

implementation of smart grid technology shall be reported in the Annual System Performance Report.

Recodified from N.J.A.C. 14:5-7.13 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

In (a), substituted "maintain an" for "substantially implement the" and deleted "by December 31, 2000" from the end; in (c), substituted "The" for "It is intended that when fully implemented the"; and added (d).

14:5-8.12 Penalties

(a) Civil administrative penalties for violations of the reporting and planning and program submission requirements set out in N.J.A.C. 14:5-8.3 through 8.8 and 8.10 shall be assessed as follows:

1. For failure to submit complete required reports, programs and plans on the due date set by rule, the EDC may be liable for a penalty of up to \$5,000 for each day beyond the due date that the report, program or plan is not submitted, up to a maximum of \$25,000 in total penalties for each violation; provided, however, that upon timely written request to Board staff demonstrating the need for an extension of time, the time for submitting required reports, plans and programs may be extended in appropriate cases.

2. A second or any subsequent failure to submit any required report, plan or program, the EDC may be liable for a penalty of up to \$50,000.

(b) Civil administrative penalties for violations of this subchapter other than those set out in (a) above may be assessed as follows:

1. For failure to implement the requirements set out in the programs and plans as submitted to the Board or for the willful misrepresentation of fact and/or intentional inaccuracies in any submitted report, plan or program or for violation of any other requirement of this subchapter, an EDC may be liable for a penalty of not more than \$25,000 for each violation unless mitigating circumstances can be demonstrated by the EDC. For a second or any subsequent violation of the same provision, the EDC may be liable for a penalty of not more than \$50,000.

2. Each violation of any rule of this subchapter shall constitute an additional, separate and distinct violation.

3. Each day during which a violation continues shall constitute an additional, separate and distinct violation.

(c) Any penalty which may be assessed under this section may be compromised by the Board. In determining the amount of the penalty, or the amount agreed upon in compromise, the Board may consider aggravating and mitigating circumstances including the nature and gravity of the violation; the degree of the EDC's culpability; any history of prior violations; and any good faith effort on the part of the EDC in attempting to achieve compliance.

(d) Penalty assessments are payable to the Treasurer, State of New Jersey and are due within 30 days of service upon the EDC of an order assessing a penalty unless the Board directs otherwise.

Recodified from N.J.A.C. 14:5-7.12 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

In the introductory paragraph of (a), substituted "planning" for "plan" and updated the N.J.A.C. references.

SUBCHAPTER 9. ELECTRIC UTILITY LINE VEGETATION MANAGEMENT

14:5-9.1 Purpose and scope

This subchapter sets forth requirements that EDCs shall follow in managing vegetation in proximity to an energized conductor in order to ensure public safety and the efficient and reliable supply of electric power.

Recodified from N.J.A.C. 14:5-8.1 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

Substituted "EDCs" for "electric public utilities".

14:5-9.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1:

"Arboriculture" means the cultivation of trees, shrubs and other woody plants.

"Agricultural crop" means a plant that is grown in significant quantities to be harvested as food, livestock fodder or for another economic purpose. This term includes, but is not limited to, landscape nursery stock and Christmas tree plantation stock.

"Border zone" means the space from the edge of the transmission line wire zone, as defined herein, to the outer boundary of the right of way.

"Contractor" means a person or entity, other than the Board, with which a utility contracts to perform work, furnish information and/or material. This term includes all subcontractors engaged by a contractor to perform any of the obligations required by a contract.

"Distribution line" means a primary electric voltage line, wire or cable including supporting structures and appurtenant facilities, which delivers electricity from transformation points on the transmission system to points of connection at a customer's premises, that would not be considered a transmission line as set forth in this section.

“Electric utility arborist” means a person that has been certified as a Utility Specialist by the International Society of Arboriculture and, in addition, meets the following:

1. The person is certified as a Tree Expert by the New Jersey Department of Environmental Protection’s Board of Tree Experts; and
2. The person is certified as a Certified Arborist by the International Society of Arboriculture.

“Energized conductor” means an electric circuit or piece of equipment through which electricity is flowing or usually flows. This term includes both distribution and transmission circuits and equipment.

“Grass” means a type of plant with jointed stems, slender flat leaves and spike like flowers.

“Inactive transmission line corridor” means that unused part of the right of way that does not have transmission towers or transmission lines overhead.

“Integrated Vegetation Management” or “IVM” means a system of managing plant communities whereby vegetation managers set objectives, identify compatible and incompatible vegetation, consider action thresholds, and evaluate, select and implement the most appropriate vegetation control method(s) to achieve those objectives, based on the methods’ environmental impact and anticipated effectiveness, along with site characteristics, security, economics, current land use and other factors.

“Major event” has the same meaning as is ascribed to this term in N.J.A.C. 14:5-1.2.

“NERC” means the North American Electric Reliability Corporation.

“Right of way” means less than fee interest in property, which gives a public utility a limited right to use land owned by another person or entity for the purpose of transmitting or distributing electricity. This right is typically memorialized in an easement. This term also includes the parcel of land for which a public utility holds a right of way or easement.

“Transmission line” means an electrical line, wire or cable, (including the supporting structures) and appurtenant facilities which transmits electricity from a generating plant to electric distribution lines. An electric transmission line usually has a rating exceeding 69 kilovolts.

“Tree” means a tall perennial woody plant with a main trunk and branches forming a distinct elevated crown.

“Vegetation” means trees and other plants.

“Vegetation management” means the removal of vegetation or the prevention of vegetative growth, to maintain safe conditions around energized conductor(s) and ensure reliable electric service. Vegetation management consists of biological, chemical, cultural, manual and mechanical methods to control vegetation in order to prevent hazards caused by the

encroachment of vegetation on energized conductor(s), and to provide utility access to the conductor.

“Vegetation manager” or “VM” means an electric utility arborist, who is employed by an EDC to supervise and ensure the EDC’s compliance with this subchapter.

“Wire zone” means the land located directly under the widest portion of a transmission line. For a horizontal transmission line, the wire zone is bounded on each side by a location on the ground that is directly under the outermost transmission wire or the transmission tower, whichever is wider. For a vertical transmission array, the width of the wire zone shall be determined using the minimum safe distance specified in the North American Electric Reliability Corporation (NERC) FAC-003, which is incorporated herein by reference and available at www.nerc.com.

“Woody plant” means any vascular plant that has a perennial woody stem and supports continued vegetative growth above ground from year to year and includes trees.

Recodified from N.J.A.C. 14:5-8.2 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

In definition “Agricultural crop”, inserted “non-woody” and “can be used as a food and” and inserted a comma following “crop”; in definition “Distribution line”, inserted a comma following “facilities”, and substituted “this section” for “N.J.A.C. 14:5-8.2”; deleted definition “Electric public utility”; in the introductory paragraph of definition “Electric utility arborist”, deleted “one or more of” following “meets”; in 1 of definition “Electric utility arborist”, substituted “and” for “or”; in definition “Energized conductor”, inserted the last sentence; added definitions “Inactive transmission line corridor” and “Vegetation manager”; rewrote definitions “Major event” and “Wire zone”; and reorganized definition “Tree” alphabetically.

Amended by R.2010 d.018, effective January 19, 2010.

See: 41 N.J.R. 2084(a), 41 N.J.R. 2633(a), 42 N.J.R. 508(a).

Rewrote definitions “Agricultural crop” and “Wire zone”; and added definitions “Integrated Vegetation Management” and “NERC”.

14:5-9.3 General provisions

(a) An EDC shall ensure that vegetation management is conducted in accordance with this subchapter on any energized conductors of 600 volts and higher, whether for distribution or transmission, that the electric public utility owns, in whole or in part.

(b) Each EDC shall obtain, and shall ensure that its contractors obtain, all required permits and licenses prior to commencement of vegetation management.

(c) An EDC that utilizes chemical or biological agents in vegetation management shall comply with any laws or regulations governing the use of those biological and chemical agents.

(d) Each EDC shall employ a vegetation manager, who is an electric utility arborist, as defined at N.J.A.C. 14:5-9.2. The VM shall be a utility employee, not a contractor. The electric public utility shall provide the VM with the authority and the resources to administer all aspects of the utility’s vegetation management program, and the VM shall ensure that the electric public utility complies with this subchapter.

The VM's name and contact information shall be posted on the electric utility's web site and shall be included on all notifications provided pursuant to the notice requirements of N.J.A.C. 14:5-9.8.

(e) Each EDC shall ensure that all contractors hired to perform vegetation management inform their workers of all applicable Federal and State laws, rules or regulations that apply to the work performed under this subchapter. The EDC shall also ensure that all contractors comply with each applicable requirement of this subchapter and all other applicable law.

(f) An EDC that performs vegetation management at the request of a municipality or government agency, other than vegetation management required under this subchapter, may require the requesting party to pay any incremental cost above the EDC's cost to perform the vegetation management required by this subchapter. An EDC shall not perform such additional vegetation management if the additional vegetation management would decrease the reliability or safety of an energized conductor.

(g) Upon a written request from a municipality, an EDC may, but is not required to, temporarily suspend compliance with one or more of the vegetation management requirements of this subchapter, within the following limits:

1. The suspension of compliance shall apply only to the distribution system, and shall not apply to transmission line vegetation management required under N.J.A.C. 14:5-9.6;
2. The suspension of compliance shall apply only to those portions of a distribution system that are located within the municipality, and that do not affect service to any adjacent municipality;
3. The EDC shall not suspend compliance with any requirement if the suspension would result in danger to the public; and
4. If the suspension results in additional costs to the EDC due to lack of tree trimming or other vegetation management, the municipality shall reimburse the electric public utility for these costs.

(h) An EDC may petition the Board for recovery of the distribution and transmission portion of vegetation management program costs required under this subchapter in future base rate proceedings.

(i) Each EDC shall perform vegetation management on a pro rata basis over the four-year cycle identified in N.J.A.C. 14:5-9.4(b) to achieve full compliance by December 18, 2010.

Recodified from N.J.A.C. 14:5-8.3 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

Substituted "EDC" for "electric public utility" throughout; in (d), deleted "(VM)" following "vegetation manager" and updated the N.J.A.C. references; in (e), substituted "and State" for ", State, county, and municipal" and substituted the second occurrence of "EDC" for "electric utility"; in (f), inserted "incremental" and substituted "EDC's"

for "electric public utility's"; in (g)1, inserted "transmission line" and "required", and substituted "N.J.A.C. 14:5-9.6" for "transmission lines"; in (g)4, inserted "or other vegetation management"; and rewrote (i).

14:5-9.4 Maintenance cycle

(a) An EDC shall perform an annual visual inspection of all energized conductors that are associated with a transmission line, to determine whether vegetation management is needed. The visual inspection may be performed from the ground except in cases where the conductor is not visible from the ground. The EDC shall take into account the height of the vegetation and the distance of the vegetation from the energized conductor, in determining whether vegetation management is needed.

(b) An EDC shall perform vegetation management on vegetation that is close enough to pose a threat to its energized conductors at least once every four years.

(c) In addition to the maintenance required in (b) above, if an EDC becomes aware at any time of any vegetation close enough to its energized conductor to affect reliability or safety prior to the next required vegetation management activity, the electric utility shall ensure that necessary vegetation management is promptly performed as required under N.J.A.C. 14:5-9.5.

(d) If the EDC determines that vegetation described under (c) above poses an immediate safety hazard, the EDC shall not be subject to the notice requirements at N.J.A.C. 14:5-9.8. However, the EDC shall, to the extent practicable, make a reasonable effort to notify the customers and property owners described at N.J.A.C. 14:5-9.8(b)1 and 2 prior to performing the vegetation management.

Recodified from N.J.A.C. 14:5-8.4 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

Substituted "EDC" for "electric public utility" throughout; in (a), inserted "that are associated with a transmission line"; rewrote (c); and added (d).

14:5-9.5 Technical standards for vegetation management

(a) Each EDC shall ensure that vegetation management conducted on its energized conductors is performed in accordance with the standards and accepted procedures set forth in the following publications, which are incorporated herein by reference including amendments and supplements thereto:

1. Pruning Trees Near Electric Utility Lines, by Dr. Alex L. Shigo. This publication may be obtained from Shigo and Tree Associates, P.O. Box 769, Durham, New Hampshire 03824;

2. Part 1 of the document entitled Tree, Shrub, and Other Woody Plant Maintenance-Standard Practices. This document, also known as ANSI A300, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

3. Best Management Practices, Utility Pruning of Trees, 2004. This title is published by the International Society of Arboriculture and may be obtained at <http://secure.isa-arbor.com/store/Best-Management-Practices-pUtility-Pruning-of-Trees-P23060.aspx>;

4. Environmental Stewardship Strategy for Electric Utility Rights-of-Way, (2002). This title is published by the Edison Electric Institute Vegetation Management Task Force, which may be obtained at www.eei.org;

5. Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush — Safety Requirements, 1994. This document, also known as ANSI Z133.1, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

6. Native Trees, Shrubs And Vines For Urban And Rural America: A Planting Design Manual for Environmental Designers, by Hightshoe, G.L., 1987, is published by John Wiley and Sons and may be obtained at <http://www.wiley.com/WileyCDA/WileyTitle/productCd-0471288799.html>;

7. Manual of woody landscape plants 5th Ed., by Michael A. Dirr. Stipes Publishing, LLC; 5th edition (August, 1998), and may be obtained at <http://www.amazon.com/exec/obidos/tg/detail/-/0875637957/103-3217696-1920611?v=glance>;

8. Hortus Third: A concise dictionary of plants cultivated in the United States and Canada, by L.H. Bailey Hortorium, 1976, and may be obtained at <http://www.wiley.com/WileyCDA/WileyTitle/productCd-0025054708.html>; and

9. National Electric Safety Code C2-2007. ISBN: Z2-RES69-07 is published by the Institute of Electrical and Electronics Engineers, Inc and may be purchased at www.ieee.org.

(b) Where multiple standards listed at (a) above would apply or conflict, the VM or his or her designee shall select the most appropriate method.

(c) Each EDC shall develop its own vegetation management standards and guidelines, which shall be consistent with this subchapter. In developing these standards and guidelines, a utility shall prioritize work based upon:

1. The extent of the potential for vegetation to interfere with the energized conductor;
2. The voltage of the affected energized conductor; and
3. The relative importance of the affected energized conductor in maintaining safety and reliability.

(d) Each EDC shall provide a copy of its vegetation management standards and guidelines to the Board as a chapter in the Annual System Performance Report. If an EDC makes a change in its vegetation management standards and guidelines, the utility shall provide Board staff with a copy of the change no later than 30 days prior to implementing the change.

(e) Each EDC's vegetation management standards and guidelines shall cover, at a minimum, all of the following activities:

1. Tree pruning and removal;
2. Vegetation control around poles, substations and other energized conductors;
3. Manual, mechanical, or chemical control of vegetation along rights of way;
4. Inspection of vegetation management both before and after the work is performed;
5. Research and development of improved vegetation management activities and practices; and
6. Public education.

(f) Among the factors the EDC shall consider in determining the extent of vegetation management to be performed at a particular site are:

1. The rate at which each species of vegetation is likely to grow back;
2. The voltage of the energized conductor, with higher voltages requiring larger clearances;
3. The potential movement of the energized conductor during various weather conditions;
4. The potential movement of trees or other vegetation during various weather conditions; and
5. The utility's legal rights to access the area.

(g) The EDC shall remove all trimmings and cut vegetation resulting from vegetation management activities that are part of the utility's regular maintenance cycle, within five business days after the vegetation was cut, except if the EDC obtains consent to leave the trimmings or cut vegetation, from the owner of the property upon which the trimmings or cut vegetation are located.

Recodified from N.J.A.C. 14:5-8.5 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

Substituted "EDC" for "electric public utility" throughout; in (a)9, substituted "C2-2007" for "C2-2002" and "07" for "02"; in (d), substituted "its" for "their" following "provide a copy of" and "as a chapter in the Annual System Performance Report" for "by January 17, 2007"; in (f), substituted "EDC" for "electric utility"; and rewrote (g).

14:5-9.6 Transmission line vegetation management

(a) In addition to the other requirements of this subchapter, transmission lines, as defined at N.J.A.C. 14:5-9.2, are subject to the requirements in this section.

(b) At a minimum, each EDC shall meet the requirements for minimum clearances between any transmission line and the closest vegetation, which are set forth in the North American Electric Reliability Corporation (NERC) FAC-003.

(c) Except as provided at (f) below, the following shall apply in the wire zone:

1. An EDC shall allow woody plants that are agricultural crops that naturally mature at 12 feet or less;

2. Other than as provided at (c)1 above, the EDC shall not allow woody plants that mature above three feet tall to grow in the wire zone, and the preferred growth shall be grasses or a low-growing, compatible, scrub-shrub plant community to obtain a meadow effect where possible.

(d) Except as provided at (f) below, the EDC shall apply integrated vegetation management (IVM) in the border zone. IVM is a best management practice conveyed in the American National Standard for Tree Care Operations, Part 7 (ANSI 2006) and the International Society of Arboriculture's Best Management Practices: Integrated Vegetation Management (Miller 2007).

(e) In addition to meeting the other requirements in this section, each EDC shall ensure that the following requirements for transmission lines are met, except for those instances set forth in (f) below:

1. Clearing under transmission lines shall be wide enough within the EDC's right of way so that no vegetation or parts of vegetation will grow or fall into the transmission lines;

2. Only grass vegetation not exceeding a height of 18 inches shall be permitted to grow within three feet of any structure;

3. Where an EDC has cleared a right of way of vegetation and bare soil is exposed, the EDC shall comply with the soil erosion requirements of the applicable soil conservation district in order to prevent soil erosion. A list of the soil conservation districts in New Jersey may be found at www.state.nj.us/agriculture/divisions/anr/nrc/conservdistricts.html;

4. To the extent that any plant species identified as invasive and non-indigenous to New Jersey poses a threat to the maintenance of the right of way or a hazard to electrical transmission conductors, the EDC shall not plant that species in the right of way, and shall make reasonable efforts to actively eliminate from the entire right of way the species identified as invasive and non-indigenous, see Snyder, David and Sylvan R. Kaufman, 2004. An overview of non-indigenous plant species in New Jersey. New Jersey Department of Environmental Protection, Division of Parks and Forestry, Office of Natural Lands Management, Natural Heritage Program, Trenton, NJ (available at <http://www.nj.gov/dep/parksandforests/natural/heritage/InvasiveReport.pdf>, and incorporated by reference herein, including any supplements and amendments thereto). To do so, the EDC shall use the best integrated vegetation management practices available and practical; and

5. Each year in the March billing cycle, or two months prior to the commencement of vegetation management work on a particular property, whichever is earlier, each EDC shall advise customers of the requirements in this subsection, through a direct notification.

(f) Notwithstanding (d) and (e) above, an EDC may leave trees and other woody vegetation within the transmission right of way under any of the following conditions:

1. The right-of-way document, easement, indenture, deed or other written land rights, executed before Jan 1, 2007, expressly permit vegetation to be located within the transmission right of way;

2. The slope of the topography exceeds 30 degrees and the transmission right of way is such that the tree or other vegetation at mature height will allow a space of more than 150 percent of the clearance requirements for an electrical path to ground, as set forth in the National Electric Safety Code, §232 to §235; or

3. Trees are located within an inactive transmission corridor and at mature height will allow a space of more than 150 percent of the clearance requirements for an electrical path to ground set forth in the National Electric Safety Code, §232 to §235.

(g) For the purposes of this section, the mature height of all vegetation, including agricultural crops, shall be determined in accordance with the publications listed in N.J.A.C. 14:5-9.5(a), or equivalent publications. Each EDC shall provide lists of acceptable species on its website or in a publication provided free of charge upon request by a ratepayer.

(h) Each year, by May 31, the EDC shall develop a schedule for transmission line vegetation management, which shall be included in the EDC's annual system performance report as required by N.J.A.C. 14:5-8. The schedule shall:

1. List the transmission lines planned for vegetation management for the next four years in advance (one of the four-year cycles required at N.J.A.C. 14:5-9.4(b));

2. Ensure that vegetation management on transmission lines is performed prior to vegetation becoming a threat to safety or service reliability; and

3. List the municipalities and the year when vegetation management work is anticipated to be done in each municipality.

(i) The EDC shall post the transmission line vegetation management schedule required under (h) above on its website and distribute it to affected municipalities and public authorities in accordance with N.J.A.C. 14:5-9.8.

Recodified from N.J.A.C. 14:5-8.6 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

Substituted "EDC" for "electric public utility" throughout; in (a), updated the N.J.A.C. reference; in (b) and (c), substituted "(C-2007)" for "(C-2 2002)"; in the introductory paragraph of (e), inserted ", except for those instances set forth in (f) below"; in (e)1, inserted "within the EDC's right of way"; in (e)2, deleted "that grows" following "vegetation"; rewrote (e)3; in (e)4, updated the N.J.A.C. reference and inserted the last sentence; in (e)7, substituted the second occurrence of "EDC" for "utility" and updated the URL; in (e)8, rewrote the first sentence; in (e)9, substituted "advise customers" for "owners" following "upon which the utility holds a right of way" and "direct notification" for "separate direct mailing"; added new (f); recodified the second (e) as (g);

recodified former (f) as (h); and in (g), the introductory paragraph of (h) and (h)1, updated the N.J.A.C. references.

Amended by R.2010 d.018, effective January 19, 2010.

See: 41 N.J.R. 2084(a), 41 N.J.R. 2633(a), 42 N.J.R. 508(a).

Rewrote (b), (c), (d), (g) and (h)3; deleted former (e)2 through (e)5; recodified former (e)6 through (e)9 as (e)2 through (e)5; in (e)4, inserted "not plant that species in the right of way, and shall", in the introductory paragraph of (f), inserted "(d) and"; in the introductory paragraph of (h), substituted "by May 31" for "before June 1"; and added (i).

14:5-9.7 Training, recordkeeping and reporting

(a) Each EDC shall ensure that:

1. Qualified OSHA and ANSI Z133 line clearance employees or contractors perform vegetation management for the EDC;

2. All such employees or contractors are trained in the proper care of trees and other woody plants in order to provide safe, reliable electric service; and

3. All such employees or contractors are knowledgeable regarding safety practices and line clearance techniques.

(b) Each EDC shall ensure that records are kept of all persons used by a contractor or the EDC to perform vegetation management on behalf of the EDC, including the dates and types of training that each such person has received.

(c) The EDC shall monitor and document all vegetation management and related activities. Documentation shall be retained for five years and shall include, but shall not be limited to:

1. The municipality in which the work was performed;
2. Identification of the circuit and substation where vegetation management activities were performed;
3. The type of vegetation management performed including removal, trimming and spraying and methods used;
4. The crew size and supervisor's name;
5. The date of activity;
6. Any safety hazards encountered;
7. Any unexpected occurrence or accident resulting in death, life-threatening or serious injury to a person assigned to perform vegetation management activities or the public; and
8. Vegetation management activities planned for the following year.

(d) Each EDC shall include a summary of the information required in (c) above about its vegetation management work during the past year, and planned activities for the following year in the Annual System Performance Report to be filed with the Board by May 31 of each year. This information shall include, at a minimum, the name of each municipality in which the EDC conducted vegetation management during the preceding year, and all circuits affected.

Recodified from N.J.A.C. 14:5-8.7 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

Substituted "EDC" for "electric public utility" throughout; rewrote (a) and (b); in the introductory paragraph of (c), inserted "be retained for five years and shall"; and in (d), substituted "the Annual System Performance Report" for "an annual report" and "May 31 of" for "May 31st".

14:5-9.8 Public notice of planned vegetation management activity

(a) Unless specifically stated elsewhere in this subchapter, each EDC shall make a diligent attempt to notify all municipal governments, customers, and property owners that may be affected by planned vegetation management activity on the EDC's distribution or transmission system. This requirement will be satisfied if the EDC provides written notice to customers and property owners in accordance with (b) and (c) below at least seven days, but not more than 45 days, prior to performing any vegetation management activity; and provides notice to municipal governments in accordance with (f) and (g) below.

(b) For distribution circuits, notice shall be provided to the following customers and property owners by separate direct mailing, door hanger, or any other Board-approved method:

1. All customers upon whose property runs any portion of the right of way or easement that will be maintained; and
2. Any owner of a property that meets both of the following:
 - i. The property is not served by the EDC, that is, there is no customer located on the property; and
 - ii. The property includes a portion of the right of way or easement that will be maintained.

(c) For transmission circuits, notice shall be provided through both of the following:

1. The EDC shall notify the persons described at (b)1 and 2 above through a direct mailing by certified mail, return receipt requested, or by another Board-approved method; and
2. The EDC shall publish a notice in two newspapers that serve the area, within the timeframe set forth in (a) above.

(d) For the purposes of (c)1 above, the United States Post Office (USPS) receipt of mailing (usually printed on white paper), which the USPS provides upon the mailing of an item certified mail return receipt requested, shall constitute proof of compliance.

(e) Each EDC shall maintain a record of the dates, locations and activities contained in the notices, which were provided to the municipal government under this section, for a period of five years after notices are sent.

(f) For municipal governments, each EDC shall provide written notice of any pending vegetation management activities to a primary contact. For a municipality, the mayor, town clerk or other person or position mutually agreed upon shall be the primary contact. For other government entities and for public authorities, the primary contact shall be selected by mutual agreement between the EDC and the entity or authority.

(g) An EDC shall notify all municipalities and public authorities that may be affected by vegetation management activities. The notice shall be made in writing to the primary contact designated under (f) above, at least two months in advance of the planned vegetation management. This notice shall include the planned dates and locations of the vegetation management. In addition, the notice of vegetation management shall be in a manner sufficient to explain each EDC's procedures and easement rights. The EDC shall provide a telephone number of the vegetation manager to enable questions to be answered.

(h) If any notice required under this section is provided by the EDC through a contractor or agent, the notice shall bear the name and logo of the EDC only, and not of the contractor or agent.

Recodified from N.J.A.C. 14:5-8.8 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

Section was "Public notice of planned vegetation management". Substituted "EDC" for "electric public utility" throughout; rewrote (a), added (b) through (d); recodified former (b) through (d) as (e) through (g); rewrote (e); in (f), substituted "For municipal governments, each EDC" for "Each electric public utility or its contractor" and substituted the second occurrence of "EDC" for "electric utility"; in (g), substituted "(f)" for "(c)", "manner sufficient to explain" for "form appropriate to" and "EDC's" for "electric public utility's", and inserted the last sentence; and added (h).

14:5-9.9 Outreach programs

(a) Each EDC shall conduct an annual public education program to inform its customers, as well as the municipalities and public agencies in the EDC's service territory, of the importance of vegetation management, and of the EDC's role and responsibility in managing vegetation near electric lines.

(b) The public education program required under this section shall be implemented by direct mail or another method approved by the Board.

(c) Each EDC shall post its public education materials on its website.

(d) As part of its education program under this section, the EDC shall provide on its website illustrations of typical configurations of transmission lines and easements, as necessary to comply with the requirement in (a) above to inform the public regarding the EDC's responsibilities in performing vegetation management under this subchapter.

Recodified from N.J.A.C. 14:5-8.9 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

In (a) and (c), substituted "EDC" for "electric public utility"; in (a), substituted "EDC's" for "electric public utility" twice; and added (d).

14:5-9.10 Penalties

(a) Failure to comply with any provision of this subchapter shall subject the violator to penalties in accordance with the Board's regulatory and statutory authority.

(b) An EDC that violates this subchapter may be subject to penalties of up to \$100.00 per day per violation, for each day the violation occurs. The Board shall notify the EDC of the violation(s) in writing. Upon receipt of the written notice of violation, the EDC shall have five business days to correct the violation(s). Any failure to correct the violation shall subject the EDC to penalties of \$100.00 per day for each violation, calculated from the day such written notice was received by the EDC.

(c) Penalties imposed under this subchapter are in addition to, not a replacement for, other fines and/or penalties that apply under Federal and State laws and regulations.

(d) In determining the appropriate sanction for a violation of this subchapter, the Board shall consider the following criteria, and any other factors deemed appropriate and material to the electric public utility's failure to comply:

1. The good faith efforts, if any, of the entity charged in attempting to achieve compliance;
2. The gravity of the violation or the failure to comply;
3. The number of past violations by the entity charged, including violations of this subchapter as well as of other standards adopted by the Board;
4. The appropriateness of the penalty to the size of the company charged;
5. Events judged to be beyond the violator's control; and
6. Good faith efforts on the part of the EDC to resolve any violations of the requirements contained in this subchapter.

Recodified from N.J.A.C. 14:5-8.10 and amended by R.2008 d.57, effective March 17, 2008.

See: 39 N.J.R. 3716(a), 40 N.J.R. 1684(a).

In (a), deleted the last sentence; in (b), substituted the first and fifth occurrences of "EDC" for "electric public utility", substituted the second, third and fourth occurrences of "EDC" for "utility", and substituted "penalties" for "fines" twice; deleted former (c); recodified former (d) and (e) as (c) and (d); in (c), substituted "Penalties" for "Fines and costs"; in (d)4, substituted "penalty" for "sanction or fine" and deleted "and" from the end; in (d)5, substituted ";" and "and" for a period at the end; and added (d)6.

