



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands

General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us




Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Chief Planner

Date: July 20, 2016

Subject: July 29, 2016 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on July 29, 2016. We have also enclosed the minutes from the Committee's June 24, 2016 meeting.

We are in the process of completing rule proposals for the Black Run and other CMP amendments and will send them to you under separate cover, prior to the Committee meeting.

/CS15

cc: All Commissioners (agenda only)



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CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey

July 29, 2016

9:30 a.m.

Agenda

1. Adoption of minutes from the June 24, 2016 CMP Policy & Implementation Committee meeting
2. Plan Review
 - * Review of draft rule proposals and CMP amendments
 - * Continued discussion of enhancements to the Pinelands Development Credit program
3. Public Comment
4. Other Items of Interest

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
June 24, 2016 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Sean Earlen (Chairman), Candace Ashmun, Robert Barr, Ed McGlinchey, Richard Prickett, and Joe DiBello (Alternate)

MEMBERS ABSENT: Paul E. Galletta and Ed Lloyd

OTHER COMMISSIONER PRESENT: Mark Lohbauer

STAFF PRESENT: Executive Director Nancy Wittenberg, Larry L. Liggett, Susan R. Grogan, Stacey P. Roth, Robyn Jeney, Joseph Sosik, Brad Lanute, Paul D. Leakan and Betsy Piner. Also present was Mr. Chris Howard with the Governor's Authorities Unit.

Chairman Earlen called the meeting of the Policy and Implementation (P&I) Committee to order at 9:38 a.m.

1. Adoption of minutes from May 27, 2016 CMP Policy & Implementation Committee meeting

Commissioner McGlinchey moved the adoption of the May 27, 2016 meeting minutes. Commissioner Prickett seconded the motion. The minutes were adopted with all Committee members voting in the affirmative except Commissioners Barr and DiBello, who abstained.

2. Pinelands Conservation Fund: Update on 2015 Acquisition Projects

Ms. Jeney provided the Committee with an update on the five projects it had approved for the 2015 round of acquisition through the Pinelands Conservation Fund (PCF) (*See Attachment A to these minutes or the Commission's web site at:*

<http://www.nj.gov/pinelands/home/presentations/6%2024%202016%20P&I%20meeting%20Project%20Status%20for%20website.pdf>). Ms. Jeney reminded the Committee that in 2015 it had

allocated \$750,000 from the PCF for the acquisition of five projects. Since then, three projects have closed using \$243,500 of the allocation and protecting some 487 acres. Two of the projects (TR Ridgeway, an 11-acre project in Jackson Township and Deetz, a 61-acre project in Barnegat Township) were acquired by the Ocean County Natural Lands Trust (OCNLT). Ms. Jeney said these two Ocean County projects had closed well before the February 29, 2016 deadline and staff is awaiting receipt of the filed deed and a request for reimbursement.

Ms. Jeney said the most recent project, the 414-acre Bear Swamp Headwaters in Southampton and Tabernacle townships, had been acquired by the Trust for Public Land (TPL), with payment in advance of closing provided upon approval by this Committee at its May 27, 2016 meeting. Staff is awaiting receipt of the filed deed restriction. Ms. Jeney noted that the NJ Natural Lands Trust, (NJNLT), the ultimate owner of the land, also owns roughly 1,000 non-contiguous acres on the west side of Route 206 so this is a nice addition to the Bear Swamp at Red Lion Preserve.

Ms. Jeney said the remaining two projects, one each in Ocean and Atlantic counties, are unlikely to meet the conditions required by the June 30, 2016 deadline due to ownership and price issues. However, she said staff will continue to work with the applicants. Meanwhile, as those projects did not close, there is the potential for a new round of acquisitions. Also, staff will likely return to P&I with some potential ideas to allow a more consistent and regular funding source.

In response to Commissioner Barr's question as to what happens to the money that was allocated but not spent, Ms. Jeney said it is returned to the pool of funds and the applicants that did not complete these two projects may re-apply if the Commission establishes another round. She said staff feels these were two good projects.

In response to Commissioner DiBello's question as to the source of PCF funding, Ms. Grogan said the initial \$13,000,000 contribution had been made as a condition of the 2004 Memorandum of Agreement (MOA) with the Board of Public Utilities (BPU) to allow Conectiv to build electric transmission lines along the Garden State Parkway (GSP). Additional funds came as a result of a 2006 CMP amendment to allow the expansion of the Cape May County Municipal Utilities Authority landfill. A small contribution came in 2008 from the NJ Turnpike Authority through an MOA to allow the widening of the GSP. She said the Commission determines how to allocate the funds from these various sources. As there is no regular source of funding, staff would like to consider ways in which the Commission could develop a steady funding source, perhaps by receiving funds from private contributions. Ms. Grogan said that various accounts have been established for distributing the PCF funds, including that for the visitors' center in the Richard Sullivan Center.

In response to Commissioner Prickett's question as to what the Commission needed to do to secure a funding source, Ms. Grogan said that staff was just beginning to discuss the issue. The Comprehensive Management Plan (CMP) makes no reference to the PCF so it is unlikely that any sort of amendment would be required. She said this is a new project for the next fiscal year.

3. Executive Director's Report - Pemberton Township's 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 27-2009, 14-2014, 16-2014 and 20-2015

Commissioner Prickett announced he would recuse himself as he is a Pemberton Township resident and had served on Council at the time much of the subject material was developed. He left the room at 9:55 a.m.

Ms. Grogan said Pemberton Township had adopted a new Master Plan in 2009, a Master Plan Reexamination Report in 2014 and a series of ordinances implementing a number of mapping changes, only one of which involved a change in management area boundaries. Mr. Leakan displayed a series of maps on the Smart Board, all of which were included with the meeting packet. From these maps, Ms. Grogan identified the various zoning changes that Pemberton is proposing.

Ms. Grogan said Exhibit #1 identifies the 140-acre management area change from Forest Area (FA) to Agricultural Production Area (APA) along Mount Misery Road. Two farmers are involved and had requested this change of the Township. This management area change will provide them a potential opportunity to qualify for the Burlington County Farmland Preservation Program (FPP). Burlington County will purchase easements only on lands in the APA, not the FA. One property owner has already come to the Commission anticipating applying for a Letter of Interpretation (LOI) for PDCs as soon as the zoning is approved. It appears that he may wish to pursue a PDC deed restriction and protect his lands without any county involvement.

Ms. Grogan said the remaining zoning changes do not involve management area changes.

Ms. Grogan said Exhibit #2 identifies a 20 some acre stretch of the south side of County Route 530 from the Southampton Township line to Pemberton Borough. The proposed expansion of the GCLI (General Commercial/Light Industrial) District within the APA from a depth of 300' to 600' is a response to the impacts from the upcoming widening of the highway and involves small portions of three large lots that are currently assessed as farms. This expansion will allow existing businesses to relocate further back from the road and to preserve the limited development opportunities of the small pre-existing businesses along the road. One farm along this section of Route 530 is pursuing the County FPP.

Ms. Grogan said all remaining zoning changes involve the Regional Growth Area and were made to recognize existing development, correct lot lines, and to resolve a number of map errors.

She said Exhibit #3 identifies a proposed rezoning of a single 16-acre lot along Trenton Road from the R-80 (Single-Family Residential) District to the RA (Infill Residential District) to recognize the existing non-conforming apartments that will now become a permitted conforming use.

Ms. Grogan identified Exhibit #4 and said this proposed rezoning of 73 acres along the south side of Pemberton-Browns Mills Road will extend the current TC (Town Center) District of Browns Mills westward, replacing the existing GCLI District. She identified the "squiggly" line as the Rancocas Creek at the south end of the subject lots and said the TC District permits less intense uses than are permitted in the GCLI District. The existing uses are primarily residential, with a few commercial uses. She said the Township had been interested in expanding this new TC District even farther to the west into the existing Forest Area, but there seemed to be no justification to do so.

In response to Commissioner Ashmun's question if there were wetlands present, Ms. Grogan said yes, along the Rancocas Creek. However all buffer requirements will be maintained and it

was unlikely that this rezoning will lead to much new development. The rezoning will narrow the number of uses there.

Ms. Grogan said Exhibit #5 identifies a new zoning district, the Neighborhood Commercial Pinelands (NCP) District along Lakehurst Road in the vicinity of Country Lakes. Several areas will be rezoned from the current GCLI District, where a wide variety of commercial and industrial uses are permitted, to this new NCP District, where the focus is on small-scale retail and neighborhood service-oriented establishments.

Ms. Grogan noted that this is *not* the Browns Mills shopping center area where a redevelopment plan is still being considered and none of the documents presented today relate to that area. She said approval of a redevelopment plan for Browns Mills will be a separate action. She said the Township must overcome several significant hurdles before a redevelopment plan can be recommended to the Commission for approval.

Ms. Grogan said Exhibit #6 shows several proposed rezonings to the new NCP District in the vicinity of Pemberton Borough. These changes are intended to allow for additional commercial opportunities.

Ms. Grogan said Exhibit #7 provides an overview of all the proposed rezonings under consideration.

In response to Commissioner Ashmun's questions if the Master Plan discusses the ordinance rezoning the area along the Rancocas Creek with any precautionary words about wetlands, Ms. Grogan said the Master Plan contained the recommendation for this change to a new zone. She said staff will monitor the development approvals to make sure all requirements, including buffers to wetlands, are met.

Ms. Grogan said the Township also had made a number of changes outside the Pinelands Area of Pemberton. As the report mentions, the new zoning map replaces that from 1983 and with today's technology, a better map has been prepared. She recognized Mr. Sosik's intensive efforts to update the map and confirm where lines were adjusted appropriately. She said the end result is not a lot of changes and the staff recommends approval of the documents submitted by Pemberton Township.

Commissioner McGlinchey moved the recommendation to the Commission to certify Pemberton Township's 2009 Master Plan, 2014 Master Plan Re-Examination Report and Ordinances 14-2014, 16-2014 and 20-2015. Commissioner Barr seconded the motion and all Committee members voted in favor.

Commissioner Prickett returned to the meeting. Commissioner McGlinchey thanked Mr. Sosik for the maps he had provided.

4. Plan Review: Review of Draft CMP amendments

A. Black Run Forest Area and Pilot Program

Ms. Wittenberg said that efforts to protect the Black Run in Evesham Township have been an ongoing project that precedes her arrival at the Commission. She said staff believed the recommendations contained in “*A Sub-Regional Resource Protection Plan for Southern Medford/Evesham Townships, April 2006*” (the Medford/Evesham Plan) were moving forward and staff has developed language to implement some recommendations of the Plan.

Ms. Grogan made a presentation (*Attachment B to these minutes and posted on the Commission’s web site at:*

<http://www.state.nj.us/pinelands/home/presentations/Black%20Run%20Presentation%20at%205.27.16%20P&I%20meeting-RevisedMaps.pdf>

on proposed CMP amendments to implement the Black Run protection recommendation of the Medford/Evesham Plan. She said much effort had been put into protecting the southern end of Evesham and Medford townships, noting that the project area involves 3,200 acres in Evesham and 800 acres in Medford. She said these are mostly vacant lands within the RDA of the southern portions of these municipalities, of high integrity and much of which is already preserved. Those areas that are not preserved are highly constrained due to extensive wetlands.

Ms. Grogan’s presentation described the ecological value of the Black Run and the justifications to support a management area change from RDA to FA. She displayed various maps identifying the project location, relationship to the Commission’s Ecological Integrity Assessment, preserved lands in the area, various management areas and a potential development area. She described a two-step process, the first of which is a Forest Area redesignation. She said 3,200 acres of Evesham’s RDA and 800 acres in Medford would be rezoned to FA. Evesham’s current RDA zoning capacity of 360 units would be reduced to 56 units under the new FA. Once the management area designation was complete, the municipalities would be required to revise their master plans and land use ordinances to reflect the new FA designation. She said the second step would be for the Commission to authorize the Township of Evesham Off-Site Clustering Pilot Program, modeled after that established to accommodate the Renault Winery in Galloway Township and Egg Harbor City. She said the establishment of an off-site clustering pilot program will encourage the clustering of all residential development potential in both the new and existing FA of Evesham to a designated development area outside the Black Run. The development area, some 175 acres in a Restricted RGA, would allow development of some 400 units on lots of a maximum size of 15,000 square feet. Larger lots would not be permitted in order to allow the development of the maximum number of units (400.) She said sewer service would be required and every unit constructed in this development area would require the protection of 4 acres in the FA, with the use of PDCs permitted only if FA lands were unavailable.

In response to Commissioner McGlinchey’s question if the private landowners are aware that this management area change is being considered, Ms. Grogan said most of the lands are held by a single landowner who is involved but there has been no recent notification of the others. They had been notified of the Medford/Evesham Plan at the time it was being developed.

Ms. Roth said, if the Commission proceeds with CMP amendments, there will be notice through the public hearing process but there is no obligation to notify individuals.

In response to Commissioner McGlinchey's statement that he wanted them to be notified, Ms. Grogan said staff could work with the municipalities to do so. Furthermore, the Planner for Evesham was in the audience today.

Mr. Liggett said, generally, the smaller individually-held lands are in the northern section of the project area and constrained by wetlands.

Ms. Grogan said staff believes the FA designation is necessary to protect the area. She said such a rezoning would drop the density dramatically and an off-site clustering pilot program, similar to what had been done with the Renault pilot program, will direct development to a newly-created Restricted Regional Growth Area, adjacent to the Township's boundary with Voorhees. The development lots will be small so as to provide plenty of opportunities for some 400 units. She said the majority landowner would prefer large lots but multi-family units are also a possibility in order to provide increased flexibility.

In response to a question from Chairman Earlen, Ms. Grogan said the same large landowner owns the majority of the land in the new development area. There is one other landowner. She said as part of the pilot program rule, Evesham would adopt a new zoning map showing the RGA boundary.

Ms. Grogan said Evesham Township was supportive and that Ms. Leah Bruder is here representing the Township. She said she believed that the landowner and the Township are supportive of the pilot program concepts although they may have some concerns with the details. She said staff had provided draft rules and will continue in discussions with the Township and landowners. At an upcoming meeting staff will provide a full rule proposal, including background material, maps, etc.

Mr. Liggett noted that the TDR provisions will include all the other small landowners so they will be able to participate.

Ms. Grogan said developing a sewer line will be an expensive project, to be paid for by the developer. Mr. Liggett added that the likely route would be to a pumping station to the north.

In response to Commissioner Barr's question regarding a timeline, Ms. Grogan said staff would offer a full proposal next month and if recommended by the P&I Committee, it could be before the Commission at its August meeting. A public hearing would be scheduled and generally it takes about a year to adopt amendments. Meanwhile, Evesham might start now on its planning efforts.

In response to Commissioner Barr's question if there had been any public input, Ms. Grogan said the Friends of the Black Run have been very supportive.

Ms. Wittenberg reminded everyone that the protection of the Black Run is among the Plan Review recommendations.

Chairman Earlen said he had concerns with stakeholder involvement. He said the larger property owners know but asked how the Commission notifies the smaller ones. He said he wasn't saying he was opposed, only that he had concerns.

Mr. Liggett suggested the staff might be able to do something in conjunction with the Township.

Commissioner Lohbauer complimented the staff on this complex and creative plan. He noted that part of the Black Run to the northeast is outside the project area.

Ms. Grogan responded that he was correct but that it was part of the King's Grant community so was already developed.

Mr. Liggett noted that Voorhees Township is a densely developed area to the west of the receiving area proposed by staff.

Ms. Grogan said the landowner would prefer that the development area be larger and in a slightly different location.

In response to Commissioner Prickett's question as to when the Commission would be involved with the sewer route and will it be permitted to traverse preserved lands, Ms. Grogan said the sewer route will be part of a development application. She said it would not be allowed to be developed on preserved lands.

Mr. Horner confirmed that to be accurate.

Mr. Liggett said the public right of way due north would have little development potential.

Ms. Grogan said that at the conclusion of the pilot program, staff will write a report and make recommendations if it is successful. Staff may be asked if this program might be applicable elsewhere. In any case, this will be a lengthy process.

Commissioner Prickett said it seemed the risk of setting precedent was minimal.

Ms. Grogan said staff believes the pilot approach is limited and the evaluation component will mean there are extensive reporting requirements.

Commissioner Ashmun said this project is based on planning that has been ongoing for a long time. She said "well done."

Ms. Grogan said she felt this was an incredibly worthwhile project. Staff will return next month with the full proposal. Upon recommendation by this Committee, the Commission will decide whether or not to proceed.

Ms. Wittenberg said the basic language is in the meeting packet.

Ms. Grogan added that the rule is fairly simple but Evesham may wish to include additional design standards and other requirements.

In response to Commissioner McGlinchey's question as to how much a sign-off the Commission had from Medford, Ms. Grogan said the staff will communicate with Medford. They will need to adopt an ordinance for their expanded Forest Area but are otherwise not involved in the pilot program.

B. Signs

Ms. Wittenberg introduced Mr. Lanute and noted that "signs" were another Plan Review item.

Mr. Lanute prepared a presentation (*Attachment C to these minutes and also posted on the Commission's web site at:*

<http://www.nj.gov/pinelands/home/presentations/P&I%206.23.2016%20Signage%20Presentation.pdf>). He noted that a presentation on signs was given at the March 24, 2016 P&I meeting. He stated that the goal of the previous presentation was to present the current issues in sign regulation as well as to recommend general policy solutions to address those issues. He went on to say that the purpose of this presentation was to provide actual drafted language of those policy recommendations.

Mr. Lanute said that under the proposed rules, off-site sign rules would remain basically the same. He noted that lawfully existing off-site signs prior to the CMP will remain permitted in RGA and Towns as well as within limited prescribed circumstances in Villages and RDA. New signs will continue to be permitted in RGA and Towns, at the option of the municipality, with the use of a transferable sign right. A change in language, not policy, is also proposed to further clarify those signs eligible for the transfer program.

Mr. Lanute said that under the proposed rules regulatory authority for the control of on-site signs would be given to the municipality. He provided reasons why staff is recommending this approach. He stated that such signs have been exempt from Commission review since the beginning; it would allow the municipalities to treat all businesses equally regardless of management area; and would allow municipalities to respond more quickly to changes in technology and local values. He said the CMP's restrictions on permitted land use by management area will mitigate the potential for excessive commercial on-site signs and the vast majority of on-site signs will be located in the growth-oriented areas of the Pinelands.

Mr. Lanute said that under the proposed rules, municipalities may choose to allow the electronic message displays (EMDs) for off-site signs, but would be required to abide by additional design provisions included in the proposal. The provisions relate to sign brightness, shielding of external lights, duration between messages, message transition, automatic brightness dimmers, and a default message in case of a malfunction. He stated that these provisions are similar to those required by NJ Department of Transportation. He stated that municipalities would have authority over such electronic message displays for on-site signs, but the proposed language would encourage them to use the off-site standards included in the proposal as guidelines.

Mr. Lanute said that the Committee had expressed concerns about the impacts of light from digital signs at the previous presentation. He described the field of study into Artificial Light at Night (ALAN). He noted that there have been many studies on the impacts of ALAN, but that they focus on all types of light with little to no studies specifically related to signs. He stated that studies on the ecological impacts of ALAN tend to study individual species in controlled environments, with little to no studies at the ecosystem scale. Therefore, science-based brightness standards for electronic signs have yet to be developed to address ecological impacts. Typically, he said, the EMDs are shining outward, not upwards, so should have less impact on the night sky than current billboards that shine upwards.

In response to Commissioner Ashmun's question regarding a definition of "temporary," Mr. Lanute confirmed that the draft language does not define "temporary." He stated that the term is routinely defined in most municipal signage ordinances. He said it is a balancing act of not getting too specific regarding things that municipalities generally regulate.

Commissioner Ashmun said she thought "temporary" should be defined and also asked about "upkeep."

In response to Mr. Lanute's question if she were concerned about safety or aesthetics, Commissioner Ashmun said if one needs a sign and it is permitted, it needs to be maintained.

Ms. Grogan said that temporary signs are currently allowed by the CMP, but that each municipality determines that definition as it is not currently defined in the CMP. They might determine 30 days or 60 days. Staff believes that the definition of temporary should be left to the municipality. She concurred with Commissioner Ashmun's assessment that the Commission depends upon the municipalities to do the right thing.

In response to Commissioner Lohbauer's interest in seeing the studies that show the effects of light on various species, Mr. Lanute said the International Dark-Sky Association has a website containing an archive of articles and he would forward them.

Commissioner McGlinchey expressed concerns about farm stands and the 300' limit for placement of signs. He said he was not championing more signs but 300' is a mere blink of an eye and he thought the Commission should consider a greater distance between the farm stand and its signs.

Ms. Grogan said the CMP doesn't restrict where those signs are placed and perhaps it is either Winslow Township or the State Agriculture Development Committee (SADC) that has imposed that limit.

Mr. Lanute said staff had discussions on these types of signs and other state rules and it was recommended that it should be discussed with the Agriculture Committee at a future meeting.

Commissioner Prickett asked about the existing provisions related to sign size, removal etc.

Mr. Lanute said on the matter of on-site signs, the Commission will defer to the municipalities for such things as quantity and size of signs. They will establish the standards that meet the needs of their communities.

In response to Commissioner Prickett's concerns regarding appearance of signs and that they be harmonious with the scenic standards of the CMP to the maximum extent possible, Mr. Lanute said that was not included in the proposal as it is a difficult rule to enforce. He said in general, concrete standards are the best practice for sign regulation.

Similarly, Commissioner Prickett asked what the provisions related to sign "appearance" as mentioned in Mr. Lanute's memo were referring to.

Mr. Lanute responded that the appearance was referencing the provisions for electronic message display (EMD) signs.

C. Application fees and procedures, waivers, alternate design wastewater treatment systems

Ms. Grogan said that although staff had planned to discuss some of these other issues today, they found that they had many other ideas they wished to incorporate into any draft rules so the discussion will be deferred to a future meeting.

5. Public Comment

Mr. Jason Howell, with the Pinelands Preservation Alliance (PPA), noted that Batsto Lake currently is in a beautiful state and this is a good time of year to be outside and enjoy it. He said he had concerns with roads in general, noting the number of turtles he has rescued crossing the highway and that, although adult snakes seem to have learned not to cross paved roads, the neonates will migrate and are easy targets for injury. Such creatures cannot cross a road safely. Also, he noted evidence of illegal dirtbike trails on state lands that seem to be maintained with flag tape and directional saw cuts on the trees.

Mr. Brian Murphy, with the New Jersey Builders Association (NJBA), said he was accompanied today by Mr. Bob Washburn and Mr. Tim Schaeffer. He referenced the April 22, 2016 meeting of the Agriculture Committee at which staff had presented proposed enhancements to the PDC program. He said he is here today to respond to that presentation. He said the current PDC program providing for a base density with a bonus using PDCs is reasonable in theory but not in reality. He said often the municipalities impose anti-growth measures that builders cannot meet such as buffers, basins, setbacks and densities that make bonus densities unachievable. Furthermore, when open space lands are purchased in development areas, the development potential is reduced further. Mr. Murphy said the newly proposed PDC program requires mandatory use of PDCs on a sliding scale, with an increasingly reduced PDC obligation as the density is increased. Again, that sounds reasonable but he said he was not sure it is achievable. Mr. Murphy displayed a chart entitled *Proposed PDC Program Enhancement [Attachment D to these minutes]*) emphasizing the increased costs for a 312-unit project in Winslow Township

comparing the current PDC obligation with that under a proposed mandatory sliding scale PDC obligation, as had been discussed previously with the Agriculture Committee. He said the increase in the cost of the project, if developed under the sliding scale, would have made it prohibitive. He said the stakeholders (builders and farmers) need a program with which they agree. He said he had spoken with Peter Furey (President, NJ Farm Bureau), who does not agree that the proposed program will function properly. He said everyone, including the Commission, builders, farmers, environmentalist and the municipalities want a functional PDC program and his group does not feel that the proposal will be an improvement. He said he had someone in mind who is very knowledgeable about the PDC program and would be happy to have him come to a future meeting and give a presentation.

In response to Ms. Wittenberg's question if this person has an alternative proposal, Mr. Murphy said, "Possibly."

Commissioner McGlinchey said, at the Agriculture Committee meeting, both the representatives from the Department of Agriculture and the Farm Bureau had supported the staff proposal and he asked when Mr. Murphy's meeting had taken place.

Mr. Murphy said they had met within the past few weeks.

In response to Chairman Earlen's question as to when the Committee's next PDC discussion was scheduled to take place, Ms. Wittenberg said it had not yet been scheduled but, if not at the July meeting, then likely it would be the August meeting.

6. Other Items of Interest

Commissioner Prickett reminded everyone that the 33rd Blueberry Festival was this weekend at Whitesbog, commemorating the 100th anniversary of the commercial blueberry industry (June 25-26, 2016 from 9 a.m. to 5 p.m. each day).

Commissioner McGlinchey added that Commissioner Galletta would want everyone to know that Hammonton's Red, White and Blueberry Festival was also scheduled for this coming weekend.

There being no other items of interest, the meeting adjourned at 11:35 a.m. (moved by Commissioner Ashmun and seconded by Commissioner Barr).

Certified as true and correct:



Betsy Piner,
Principal Planning Assistant

Date: July 11, 2016



PCF 2015 Round of Applications

October 2015	P&I Committee approved PCF grants for 5 projects (\$750,000 allocated)
December 2015	2 Ocean County projects closed
January 2016	Grant agreements executed for 2 Ocean County projects
February 2016	P&I Committee approved deadline extension for remaining 3 projects
May 2016	Grant agreement executed for Burlington County project
June 2016	P&I Committee approved advance funding for Burlington County project Burlington County project closed 6/30: deadline for remaining 2 projects

OCNLT: TR Ridgeway-Fagan

- Jackson Township
- Toms River Corridor
- Forest Area
- 11.38 acres
- Features:
 - Adjacent to Colliers Mills WMA, county- and municipally-owned conservation land
 - Ridgeway Branch of Toms River
 - Pristine pitch pine lowlands
 - T&E sitings and habitat

Map prepared by Robyn A. Jeney, NJPC

OCNLT: TR Ridgeway-Fagan

Project Details	
Size (deed):	11.3821 acres
Total cost:	\$33,000 (\$2,899/acre)
PCF Allocation:	\$11,000 (33.3%)
Ultimate Landowner:	Ocean County Natural Lands Trust

Project Status	
Closed	12/8/2015
Grant Paid?	No; awaiting filed DCR and reimbursement request

Map prepared by Robyn A. Jeney, NJPC

OCNLT: Deetz

- Barnegat Township
- Ocean County Forest Area
- 61.44 acres
- Features:
 - Adjacent to Greenwood Forest WMA
 - Pine-oak uplands
 - Oyster Creek tributaries
 - T&E sitings & habitat
 - Preservation of approved development lot

Map prepared by Robyn A. Jeney, NJPC

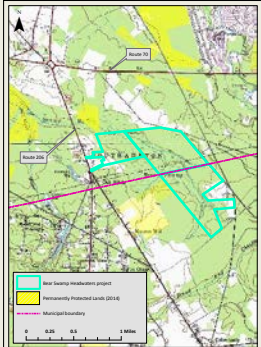
OCNLT: Deetz

Project Details	
Size (deed):	61.44 acres
Total cost:	\$247,500 (\$4,028/acre)
PCF Allocation:	\$82,500 (33.3%)
Ultimate Landowner:	Ocean County Natural Lands Trust

Project Status	
Closed	12/10/2015
Grant Paid?	No; awaiting filed DCR and reimbursement request

Map prepared by Robyn A. Jeney, NJPC

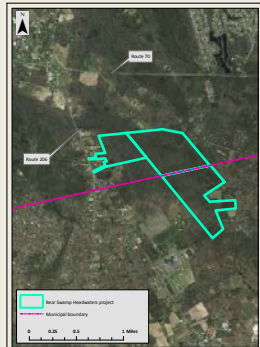
TPL: Bear Swamp Headwaters



- Southampton & Tabernacle townships
- Bear Swamp (Rte 206)
- Regional Growth Area & Rural Development Area
- 414.49 acres
- Features:
 - Adjacent to Bear Swamp at Red Lion Preserve and PDC deed-restricted land
 - Bear Swamp River tributaries
 - Forested wetlands
 - T&E habitat


Map prepared by Robyn A. Jersey, NJPC

TPL: Bear Swamp Headwaters



Project Details	
Size (survey):	414.489 acres
Total cost:	\$600,000 (\$1,448/acre)
PCF Allocation:	\$150,000 (25%)
Ultimate Landowner:	New Jersey Natural Lands Trust


Project Status	
Closed	6/10/2016
Grant Paid?	Yes; awaiting settlement statement, deed and filed DCR



Map prepared by Robyn A. Jersey, NJPC Photos by Paul Leokan, NJPC


Remaining Projects

- A project in Ocean County
 - Status: one of landowners in disagreement over price; non-responsive
- A project in Atlantic County
 - Status: landowner in disagreement over price; taking property off market
- Both projects previously granted extensions to June 30, 2016
- Grant allocations for both projects will expire on June 30, 2016



Photos by Paul Leokan, NJPC

2015 PCF Available Funds



Initial funds available: **\$750,000**


Allocation Area	# Projects	Allocated	Paid	Acres
Ocean County Forest Areas	1	\$82,500	\$--	61.44
Toms River Corridor	1	\$11,000	\$--	11.38
Bear Swamp (Rte 206)	1	\$150,000	\$150,000	414.49
Total	3	\$243,500	\$150,000	487.31

Remaining funds available: **\$506,500**

Photos by Paul Leokan, NJPC

PCF Next Steps


- Receive final submissions from and pay out grants to projects
- New round?
- Pursuit of consistent funding
- Will discuss and return with recommendations to consider at future P&I Committee meeting



Map prepared by Robyn A. Jersey, NJPC



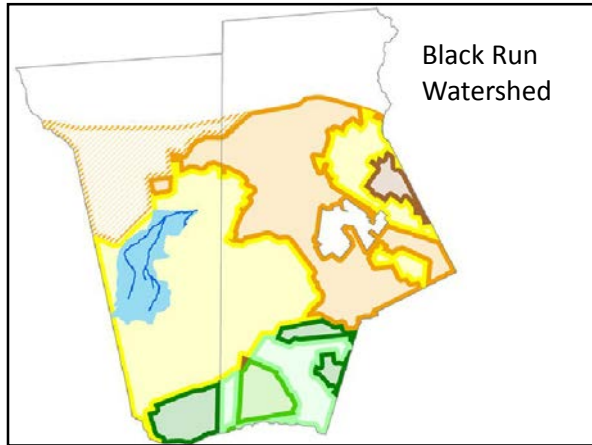
Black Run Rule Proposal



May 27, 2016
CMP Policy & Implementation Committee

What is the Black Run?

- A stream network
 - Pristine, characteristic Pinelands waters
- Its watershed
 - Pinelands habitat with high-ecological integrity scores
 - T&E Species
 - Uplands
 - Northern Pine snake (nesting and foraging)
 - Timber rattlesnake (foraging)
 - Wetlands
 - Swamp Pink
 - Timber rattlesnake
 - Barred owl

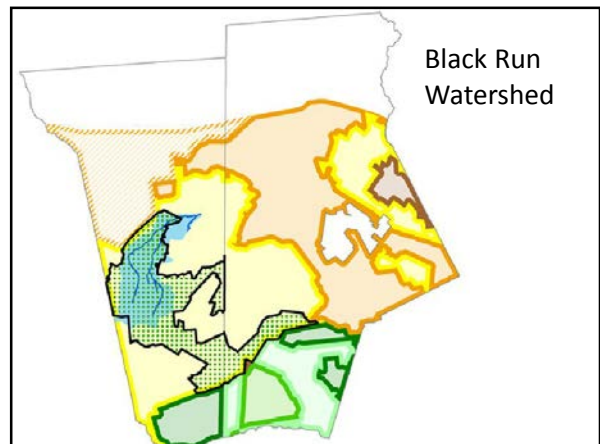


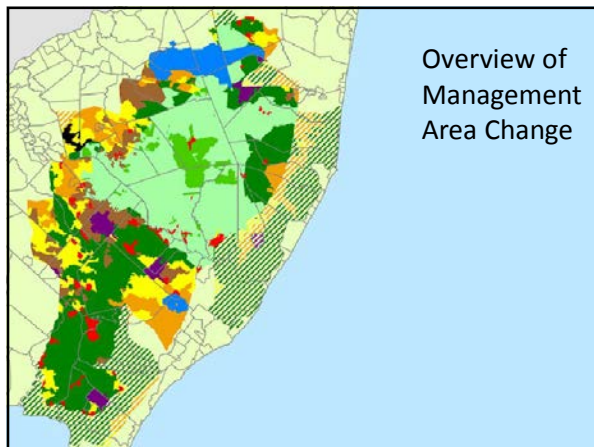
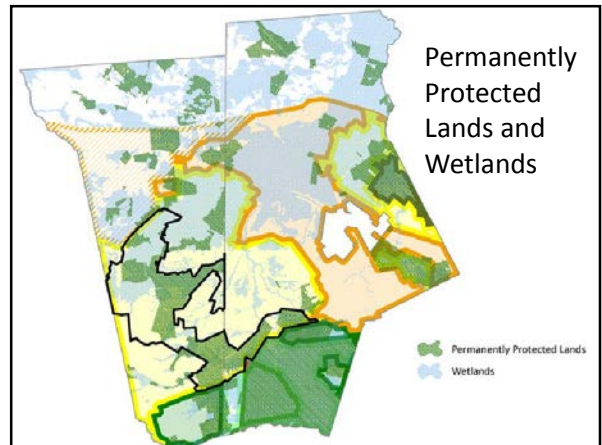
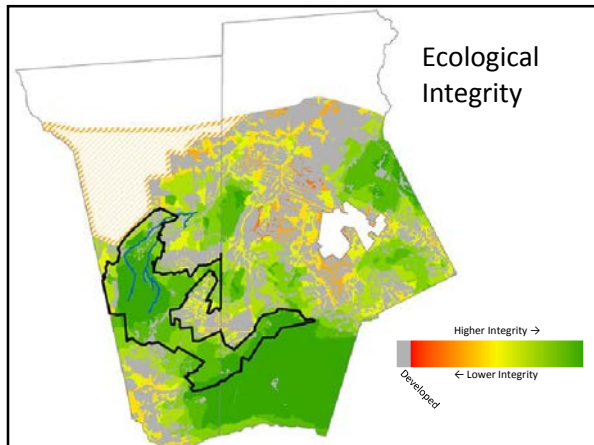
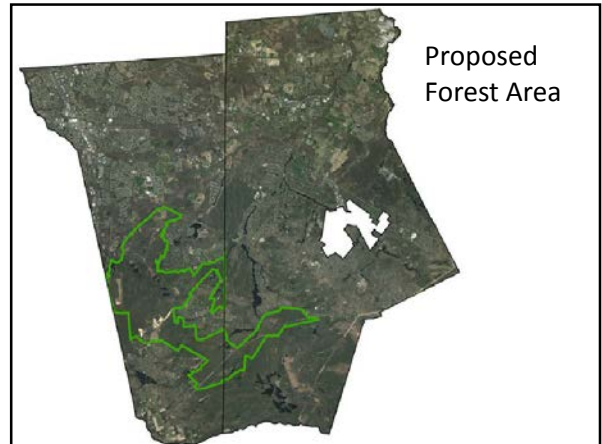
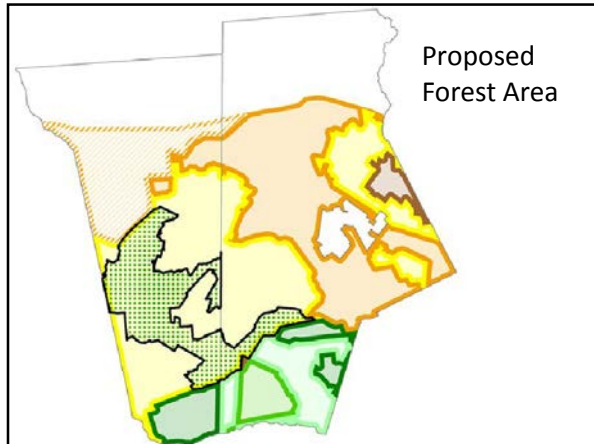
Why Protect the Black Run?

- To preserve the Black Run, its headwaters, and its watershed in its current, nearly pristine state
- To preserve a headwaters of the Rancocas
- To protect threatened and endangered plant and animal species' habitat
- To provide ancillary protection to other permanently protected lands in the area
- To better protect cultural resources (historic & prehistoric) in the area

Step 1: Forest Area Redesignation

- 4,000 acres from RDA to FA
 - 3,200 acres in Evesham
 - 800 acres in Medford
- Includes Black Run, adjacent lands in common ownership and other public and permanently protected lands
- Connects to existing FA in both municipalities





- Step 1: Forest Area Redesignation**
- New Evesham Forest Area
 - 3,200 acres total
 - 1,400 vacant acres available for development
 - Current RDA designation
 - Permitted density of 1 unit/3.2 acres to 1 unit/6 acres
 - Zoning capacity of 360 units
 - New FA designation
 - Maximum density of 1 unit per 25 acres
 - Zoning capacity of 56 units

Step 2: Off-Site Clustering Pilot Program

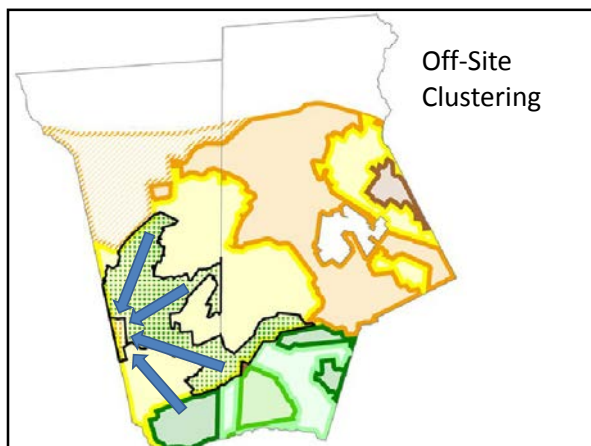
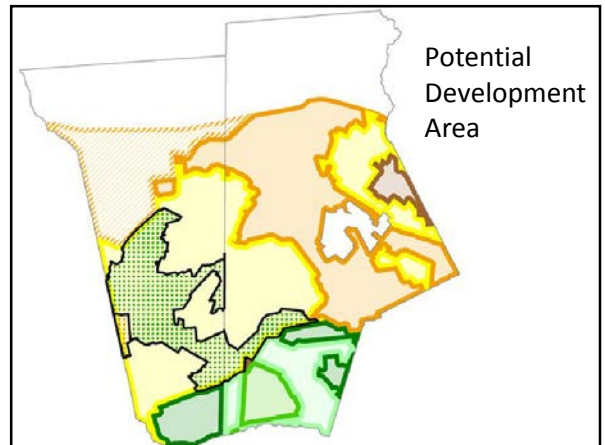
- To encourage the clustering of all residential development potential in Evesham's new and existing Forest Area to a designated development area outside the Black Run
- Every unit constructed in the development area would require protection of 4 acres in the Forest Area
- Use of PDCs permitted only if Forest Area lands are unavailable

Development Area

- 175 acres
- 400 units
- Maximum lot size: 15,000 square feet
- Restricted Regional Growth Area
- Sewer service required
- Threatened and endangered species protection standards met through permanent protection of lands in the Forest Area

Conservation Area

- New Evesham Forest Area
– 1,400 vacant acres
- Existing Evesham Forest Area
– 250 vacant acres



Proposed CMP Amendments: Signs

Policy & Implementation Committee
June 24, 2016



What's Proposed: Overview

1. Reorganized structure of the signage rules
2. Off-site signs
3. On-site signs
4. Electronic message displays



Review: Off-Site Signs



Review: Off-Site Signs

Current off-site sign types:

- Commercial
- Agricultural Commercial Establishments
- Directional
- Civil, Social, Political Activities

What's Proposed: Off-Site Signs

Off-site sign rules are substantially the same

- Lawfully existing off-site signs prior to CMP are permitted in:
 - RGA and Towns
 - Villages and RDA (limited)
- New off-site signs will be permitted in:
 - RGA and Towns
 - only w/ the use of transferable sign right
- Clarification of what signs are eligible for use in transfer program

What's Proposed: Off-Site Signs

“Special” off-site signs permitted in all management areas:

- Off-site Signs Advertising Commercial Agricultural Establishments
- Off-site directional signs
- Temporary



Review: On-Site Signs



Review: On-Site Signs

Current on-site sign types:

- Business
- Home Occupation
- Institutional
- Temporary
- For Rent/For Sale
- Trespassing/Private Property
- Official Public Safety/Information

All are exempt from Commission review

What's Proposed: On-Site Signs

Retain application exemption for all on-site signs

7:50-4.1 Applicability

(a) For the purposes of this subchapter only, the following shall not be considered development except for development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154

....

4. The construction, repair or removal of any sign, except for the construction or replacement of any off-site sign in accordance with N.J.A.C. 7:50-6.108(a)3, 4 or 5.

What's Proposed: On-Site Signs

Delegate regulatory control of on-site signs to municipalities

7:50-6.107 On-Site Signs

- (a) On-site signs may be permitted in any management area.
- (b) Municipalities are encouraged to adopt the standards for electronic message displays in N.J.A.C. 7:50-6.109(a)3 and 4 in formulating municipal ordinance standards for on-site signs.

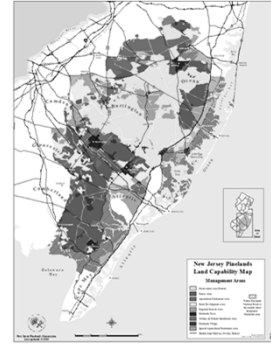
What's Proposed: On-Site Signs

Why favor this approach?

- Municipalities are already the primary regulator of such signs due to the long-standing exemption
- The impacts are local and municipalities can adapt and respond more quickly to changing technologies and varying community values
- Municipalities will be able to regulate business signs on an equal basis with regard to on-site signs, regardless of management area

What's Proposed: On-Site Signs

- On-site signs primarily relate to on-site business.
- The permitted locations of such land uses are still dictated by Management Areas



What's Proposed: Electronic Message Displays

- Permitted at the option of the municipality for on-site and off-site signs
- Non-conforming off-site signs are not permitted to have EMD
 - e.g., No EMD on non-conforming billboard in Forest Area or Preservation Area District
- CMP would contain standards for EMD on off-site signs
- Municipalities will be encouraged to apply CMP standards to on-site signs

What's Proposed: Electronic Message Displays

Standards

- All off-site sign lighting will be required to be shielded or directed such that light is not directed towards the sky
- Additional standards related to:
 - Default screen
 - Transition
 - Duration
 - Brightness standards and dimmers

7:50-6.109 Provisions for Permitted Signs

3. Off-site signs permitted pursuant to N.J.A.C. 7:50-6.108(a)4 and 5 may have electronic message displays provided that:
 - i. The electronic message display is programmed to freeze in one position if a malfunction occurs;
 - ii. The transition of one displayed message to another displayed message is accomplished within one second or less;
 - iii. The duration of the interval between the end of any transition and the start of its subsequent transition is at least eight seconds; and
 - iv. The municipality has adopted provisions governing the permitted brightness of the display at varying ambient light conditions and the brightness of the display is automatically adjusted based on ambient light conditions through the use of an integrated light sensing device.
4. Except as provided in (a)3 above, off-site signs shall not contain, include, or be illuminated by any flashing, intermittent, scrolling or moving light or lights. All sources of illumination shall be shielded or directed such that light is not directed towards the sky.

What's Proposed: Electronic Message Displays

Why favor this approach?

- The P&I Committee has generally agreed that digital signs may be acceptable in certain limited circumstances.
- Leaves decisions on on-site signs to the municipalities as already discussed
- Provides limited opportunities for off-site signs to convert to Electronic Message Displays with additional standards

What's Proposed: Electronic Message Displays

Impacts of Lighting

- Artificial Light At Night (ALAN)
 - Studies all sources of light emission
 - Impacts have been found on select species studied
- Policy Limitations
 - Few studies on the impacts of signs alone
 - Studies have focused on single species in controlled environments
 - Lack of consensus on ecosystem scale impacts
- Science-based brightness standards for electronic signs have yet to be developed to address ecological impacts.
- Such signs should have less impact on night sky

Summary

1. Reorganized structure of the signage rules
2. Off-site signs
3. On-site signs
4. Electronic message displays



PROPOSED PDC PROGRAM ENHANCEMENT

Example:

Actual project currently under construction

312 unit apartment complex
Winslow Township, NJ
Apartment Project in the PR-4 zone

Density:

Base Density = 2.6 du/ac

Max permitted Density with PDC's = 5.25 du/ac

Currently proposed = 3.1 du/ac

Current PDC Program Cost:

Currently requires: 12.5 PDC credits

Current Cost = \$ 10,000 per credit x 12.5 = \$125,000

Proposed Mandatory PDC Cost:

312 unit apartment project on 100.84 acres

Density = 3.1 du/acres = Sliding Scale units requiring PDC's = 35%

\$10,000/right = (35% x \$10,000) = \$3,500 per unit

Proposed Total Cost = \$3,500/unit x 312 units = \$ 1,092,000.00

Difference with mandatory PDC's = \$ 967,000.00



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands

General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us




Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

MEMORANDUM

To: Members, CMP Policy & Implementation Committee

From: Susan R. Grogan 
Chief Planner

Date: July 25, 2016

Subject: Proposed CMP Amendments

Attached for your review is a set of draft amendments to the Comprehensive Management Plan (CMP). These amendments relate to application fees, escrow requirements, the definition of "interested party," exemptions, notice and mailing procedures, the expiration of old waivers of strict compliance, landfill capping clarifications, graduation of the FAST technology from the septic pilot program, the use of advanced treatment systems for nonresidential development, septic management and signs.

These amendments incorporate a number of items that we've discussed with the Committee over the past two years, as well as several new provisions. We will go over all the amendments in further detail at the Committee meeting on Friday. Should you have any questions before then, please feel free to call me.

July 25, 2016

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Fees; Escrows; Definitions; Standards for Certification; Application Requirements and Procedures; Development Review Waivers; Water Quality; Management Program for On-site Wastewater Treatment Systems; Pilot Program for Alternate Design Wastewater Treatment Systems

Proposed Amendments: N.J.A.C. 7:50-1.6, 1.7, 2.11, 3.24, 3.39, 4.1, 4.3, 4.15, 4.17, 4.18, 4.19, 4.20, 4.22, 4.23, 4.25, 4.26, 4.33, 4.34, 4.35, 4.36, 4.37, 4.38, 4.39, 4.40, 4.41, 4.53-4.56, 4.66-4.68, 4.70, 4.73, 4.74, 4.79, 4.81, 4.91, 6.64, 6.75, 6.84, 6.85, 6.106-6.109, 7.3, 7.5, 9.7 and 10.21-10.23

Authorized By:

_____/_____/_____
New Jersey Pinelands Commission,
Nancy Wittenberg, Executive Director

Authority: N.J.S.A. 13:18A-6j

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

Proposal Number:

A **public hearing** concerning this proposal will be held on:

(date to be determined) at 7:00 P.M.
Richard J. Sullivan Center
15C Springfield Road
New Lisbon, New Jersey

Submit written comments by regular mail, facsimile or e-mail by ____, 2016 to:

Susan R. Grogan, P.P., AICP
Chief Planner
Pinelands Commission
P.O. Box 359
New Lisbon, NJ 08064
Facsimile: (609)894-7330

E-mail: planning@njpines.state.nj.us or through the Commission's website at <http://www.nj.gov/pinelands/home/contact/planning.shtml>

The name and mailing address of the commenter must be submitted with all public comments.

The agency proposal follows:

Summary

The New Jersey Pinelands Commission proposes to amend subchapters 1, General Provisions, 2, Interpretations and Definitions, 3, Certification of County, Municipal and Federal Installation Plans, 4, Development Review, 5, Minimum Standards for Land Uses and Intensities, 6, Management Programs and Minimum Standards, 9, Acquisition of Properties with Limited Practical Use, and 10, Pilot Programs, of the Pinelands Comprehensive Management Plan (CMP). The Pinelands CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. Since that time, the CMP has been amended a number of times, most recently in September 2014 through a set of amendments related to application requirements and procedures, the duration of Letters of Interpretation, the allocation of Pinelands Development Credits and the Pilot Program for Alternate Design Wastewater Treatment Systems (see 46 N.J.R. 1877(b)).

The amendments now being proposed by the Commission relate to fees, escrows, application requirements and procedures, waivers, public notice and mailing requirements, water quality standards, landfill closure, signs and the Pilot Program for Alternate Design Wastewater Treatment Systems. They are intended to codify current Commission practice, clarify existing standards and requirements, increase the efficiency of the Commission and its staff, eliminate unnecessary application requirements, simplify procedures for the Commission, Pinelands municipalities and applicants, establish an expiration date for one category of waivers of strict compliance, clarify the circumstances under which installation of an impermeable cap is not

necessary for existing Pinelands landfills, allow for the use of advanced treatment technologies as a means of facilitating expansion of certain existing nonresidential uses, update and revise CMP sign standards and recognize the successful participation of one alternate design wastewater treatment technology in a long-standing pilot program.

The proposed amendments are, in large part, an outgrowth of the Commission's fourth comprehensive review of the CMP. The Commission embarked on the plan review process in June of 2012. A Plan Review Committee, composed of five Commission members, was formed at that time and met 14 times, completing its work in Spring 2014. While all of the Plan Review Committee meetings were open to the public, the Committee also sought public comment at a series of additional public meetings throughout the summer of 2012. The submission of written comments on the Comprehensive Management Plan and its implementation was also encouraged. Notice of the opportunity to attend the public meetings and/or provide written comments was provided via press releases, posting on the Commission's website and use of the Pinelands News Alert system which involves emails to nearly 600 people. In addition, emails were sent to a wide variety of potentially interested individuals and groups, including all Pinelands Area municipalities, the Pinelands Preservation Alliance and other environmental groups, the New Jersey State League of Municipalities, the New Jersey Farm Bureau, the Chambers of Commerce of all Pinelands counties, the Builders League of South Jersey, the New Jersey Builders Association and the members of the Commission's own Forest Advisory and Agricultural Advisory Committees. In response to these outreach efforts, both oral and written comments were received on a wide range of topics. All written comments received by the Commission were posted and remain available on the Commission's website at www.nj.gov/pinelands. Ultimately, the Commission's goal was to analyze its past actions,

consider the public's input and identify ways to strengthen the Comprehensive Management Plan through future amendments and administrative actions.

The first set of CMP amendments adopted as part of the ongoing plan review process was designed to implement various efficiency measures, codify current Commission practices and provide for the continued installation of alternate design wastewater treatment systems in accordance with Alternate Design Wastewater Treatment Systems Program. The amendments now being proposed represent the second phase in the CMP review process. Analysis of other substantive issues raised during the plan review public comment process will continue over the next year and may lead to the proposal of additional CMP amendments. In the meantime, the Commission has determined it would be appropriate and beneficial to move ahead with the current proposal.

The proposed amendments were discussed and reviewed at multiple public meetings of the Commission's CMP Policy & Implementation Committee between 2014 and 2016. On July 28, 2016, Pinelands Commission staff also provided a presentation on the proposed amendments at a public meeting of the Pinelands Municipal Council (PMC). The PMC, created by the Pinelands Protection Act (N.J.S.A. 13:18A-1 et. seq), is made up of the mayors of the 53 municipalities in the Pinelands Area or their designees. The Council is empowered to review and comment upon changes proposed by the Pinelands Commission in the New Jersey Pinelands Comprehensive Management Plan and advises the Commission on matters of interest regarding the Pinelands.

A more detailed description of the proposed amendments follows.

Fees

Since April 2004, the Pinelands Commission has charged application fees as a means to cover a portion of the costs associated with the review of development applications and related services that support the development application process. The Commission periodically reviews its fee schedule and adopted amendments to it in June 2006 (see 38 N.J.R. 2708(a)) and December 2008 (see 40 N.J.R. 6805(a)).

A series of amendments to the Commission's application fee requirements are now being proposed to increase the percentage of application review costs that is covered by application fee revenue, better recognize specific types of development applications, reduce fees for solar energy facilities, address the additional staff time required to review an application that involves a violation of CMP standards, codify current practices, clarify existing fee requirements and eliminate inefficiencies in the application review process.

In Fiscal Year 2010, the first full year after the 2008 fee-related CMP amendments took effect, the Commission expended approximately \$1,026,500 on its application review functions and recouped 46% or \$472,000 in application fee revenue. Over the next five fiscal years, the Commission's permit-related expenses decreased to an annual average of \$838,500. Application fee revenue varied widely during the same time period, from a high of \$547,900 in fiscal year 2015 to a low of \$269,621 in fiscal year 2014. Some of this variation was due to a decrease in the number of applications submitted each year (577 new applications in fiscal year 2010, steadily declining to 435 in fiscal year 2015). The Commission's permitting expenses likewise decreased over time as project review staff retired, were laid off or left for other reasons and were unable to be replaced.

On average, the Commission recouped 53 percent of its permit-related expenses through application fee revenue for fiscal years 2010 through 2015. While not an unreasonable percentage, the Commission believes it is still insufficient and that application fees should be expected to finance more of agency's directly-related permitting costs. The Commission is therefore proposing to increase all of its application fees by fifty percent. These increases are reflected in the proposed amendments to N.J.A.C. 7:50-1.6(a), (b), (c), (e), (h), (i) and (j). Notably, the maximum application fees in N.J.A.C. 7:50-1.6(e)2 and 3 (proposed (e)3 and 4)) will remain unchanged.

In addition to the fee increases described above, N.J.A.C. 7:50-1.6(b), (c), (f) and (j) are being amended to include specific references to N.J.A.C. 7:50-4.52 and 4.56, the procedures for submission and review of public development applications. Although fees related to public development applications were instituted by the Commission in 2008, these sections were mistakenly not amended to include the appropriate cross-references at that time. Likewise, N.J.A.C. 7:50-1.6(b) is being further amended to include a reference to the application requirements set forth at N.J.A.C. 7:50-4.66(c), in order to clarify that fee requirements apply to applications for Waivers of Strict Compliance necessary to address compelling public needs. Finally, N.J.A.C. 7:50-1.6(j) is being further amended to include Certificates of Completeness, the document issued by the Commission to signify completion of an application for development in a municipality whose master plan and land use ordinances have not been certified by the Commission. As currently written, N.J.A.C. 7:50-1.6(j) refers only to the document issued by the Commission in certified municipalities, a Certificate of Filing. All of the proposed amendments described in this paragraph merely correct inadvertent oversights and codify existing Commission practice; they do not represent any change in policy.

N.J.A.C. 7:50-1.6(c) is being further amended to replace the lengthy description of fee requirements for commercial, institutional, industrial and other types of nonresidential development applications with a simple table. Also, N.J.A.C. 7:50-1.6(c) is being amended to delete the requirement for submission of a sworn statement of a licensed architect, licensed engineer or other qualified individual as to the expected construction costs. Instead, the Commission will now require only that supporting documentation of expected construction costs be submitted as part of the application for development. If an applicant's calculations indicate that the maximum fee is required for a particular application (\$50,000 for private development; \$25,000 for public development; \$500 for applications by non-profit organizations), the submission of supporting documentation related to the fee will not be required. In such cases, the applicant would only need to indicate on the application form that he or she is paying the maximum fee.

The Commission expects the above-described amendments to simplify and streamline the initial stages of the development application process. Over time, it has become clear that the requirement for submission of sworn statements or sealed construction cost estimates as to the construction costs associated with a proposed development leads to unnecessary delays in the processing of applications. Under the current fee regulations, the Commission staff cannot review an application for commercial, institutional or industrial development or consider such an application for development to be complete until the required fee and the accompanying sworn statement of a licensed architect or engineer has been received. Often, the fee is submitted, along with an estimate of construction costs, but the construction cost estimate is not signed or sealed. This leaves the application for development incomplete and requires the Commission to send a letter to the applicant noting the deficiency. In the meantime, no review of the application

can occur. As an extreme example, when an applicant submits the maximum fee (e.g., \$50,000 for a private development or \$500 for a qualified tax exempt religious or non-profit organization), the Commission must still request a sworn statement as to construction costs before the application can be deemed complete. The proposed amendments will allow an applicant to simply include supporting documentation of his or her construction cost estimates as an attachment to the development application form. This form (available on the Commission's website at [http://www.nj.gov/pinelands/appli/PinelandsDevelopmentApplicationInstructions&Form\(Final\).pdf](http://www.nj.gov/pinelands/appli/PinelandsDevelopmentApplicationInstructions&Form(Final).pdf)) must be signed by the applicant, attesting to the validity of all submitted information, which would include construction cost estimates. While there may still be occasions where the Commission will need to request additional information to support a particular fee calculation, the process should be much less cumbersome. This will allow the staff to begin review of applications for development more quickly.

N.J.A.C. 7:50-1.6(c)1-5 include fees for various types of development based on the number of acres affected by the development. All of these sections are being amended to clarify that the relevant fee applies per acre "or portion thereof". This represents a codification of current practice, and should eliminate the questions that have been raised over the years as to whether the fee is assessed on the total acreage proposed for development or only on full acres.

N.J.A.C. 7:50-1.6(c)4 is being amended to include bridges in the definition of "linear development".

N.J.A.C. 7:50-1.6(c)8 is being added to clarify that the application fee for the demolition of a structure, whether residential or nonresidential, is \$300. The current fee rules do not specifically address this type of application for development. The Commission's practice over

the years has been to assess the minimum fee for demolition of a single family dwelling and to require a construction cost estimate and fee in accordance with N.J.A.C. 7:50-1.6(c) for demolition of a nonresidential structure. The proposed amendment will eliminate any confusion and establish a flat fee that is easy to administer and understand. It should be noted that it is only the demolition of structures 50 years or older that requires application to the Commission.

A new N.J.A.C. 7:50-1.6(c)9 is being added to specifically address application fees for solar energy facilities. Currently, solar energy facilities are treated in the same fashion as commercial, institutional and industrial uses, with application fees based on construction cost estimates. This has led to very large fee requirements, including at least one at the \$50,000 maximum for private development projects. Under the proposed amendment, the required fee would be calculated on a per acre basis, similar to the fee requirements for resource extraction operations, golf courses and other land extensive uses. N.J.A.C. 7:50-1.6(c)9 would require an initial fee of \$1,500, plus \$500 per acre, or portion thereof, of land to be developed for solar energy facility use, including any off-site development. Calculating the fee in this manner will lead to a reduction in required application fees. This reduction will be significant, for both large and small solar facilities. For example, an application for a three acre solar energy facility that required a fee of approximately \$10,000 under the current regulations (based on construction costs) could be required to pay only \$3,000 under the proposed amendment. Applications involving the development of approximately half an acre of solar panels could be required to pay as little as \$1,850 under the proposed amendment, whereas under the current rules, such applications required fees ranging from \$5,750 to \$12,500. The Commission believes that calculating application fees on a per acre basis is the more appropriate method for solar energy facilities.

N.J.A.C. 7:50-1.6(e)1 is being amended by correcting and clarifying cross-references to other sections of the fee regulations and CMP water quality standards.

A new N.J.A.C. 7:50-1.6(e)2 is being added to specifically address fees for development applications that are submitted to resolve an identified violation of the CMP. One example of such a violation is when an approved development encroaches on wetlands or required wetlands buffer areas. More frequently, violations involve development (e.g., clearing, construction of accessory structures) without prior application to the Commission or approval by the relevant municipality. When such a violation is identified, the landowner is usually required to submit an application for development to the Commission for the clearing, construction or other activity that occurred without proper application and permits. Often, the landowner has already applied to the Commission for additional development on the parcel and the prior violation is identified in the course of the Commission's review. In such cases, under the CMP's current fee regulations, the applicant is required to amend his or her application to include the development that is the subject of the violation, with a corresponding fee calculated in accordance with the CMP's normal fee structure. It is this fee that would be doubled under the proposed amendments. The fee increase is proposed to recognize the additional amount of staff time and resources required to identify, evaluate and resolve violations. Multiple site visits are often necessary, as are meetings with applicants, their representatives and concerned municipal officials. Often, applicants are required to design and submit restoration plans, which then must be reviewed and sometimes monitored by the Commission. The increased fee is in no way intended to be punitive. It is merely a way of ensuring that fees for various types of development applications appropriately correspond to the amount of staff resources required to address them.

In many cases, the increased fee will not be significant. For example, a small (200 square foot) addition to an existing, unsewered commercial use might dictate an application fee of \$300 under the proposed fee regulations. If that addition were constructed without application to the Commission, it would constitute a violation of the CMP and require a fee of \$600 under the proposed amendment. The same fee requirements would apply to the establishment of a second dwelling unit within an existing home or accessory structure. The majority of fees paid in association with applications to resolve violations in the past several years have been less than \$500. There have, however, been several “large” violations in recent years, involving the construction of new or expanded nonresidential uses of significant size. In these cases, the increased fee requirement could likewise be significant. Given the amount of work required to address and resolve such large violations, however, the Commission believes the increased fee is entirely appropriate.

It should be emphasized that the maximum application fees specified in what will now be N.J.A.C. 7:50-1.6(e)3 and 4 (\$50,000 for private development; \$25,000 for public development) will continue to apply. Likewise, the maximum application fee for a qualified tax-exempt religious association or non-profit organization will remain at \$500, as specified at N.J.A.C. 7:50-1.6(g). In addition, it is important to remember that application fees for public development are half those for private development. This distinction will remain unchanged and will be factored in to the calculation of the fee required in association with an application to resolve a violation.

N.J.A.C. 7:50-1.6(h)1 is being amended to clarify the circumstances under which a fee is assessed for an amended Letter of Interpretation (LOI) involving Pinelands Development Credits (PDCs). PDCs are transferable development rights that are allocated to certain properties within

the Pinelands Area. An official allocation, determined by the Commission through an LOI, is valid for two years under the current regulations and is a prerequisite for property owners to sell their PDCs. No fee is assessed when a property owner initially requests an LOI for an allocation of PDCs or seeks to have an expired allocation re-issued. However, a fee is required when a property owner who has a valid LOI for PDCs decides to request an amended allocation because, for example, s/he decides to add or remove lands from the allocation or reserve the right to build additional homes on the property. In those cases, a fee is assessed pursuant to N.J.A.C. 7:50-1.6(h)1 to recognize the additional work that is required of the Commission. Amendments to this section are proposed to clarify that the fee for an Amended LOI applies when that application is submitted during the period of time when the original LOI is still valid. LOIs are now valid for five years, pursuant to the September 2014 CMP amendments mentioned previously. Therefore, the proposed amendment to N.J.A.C. 7:50-1.6(h)1 specifies that there will be a fee for an Amended LOI requested within five years of issuance of the original LOI. Requests for renewed or amended LOIs after an LOI has expired do not incur a fee.

A new N.J.A.C. 7:50-1.6(l) is being added to specifically address fees associated with general development plan applications. The Municipal Land Use Law (N.J.S.A. 40:55D- 45.1) provides developers with the option of seeking general development plan approval for what are commonly viewed as “large” projects, those involving 100 or more acres, or, if less than 100 acres, 150,000 square feet of nonresidential floor area or 100 or more residential units. The general development plan process is based upon submission of conceptual plans to a municipal planning board prior to any application for site plan or subdivision approval. Once the planning board grants general development plan approval, the developer has the right to develop the property in accordance with that approval, regardless of any subsequent changes in municipal

zoning. This period of protection can extend for as long as 20 years. Ultimately, municipal site plan or subdivision approval is still required; however, the general development plan process provides both the developer and the municipal planning board with the ability to discuss and review large projects at the concept stage, prior to the submission of detailed plans.

The CMP's current application fee regulations do not distinguish between general development plans and more traditional development applications that require municipal site plan or subdivision approval. As a result, the application fee for a project that will be seeking general development approval from a municipality is currently based on the number of proposed residential units and the construction costs associated with any nonresidential component. These fees presume full Commission review of the submitted application, including detailed stormwater calculations and threatened and endangered species surveys. Because general development plan applications normally do not include this level of detailed information, this has led to a requirement for submission of a significant application fee, at an inappropriate stage in the application process. The proposed amendment would require 50% of the application fee be paid upon initial submission of an application involving a general development plan to the Commission. The remainder of the fee would be due when the applicant returns to the Commission seeking a new Certificate of Filing or Certificate of Completeness for a particular phase of the development, prior to obtaining preliminary or final subdivision or site plan approval from the municipality or county. At that time, more detailed information would be provided to the Commission as part of the application. If the number of units or nonresidential square footage in any phase of the development varies from what was contained in the general development plan approval, the required fee would be recalculated with those revised numbers in mind. This fee structure and process will allow the Commission to conduct an initial review of

the application in its concept stage, with a more in-depth review conducted at a later date when detailed development plans are submitted for individual phases of the project.

The Commission has seen few general development plan applications over the years. However, in each case, questions have been raised about the need for an application to the Commission at all, the amount of any required fee, and the information that must be submitted as part of the application. The Commission believes it is worthwhile to eliminate any confusion about whether an application is required and, further, to structure the required application fee so that it appropriately recognizes the level of staff review required at each stage of the project. Just as a general development plan and its municipal approval will be “phased” over time, the Commission’s fee structure and review for this type of project will also be phased.

The following chart compares current and proposed fees for several illustrative development applications. For the listed nonresidential projects, estimated construction costs were used to generate the examples.

Development Application	Current Fee	Proposed Fee
1 single family dwelling	\$200	\$300
50 lot residential subdivision	\$11,150	\$16,725
15,000 square foot retail building	\$18,750	\$28,125
20 acre resource extraction application	\$2,100	\$3,150
3 acre solar energy facility	\$10,000	\$3,000
Municipal recreational improvements, developed in violation of the CMP	\$1,600	\$4,800

The actual amount of revenue received in the future will be a function of the number and type of development applications submitted to the Commission each year and, of course, the Commission's staffing levels. It is impossible to project the exact impact of these proposed amendments. Nearly all fees will increase; however, fees for solar energy facilities will significantly decrease. Also, those applications that were required to submit the maximum fee under the current regulations will be required to submit that same amount under the proposed amendments. No increase in fee revenue can be attributed to those applications.

At the time the 2008 fee amendments were adopted, the Commission's conservative estimate was that fee revenue might increase by 28 percent, thereby allowing the Commission to recoup 42% of its permit expenses. In actuality, in the year following adoption of the 2008 fee amendments, fee revenue increased by only 19 percent, which in turn meant that only 39% of permit expenses were recouped that year. A reasonable, conservative estimate of the impact from the currently proposed amendments rules might be a 33% increase in fee revenue. This would equate to an approximate \$150,000 increase in fees per year, if the number and type of applications for development remains consistent with what was received in recent years. If the Commission's permit expenses remained the same, nearly 70% could be recouped from fee revenue. While this may appear to be a large percentage, it is important to note that any permit expenses that are not recouped by application fees have to be financed by other revenue sources, almost exclusively state funding. If applicants funded more of the Commission's expenses related to the review of their own applications, an increased amount of this state funding could be used to accomplish other worthy projects.

Escrows

Pursuant to N.J.A.C. 7:50-1.7, the Executive Director of the Commission is currently authorized to require applicants to provide escrows to assist in the Commission's review of development applications or other matters pending before the Commission that involve complex issues (e.g., comprehensive plans for local communications – cellular - facilities). Escrow funds may be used to reimburse the Commission for the costs it incurs as a result of retaining consultants, expending a considerable amount of staff time or developing, implementing and monitoring an intergovernmental memorandum of agreement. The amendment being proposed at N.J.A.C. 7:50-1.7 would provide the Executive Director with the ability to utilize the escrow funds to purchase software and other equipment necessary for review of a development application or memorandum of agreement.

Since their incorporation in the CMP in 2004, the escrow provisions have been utilized only a handful of times. The proposed amendment does not expand the types of applications or matters for which an escrow can be required, nor will the amendment make it more likely the Commission will choose to require an escrow. The amendment merely adds software and other equipment in the list of items that can be purchased with escrow funds. It provides the Commission with the flexibility to purchase software and complete the review of a complex development application itself, perhaps negating the need to identify and hire a consultant to do the same work. For example, the Commission might need to purchase GIS-based computer software capable of performing viewshed analyses to determine whether particular towers proposed as part of a comprehensive plan for local communications facilities comply with the visual impact and scenic standards of the CMP. As is the case under the current regulations, any

funds remaining in the escrow account after the Commission has rendered its decision on the matter pending before it will be returned to the entity who initiated the matter.

Definitions

A definition of “electronic message display” is being added at N.J.A.C. 7:50-2.11 to clarify the term as it relates to the amended sign standards proposed herein at N.J.A.C. 7:50-6.109.

The definition of “immediate family” in N.J.A.C. 7:50-2.11 is being modified so that it refers to “spouses” rather than “husbands and wives” and includes “domestic partners”.

The definition of “interested person” in N.J.A.C. 7:50-2.11 is being changed to “interested party”. It is also being reworded to clarify that it refers only to a person or entity who has either submitted an application for development to the Pinelands Commission or who has a particularized property interest sufficient to require a hearing on constitutional or statutory grounds. This amendment is being made to better align the CMP with the 1993 amendments to the Administrative Procedure Act, which limited the right to third party hearings and withdrew authority from state agencies to confer a right to an Office of Administrative Law hearing by rule or regulation. The CMP currently uses the term “interested person” in the broadest possible sense, encompassing anyone who testifies at a public hearing, submits written comments or simply is curious about the Commission’s actions. The above-described amendment is being made to clarify who has the right to formally participate in the decision-making process, request

hearings or appeal the Commission's decisions. In order to reflect the revised definition and ensure that ample opportunities remain for other individuals and organizations to remain informed of the Commission's proceedings and decisions, amendments are being made throughout N.J.A.C. 7:50-4 (4.15, 4.19, 4.20, 4.22, 4.23, 4.25, 4.26, 4.35, 4.37, 4.38, 4.40, 4.41, 4.53, 4.54, 4.55, 4.56, 4.66, 4.67, 4.68, 4.73, 4.74, 4.79 and 4.91), as well as to N.J.A.C. 7:50-6.64 and 9.7. As these amendments make clear, the Commission will continue to provide copies of documents and otherwise notify those individuals who have submitted information on a particular application or matter, requested copies of the Commission's decision on a particular application or matter or registered in accordance with N.J.A.C. 7:50-4.3(b)2i(2) to receive copies of all Commission hearing notices. There will be no change in the information provided by the Commission to these individuals. They will merely no longer be referred to as "interested parties" in the legal sense.

A definition of "mail" is being added at N.J.A.C. 7:50-2.11, to make clear that when the CMP requires the Commission to provide information to municipalities, applicants or the public by mail, either regular mail or email will be acceptable means for doing so. In recent years, the Commission has increasingly used email as its preferred method of communication but has been prevented from doing so in certain circumstances by the language in the CMP, which requires the use of regular or certified mail. This has led to inefficiencies in various procedures, primarily involving the review of development applications, as well as the unnecessary expense associated with use of certified mail. Originally drafted in the early 1980's, the CMP simply did not recognize email as a possibility. Given that it is the manner in which the Commission and the regulated community increasingly communicate, an amendment to the CMP is warranted.

The definition of “off-site commercial advertising sign” in N.J.A.C. 7:50-2.11 is being modified to “off-site signs” and includes an expanded list of advertising topics that would constitute such a sign. The modification in terminology was made to remove the distinction between non-commercial and commercial off-site signs as CMP sign regulations, proposed for amendment at N.J.A.C. 7:50-6.106 through 6.109, do not make such a differentiation in their application.

The definition of “sign” in N.J.A.C. 7:50-2.11 is being modified so as to remove any implicit exemptions from the signs standards in the CMP.

Application Exemptions

N.J.A.C. 7:50-4.1(a) includes a list of activities that do not require application to the Commission. Two of these “exemptions” are being clarified and one is being deleted.

First, N.J.A.C. 7:50-4.1(a)4 is being revised to include a reference to the types of off-site signs for which applications to the Commission are required. Standards for these off-site signs are being relocated to proposed N.J.A.C. 7:50-6.108(a)3, 4 and 5. The term “off-site commercial advertising sign” is being changed to simply “off-site sign” for the reasons provided above in the discussion of proposed definitions. All on-site signs are and will continue to be exempt from application requirements.

Second, the exemption for prescribed burning and clearing and maintaining of fire breaks at N.J.A.C. 7:50-4.1(a)17 is being clarified. Both activities will remain exempt from application to the Commission, provided they are conducted to control and reduce the threat of wildfire. The term “fire break” is being replaced with a more quantitative standard that will be easier to administer. Under the revised exemption, linear clearing of vegetation, up to six feet in width,

will be exempt from application to the Commission, as will the maintenance of such cleared areas and vegetation.

Finally, N.J.A.C. 7:50-4.1(a)6 is being deleted. This section, added to the CMP in 1994, was intended to exempt the installation of certain utility distribution lines from the application requirements of the CMP. Specifically, utility distribution lines to serve effectively developed areas or development that has received all necessary approvals and permits were to be exempt from application to the Commission. While in theory this exemption made sense, in practice, it has proved to be unworkable. The Commission has decided to delete the exemption, in part because it has so infrequently been useful, but also because the Commission believes the installation of all utility distribution lines warrants review to ensure consistency with CMP standards.

Notice and Mailing Requirements

Various sections of the CMP require the Commission's transmission of notices and other documents via certified mail. Other sections require that municipalities provide certain information to the Commission via certified mail. The Commission would prefer to communicate with applicants, municipalities and the general public via email as much as possible, as it is a more efficient, less expensive method of transmitting information. Therefore, N.J.A.C. 7:50-3.24(c), 4.3(b)2i(1), 4.18(d) and (e), 4.19(b), 4.22(b), 4.25(b), 4.35(d) and (e), 4.37(b) and 4.40(b) are being amended to delete the requirement for use of certified mail. These sections will now specify only that information (notices, copies of various documents) be mailed by or to the Commission, opening up the possibility for use of email as well as regular mail. In most cases, the Commission will elect to transmit information via email and it will certainly

encourage municipalities to do so as well. Certified mailings will not be eliminated entirely as there may still be instances where the Commission determines the use of certified mail to be necessary. The proposed amendments will provide the Commission (and municipalities) with the ability to choose the most appropriate method of communication.

The Commission is also proposing to revise its notice requirements for various types of public hearings. These notice requirements, set forth in N.J.A.C. 7:50-4.3(b)2i, apply to hearings held by the Commission on municipal and county master plans and land use ordinances, amendments to the CMP, intergovernmental memoranda of agreement and comprehensive plans for local communications facilities. In each case, the Commission is proposing to delete the requirement for newspaper publication of the hearing or petition notice and add a requirement for posting of the notice on the Commission's website. The latter reflects the Commission's current practice. The former reflects the fact that publication of a hearing notice for one day in a newspaper is of decreasing value as newspaper circulation continues to decrease and the public increasingly relies on the Internet for information. In recent years, the Commission's five officially designated newspapers have been reduced to four as one is no longer in publication. Public hearing notices will continue to be transmitted to municipalities, counties and other interested parties via email. Hearing notices will continue to be posted on the Commission's website, a posting that remains available every day, in many cases for weeks in advance of a public hearing. The elimination of newspaper publication will save time and money for the Commission by eliminating advertising costs and the need to juggle different publication deadlines for the various newspapers that serve the Pinelands region.

There may still be instances where the Commission determines newspaper notice is appropriate. In such cases, the Commission retains the authority to publish a hearing notice in the

newspaper. It will simply no longer be an automatic requirement for every public hearing held by the Commission. It should also be noted that the proposed amendments do not affect other notices that the Commission may continue to publish in the newspaper, such as its monthly meeting schedule.

The Commission is also proposing to amend the requirements and procedures for public hearings on waivers of strict compliance that are being considered to address compelling public needs. Although such waiver applications are rare, the Commission believes that when they do occur, it should be the Commission's obligation, rather than the applicant's, to schedule and provide notice for the public hearing required pursuant to N.J.A.C. 7:50-4.66(i). Therefore, N.J.A.C. 7:50-4.3(b)2ii(2) is being revised and new language is being added at N.J.A.C. 7:50-4.3(b)2i(5) to specify that notice will be provided by the Commission for this type of public hearing. Amendments are also proposed at N.J.A.C. 7:50-4.66(d) to require that when an applicant provides notice of the filing of a compelling public need waiver with the Commission, that notice state that a public hearing will be held at a future date and will be publicized on the Commission's website. Finally, N.J.A.C. 7:50-4.66(i) is being amended to eliminate the sentence that required the applicant to give notice of hearings.

Other notice requirements for applicants are also being amended. Specifically, N.J.A.C. 7:50-4.3(b)2ii(3) and (4) are being eliminated so that applicants will no longer be required to publish notices in the newspaper of pending development projects or post copies of public notices on the property where development is proposed or a resource is proposed for designation pursuant to N.J.A.C. 7:50-6.154. As explained above, newspaper notices are of such decreasing utility that the Commission believes this requirement should no longer apply to the Commission or its applicants. Likewise, although the requirement for posting of notice on affected properties

is a common one, originally taken from the Municipal Land Use Law and incorporated in the CMP decades ago, the Commission has come to realize that such notices are of little value in a large rural area such as the Pinelands Area. In general, people are driving by properties proposed for development or designation, not walking, and therefore have little to no opportunity to read the public notices. Applicants will continue to be required to provide notice to counties, municipalities and adjacent landowners. The Commission believes this will suffice.

The Commission is also proposing to amend the notice requirements for amendment petitions set forth at N.J.A.C. 7:50-7.3(c) and 7.5(b) to be consistent with the above-described revisions. Specifically, N.J.A.C. 7:50-7.3(c)1iii and (c)2 are being amended to eliminate the petitioner's obligation to publish notice of the filing of a petition in the newspaper. N.J.A.C. 7:50-7.3(c)iv is being amended to delete the requirement for posting of such notices on an affected property. N.J.A.C. 7:50-7.5(b) is being amended to require the Commission to post notices of petition on its website.

One final amendment of note to the notice and hearing procedures in N.J.A.C. 7:50-4.3 involves N.J.A.C. 7:50-4.3(e)3. This section of the CMP currently states that all decisions and orders of the Executive Director or the Commission shall be considered rendered three days after notice has been deposited in the United States Mail. In keeping with the above-described amendments related to the definition of "mail," the term "United States Mail" is being replaced with "mail" to allow for transmission of notices via email. This section is being further clarified through the addition of a sentence indicating that for purposes of computing the three day period after which decisions are considered rendered, the date the notice is mailed shall not be included in the calculation. The appeal procedures in N.J.A.C. 7:50-4.91 are also being amended to clarify that interested parties have 15 days from the date the Executive Director's decision is

considered rendered pursuant to N.J.A.C. 7:50-4.3(e) to provide notice to the Commission of their intent to appeal.

Requirements of Local Approval Agencies

N.J.A.C. 7:50-4.18 and 4.35 set forth the requirements that local approval agencies (e.g., municipal Planning Boards) must meet with respect to providing information to the Commission related to various applications for development. Pursuant to N.J.A.C. 7:50-4.18(d) and 4.35(d), local approval agencies are required to provide notice to the Commission of all preliminary site plan, subdivision or other preliminary approvals. The required notice must include such information as the name and address of the applicant, the legal description of the parcel proposed for development, the date of the preliminary approval and a copy of the approval itself, including the approved preliminary plans and any written reports received by the local approval agency on the application. As noted previously, the requirement that these notices be transmitted to the Commission via certified mail is being eliminated so that local approval agencies will be able to use regular mail or email. In addition, N.J.A.C. 7:50-4.18(d)7 and 4.35(d)7 are being eliminated so that local approval agencies will no longer be required to submit the names and mailing addresses of all persons who participated in the local proceedings (e.g., commented on a subdivision application at a municipal Planning Board meeting) to the Commission. Likewise, the requirement for Commission notification of the participating individuals as to the Executive Director's or Commission's decisions on applications is being deleted from N.J.A.C. 7:50-4.19(b) and (c), 4.20(a), 4.22(b), 4.23, 4.25(c), 4.26(a), 4.37(b) and (c), 4.40(b) and 4.41. Originally thought to be a good way of keeping the Commission and public informed of each other's interest in a particular application, implementation of this requirement has proven, over

time, to be cumbersome and ineffective. Individuals who testify at local Planning Board meetings often do not provide their addresses, thereby making it difficult, if not impossible for the municipality to comply with the notice requirements. This results in incomplete submissions, which in turn causes delays in the Commission's review process. The required submission of names and addresses also creates the false impression that the Commission will review and address the concerns raised by individuals at municipal proceedings. Because only the contact information for these individuals is provided by the municipality, the Commission is generally unaware of the nature of their concerns, comments or interest in the relevant application. When the Commission is made aware of the concerns that were raised, they frequently relate to matters outside the Commission's jurisdiction (e.g., a side yard setback requirement or height of a proposed fence). There is little the Commission can do beyond providing copies of letters evidencing the results of its review of an application.

Persons who wish to be informed of the Commission's review or decision on a particular application will still have ample opportunity to obtain this information. They need only call or email the Commission to request a copy of the Commission's written decision, or, if they have a general interest in all matters pending before the Commission, register pursuant to N.J.A.C. 7:50-4.3(b)2i(2) to receive written copies of all hearing notices. In addition, persons who have submitted information to the Commission concerning a particular application will continue to be provided with copies of the Commission's decision on that application. It is only the automatic requirement for notification of any person who participated in a municipal or other local proceeding that is being eliminated.

N.J.A.C. 7:50-4.35 is being further amended by deleting the term "notice of filing" from the list of items that must be included when a municipal approval agency makes a submission to

the Commission (see N.J.A.C. 7:50-4.35(b)4, 4.35(c)2, 4.35(d)3 and 4.35(e)3). Notices of filing were documents issued by the Commission's Executive Director for a limited category of applications (single family dwellings and other minor development) beginning in 1987. In 1994, however, the notice of filing process was deleted from the CMP in favor of the alternate permitting procedures now codified at N.J.A.C. 7:50-3, Part VIII. Notices of filing have not been issued by the Executive Director since that time. Therefore, references to notices of filing are being deleted from the above-listed sections as well as from N.J.A.C. 7:50-4.36(a)1, 4.39(a)3 and 4.81(b) to ensure consistency with current CMP procedures and standards.

Finally, N.J.A.C. 7:50-4.17, 4.33 and 4.34 are being amended to clarify that local permitting agencies may not deem applications for development in the Pinelands Area to have been submitted unless such applications are accompanied by Certificates of Completeness or Certificates of Filing issued by the Commission or other evidence of Commission review. Previously, these sections specified only that local permitting agencies could not deem applications for development in the Pinelands Area to be complete without the afore-mentioned documentation from the Commission. The Municipal Land Use Law was amended in 2010 to specify that development regulations in effect at the time of submission of an application for development to a municipality will continue to govern the review of that application (see N.J.S.A. 40:55D-10.5). Questions then arose as to the applicability of this municipal "time of application" provision in the Pinelands Area, where applicants are required to submit and complete applications with the Commission before doing so at the municipal level. The proposed amendments make clear that development applications in the Pinelands Area may not be deemed to have been submitted in accordance with N.J.S.A. 40:55D-10.5 until such time as they have been filed and completed with the Commission, as evidenced by the Commission's issuance of

one of its completeness documents (a Certificate of Filing in a municipality whose master plan and land use ordinances have been certified by the Commission as being in conformance with the CMP; a Certificate of Completeness in a municipality whose plan and ordinances have not been certified).

Expiration of Waivers

The Commission is proposing to amend N.J.A.C. 7:50-4.70 to establish an expiration date for waivers of strict compliance issued between 1981 and March 1992 for purposes of alleviating extraordinary hardships. Waivers are somewhat similar, although not identical, to zoning variances that municipalities are authorized to grant under the Municipal Land Use Law. Unlike variances, however, waivers of strict compliance are exemptions from CMP standards and can only be granted by the Commission.

The Commission believes it is necessary to periodically reevaluate the conditions under which waivers are granted to ensure that changing environmental conditions and subsequent amendments to the CMP are considered. The waiver regulations were significantly revised in March 1992. Those 1992 regulations established a five-year expiration period for waivers granted under the new regulations to alleviate extraordinary hardships. However, extraordinary hardship waivers granted by the Commission under the prior regulations were not made subject to the new expiration provisions. Although it made sense at the time to “exempt” previously approved waivers from the expiration provisions, these waivers are now 25 to 35 years old. The Commission believes ample time has been provided for a property owner to proceed with development of home in accordance with an approved waiver.

Therefore, N.J.A.C. 7:50-4.70(e) is being amended to establish an expiration date for extraordinary hardship waivers granted under the pre-1992 CMP waiver regulations. These waivers will now expire one year from the effective date of the CMP amendments. The existing language in N.J.A.C. 7:50-4.70(e), which provided a limited number of applicants with the option of requesting that their active waiver applications be reviewed under the pre-1992 CMP waiver regulations, is being deleted as it is no longer applicable.

The Commission estimates there are approximately 200 waivers that could be affected by the proposed amendments. These waiver approvals, issued between 1981 and March 1992, were almost exclusively for the development of one home on an existing lot. They all involve instances where, according to the Commission's records, a waiver of strict compliance was approved but the applicant did not subsequently pursue or complete a development application or obtain a municipal building permit to develop the approved home. The Commission will make every effort to contact these affected applicants and property owners and advise them of the pending waiver expiration and their options. Some may be able to complete development applications and receive municipal building permits within the necessary time period. Others may need to reapply for new waivers, in which case their waiver applications will be processed by the Commission in accordance with current CMP waiver standards and procedures. In some cases, the properties may no longer be eligible for extraordinary hardship waivers so the waiver requests will have to be denied. Properties for which waivers are denied may then become eligible for State acquisition under the Limited Practical Use program administered by the New Jersey Department of Environmental Protection. In other cases, a waiver approval may be feasible, but, based on the 1992 waiver regulations, the purchase and redemption of Pinelands Development Credits will now be required. There may also be instances where a waiver for on-

site development is no longer be possible due to environmental limitations, in which case Pinelands Development Credits may be allocated.

It is also worth noting that many of the affected waivers were granted in the early 1980s, prior to the Commission's certification of many municipal master plans and land use ordinances. Numerous changes in zoning and Pinelands management area designations were made during that original conformance process. For example, lands originally designated as a Forest Area by the CMP could have been redesignated to a Rural Development Area through the Commission's certification of a municipal zoning map. Permitted density in the Rural Development Area is significantly higher than that permitted in the Forest Area. If a waiver was originally required because a property did not meet the lot area or density requirements for a Forest Area, it may no longer be necessary now that the property is in management area and zone where more intensive development is permitted.

It is important to note that only those waivers granted to relieve an extraordinary hardship will be impacted by these amendments. Waivers granted to satisfy a compelling public need will continue to have no expiration date.

Landfills

The CMP (N.J.A.C. 7:50-6.75(c)) requires that landfills in the Preservation Area that ceased operation on or after September 23, 1980 be permanently covered with an impermeable cap. Landfills in the Protection Area that ceased operation on or after January 14, 1981 are subject to the same requirement. An impermeable landfill cap prevents stormwater from percolating into the buried refuse, thereby significantly reducing the discharge of landfill leachate into ground water and nearby surface water bodies. Prior to the adoption of the CMP,

more than 60 sanitary landfills operated in the million-acre Pinelands Area. With only one exception, all of these facilities ceased operations on or after January 1981 at the direction of the New Jersey Department of Environmental Protection (NJDEP) and as a result of the implementation of the CMP. The Cape May County Municipal Utilities Authority's Landfill is the only exception. It currently operates pursuant to N.J.A.C. 7:50-6.75(i) and is equipped with leachate collection, gas venting and impermeable capping systems.

N.J.A.C. 7:50-6.75(c) provides certain exemptions from the impermeable cap requirement. Specifically, landfills that accepted only vegetative or construction waste are not required to have impermeable caps (N.J.A.C. 7:50-6.75(c)1), nor are landfills that are not generating a leachate plume (N.J.A.C. 7:50-6.75(c)3). In addition, applicants may seek to demonstrate that an alternative means of addressing public health and ecological risks is available and will afford an equivalent level of protection to Pinelands resources (N.J.A.C. 7:50-6.75(c)2). The Commission has always interpreted this section to mean that the "alternative means of addressing the public health and ecological risks associated with a landfill" may include no landfill cap at all. Over time, however, questions have been raised so the Commission believes a clarification would be useful. To that end, the Commission is proposing a new N.J.A.C. 7:50-6.75(c)4 that will clearly exempt from the impermeable capping requirement landfills for which a leachate plume exists but poses no significant public health risk and no significant ecological risk to wetlands. This is not a change in policy; rather, it is a clarification of the circumstances under which an impermeable cap will not be required.

As is the case now, the NJDEP will be responsible for determining whether a significant public health risk exists and the Commission will determine whether a significant ecological risk to wetlands exists. Both agencies will be aided in these determinations by the results of the

Commission's recently completed Rapid Landfill Assessment, which uses existing NJDEP landfill monitoring data and GIS land feature data as part of a screening tool developed by the USGS New Jersey Water Science Center to quantify the level of concern posed by contaminants from Pinelands landfills that lack leachate reduction and containment controls. Completed in 2014, the screening tool uses a model to estimate concentrations of contaminants reaching receptors such as wetlands and existing homes. Details on the landfill assessment and screening tool are available on the Commission's website at <http://www.nj.gov/pinelands/landuse/current/rapid/>

Water Quality

Amendments are being proposed at N.J.A.C. 7:50-6.84(a)5 to accomplish two objectives: (1) recognize the successful participation of the FAST wastewater technology in the Commission's Alternate Design Wastewater Treatment Systems Pilot Program; and (2) provide an opportunity for the use of advanced treatment systems, such as FAST, for certain nonresidential uses in the Pinelands Forest, Agricultural Production and Rural Development Areas.

The FAST technology was one of five advanced treatment systems authorized for residential use in the Pinelands Area pursuant to the Commission's Alternate Design Wastewater Treatments Systems Pilot Program. Established in 2002 through an amendment to the CMP (see 34 N.J.R. 2804(b)), the pilot program was implemented to provide a means to test whether the five identified technologies could be maintained and operated so as to meet the water quality standards of the CMP in a manner that a homeowner could be reasonably expected to follow.

Implementation of the Pilot Program commenced on August 5, 2002, with the first pilot program treatment system installed and brought on line in April 2004.

Since that time, one of the five technologies (Ashco) was removed from the pilot program due to its commercial unavailability in the Pinelands. Another (Cromaglass) was removed from the pilot program in 2014 because it failed to demonstrate compliance with CMP water quality standards. Two others, Amphidrome and Bioclere, were able to demonstrate compliance and, in 2010, were released from the pilot program and granted permanent approval status for residential use on lots of at least one acre in size. Finally, in the 2014 and 2015 annual reports on the pilot program, the Executive Director recommended that the last of the original pilot program technologies, the FAST system, also be granted permanent approval status, subject to special administrative controls. The Executive Director found that the pilot program has demonstrated that the FAST technology, with proper operation and maintenance, is capable of meeting the water quality objectives of the Pinelands CMP and the Pinelands Protection Act. In the 2016 annual report¹, the Executive Director clarified that each FAST system, when used to serve residential development, would need to be located on a parcel of at least 1.4 acres in size in order to meet CMP water quality standards. A copy of the 2015 annual report is available on the Commission's website at

<http://www.nj.gov/pinelands/landuse/current/altseptic/2015%20FINAL.%20SEPTIC.PILOT.PROGRAM.ANNUAL.REPORT.pdf>

Based on this recommendation, the Commission is proposing to amend the CMP to authorize the use of the FAST technology on a permanent basis, subject to long-term management of the systems via service contracts with qualified service technicians. To that end,

¹ The 2016 annual report will be released and posted on the Commission's website in August 2016, at which time the references and links in this paragraph will be updated.

a new N.J.A.C. 7:50-6.84(a)5iv2(B) is being added to allow for the use of the FAST technology for residential development on lots of at least 1.4 acres in size (or at a density not to exceed one unit per 1.4 acres of land). Existing N.J.A.C. 7:50-6.84(a)5iv2(A) is being revised to clarify that it applies only to the Amphidrome and Bioclere technologies, which continue to be authorized on lots of one acre in size. Use of the FAST system will be subject to a series of requirements, including mandatory recording of deed notices, conveyance of an approved operation and maintenance manual to the homeowner, compliance with construction standards, as-built certifications, alarm requirements, system warranty requirements and renewable operation and maintenance service agreements. These requirements, set forth at what will now be N.J.A.C. 7:50-6.84(a)5iv(2)C through (J), are identical to those that apply to the Amphidrome and Bioclere technologies. They are similar to those imposed under the pilot program, except that no water quality testing is required. The Commission believes retention of these safeguards for the three permanently authorized advanced treatment systems (Amphidrome, Bioclere and now FAST) is necessary to ensure their continued performance in a manner that meets CMP water quality standards.

N.J.A.C. 7:50-10.21(c), 10.22(a)3 and 4, 10.23(c), 10.23(d) and 10.23(i) are also being amended to reflect the Commission's decision to authorize the FAST treatment technology to be used on a permanent basis, subject to the provisions of proposed N.J.A.C. 7:50-6.84(a)5iv(2)(B)-(J).

The above-described amendments relative to the FAST technology apply to residential development throughout the Pinelands Area. The Commission is also proposing to further amend N.J.A.C. 7:50-6.84(a)5 in order to expand opportunities for the use of advanced treatment technologies, such as FAST, for nonresidential development. Since 1987, advanced treatment

systems have been permitted to serve nonresidential development only in the growth-oriented areas of the Pinelands, namely, the Regional Growth Area, Pinelands Villages and Pinelands Towns, and in small infill areas within the Preservation Area District. Given its successful experience over the years with evaluating advanced treatment systems proposed for various types of commercial uses in the Pinelands Area, the Commission believes it is now appropriate to allow the nonresidential use of advanced treatment systems in additional Pinelands management areas, subject to a number of important conditions.

Therefore, proposed N.J.A.C. 7:50-6.84(a)5iii(2) is being added to authorize the use of advanced treatment systems for certain nonresidential development in the Rural Development Area, Forest Area and Agricultural Production Area. Pursuant to proposed N.J.A.C. 7:50-6.84(a)5iii(2)(A), the proposed nonresidential development must constitute expansion of a nonresidential use that was in existence on January 14, 1981, the effective date of the CMP. The change of such an existing use to another permitted nonresidential use will also qualify. In either case, the existing nonresidential use must currently be using an on-site wastewater disposal system that does not reduce the level of nitrate/nitrogen in the waste water (N.J.A.C. 7:50-6.84(a)5iii(2)(B)) and the existing nonresidential use must be of such a size and scale that it does not currently comply with CMP water quality standards (N.J.A.C. 7:50-6.84(a)5iii(2)(C)). Finally, the proposed nonresidential development must not exceed 50 percent of the floor area, area of the use or the capacity of the existing nonresidential use on January 14, 1981 (N.J.A.C. 7:50-6.84(a)5iii(2)(D)).

The CMP does not permit sewer service in the Rural Development, Forest or Agricultural Production Areas, unless necessary to address a documented public health problem. Therefore, all development in these management areas must rely on some type of septic system and have

sufficient land area to comply with CMP septic dilution requirements. The use of a standard septic system can require approximately one acre of land for every 800-1,000 square feet of nonresidential floor area. Nonresidential uses constructed prior to the CMP are frequently located on lots that are too small to provide sufficient area for dilution. Under current CMP standards, expansion of such uses is only feasible when additional vacant, contiguous lands can be acquired and used for dilution purposes. Allowing these uses to install advanced treatment systems will serve two purposes. First, current and future waste water from the uses will be treated such that nitrate/nitrogen levels are reduced to comply with CMP water quality standards. Second, the existing uses will be able to expand or change to other nonresidential uses that might have increased waste water flows. The result will be improved water quality and a greater likelihood that pre-existing uses, often of great economic importance to the more rural communities of the Pinelands Area, will remain viable.

Two other amendments should be noted. First, N.J.A.C. 7:50-6.84(a)5iii(1) is being created to make clear that the use of advanced treatment systems for nonresidential development in Regional Growth Areas, Pinelands Villages and Pinelands Towns continues to be permitted without the above-described new conditions. This new subsection will now also reference Military and Federal Installation Areas. Second, nonresidential development in infill areas within the Preservation Area District will be subject to the new conditions specified at proposed N.J.A.C. 7:50-6.84(a)5iii(2). Although advanced treatment systems were previously permitted to serve nonresidential development in infill areas, the Commission believes it is appropriate that such development in this most sensitive of Pinelands management areas be limited, just as it will be in the Rural Development, Forest and Agricultural Production Areas. The impacts of this particular amendment are expected to be very limited, given that there are only five infill zones

in the Pinelands, they total less than 2,100 acres in size and are primarily intended for residential development.

It is impossible for the Commission to accurately estimate the number of existing businesses in the Rural Development, Forest, Agricultural Production and Infill Areas that might qualify for expansion through use of an advanced treatment system. There are only a handful of commercial and industrial zones in the Forest, Agricultural Production and Infill Areas and they are small in terms of land area. However, other scattered pre-existing uses do exist and could qualify. Most eligible nonresidential uses are likely to be in the Rural Development Area, which contains larger nonresidential zoning districts and serves as a transition area between the growth- and conservation-oriented areas of the Pinelands. The Commission does not expect that a large number of existing businesses in these areas will seek to use advanced treatment systems as a means of facilitating expansion, simply because the advanced treatment systems are not inexpensive. However, the Commission's hope is that several of the larger existing businesses will take advantage of the opportunity.

Septic Management

Amendments are proposed at N.J.A.C. 7:50-3.39(a)2x and 6.85(c) to remove from the CMP requirements for the municipal establishment of long-term maintenance programs for alternate design wastewater treatment systems. These requirements, added to the CMP in 2010, were originally intended to ensure that maintenance of alternate design systems would continue beyond the five year duration of the maintenance contracts required under the Commission's Alternate Design Wastewater Treatment System Pilot Program. Since that time, NJDEP has adopted regulations (see N.J.A.C. 7:9A-8.3 and 12.3) to require long-term maintenance and

monitoring programs for such wastewater treatment systems throughout the state. Therefore, the CMP requirements are duplicative and, therefore, no longer necessary. The Commission will continue to assist Pinelands counties and municipalities and the NJDEP with the establishment of maintenance and monitoring programs, including providing data on existing alternate design wastewater treatment systems in the Pinelands Area.

Signs

The fourth comprehensive review of the CMP recommended further inquiry into the signage standards of the CMP as they relate to new sign technologies. After a comprehensive review of the current CMP signage provisions, Commission practices, and best current practices in signage regulation, the Commission proposes to amend N.J.A.C. 7:50-6.106 through 6.109 in order to: clarify the signage standards of the CMP; delegate regulatory control of on-site signage to local municipalities; and to regulate the use of electronic message displays on off-site signs.

The Commission proposes to amend the section headings for N.J.A.C. 7:50-6.107, 6.108, and 6.109 to off-site signs, on-site signs, and provisions for permitted signs, respectively. These new section headings reflect a reorganization of CMP signage regulations into a more easily interpretable structure that more closely aligns with current practices for local municipal sign regulation.

The Commission proposes to delegate regulatory authority of on-site signs to the municipalities of the Pinelands Area (N.J.A.C. 7:50-6.107). Since the adoption of the CMP, Pinelands Area municipalities have been the primary regulators of on-site signs due to the exemption of on-site signs from CMP application requirements. This policy change is further supported due to the local scale of signage impacts and the ability of municipalities to better

adapt and respond in a timely fashion to evolving community values and new sign technologies. This amendment would also afford Pinelands Area municipalities the opportunity to regulate on-site business signs on an equal basis, regardless of the Pinelands management area wherein the business is located.

The Commission proposes to make clarifying amendments to provisions regulating off-site signs (N.J.A.C. 7:50-6.108). The proposed rules clarify which signs are non-conforming, and therefore, eligible to count towards a new off-site sign if removed, and which signs are unlawful, and therefore, ineligible to count towards a new off-site sign and must be removed immediately. Such non-conforming signs would only include those off-site signs that: (1) predate the CMP and (2) are located outside of the Regional Growth Area, Pinelands Towns, and prescribed areas of the Rural Development Area and Pinelands Villages. These changes reflect the current practices of the Pinelands Commission.

The Commission proposes to permit, at the option of the municipality, off-site signs with electronic message displays (N.J.A.C. 7:50-6.109). The proposed rules would prohibit use of electronic message display by non-conforming, off-site signs. For example, the CMP would not permit the conversion of an existing off-site sign in the Forest Area or Preservation Area District to an electronic message display. The allowance of such electronic message displays would not extend to those signs advertising agricultural commercial establishments because of their typical locations in Special Agricultural Areas and Agricultural Production Areas.

If a municipality opts to permit electronic message displays on off-site signs, the proposed amendment would require the municipality to adopt provisions controlling the message transition and duration between transitions. These rules are closely aligned with New Jersey Department of Transportation standards (N.J.A.C. 16:41C-11.1). Additionally, such

municipalities would be required to adopt some degree of brightness standards that would be reviewed by the Commission as part of the ordinance certification process. Lastly, these rules would require such signs to have a built-in automatic dimming technology that adjusts the sign's brightness to ambient light conditions.

The proposed rules for electronic message displays would only apply to off-site signs. Therefore, it would be at the discretion of the municipality to determine how to regulate on-site signs with regard to such technologies.

As the Commission 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.

Social Impact

No significant adverse social impact is anticipated as a consequence of the adoption of the proposed amendments. Society as a whole benefits from the protection of the Pinelands and the proposed amendments are designed to do just that. Any social impacts that do result are expected to be positive.

The proposed fee amendments are expected to have a positive social impact for New Jersey's taxpayers because the fees will, on a relative basis, reduce the need for general state funding to support the legislatively mandated permitting responsibilities of the Commission. In addition, society as a whole will continue to benefit from the protection of the unique resources of the Pinelands, the nation's first national reserve. The Pinelands Area is comprised of pine-oak forests, cedar swamps, extensive surface and groundwater resources of high quality, threatened and endangered species and other unique natural, ecological, agricultural, scenic, cultural and

recreational resources. The proposed amendments to the Commission's application fee schedule will help to ensure that the Commission has the resources necessary to undertake its statutorily mandated review of development applications to ensure that such projects adhere to the land use and environmental requirements of the Pinelands CMP. Applicants are also likely to avoid significant application processing delays that could occur if less revenue results in a significant reduction in resources dedicated to application reviews. On the other hand, applicants may also view these proposed rates in a negative light because the proposed amendments will increase their review costs.

The proposed decrease in development application fees for solar energy facilities could have a positive social impact if it encourages more landowners in the Pinelands Area to develop such facilities, thereby promoting sustainability.

The proposed escrow amendments are expected to have a positive social impact for New Jersey's taxpayers as they will reduce the need for the Commission to spend taxpayer money to purchase software or other equipment necessary to review the complex matters that are from time to time brought before the Commission by private or other public entities.

The proposed amendments to the Commission's hearing procedures, set forth at N.J.A.C. 7:50-4.3(b)2i, eliminate the need for publication of newspaper notices but continue to provide ample opportunities for public notice and involvement. Notices for all public hearings held by the Commission will be posted on the Commission's website and provided to relevant municipalities and counties at least 10 days in advance of any hearing. Notices will also continue to be provided to any member of the public who has asked to be included on the Commission's hearing registry, established pursuant to N.J.A.C. 7:50-4.3(b)2i(2). Such notices are provided free of charge via email to all persons on the registry, and at a small fee to cover the costs of

copying and postage if the notices must be sent via regular mail. Elimination of newspaper notices is not expected to reduce public awareness of or participation at hearings held by the Commission, nor is elimination of the requirement that certain hearing and other notices be posted on properties proposed for development.

The proposed clarifications to CMP landfill capping requirements may encourage more municipalities and other applicants to approach the Commission to discuss their landfill closure plans because they will have a better understanding of the circumstances under which an impermeable cap is not required. For those that qualify, proper closure of these old landfills may then proceed more quickly, which will have a positive social impact on the communities in which they are located.

The proposed amendments provide permanent approval status to the FAST advanced treatment technology because it has demonstrated, through participation in the pilot program, that it is capable of meeting Pinelands water quality standards when used to service residential development on lots as small as 1.4 acres. Adoption of the amendments will have a positive social impact by permitting the use of this proven technology on parcels between 1.4 and 3.2 acres in size, without the expense of water quality testing. The amendments do not in any way affect permitted residential densities or minimum lot size requirements in the Pinelands Area. Thus, no significant changes in land use patterns will result from the proposed amendments.

Economic Impact

The proposed amendments clarify and make a number of changes to the Commission's application fee requirements. Fees for solar energy facility applications will decrease, in some cases quite significantly. Fees for all other types of development applications submitted to the

Commission will increase, particularly those submitted to resolve identified violations of the CMP. It is difficult to predict the exact impacts of these amendments, as the actual amount of revenue generated by the Commission in the future will be a function of the number and type of development applications submitted to the Commission each year.

Because of the increased fees, the proposed amendments are expected to have a negative economic impact on most entities that submit development applications to the Commission. The following examples help to illustrate the impact of these proposed fee changes on several types of projects:

- A 50 lot residential subdivision will be subject to a \$5,575 fee increase, amounting to an additional cost of \$111 per lot;
- The fee for a 20 acre resource extraction (mining) proposal will increase by \$1,050 or \$53 per acre of land to be mined;
- A 15,000 square foot municipal building with an estimated construction cost of \$1,875,000 will be subject to a fee increase of \$4,688, or an additional cost of \$.31 per square foot.

Although the Commission views these as modest increases, it also recognizes that most applicants will view them in a negative light at a time when economic activity has slowed and other public agencies are themselves faced with financial constraints. However, it should be noted that unlike those of other state agencies, the Commission's fee schedule is not designed to recapture all of the Commission's permit-related expenses. As discussed in the Summary, the Commission expects that, if current application trends continue, as much as 70 percent of the Commission's permit-related expenses could be recouped through application fee revenue.

Alternatively, if the Commission is forced to significantly reduce the resources it devotes to application reviews because of lower revenues, applicants will also experience a negative economic impact due to delays in application review times.

The proposed amendments at N.J.A.C. 7:50-1.7 that allow the Executive Director to request escrows to cover the cost of software and equipment necessary to review a particular development application will increase costs for some private or public entities that seek the Commission's approval of various plans or agreements. These escrows will, however, better enable the Commission to handle these matters and complete its review procedures in a timely and informed manner. This should result in an improved and more efficient review by the Commission, partially offsetting the increased financial obligation of the applicant.

The Commission also expects there to be decreased costs to the Commission as a result of the efficiency measures implemented in the proposed amendments. In particular, eliminating the need to send certain documents via certified mail, as well as the requirement to publish certain legal advertisements in the newspaper, will save both time and money. In the past five years alone, the Commission spent approximately \$6,500 to send over 1,050 letters to applicants via certified mail pursuant to N.J.A.C. 7:50-4.37(b) and 4.40(b). Had those same 1,050 documents been sent via email, as would be permitted under the proposed amendments, there would have been no cost to the Commission. Had they been sent via regular mail, which would also be permitted under the proposed amendments, the expenditure of less than \$500 would have been required. Based on current development activity levels, it is estimated that the Commission could save as much as \$1,300 per year by eliminating certified mailing requirements. The proposed amendments also eliminate certified mailing requirements for municipalities; thus, there will be a cost savings for those entities as well.

Likewise, the economic impact of eliminating newspaper notices for various types of public hearings will be positive for the Commission, applicants and petitioners. It is estimated that the Commission spends an average of \$1,000 per year on the publication of such notices. By utilizing its website as the primary means of public notice, in addition to mailing or emailing copies of notices to municipalities, applicants and others interested in matters pending before the Commission, those publication costs would be eliminated. While not a huge savings, the Commission believes it has an obligation to eliminate unnecessary expenses and spend its limited resources in the most effective way possible. The Commission's website reaches a much broader audience than any single newspaper and it also allows for a public notice to be available for weeks at a time, rather than for one day in the newspaper. It should be noted that the Commission's elimination of requirements for newspaper notices could have a negative impact on those newspapers with circulation in the Pinelands Area. However, given that the Commission generally spends an average of only \$1,000 per year on such advertisements, and that such advertisements are usually published in just one of many different newspapers (the paper having circulation in the area in which a particular municipality or parcel is located), the impact should not be significant for any one newspaper.

The proposed amendments establish an expiration date for a certain category of waivers of strict compliance approved by the Commission between 1981 and March 1992. To the extent that property owners who received these old waiver approvals still intend to proceed with development (typically, the waiver approval involves one home), they may be negatively impacted if they do not complete applications for development and receive municipal approvals within the newly established time period. Some such property owners may be eligible to receive new waiver approvals under current CMP standards, but such approvals now carry with them a

requirement for the purchase and redemption of Pinelands Development Credits, representing an additional cost. Others may no longer be able to qualify for waivers and may need to pursue other options, such as acquisition by the state. All of these property owners, who have had at least 25 years to obtain development approvals in accordance with their waivers, will be notified by the Commission of the pending expiration date and their options.

The proposed amendments allowing for use of advanced treatment systems for certain nonresidential uses in the Rural Development, Forest and Agricultural Production Areas should have a positive economic impact. Under current CMP standards, these businesses are precluded from expansion because they do not currently meet CMP water quality standards. The amendments provide a new opportunity for up to 50 percent expansion of existing businesses that meet certain conditions and install an advanced waste water treatment system.

The flexibility granted to municipalities in the regulation of on-site signs may provide businesses opportunities to install more signage and/or utilize modern sign technologies in their advertising. The flexibility granted to municipalities in the regulation of off-site signs may provide additional revenues and business opportunities to the owners of off-site signs if permitted to convert to a sign with an electronic message display.

The proposed amendments release the FAST technology from the pilot program and grant permanent approval status to this technology. Granting of permanent approval status is expected to result in a positive economic impact to the residents of the Pinelands. Permanent approval means that the FAST technology will no longer be subject to laboratory analysis of treated wastewater discharged from this technology. The elimination of laboratory testing requirements is expected to result in cost savings to owners of a FAST system.

Environmental Impact

The Commission does not anticipate that the proposed amendments will have any negative environmental impact.

To the extent that increased fee requirements for applications necessary to resolve violations of CMP environmental standards serve as a deterrent to future violations, some might view that as a positive environmental outcome. Likewise, decreased fees for solar energy facilities may serve to encourage applicants to move forward with the development of such facilities, which is certainly of benefit to the environment.

The Commission does not anticipate that the proposed amendments to the Commission's application fee schedule will have any negative environmental impact. The proposed amendments do not modify the land use and environmental requirements of the CMP in any way. Applications for development will still need to demonstrate that they satisfy the land use and environmental standards of the Plan, as is the case now. To the extent that additional fee income helps the Commission maintain an acceptable level of resources to review development applications, some might view that as a positive environmental outcome.

Establishment of an expiration date for extraordinary hardship waivers approved between 1981 and March 1992 will have a positive environmental impact. While some property owners who received these waiver approvals will complete development applications and obtain municipal approvals to build, many others will not. They will then be subject to the current waiver standards and procedures of the CMP, which have changed significantly since March 1992. Waivers of certain environmental standards that were granted under the old waiver rules could not be granted under the “new” – March 1992 - waiver rules that remain in effect today. Significantly, waivers allowing the development of homes on undersized lots in the Forest and

Rural Development Areas are no longer feasible under the March 1992 regulations. Instead, applicants for such waivers must demonstrate that they meet the lot area and density requirements established in municipal ordinances for these two management areas, through the use of contiguous or noncontiguous lands. This provision ensures that the overall amount of development in the Forest and Rural Development Areas will not exceed the maximum densities established in the CMP as necessary for water quality purposes.

The proposed amendments at N.J.A.C. 7:50-6.84(a)5iii(2) allow certain existing nonresidential uses in the Pinelands Rural Development, Forest and Agricultural Production Areas to use advanced wastewater treatment systems as a way of improving water quality and facilitating expansion of businesses that were constructed prior to the effective date of the CMP (January 14, 1981). Use of such systems, which treat waste water rather than simply diluting it, will enable the existing businesses to come into conformance with CMP water quality standards, providing an obvious environmental benefit to the Pinelands.

The proposed amendments to allow electronic message displays for on-site signs and certain off-site signs may be viewed by some as detracting from the scenic qualities of the Pinelands and posing a threat to ecosystem functioning due to ecological light pollution. However, these types of off-site signs will only be permitted where they are consistent with other permitted, similar nonresidential uses, that is, in Regional Growth Areas, Pinelands Towns, and in non-residential zones in the Rural Development Areas and Pinelands Villages close to the Regional Growth Areas and Pinelands Towns. Furthermore, provisions have been included to mandate the shielding of external lights on off-site signs that are directed to the sky. Also, it is worth noting that the type of lighting used in electronic message displays tends to be less intense than the more traditional lighting used in older signs. As such, light impacts may actually be

reduced through the use of electronic message displays. With regard to the impacts of ecological light pollution, the literature on the impacts of artificial light at night (ALAN) was investigated, but the field of study has yet to reach a consensus on science-based brightness standards for signs that would mitigate such ecological impacts.

Federal Standards Statement

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. §471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation and enhancement of the land and water resources of the Pinelands. The proposed amendments are designed to meet those goals by establishing increased application fees for development conducted in violation of the CMP, establishing an expiration date for a category of waivers of strict compliance that allow for deviations from CMP standards and providing an opportunity for water quality improvements through the use of advanced waste water treatment systems. The other proposed amendments may be categorized as mere clarifications or largely procedural in nature.

There are no other Federal requirements that apply to the subject matter of these amendments.

Jobs Impact

The proposed amendments are not expected to have any significant jobs impacts. Although the amendments do increase development application fees on the private and public sectors, the added costs, as explained in the Economic Impact section above, are often not significant and should not result in a loss of jobs. To the extent that additional fee income helps the Commission maintain an acceptable level of resources to review development applications, it may be viewed by some as having a positive impact on jobs.

The remainder of the proposed amendments are not expected to have any impact on the creation or loss of jobs.

Agriculture Industry Impact

The proposed amendments make changes to the Commission's fee schedule. To the extent that members of the agriculture industry located within the Pinelands intend to engage in activities that will necessitate submission of a development application, they may be impacted. Fees for most commercial activities (agricultural commercial establishments, agricultural processing facilities, etc.) are being increased. Application fees for solar energy facilities are being decreased and this may be of benefit to farm owners. For the most part, principal agricultural activities do not require the submission of development applications and therefore will continue to pay no fees to the Commission. The Commission does not believe that the proposed amendments will have any significant impact on the agriculture industry.

The proposed amendments to N.J.A.C. 7:50-6.84(a)5iii(2) provide an opportunity for existing businesses in the Agricultural Production Area to expand by using advanced waste water

treatment systems. To the extent such businesses are owned, operated or used by members of the agriculture industry, they will benefit from these new provisions.

Regulatory Flexibility Analysis

The proposed amendments revising the Commission's application fee schedule will not impose any additional reporting or recordkeeping requirements on small businesses, nor will the amendments require small businesses to employ professional services. As discussed in the Economic Impact Section above, the proposed amendments may have an impact on developers, contractors and property owners involved or interested in certain development projects within the Pinelands Area. Because most businesses in the Pinelands Area may be characterized as small in size and number of employees, at least in comparison to the remainder of New Jersey, the proposed fee amendments may have an impact on "small business" as defined by the Regulatory Flexibility Act., N.J.S.A. 52:14B-16 et seq. However, because the Commission's fee schedule is based on the type of development application submitted, the proposed amendments are expected to have the same impact on small businesses as on any other entity. Given that the resources of the Pinelands are important to all State citizens, and the proposed amendments are necessary to provide revenue for appropriate review and protection of these resources, no lesser requirements for small businesses are provided.

The proposed amendments also allow the Commission to require escrow funds for the purchase of software and other equipment deemed necessary for the review of matters pending before the Commission that involve complex issues and therefore necessitate specialized expertise. While it would be impossible to identify all of the matters brought before the Commission that might result in an escrow requirement, the two most likely are comprehensive

plans for local communications facilities and intergovernmental memoranda of agreement. In neither of those cases would small businesses as defined under the Regulatory Flexibility Act be affected by the amended escrow requirements.

No adverse economic impact on small businesses is to be expected from the revised sign standards. New revenue opportunities may occur for outdoor advertising companies permitted to install an electronic message display on their off-site signs. Such technologies would allow multiple advertising messages to be displayed in a given period of time thus providing more sources of revenue for the sign owner and/or land owner. Similarly, small businesses may be afforded more flexibility in the size, quantity, and design of their on-site signs, which may provide more effective advertising.

The proposed amendments to N.J.A.C. 7:50-6.84(a)5iii(2) provide a new opportunity for expansion of existing businesses in the more rural portions of the Pinelands Area. Although an exact percentage is unknown, many of the affected businesses are likely to qualify as small businesses under the Act and will benefit from the amendments.

The proposed amendments will not impose any other reporting, recordkeeping or compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008 by P.L. 2008, c. 46, the Commission has evaluated the proposed amendments to determine the impact, if any, on the affordability of housing.

Clearly, increased development application fees will have an impact on those applicants seeking to build new residential developments in the Pinelands Area. The increased fees will constitute a very small portion of the total project cost for such developments. Therefore, the Commission believes it is extremely unlikely the economic impacts of the proposed fee amendments would evoke a change in the average costs associated with

The proposed amendments have the potential to reduce the cost of alternate design wastewater treatment systems for those landowners seeking to develop homes on lots between 1.4 and 3.2 acres in size in the unsewered portions of the Pinelands Area. This is because the FAST system will now be authorized for use on a permanent basis in association with such development. The costs associated with monitoring this technology will be eliminated, resulting in decreased costs of the systems for homeowners. In addition, adding a third system to the list of those authorized for permanent use may increase competition amongst the three (Amphidrome, Bioclere and FAST) and result in reduced prices.

It is unlikely that any of the other proposed amendments would evoke a change in the average costs associated with housing.

Smart Growth Development Impact

N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, requires that proposed amendments be evaluated to determine their impacts, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan). Planning Areas 1 and 2 do not exist in the Pinelands Area. Likewise, the State Plan does not designate centers within the Pinelands Area. Instead, N.J.S.A. 52:18A-206.a provides that the State Plan shall rely on the Pinelands CMP with respect to the

Pinelands. Therefore, the Commission has evaluated the impact of the proposed amendments on Pinelands management areas that are equivalent to Planning Areas 1 and 2 and designated centers (i.e., Regional Growth Area, Pinelands Villages and Pinelands Towns), as designated by the CMP.

The proposed amendments are not anticipated to have any significant impact on housing production. The amendments relative to the FAST treatment technology will allow for the installation and use of this technology on a permanent basis in unsewered areas of the Pinelands that are zoned for residential development on lots of less than 3.2 acres in size. With few exceptions, these areas are located in Regional Growth Areas, Pinelands Villages and Pinelands Towns, management areas designated for development by the Comprehensive Management Plan and equivalent to designated centers under the State Plan.

No other smart growth impacts are anticipated from the proposed amendments.

Full text of the proposal follows (additions indicated in **bold**; deletions indicated in [brackets]):

7:50-1.6 Fees

(a) Except as provided in (a)1 and 2 below, all applications required or permitted by any provision of this Plan shall be accompanied by a nonrefundable application fee of **\$300.00** [200.00] or a fee calculated according to the fee schedule set forth in (b) through (k) below, whichever is greater. No application filed pursuant to this Plan shall be reviewed or considered complete unless all fees required by this Part have been paid and any escrow required pursuant to N.J.A.C. 7:50-1.7 has been submitted.

1.-2. (No change.)

(b) The application fee for a residential development application submitted pursuant to N.J.A.C. 7:50-4.14, [ø] 4.33, **4.52 or 4.66** shall be calculated as follows:

1. There shall be a **\$300** [200] fee for a residential development consisting of one unit or one lot;
2. The fee for all other residential developments shall be calculated based on the number of proposed dwelling units or lots, including those to be utilized for stormwater facilities, open space, recreational facilities or other accessory elements of a residential development, according to the following:
 - i. **\$300.00** [200.00] per dwelling unit or lot for the first four units or lots;
 - ii. **\$337.50** [225.00] per dwelling unit or lot for units/lots five through 50;
 - iii. **\$187.50** [125.00] per dwelling unit or lot for units/lots 51 through 150; and
 - iv. **\$150.00** [100.00] per dwelling unit or lot for units/lots in excess of 150.

(c) The application fee for a commercial, institutional, industrial or other non-residential development application submitted pursuant to N.J.A.C. 7:50-4.14, [ø] 4.33, **4.52 or 4.66** shall be calculated in accordance with the following, based on typical construction costs, except as provided in (c)1 through 9[7] below:

Construction Cost	Required Application Fee
\$0 - \$500,000	1.5% of construction costs
\$500,001 - \$1,000,000	\$7,500 + 1.25% of construction costs above \$500,000
Greater than \$1,000,000	\$13,125 + 1% of construction costs above \$1,000,000

~~[one percent of construction costs for the first \$500,000 of the total construction cost; three-fourths percent of construction costs for the portion of the construction costs between \$500,000 and \$1 million; and one-half percent of construction costs for the~~

~~portion of the construction costs in excess of \$1 million.] Typical construction costs shall include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs, but shall not include interior furnishings, atypical features, decorative materials or other similar features. **Supporting documentation of the expected construction costs shall be submitted as part of the application for development, unless the maximum fee pursuant to (e)4 below is required, in which case no such documentation shall be necessary.** [For fees calculated based on the percentage construction costs, such costs shall be supported by the sworn statement of a licensed architect, licensed engineer, or other qualified individual, if an architect or engineer has not been retained for the project, as to the expected construction costs.]~~

1. For an off-road vehicle event conducted in accordance with N.J.A.C. 7:50-6.143(a)4, the fee shall be **\$7.50** [~~5.00~~] per mile, **or portion thereof**, of the route proposed;
2. For a forestry application or renewal application, submitted pursuant to N.J.A.C. 7:50-6.43(b) or (c), for forestry activities involving 10 or more acres, the fee shall be **\$7.50** [~~5.00~~] per acre, **or portion thereof**, that is subject to the forestry activities; and
3. For the development of a golf course, the fee shall be **\$225.00** [~~150.00~~] per acre, **or portion thereof**, devoted to the golf course facility, including, but not limited to, the golf course and associated forested areas, club house, putting greens, driving range, parking areas, locker rooms and accessory buildings, such as rest rooms, maintenance buildings, and other recreational areas depicted on the site

plan submitted as part of the application. All areas associated with the planning, construction, operation or maintenance of a golf course facility, including those areas not directly associated with golfing or a recreational activity, must be included in the acreage used to calculate the applicable application fee for the development of a golf course;

4. For a proposed linear development, the application fee shall be **\$225.00** [~~150.00~~] per acre, **or portion thereof**, of all land included in the right of way of the proposed linear development project [~~plus \$150.00 per acre~~] **and all land** located outside the right of way that will be disturbed as part of the linear development project. "Linear development" means land uses such as roads, **bridges**, railroads, sewerage and stormwater management pipes, gas and water pipelines, electric, telephone and other transmission or distribution lines, which have the basic function of connecting two points, the rights-of-way therefor, and any accessory structures or uses directly associated therewith. **For purposes of this section,** [~~L~~]linear development shall not include residential, commercial, office or industrial buildings, improvements within a development such as utility lines or pipes, or internal circulation roads;
5. For a resource extraction permit application or permit renewal application, the application fee shall be **\$2,250** [~~1,500~~] plus **\$45.00** [~~30.00~~] per acre to be mined, **or portion thereof**, within each permit period;
6. For a change of use with no additional development or a home occupation[s], the application fee shall be **\$300.00** [~~200.00~~]; [~~and~~]

7. For an application for a subdivision or resubdivision only, with no other development, the application fee shall be calculated according to the formula in (b)2 above, based on the total number of lots which will exist following the subdivision or resubdivision regardless of the number of lots that existed prior to the subdivision[-];
 8. **For the demolition of a structure 50 years or older, the fee shall be \$300.00; and**
 9. **For the development of a solar energy facility, the fee shall be \$1,500.00 plus \$500 per acre of land to be developed, or portion thereof, including any off-site development.**
- (d) (No change.)
- (e) The application fee required at the time of submission of a development application in accordance with (a) through (d) above shall:
1. Be increased by **\$3,750** [~~2,500~~] if an individual on-site septic system is proposed pursuant to N.J.A.C. 7:50-6.84(a)5iv(2)(I) or **6.84(a)5iv(3)**;
 2. **Be doubled if the application is being submitted, in part or in whole, for purposes of resolving an outstanding violation of this Plan;**
 - [2]3. Equal 50 percent of the calculated fee if a public agency is the applicant; and
 - [3]4. Not exceed \$50,000 unless a public agency is the applicant, in which case the fee shall not exceed \$25,000.
- (f) An application fee in accordance with (a) through (d) above shall be submitted for an application where a certificate of filing [~~or~~], certificate of completeness **or public development approval** has not been issued pursuant to N.J.A.C. 7:50-4.34 [~~or~~], 4.15 **or**

4.56 and either no direct activity in furtherance of the Commission's application process has occurred for a period of two years or there has been a significant or material change in the proposed development that is the subject of the application.

- (g) (No change).
- (h) The fee for a Letter of Interpretation or Amended Letter of Interpretation **submitted** pursuant to N.J.A.C. 7:50-4, Part VI, shall be determined according to the following:
 - 1. There shall be no fee for a Letter of Interpretation involving the allocation of Pinelands Development Credits except for an Amended Letter of Interpretation **requested within five years of issuance of the original Letter of Interpretation**, in which case the fee shall be **\$300.00** [200.00] plus **\$7.50** [5.00] per acre of land for which the amended allocation is requested; and
 - 2. The application fee for any other Letter of Interpretation or Amended Letter of Interpretation shall be **\$300.00** [200.00].
- (i) The application fee for the review and processing of a request for a letter stating information that is available in a municipal land use ordinance or stating other information readily available to the public from a source other than the Pinelands Commission shall be **\$300.00** [200.00].
- (j) The application fee for an Amended Certificate of Filing, **Amended Certificate of Completeness or amended public development approval** shall be **\$300.00** [200.00] or 10 percent of the original permit fee, whichever is greater, with a maximum fee of **\$4,500** [3,000]. If a request for an Amended Certificate of Filing, **Amended Certificate of Completeness or amended public development approval** is submitted more than five years following issuance of the original Certificate of Filing, **Certificate of**

Completeness or public development approval, the fee shall be calculated as if a new application had been submitted.

- (k) (No change.)
- (l) The application fee for a Certificate of Filing or Certificate of Completeness associated with an application for general development plan approval in accordance with N.J.S.A. 40:55D-45.3 shall be one-half of the estimated application fee calculated in accordance with (b) through (d) above. The remainder of the application fee, adjusted as necessary to reflect any changes from the general development approval, shall be due upon submission of any subsequent applications for individual phases of the development, each of which shall require a new Certificate of Filing or Certificate of Completeness.**

7:50-1.7 Escrows

- (a) Notwithstanding any other provision of N.J.A.C. 7:50-1.6, the Executive Director may request an escrow for development applications or other matters pending before the Commission that involve complex issues which, either because of the need for specialized expertise, necessitate the retention of consultants to assist in the Commission's review, or will require considerable staff review **or the purchase of specialized software or other equipment**. Should the Executive Director determine that an escrow is necessary:
 - 1. (No change.)
 - 2. Monies submitted pursuant to (a)1 above shall be held in an escrow account and shall be used by the Commission to reimburse any costs it occurs [~~either~~] as a

result of retaining ~~any~~ consultants ~~or~~, **purchasing specialized software or other equipment necessary to facilitate staff review** or for the considerable amount of staff time required for the review ~~and~~. ~~i~~In the case of an escrow for an intergovernmental memorandum of agreement authorized pursuant to N.J.A.C. 7:50-4.52(c)2, **monies submitted** shall also be used for developing, implementing and monitoring such agreement;

3.-7. (No change.)

7:50-2.11 Definitions

When used in this Plan, the following terms shall have the meanings ascribed to them.

...

“Alternate design pilot program treatment system” means an individual or community on site waste water treatment system that has the capability of providing a high level of treatment, including a significant reduction in the level of total nitrogen in the wastewater, **and that has** ~~[includes the systems listed below, as described in the report prepared by Anish R. Jantrania, Ph.D., P.E., M.B.A. entitled “Performance Expectations for Selected On-site Wastewater Treatment Systems,” dated December, 2000, incorporated herein by reference, and available at the principal office of the Commission, that have been authorized for use for residential development by the pilot program established in N.J.A.C. 7:50-10, Part IV. In addition, alternate design pilot program treatment system shall also include any technology or technologies that have]~~ been approved by the Commission for participation in the alternate design wastewater treatment systems pilot program pursuant to N.J.A.C. 7:50-10.23(b). Detailed plans and

specifications for each authorized technology are available at the principal office of the Commission.

~~1. FAST; or~~

~~2. Other nitrogen reducing technologies approved by the Commission pursuant to N.J.A.C. 7:50-10.23(b).]~~

“Electronic message display” means an element of a sign that is capable of displaying words, symbols, figures or images that electronically or mechanically change by remote or automatic means.

“Interested party [~~person~~” means any person or entity who has either submitted an application for development to the Pinelands Commission or who has a particularized property interest sufficient to require a hearing on constitutional or statutory grounds [~~persons whose right to use, acquire or enjoy property is or may be affected by any action taken under this Plan, or whose right to use, acquire or enjoy property under this Plan or under any other law of this State or of the United States has been denied, violated or infringed upon by an action or a failure to act under this Plan].~~

“Mail” shall mean regular mail or e-mail.

“Off-site [~~commercial advertising~~] sign” means a sign [~~which~~] that directs attention to a business, commodity, **product, service, [~~or~~] entertainment, or other attraction conducted, sold or offered at a location other than the premises on which the sign is located.**

“Sign” [~~means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected~~

~~images. Signs do not include the flag or emblem of any nation, organization of nations, state or city, or any fraternal, religious or civic organizations; merchandise, pictures or models of products or services incorporated in a window display; works of art which in no way identify a product; or scoreboards located on athletic fields.]~~ **means any structure including, but not limited to, an advertising structure and sign face used outdoors and affixed to or upon property to display messages and/or images within public view that is designed to attract, or does attract, the attention of pedestrians or operators or passengers of motor vehicles using the roads, highways, and other public thoroughfares and places, and shall include any writing, printing, painting, display, emblem, drawing or other device whether placed on the ground, rocks, trees, tree stumps or other natural structures, or on a building, structure, signboard, billboard, wallboard, roofboard, frame, support, fence, or elsewhere, and any lighting or other accessories used in conjunction therewith.**

...

7:50-3.24 Revocation of delegation and notice thereof

(a)-(b) (No change.)

(c) Notice of revocation: Within 10 days following entry of any order entered by the Commission pursuant to (b) above, revoking, suspending or modifying any delegation pursuant to N.J.A.C. 7:50-3.22(b), the Executive Director shall give notice of such order and of its terms, by [certified] mail, to the affected county and to all municipalities within such county.

7:50-3.39 Standards for certification of municipal master plans and land use ordinances

(a) Municipal master plans and land use ordinances, and any parts thereof, shall be certified only if:

1. (No change.)

2. They include provisions which:

i.-vii. (No change.)

viii. Establish and implement a mitigation plan as part of any municipal stormwater management plan and ordinance adopted in accordance with N.J.A.C. 7:8-4.2(c)11 which:

(1)-(4) (No change.)

(5) Requires that the municipality expend any contributions collected pursuant to (a)2ix(4) above within five years of their receipt; **and**

ix. Are designed to implement a clear and straightforward process for the review of applications for residential cluster development in the Forest and Rural Development Areas, in accordance with the requirements for cluster development set forth in N.J.A.C. 7:50-5.19(c) and (d). The Commission may certify municipal clustering ordinances that contain different clustering standards than those set forth in N.J.A.C. 7:50-5.19(c) and (d) provided that those standards are supported through the application of sound land use planning principles, are based upon local conditions or circumstances that warrant such changes and do not undermine the overall goals and objectives of the Forest and Rural Development Area clustering program set forth at N.J.A.C. 7:50-5.19(c) and (d).~~;~~~~and~~

x. ~~Establish a program for the long-term maintenance of Pinelands alternate design wastewater treatment systems which, at minimum, complies with and implements the provisions of N.J.A.C. 7:50-6.85(b) and (c), and N.J.A.C. 7:15-5.25(e)3. Said program may include the municipal collection of reasonable fees for the issuance of any required permits or other authorizations. The Commission may certify municipal ordinances that contain additional and/or different standards or procedures than those set forth in N.J.A.C. 7:50-6.85(b) and (c), provided those standards and procedures are based upon local conditions or circumstances that warrant such changes and will ensure the protection of surface and ground water quality consistent with N.J.A.C. 7:50-6, Part VIII.]~~

3.-13. (No change.)

(b) No change.

7:50-4.1 Applicability

(a) For the purposes of this subchapter only, the following shall not be considered development except for the development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154:

1.-3. (No change.)

4. The construction, repair or removal of any sign, except for the construction or replacement of any off-site [~~commercial advertising~~] sign **in accordance with N.J.A.C. 7:50-6.108(a)3, 4 or 5.**

5. (No change.)

[6. ~~The installation of utility distribution lines, except for sewage lines, to serve areas which are effectively developed or development which has received all necessary approvals and permits;~~]

Recodify 7-16. as 6-15. (No change in text.)

16[7]. **To control and reduce the threat of wildfire:**

- i. Prescribed burning; and
- ii. **Linear clearing of vegetation, including subsequent maintenance of that cleared area and vegetation, provided the linear clearing does not exceed six feet in width** ~~[and maintaining of fire breaks];~~

Recodify 18-23. as 17-22. (No change in text.)

(b)-(d) (No change.)

7:50-4.3 Commission hearing procedures

(a) (No change.)

(b) Notice of public hearing

1. (No change.)

2. Persons entitled to notice:

i. Notice of public hearing shall be given by the Commission:

(1) By sending a copy of the notice to the applicant ~~[by certified mail];~~

(2) (No change.)

(3) If the public hearing involves certification of a municipal master

plan or land use ordinances, **by posting the notice on the**

Commission's website and sending a copy of the notice, by mail,

to the municipal clerk and the planning board secretary of **the municipality seeking certification; the municipal clerk and planning board secretary** of each Pinelands municipality bordering the municipality seeking certification; and [to] the county clerk and the county planning board secretary of the county in which the municipality **seeking certification** is located and of the adjacent county if the municipality borders another county.

(4) If the public hearing involves certification of a county master plan or regulations, by **posting the notice on the Commission's website and** sending a copy of the notice, by mail, to the [municipal] clerk and the planning board secretary **of the county seeking certification**, each Pinelands municipality in the county seeking certification and [to the county clerk and county planning board secretary of] each Pinelands county bordering the county seeking certification.

(5) **If the public hearing involves an application for a Waiver of Strict Compliance submitted pursuant to N.J.A.C. 7:50-4.64(a)1, by sending a copy of the notice, by mail, to the applicant and the secretary of the county and municipal planning board and environmental commission, if any, with jurisdiction over the parcel on which development is proposed. In addition, a copy of the notice shall be posted and made available electronically on the Commission's website. [If the**

~~public hearing involves certification of a county or municipal master plan or municipal land use ordinance or county development ordinance, by publication of a copy of the notice, at least once, in an official newspaper of the Pinelands Commission having general circulation in the area;]~~

(6) If the public hearing involves an amendment proposed by the Commission pursuant to N.J.A.C. 7:50-7, by sending a copy of the notice, by mail, to the mayor of each Pinelands municipality and to the freeholder director and county executive of each Pinelands county. In addition, ~~[a copy]~~ **copies** of the notice **and the proposed amendment** shall be ~~[published in all the official newspapers of the Pinelands Commission]~~ **posted and made available electronically on the Commission's website.**

(7) If the public hearing involves an intergovernmental memorandum of agreement pursuant to N.J.A.C. 7:50-4.52, by sending a copy of the notice, by mail, to the mayor of each Pinelands municipality and the freeholder director and county executive of each Pinelands county that may be directly affected by the memorandum of agreement under consideration. In addition, ~~[a copy]~~ **copies** of the notice **and the memorandum of agreement under consideration** shall be ~~[published in those official newspapers of the Pinelands Commission having general circulation in the area that may be~~

~~directly affected by the memorandum of agreement]~~ **posted and made available electronically on the Commission's website.**

(8) (No change.)

(9) If the public hearing involves a comprehensive plan submitted to the Commission pursuant to N.J.A.C. 7:50-5.4(c)6, by sending a copy of the notice and the comprehensive plan, by mail, to the mayor of each Pinelands municipality and the freeholder director and county executive of each Pinelands county. In addition, [~~a copy~~] **copies** of the notice **and the comprehensive plan** shall be [~~published in all the official newspapers of the Pinelands Commission~~] **posted and made available electronically on the Commission's website.**

ii. Notice of public hearings shall be given by the applicant:

(1) If the public hearing relates to an application for development approval or an application for designation pursuant to N.J.A.C. 7:50-6.154, by sending a copy of the notice by certified mail to each owner of record, if different than the applicant, of any land on which development or designation is proposed; **and**

(2) If the public hearing relates to an application for development approval [~~or an application for a Waiver of Strict Compliance submitted pursuant to N.J.A.C. 7:50-4.64(a)1~~], by sending a copy of the notice, by mail, to:

(A) The secretary of the county and municipal planning board and environmental commission, if any, with jurisdiction over the parcel on which development has been proposed;

and

(B) Any landowners within 200 feet of any border of the parcel proposed for development~~[, except as otherwise provided in N.J.A.C. 7:50-4.66(c)].~~

~~[(3) By publication of a copy of the notice, at least once, in a newspaper having general circulation in the area;~~

~~(4) By conspicuous posting on any parcel proposed for development or proposed for designation pursuant to N.J.A.C. 7:50-6.154.]~~

(c)-(d) (No change.)

(e) Content and service of decision of Executive Director or Commission:

1.-2. (No change.)

3. All decisions and orders of the Executive Director or the Commission shall be considered rendered three days after notice of such decisions and orders has been deposited in the ~~[United States M]~~mail addressed to those persons identified in (e)2 above. **For purposes of computing the three day period, the date of deposition of the notice in the mail shall not be included.**

7:50-4.15 Action by Executive Director on application

Within 90 days following the receipt of a complete application for development, the Executive Director shall review the application and all information submitted by the applicant or

any other person relating to the application and upon completion of such review issue a Certificate of Completeness stating whether the application should be approved, approved with conditions or disapproved. The application may be approved or approved with conditions only if the development as proposed, or subject to any conditions which may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C. 7:50-4.16. The Executive Director may propose in said Certificate of Completeness any reasonable condition which he finds is necessary to achieve the objectives of this Plan. The Executive Director shall provide a copy of the Certificate of Completeness to the applicant, the Commission, ~~[interested persons, including]~~ all persons who have **individually** submitted information concerning the application, ~~[as well as]~~ all persons who have requested a copy of said decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2).

7:50-4.17 Certificate of Completeness required for determination of completeness and action

No local permitting agency shall determine that any application for development is complete, **deem any application to have been submitted pursuant to N.J.S.A. 40:55D-10.5,** or take any action on any application for development unless the application is accompanied by a Certificate of Completeness issued pursuant to N.J.A.C. 7:50-4.15.

7:50-4.18 Report requirements of local permitting agency with respect to applications for development

(a)-(c) (No change.)

(d) Notice of preliminary approval: Notice of any grant of preliminary site plan or subdivision approval or any other preliminary approval of any application for development provided for by the Municipal Land Use Law or any county or municipal regulation or ordinance shall be given to the Commission by the local agency, by [certified] mail, within five days following such grant or approval. Such notice shall be in such form as the Executive Director shall from time to time specify, but shall contain at least the following information:

1.-6. (No change.)

~~[7.—The names and addresses of all persons who actively participated in the local proceedings.]~~

(e) Notice of final determination. Notice of any final determination approving or denying any application for development shall be given to the Commission by the local agency, by [certified] mail, within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:

1.-6. (No change.)

(f) (No change.)

7:50-4.19 Commission review following preliminary approval

(a) (No change.)

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.18(d), the Executive Director shall give notice of his determination by mail to the applicant, the

local permitting agency which granted such preliminary approval, ~~[interested persons, including]~~ all persons who have individually submitted information concerning the application ~~[or who participated in the local approval process, as well as]~~, all persons who have requested a copy of said decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, ~~[the notice shall be sent by certified mail to the applicant and the local agency which granted the approval. T]~~the notice shall indicate that the applicant, the local permitting agency or any interested ~~[person]~~ **party** may, within 21 days of mailing such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose for reviewing such preliminary approval.

- (c) ~~[Notices to interested persons:]~~ If the Executive Director determines that a preliminary approval shall be reviewed by the Commission and a hearing has been requested before an Administrative Law Judge pursuant to (b) above, he shall notify all persons who ~~[actively participated in the proceedings before the local permitting agency and all persons who]~~ **individually** submitted information on the application to the Commission, **all persons who have requested a copy of the Commission's decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2)** ~~[that they may participate in any proceedings held pursuant to this Part].~~

(d)-(e) (No change.)

7:50-4.20 Decision on review

(a) If no hearing is requested pursuant to N.J.A.C. 7:50-4.19(b), the Executive Director shall, within 60 days after the time to request an appeal has expired, review the application, all other information in the file, the Certificate of Completeness and the local approval and determine whether the preliminary approval is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the preliminary approval, approve the preliminary approval with conditions or disapprove the preliminary approval. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, the local approving agency, ~~[interested persons, including]~~ all persons who have individually submitted information concerning the application, ~~[or who participated in the local approval process, as well as]~~ all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(b)-(d)(No change.)

7:50-4.22 Commission review following final local approval

(a) (No change.)

(b) Notice of decision and hearing: Within 15 days following receipt of a notice of final determination containing all the information specified in N.J.A.C. 7:50-4.18(e), the Executive Director shall give notice of his determination by mail to the applicant, the local permitting agency which granted such approval, ~~[interested persons, including]~~ all persons who have individually submitted information concerning the application, ~~[or who participated in the local review process, as well as]~~ all persons who have requested a copy

of said decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). If applicable, such notice shall set a date, time and place for public hearing as required by N.J.A.C. 7:50-4.23. ~~[Any notice scheduling a public hearing shall be sent by certified mail to the applicant and the local agency which granted the approval.]~~

(c)-(d) (No change.)

7:50-4.23 Public hearing

If the Executive Director determines that the approval should be reviewed by the Commission, he shall, within 45 days following receipt of a completed notice of final determination given pursuant to N.J.A.C. 7:50-4.18(e), conduct a public hearing to be held pursuant to the procedures set out in N.J.A.C. 7:50-4.3 of this Plan. The applicant shall have the burden of going forward and the burden of proof at the public hearing. Following conclusion of the public hearing, the Executive Director shall review the record of the public hearing and issue a report on the public hearing to the Commission. The Executive Director may recommend that the Commission approve the application, approve the application with conditions or disapprove the application. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, the local permitting agency, ~~[interested persons, including]~~ all persons who have individually submitted information concerning the application, ~~[or who participated in the local review process, as well as]~~ all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). However, an applicant may, at his option, waive all time limits for

review imposed by the Pinelands Protection Act or this Plan and request that the hearing be held by an Administrative Law Judge pursuant to the procedures established in N.J.A.C. 7:50-4.91.

7:50-4.25 Commission review following local denial

- (a) (No change.)
- (b) Notice of decision and hearing: Within 30 days following receipt of a notice of a denial containing all the information specified in N.J.A.C. 7:50-4.18(e) the Executive Director shall give notice of his determination by mail to the applicant, the local permitting agency which denied the applicant, ~~[interested persons, including]~~ all persons who have individually submitted information concerning the application, ~~[as well as]~~ all persons who have requested a copy of said decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the denial should be reviewed by the Commission, the notice shall be sent by ~~[certified]~~ mail to the applicant and the local agency which granted the approval. The notice shall indicate that the applicant, the local permitting agency or any interested ~~[person]~~ **party** may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing the denial.
- (c) ~~[Notices to interested persons:]~~ If the Executive Director determines that a denial shall be reviewed by the Commission and a hearing before an Administrative Law Judge has been requested pursuant to (b) above, he shall notify all persons who ~~[actively participated in the proceedings before the local permitting agency and all persons who]~~ **individually** submitted information on the application to the Commission, **all persons who have**

requested a copy of the Commission's decision and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2) [that they may participate in any proceedings held pursuant to this Part].

7:50-4.26 Decision on review

(a) If no hearing is requested pursuant to N.J.A.C. 7:50-4.25(b), the Executive Director shall, within 60 days after the time to request an appeal has expired, review the application and all other information in the file, the Certificate of Completeness and the local denial and determine whether the denial is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the application, approve the application with conditions, disapprove the application or allow the local denial to stand. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, the local approving agency, ~~interested persons, including~~ all persons who have individually submitted information concerning the application, ~~[or who participated in the local approval process, as well as]~~ all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(b)-(d) (No change.)

7:50-4.33 Applicant to submit copies of local application to the Commission

Prior to filing any application for development of land in the Pinelands Area with any local permitting agency, the applicant shall complete an application with the Commission in accordance with the requirements of N.J.A.C. 7:50-4.2(b). **No local permitting agency shall**

accept an application for development of land in the Pinelands Area, nor deem any application to have been submitted pursuant to N.J.S.A. 40:55D-10.5, unless the application is accompanied by a Certificate of Filing issued by the Commission pursuant to N.J.A.C. 7:50-4.34 or other evidence of Commission review.

7:50-4.34 Certificate of Filing; required for determination of completeness

Upon determining that an application is complete, the Executive Director shall issue a Certificate of Filing. No local permitting agency shall determine that any application for development is complete **nor deem any application to have been submitted pursuant to N.J.S.A. 40:55D-10.5**, unless it is accompanied by a Certificate of Filing issued pursuant to this section. Such certificate may identify any inconsistencies of the proposed development with the standards of this Plan or the local certified land use ordinances and may indicate that if such inconsistencies are not resolved by a local approval, that local approval will be subject to review by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.37 and 4.40. Any such information contained in the Certificate of Filing is for the guidance of the applicant and local permitting agency only. Such information in no way shall be considered a final determination by either the Executive Director or the Pinelands Commission.

7:50-4.35 Report requirements of local permitting agency with respect to applications for development

- (a) (No change.)
- (b) Notice of application: Within seven days following a determination of completeness of an application for development, or any change to any application for development which

was previously filed, notice of such application shall be given by the local agency, by mail, to the Commission. The notice shall be in such form as the Executive Director shall from time to time specify; but each such notice shall contain at least the following information:

1.-3. (No change.)

4. The application number of the Certificate of Filing [~~or Notice of Filing~~] issued by the Executive Director and the date on which it was issued;

5.-8. (No change.)

(c) Notice of hearings and meetings: Notice of any hearing, public meeting, or other formal proceeding at which an application for development is to be considered shall be given to the Commission by mail or delivery of the same to the principal office of the Commission not less than five days prior to such meeting, hearing or proceeding and shall be in such form as the Executive Director shall from time to time specify. Each notice shall contain at least the following information:

1. (No change.)

2. The application number of the Certificate of Filing [~~or Notice of Filing~~] issued by the Executive Director and the date on which it was issued;

3.-6. (No change.)

(d) Notice of preliminary approval: Notice of any grant of preliminary site plan or subdivision approval or any other preliminary approval of any application for development provided for by the Municipal Land Use Law or any county or municipal regulation or ordinance shall be given to the Commission, by [~~certified~~] mail, within five days following such grant or approval. Such notice shall be in such form as the Executive

Director shall from time to time specify, but shall contain at least the following information:

- 1.-2. (No change.)
3. The application number of the Certificate of Filing [~~or Notice of Filing~~] issued by the Executive Director and the date on which it was issued;
4. (No change.)
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; **and**
6. A copy of the resolution or other documentation of the preliminary approval and a copy of the submitted preliminary plans that were approved by the local permitting agency[; ~~and~~].
- ~~7. The names and addresses of all persons who actively participated in the local proceedings.]~~

(e) Notice of final determination: Notice of any final determination with respect to any application for development shall be given to the Commission, by [~~certified~~] mail, within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:

- 1.-2. (No change.)
3. The application number of the Certificate of Filing [~~or Notice of Filing~~] issued by the Executive Director and the date on which it was issued;
- 4-6. (No change.)

(f) (No change.)

7:50-4.36 Commission staff participation in local review process

(a) Determination of degree of participation: Upon receipt of an application filed pursuant to N.J.A.C. 7:50-4.33 or any notice given pursuant to N.J.A.C. 7:50-4.35(b) or (c), the Executive Director may at his discretion, after reviewing the application for development, determine that, by reason of the nature of the development proposal, the site involved or any other factor, the Commission staff should participate in the local permitting process.

The participation of the Commission staff may include, but is not limited to:

1. Submitting, in writing, either within the Certificate of Filing [~~or Notice of Filing~~] or in a separate document, an analysis of any concerns and opinions the Commission staff has with respect to the conformance of the proposed development with the minimum standards of this Plan, including a list of any conditions which it determines should be imposed in the event that a permit is granted; or
2. (No change.)

(b)-(c) (No change.)

7:50-4.37 Commission review following preliminary approval

(a) (No change.)

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.35(d), the Executive Director shall give notice of his determination by mail to the applicant, the

local permitting agency which granted such preliminary approval, ~~[and interested persons, including]~~ all persons who have individually submitted information concerning the application, ~~[or who participated in the local review process, as well as]~~ all persons who have requested a copy of said decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, ~~[the notice shall be sent by certified mail to the applicant and the local agency which granted the approval. T]~~the notice shall indicate that either the applicant, the local permitting agency or any interested ~~[person]~~ **party** may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing such preliminary approval.

- (c) ~~[Notices to persons participating in local permitting process; opportunity to comment:]~~ If the Executive Director decides to review a preliminary approval and a hearing before an Administrative Law Judge has been requested pursuant to (b) above, he shall notify all persons who ~~[actively participated in the proceedings before the local permitting agency]~~ **have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2)** ~~[of such determination and inform them that they may participate in any proceedings held pursuant to this Part].~~

(d)-(e) (No change.)

7:50-4.38 Decision on review

- (a) Determination by Executive Director: If no hearing is requested by the applicant, the local permitting agency or any interested ~~[person]~~ **party** pursuant to N.J.A.C.

7:50-4.37(b), the Executive Director shall, within 60 days after the time to request a hearing has expired, review the application, all other information in the file including any staff reports and the local approval and determine whether the preliminary approval is in conformance with the minimum standards of this Plan and the provisions of the relevant certified local ordinance. The Executive Director may recommend the Commission approve the preliminary approval, approve the preliminary approval with conditions or disapprove the preliminary approval. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, the local approving agency, ~~[interested persons, including]~~ all persons who have individually submitted information concerning the application, ~~[as well as]~~ all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2).

- (b)-(d) (No change.)

7:50-4.39 Notice of changes made subsequent to local preliminary approval

- (a) Each local permitting agency shall give notice to the Commission of any design, engineering or other changes made to any application for development by an applicant subsequent to any local preliminary approval reported to the Commission pursuant to N.J.A.C. 7:50-4.35(d), including changes made in response to conditions imposed by the Commission pursuant to N.J.A.C. 7:50-4.38, to the Executive Director, by mail, within

five days of receipt of such changes. Such notice shall be in such form as the Executive Director shall from time to time specify but shall contain at least the following information:

1.-2. (No change.)

3. The application number of the Certificate of Filing [~~or Notice of Filing~~] issued by the Executive Director and the date on which it was issued;

4.-5. (No change.)

(b) (No change.)

7:50-4.40 Commission review following final local approval

(a) (No change.)

(b) Notice of decision and hearing: Within 15 days following receipt of a notice of final determination containing all the information specified in N.J.A.C. 7:50-4.35(e), the Executive Director shall give notice of his determination by [~~certified~~] mail to the applicant, [~~and~~] the clerk of the local permitting authority which granted such approval, [~~and interested persons, including~~] all persons who have individually submitted information concerning the application, [~~or who participated in the local review process, as well as~~] all persons who have requested a copy of said decision, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). [~~Any notice scheduling a public hearing shall be sent by certified mail to the applicant and the local agency which granted the approval.~~]

(c)-(d) (No change.)

7:50-4.41 Public hearing

If the Executive Director determines that the approval should be reviewed by the Commission, he shall, within 45 days following receipt of a completed notice of final determination given pursuant to N.J.A.C. 7:50-4.35(c), conduct a public hearing to be held pursuant to the procedures set out in N.J.A.C. 7:50-4.3. The applicant shall have the burden of going forward and the burden of proof at the public hearing. Applications from applicants who do not provide notice for any hearing and do not make a timely request for adjournment shall be recommended for denial. For applicants who do not appear at more than one scheduled public hearing, the Executive Director may determine that no further adjournment of the public hearing will be provided. Following conclusion of the public hearing, the Executive Director shall review the record of the public hearing and issue a report on the public hearing to the Commission. The Executive Director may recommend that the Commission approve the application, approve the application with conditions or disapprove the application. The Executive Director shall give written notification of his findings and conclusions to the applicant, the Commission, the local approval agency, ~~[interested persons, including]~~ all persons who have individually submitted information concerning the application, ~~[or who participated in the local review process, as well as]~~ all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2). However, an applicant may, at his option, waive all time limits for review imposed by the Pinelands Protection Act or this Plan and request that the hearing be held by an Administrative Law Judge pursuant to the procedures established in N.J.A.C. 7:50-4.91.

7:50-4.53 Pre-application conference and submission requirements

(a)-(d) (No change.)

(e) The notice in (c) and (d) above shall state:

1.-5. (No change.)

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided with a copy of said findings and conclusion and that any interested ~~[person]~~ **party** who is aggrieved by said determination is entitled to a hearing by appealing the determination.

7:50-4.54 Review of submission by Executive Director

Within 30 days following receipt of a completed application for public development, the Executive Director shall review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review make a determination whether the application should be approved, approved with conditions or disapproved. The application may be recommended for approval or approval with conditions only if the development as proposed, or subject to any conditions which may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C.

7:50-4.57. The Executive Director may attach to any determination to recommend approval of an application any reasonable condition which he finds is necessary to achieve the objectives of this Plan. The Executive Director shall give written notification of his findings and conclusion to the applicant, the Commission, ~~[interested persons, including]~~ all persons who have **individually** submitted information concerning the application, ~~[as well as]~~ all persons who have requested a

copy of said decision, and any person, organization or agency which has registered under 7:50-4.3(b)2i(2).

7:50-4.55 Rights of appeal

Any interested ~~[person]~~ **party** who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may only be presented to the Pinelands Commission by requesting a hearing pursuant to N.J.A.C. 7:50-4.91.

7:50-4.56 Action by Commission

At the next regular Commission meeting after the time for appeal under N.J.A.C. 7:50-4.91 has expired and no interested ~~[person]~~ **party** has requested a hearing, the Commission may approve the determination of the Executive Director or refer the determination of the Executive Director to the Office of Administrative Law. If the Pinelands Commission fails to take any action at said meeting, the determination of the Executive Director shall be referred to the Office of Administrative Law unless an extension of time for the Commission to act is approved pursuant to N.J.A.C. 7:50-4.4. If the Executive Director's determination is referred to the Office of Administrative Law, the referral shall be treated as a petition for appeal in accordance with the provisions of N.J.A.C. 7:50-4.91.

7:50-4.66 Application

(a)-(c) (No change.)

(d) The notice in (b) and (c) shall state:

1. (No change.)

2. **That the Pinelands Commission will schedule and hold a public hearing on the application, the date and time of which will be posted on the Commission's website;**

3[2]. That action may be taken on the application after 10 days from the date the notice is published and mailed;

4[3]. That written comments on the application may be submitted to the Pinelands Commission **at the public hearing or in writing** and that all such comments received within 10 days of the mailing or publication of this notice **or within the notice period established for the public hearing** will be considered in the review of the application;

5[4]. That the application is available for inspection at the office of the Pinelands Commission;

6[5]. The **mailing** address, [~~and~~] phone number **and website address** of the Pinelands Commission; and

7[6]. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested [~~person~~] **party** who is aggrieved by said determination is entitled to a hearing by appealing the determination.

(e)-(h) (No change.)

(i) For an application submitted pursuant to N.J.A.C. 7:50-4.64(a)1, the Executive Director shall set the date, time and place for a public hearing for consideration for the application.

The public hearing shall be noticed and held by the Executive Director in accordance with the provisions of N.J.A.C. 7:50-4.3. [~~The applicant shall give notice of the hearing in accordance with N.J.A.C. 7:50-4.3(b)2ii and the notice required pursuant to (b) or (c) above must be incorporated therein.~~]

7:50-4.67 Action by Executive Director on application

Within 90 days following the receipt of a complete application for waiver, the Executive Director shall review the application and all information submitted by the applicant and any other person relating to the application and upon completion of such review make a determination whether the application should be approved, approved with conditions or disapproved. The application may be recommended for approval or approval with conditions only if the applicant, subject to any conditions which may be imposed, meets the standards for a Waiver of Strict Compliance established in N.J.A.C. 7:50-4.62. The Executive Director shall give written notification of his findings and conclusion to the applicant, the Commission, [~~interested persons, including~~] all persons who have **individually** submitted information concerning the application, [~~as well as~~] all persons who have requested a copy of said determination, and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2).

7:50-4.68 Rights of appeal

Any interested [~~person~~] **party** who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may be presented to the Pinelands Commission only by

requesting a hearing pursuant to N.J.A.C. 7:50-4.91. If the appeal is based on an allegation that the parcel does not have a beneficial use even considering the allocation of Pinelands Development Credits pursuant to N.J.A.C. 7:50-4.62(c)2, the applicant must include specific documentation concerning the economic value of each of the permitted uses of the parcel once the Pinelands Development Credits are transferred and documentation of the value necessary to give the parcel a beneficial use as part of the appeal process. If the applicant demonstrates that the allocation of the Pinelands Development Credits based on fair market value along with the other permitted uses of the parcel does not result in the parcel having a beneficial use, the allocation of Pinelands Development Credits shall be increased to the number necessary to provide the parcel with a beneficial use.

7:50-4.70 Effect of grant of waiver; expiration; recordation; effective date

(a)-(b) (No change.)

(c) Any waiver approved pursuant to N.J.A.C. 7:50-4.63 which authorizes development of the parcel, shall expire five years after the Waiver is approved unless all necessary construction permits have been issued within said five year period, the authorized work was commenced within 12 months after issuance of the permits and no such permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after said five year period.

(d) (No change.)

(e) **Waivers approved under former N.J.A.C. 7:50-4.66(a)1, repealed effective March 2, 1992, shall expire on ____ (one year from the effective date of these rules).** [~~The N.J.A.C. 7:50-2.11 definitions of “contiguous lands,” “fair market value” and “impaired wetlands,” and N.J.A.C. 7:50-4.2(b)7 and 4.61 through this section, as amended or~~

~~adopted effective March 2, 1992, shall apply to all applications except for those applications on which an Executive Director's determination was issued prior to March 2, 1992. For those applications, the above-referenced provisions in effect prior to March 2, 1992 shall govern, provided that:~~

- ~~1. The Pinelands Commission action on the Waiver of Strict Compliance is based on information that was submitted to the Pinelands Commission prior to March 2, 1992;~~
- ~~2. The applicant has not requested that the application be reviewed pursuant to the N.J.A.C. 7:50-2.11 definitions of "contiguous lands," "fair market value" and "impaired wetlands," and N.J.A.C. 7:50-4.2(b)7 and 4.61 through this section, as amended or adopted effective March 2, 1992; and either~~
- ~~3. The Pinelands Commission acts on the application at its next regularly scheduled meeting after the time to appeal under N.J.A.C. 7:50-4.91 has expired and no request for appeal has been received; or~~
- ~~4. A timely request for an appeal is received under N.J.A.C. 7:50-4.91 or the Executive Director's determination is referred to the Office of Administrative Law by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.69 (formerly N.J.A.C. 7:50-4.65).]~~

7:50-4.73 Request for interpretation

(a)-(c) (No change.)

(d) The notice in (b) and (c) above shall state:

1.-5. (No change.)

6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested ~~[person]~~ **party** who is aggrieved by said determination is entitled to a hearing by appealing the determination.

(e)-(g) (No change.)

7:50-4.74 Interpretation by Executive Director

Except as provided in N.J.A.C. 7:50-4.75, the Executive Director shall, within 45 days following the receipt of a completed request for clarification or interpretation, review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review issue a letter of clarification or interpretation. A copy of the letter shall be provided to the appropriate municipal or county planning board, environmental commission, if any, ~~[interested persons, including]~~ all persons who have **individually** submitted information concerning the application, ~~[as well as]~~ all persons who have requested a copy of said determination and any person, organization or agency, which has registered under N.J.A.C. 7:50-4.3(b)2i(2). The letter issued by the Executive Director shall specify the grounds, reasons and analysis upon which the clarification or interpretation is based. In the event the Executive Director fails to render a letter of clarification or interpretation within 45 days of receipt of a completed application or such longer period of time as may be agreed to by the applicant, the applicant is entitled to request a hearing pursuant to N.J.A.C. 7:50-4.91. Nothing in this section shall be construed to prevent any person from resubmitting a request for clarification or interpretation.

7:50-4.79 Appeal

Any interested ~~[person]~~ **party** who is aggrieved by any clarification or interpretation given by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's clarification or interpretation to the Commission as provided in N.J.A.C. 7:50-4.91.

7:50-4.81 General requirements; applicant to submit application to Executive Director

- (a) (No change.)
- (b) Prior to filing any application for development in the Pinelands Area with any department, board, bureau, official or other agency of the State of New Jersey, the applicant shall file with the Commission a duplicate copy of the application. The Executive Director may within 30 days require the applicant to submit any additional information which he determines is necessary in order to evaluate the interest of the Commission in such application. No State department, board, bureau, official or other agency shall deem an application for development complete unless it is accompanied by a Certificate of Filing, ~~[a Notice of Filing,]~~ a Certificate of Completeness or a resolution of the Pinelands Commission approving, pursuant to the provisions of Part IV of this subchapter, an application for public development. Notwithstanding these requirements, the Pinelands Commission may enter into an intergovernmental memorandum of agreement with any State department, board, bureau, official or other agency for the purpose of eliminating or altering any of the procedural requirements set forth in this subsection concerning the review by a State agency of third party development.

7:50-4.91 Appeal

(a) Notice: Any ~~[person]~~ **interested party** who ~~[is granted, by any provision of this Plan,]~~ **has** a right to appeal any determination made by the Executive Director to the Commission shall, within 15 days ~~[after]~~ **of the date** the decision is **deemed** rendered **in accordance with N.J.A.C. 7:50-4.3(e)3**, perfect such right by giving notice by mail of his intent to appeal to the Commission. Such notice shall include:

1.-5. (No change.)

(b) Any ~~[person]~~ **interested party** who ~~[is granted, by any provision of this Plan,]~~ **has** a right to request a hearing conducted by the Office of Administrative Law concerning a local approval which the Executive Director has determined should be reviewed by the Pinelands Commission shall, within 15 days ~~[after]~~ **of the date** the Executive Director's determination **is deemed rendered in accordance with N.J.A.C. 7:50-4.3(e)3**, perfect such right by giving notice by mail of his intent to request a hearing to the Commission. Such notice shall include the information specified in (a)1 through 5 above.

(c)-(e) (No change.)

7:50-6.64 Time limit and scope of resource extraction permits

(a) No permit authorizing resource extraction shall be issued for any period exceeding two years unless a program extending the duration of such permits has been established and certified by the Commission pursuant to N.J.A.C. 7:50-3.39. Such a program may allow permits authorizing resource extraction to be issued for periods exceeding two years, provided that:

1. (No change.)

2. Every such permit shall be issued subject to the following conditions to ensure conformance with the approved permit:

i.-iv. (No change.)

v. Any interested ~~[person]~~ **party** who is aggrieved by any determination of the Executive Director pursuant to (a)2iii or iv above may, within 15 days, appeal the Executive Director's determination to the Pinelands Commission as provided in N.J.A.C. 7:50-4.91(a). The Executive Director shall thereafter conduct a hearing pursuant to N.J.A.C. 7:50-4.3, unless the applicant requests a hearing before an Administrative Law Judge in which case the matter shall be referred to the Office of Administrative Law pursuant to N.J.A.C. 7:50-4.91(b), and submit a hearing report to the Pinelands Commission for a final determination;

vi.-vii. (No change.)

(b)-(c) (No change.)

7:50-6.75 Landfills

(a)-(b) (No change.)

(c) All landfills which ceased operation on or after September 23, 1980 if located in the Preservation Area or on or after January 14, 1981 if located in the Protection Area shall be capped with an impermeable material unless it can be clearly demonstrated that:

1. The landfill accepted only vegetative waste or construction for disposal;
2. An alternative means of addressing the public health and ecological risks associated with the landfill is available that will afford an equivalent level of

protection of the resources of the Pinelands than would be provided if the landfill were capped with an impermeable material; [ø]

3. No leachate plume associated with the landfill exists and the landfill is not generating leachate; **or**
4. **A leachate plume associated with the landfill exists but poses no significant public health risk, as determined by the Department of Environmental Protection, and no significant ecological risk to wetlands, as determined by the Commission.**

(d)-(i) (No change.)

7:50-6.84 Minimum standards for point and non-point source discharges

(a) The following point and non-point sources may be permitted in the Pinelands:

- 1.-4. (No change.)
5. Individual on-site septic waste water treatment systems which are intended to reduce the level of nitrate/nitrogen in the waste water, provided that:
 - i.-ii. (No change.)
 - iii. The proposed development is either residential, or, if non-residential, is located in:
 - (1) **A[a] Regional Growth Area, a Pinelands Village, a Pinelands Town or a Military and Federal Installation Area; or**
 - (2) **A Rural Development Area, a Forest Area, an Agricultural Production Area, or in an area within the Preservation Area**

District designated pursuant to N.J.A.C. 7:50-5.22(b)7, **subject to the following conditions:**[;]

- (A) The proposed nonresidential development constitutes expansion of a nonresidential use existing on January 14, 1981 or the change of a nonresidential use existing on January 14, 1981 to another nonresidential use that is a permitted use pursuant to the certified municipal land use ordinance;**
- (B) The existing nonresidential use relies on an existing on-site waste water disposal system that is not designed to reduce the level of nitrate/nitrogen in the waste water;**
- (C) The existing nonresidential use is of such a size and scale that it does not comply with N.J.A.C. 7:50-6.84(a)4ii; and**
- (D) The proposed nonresidential development will not exceed 50 percent of the floor area, the area of the use or the capacity of the use, whichever is applicable, on January 14, 1981.**

- iv. The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located, will ensure that ground water existing from the entire contiguous parcel or entering a surface body of water will not exceed two parts per million

nitrate/nitrogen calculated pursuant to the Pinelands dilution model dated December, 1993, as amended (Appendix A) subject to the provisions of (a)5 below and based on the following assumptions and requirements. For purposes of this section, the entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to N.J.A.C. 7:50-5.30 or 5.47:

- (1) (No change.)
- (2) For Amphidrome, ~~and~~ Bioclere **and FAST** systems:
 - (A) For residential development **using the Amphidrome or Bioclere system**, the system will be located on a parcel of at least one acre for each individual single family residential dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall density equal to or greater than one residential unit per acre of land;
 - (B) **For residential development using the FAST system, the system will be located on a parcel of at least 1.4 acres for each individual single family residential dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall**

**density equal to or greater than one residential unit per
1.4 acres of land;**

Recodify (B)-(I) as (C)-(J) with no change in text.

(3) (No change.)

v.-ix. (No change.)

6. (No change.)

7:50-6.85 Individual and non-individual onsite subsurface sewage disposal systems and petroleum tank maintenance

(a) (No change.)

(b) All Pinelands alternate design wastewater treatment systems in active use shall be equipped with functioning alarm dialing capability and shall be covered under a renewable operation and maintenance agreement for as long as the system is in active use. The operation and maintenance agreement shall, at minimum, provide for at least once annual service calls by a qualified service technician. The operation and maintenance agreement shall also provide for periodic onsite inspection and maintenance service visits which meet the minimum operation and maintenance requirements of the Pinelands alternate design wastewater treatment system manufacturer or vendor.

(c) Every owner or operator of a Pinelands alternate design wastewater treatment system shall **comply with the maintenance and monitoring requirements of N.J.A.C. 7:9A-8.3 and 12.3.:**

~~1. Obtain from the municipality in which the system is located or from another responsible management entity designated by said municipality an initial permit or~~

~~other authorization to operate said system. Said initial permit or authorization shall be valid for no more than three years; and~~

~~2. Prior to the expiration of the initial permit or authorization required in (c)1 above, apply to the municipality in which said system is located or to another responsible management entity designated by said municipality to renew said permit or authorization. The following information shall accompany any such application for permit renewal:~~

~~i. Certification by a qualified service technician that the system is covered under a renewable operation and maintenance agreement which meets the requirements of the Pinelands Alternate Design Wastewater Treatment System manufacturer or vendor;~~

~~ii. Certification by a qualified service technician that all of the components of the Pinelands Alternate Design Wastewater Treatment System are in good repair; and~~

~~iii. Certification by a qualified service technician that that the Pinelands Alternate Design Wastewater Treatment System is operating in conformance with the manufacturer's specifications and is functioning properly, meaning that the system is denitrifying, does not show evidence of ponding or breakout of sewage or effluent onto the surface of the ground, sewage or effluent is not seeping into below ground portions of the building served, there is no back-up of sewage into the building and there is no evidence of a direct discharge of sewage or effluent to a surface water body.]~~

(d) (No change.)

7:50-6.106 Signs

Each municipality shall adopt provisions governing signs in its municipal master plan and ordinances. [N.J.A.C. 7:50-6.107 contains provisions which must be included in all municipalities; N.J.A.C. 7:50-6.108 contains mandatory provisions for municipalities in the Preservation Area District and Special Agricultural Production Areas; and N.J.A.C. 7:50-6.109 contains suggested guidelines for additional sign provisions for other areas of the Pinelands.]

On-site signs are generally permitted in the Pinelands pursuant to N.J.A.C. 7:50-6.107. Off-site signs are permitted only in accordance with N.J.A.C. 7:50-6.108. Mandatory provisions for off-site signs are provided in N.J.A.C. 7:50-6.109. Each municipality may adopt additional provisions governing signs including, but not limited to, the establishment of sign types and associated regulations governing the appropriate location and manner of such signs provided that such provisions do not conflict with N.J.A.C. 7:50-6.107 through 6.109.

7:50-6.107 [~~Mandatory sign provisions~~] **On-site signs**

- (a) [~~No sign, other than warning or safety signs, which is designed or intended to attract attention by sudden, intermittent or rhythmic movement, or physical or lighting change, shall be permitted in any area.~~] **On-site signs may be permitted in any management area.**
- (b) [~~No sign, other than warning or safety signs, which changes physical position by any movement or rotation or which gives the visual impression of such movement or rotation shall be permitted in any area.~~] **Municipalities are encouraged to adopt the standards**

for electronic message displays and lighting in N.J.A.C. 7:50-6.109(a)3 and 4 in formulating municipal ordinance standards for on-site signs.

[(e) ~~No outdoor off-site commercial advertising sign, other than those off-site signs specifically authorized in N.J.A.C. 7:50-6.108 and 6.109, shall be permitted in the Pinelands except as follows:~~

1. ~~Off-site outdoor signs advertising agricultural commercial establishments shall be permitted in Agricultural Production Areas and Special Agricultural Production Areas and may be permitted in any other management area. All such off-site signs shall be subject to the following conditions:~~
 - i. ~~A maximum of two signs may be placed in any one direction along each road directly approaching the stand, and~~
 - ii. ~~Each sign along four lane State or U.S. highways shall be limited to a maximum of 50 square feet in area; each sign along all other roads shall be limited to a maximum of 32 square feet in area.~~
2. ~~Off-site outdoor directional signs may be permitted in any management area, provided that such signs do not contain advertising and are restricted to the name of the public or private use and any necessary directions, the number of signs per use is the minimum necessary to give adequate directions and the size of such signs does not exceed that necessary to convey directions.~~
3. ~~Existing lawful off-site commercial advertising signs, in existence as of January 14, 1981, shall be permitted in:~~
 - i. ~~Regional Growth Areas;~~
 - ii. ~~Pinelands Towns; and~~

- iii. ~~Certified municipal non-residential zones in Rural Development Areas and Villages in existence as of December 5, 1994 if the sign is located within 1,000 feet of a Regional Growth Area or Pinelands Town and is located on a United States Highway.~~
- (d) ~~Any existing sign that violates (a) or (b) above shall be removed immediately. Any existing off-site commercial advertising sign which does not conform to (c) above shall be removed no later than December 5, 1996.~~
- (e) ~~To the maximum extent practical, the character and composition of construction materials for all signs shall be harmonious with the scenic values of the Pinelands.]~~

7:50-6.108 [~~Mandatory sign provisions in the Preservation Area District and Special Agricultural Production Areas~~] **Off-site signs**

- (a) [~~No sign shall be constructed, repaired or maintained except in accordance with the provisions of N.J.A.C. 7:50-6.107 and this section~~] **Off-site signs are permitted only as follows:**
 - 1. **Off-site directional signs may be permitted in any management area.**
 - 2. **Off-site temporary signs may be permitted in any management area.**
 - 3. **Off-site signs advertising an agricultural commercial establishment shall be permitted in Agricultural Production Areas and Special Agricultural Production Areas and may be permitted in any other management area.**
 - 4. **Off-site signs lawfully in existence as of January 14, 1981 shall be permitted in:**
 - i. **Regional Growth Areas;**

- ii. **Pinelands Towns; and**
- iii. **Certified municipal non-residential zones in Rural Development Areas and Pinelands Villages in existence as of December 5, 1994 if the sign is located within 1,000 feet of a Regional Growth Area or Pinelands Town and is located on a United States Highway.**

5. New off-site signs may be permitted by certified municipalities in Regional Growth Areas and Pinelands Towns, provided that the applicant can demonstrate that, for each new sign, a non-conforming off-site sign pursuant to N.J.A.C. 7:50-6.108(b) has been removed.

~~[(b) The following signs are permitted in the Preservation Area District and the Special Agricultural Production Areas:~~

- ~~1. Official public safety and information signs displaying road names, numbers and safety directions;~~
- ~~2. On-site signs advertising the sale or rental of the premises, provided that:
 - ~~i. The area on one side of any such sign shall not exceed 12 square feet;~~
 - ~~ii. No more than one sign is located on any parcel of land held in common ownership.~~~~
- ~~3. On-site identification signs for schools, churches, hospitals, or similar public service institutions, provided that:
 - ~~i. The size of any such sign shall not exceed 12 square feet;~~
 - ~~ii. No more than one sign is placed on any single property.~~~~

4. ~~Trespassing signs or signs indicating the private nature of a road, driveway or premises, and signs prohibiting or otherwise controlling fishing or hunting, provided that the size of such signs does not exceed 12 square feet;~~
5. ~~On-site professional, home occupation, or name signs indicating the profession and/or activity and/or name of the occupant of the dwelling, provided that:
 - i. ~~The size of any such sign shall not exceed 12 square feet;~~
 - ii. ~~No more than one sign is permitted for any individual parcel of land.~~~~
6. ~~On-site business or advertising signs, provided that:
 - i. ~~No more than two signs are located on any one premise or on the premises leased or utilized by any one business establishment;~~
 - ii. ~~The total area of such signs shall not exceed 20 square feet per side, with the maximum height to the top of the sign not to exceed 15 feet from ground level.~~~~
7. ~~Temporary signs advertising political parties or candidates for election, provided that the size of any such sign does not exceed four square feet.~~
8. ~~Temporary on- and off-site signs advertising civil, social or political gatherings and activities, provided that the size of such signs does not exceed four square feet.]~~

(b) Any off-site sign in existence prior to January 14, 1981 that does not conform to (a)1, (a)3, or (a)4 above shall be deemed a non-conforming sign and shall be removed no later than December 5, 1996. Any off-site sign erected on or after January 14, 1981 that does not conform to (a) above shall be deemed unlawful and shall be removed immediately.

7:50-6.109 [~~Guidelines for sign provisions outside the Preservation Area District and Special Agricultural Production Areas~~] **Provisions for permitted signs**

(a) [~~The following guidelines may be used in formulating municipal sign ordinances:~~

1. ~~Official public safety and information signs displaying road names, numbers and safety directions may be permitted;~~
2. ~~On-site signs advertising the sale or rental of the premises may be permitted, provided that:~~
 - i. ~~The area on one side of any such sign does not exceed 12 square feet;~~
 - ii. ~~No more than one sign is located on any parcel of land held in common ownership.~~
3. ~~On-site identification signs for schools, churches, hospitals, or similar public service institutions may be permitted; provided that:~~
 - i. ~~The size of any such sign does not exceed 12 square feet;~~
 - ii. ~~No more than one sign is placed on any single property.~~
4. ~~Temporary signs advertising political parties or candidates for election may be permitted, provided that the size of any such sign does not exceed 12 square feet;~~
5. ~~Temporary on- and off-site signs advertising civil, social or political gatherings and activities may be permitted, provided that the size of such signs does not exceed 12 square feet;~~
6. ~~Trespassing signs or signs indicating the private nature of a road, driveway, or premise, and signs prohibiting or otherwise controlling fishing or hunting may be permitted, provided that the size of such signs does not exceed 12 square feet;~~

- ~~7. On-site professional, home-occupation, or name signs indicating the profession and/or activity and/or name of the occupant of the dwelling may be permitted, provided that:~~
- ~~i. The size of such sign does not exceed four square feet;~~
 - ~~ii. No more than one sign is permitted for any individual parcel of land.~~
- ~~8. On-site business or advertising signs may be permitted provided that:~~
- ~~i. No more than two signs are located on any one premise or on the premises leased or utilized by any one business establishment;~~
 - ~~ii. The total area of such signs does not exceed 20 square feet per side with the maximum height to the top of the sign not to exceed 15 feet from ground level.~~
- ~~9. New off-site commercial advertising signs may be permitted by certified municipalities in Regional Growth Areas and Pinelands Towns provided that the applicant can demonstrate that for each new sign an existing lawful off-site commercial advertising sign has been removed by the applicant pursuant to N.J.A.C. 7:50-6.107(d).]~~

(a) Permitted signs shall comply with the following provisions:

- 1. Off-site directional signs shall comply with the following standards:**
 - i. They shall contain no advertising and shall be limited to the name of the public or private use and any necessary directions;**
 - ii. The quantity of signs per use shall be limited to the minimum necessary to give adequate directions; and**

lights. All sources of illumination shall be shielded or directed such that light is not directed towards the sky.

- (b) Off-site signs that are required to be removed pursuant to N.J.A.C. 7:50-6.108(b) shall not have electronic message displays.**
- (c) Noncommercial copy shall be permitted to replace the message on any permitted sign.**

7:50-7.3 Proposed amendments; petitions for amendment

(a)-(b) (No change.)

(c) For petitions filed pursuant to (b) above, the petitioner shall be required to provide notice of the filing of the petition within 20 days after receiving notification from the Executive Director pursuant to N.J.A.C. 7:50-7.5(b) that a complete petition has been filed with the Commission as follows:

1. If the petition proposes to change the classification of any parcel as shown on the Land Capability Map or is intended to affect a specific parcel or an area less than 100 acres in size:
 - i. Notice shall be given by mailing a copy of the petition to the secretary of the county and municipal planning board and environmental commission, if any, with jurisdiction over any parcel or area that would be directly affected by the proposed amendment; **and**
 - ii. Notice shall be given to owners of all real property within 200 feet of any parcel or area that would be directly affected by the proposed amendment as provided for in N.J.S.A. 40:55D-12(b). The administrative officer of the

municipality in which the subject parcel or area is located shall provide a certified list of said property owners as provided for in N.J.S.A. 40:55D-12(c). The petitioner shall be entitled to rely upon the information contained in said certified list as provided in N.J.S.A. 40:55D-12(c).^[5]

- ~~iii. Notice shall be given by publication in the official newspaper of the municipality in which the subject parcel or area is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12; and~~
- ~~iv. Notice shall be given by conspicuous posting on any parcel or parcels that would be directly affected by the proposed amendment.]~~

[2. For all other petitions, notice shall be given by publication in all the official newspapers of the Pinelands Commission.]

~~2~~[3]. The petitioner shall file with the Executive Director, no less than 25 days after receiving notification from the Executive Director that a complete petition has been filed with the Commission, an affidavit that the requirements of (c)1 ~~[or 2]~~ above, ~~[whichever may be]~~ if applicable, have been satisfied.

7:50-7.5 Action on petitions for amendment

- (a) (No change.)
- (b) Upon determining that a petition for amendment is complete, the Executive Director shall so notify the petitioner and shall, within 15 days, prepare and file a notice of petition for rulemaking with the Office of Administrative Law in accordance with N.J.A.C. 1:30-

3.6(a). **The Executive Director shall thereafter publish the notice of petition on the Commission's website.**

(c)-(d) (No change.)

7:50-9.7 Rights of appeal

Any interested [~~person~~] **party** who is aggrieved by any determination made by the Executive Director pursuant to this subchapter may, within 15 days, appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may be presented to the Pinelands Commission only by requesting a hearing pursuant to N.J.A.C. 7:50-4.91.

SUBCHAPTER 10. PILOT PROGRAMS

PART IV – ALTERNATE DESIGN TREATMENT SYSTEMS PILOT PROGRAM

7:50-10.21 Purpose

(a)-(b) (No change.)

(c) In 2000, the Commission formed a special committee to investigate alternate septic system technologies that would better meet the water quality requirements of N.J.A.C. 7:50-6, Part VIII, for residential development on lots smaller than 3.2 acres where such lots are currently authorized by N.J.A.C. 7:50-5. After conducting extensive research, the Committee identified five technologies that can be expected to meet these water quality requirements for residential development. The Committee recommended that an interim program be developed for the approval, installation and monitoring of the five technologies for use under certain conditions and safeguards. Based on the available

information, the Committee recommended that the Ashco RFS III system be allowed on residential lots of at least 1.5 acres and the other four systems be allowed on residential lots of at least one acre. In November 2006, the Commission decided to remove the Ashco RFS III system from the Alternate Design Treatment Systems Pilot Program. The Commission made this decision due to the manufacturer's failure to make systems commercially available in the Pinelands during the initial five year period of the pilot program or to otherwise demonstrate the ability or intention for future participation in the pilot program. Residential development using any of the authorized systems would still have to conform to the lot size and density requirements contained in the municipal land use ordinances that have been certified by the Commission pursuant to N.J.A.C. 7:50-3. In 2010, the Commission decided to release two of the original pilot program technologies (Amphidrome and Bioclere) from the pilot program and authorize them for permanent use, subject to the provisions of N.J.A.C 7:50-6.84(a)5iv(3). The Commission also decided to provide an opportunity for expansion of the pilot program to include certain other residential nutrient reducing onsite wastewater treatment technologies that have attained verification and/or certification through the United States Environmental Protection Agency Environmental Technology Verification (USEPA ETV) Program or the National Sanitation Foundation/ American National Standards Institute (NSF/ANSI) Standard 245 testing program. Information regarding the USEPA ETV Program is available from the United States Environmental Protection Agency website at: <http://www.epa.gov/etv/vt-wqp.html#dwtt> and <http://www.epa.gov/etv/pubs/600s07004.pdf>. Information regarding the NSF/ANSI Standard 245 testing program is available from the National Sanitation Foundation

website at:

[http://www.nsf.org/business/wastewater_certification/standards.asp?program=Wastewater](http://www.nsf.org/business/wastewater_certification/standards.asp?program=WastewaterCer#245)

[rCer#245](#). In 2013, the Commission decided to remove the Cromaglass technology from the Alternate Design Treatment Systems Pilot Program. The Commission made this decision based on the Cromaglass technology's inability to meet the water quality standards contained in N.J.A.C. 7:50-6, Part VIII. **In 2016, the Commission decided to release the only remaining original pilot program technology (FAST) from the pilot program and authorize it for permanent use on parcels of at least 1.4 acres in size, subject to the provisions of N.J.A.C 7:50-6.84(a)5iv(3).**

(d) (No change.)

7:50-10.22 General standards

(a) Alternate design pilot program treatment systems shall be authorized for residential use in all municipalities provided that the following standards are met:

1.-2. (No change.)

3. Subject to being increased during the pilot program based on the results of a hearing conducted pursuant to (a)5 below, ~~[each FAST system shall be located on a parcel containing at least one acre for each dwelling unit that will be served by the system. E]~~each USEPA ETV or NSF/ANSI Standard 245 technology approved by the Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) shall be located on a parcel containing sufficient land area to comply with the two parts per million nitrogen requirement and the water quality standards contained in N.J.A.C. 7:50-6, Part VIII, as calculated using the

Pinelands Septic Dilution Model and the expected effluent total nitrogen value for the technology based upon the findings of the USEPA ETV and /or NSF/ANSI Standard 245 test data.

4. The [~~FAST alternate design pilot program treatment system identified in (a)3 above and the~~] USEPA ETV or NSF/ANSI Standard 245 technologies approved by the Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) are authorized to be installed until August 5, 2018.

5-6. (No change.)

(b)-(c) (No change.)

7:50-10.23 Pinelands Commission approval and evaluation

(a)-(b) (No change.)

- (c) The Executive Director shall review this pilot program relative to [~~the FAST treatment technology and~~] any approved USEPA and NSF/ANSI Standard 245 treatment technologies no later than August 5, 2017, and shall report to the Commission within three months of that date on its implementation. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:

1.-6. (No change.)

- [(d) ~~If the Executive Director finds that the number of monitoring events for the FAST treatment technology is not adequate to evaluate that technology under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, 2019.~~]

(d)~~(e)~~ If the Executive Director finds that the number of monitoring events for any approved USEPA and NSF/ANSI Standard 245 treatment technologies is not adequate to evaluate any of those technologies under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, 2019.

Recodify (f)-(h) as (e)-(g) with no change in text.

(h)~~(i)~~ Nothing in this section shall be construed to authorize the installation of [~~a FAST alternate design pilot program treatment system or~~] any USEPA ETV and NSF/ANSI Standard 245 treatment technology approved by the Commission for participation in the pilot program after August 5, 2018, as set forth in N.J.A.C. 7:50-10.22(a)4, unless a rule has been adopted by the Commission which expressly authorizes such installation pursuant to **(f) or (g)** [~~or (h)~~] above.