



Administering the Threatened & Endangered Species Regulations

CMP Policy and Implementation Committee

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CMP Threatened and Endangered (T&E) Plant and Animal Species Regulations

T&E Plants: No development shall be carried out by any person unless it is designed to avoid irreversible, adverse impacts on the survival of any local population of those plants designated by the NJDEP as endangered plant species and CMP listed T&E plants.

Key takeaways:

- Impacts on the survival of a local population
- Not necessarily protecting every plant
- NJDEP plant list and Commission plant list



CMP Threatened and Endangered (T&E) Plant and Animal Species Regulations

T&E Animals: No development shall be carried out unless it is designed to avoid irreversible, adverse impacts on habitat that is critical to the survival of any local population of those T&E animal species designated by the NJDEP.

Key takeaways:

- Impact on critical habitat
- Not necessarily protecting every animal
- NJDEP list of animals only



T&E Sighting Information

The Commission staff collects Pinelands Area T&E plant and animal species sightings.

T&E sightings are reported to NJDEP by various sources, including the Commission staff.

NJDEP vets the reported sightings and depicts sightings on a digital map layer.

Commission has a formal agreement with NJDEP to share T&E animal “point data”

NJDEP provides the Commission with an updated map layer once every six months.





Possible Approaches to Administering the CMP T&E Protection Regulations

- Require all applications for development to prepare a T&E species survey
- Require only major development applications to complete a T&E species survey
- Do not require T&E species surveys and rely on CMP management area designations (e.g. Preservation Area District, Forest Area) to serve as a regional conservation plan for all T&E species in the Pinelands Area. (Preservation Area District and Forest Area comprise 552,500 acres out of the 938,000-acre Pinelands Area)

Possible Approaches to Administering the CMP T&E Protection Regulations



- Require only development applications located outside of areas where development is encouraged (Pinelands Regional Growth Areas, Pinelands Towns and Pinelands Villages) to complete a T&E species survey
- Commission staff uses professional judgment based upon T&E species knowledge and experience to determine which application must address which T&E species

Factors the Commission Staff Considers in Determining the Need for a T&E Species Survey:



Area of parcel proposed to be disturbed

Type and intensity of proposed development

Known T&E sightings in area

Habitat assessment including soils and vegetation

Extent of existing development in area

Any prior T&E surveys in the area

Results of a site inspection

Whether development can be designed to address T&E concern

Which T&E Species Must Be Subject of a Survey

After consideration of the previously described factors, the Commission staff considers the listed T&E plants and the listed T&E animals and identifies those T&E species of concern for a specific application and requires a T&E survey for just those species.





Number of T&E Species Surveys Required

Between Jan 2023 and Jan 2025, approximately 11% of new applications filed with the Commission were required to complete a T&E survey.

Cost of Typical T&E Species Surveys

Full two season draft fence survey for T&E snakes on an 80-acre site: \$75,000.

One season survey for Pine Barrens treefrog or T&E birds: \$5,000 to \$8,000.

Recognizing the financial cost implication to an applicant, the Commission staff carefully consider whether to require a T&E species survey.





Regulatory Basis for Requiring a T&E Species Survey

The CMP requires that “no development shall be carried out unless it is designed to avoid irreversible adverse impact....,”

Based upon this regulatory language, if warranted, a survey is required to demonstrate consistency with the T&E plant and animal protection regulations.

Administering the T&E Species Protection Regulations

Administering the T&E protection regulations is science-based, but it is not an exact science.

For example, determining what constitutes “critical habitat” for an upland snake species that may be tracked for over one mile requires professional judgment based upon T&E species knowledge and experience.

While experienced T&E professionals may reach a general consensus on a given T&E issue, agreement of all experienced T&E professionals on a given T&E issue is highly unlikely.



A close-up photograph of a spotted salamander's head, showing its eyes and the pattern of dark spots on its orange-brown skin. The background is blurred, showing more of the same species.

Administering the T&E Species Protection Regulations

In administering the T&E protection regulations, the Commission staff apply science and exercises professional judgment to reach a defensible conclusion.

The Commission's Regulatory Programs staff has over 25 years of T&E experience. As necessary, the Regulatory Programs staff occasionally discusses a T&E issue with the Commission's Science Office staff, the NJDEP Endangered and Nongame Species Staff and the US Fish and Wildlife Service staff.

Upon Commission staff acceptance of the results of a T&E survey, the CMP does not prescribe a period of protection from T&E regulation.

When a T&E Species Survey is Required for an Application for One Single Family Dwelling

Typically, on lots of two acres or larger, the Commission staff suggests two approaches to demonstrate that development is “designed to avoid irreversible adverse impact...” and meet the T&E protection regulations.

Complete a full T&E survey of the entire lot; or

When a T&E Species Survey is Required for an Application for One Single Family Dwelling

Complete a modified T&E survey of a proposed approximately one-acre development envelope.

To avoid habitat fragmentation, the development envelope is typically required to be located as close to adjacent development and within 200 feet of the road.

A deed restriction is required on the balance of the parcel to protect potential critical habitat. The deed restriction can be lifted upon completion of a full T&E survey with negative results.

Cost of a modified T&E survey of one acre development envelope ranges from \$1,500 to \$2,000.



**When a T&E Species
Survey is Required
for Other Types of
Development**

T&E Species Survey Protocol

Applicants sometimes submit a T&E species survey protocol for Commission staff review in advance of undertaking a survey. A T&E species survey protocol typically addresses:

The generally accepted scientific approach (protocols) that will be utilized in conducting the T&E survey for the species of concern.

The specific survey techniques that will be utilized in the field.

The level of effort (e.g. days, hours) that is required for the species of concern.

T&E Species Survey Protocol

The information that will be provided in the completed survey.

The educational and/or experience of the surveyor to demonstrate that the surveyor is qualified to complete the survey for the specie(s) of concern.

The Commission staff reviews the proposed protocol and provides comments.

Note that the CMP does not contain regulations addressing the content of a protocol or the minimum qualifications for a person to complete a T&E survey.

Content of a T&E Survey

Purpose of Survey

Information addressing the life cycle of the
concerned T&E species

Preferred habitat of T&E species

Habitat present on the parcel

Description of survey techniques

Data forms documenting site inspections
and results of site inspections

Maps of relevant natural resources



Content of a T&E Survey

Maps of survey area

Maps of any T&E sightings

As appropriate, confirmation of reference populations to ensure survey was conducted at appropriate time of year/day.

Analysis and conclusion

The CMP does not contain regulations addressing the content of a T&E survey



Commission Staff Review of Completed Surveys

The Commission staff reviews the results of the submitted survey and ensures that the survey was conducted consistently with generally accepted scientific protocols for the T&E species of concern.

Commission staff frequently request clarification of submitted survey.

Should the Commission Maintain a List of Qualified T&E Consultants That an Applicant Must Select From?

To date, consultant qualifications have rarely been an issue.

Although the USFWS and NJDEP maintain a list of qualified consultants for a few T&E species, there are no regulations establishing the minimum qualifications.

Should the Commission Maintain a List of Qualified T&E Consultants That an Applicant Must Select From?

The steps necessary for the Commission to maintain such a list include:

- Determine the minimum education and experience qualifications on a species-by-species basis required for a consultant to be included on the list.
- CMP amendments may be necessary to address qualifications, protocols and the content of the T&E survey.
- Establish a process, probably by CMP amendment, for a consultant to appeal a Commission determination that they are not qualified consultants.

Should the Commission Maintain a List of Qualified T&E Consultants That an Applicant Must Select From?

- Ramifications if Commission staff disagree with the determination of a qualified consultant included on the list. Applicants may assume that Commission “certification” implies Commission acceptance of a consultant’s conclusion.
- Staff time to implement, administer, maintain and update such a list.

Commission Assigns a Qualified T&E Consultant to an Application

The steps necessary to implement such a program:

Amend the CMP to standardized T&E protocols, to specify the contents of a T&E survey, and to specify the minimum qualifications on a species-by-species basis required for a consultant to be included on the list.

Establishing a Commission fee schedule based on acreage (?) and number and type of species.

Commission Assigns a Qualified T&E Consultant to an Application

Applicants posts a T&E fee for the Commission to administer as an escrow.

Establish a process to administer consultant billing against posted escrow, verify that work that the consultant has billed for has been completed, and the Commission is responsible for issuance of payments.

Staff mediation of disputes between applicants and consultants and establish an appeal process if an applicant objects to the assigned consultant.

Staff time to otherwise implement, administer, maintain and update such a program.

A photograph of a bird, possibly a sparrow or similar small bird, standing in a field of tall, dry grass. The bird is positioned on the right side of the frame, facing left. It has a long, thin beak and a small eye. The grass is tall and thin, with some small white flowers or seed heads visible. The background is a dense field of similar grass. A semi-transparent dark horizontal band runs across the middle of the image, containing the word "Questions?" in white, bold, serif font.

Questions?