preserved natural areas. Trees provide aesthetic benefits along roadways, soften the outline of masonry, metal, and glass in developed areas, and add natural character to cities and towns. Forest lands afford habitat for animal and plant species, including species of rare and threatened plants and animals. Forests that are actively managed provide more of these benefits because they are more vigorous, insect and disease-resistant, and resilient to wind and drought, which furthers growth and regeneration. By encouraging conservation and active management of the State's privately held forest lands, the Department is helping New Jersey remain an attractive and healthy place to live, work, and visit.

To the extent that the Forest Stewardship Program reinforces the effectiveness of the State's Farmland Assessment Program in deterring development of woodland, there is further public benefit. Forested lands are vulnerable to development pressures, and once developed, most or all of the multi-faceted ecosystem services that the forest lands had been providing are lost and are unlikely to be restored. A study conducted by researchers at Rowan University and Rutgers University found that in the 21-year period between 1986 and 2007, New Jersey experienced a seven percent loss of upland forest lands, falling from 1,641,279 acres to 1,526,358 acres (See Hasse, John and Lathrop, Richard, "Changing Landscapes in the Garden State: Urban Growth and Open Space Loss in NJ 1986 thru 2007," 2010, crssa.rutgers.edu/projects/lc/NJ_Urb_Growth_III_executive_summary_0801_2010.pdf). The study concluded that as of 2007, the State had more acres of subdivisions and shopping centers

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than it had of upland forests, including forests in the Pinelands and all New Jersey's parks and reserves combined.

Recognizing that property tax pressures were contributing to the loss of land to development led the Legislature to establish the Farmland Assessment Program in 1964 through the Farmland Assessment Act (N.J.S.A. 54:4-23.1 et seq.). The program enabled farmland and horticultural land to be assessed for property tax purposes based on its value in agricultural or horticultural use, rather than at full market value. The program remains the State's primary mechanism for encouraging private landowners to retain land as agricultural and horticultural land. Amendments to the Farmland Assessment Act allow compliance with a forest stewardship plan, approved by the Department under the proposed rules, as an alternative means for an owner to qualify non-appurtenant woodland for valuation for property tax purposes under farmland assessment. See P.L. 2009, c. 256, §§ 13 through 15. Some non-appurtenant woodland owners may prefer this approach, and its availability may help encourage them to continue to retain their land as woodland. To the extent that the possibility of valuation of non-appurtenant woodland under farmland assessment influences owners to conserve their woodlands, the proposed Forest Stewardship Program will preserve the societal benefits that the presence of the woodlands proffers to the public.

List of Approved Foresters

The Department anticipates that the amendments and new rules proposed at N.J.A.C. 7:3-3, List of Approved Foresters, will also have a positive social impact. The proposed broadening of the work experience required for an individual to qualify for inclusion on the List of Approved

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Foresters will further ensure that the listed foresters have the background necessary to help owners prepare well-designed plans that both address landowners' long-term goals and conform with the requirements of N.J.A.C. 7:3-5 or 18:15-2.10, as applicable, and with other applicable State and Federal law.

The proposed rules require an Approved Forester to determine whether the information on an owner's woodland data form, which is submitted to the local assessor as part of an application for valuation under farmland assessment, is accurate, that the form is the correct one, and that it is properly completed. The Approved Forester must also verify that the owner's plan has not expired or been terminated or revoked, and that the property is being managed in accordance with the plan. These requirements should foster public confidence in the integrity of the program.

The proposed amendments to the rules governing the List of Approved Foresters require Approved Foresters to meet the professional and ethical standards of the industry. If the forester does not meet those standards, the State Forester may remove the forester from the list. These ethics and professionalism requirements will assure owners that the foresters on the list are professionals who can be relied upon.

Forest Stewardship Advisory Committee

The Department anticipates that the proposed new Forest Stewardship Advisory Committee rules at N.J.A.C. 7:3-6, will have a positive social impact. There is benefit to having a committee to advise the Department on forest sustainability and conservation, acquisition of forest areas under the Federal Forest Legacy Program, and the qualifications of professionals

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other than foresters who may be added to the List of Approved Foresters. The members are representatives of organizations and professions with a direct interest in forestry issues, and the Department will benefit from their advice.

Economic Impact

The Department anticipates that the proposed new rules, repeals, and amendments related to the Forest Stewardship Program and the List of Approved Foresters will have an economic impact, as discussed below; the remaining proposed rules will not have an economic impact.

Forest Stewardship Program

The Department expects that the proposed Forest Stewardship Program rules will have a generally positive economic impact on the public, to the extent that they encourage the conservation of privately-held forest land throughout the State. Forests contribute to cleaner air, enhanced groundwater recharge, wildlife habitat, erosion prevention, flood mitigation, natural moderation of summer heat, aesthetic vistas, and recreational opportunities, as well as providing other ecosystem goods and services. These effects yield direct and indirect economic benefits. Furthermore, the proposed program promotes active management of forest lands and this is expected to enhance the yield of the many economically valuable benefits of forests. These benefits accrue not just to the landowner but to all who live, work, and recreate in the vicinity of the forest land and all who utilize and value any of the forest products that the forest land may yield.

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The proposed Forest Stewardship Program enables private forest landowners to manage their properties under a forest stewardship plan approved by the State Forester. The Department anticipates that this will have little or no economic impact for most landowners. Some costs are associated with participation in the Forest Stewardship Program but, since participation is voluntary, an owner will not incur these costs unless he or she views participation as economically beneficial or otherwise advantageous.

The most potentially relevant economic aspect of the proposed Forest Stewardship Program results from the interface of the program with the Department of the Treasury's Farmland Assessment Program, where land is valued for property tax purposes at its value in agricultural or horticultural use, rather than highest and best use based on potential development. For a forest land owner, the savings can be significant. For the 2014 tax year, the State Farmland Evaluation Advisory Committee recommended values for non-appurtenant woodland ranging from \$78.00 to \$181.00 per acre, depending on the county in which the woodland was located and the productive capability rating of its soils. A property tax assessment based on these recommended values result in a substantially less than one based on full market value.

Nonetheless, the Department anticipates that this linkage of the Forest Stewardship Program will result in reduced property taxes for few forest landowners because eligible landowners who potentially could be eligible to qualify their forest land for farmland assessment through participation in the Forest Stewardship Program have already been able to qualify their lands through other means. If all the forest lands on a property qualify as appurtenant woodlands, participation in the Forest Stewardship Program will offer the owner no tax advantage as such lands do not need to have a plan or meet any other additional conditions to be

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eligible for farmland assessment. If the property has forest lands that are not appurtenant woodlands, the owner can qualify them for taxation under farmland assessment by complying with a woodland management plan and meeting minimum income requirements through sale of forest products. If the owner decides to convert to a forest stewardship plan, there will be no tax impact, as the farmland assessment tax benefits remain the same, whether the owner qualifies with a woodland management plan or a forest stewardship plan. Currently, private landowners hold approximately 5,700 woodland management plans for properties in New Jersey.

Preparation of a forest stewardship plan may cost an owner more than preparation of a woodland management plan, since a forest stewardship plan will likely be more comprehensive, have objectives that require more complex planning, and must include monitoring of the progress toward meeting the plan's forest management objectives, which is not required in a woodland management plan. However, any additional costs may be offset in part or whole for some owners through the relief from the requirement to harvest and sell forest products. There are expenses associated with harvest and sale that can result in a net loss to owners. An owner who converts a woodland management plan to a forest stewardship plan will no longer be required to demonstrate income from the sale of forest products, but must demonstrate active management designed to ensure the sustainability of forest land.

If an owner is not currently qualifying forest land for taxation under farmland assessment, but chooses to begin doing so through participation in the Forest Stewardship Program, the owner could incur an economic benefit. This will be the case for owners whose realized tax benefit is greater than the costs of obtaining and complying with a plan. The Farmland Assessment Act requires an owner to manage the land in compliance with an approved plan

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(forest stewardship or woodland management) for two calendar years prior to the initial tax year for which the assessor may approve the non-appurtenant woodland for valuation under farmland assessment. A newly participating owner will incur upfront costs of preparing a plan, including the cost to hire an Approved Forester to aid in developing the plan, and managing the forest area in accordance with the approved plan for two calendar years, before becoming eligible to apply for farmland assessment. In order to maintain the health and vigor of the forest and its landscape/watershed, a plan may call for the planting of seedlings, the thinning of an overstocked stand, the management of grazing, or the control of invasive non-native flora and fauna. Some owners with forest stewardship plans may include production, harvesting, and sale of forest products in their plans. The cost of preparing and implementing the plan will vary, based on the size of the property and the plan's objectives and the practices to be carried out to meet the objectives.

The Department also expects that the proposed Forest Stewardship Program rules may have a positive economic effect on foresters on the List of Approved Foresters. The proposed Forest Stewardship Program rules require an owner to prepare a forest stewardship plan, plan amendment, or plan conversion in consultation with an Approved Forester. As a result, Approved Foresters may find that there is an increase in demand for their services.

The Department anticipates that administration of the proposed new Forest Stewardship Program will increase the Department's workload, at least when the program is initially implemented. This increased workload includes providing guidance to owners and Approved Foresters, reviewing forest stewardship plans (new, amended, and converted) and owners' farmland assessment applications, and carrying out other tasks associated with program

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management. This may cause the New Jersey Forest Service to internally reallocate some of its administrative resources. The net burden will be somewhat lessened by the planned discontinuance of separately reviewing and approving Federal forest stewardship plans, as discussed in the Federal Standards Statement below.

The New Jersey Forest Service's review of Federal forest stewardship plans is supported in part with grant funding provided from the USDA Forest Service. The purpose of the funding is to assist State Foresters in "the delivery of information and professional assistance to owners of nonindustrial private forest lands" in order "to encourage the long-term stewardship of nonindustrial private forest lands..." (16 U.S.C. § 2103a). In Federal fiscal year 2014, the amount of cooperative forest program funding awarded to support the New Jersey Forest Service's administration of the Federal forest stewardship program in New Jersey was just over \$125,000. The Department has designed the proposed new State Forest Stewardship Program to conform with the National Forest Stewardship Guidelines, and the Department anticipates that forest stewardship plans approved under proposed N.J.A.C. 7:3-5 will satisfy the requirements of both the State and Federal forest stewardship programs. Alignment of state plans with the National Guidelines will maintain New Jersey's eligibility for USDA Forest Service forest stewardship grant funding to help support and promote healthy forest ecosystems in the State.

List of Approved Foresters

The Department anticipates that the proposed rules related to the List of Approved Foresters may result in added costs to some private landowners who apply for farmland assessment and whose property includes non-appurtenant woodland. The Farmland Assessment

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Act at N.J.S.A. 54:4-23.3.b requires that an application for farmland assessment for non-appurtenant woodland include attestation by “a forester from a list of foresters approved by the Department of Environmental Protection” on the woodland data form that accompanies the application confirming plan compliance. The Department’s rules at N.J.A.C. 7:3-3 govern the Department’s establishment and maintenance of the referenced list. Proposed new rules at N.J.A.C. 7:3-3.3 make explicit criteria that an Approved Forester must determine are met before providing attestation of compliance on a woodland data form. It is possible that assuring that all these criteria are met could in some cases be somewhat more time-consuming for the Approved Forester, and, therefore, the Approved Forestry could increase the amount of payment for professional services charged the landowner.

The Department anticipates that the rules result in costs for some individuals seeking to be included on the List of Approved Foresters. The amendments expand the minimum qualifications of candidates, requiring them to have experience in both preparing and implementing forestry practices, as compared to the existing rule that allows experience in either one or the other to be sufficient. As existing Approved Foresters are to be grandfathered on the list, any additional time and cost required to meet the new criteria will be borne only by future applicants to the List of Approved Foresters.

Environmental Impact

The Department anticipates that the proposed new rules, repeals, and amendments related to the Forest Stewardship Program and the List of Approved Foresters will have a positive environmental impact. The remaining proposed rules will not have an environmental impact.

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Forest Stewardship Program

The Department anticipates that the new Forest Stewardship Program rules at N.J.A.C. 7:3-5 will have a positive environmental impact. The rules require that a forest stewardship plan base management of the forest land and its natural resources on the principle of conservation. The owner, in consultation with an Approved Forester, must design the plan to sustain in perpetuity the generative capacity of the forest land and its natural resources. The proposed rules allow compatible human use, but if a plan entails cutting and removing trees, it must also provide for regeneration sufficient to maintain the forest and the forest ecosystem. Although the Department recognizes that passively maintaining land as forest land may in itself yield environmental benefits, this is not sufficient for participation in the Forest Stewardship Program. A plan must prescribe active management to sustain and enhance forest productivity and the forest land's yield of ecosystem services. Some of the environmental benefits of forest lands are discussed in the Social and Economic Impacts above.

Proposed N.J.A.C. 7:3-5.3 requires that the owner, in consultation with an Approved Forester, design the forest stewardship plan to be implemented in a sustainable manner using methods that promote sustainability of the forest land and do not cause damage to other ecosystems. Plan implementation must avoid acts and omissions that undermine sustainability of the forest or cause damage to other components of the ecosystem.

Furthermore, proposed N.J.A.C. 7:3-5.4(c)1 requires that the plan set forth long-term goals for the property and that one of the goals be ensuring the sustainability of the property's forest land. The definition of "sustainability" in the Forest Stewardship Law (N.J.S.A. 13:1L-

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30) and as proposed at N.J.A.C. 7:3-5.1.3 is broad. It includes maintaining the ecological processes, biodiversity, regeneration capacity, and vitality of the forest ecosystem. It entails planning that takes into consideration the forest's potential to fulfill, not just for the present but also for future generations, relevant ecological, environmental, economic, and social functions. Each property will have its own unique features. Owners' long-range goals may vary. However, the requirement that ensuring the sustainability of the property's forest land must be a goal that each participating owner includes in the forest stewardship plans means that the implementation of the plans, individually and collectively, will have a positive environmental impact.

To the extent that the proposed rules encourage owners who qualify non-appurtenant woodlands for farmland assessment by complying with a woodland management plan to convert to a forest stewardship plan, there may be further economic benefit. Harvest and sale of forest products are mandatory under a woodland management plan, but are optional under a forest stewardship plan. For those owners who convert woodland management plans to forest stewardship plans, the criteria for qualifying for farmland assessment will shift from demonstrating income from sale of forest products to demonstrating active management designed to ensure the sustainability of forest land. Particularly on smaller holdings, harvesting forest products to qualify for a property tax benefit can mean removal of trees in excess of the land's productive capacity and can deplete the quality and sustainability of the forest over time. If owners who previously have not applied for farmland assessment decide they want to do so through compliance with a forest stewardship plan, there may be additional positive environmental impact from the Forest Stewardship Program.

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List of Approved Foresters

The proposed rules relating to the List of Approved Foresters, N.J.A.C. 7:3-3, will also have a positive, though incremental, environmental impact. The proposed rules require that an applicant have experience in both preparing plans and carrying out forestry practices, thereby ensuring that foresters admitted to the list are broadly qualified to advise an owner. Further, the proposed rules establish the criteria that an Approved Forester must determine are met prior to attesting to an owner's compliance in a farmland assessment application. Strengthening of oversight by Approved Foresters will ensure that the environmental benefits of plans used to qualify for Farmland Assessment are being fully realized.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65), require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The proposed new rules, repeals, and amendments are not promulgated under the authority of any program established under Federal law, or under a State statute that incorporates Federal law, Federal standards, or Federal requirements.

The USDA Forest Service has established a Federal forest stewardship program and encourages the participation of partners, including state forest service agencies, in carrying out this program. The USDA Forest Service has issued National Forest Stewardship Guidelines and, through the State Forester, engages state agencies in establishing state-level forest stewardship programs that conform with these guidelines. The guidelines state that the USDA Forest Service

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will provide participating landowners “enhanced access” to other USDA conservation programs (pp. 3 and 14 in the 2015 version of the National Forest Stewardship Guidelines). These include programs, such as the Environmental Quality Incentives Program (EQIP), through which owners may qualify for grant funding and other assistance to aid in the implementation of forest stewardship practices. To help New Jersey landowners to become eligible for available USDA conservation programs, the New Jersey Forest Service has been approving plans submitted by private landowners that conform with the National Forest Stewardship Guidelines since the early 1990s.

The Forest Stewardship Law authorizes and directs the Department to establish a Forest Stewardship Program. See N.J.S.A. 13:1L-29 through 31 and 36. The Forest Stewardship Program proposed at N.J.A.C. 7:3-5 conforms to the stipulations of that law. However, the proposed rules are also designed to satisfy the standards and guidelines for state forest stewardship programs in the National Forest Stewardship Guidelines. As discussed in the Summary above, the Federal guidelines and State law are compatible, as both have shared philosophical underpinnings and purposes, and their specific program requirements are congruent or complementary. As with the State program, the Federal program seeks to further long-term stewardship of forest lands and encourages landowners to more actively manage their forest and related resources (p. 3 in the 2015 version of the National Forest Stewardship Guidelines).

Participation in the proposed Forest Stewardship Program will be a voluntary choice of the private landowner. However, if an owner decides to participate, the Department anticipates that, when an owner obtains the Department’s approval of a plan pursuant to N.J.A.C. 7:3-5, that

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owner will have a plan that also satisfies the Federal guidelines and may be used by the owner to help qualify for USDA conservation programs. Once proposed N.J.A.C. 7:3-5 is operative, the Department does not intend to approve a plan as conforming to the National Forest Stewardship Guidelines, unless the plan also fully satisfies the requirements of N.J.A.C. 7:3-5. The Department's administration of the Federal guidelines and State rules will be managed as a single integrated program.

The National Forest Stewardship Guidelines delegates to the state forester in each state participating in the Federal forest stewardship program the responsibility, set forth in Federal law at Part (b) of 16 U.S.C. § 2113, for the USDA to establish a Forest Stewardship Coordinating Committee. Its role includes addressing "statewide Forest Stewardship Program implementation issues, opportunities, and concerns and to support overall program coordination" (p. 6 in the 2015 version of the National Forest Stewardship Guidelines). The Department has such a committee, known as the New Jersey Forest Stewardship Coordinating Committee. However, the Forest Stewardship Law (see P.L. 2009, c. 256, § 8) directs the Department to establish by regulation a Forest Stewardship Advisory Committee "consistent with the federal requirements for the establishment of a State Forest Stewardship Coordinating Committee ..." Proposed N.J.A.C. 7:3-6 establishes the committee that the Forest Stewardship Law requires. The proposed committee supersedes the New Jersey Forest Stewardship Coordinating Committee. The proposed rules charge the committee with both the responsibilities assigned to a State Forest Stewardship Coordinating Committee under Federal law and the responsibilities assigned to the committee under State law at N.J.S.A. 13:1L-31, 35, and 36 and 54:4-23.3.

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Jobs Impact

The Department anticipates that the proposed new rules, repeals, and amendments related to the Forest Stewardship Program will have an impact on jobs creation or retention in New Jersey by increasing the demand for the services of the professional foresters on the Department's List of Approved Foresters. As discussed in the statements above, an Approved Forester is a necessary component of forest stewardship plan preparation under the proposed rules. Also, when owners choose to apply for farmland assessment for non-appurtenant woodland, whether with a forest stewardship plan or a woodland management plan, they must include attestation by an Approved Forester as to their compliance with the approved plan. The proposed rules establish criteria that an Approved Forester must determine are met prior to making such attestation. Ensuring that all of the criteria are satisfied may make it somewhat more time-consuming for the Approved Forester to provide such attestation. There are approximately 60 foresters on the existing List of Approved Foresters who offer services relevant to preparation of a forest stewardship plan and attestation to plan compliance. Depending on the number of woodland owners who choose to obtain new forest stewardship plans or who begin, as a consequence of the new rules, to apply for farmland assessment for non-appurtenant woodland, the proposed rules are expected to increase the service-hours that owners require from Approved Foresters.

It is also possible that the proposed rules will result in an increase of the demand for the services of forestry consultants and contractors to carry out the forestry practices specified in forest stewardship plans. Owners may utilize many different types of services, such as those of professional foresters, loggers, botanists, invasive species removal teams, and wildlife biologists,

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among others. The Department expects an owner will require additional services if the owner has not previously actively managed the property. If the owner has previously complied with a Federal guidelines plan or a woodland management plan, the owner may not require services beyond what the prior plan required. It is not possible for the Department to predict, until a forest stewardship plan is approved, whether plan implementation will require new or additional services. It will depend on the nature and extent of the practices an owner chooses to include in the plan.

The remaining proposed rules will not have an impact on job creation or retention in the State.

Agricultural Industry Impact

The Department anticipates that the proposed new rules, repeals, and amendments related to the Forest Stewardship Program may have an impact on the State's agricultural industry. Some owners may elect to convert all or a portion of their croplands and pasture to forest lands managed under a forest stewardship plan. In recent decades, New Jersey has experienced a loss of cropland and pasture. A study by researchers at Rowan University and Rutgers University found that between 1986 and 2007, New Jersey experienced a net 24 percent loss of non-forest agricultural land, falling from 744,382 acres to 566,044 acres (see Hasse, John and Lathrop, Richard, "Changing Landscapes in the Garden State: Urban Growth and Open Space Loss in NJ 1986 thru 2007," 2010, crssa.rutgers.edu/projects/lc/NJ_Urb_Growth_III_executive_summary_0801_2010.pdf). The study by Rowan University and Rutgers University researchers noted that some of the land lost

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as non-forest agricultural land had been allowed to revert to forest. The rules are not intended to promote conversion of non-forest agricultural lands to forest, but an owner may choose to do so.

The remaining proposed rules will not have an impact on the agricultural industry in the State.

Regulatory Flexibility Analysis

As required by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has evaluated any reporting, recordkeeping, and other compliance requirements that the proposed new rules, repeals, and amendments will have on small businesses. The Regulatory Flexibility Act defines the term “small business” as “any business which is a resident in this State, independently owned and operated and not dominant in its field, and which employs fewer than 100 full-time employees.” The Department anticipates that the proposed rules will have an effect on small businesses.

Forest Landowners

Some of the affected small businesses will be owners of non-appurtenant woodland who elect to participate in the proposed Forest Stewardship Program. The reporting, recordkeeping, and compliance requirements associated with the Forest Stewardship Program are discussed in the Summary above, and the Economic Impact discusses the costs. The proposed rules do not apply differently to owners who are small businesses. As discussed above, the Forest Stewardship Law requires the Department’s rules to be designed to ensure the sustainability of forest lands. The legislative findings and declarations that underpin the Forest Stewardship Law

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conclude with the determination that “it is in the public interest to establish a forest stewardship program to develop and promote the long-term active management of the State’s forest resources in order to preserve and enhance those resources and realize the benefits thereof.” In order to accomplish the goals of the program, the rules must apply equally to all participants.

Approved Foresters

Many of the affected small businesses will be businesses that are owned by or employ Approved Foresters. The economic implications of the proposed rules for Approved Foresters are discussed above in the Summary and Economic Impact. There are approximately 60 foresters on the Approved Forester List (to be renamed the List of Approved Foresters) as of the date of this rulemaking, all but one of whom offer to help owners prepare woodland management plans and just over half of whom offer to help owners prepare plans that conform to the National Forest Stewardship Guidelines. Some Approved Foresters are sole proprietors, some are in a partnership, and some offer their services as employees of a tree care company or consulting firm. In most instances, these companies and firms are small businesses as well. To the extent that the proposed rules require Approved Foresters to assist owners in preparing Forest Stewardship Plans, and to attest to the owners’ compliance with those plans, the rules must apply equally to all participants. To allow a small business to have fewer responsibilities would undermine the entire program. To the extent that the proposed rules impose education and experience requirements on an Approved Forester, these too must apply to all Approved Foresters. An owner who hires an Approved Forester must be confident that the person hired has

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all of the qualifications necessary to perform the required services. Therefore, the proposed rules make no accommodation for small businesses.

Housing Affordability Impact Analysis

In accordance with N.J.S.A. 52:14B-4.1b, the Department has evaluated the proposed new rules, repeals, and amendments to determine their impact, if any, on the affordability of housing. The proposed rules pertain to the State's Forestry rules, N.J.A.C. 7:3, which govern the Department's forestry programs, and do not pertain to housing. The purpose of the Forest Stewardship Program proposed at N.J.A.C. 7:3-5 is to encourage private forest landowners to actively manage to ensure the sustainability of their forest lands. Therefore, the Department has determined that it is extremely unlikely that the proposed rules will evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

In accordance with N.J.S.A. 52:14B-4.1b, the Department has evaluated the proposed new rules, repeals, and amendments to determine their impact, if any, on housing production within Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan. The proposed rules pertain to the Department's forestry programs, and do not pertain to housing production. The purpose of the Forest Stewardship Program proposed at N.J.A.C. 7:3-5 is to encourage private forest landowners to actively manage to ensure the sustainability of their forest lands. Therefore, the Department has determined that it is extremely unlikely that the proposed rules will evoke a change in housing production within Planning

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Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 7:3-3.2, 3.4, 3.7, and 4.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

7:3-1.1 Construction

(a) [These rules] **The provisions of this chapter** shall be liberally construed to permit the Department to discharge its statutory functions.

(b) **The provisions of this chapter are not intended to, and do not, relieve any person of the duty to comply with all applicable State or Federal statutes, rules, and regulations, or the terms of any easement or other legal obligation.**

7:3-1.2 Severability

If any section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person **or circumstance**, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the section, subsection, provision, clause, portion, or application directly involved in the controversy in

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which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons **or circumstances**.

7:3-1.3 Definitions

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

[“Advertising” or “advertisement” means the description or presentation of a product or service in some medium or communication in order to induce the public to buy, support, or approve of it, including, but not limited to, telephone directory listings, letterhead, business cards, pamphlets, flyers, lettering on vehicles, television and radio advertisements, e-mail and internet websites, and any other written, oral, verbal, auditory, visual or other electronic media.]

“Age” means, with respect to a stand:

- 1. If the stand is even aged, the mean age of the trees calculated from the year of the stand’s establishment; and**
- 2. If the stand is uneven aged, the mean age of the dominant or, if applicable, co-dominant tree species in the stand.**

“Age class” means an interval into which the age range of trees is divided for classification or utilization.

“Age-class distribution” means, with respect to a stand, the location or proportionate representation, or both, of different age classes in the stand.

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“Agroforestry” means a system of land management that involves deliberate mixture of trees or other woody perennials with crop and animal production to take advantage of economic or ecological interactions among the components.

“Approved Forester” means [a forester meeting the standards and qualifications established by the Department in this chapter and] **an individual** whose name is [entered] on the [Approved Forester] List **of Approved Foresters.**

[“Approved Forester List” means the list, maintained and updated by the Department in accordance with this chapter, of “Approved Foresters,” as defined above.

“Board of Tree Experts” or “Board” means the Board established by the Department pursuant to N.J.S.A. 45:15C-3.

“Certificate” means certification by the Board of a person as a Certified Tree Expert pursuant to this chapter.

“Certified Tree Expert” or “CTE” means a person who has satisfied the requirements at N.J.S.A. 45:15C-1 et seq. and this chapter, who has been issued a certificate, and whose certificate has not been suspended or revoked.]

“Basal area” means the cross-sectional area of:

- 1. With respect to a single tree, its stem, including the bark, measured at breast height (4.5 feet above the ground), typically expressed in square feet or square meters; and**
- 2. With respect to a stand, or all trees of one or more specified species within the stand, all the trees, measured at breast height (4.5 feet above the ground), typically expressed in square feet or square meters per acre or per other unit of land area.**

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“Biomass” means, with respect to a stand at a given time, the vegetative matter in the stand and is typically expressed in units of volume of wet or dry weight per acre.

Depending on the context in which it is used, this term may apply to all vegetative matter in the stand collectively or to a component of the stand, such as a given species of trees or a harvestable forest product.

“Canopy cover” means the proportion of the forest floor covered by a vertical projection of the tree crowns, and is expressed as a percent of an area of forest land.

...

“Contiguous” shall have the same meaning as defined for this term in the Department of the Treasury’s Farmland Assessment Act rules at N.J.A.C. 18:15, except that no easement that crosses a property and that is held by a public utility or other public entity shall be deemed to disrupt the property’s contiguity.

“Critical habitat” shall, with respect to a Federally listed threatened or endangered species, have the same meaning as defined for this term in Section 3 of the Endangered Species Act of 1973, 16 U.S.C. § 1532.

“Crown” means the part of a tree or woody plant bearing live branches and foliage.

“Crown class” means a category of tree based on its crown position relative to those of adjacent trees. Examples of such classes include dominant, co-dominant, intermediate, and overtopped.

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“Destruction or adverse modification” shall, with respect to a Federally listed threatened or endangered species, have the same meaning as defined for this term in the USFWS’s Endangered Species Committee regulations at 50 CFR 402.02.

“Diameter at breast height” or “DBH” means the diameter of the stem of a tree measured at breast height (4.5 feet above the ground).

“Diameter class” or “DBH class” means any of the intervals into which a range of diameters of tree stems or logs may be divided for classification and utilization.

“Ecosystem service” means a service rendered by an ecosystem that benefits people. It is specifically a service that is useful to man, as follows:

- 1. A provisioning service, such as clean air, fresh water, energy, fuel, forage, or fiber;**
- 2. A regulating service, such as long-term storage of carbon; climate regulation; water filtration, purification, or storage; soil stabilization; flood control; or disease regulation;**
- 3. A supporting service, such as pollination, seed dispersal, soil formation, or nutrient cycling; or**
- 4. A cultural service, such as an educational, aesthetic, spiritual, or cultural heritage value, recreational experience, or tourism opportunity.**

“Farmland assessment” means valuation, assessment, and taxation of land under the Farmland Assessment Act.

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“Federal guidelines plan” means a plan that was approved by the Department prior to (the operative date of this amendment), as satisfying the requirements for forest stewardship plans in the National Forest Stewardship Guidelines.

“Federally listed threatened or endangered species” means a species listed with a status of “endangered” or “threatened” on the List of Endangered and Threatened species promulgated by the USFWS or other Federal agency pursuant to the Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq.

“Flood hazard area” shall have the same meaning as defined for this term in the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-1.2.

“Forest health” means the perceived condition of a forest or a stand derived from concerns about such factors as its age, structure, species composition, function, vigor, presence of unusual levels of insects or disease, and resilience to disturbance.

“Forest inventory” means, with respect to a stand, a characterization of the stand based on data collected from a systematic survey of the stand that:

- 1. Is designed to provide information about the condition of the stand for use in planning for the management of the stand;**
- 2. Is conducted in accordance with accepted forestry sampling methods;**
and
- 3. May be used to show the rate of change of forest parameters and the dynamics of the stand through comparison with data collected in one or more prior inventories, if available.**

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“Forest management” means the practical application of biological, physical, quantitative, managerial, economic, social, and policy principles to the regeneration, management, utilization, and conservation of forest land or of a stand to meet specified goals and objectives while maintaining its sustainability.

“Forest productivity” means, with respect to an objective in a forest stewardship plan, the rate of progress toward the desired future condition or outcome. This rate could be a positive or negative value. As an example, if the objective is:

1. To produce woody biomass, this term could be expressed as the net average annual change in the amount of woody biomass, given in cubic feet, board feet, cords, or weight of biomass per acre; or

2. To manage the forest ecosystem so as to enhance a population of a State-listed endangered plant species, such as the Pine Barren Gentian (*Gentiana autumnalis*), this term could be expressed as the net average annual change in the number of individual plants in the population or in the extent of the population, given in units of area such as square feet.

“Forest stewardship plan” means a plan that is prepared and implemented by an owner of forest land and is approved by the Department as conforming to the requirements of N.J.A.C. 7:3-5.

“Forest type” means a category of forest defined by its vegetation, particularly its dominant vegetation as based on percentage cover of trees. Examples of such a category include pine, oak/pine, pine/oak, oak/hickory, oak, maple/beech/birch, maple/gum, pitch pine, and Atlantic white-cedar.

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“Full stocking” means, with respect to a stand, a stocking level within the range that, for a management objective of producing trees for harvesting, represents optimal occupancy to maximize the growth potential of the stand.

“Goal” means a broad, general statement, usually not quantifiable, that expresses a desired end state to be achieved.

“Ground cover” means the herbaceous plants, including, but not limited to, grasses and ferns, and the lowest shrubs occupying an area.

“Harvesting” means the cutting, gathering, and removal of trees or other forest product from a forest or stand in preparation for its processing, transport, sale, and/or utilization.

“Highlands Region” shall have the same meaning as defined for this term in the Highlands Water Protection and Planning Act rules at N.J.A.C. 7:38-1.4.

“Individual” means a single human being.

"Invasive species" means a non-native species that has been introduced into a habitat and geographical area outside of its natural geographical range and that has the ability to reproduce prolifically and spread with little or no natural control, thereby displacing native biological diversity and threatening the integrity of natural ecosystems.

“Landlocked” means, with respect to the subject property:

- 1. Title to each of the properties surrounding the subject property is in the name of an owner other than the owner of the subject property; and**
- 2. The owner of the subject property does not hold a right of way or other easement granting legal access to the subject property from a public roadway.**

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“List of Approved Foresters” means the list, established and maintained by the Department in accordance with N.J.A.C. 7:3-3.

“Litter” means the surface layer of the forest floor that is not in an advanced stage of decomposition, usually consisting of freshly fallen leaves, needles, twigs, stems, bark, and fruits.

“Local government unit” means a municipality, county, or other political subdivision of the State, or any agency, board, commission, public utility authority or other authority, or other entity thereof.

“Lot” shall have the same meaning as defined for this term in the Municipal Land Use Law at N.J.S.A. 40:55D-4.

“Monitor” or “monitoring” means, with respect to a forest stewardship plan, collection of information over time, generally on a sample basis by measuring change in the value of one or more parameters, to determine the extent to which the implementation of the plan is resulting in progress toward one or more of the plan’s objectives.

“National Forest Stewardship Guidelines” means the guidance document entitled, “Forest Stewardship Program National Standards and Guidelines,” issued by Cooperative Forestry, State & Private Forestry, USDA Forest Service, revised October 2015, as supplemented, amended, or periodically revised. The USDA Forest Service has supplemented this document through its issuance of the “Forest Stewardship Management Plan Resource Elements” (July 2013). Both of these documents are available at <http://www.fs.fed.us/cooperativeforestry/programs/loa/fsp.shtml>.

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“National Register of Historic Places” shall have the same meaning as defined for this term in the New Jersey Register of Historic Places rules at N.J.A.C. 7:4-1.3, Definitions.

“Native” means, with reference to a species of plant, animal, or other living organism, occurring naturally within a region, either evolving there or arriving and becoming established without human assistance.

“Natural Heritage Database” means the manual and computerized file maintained by the Department that includes continuously updated information on the location and status of rare species and ecological communities in New Jersey.

“New Jersey Register of Historic Places” shall have the same meaning as defined for this term in the New Jersey Register of Historic Places rules at N.J.A.C. 7:4-1.3, Definitions.

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

“Objective” means a concise, time-specific statement of a measurable planned result that corresponds to one or more pre-established goals in achieving a desired future condition or outcome. In a woodland management plan or a forest stewardship plan, such a statement forms the basis for further planning to define the prescriptions and practices to be undertaken and the resources to be used.

“Overstory” means, with respect to a stand with forest of more than one story, that portion of the trees forming the upper or uppermost canopy layer.

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“Owner” means the person or persons who own a property.

“Person” means any individual, government unit, nonprofit, corporation, partnership, organization, association, or other entity.

“Pinelands Area” shall have the same meaning as defined for this term in the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-2.11.

“Practice” or “management practice” means a specific activity, measure, course of action, or treatment carried out under a plan and directed to progressing toward one or more objectives set in the plan. For a woodland management plan or a forest stewardship plan, examples include, but are not limited to, site preparation, planting, pruning, or thinning.

“Prescription” means a planned series of management practices.

“Privately held” means, with respect to a property, owned by a person who is not a Federal or State entity or a local government unit.

“Property” means lands comprised of all contiguous lots that are owned by the same owner; or, if the same owner owns no other contiguous lot, a single lot.

“Public utility” shall have the same meaning as defined for this term in the Department of Public Utilities Act of 1948 at N.J.S.A. 48:2-13.a.

“Regeneration” means, with respect to a stand, the process of renewal of the stand and is indicated by seedlings or saplings present, whether established naturally or artificially.

"Riparian zone" shall have the same meaning as defined for this term in the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-1.2.

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“Site index” means a value indicating the capability for trees of a specific species (usually the dominant or co-dominant species) to grow at a given site. Site index is expressed in terms of the average height, in feet, to which trees of that species are expected to grow in 50 years, and is used as an indicator of the potential capacity or ability of the site to produce woody biomass.

“Site preparation” means hand or mechanized manipulation of a site, designed to enhance the success of regeneration, and may include bedding, burning, chemical spraying, chopping, disking, drainage, raking, and scarifying in order to modify the soil, litter, or vegetation and to create microclimate conditions conducive to the establishment and growth of desired species.

“Size class” means, with respect to trees within a forest or stand, a classification of the trees based on their size. Examples include seedling, sapling, pole, and sawtimber.

“Society of American Foresters Code of Ethics” means the [canons governing professional conduct,] Code of Ethics adopted by the Society of American Foresters [by Member Referendum], November 3, 2000, [and any subsequent revisions, and available from that agency] or successor code, as supplemented or amended. This code may be downloaded from the Society’s website, www.safnet.org/about/codeofethics.cfm, or requested from the Society at the following address:

Society of American Foresters

5400 Grosvenor Lane

Bethesda, Maryland 20814

[Telephone number: (301) 897-8720

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Facsimile number: (301) 897-3690

Email address: safweb@safnet.org.]

“Species composition” means, with respect to a stand or other area of land, the species that constitute the plant community within that stand or area. When used with respect to silviculture, this term means the proportion of each tree species expressed as a percentage of the total number, basal area, or volume of all tree species in the stand or area.

“Species of special concern” means:

- 1. A taxon listed by the Department as a species of concern pursuant to the Endangered Plant Species Program rules at N.J.A.C. 7:5C-3.1; or**
- 2. A species listed in the Wildlife Action Plan, issued by the Department pursuant to the USFWS’s Wildlife Conservation and Restoration Program, as a species of greatest conservation need.**

“Stand” means, with respect to a forest stewardship plan, an area of land that is:

- 1. Continuous in its range or extent; and**
- 2. Designated as a distinguishable unit for the purpose of forest management, based on a judgment that its trees are sufficiently uniform in age-class distribution, species composition, and/or structure and that the land is of sufficiently uniform quality.**

“Stand table” means:

- 1. A table that, for a stand, lists the number of trees by species and diameter classes, per acre or other unit of area; or**

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2. A chart presenting the data in paragraph 1 above in the form of a frequency distribution.

“State entity” means a department, agency, or office of State government, including a State university or college, or an authority created by the State of New Jersey.

“State Forester” means the chief forester employed by the Department, or his or her designee.

“State-listed threatened or endangered species” means one of the following:

1. An animal species listed and assigned a status of threatened pursuant to the Endangered, Nongame, and Exotic Wildlife rules at N.J.A.C. 7:25-4.17;

2. An animal species or subspecies of wildlife listed as an endangered species pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-13 et seq.; or

3. A plant taxon listed as an endangered species pursuant to the Endangered Plant Species List Act, N.J.S.A. 13:1B-15.151 et seq.

“Stewardship goal” means, with respect to forest land, a goal intended to enable the land and its natural resources to be passed on to future generations in a healthy condition.

This term shall include the goal of ensuring the sustainability of the forest land.

“Stock table” means a table that lists the proportions of total volume of wood content of the trees within a stand by diameter classes, and is generally expressed as units per acre or other unit of area, where the units are, for example, cubic foot volume, board foot volume, cords, or tons.

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“Stocking level” means the growing-space occupancy of land by trees within a stand or within another specified area of land. This term is expressed quantitatively as an indication of density and can be given in absolute terms, such as number of trees, basal area or volume per unit of area, or relative to some standard condition, such as a percentage of full stocking.

“Structure” means, with respect to a stand, the horizontal and vertical distribution of the woody and herbaceous components of the stand including:

- 1. For the trees, the height, crown layers, stem diameter classes, and number of stems per acre;**
- 2. Whether snags and/or downed woody debris are present, and if so their amount; and**
- 3. The species composition and density of the shrubs and herbaceous understory.**

“Sustainability” means, with respect to forest land, having the ability to:

- 1. Maintain its ecological processes, biodiversity, resource productivity, regeneration capacity, and vitality;**
- 2. Promote forest health, preclude the spread of invasive non-native species, maintain forest integrity and contiguity, conserve New Jersey’s native biodiversity, and protect Federally listed and State-listed threatened or endangered species and species of special concern, and the habitat that sustains them; and**
- 3. Realize the potential to fulfill now and for future generations, relevant ecological, environmental, economic, and social functions, including, but not limited to,**

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protection and improvement of air quality and of water supply and water quality, stabilization of soils, prevention and suppression of uncontrolled wildfires, service of markets for forest products, provision of recreational opportunities, and improvement of quality of life.

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

“Transition area” shall have the same meaning as defined for this term in the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A-1.4.

"Tree" means a woody perennial plant, typically large and with a well-defined stem or stems carrying a more or less definite crown, attaining at maturity a minimum diameter at breast height of five inches and a minimum height of 15 feet.

“Understory” means, with respect to a stand, all forest vegetation growing under an overstory, including the ground cover.

“USDA” means the United States Department of Agriculture.

“USFWS” means the United States Department of the Interior’s Fish and Wildlife Service.

“Volume” means:

1. With respect to a single tree, an estimate of the wood content of the tree, generally expressed in cords or board feet; and

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2. With respect to all the trees in a forest or stand, or all trees of one or more specified species within a forest or stand, the wood content of the trees, generally expressed in tons, cords, or board feet.

“Woodland data form” shall have the same meaning as defined for this term in the Department of the Treasury’s Farmland Assessment Act rules at N.J.A.C. 18:15.

“Woodland management plan” means a plan prepared in accordance with the criteria set forth in the Department of [Treasury] **the Treasury’s Farmland Assessment Act** rules at N.J.A.C. [18]18:15-2.10[, implementing the Farmland Assessment Act].

7:3-1.4 [(Reserved)] **Submissions and communications**

(a) Subject to (b) below, and except as provided at N.J.A.C. 7:3-5.9(b)2, paper submissions and other paper communications may be conveyed to the New Jersey Forest Service at the following address:

**New Jersey Forest Service
Department of Environmental Protection
Mail Code 501-04
501 East State Street
PO Box 420
Trenton, New Jersey 08625-0420**

(b) The Department shall inform the public, by notice in the New Jersey Register, that the Department has established a portal or other mechanism for electronic submittal of one or more documents pursuant to this subchapter. Notwithstanding (a)

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above, and except as set forth in (c) below, the Department will not accept paper submissions of the document identified in the notice on and after a date specified in the notice; rather, all such submittals shall be electronic through the method the Department establishes. The period between the date of publication of the notice and the date specified on and after which a document must be submitted electronically shall not exceed:

1. For a Forest Stewardship Plan or plan conversion, one year;
2. For a Forest Stewardship Plan amendment or a semi-annual report required pursuant to N.J.A.C. 7:3-3.6, six months; and
3. For any other type of document, three months.

(c) A person submitting a document electronically shall, upon the request of the Department, also provide a paper copy of all or a portion of the document, if:

1. The submission is insufficiently legible in electronic format;
2. A paper copy is needed for review or field use, such as for collaboration with assessors or other governmental officials, on-site inspections, or documentation of annotations;
3. Only an original document provided on paper can satisfy the requirement, such as the requirement at N.J.A.C. 7:3-3.2(b)2 to provide certified copies of transcripts with an application for inclusion on the List of Approved Foresters; or
4. The electronic portal is not functioning.

SUBCHAPTER 3. LIST OF APPROVED FORESTERS [LIST]

7:3-3.1 Scope and [authority] **purpose**

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(a) This subchapter constitutes the rules of the Department governing the establishment **and maintenance** of a list of foresters approved by the Department, which is necessary to implement the Farmland Assessment Act **at N.J.S.A. 54:4-23.3.b.**

(b) **This subchapter sets forth the procedure and criteria for an individual to become an Approved Forester, the authority granted to, and the responsibilities required of, an Approved Forester, the grounds for which an individual may be removed from the list and the procedure for removal, and the conditions and procedures for reinstatement to the list.**

7:3-[3.3]3.2 Application procedure, **qualifications, and approval criteria**

(a) Any [person] **individual who meets the qualifications of (c) below** may apply for [entry] **inclusion** on the **List of Approved Foresters [List]** by submitting an application to[:

State Forestry Service

Division of Parks and Forestry

Department of Environmental Protection

P.O. Box 404

Trenton, New Jersey 08625-0404

Attention: Approved Forester List Application] **the New Jersey Forest Service in accordance with N.J.A.C. 7:3-1.4.**

(b) An application submitted pursuant to (a) above shall include:

1. A completed and signed application on a form obtained from the Department. **The form is available electronically at www.forestry.nj.gov and a paper copy**

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may be requested from the **New Jersey Forest Service** at the address [given in (a) above] at

N.J.A.C. 7:3-1.4(a). The information to be submitted on **or with** the application form includes the following:

- i. (No change.)
- ii. A [listing] **list** of education and/or training completed

demonstrating the **applicant's** fulfillment of the requirements at [N.J.A.C. 7:3-3.4(a)1] **(c)1** below; and

- iii. A history of experience demonstrating the applicant's

[qualifications as required] **fulfillment of the requirements** at [N.J.A.C. 7:3-3.4(a)2] **(c)2** below; [and]

2. A certified copy of the applicant's **transcript from each** post-secondary school [transcripts.] **the applicant attended; and**

3. Copies of two plans prepared by the applicant. A plan may be a woodland management plan prepared pursuant to N.J.A.C. 18:15-2.10, a forest stewardship plan prepared pursuant to N.J.A.C. 7:3-5, or a Federal guidelines plan, or an equivalent plan prepared for a property in another state.

(c) The minimum qualifications an applicant shall demonstrate are the following:

- 1. Education that includes one of the following:**

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i. **A bachelor’s degree from a college or university in a forest management or equivalent forestry program that is accredited by the Society of American Foresters; or**

ii. **A graduate degree from a college or university in a program that the Department determines to be at least equivalent to the bachelor’s degree programs referenced at (c)1i above; and**

2. **Two years’ experience in forest management or equivalent employment, beginning not earlier than the time of registration for the degree program specified pursuant to (c)1 above, including:**

i. **Preparing woodland management plans, forest stewardship plans, Federal guidelines plans, and/or equivalent plans prepared for property in another state; and**

ii. **Carrying out management practices commonly included in such plans, such as thinning, planting, invasive species control, and/or the harvesting and marketing of forest products.**

(d) **Prior to approving an application, the Department shall require an applicant to demonstrate a basic knowledge of farmland assessment and how an owner can qualify a property’s forest land for valuation, assessment, and taxation under farmland assessment.**

[(c)] (e) The Department shall notify the applicant **in writing** of [its] **the** approval or denial of the application for [entry] **inclusion** on the **List of** Approved Foresters [List in writing, including the basis for the Department’s decision]. If the Department approves the application, [it shall enter] the name of the applicant **shall be entered** on the **List of** Approved

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Foresters [List]. [Within 21 days of receipt of a notice of denial, the applicant may] **If the Department denies the application, the notification shall include the basis for the Department's denial and inform the applicant of the procedure to request an adjudicatory hearing on the [notice of] denial in accordance with N.J.A.C. 7:3-[3.7]3.9.**

7:3-3.3 Professional services of an Approved Forester

(a) An Approved Forester is authorized to provide an owner the following professional services:

- 1. Preparing for, or in consultation with, the owner:**
 - i. A forest stewardship plan, plan amendment, or plan conversion, in accordance with N.J.A.C. 7:3-5; or**
 - ii. A woodland management plan or plan amendment in accordance with the Farmland Assessment Act rules at N.J.A.C. 18:15-2.10; and**
- 2. Provided that the requirements of (b) below are satisfied, signing the certification of compliance with the approved plan on a woodland data form that accompanies an owner's annual application for farmland assessment, pursuant to the Farmland Assessment Act rules at N.J.A.C. 18:15-2.7.**

(b) An Approved Forester shall certify a woodland data form if he or she has made the following determinations:

- 1. The owner has a Department-approved forest stewardship plan or woodland management plan that applies to the property and has not expired;**

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2. The woodland data form is the version prescribed for use in that calendar year by the Director of the Division of Taxation in New Jersey's Department of the Treasury, available at www.nj.gov/treasury/taxation/prntlpt.shtml;

3. The form is fully and properly completed and the information provided is true and accurate; and

4. The management of the property is in conformance with the plan.

7:3-3.4 Standards of conduct

(a) An Approved Forester shall abide by the Society of American Foresters Code of Ethics.

(b) An Approved Forester shall observe recognized professional practices and standards in the provision of professional services to owners. Examples may be found in the document entitled, "New Jersey Forestry and Wetlands Best Management Practices Manual," dated October 1995, which is available at www.state.nj.us/dep/parksandforests/forest/nj_bmp_manual1995.pdf, and in the "Forestry Handbook" published by the Society of American Foresters, Karl F. Wenger, ed., 2nd edition, 1984, or subsequent edition.

(c) An Approved Forester shall perform professional activities in accordance with applicable Federal and State statutes, rules, and regulations and advise owners to manage their lands and carry out forestry activities in accordance with all such statutes, rules, and regulations.

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7:3-3.5 Continuing education

(a) An Approved Forester shall participate at least annually in a program of professional education that is:

- 1. Designed to enable the forester to maintain or develop new forestry skills, obtain updated information on forest management topics, and/or earn or retain certification relevant to offering professional services as an Approved Forester; and**
- 2. Offered by the Society of American Foresters, Rutgers - The State University of New Jersey, the USDA Forest Service, or the New Jersey Forest Service, or in a comparable program offered by another provider and approved by the Department as appropriate for satisfying this requirement.**

7:3-3.6 Semi-annual reports

(a) An Approved Forester shall submit a report semi-annually to the New Jersey Forest Service to document professional activities and the implementation of management practices during the preceding six-month reporting period (January 1 through June 30 or July 1 through December 31, as applicable).

(b) The Approved Forester shall:

- 1. Prepare the semi-annual report on a form available from the New Jersey Forest Service;**
- 2. Sign and date the report; and**

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3. Submit the completed form by February 15th and September 15th each year, in accordance with N.J.A.C. 7:3-1.4.

(c) The Approved Forester shall provide the following in the semi-annual report:

1. The Approved Forester's contact information and credentials, and the services the Approved Forester offers, and information related to the Approved Forester's professional education and experience, which the Department will make available to the public in its online List of Approved Foresters;

2. Information pertaining to the properties for which the Approved Forester has, during the reporting period, served as the owner's forestry consultant in the preparation or implementation of a woodland management plan, forest stewardship plan, or other type of forestry plan, including the following:

i. The number of plans that the Approved Forester prepared and/or certified, and that the Department approved during the reporting period, and the total acreage of forest land covered by these plans;

ii. Management practices implemented during the reporting period pursuant to the plans, and the extent of their implementation; and

iii. Wood and other forest products harvested for sale during the reporting period, including the number of sites at which harvest occurred, the total acres harvested, the size class and quantity of each product harvested, and the combined market value; and

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3. Each program of professional education meeting the requirements for continuing education at N.J.A.C. 7:3-3.5 that the Approved Forester participated in during the reporting period.

(d) The Approved Forester shall additionally report in each semi-annual report such other information as the Department may request for its use in satisfying planning or reporting responsibilities under State law (such as pursuant to N.J.S.A. 13:1K-35) or as established by the USDA Forest Service (such as pursuant to the USDA Forest Service's administration of the Cooperative Forestry Assistance Act of 1978, as amended, 16 U.S.C. § 2103A).

7:3-[3.5]3.7 Removal from the **List of Approved Foresters [List]**

(a) The Department shall remove the name of any [person] individual from the List of Approved Foresters [List] who:

1. Fails to timely submit to the [Department] **New Jersey Forest Service** a completed semi-annual report as required by N.J.A.C. 7:3-[3.4(c)]3.6;

2. Has provided false or fraudulent information **to the Department, such as in:**

i. [In his] **His** or her application for [entry] **inclusion** on the **List of Approved Foresters [List]**; or

ii. [In a] **A** semi-annual report submitted pursuant to N.J.A.C. 7:3-[3.4(c)]3.6;

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3. Fails to satisfy the requirement for participation in a professional education program pursuant to N.J.A.C. 7:3-[3.4(c)]**3.5**;

4. Fails to abide by the Society of American Foresters Code of Ethics **as required at N.J.A.C. 7:3-3.4(a), observe recognized professional standards and practices as required at N.J.A.C. 7:3.4(b), or comply with N.J.A.C. 7:3-3.4(c);** or

5. Is determined by the Department to [fall below recognized professional standards in the provision of professional services to woodland owners] **have certified a woodland data form without satisfying the requirements of N.J.A.C. 7:3-3.3(b).**

(b) Prior to removing [a forester] **an individual** from the **List of Approved Foresters** [List] under (a) above, the Department shall [provide a written notice] **notify the individual in writing** of [its] **the** intent to remove the [forester] **individual** from the list[, including]. **The notification shall include** the basis for the [notice of intent to remove. Within 21 days of receipt of the notice of intent to remove, the forester may] **removal and shall inform the individual of the procedure to** request an adjudicatory hearing on the [notice of intent to remove] **removal**, in accordance with N.J.A.C. 7:3-[3.7]**3.9**. If a hearing request is not timely received by the Department, the notice of removal shall become final and the [forester's] **Department shall remove the individual's** name [shall be removed] from the **List of Approved Foresters** [List].

(c) An Approved Forester may **at any time** submit a written request to have his or her name removed from the **List of Approved Foresters** [List at any time].

7:3-[3.6]**3.8** Reinstatement to the **List of Approved Foresters** [List]

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(a) [Subject to the restrictions at (c) below, a forester] **An individual** whose name has been removed from the **List of Approved Foresters** [List] pursuant to N.J.A.C. 7:3-[3.5 and] 3.7 may apply for reinstatement by submitting a written request to the [Department at the following address:

State Forestry Service

Division of Parks and Forestry

Department of Environmental Protection

P.O. Box 404

Trenton, NJ 08625-0404

ATTN: Approved Forester List/Request for Reinstatement] **New Jersey Forest Service in accordance with N.J.A.C. 7:3-1.4.**

- (b) A request for reinstatement shall contain the following information:
1. The name and address of [forester] **the individual** seeking reinstatement;
 2. A statement that the [forester] **individual** is requesting reinstatement to the [Approved Forester List and an explanation of the basis for the forester's prior removal from the Approved Forester List under either N.J.A.C. 7:3-3.5 (b) or (c)] **List of Approved Foresters;** [and]
 3. A completed application for [entry] **inclusion** on the **List of Approved Foresters** [List] **prepared and submitted** in accordance with N.J.A.C. 7:3-[3.3.]**3.2(a) through (c); and**

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4. A statement of whether the individual's prior removal from the List of Approved Foresters was by the Department pursuant to N.J.A.C. 7:3-3.7(a) and (b), or was at the individual's request pursuant to N.J.A.C. 7:3-3.7(c).

(c) [The following restrictions apply to a forester whose] **If an individual submits a request for reinstatement and the individual's name [is] was removed from the List of Approved Foresters [List under] by the Department pursuant to N.J.A.C. 7:3-[3.5(b)]3.7(a) and (b):**

1. The [forester] **Department** shall not [apply for] **approve the request for reinstatement [before] until at least:**

i. One year [from] **after** the date that the [first notice of intent to remove the forester] **name of the individual was removed** from the **List of Approved Foresters [List becomes final under N.J.A.C. 7:3-3.7]; [or] and**

ii. If **the individual was** reinstated after [the] **a first removal pursuant to N.J.A.C. 7:3-3.7(a) and (b)**, two years [from] **after** the date that the [second notice of intent to remove the forester] **name of the individual was removed** from the **List of Approved Foresters [List becomes final under N.J.A.C. 7:3-3.7] for the second time; and**

2. If [a forester is removed] **the Department removed the individual** from the **List of Approved Foresters [List three] a third time[s]**, the removal is permanent and the [forester] **Department** shall not [apply for reinstatement] **reinstate the individual to the List of Approved Foresters.**

(d) [Within 60 days of] **Following** receipt of [the] **a request for reinstatement**, the Department shall notify [the forester] **an individual in writing** of [its decision to approve or

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deny] **approval or denial** of the request [in writing, including]. **If the Department denies the request, the notice shall include** the basis for the [decision. Within 21 days of receipt of a notice of] denial,[the forester may] **and inform the individual of the procedure to** request an adjudicatory hearing on the [notice of] denial in accordance with N.J.A.C. 7:3-[3.7]**3.9**.

7:3-[3.7]**3.9** Adjudicatory hearing requests

(a) [The Department shall provide] **An individual who has received** a written notice [to an applicant or forester, as applicable,] of [a] denial of an application for [entry or of a request for] **inclusion on the List of Approved Foresters pursuant to N.J.A.C. 7:3-3.2(e), removal from the List of Approved Foresters pursuant to N.J.A.C. 7:3-3.7(b), or denial of reinstatement to the List of Approved Foresters [List under N.J.A.C. 7:3-3.3 or 3.6, or a notice of intent to remove from the Approved Forester List under N.J.A.C. 7:3-3.5] pursuant to N.J.A.C. 7:3-3.8(d) may, within 21 days of receipt of the notice, request an adjudicatory hearing in accordance with this section.**

(b) [The written notice provided under (a) above] **A request for an adjudicatory hearing shall include:**

1. State the Department action taken or sought;
2. Give the basis for the action; and
3. Indicate that the applicant or forester may request a hearing in writing within 21 days from the date of receipt of such notice by the applicant or forester.]

1. **The name, mailing address, e-mail address (if any), and phone number of the individual submitting the request;**

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2. **The name, mailing address, e-mail address, and phone number of the attorney (if any) representing the individual identified in (b)1 above for purposes of the adjudicatory hearing;**

3. **The date the individual identified in (b)1 above received written notice of the decision or proposed decision;**

4. **A copy of the written notice of decision being appealed;**

5. **A statement of the basis for the appeal;**

6. **An estimate of the time required for the hearing (in days and/or hours);**

7. **A request, if necessary, for a barrier-free hearing location for physically disabled persons; and**

8. **A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's transmitting the case to the Office of Administrative Law.**

(c) [An applicant or forester] **The individual** requesting [a] **an adjudicatory** hearing shall [submit a written]:

1. **Submit the request in writing** to [the Department at the following address and shall provide a copy to the Division of Parks and Forestry at]:

Office of Legal Affairs

Attention: Adjudicatory Hearing Requests

Department of Environmental Protection

Mail Code 401-04L

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401 East State Street, **7th Floor**

[P.O.] **PO** Box 402

Trenton, New Jersey 08625-0402; **and**

[Attention: Adjudicatory Hearing Requests]

2. Provide a copy to the New Jersey Forest Service at the address at

N.J.A.C. 7:3-1.4(a).

[(d) A request submitted pursuant to (b)3 and (c) above shall include the following information:

1. The name and mailing address of the applicant or forester;
2. The date the written notice was received;
3. A copy of the written notice of the decision being appealed; and
4. A statement setting forth the basis for the appeal.]

[(e)] **(d)** [All such] **An adjudicatory** hearing[s] shall be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

SUBCHAPTER 5. FOREST STEWARDSHIP PROGRAM

7:3-5.1 General provisions

(a) The Forest Stewardship Program is a voluntary program for an owner who is willing to manage a qualifying property in accordance with a forest stewardship plan approved by the Department pursuant to this subchapter.

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(b) A forest stewardship plan shall apply to the entirety of a single qualifying property that is privately held. To qualify, a property shall:

1. Include five acres or more of land, exclusive of land on which the Department determines that the owner is precluded from engaging in forest management due to an easement or other legal constraint, that qualifies as forest land; and

2. Not be landlocked.

(c) For the purposes of this subchapter, except as set forth in (d) below, land is forest land if it is a defined and continuous area of land that lies wholly within a property and is at least 0.5 acres in size, and:

1. Has at least 10 percent canopy cover; or

2. Does not currently have the canopy cover in (c)1 above, but is:

i. Capable of achieving at least 10 percent canopy cover; and

ii. Is scheduled in a plan approved by the Department to be

afforested or reforested to such a level of canopy cover within the period for which the plan is approved.

(d) The following shall not qualify as forest land:

1. Land devoted to the production of Christmas trees;

2. Land on which trees are grown for sale as nursery stock; and

3. Land, such as an orchard, on which trees are grown primarily for

their production of an agricultural product, such as apples or nuts.

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(e) The owner of a qualifying property participates in the Forest Stewardship Program by managing the property in compliance with a forest stewardship plan. The Department shall deem an owner to be in compliance if:

- 1. The owner:**
 - i. In consultation with an Approved Forester, has prepared a forest stewardship plan for the property that meets the criteria at N.J.A.C. 7:3-5.2;**
 - ii. Has submitted the plan for review by the Department in accordance with N.J.A.C. 7:3-5.9 and has obtained the Department's approval of the plan;**
 - iii. Is managing the property in compliance with the approved plan;**
 - iv. Is monitoring progress toward the plan's objectives and maintaining records as required at N.J.A.C. 7:3-5.11(a) and (c); and**
 - v. If any of the circumstances listed at N.J.A.C. 7:3-5.12(a) apply, has submitted an amendment modifying the plan to incorporate appropriate revisions; and**
- 2. The plan has not expired or been terminated, and its approval has not been revoked.**

(f) An owner with an approved Federal guidelines plan or woodland management plan that has not expired, been terminated by the owner, or been revoked by the Department may convert the plan to a forest stewardship plan approved as conforming to this subchapter by preparing a plan conversion in accordance with N.J.A.C. 7:3-5.14 and submitting the plan conversion for review and approval under this subchapter as a forest stewardship plan.

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(g) Compliance with a plan and the applicable requirements of this subchapter is the owner's responsibility. However, if the owner is not a single individual, an individual who meets the following criteria may, on behalf of the owner, sign the required certification and submit a plan, plan amendment, plan conversion, or notice of plan termination:

1. If the owner consists of two or more individuals, any of those individuals; and

2. If the owner consists of at least one person who is a corporation or other non-individual:

i. An employee of the non-individual or a member of its governing board; or

ii. If one or more individuals are co-owners with the non-individual owner, any of those individuals.

(h) Once approved, a forest stewardship plan is valid for a period of 10 years, unless revoked sooner by the Department, terminated by the owner, or replaced by the owner with a new plan.

(i) The 10-year period for which the plan is approved shall be specified by the Department on the title page of the plan:

1. The plan's start date shall be the date of the Department's issuance of a notice of approval of the plan or, if applicable, the day after the expiration date of the prior plan, whichever is later; and

2. The plan's end date shall be the date that is 10 years after its start date. The plan period may not be extended. The plan shall expire on its end date.

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(j) A property is subject to on-site inspection by the Department when a forest stewardship plan or a plan conversion is under review and, following approval, for verification of compliance.

(k) The Department may, if it finds that the information provided in a plan, plan amendment, or plan conversion is incorrect, revoke approval of the plan by providing a written notice of revocation. The Department shall include in the notice the Department's reason or reasons for the revocation.

(l) Department approval of a plan, plan amendment, or plan conversion pursuant to this subchapter does not relieve the owner of responsibility for complying with any other applicable legal obligation, such as obtaining a permit or other approval required under State, Federal, or local law or satisfying the terms of an easement, nor does it relieve the owner of liability for failure to comply. Approval under this subchapter does not constitute authorization to carry out any of the practices set forth in the plan until and unless all other applicable legal obligations are satisfied.

7:3-5.2 Plan criteria

- (a) A forest stewardship plan shall contain:**
- 1. A title page in accordance with N.J.A.C. 7:3-5.3;**
 - 2. A background and goals section in accordance with N.J.A.C. 7:3-5.4;**
 - 3. A property overview section in accordance with N.J.A.C. 7:3-5.5;**
 - 4. A forest stands section in accordance with N.J.A.C. 7:3-5.6;**
 - 5. A management schedule in accordance with N.J.A.C. 7:3-5.7; and**

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6. Appendices, including maps, in accordance with N.J.A.C. 7:3-5.8.

(b) Management of the forest land and its natural resources under the plan shall be based on the principle of conservation. That is, the plan shall be designed to sustain the productivity of the forest land and its natural resources in perpetuity. The plan may allow compatible human use. If the plan includes cutting and removal of trees, it shall ensure regeneration sufficient to maintain the forest and its ecosystem.

(c) The plan shall prescribe active management to sustain and enhance forest productivity and yield of ecosystem services.

(d) No plan shall call for removal of trees, such that the canopy cover of the affected area is reduced to less than 10 percent, unless the tree removal is part of a prescription that leads to forest regeneration within the plan period.

(e) The plan shall be designed to be implemented in a sustainable manner and in a manner that protects and preserves each cultural resource identified pursuant to N.J.A.C. 7:3-5.5(g).

7:3-5.3 Title page

(a) A plan's title page shall include the following:

1. A title for the plan, as follows: "Forest Stewardship Plan for {*Property Name, as provided by the owner*}";

2. The legal name, mailing address, and phone number of the owner or owners and, if in accordance with N.J.A.C. 7:3-5.1(g) an individual is signing the

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certification on behalf of a corporation or other non-individual, the individual's name and relationship to the owner;

3. The name of the Approved Forester with whom the owner prepared the plan;

4. The property's street address, if available, and each county, and each municipality within the county, in which the property in whole or part is located and, for each municipality, the block and lot numbers from the municipal tax map for each lot that is part of the property;

5. The acreage of the property as a whole and of the property's forest land, accurate to the nearest hundredth of an acre;

6. Whether the owner intends to submit the plan with an application for farmland assessment; and

7. The certifications specified in (c) below.

(b) The title page shall include space for the New Jersey Forest Service to record the date the plan was received for review, the date of the notice of approval, the start and end dates of the plan period, and the ID number assigned by the New Jersey Forest Service.

(c) The title page shall include the following certifications:

1. To be signed and dated by the owner:

“I certify that I am the owner of the property or am authorized by the owner to make this certification. I have read the within forest stewardship plan and the information contained in the plan is true.

To the best of my knowledge, the plan meets the requirements of the

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Forest Stewardship Program rules at N.J.A.C. 7:3-5 and applicable Federal and State law. The owner agrees to implement the plan, as approved or as subsequently amended”; and

2. To be signed and dated by the Approved Forester:

“I prepared the within forest stewardship plan in consultation with the owner of the property. I certify that, to the best of my knowledge, the plan meets the requirements of the Forest Stewardship Program rules at N.J.A.C. 7:3-5 and applicable Federal and State law.”

7:3-5.4 Background and goals

(a) A forest stewardship plan shall begin with a background and goals section.

(b) With regard to background, the section shall:

1. Describe the location of the property, given in terms such as the distance and direction along a roadway from an intersection or other distinctive feature, and indicate where the property is to be accessed from a public roadway;

2. State whether all or part of the property is located in the Highlands Region, as designated by N.J.S.A. 13:20-7, or the Pinelands Area, as designated by N.J.S.A. 13:18A-11;

3. Provide relevant history of the property, including:

i. Information regarding the present condition of the property’s forest land, the property’s past ownership, change in land use over time, and past events or practices that contribute to the present condition, such as past harvesting and other forest

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management activities, agricultural practices, wildfire, flooding, drought, and/or insect and disease outbreaks; and

ii. For any forestry plan applicable to the property within the past 10 years, the type of plan (such as woodland management plan or forest stewardship plan approved under this subchapter), and date and reason the has plan ended or will end (such as by expiration, termination, or revocation);

4. State whether:

i. The property includes wetlands and, if so, whether any prescriptions and practices in the plan are subject to the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A-2.8; and

ii. Some or all of the property's forest land lies in a flood hazard area and, if so, whether any of the prescriptions and practices in the plan is subject to the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-7;

5. Describe any legal constraint, such as an easement, that has the potential to affect management of the property's forest land; and

6. Describe any other factors relevant to the design of the plan, such as local considerations, economic aspects, and/or aesthetic, privacy, or safety concerns.

(c) With regard to goals, the section shall:

1. Set forth the owner's long-term goals for the property and its forest land. These shall include:

i. Ensuring the sustainability of the property's forest land;

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ii. Any additional long-term stewardship goal the owner has for the forest land and its natural resources; and

iii. Any other long-term goal of the owner with respect to the property. Such goal shall be compatible with each goal identified pursuant to (c)1i and ii above; and

2. Indicate whether the owner intends to manage the property's forest land in coordination with the management of one or more neighboring properties and, if so, explain the goals of and mechanisms for such management.

(d) The section shall include the owner's acknowledgement of the monitoring, recordkeeping, and reporting requirements at N.J.A.C. 7:3-5.11.

7:3-5.5 Property overview

(a) The owner shall ensure that the boundaries of the property are physically marked, such as by a fence, roadway, or signage, or a natural feature, such as a stream. The property overview section shall describe how the boundaries of the property are physically demarked.

(b) The section shall indicate the use being made of each portion of the property as of the date the plan is submitted for review in accordance with N.J.A.C. 7:3-5.9. If, pursuant to N.J.A.C. 7:3-5.1(c) and (d), an area qualifies as forest land, the section shall:

1. State whether the area is "current" forest land or "proposed" forest land scheduled to be afforested or reforested under the plan. If it is "proposed" forest land, the section shall also specify the current use being made of the area;

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2. Give its acreage accurate to the nearest hundredth of an acre; and
3. Identify its location on the property.

(c) The section shall describe:

1. The topography of the property and any distinctive land forms or landscape features; and
2. The hydrological characteristics of the property, including, but not limited to:
 - i. Any waterbody or waterway present;
 - ii. Any wetland, indicating whether it is capable of growing trees, its resource value classification (exceptional, intermediate, ordinary) as assigned under the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A, and the width of its associated transition area, if any; and
 - iii. Any area that is a regulated area pursuant to the Flood Hazard Area Control Act rules at N.J.A.C. 7:13, including the regulated water, any associated flood hazard area and its floodway, and the associated riparian zone and the width of the zone.

(d) The section shall describe the ecology and biodiversity of the property, discuss the role, if any, that fire plays in the ecology of the property, and identify:

1. Any State-listed threatened or endangered-species determined to be on or near the property through a search of the Natural Heritage Database performed no more than one year prior to the date the plan is submitted for review pursuant to N.J.A.C. 7:3-5.9. The owner shall request such search by:

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i. **Completing a Natural Heritage Data Request Form.** The form may be downloaded from the Department's website, www.nj.gov/dep/parksandforests/natural/heritage/nhd.pdf, or requested from the Department at the address in (d)1ii below; and

ii. **Submitting the completed form by e-mail, mail, or fax to:**

New Jersey Department of Environmental Protection

Office of Natural Lands Management

Mail Code 501-04

PO Box 420

501 East State Street

Station Plaza #5, 4th floor

Trenton, NJ 08625-0420

Fax: (609) 984-1427

E-mail: Natlands@dep.nj.gov; and

2. **Any Federally listed threatened or endangered species determined to be on or within the vicinity of the property, or to have critical habitat on or within the vicinity of the property, in accordance with procedures established by the USFWS's New Jersey Field Office. An owner shall obtain information about these procedures from:**

United States Fish and Wildlife Service

New Jersey Field Office

927 N. Main Street, Building D

Pleasantville, NJ 08232

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Phone: (609) 646-9310

www.fws.gov/northeast/njfieldoffice/endangered/consultation.html.

(e) In complying with (d)1 and 2 above, the plan shall not divulge the precise location of any Federally listed or State-listed threatened or endangered species.

(f) With respect to the property’s “current” forest land identified pursuant to (b) above, the section shall:

1. Identify threats to the sustainability of the forest land or the forest ecosystem, including factors that impair forest health or impede natural succession, such as insect infestations and disease, storms, flooding, drought, invasive species, salt spray, ice, and deer; and

2. Assess of the condition of the forest land with respect to carbon sequestration, taking into consideration its functioning both as a carbon source and a carbon sink.

(g) The section shall identify any cultural resources on the property that merit protection and preservation, including:

1. Any prehistoric or historic district, site, building, structure, or object listed in the New Jersey Register of Historic Places and/or the National Register of Historic Places, available at www.nj.gov/dep/hpo/1identify/nrsr_lists.htm; and

2. Any other unique feature that the owner identifies as archeologically, culturally, historically, geologically, biologically, or ecologically valuable.

(h) If present on the property or relevant to the plan’s objectives, the section shall also discuss:

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1. The property's natural resources with respect to their potential for providing recreational opportunities, affording fish and wildlife habitat, producing desired timber species, producing wood, fiber, or other forest product, and/or enhancing aesthetic qualities;

2. The potential for usage of forest land through agroforestry or as range land; and

3. Any conservation-based estate planning undertaken by the owner.

7:3-5.6 Forest stands

(a) All of the property's forest land, identified pursuant to N.J.A.C. 7:3-5.5(b) shall be assigned to a stand. The forest stands section shall list the property's stands and, for each stand:

1. Identify the name or number by which the stand is referenced in the plan;

2. State its total acreage, accurate to the nearest hundredth of an acre;

3. Characterize its soils and erodability, and provide reference to the soils map submitted as an appendix pursuant to N.J.A.C. 7:3-5.8(b)1;

4. Provide forest inventory information based on a recent survey. This shall include:

i. The species composition of the stand's vegetation, with the overstory and understory described separately;

ii. The stand's forest type;

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- iii. The structure of the stand, including:**
 - (1) For an even-aged stand, its age class, DBH class, and crown class; and**
 - (2) For an uneven-aged stand, its age-class distribution, DBH-class distribution, and crown-class distribution;**
- iv. The stocking level of the stand, given as a percentage of full stocking and of any species targeted for management;**
- v. The stand's volume and rate of growth;**
- vi. The stand's site index;**
- vii. If the plan directs that any prescription or practice be carried out in the stand during the plan period, a stand table and a stock table for the stand;**
- viii. The condition of the stand, including:**
 - (1) The size, growth rate, and vigor of the trees;**
 - (2) The density of the stand and whether any mortality is evident;**
 - (3) The status of native biodiversity within the forest or stand and the extent to which factors that suppress such biodiversity are present, such as browse by deer;**
 - (4) The status of regeneration;**
 - (5) Whether any invasive species impair, or threaten to impair, the stand's ecosystem and, if so, identification of the species and the extent and manner of impairment or potential impairment;**

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(6) **The presence of biotic or abiotic damage-causing agents, such as insect infestations, disease, and/or salt spray;**

(7) **Evidence of damage-causing events, such as flooding, wildfire, and/or high winds; and**

(8) **Litter cover; and**

ix. **If the plan prescribes management of any resource other than trees, the current status of that resource; and**

5. **Indicate whether any route to be used to access the stand crosses a waterbody, waterway, wetland, any transition area associated with the wetland, flood hazard area, and/or a riparian zone, and describe the infrastructure employed for such crossing.**

(b) **For each stand, the forest stands section shall:**

1. **Give the desired future condition of the stand, and explain how this desired condition has a clear and direct relationship to one or more of the long-term goals set forth in the plan pursuant to N.J.A.C. 7:3-5.4(c)1;**

2. **Set forth one or more objectives directed toward achieving the desired future condition, specifying in each objective one or more measurable results planned to be achieved within the plan period; and**

3. **If a prior forest stewardship plan applies to the property, whether it is not yet expired or has expired within the past 10 years, list each objective applicable to the stand in the prior plan, report for each objective the monitoring data collected and**

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recorded pursuant to N.J.A.C. 7:3-5.11(c), describe the trend if any shown by the data, and assess the progress toward the objective achieved under the prior plan.

(c) For each objective set forth pursuant to (b)2 above, provide the method to be used for monitoring progress toward the planned result and for assessing forest productivity, including:

1. One or more parameters to be measured to determine the amount or extent of the progress toward the planned result;
2. How the parameter will be measured, including any constraints or conditions that are to be observed in taking the measurements;
3. The units to be used in recording the measurements; and
4. The baseline value of each parameter, measured in accordance with (c)1, 2, and 3 above, and the date that the measurement was taken.

(d) As established at N.J.A.C. 7:3-5.2(c), a plan shall prescribe active management. If the property has multiple stands and progress can be made toward the objective(s) for a stand without active management, the plan may call for no prescriptions or practices to be carried out in the stand during the plan period. Instead, the plan may concentrate active management in the property's other stands. In such case, the section shall state, for such stand, that no prescription or practice will be carried out in that stand during the plan period and provide explanation.

(e) For each stand in which active management will be carried out under the plan, the section shall, for each objective set forth for the stand pursuant to (b)2 above, list

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the prescriptions and practices to be carried out during the plan period and indicate for each:

- 1. The rationale for the prescription or practice;**
- 2. The extent to which it will be carried out and the methods anticipated to be used;**
- 3. Whether it is designed to:
 - i. Ensure the sustainability of the forest land; or**
 - ii. Eliminate excessive and unnecessary cutting;****
- 4. Whether it will impact, or have the potential to impact, a wetland, a transition area associated with a wetland, a flood hazard area, and/or a riparian zone;**
- 5. Whether it could adversely impact any Federally listed threatened or endangered species identified pursuant to N.J.A.C. 7:3-5.5(d)2 or result in destruction or adverse modification of its critical habitat and, if so, identify each measure that will be taken to avoid such adverse impact to the species and/or destruction or adverse modification of its critical habitat;**
- 6. Whether it could adversely impact any additional State-listed threatened or endangered species identified pursuant to N.J.A.C. 7:3-5.5(d)1, or its habitat and, if so, identify each measure that will be taken to avoid such adverse impact to the species and/or its habitat; and**

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7. Whether it could adversely impact any cultural resource identified pursuant to N.J.A.C. 7:3-5.5(g) and, if so, identify each measure that will be taken to protect and preserve the cultural resource.

7:3-5.7 Management schedule

The management schedule shall present in table format, in chronological order (to the extent feasible), the practices to be carried out during the plan period. The table shall indicate the stand or stands in, or for which, the practice is to be carried out, the planned extent of the practice, and the year or range of years in which the practice will be carried out.

7:3-5.8 Appendices

(a) The appendices to a plan shall include:

- 1. Maps relevant to the plan, including, at a minimum, those specified in (b) below;**
- 2. A copy of the Natural Heritage Data search report relied upon pursuant to N.J.A.C. 7:3-5.5(d)1, including documentation of its date of issuance; and**
- 3. A copy of the documentation relied upon to identify the Federally listed threatened or endangered species determined to be on or within the vicinity of the property, or to have critical habitat on or within the vicinity of the property, as required at N.J.A.C. 7:3-5.5(d)2, and the date the documentation was issued.**

(b) The appendices shall contain the following maps:

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1. A soils map showing the soil group classifications that apply to the property, based on information obtained from the National Resource Conservation Service's Web Soil Survey at <http://websoilsurvey.sc.egov.usda.gov> no more than one year prior to the date the plan is submitted for review;

2. A locator map that identifies the location of the property in relation to the local area and displays identifiable features, such as neighboring roads and road intersections, waterways, and structures, that can be helpful in locating the property. The locator map may be provided as a box inset on a map of the property; and

3. A map of the property that meets the following requirements:

i. The map's scale shall not be smaller than 1 inch:1,500 feet or larger than 1 inch:200 feet;

ii. The map shall be displayed on a background of color aerial photography unless two or more maps of the property will be submitted. In such case, only one, showing the entirety of the property, needs to be displayed on aerial photography;

iii. The map shall display the information in (b)3iii(1) through (5) below. If the amount of this information is too much to be displayed clearly on a single map, two or more property maps may be included in a plan, each of which presents a portion of the property and/or a subset of the required elements:

(1) The physical features of the property, including natural features, such as waterbodies and waterways and built features such as roads, railroads, and structures;

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(2) Any wetland, any transition area associated with the wetland, any flood hazard area, and any riparian zone on the property;

(3) Any area, within the property's forest land, that is subject to an easement or other legal restriction, such as a right of way held by a public utility, relevant to management of the forest land;

(4) The uses being made of the land at the time the plan is prepared and submitted for review; and

(5) Any existing or proposed access route, constructed or maintained for forest management, that crosses a waterbody, waterway, wetland, transition area associated with the wetland, flood hazard area, and/or riparian zone.

(c) Each map shall:

1. Have a label that provides:

i. A brief title indicating the type of information being displayed;

ii. The owner's name;

iii. The street address of the property and, if available, the block and lot number of the property's primary lot, and the county and municipality in which that lot is located;

iv. The date the map was prepared;

v. An arrow designating the north direction; and

vi. The source from which the map is derived (tax map, land survey, deed, aerial photography);

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- 2. Include a legend that explains the meaning of each of the symbols appearing on the map and gives the scale of the map;**
- 3. Be clear and legible, and at a scale appropriate to distinguish the relevant information;**
- 4. Delineate the boundary of the property, taken from the most recent tax map of the taxing district in which the property is located or other such reliable source; and**
- 5. Delineate each stand and label each stand with the name or number identified for the stand pursuant to N.J.A.C. 7:3-5.6(a)1.**

7:3-5.9 Submission of a plan, plan amendment, or plan conversion

(a) No owner shall submit, or authorize the submission of, a forest stewardship plan, plan amendment, or plan conversion for review unless it meets all the applicable requirements in this subchapter.

(b) Unless the document is being submitted electronically pursuant to N.J.A.C. 7:3-1.4(b), an owner shall submit a forest stewardship plan, plan amendment, or plan conversion:

- 1. On 8.5 inch by 11 inch paper, except that maps and other graphics may be larger to provide appropriate scale; and**
- 2. To the regional office of the New Jersey Forest Service that serves the county where all or the greatest portion of the property's forest land are located. Contact information for regional offices of the New Jersey Forest Service is available on the**

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Department's website,

www.state.nj.us/dep/parksandforests/forest/njfs_regional_offices.html.

7:3-5.10 Department review

(a) The Department may inspect a property to assess whether a forest stewardship plan, plan amendment, or plan conversion submitted to it meets the requirements of this subchapter.

(b) The Department shall not approve a forest stewardship plan, plan amendment, or a plan conversion, unless the plan, plan amendment, or plan conversion conforms with the requirements of this subchapter.

(c) The Department shall notify the owner and the Approved Forester identified on the title page of the plan whether the plan, plan amendment, or plan conversion is approved or not approved. Notification shall be in writing.

(d) If the Department disapproves the plan, plan amendment, or plan conversion, the written notification in (c) above shall include the Department's reason or reasons therefor.

7:3-5.11 Compliance, monitoring, and recordkeeping

(a) The owner shall maintain records that document:

1. The implementation of prescriptions and practices; and
2. Each inspection for verification of compliance with the plan that is carried out by the Department.

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(b) The owner shall monitor the progress made toward each objective in the plan as follows:

1. For each objective, measurements shall be taken in accordance with the applicable monitoring method in the approved plan;

2. If the plan provides for any prescription or practice to be carried out during the plan period in order to make progress toward the objective, the measurements shall be taken in the third, sixth, and ninth years of the plan period; and

3. If the plan does not provide for any prescription or practice to be carried out during the plan period in order to make progress toward the objective, the measurements shall be taken in the ninth year of the plan period.

(c) The owner shall make and maintain a monitoring record, organized by stand, and within each stand by objective. For each objective, the owner shall sequentially record the value obtained when each measurement is taken pursuant to (b) above, together with the date the measurement is taken.

(d) At the time of an on-site inspection carried out under N.J.A.C. 7:3-5.1(j), the owner shall make all records maintained pursuant to (a) and (c) above available for on-site review by the Department.

(e) The owner shall, within 15 days of receipt of a written request, provide a copy of the monitoring record required pursuant to (c) above to the Department.

7:3-5.12 Plan amendments

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- (a) **The owner shall submit an amendment to the plan if any of the following circumstances occurs during a plan period:**
- 1. The owner decides to modify the long-term goals for the property and its forest land;**
 - 2. The owner determines that any of the plan’s objectives, prescriptions, or practices is no longer viable;**
 - 3. An on-site inspection carried out by the Department indicates:**
 - i. Information in the plan is not or is no longer true; or**
 - ii. An objective, prescription, or practice in the approved plan is no longer appropriate or viable for the property;**
 - 4. A change in land use occurs, such that:**
 - i. The affected area of the property will no longer be used as described in the approved plan pursuant to N.J.A.C. 7:3-5.5(b); and**
 - ii. The change will:**
 - (1) Impact any of the property’s forest land;**
 - (2) Interfere with the conduct of any prescription or practice in the plan;**
 - (3) Convert forest land to a non-forest use; or**
 - (4) Convert any portion of the property to a use that is inconsistent with the sustainability of any of the property’s forest land; or**

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5. The owner acquires new adjacent land that includes forest land, or sells, or otherwise conveys to another person, a portion of the property that includes forest land.

(b) In addition, at any time during the plan period, an owner may choose to submit an amendment to a plan.

(c) An owner shall prepare a plan amendment in consultation with an Approved Forester and submit it for review in accordance with N.J.A.C. 7:3-5.9.

(d) A plan amendment shall:

1. Request the Department's approval of one or more changes to the approved forest stewardship plan and explain the reason for each change;

2. Include an amended title page that meets the requirements at N.J.A.C. 7:3-5.3(a)1 through 6 and additionally includes:

i. The start date and end date of the plan period, as specified by the Department when the plan was initially approved;

ii. The ID number assigned by the New Jersey Forest Service;

iii. The date on which each prior amendment, if any, was approved;

iv. Space for the New Jersey Forest Service to record the date the amendment was received for review and the date of approval of the amendment; and

iv. Certifications in accordance with N.J.A.C. 7:3-5.3(c) signed and dated by the owner and the Approved Forester;

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3. Indicate whether one or more of the owner's long-term goals for the property and its forest land have changed and, if so, explain how they have changed; and

4. Provide all information required in a plan pursuant to N.J.A.C. 7:3-5.6 that is relevant to each change and, if the management schedule is consequently altered, provide a revised management schedule in accordance with N.J.A.C. 7:3-5.7.

7:3-5.13 Change in ownership

(a) If ownership changes as to all or a portion of a property for which there is an approved forest stewardship plan in effect, the approval shall be deemed revoked as to all of the property under the plan as of the date of the transfer, except as set forth in (b) below.

(b) If ownership of all or a portion of a property covered by a forest stewardship plan changes, the plan shall continue to be considered to be in effect and its approval not revoked for any portion of the property covered by the plan, whether retained or transferred, provided:

1. The portion of the property, whether retained or transferred, meets the requirements of N.J.A.C. 7:3-5.1(b) for a qualifying property either in itself or, in the case of a transferred portion, together with one or more other contiguous lots held by the new owner;

2. Until the plan is amended or a new plan is approved, the owner manages the portion of the property in accordance with the applicable provisions of the plan and the requirements of N.J.A.C. 7:3-5.11; and

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3. Within one year of the date of the transfer, the owner of the portion submits for review and approval in accordance with N.J.A.C. 7:3-5.9:

i. A plan amendment that reflects the transfer of ownership and the goals and objectives of the new owner; or

ii. A new forest stewardship plan.

7:3-5.14 Plan conversions

(a) An owner may, in accordance with this section, convert a Federal guidelines plan or woodland management plan to a forest stewardship plan that meets the requirements of this subchapter, provided that the plan has not expired and the owner has managed the property's stands in compliance with that plan since its date of approval.

(b) The owner shall prepare a plan conversion in consultation with an Approved Forester and submit it for review in accordance with N.J.A.C. 7:3-5.9.

(c) A plan conversion shall:

1. State that the owner wants to convert a Federal guidelines plan or woodland management plan to a forest stewardship plan;

2. Provide a new title page that meets the requirements at N.J.A.C. 7:3-5.3(a)1 through 6 and additionally includes:

i. The start date and end date of the plan period. These shall be the same as the start and end dates of the plan being converted to a forest stewardship plan, except that the length of the plan period for the converted plan may not exceed 10 years;

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ii. **Space for the New Jersey Forest Service to record the date the plan conversion was received for review, the date of the notice of approval of the conversion, and the ID number assigned by the New Jersey Forest Service; and**

iii. **Certifications in accordance with N.J.A.C. 7:3-5.3(c) signed and dated by the owner and the Approved Forester;**

3. **Provide, to the extent not already included in the Federal guidelines plan or woodland management plan, all of the information required at N.J.A.C. 7:3-5.2(a) for a forest stewardship plan. If the Federal guidelines plan or woodland management plan provides all the information required for any section of the plan, a statement to that effect shall be included; and**

4. **If the owner, in addition to providing the information necessary for conversion of a plan, is seeking approval of any amendment to the plan, include a statement to that effect and explain the reason for each change, and for each change provide the information required to be included in a plan amendment pursuant to N.J.A.C. 7:3-5.12(d)3 and 4.**

SUBCHAPTER 6. FOREST STEWARDSHIP ADVISORY COMMITTEE

7:3-6.1 Committee membership

(a) **The State Forester shall serve on the Committee as Committee Chair.**

(b) **The following shall serve ex officio:**

1. **Director of the USDA Forest Service, Northeastern Area;**

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- 2. The State Conservationist of New Jersey within USDA's Natural Resources Conservation Service (NRCS);**
- 3. The Executive Director of New Jersey's USDA's Farm Service Agency;**
- 4. The Director of the Cooperative Extension Service of the Rutgers New Jersey Agricultural Experiment Station (NJAES);**
- 5. The Director of the Division of Taxation in New Jersey's Department of the Treasury;**
- 6. The Director of the Division of Agricultural and Natural Resources in the New Jersey Department of Agriculture;**
- 7. The President of the New Jersey Forestry Association;**
- 8. The Chair of the New Jersey Division of the Society of American Foresters;**
- 9. The President of the Association of Municipal Assessors of New Jersey;**
- 10. The Supervisor of the New Jersey Field Office, Northeast Region Ecological Services, USFWS;**
- 11. The Chair of the New Jersey Tree Farm Committee; and**
- 12. The Director of the New Jersey Division of Fish and Wildlife.**

(c) In this subchapter, reference to an ex officio member shall mean either the individual listed in (b)1 through 12 above or that individual's designee, as applicable. A

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designee shall be an employee or a member of the governing board of the agency or organization.

(d) Additionally, the Commissioner shall appoint six members to the Committee, each of whom shall serve as a representative of the respective interest area specified as follows:

- 1. An individual on the List of Approved Foresters maintained by the Department pursuant to N.J.A.C. 7:3-3, as a representative of Approved Foresters;**
- 2. An employee or member of the governing board of a New Jersey lands trust that is actively engaged in natural resource land management, as a representative of such land trusts;**
- 3. An owner or operator of a private forest products business located in New Jersey, as a representative of such businesses;**
- 4. A New Jersey property owner who is eligible under the National Forest Stewardship Guidelines to qualify to enroll the property in the Federal forest stewardship program administered by the USDA Forest Service under the Cooperative Forestry Assistance Act of 1978, as amended, 16 U.S.C. § 2103A, as a representative of private forest landowners;**
- 5. A representative of a New Jersey nonprofit conservation organization, other than a land trust, that aids and advises private property owners and/or local government units in the preservation of forest land, as a representative of such conservation organization; and**

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6. A representative of a nonprofit environmental advocacy organization that is not a land trust or conservation organization, but is concerned with forests and forestry in New Jersey, as a representative of such nonprofits.

(e) In addition to the six members set forth in (d) above, the Commissioner may appoint up to three additional members to the Committee to represent other relevant interests as the Commissioner deems appropriate.

(f) No individual shall serve on the Committee as the representative of more than one category in (b) and (d) above, even if he or she meets the qualifications for more than one category.

(g) No employee of the Department shall serve as an appointed member of the Committee pursuant to (d) or (e) above while employed by the Department.

7:3-6.3 Appointed members; term and compensation

(a) Appointed members shall serve at the pleasure of the Commissioner for a term of three calendar years.

(b) Notwithstanding (a) above, of the six members of the Committee to be initially appointed by the Commissioner in accordance with N.J.A.C. 7:3-6.2(d), two shall be appointed for a term of one calendar year (or part thereof), two for a term of two calendar years (or part thereof), two for a term of three years (or part thereof).

Thereafter, each appointment under N.J.A.C. 7:3-6.2(d) shall be made for a term of three calendar years, except as set forth in (d) below.

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(c) **An appointed member shall serve for the term for which he or she is appointed, or until the member resigns or his or her term is terminated by the Commissioner.**

(d) **Each appointed member serving at the time of the expiration of his or her term, may continue to serve until he or she resigns or his or her successor is appointed, unless the Commissioner directs otherwise.**

(e) **Any vacancy occurring in the appointed membership of the Committee, by expiration of term or otherwise, shall be filled by the Commissioner in the same manner as the original appointment. A new appointee shall serve for the unexpired portion of the term.**

(f) **Appointed members shall serve without compensation.**

7:3-6.4 Functions and authority of the Committee

(a) **The Committee is authorized to perform any function assigned to it under Federal or State law, including, but not limited to:**

- 1. Advising the Department in accordance with N.J.S.A. 13:1L-35 and 36, and the USDA Forest Service's National Forest Stewardship Guidelines; and**
- 2. Serving as New Jersey's Forest Stewardship Coordinating Committee in accordance with the Food, Agriculture, Conservation, and Trade Act of 1990, 16 U.S.C. § 2103(c), and the Cooperative Forestry Assistance Act, 16 U.S.C. § 2113(b).**

7:3-6.5 Organization and conduct of the Committee

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(a) The chairperson shall, in accordance with N.J.A.C. 7:3-6.6, schedule and preside over Committee meetings and coordinate Committee activities. The Committee may take action by the affirmative vote of a majority of the members present at a meeting, provided that a quorum of 50 percent or more of the members of the Committee is in attendance.

(b) All Committee members shall be voting members, except that the chairperson shall vote only as necessary to break a tie.

(c) As soon as practical after the initial appointment of the Committee's members, the chairperson shall call a meeting of the Committee.

(d) The Committee shall elect a Vice-Chair from among its members. The Vice-Chair shall serve as chairperson in the event of the absence or recusal of the Committee Chair. The member elected Vice-Chair shall serve in that position for one year, unless he or she resigns the position or is no longer a member of the Committee. The Committee shall elect a Vice-Chair from among the Committee's membership whenever there is a vacancy in the position, but no less frequently than annually.

(e) The Committee may adopt bylaws for the regulation of its affairs, provided these are consistent with the provisions of this subchapter and are approved by the State Forester. Bylaws may include, but need not be limited to, how Committee meetings shall be conducted and the establishment of additional officer positions, temporary or ongoing.

7:3-6.6 Authority and responsibilities of the Chair

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(a) **Annually, after consulting with members at a regularly scheduled meeting, the Chair shall establish a schedule of Committee meetings, which shall provide for no fewer than three meetings per calendar year, and which shall fix the time and place of the meetings.**

(b) **The Chair shall prepare and distribute an agenda prior to each meeting and shall preside over the meeting.**

(c) **The Chair may call special meetings of the Committee on not less than 10 days' notice to each member, when the Chair determines such a meeting is necessary or advisable.**

(d) **Subject to Committee vote, the Chair may:**

1. **Establish a sub-committee for an assigned purpose, name a member to head the sub-committee, assign responsibilities to the sub-committee, and specify deadlines and obligations of the sub-committee to report to the Committee as a whole; and**

2. **Dissolve a sub-committee when its work is complete or it is otherwise no longer needed.**

(e) **Subject to Committee vote, the Chair may:**

1. **Establish one or more temporary officer positions, specify the duties of the position, and assign a member to the position; and**

2. **Eliminate any temporary officer position at the end of the term of the incumbent on the Committee or whenever the Chair determines that the position is no longer needed.**

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(f) The Chair shall sign, on behalf of the Committee, reports, letters, and other documents approved by the Committee.

(g) The Chair shall track the participation and terms of Committee members and may request that the Commissioner:

1. Dismiss, and thereafter replace, an appointed member who does not attend three or more meetings in a calendar year, or three consecutive meetings;

2. Replace a member who resigns or who is dismissed by the Commissioner; and

3. Reappoint or replace a member whose term expires.

(h) The Chair shall ensure that the following are made and maintained in accordance with the applicable requirements for retention and disposition of public records at N.J.A.C. 15:3:

1. Records of members' attendance at Committee meetings;

2. Minutes of all Committee meetings;

3. Reports and other such products of the Committee conveying its advice and/or recommendations pursuant to N.J.A.C. 7:3-6.4, together with any and all supporting documentation; and

4. Committee correspondence.