
PINELANDS DEVELOPMENT CREDIT BANK RULES

Authority:

N.J.S.A. 13:18A-30 et seq.

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TITLE 3. BANKING
CHAPTER 42. PINELANDS DEVELOPMENT CREDIT BANK

N.J.A.C. 3:42

Title 3, Chapter 42 -- Chapter Notes

CHAPTER EXPIRATION DATE:

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 42, Pinelands Development Credit Bank, expires on September 9, 2022. See: 47 N.J.R. 10(1).

TITLE 3. BANKING
CHAPTER 42. PINELANDS DEVELOPMENT CREDIT BANK
SUBCHAPTER 1. GENERAL PROVISIONS

N.J.A.C. 3:42-1.3 (2012)

§ 3:42-1.1 Scope

Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Pinelands Development Credit Bank governing the procedures and standards for carrying out the duties and responsibilities of the Bank pursuant to "The Pinelands Development Credit Bank Act", N.J.S.A. 13:18A-30 et seq.

§ 3:42-1.2 Purpose

(a) The purpose of this chapter is to:

1. Establish an efficient and effective method for documenting the sale, transfer, conveyance, encumbrance, and use of Pinelands Development Credits which are authorized and allocated pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; and

2. Facilitate the effective operation of the Pinelands Development Credit program through the Bank's participation in the purchase and use of Pinelands Development Credits.

§ 3:42-1.3 Applicability

The rules contained in this chapter shall apply to all sales, transfers, conveyances, encumbrances and redemptions of Pinelands Development Credits and shall be supplemental to the provisions of the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.

§ 3:42-1.4 Construction

These rules shall be liberally construed to permit the Bank to effectuate the purposes of the law.

§ 3:42-1.5 Severability

If any section, part, phrase, or provision of these rules or the application thereof to any person be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the validity of the remainder of these rules or the application thereof to other persons.

§ 3:42-1.6 Duties and powers of the Board of Directors

The Board of Directors is the governing body of the Pinelands Development Credit Bank and bears the ultimate responsibility for implementing and enforcing the provisions of the Pinelands Development Credit Bank Act and these rules. The Board shall exercise the powers necessary to implement the objectives of the Act and these rules.

§ 3:42-1.7 Meetings, hearings, procedures and rules of the Board of Directors

(a) The Board of Directors shall adopt its own bylaws and procedures for the conduct of its business, meetings and hearings not inconsistent with the Pinelands Development Credit Bank Act, these rules and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Copies of those bylaws and procedures shall be available to any person upon request.

(b) The Board shall adopt and revise, as appropriate, the form and content of the Pinelands Development Credit Certificate as provided in N.J.A.C. 3:42-3.3.

(c) The Board shall adopt and revise, as appropriate, rules pursuant to the Administrative Procedure Act to implement the legislative mandates of the Pinelands Development Credit Bank Act.

§ 3:42-1.8 Duties and powers of the Executive Director

(a) The Executive Director shall be the chief administrative officer of the Board and, subject to the approval of his actions by the Board as provided herein, shall be responsible for the administration and enforcement of these rules. In order to effectively implement these rules, the Executive Director shall exercise the following duties and powers:

1. Administrative Procedures: The Executive Director shall, consistent with the express standards, purposes and intent of these rules, establish administrative procedures and forms as are necessary to the effective administration and enforcement of these rules and the procedures of the Board.

2. Pinelands Development Credit Certificates: The Executive Director shall, consistent with the express standards, purposes, and intent of these rules, issue Pinelands Development Credit Certificates.

3. Records: The Executive Director shall maintain:

i. Current and permanent records of the Bank including a registry of all Pinelands Development Credit Certificates issued, sold, conveyed, transferred, encumbered, retired and redeemed; and

ii. A current and permanent record of the Bank pertaining to Pinelands Development Credits the Bank purchases, credit guarantees extended by the Bank and authorities delegated and grants provided to counties.

TITLE 3. BANKING
CHAPTER 42. PINELANDS DEVELOPMENT CREDIT BANK
SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

N.J.A.C. 3:42-2.1 (2012)

§ 3:42-2.1 Word usage

(a) In the interpretation of these rules, the provisions of this section shall be observed and applied, except when the context clearly requires otherwise:

1. Words used or defined in one tense or form shall include other tenses and derivative forms.

2. Words in the singular shall include plural and words in the plural shall include the singular.

3. The masculine gender shall include the feminine and the feminine gender shall include the masculine.

4. The word "shall" is mandatory.

5. The word "may" is permissive.

6. In case of any difference of meaning or implication between the text of these rules and any caption, the text shall control.

§ 3:42-2.2 Definitions

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

"Bank" means the Pinelands Development Credit Bank created pursuant to N.J.S.A. 13:18A-

30 et seq.

"Board" means the Board of Directors of the Pinelands Development Credit Bank.

"Certificate" means the document issued by the Executive Director pursuant to N.J.A.C. 3:42-3.1 et seq.

"Encumber" means the act of burdening a Pinelands Development Credit with a financial liability such as that created when a Pinelands Development Credit is pledged as security or collateral.

"Grantee" means the person to whom an interest in a Pinelands Development Credit is conveyed.

"Grantor" means the person who conveys an interest in a Pinelands Development Credit.

"Letter of Interpretation" means a letter issued by the Pinelands Commission, pursuant to N.J.A.C. 7:50-4.71 et seq., attesting to the number of Pinelands Development Credits allocated to a parcel of land.

"Marketable title" means title free and clear of objectionable liens or encumbrances, free from reasonable doubts or defects, and insurable by a reputable title insurance company authorized to do business in New Jersey.

"Person" means an individual, corporation, public agency, business trust, partnership, association, two or more persons having a joint or common interest or any other legal entity.

"Pinelands Commission" means the Commission created pursuant to Section 5 of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.

"Pinelands Comprehensive Management Plan" means the plan adopted by the Pinelands Commission as N.J.A.C. 7:50-1.1 et seq.

"Pinelands Development Credits" means transferable development rights which are used to increase the residential density on certain lands in municipalities designated to receive such credits pursuant to the Pinelands Comprehensive Management Plan.

"Pinelands Development Credit Bank Act". See N.J.S.A. 13:18A-30 et seq.

"Pinelands Protection Act". See N.J.S.A. 13:18A-1 et seq.

"Prime interest rate" means the base rate on corporate loans at large United States money center commercial banks. This rate is published in the Wall Street Journal under money rates.

"Redeemed" means any Pinelands Development Credit which is used to increase the residential density on a parcel of land in any municipality designated to receive such credits pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.

"Registry" means a permanent record established and maintained by the Executive Director documenting all Pinelands Development Credit Certificates issued, sold, conveyed, transferred, encumbered, redeemed and retired.

"Retired" means any Pinelands Development Credit owned by the Bank which is permanently withdrawn from use prior to its redemption.

TITLE 3. BANKING
CHAPTER 42. PINELANDS DEVELOPMENT CREDIT BANK
SUBCHAPTER 3. PROCEDURES GOVERNING THE SALE, CONVEYANCE, TRANSFER OR
ENCUMBRANCE OF PINELANDS DEVELOPMENT CREDITS

N.J.A.C. 3:42-3.1 (2012)

§ 3:42-3.1 Applicability

(a) No person shall sell, transfer, convey or encumber any Pinelands Development Credits or any interest therein without first obtaining a Pinelands Development Credit Certificate from the Bank.

(b) Within 10 business days following the sale, transfer, conveyance or encumbrance of a Pinelands Development Credit or any interest therein, the person acquiring such Pinelands Development Credit or interest therein shall notify the Executive Director of his ownership or interest in the Pinelands Development Credit and the Executive Director shall re-issue a Pinelands Development Credit Certificate pursuant to the provisions of N.J.A.C. 3:42-3.4.

(c) Within 10 business days of the redemption of any Pinelands Development Credit, the person redeeming such Pinelands Development Credit shall notify the Executive Director of said redemption pursuant to the provisions of N.J.A.C. 3:42-3.6.

§ 3:42-3.2 Application for Pinelands Development Credit Certificate

(a) Application for a Pinelands Development Credit Certificate shall be made to the Executive Director in such form and number as he shall from time to time specify.

(b) The Executive Director may waive or modify any of the application requirements set forth in (c) below if he determines that any required information is not relevant or necessary for purposes of issuing a Pinelands Development Credit Certificate.

(c) The following information shall be included in applications for Pinelands Development

Credit Certificates:

1. The applicant's name and mailing address;
2. The property owner's name and address, if different from the applicant's, and a signed consent to the filing of the application;
3. The deed to the property to which Pinelands Development Credits are allocated;
4. A letter of interpretation from the Pinelands Commission, pursuant to N.J.A.C. 7:50-4.71 et seq., attesting to the number of Pinelands Development Credits allocated to the property;
5. The municipal tax block and lot number and a copy of the municipal tax map sheet(s) showing the property to which Pinelands Development Credits are allocated;
6. A title search of the property to which Pinelands Development Credits are allocated which covers at least the 60 years preceding the date of application except for Pinelands Development Credits transferred before April 4, 1988 (the effective date of these rules), in which case sufficient evidence of marketable title as exists shall be submitted;
7. A certification from the property owner that he has marketable title to the property to which Pinelands Development Credits are allocated and is legally empowered to restrict the use of this property in accordance with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47, except for Pinelands Development Credits transferred before April 4, 1988 (the effective date of these rules);
8. A properly executed and recorded restriction on the deed to the property in accordance with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47; and
9. Such other information as the Executive Director may determine is necessary in order to issue a Pinelands Development Credit Certificate.

§ 3:42-3.3 Issuance of Pinelands Development Credit Certificates

(a) The Executive Director shall review the application and shall issue a Pinelands Development Credit Certificate, in such form as shall from time to time be specified by the Board, upon determining that the standards of (b) below are met. If the Executive Director determines that the standards are not met, he shall notify the applicant in writing of the reasons which prevent the issuance of a Certificate.

(b) The Certificate shall, at a minimum, specify the following:

1. The owner(s) of the Pinelands Development Credits;
2. The number of Pinelands Development Credits owned;

3. The municipality, block and lot of the property to which the Pinelands Development Credits are allocated;
4. The date on which the Certificate is issued; and
5. The information to be reported to the Executive Director when the Pinelands Development Credits are sold, conveyed, transferred, encumbered or redeemed, N.J.A.C. 3:42-3.4(c).

(c) The Executive Director shall issue a Certificate only if he finds that:

1. The Pinelands Development Credit allocation set forth in the Pinelands Commission's letter of interpretation has not changed;
2. The property owner has marketable title and is legally empowered to restrict the use of his property in a manner consistent with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47;
3. The deed restriction limits the uses of the property to those permitted pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-5.47.
 - i. Nothing herein shall be construed to require nor preclude the deed restriction from prohibiting or limiting uses which are otherwise permitted in N.J.A.C. 7:50-5.47.
 - ii. The restriction shall be in favor of a public agency or not for profit incorporated conservation organization and shall be specifically and expressly enforceable by the Pinelands Commission. In no case, however, shall the restrictions be in favor of the Board.

(d) In the event that the Executive Director determines that a question exists as to marketable title or the legal ability of the property owner to impose the necessary restrictions on the use of the property, the applicant may elect to conduct a more extensive search of the title or secure insurance which guarantees that the owner has an interest in the property sufficient to meet the standards set forth in (c) above. If the Executive Director then determines that the title questions are resolved, he shall issue the Certificate.

§ 3:42-3.4 Sale, transfer, conveyance or encumbrance of Pinelands Development Credits after issuance of the Certificate

(a) Within 10 business days of the sale, transfer, conveyance or encumbrance of a Pinelands Development Credit or interest therein, the grantee shall deliver to the Executive Director the Certificate properly documented as to the specifics of the transaction as set forth in (c) below.

(b) Upon receipt of the Certificate, the Executive Director shall re-issue a Certificate, or Certificates as the case may be, in the name of the person or persons who have secured an interest in the Pinelands Development Credits.

(c) Notification to the Executive Director shall include, but is not necessarily limited to, the following:

1. The name(s) of the grantee(s);
2. The name(s) of the grantor(s);
3. The number of Pinelands Development Credits sold, conveyed, transferred, or encumbered;
4. The date of the transaction;
5. The interest in the Pinelands Development Credits acquired by the grantee and written evidence of the transaction; and
6. The consideration involved in the transaction.
7. In the case of a Pinelands Development Credit pledged as collateral, the name and address of any person who has pledged a Pinelands Development Credit as security on any loan or other obligation, the name and address of the lender, and the date, amount and term of the loan or obligation.

§ 3:42-3.5 Purchases of Pinelands Development Credits in association with conservation or agricultural easements

(a) In the event that any county or agency thereof proposes to acquire a conservation or agricultural easement which restricts the use of property in a manner consistent with N.J.A.C. 7:50-5.47 and the Pinelands Development Credits which are allocated to the property so restricted, the Executive Director shall be authorized to issue the Pinelands Development Credit Certificate when settlement on the easement occurs.

(b) In the event the Board determines to purchase Pinelands Development Credits pursuant to N.J.A.C. 3:42-5.1 et seq., it may authorize the Executive Director to complete the purchase, including the issuance of the Pinelands Development Credit Certificate, in association with the placement of the requisite restriction on the deed to the property.

§ 3:42-3.6 Redemption of Pinelands Development Credits

(a) When Pinelands Development Credits are redeemed in association with a development project approved by a municipal approval agency, the person redeeming the Pinelands Development Credits shall, within 10 business days thereafter, deliver to the Executive Director the Certificate properly documented as to the specifics of the redemption as set forth in (b) below.

(b) Notification to the Executive Director shall include, but is not necessarily limited to, the following:

1. The name of the person redeeming;
2. The municipality in which the Pinelands Development Credits were redeemed;
3. The municipal tax block and lot number of the property for which the Pinelands Development Credits were redeemed;
4. The number of Pinelands Development Credits redeemed; and
5. The date on which the municipal development approval was issued and endorsement by the responsible municipal official.

(c) The Executive Director shall notify the person redeeming and the appropriate municipal official that the Pinelands Development Credits have been redeemed and shall so indicate in the Pinelands Development Credit Registry upon his determination that:

1. The Pinelands Development Credits have not been previously redeemed;
2. The Pinelands Commission has concurred with the municipal approval; and
3. The number of Pinelands Development Credits redeemed were adequate to secure the increased number of residential units permitted pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq., and the applicable municipal zoning ordinance.

(d) In the event that only a portion of the Pinelands Development Credits specified in the Certificate are redeemed, the Executive Director shall re-issue a Certificate for the Pinelands Development Credits not so redeemed.

(e) A Pinelands Development Credit shall be redeemed at the time of final subdivision or site plan or, if no such approval is required, when construction permits are issued. In the event that Pinelands Development Credits are being required for a Pinelands Commission waiver pursuant to N.J.A.C. 7:50-4.61 through 4.70, they shall be redeemed at the same time the waiver is granted.

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SUBCHAPTER 4. REGISTRY OF PINELANDS DEVELOPMENT CREDITS

N.J.A.C. 3:42-4.1 (2012)

§ 3:42-4.1 Registry

(a) The Executive Director shall maintain a registry of Pinelands Development Credits, the purpose of which shall be to organize information on the following:

1. The issuance of Pinelands Development Credit Certificates;
2. The sale, transfer, conveyance, or encumbrance of Pinelands Development Credits;
3. The use of Pinelands Development Credits as security on loans and other obligations; and
4. The redemption and retirement of Pinelands Development Credits.

§ 3:42-4.2 Content of registry

(a) The registry shall at a minimum include the following information:

1. The name and address of every owner to whom a Pinelands Development Credit Certificate is issued pursuant to N.J.A.C. 3:42-3.3; the date of its issuance; the municipal tax lot and block identification of the parcels of land to which the Pinelands Development Credit has been allocated; the number of Pinelands Development Credits or fraction thereof allocated to each parcel; the total number of Pinelands Development Credits allocated; and the total acreage to which Pinelands Development Credits have been allocated;
2. The name and address of every person to whom a Pinelands Development Credit is sold, transferred, conveyed, or encumbered; the date of the conveyance; and the consideration, if any, received therefor;
3. The name and address of any person who has pledged a Pinelands Development Credit as security on any loan or other obligation; the name and address of the lender; and the date, amount and term of the loan or obligation;
4. The name and address of any person who has redeemed a Pinelands Development Credit; the location of the land to which the credit was transferred; and the date this redemption was made; and
5. An annual enumeration of the total number of Pinelands Development Credits purchased and transferred, listing the municipality in which the land for which each Pinelands Development Credit was issued is located, and the municipality to which the Pinelands Development Credit was transferred and redeemed.

§ 3:42-4.3 Availability of registry

(a) The Executive Director shall, upon reasonable notice, make the registry available for public inspection at the principal offices of the Bank. It is also available on the Bank's website at www.state.nj.us/pinelands/pdcbank/.

(b) The Executive Director shall, upon request from any person, provide copies of the registry or any portion thereof. A fee for this service shall be charged in accordance with the copy fee schedule set forth in N.J.S.A. 47:1A-2.

§ 3:42-4.4 Annual report

(a) On August 28 of each calendar year, the Board shall issue an annual report to the Governor, the Legislature and each county and municipality located in whole or in part within the Pinelands Area. Such report shall incorporate and summarize the information contained in the registry.

(b) The annual report shall also be made available to any person upon request. It is also available on the Bank's website at www.state.nj.us/pinelands/pdcbank/.

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SUBCHAPTER 5. BOARD PURCHASE OF PINELANDS DEVELOPMENT CREDITS

N.J.A.C. 3:42-5.1 (2012)

§ 3:42-5.1 Applicability

(a) The Board may purchase Pinelands Development Credits from any person to:

1. Further the objectives of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; or
2. Alleviate a hardship.

§ 3:42-5.2 Application to the Board

(a) An application for the Board's purchase of Pinelands Development Credits shall be made to the Executive Director in such form and number as he shall from time to time specify.

(b) The Executive Director may waive or modify any of the application requirements set forth in (c) below if he determines that any required information is not relevant or necessary for purposes of evaluating and acting on the application.

(c) The following information shall be included in the application:

1. The applicant's name and mailing address;
2. The name of the person(s) who own(s) the Pinelands Development Credits, if different from the applicant's, and a signed consent to the filing of the application;
3. A duplicate of the Pinelands Development Credit Certificate or, if a Certificate has not been issued, the information required pursuant to N.J.A.C. 3:42-3.2(c) with the exception of N.J.A.C. 3:42-3.2(c)8.
4. The number of Pinelands Development Credits to be sold;
5. A statement detailing the applicant's basis for believing that the Board can make one of the findings required in N.J.A.C. 3:42-5.3(b)3 and (c) 3; and
6. Such other information as the Executive Director may determine is necessary in order to review and act on the application.

§ 3:42-5.3 Standards governing the Board's decision to purchase

(a) The Board shall, after considering the recommendation of the Executive Director, determine whether or not to authorize the purchase of all or a portion of the Pinelands Development Credits proposed for sale in the application in accordance with the criteria set forth in (b) and (c) below, as appropriate.

(b) The Board may authorize a purchase of Pinelands Development Credits to further the objectives of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan if:

1. Adequate funds are available for the purchase; and
2. The expenditure of funds does not substantially impair the Board's ability to carry out its duties and responsibilities with respect to guarantees which have already been extended; and
3. The purchase will result in:
 - i. The protection of property which is of significant ecological or agricultural importance; or
 - ii. The protection of property which serves to complement or buffer publicly owned and managed conservation lands; or
 - iii. The Pinelands Development Credits which the Board purchases are likely to be resold, transferred or conveyed for redemption in a residential development project that satisfies compelling public need or that will result in the protection of other properties which satisfy (b)i or ii above; or

iv. The timing and nature of the Board's purchase will result in a significant and positive example of the Pinelands Development Credit Program at work; or

v. The proceeds from the sale being used for operating or capital expenditures on the property from which the Pinelands Development Credits are allocated in a manner consistent with the terms of the restriction on the deed to that property; or

vi. The transaction otherwise furthering the purposes of the Pinelands Protection Act and the Pinelands Comprehensive Management Plan.

(c) The Board may authorize the purchase of Pinelands Development Credits to alleviate a hardship if:

1. Adequate funds are available for the purchase; and

2. The expenditure of funds does not substantially impair the Board's ability to carry out its duties and responsibilities with respect to Pinelands Development Credit guarantees which have already been extended; and

3. A hardship exists on the basis of one or more of the following tests:

i. The owner's investment in the land to which the Pinelands Development Credits are allocated is substantial in relation to his net worth; or

ii. The owner has sought and been denied a waiver of strict compliance from the Pinelands Commission pursuant to the Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.; or

iii. The owner is experiencing a unique and extraordinary financial hardship which may only be ameliorated through an expedient sale of his Pinelands Development Credits.

§ 3:42-5.4 Notification to applicant

Upon the Board's decision to purchase or not purchase Pinelands Development Credits, the Executive Director shall notify the applicant, in writing, setting forth the basis for the Board's decision.

§ 3:42-5.5 Completion of Board authorized purchases

(a) The Executive Director is authorized to complete any and all administrative procedures necessary to consummate the purchase of Pinelands Development Credits once approved for purchase by the Board.

(b) No Pinelands Development Credit shall be purchased by the Board after the date, if any,

specified in N.J.S.A. 13:18A-48 as the last date on which the Board may purchase Pinelands Development Credits.

§ 3:42-5.6 Purchase price

(a) The purchase price for Pinelands Development Credits acquired by the Board shall be \$ 74,000 for each Pinelands Development Credit or fraction of that amount which reflects that portion of a Pinelands Development Credit so acquired.

(b) The Board may increase the purchase price set forth in (a) above if it determines that:

1. The purchase price, as increased, does not exceed 80 percent of the market value of Pinelands Development Credits as determined by examination and analysis of Pinelands Development Credit sales data reported to the Bank pursuant to N.J.A.C. 3:42-3.4; provided, however, that the Board shall not consider any sales data which does not meet generally accepted real estate appraisal practices; and

2. The purchase price, as increased, will not substantially impair the private sale of Pinelands Development Credits.

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SUBCHAPTER 6. (RESERVED)

N.J.A.C. 3:42-6 (2012)

Title 3, Chapter 42, Subchapter 6. (RESERVED)

TITLE 3. BANKING
CHAPTER 42. PINELANDS DEVELOPMENT CREDIT BANK
SUBCHAPTER 7. SALE, TRANSFER, EXCHANGE, CONVEYANCE OR RETIREMENT OF
PINELANDS DEVELOPMENT CREDITS OWNED BY THE BANK
PART 1--SALES OF PINELANDS DEVELOPMENT CREDITS

N.J.A.C. 3:42-7.1 (2012)

§ 3:42-7.1 Board decision to hold sale

(a) The Board may from time to time authorize the Executive Director to sell all or a portion of those Pinelands Development Credits owned by the Bank.

(b) The Board shall authorize such a sale and determine how many Pinelands Development Credits will be made available for sale only upon a finding that:

1. There is sufficient interest in the purchase of its Pinelands Development Credits to warrant a sale; and
2. The timing of the sale and the number of Pinelands Development Credits to be sold will not substantially impair the private sale of Pinelands Development Credits.

(c) All sales authorized by the Board will be conducted by open bidding through a public auction or by closed bidding through the receipt of sealed, written bids.

(d) When authorizing these sales, the Board shall determine a minimum acceptable bid pursuant to N.J.A.C. 3:42-7.3(b) and shall also determine which method of sale is most advantageous for the purpose of stimulating competitive bidding.

(e) The Board may establish such conditions for the bidding and sale as are necessary and desirable to advance the Pinelands Development Credit program, provided that any such conditions do not otherwise conflict with the minimum requirements set forth in this subchapter.

§ 3:42-7.2 Notifications of upcoming sales

(a) All sales of Bank-owned Pinelands Development Credits shall be held only after due notice has been given by the Executive Director at least 10 business days prior to the date of the sale.

(b) At a minimum, the Executive Director shall:

1. Have notices of the sale published in at least four newspapers; and
2. Transmit notices to every person who has submitted to the Bank a written request to be informed of upcoming sales.

(c) The notice shall contain, but not necessarily be limited to, the following information:

1. The method by which the sales shall be conducted;
2. The date, time and location for the auction or bid opening;
3. The number of Pinelands Development Credits available for sale;
4. The minimum acceptable bid and deposit;
5. The date, time and location when the sales must be completed;
6. A summary of the rules governing the sale and the terms and conditions of the sale; and

7. How an interested person can obtain a complete set of instructions for, and the terms and conditions of, the sale.

§ 3:42-7.3 Requirements governing all bidding

(a) Bidders who are acting on behalf of another person shall supply to the Executive Director with their sealed written bid or prior to the commencement of an auction the following:

1. If the bidder is representing an individual, a notarized statement from the individual duly authorizing the bidder to act on his behalf; or
2. If the bidder is representing a corporation, public agency, business trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity, a duly adopted resolution or other legal instrument authorizing the bidder to act on the entity's behalf.

(b) The minimum acceptable bid shall be \$ 74,000 for each Pinelands Development Credit or fraction of that amount which reflects that portion of a Pinelands Development Credit to be sold, provided, however, that the Board may establish a higher minimum acceptable bid if it determines that, based upon recent Pinelands Development Credit sales prices, a higher amount is necessary to avoid a substantial impairment of the private sale of Pinelands Development Credits.

(c) No bid or sale shall be conditioned upon a bidder obtaining financing or any municipal, county, State or Federal permit or development approval.

(d) All bids, whether they be submitted verbally or in writing, shall be deemed to be an acceptance of all terms and conditions of the sale as specified in the written instructions.

(e) Except as provided in N.J.A.C. 3:42-7.8, successful bidders shall be required to complete the purchase within 30 days of the date of award.

§ 3:42-7.4 Additional requirements governing open bidding

(a) All bidders shall sign a register before the auction begins. After signing the register, no bidder shall be permitted to leave and re-enter the room except at intervals pre-determined by the Executive Director.

(b) Each time a bid is made, the bidder shall state his or her name and the amount of the bid clearly.

(c) All bids during the auction shall be in increments of \$ 100.00.

(d) A deposit equal to 10 percent of the highest bid shall be required at the completion of the auction.

1. The deposit shall be in the form of a certified check, cashier check, money order, or travelers check made payable to the State of New Jersey. No exceptions shall be made.

2. If the highest bidder does not have the required deposit, the Executive Director may cancel all bids for that Pinelands Development Credit or fraction thereof, or may award the bid to the second highest bidder.

(e) Successful bidders will be required to sign an agreement of sale following the auction, which specifies the conditions and terms of the sale.

§ 3:42-7.5 Additional requirements governing sealed bids

(a) All sealed bids shall be submitted to the Executive Director in such form as he or she shall from time to time specify.

(b) Sealed bids shall specify the maximum number of Pinelands Development Credits the bidder wishes to purchase; however, awards will be made to the highest bidder for each one-quarter of a Pinelands Development Credit, or other increment if established by the Board pursuant to N.J.A.C. 3:42-7.3(c). Submission of a sealed bid shall be deemed to be a bid for each one-quarter of a Pinelands Development Credit or other increment and the Board reserves the right to award a bid for less than the maximum number of Pinelands Development Credits specified by the bidder.

(c) Sealed bids will be publicly opened, read and tabulated on the date, time and the location specified in the notice of sale.

(d) Within five business days of the bid opening, the Executive Director will notify all successful and unsuccessful bidders.

(e) A deposit equal to 10 percent of the bid shall accompany all sealed bids.

1. The deposit shall be in the form of a certified check, cashier check, money order, or travelers check made payable to the State of New Jersey. No exceptions shall be made.

2. If a bid is received without the required deposit, the bid shall be deemed to be invalid and will not receive any further consideration.

3. The Executive Director shall return all deposits to all unsuccessful bidders within five business days of the bid opening date.

4. In cases where a bidder is awarded a portion of the Pinelands Development Credits it bid on, the Executive Director shall provide the bidder an opportunity to submit, in lieu of the

original deposit, a deposit equal to 10 percent of the award within five business days of the bid opening date. If no such deposit is received, the Executive Director shall accept the original deposit and apply any excess amount toward the payment due at the time of closing.

§ 3:42-7.6 Bid awards

(a) Awards shall be made for each one-quarter of a Pinelands Development Credit, or other increment established by the Board pursuant to N.J.A.C. 3:42-7.3(c), offered for sale.

(b) The total number of Pinelands Development Credits awarded for valid bids shall equal the total number of Pinelands Development Credits offered for sale, except as provided in (e)3 below.

(c) In the case of sealed bids, successful bidders shall be determined by tabulating the bids on the basis of the highest per unit bid.

(d) Once the highest per unit bid is established, the highest bidder will be awarded the total number of Pinelands Development Credits specified in his or her bid. If there is more than one highest bidder and the total number of Pinelands Development Credits specified in those bids exceed the number available, no award shall be made and the Executive Director shall immediately arrange for another open or closed bid.

(e) In the event any Pinelands Development Credits remain, the Executive Director will offer them to the other bidders at a per unit price equal to that of the highest bid.

1. The Executive Director will tender this offer in writing to each bidder within five days of the bid opening.

2. Each bidder may supplement his or her bid in writing and enclose a certified check, cashier check, money order, or a travelers check for the balance of the deposit no later than 10 days of the bid opening.

3. In the event that the maximum number of Pinelands Development Credits specified in those bids exceed that available for sale, the Executive Director shall award the available Pinelands Development Credits to the bidders in descending order of their original bid. If the original bids are equivalent and the number of Pinelands Development Credits specified in those bids exceed the number available, no award shall be made.

§ 3:42-7.7 Completion of sales

(a) Except as otherwise provided in N.J.A.C. 3:42-7.8, all sales shall be completed no earlier than 21 days and no later than 30 days following the award.

(b) Failure of the bidder to pay the balance of the purchase price as scheduled shall be considered to be a breach of contract and the deposit shall be retained by the State as liquidated damages.

(c) Payment of the balance shall be in the form of a certified or cashier check only, made payable to the State of New Jersey.

(d) Upon receipt of payment, the Executive Director shall issue a duly executed Pinelands Development Credit Certificate to the purchaser.

§ 3:42-7.8 Deferring the date for completion of sales

(a) When authorizing a sale, the Board may also authorize the Executive Director to defer the date on which sales to the highest bidder(s) are to be completed. Such authorization shall specify the maximum period of time for such a deferral and all notices of the sale shall include such a notation.

(b) If the Board authorizes deferrals, any successful bidder may, at his or her option, enter into an agreement with the Executive Director which extends the date for completing the sale.

(c) All such agreements shall require that a payment be made for each year, or portion thereof, that the sale completion date is deferred.

1. The thirty-first day following bid award shall be considered the first day when calculating deferral periods.

2. The payment shall be equal to the sum of the prime interest rate in effect on the date of the bid award plus two percentage points times the remaining balance of the purchase price of the Pinelands Development Credits for each year that the completion date is deferred. The payment shall be pro-rated for portions of a year.

3. Payment for the first year, or portion thereof as specified in the agreement, shall be in the form of a certified check, cashier check, money order, or travelers check made payable to the State of New Jersey. This first payment shall be due no later than 30 days following the award.

4. Payments for each succeeding year, or portion thereof as specified in the agreement, shall be due no later than the anniversary date of the first payment.

(d) These payments shall be in addition to the purchase price for the Pinelands Development Credits and shall be non-refundable except as provided in (e) below.

(e) The successful bidder may at his or her option choose to complete the sale prior to the

date specified in the agreement.

1. The bidder shall notify the Executive Director in writing of his or her intent to complete the sale and the sale shall be completed within 10 business days of the Executive Director's receipt of the notification.
2. The bidder shall be entitled to receive a pro-rated refund of any payment for that portion of the deferral period which he did not utilize.

§ 3:42-7.9 through 3:42-7.10 (Reserved)

TITLE 3. BANKING
CHAPTER 42. PINELANDS DEVELOPMENT CREDIT BANK
SUBCHAPTER 7. SALE, TRANSFER, EXCHANGE, CONVEYANCE OR RETIREMENT OF
PINELANDS DEVELOPMENT CREDITS OWNED BY THE BANK
PART 2--CONVEYANCE OF BOARD OWNED PINELANDS DEVELOPMENT CREDITS AT NO
COST

N.J.A.C. 3:42-7.11 (2012)

§ 3:42-7.11 Board authorization to convey Pinelands Development Credits at no cost

(a) The Board may authorize the Executive Director to convey at no cost Pinelands Development Credits when it determines that:

1. The proposed development will serve a compelling public purpose;
2. The proposed development could not proceed without the conveyance of Pinelands Development Credits at no cost;
3. The benefit of the conveyance of Pinelands Development Credits at no cost will enure to the public and will be made to a governmental agency or incorporated, not for profit organization;
4. The conveyances of Pinelands Development Credits at no cost will not substantially impair the sale of Pinelands Development Credits in the private market; and
5. The Pinelands Development Credit being conveyed will be redeemed within one year of the Board's authorization.

(b) Such authorizations shall be made only upon an affirmative vote of two thirds of the Board's members.

§ 3:42-7.12 Application for conveyance of Board-owned Pinelands Development Credits at no cost

(a) Application for conveyance of Board-owned Pinelands Development Credits at no cost shall be made to the Executive Director in such form and number as he or she shall from time to time specify.

(b) The Executive Director may waive or modify any of the application requirements set forth in (c) below if he or she determines that any required information is not relevant or necessary for the purposes of conveying Pinelands Development Credits at no cost.

(c) The following information shall be included in applications for conveyance of Board-owned Pinelands Development Credits at no cost:

1. The applicant's name and mailing address;
2. The municipality in which the Pinelands Development Credits are to be redeemed;
3. The number of Pinelands Development Credits needed;
4. A duly adopted resolution granting preliminary subdivision or site plan approval pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.);
5. Written affirmation of the subdivision or site plan approval from the Pinelands Commission;
6. The municipal tax block and lot number for which the Pinelands Development Credits will be redeemed;
7. A written description of the property along with any relevant plans; and
8. A written statement addressing the project's consistency with the standards set forth in N.J.A.C. 3:42-7.11.

§ 3:42-7.13 Notification to applicant

Upon the Board's decision on an application for conveyance of Board-owned Pinelands Development Credits, the Executive Director shall notify the applicant, in writing, setting forth the basis for the Board's decision.

§ 3:42-7.14 Completion of Board-authorized conveyances

The Executive Director is authorized to complete any and all administrative procedures to

consummate the conveyance after approval by the Board provided that no conveyance shall be made until such time as the applicant is required to redeem the Pinelands Development Credits.

§ 3:42-7.15 Voiding conveyances

(a) No Pinelands Development Credits conveyed pursuant to this part shall be:

1. Conveyed, sold or transferred to a person other than that who received the Board's approval;
2. Redeemed for use in a project other than that which received the Board's approval; and/or
3. Redeemed after one year following the Board's authorization.

(b) The Executive Director shall void any such conveyance of Pinelands Development Credits which is in violation of (a) above.

TITLE 3. BANKING
CHAPTER 42. PINELANDS DEVELOPMENT CREDIT BANK
SUBCHAPTER 8. DELEGATION OF BOARD POWERS TO COUNTIES (RESERVED)

N.J.A.C. 3:42-8 (2012)

Title 3, Chapter 42, Subchapter 8. (RESERVED)

TITLE 3. BANKING
CHAPTER 42. PINELANDS DEVELOPMENT CREDIT BANK
SUBCHAPTER 9. AMENDMENTS

N.J.A.C. 3:42-9.1 (2012)

§ 3:42-9.1 Board initiated proposals

(a) The Board may, at its own initiative or upon the recommendation of the Executive Director, periodically consider revisions to these rules in this chapter.

(b) Any such revisions shall be considered pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

§ 3:42-9.2 Petitions for amendment

(a) Any interested person may petition the Board for an amendment to the rules in this chapter by filing an application with the Executive Director in such form and number as he shall from time to time specify.

(b) The application shall include the following:

1. The petitioner's name and address;
2. The precise wording of any proposed amendment to the text of the rules in this chapter;
3. A statement of the need and justification for the proposed amendment;
4. A statement as to the conformity of the proposed amendment to the Pinelands Development Credit Bank Act; and
5. A statement of the social, economic and environmental impacts of the proposed amendment.

(c) Upon receipt of the application, the Executive Director shall process the petition in accordance with the Administrative Procedure Act and the following procedures:

1. The Executive Director may deny the petition if he determines that the Board is not legally empowered to adopt the proposed amendment; or
2. The Executive Director may refer the matter for further deliberation in which case he shall prepare a report which analyzes the proposed amendment and presents a recommendation as to whether the Board should deny the petition, authorize the filing of a pre-proposal with the Office of Administrative Law, or authorize the filing of a rule proposal consistent with the petition.

(d) Except as provided in (c)1 above, the Board shall render all final decisions with respect to petitions for amendment in accordance with the Administrative Procedure Act.

