



**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-17- 16

**TITLE:** Approving With Conditions an Application for Public Development (Application Number 1985-0726.009)

Commissioner Lohbauer moves and Commissioner Lloyd seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Report and the recommendation of the Executive Director that the following application for Public Development be approved with conditions:

1985-0726.009  
**Applicant:** Pemberton Township Board of Education  
**Municipality:** Pemberton Township  
**Management Area:** Pinelands Forest Area  
Pinelands Regional Growth Area  
**Date of Report:** July 5, 2017  
**Proposed Development:** Demolition of the Crichton Elementary School.

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for this application; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for the proposed development; and

WHEREAS, the Pinelands Commission hereby determines that the proposed public development conforms to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that Application Number 1985-0726.009 for public development is hereby approved subject to the conditions recommended by the Executive Director.

**Record of Commission Votes**

AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*				
Ashmun			X	Galletta			X	Prickett				R
Avery			X	Jannarone	X			Quinn	X			
Barr	X			Lloyd	X			Rohan Green			X	
Brown	X			Lohbauer	X			Earlen	X			
Chila	X			McGlinchey	X							

\* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission  
Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Date: July 14, 2017  
Sean W. Earlen  
Sean W. Earlen  
Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

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Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

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

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

June 20, 2017

Pat Austin, Business Administrator  
Pemberton Township Board of Education  
P.O. Box 228  
Pemberton, NJ 08068

Re: Application # 1985-0726.009  
Rancocas Lane  
Block 848, Lots 9 & 10  
Block 849, Lots 1.02, 2, 11.01 & 13 - 15  
Block 850, Lot 15  
Pemberton Township

Dear Ms. Austin:

The Commission staff has completed its review of this application for demolition of the Crichton Elementary School. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 14, 2017 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.  
Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Pemberton Township Planning Board (via email)  
Pemberton Township Construction Code Official (via email)  
Pemberton Township Environmental Commission (via email)



Secretary, Burlington County Planning Board (via email)  
Chad Gaulrapp, P.E. (via email)  
Peter Lomax (via email)



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 Lt. Governor

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

Sean W. Earlen  
 Chairman

Nancy Wittenberg  
 Executive Director

**PUBLIC DEVELOPMENT APPLICATION REPORT**

June 20, 2017

Pat Austin, Business Administrator  
 Pemberton Township Board of Education  
 P.O. Box 228  
 Pemberton, NJ 08068

Application No.: 1985-0726.009  
 Rancocas Lane  
 Block 848, Lots 9 & 10  
 Block 849, Lots 1.02, 2, 11.01 & 13 - 15  
 Block 850, Lot 15  
 Pemberton Township

This application proposes demolition of the Crichton Elementary School, a building that is 50 years old or older, located on the above referenced 35.02 acre parcel in Pemberton Township. This application also proposes the installation of 517 linear feet of water main for fire safety and the temporary paving of 711 linear feet of roadway within the Rancocas Lane right-of-way for traffic safety.

**STANDARDS**

The Commission staff has reviewed the proposed demolition and development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.28)

The existing school is located in a Pinelands Regional Growth Area. The demolition of an existing building, installation of a water main and temporary road paving are permitted in a Pinelands Regional Growth Area.

Wetlands Protection Standards (N.J.A.C. 7:50-6.7)

There are wetlands located on the parcel. Rancocas Lane is an existing 16 foot wide dirt/stone surfaced roadway. The applicant proposes the temporary paving of 711 linear feet of Rancocas Lane to a width of 16 feet. The paving will be located approximately 130 feet from wetlands. The paving will occur within the limits of the existing dirt/stone surfaced roadway. Upon completion of the demolition of the school, the proposed paving will be removed and Rancocas Lane will be restored to its previously existing condition. The applicant has demonstrated that the proposed temporary paving will not have a

significant adverse impact on the wetland.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed temporary paving and water main will be located within an existing dirt/stone surfaced roadway. The proposed soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to temporarily stabilize the area of demolition prior to the construction of a new school with a grass seed mixture that does not meet this recommendation.

Stormwater Management Standards (N.J.A.C. 7:50-6.84(a)6)

The proposed temporary paving of Rancocas Lane will result in approximately 0.3 acres of new impervious surface on the parcel. The proposed school demolition will result in a reduction of 3.86 acres of impervious surfaces. Based upon this reduction, there will be no increase in volume and rate of stormwater runoff after development than occurred prior to the proposed development. Therefore, no stormwater management is required. The proposed development is consistent with the stormwater management standards of the CMP.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

The existing school building lacks any potential for designation as a historic resource. There is no evidence of other cultural activity on the parcel. Based upon these determinations, a cultural resource survey was not required.

**PUBLIC COMMENT**

The applicant has provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced parcel was completed on February 2, 2017. Newspaper public notice was completed on February 5, 2017. The application was designated as complete on the Commission's website on May 30, 2017. The Commission's public comment period closed on June 9, 2017. No public comment was submitted to the Commission regarding this application.

**CONDITIONS**

1. Except as modified by the below conditions, the proposed demolition and development shall adhere to the plan, consisting of 25 sheets, prepared by Louis Berger and dated as follows:  
  
Sheets 1, 2, 5, 6 & 9-25 - dated March 16, 2017  
Sheets 3, 4, 7 & 8 - dated March 16, 2017; revised to June 12, 2017
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP.

Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.

4. Prior to any demolition or development, the applicant shall obtain any other necessary permits and approvals.
5. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all demolition and development has been completed and the area has been stabilized.
6. The proposed pavement located within the Rancocas Lane right-of-way shall be removed no later than December 31, 2017.

### **CONCLUSION**

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



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Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

General Information: [Info@njpines.state.nj.us](mailto:Info@njpines.state.nj.us)  
Application Specific Information: [AppInfo@njpines.state.nj.us](mailto:AppInfo@njpines.state.nj.us)

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

**PINELANDS COMMISSION**  
**APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 PM on July 10, 2017 and must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-17- 17

**TITLE:** Approving With Conditions Applications for Public Development (Application Numbers 1981-0837.030 & 2017-0111.001)

Commissioner Barr moves and Commissioner Lehbauer seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Reports and the recommendation of the Executive Director that the following applications for Public Development be approved with conditions:

**1981-0837.030**

<b>Applicant:</b>	Cape May County Municipal Utilities Authority
<b>Municipality:</b>	Borough of Woodbine
<b>Management Area:</b>	Pinelands Town
<b>Date of Report:</b>	June 20, 2017
<b>Proposed Development:</b>	Installation of a non-potable water well for equipment maintenance; and

**2017-0111.001**

<b>Applicant:</b>	Monroe Municipal Utilities Authority
<b>Municipality:</b>	Monroe Township
<b>Management Area:</b>	Pinelands Regional Growth Area
<b>Date of Report:</b>	June 20, 2017
<b>Proposed Development:</b>	Installation of a sanitary sewer main within the Ames Road right-of-way.

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for any of these applications; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for each of the proposed developments; and

WHEREAS, the Pinelands Commission hereby determines that each of the proposed public developments conform to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval.



NOW, THEREFORE BE IT RESOLVED that Application Numbers 1981-0837.030 & 2017-0111.001 for public development are hereby approved subject to the conditions recommended by the Executive Director.

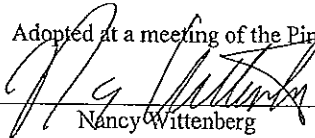
Record of Commission Votes

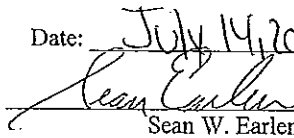
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*				
Ashmun			X	Galletta			X	Prickett	X			
Avery			X	Jainarone	X			Quinn	X			
Barr	X			Lloyd	X			Rohan Green			X	
Brown	X			Lohbauer	X			Earlen	X			
Chila	X			McGlinchey	X							

\* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 14, 2017

  
 Nancy Wittenberg  
 Executive Director

  
 Sean W. Earlen  
 Chairman



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Governor

Kim Guadagno  
Lt. Governor

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

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

June 20, 2017

Thomas J. LaRocco, P.E.  
Cape May County Municipal Utilities Authority  
P.O. Box 610  
Cape May Court House, NJ 08210

Re: Application # 1981-0837.030  
Block 128, Lot 1  
Borough of Woodbine

Dear Mr. LaRocco:

The Commission staff has completed its review of this application for installation of a non-potable water well for equipment maintenance. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 14, 2017 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.  
Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Borough of Woodbine Planning Board (via email)  
Borough of Woodbine Construction Code Official (via email)  
Secretary, Cape May County Planning Board (via email)





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

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

## **PUBLIC DEVELOPMENT APPLICATION REPORT**

June 20, 2017

Thomas J. LaRocco, P.E.  
Cape May County Municipal Utilities Authority  
P.O. Box 610  
Cape May Court House, NJ 08210

Application No.: 1981-0837.030  
Block 128, Lot 1  
Borough of Woodbine

This application proposes installation of a non-potable 100 foot deep water well for equipment maintenance located on the above referenced 16 acre parcel in the Borough of Woodbine. The applicant represents that the average water usage of the proposed well will be less than five gallons per day. The Cape May County Landfill is located on the parcel.

### **STANDARDS**

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

#### **Land Use (N.J.A.C. 7:50-5.27)**

The proposed development is located in the Pinelands Town of Woodbine. The proposed well is a permitted use in a Pinelands Town.

#### **Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)**

The proposed development will be located within an existing disturbed area. All clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant does not propose any revegetation.

### **PUBLIC COMMENT**

The CMP defines the proposed non-potable water well as “minor” development. The CMP does not require public notice for minor public development applications. The application was designated as

complete on the Commission's website on May 22, 2017. The Commission's public comment period closed on June 9, 2017. No public comment was submitted to the Commission regarding this application.

### **CONDITIONS**

1. Except as modified by the below conditions, the proposed development shall adhere to the sketch submitted to the Commission on April 11, 2017.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Prior to any development, the applicant shall obtain any other necessary permits and approval.

### **CONCLUSION**

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



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Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

**PINELANDS COMMISSION**  
**APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 PM on July 10, 2017 and must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



# State of New Jersey

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Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

June 20, 2017

Jerry Moore, Executive Director  
Monroe Municipal Utilities Authority  
372 South Main Street  
Williamstown, NJ 08094

Re: Application # 2017-0111.001  
Ames Road  
Monroe Township

Dear Mr. Moore:

The Commission staff has completed its review of this application for installation of a sanitary sewer main within the Ames Road right-of-way. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 14, 2017 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Monroe Township Planning Board (via email)  
Monroe Township Construction Code Official (via email)  
Monroe Township Environmental Commission (via email)  
Secretary, Gloucester County Planning Board (via email)  
James Spratt





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Sean W. Earlen  
 Chairman

Nancy Wittenberg  
 Executive Director

**PUBLIC DEVELOPMENT APPLICATION REPORT**

June 20, 2017

Jerry Moore, Executive Director  
 Monroe Municipal Utilities Authority  
 372 South Main Street  
 Williamstown, NJ 08094

Application No.: 2017-0111.001  
 Ames Road  
 Monroe Township

This application proposes installation of 270 linear feet of sanitary sewer main within the Ames Road right-of-way in Monroe Township.

**STANDARDS**

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.28)

The proposed development is located in a Pinelands Regional Growth Area. The proposed sanitary sewer main is a permitted land use in a Pinelands Regional Growth Area.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located within a maintained grassed shoulder area of Ames Road. All clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant proposes to restore the area to maintained grass.

**PUBLIC COMMENT**

The CMP defines the proposed sanitary sewer main as “minor” development. The CMP does not require public notice for minor public development applications. The application was designated as

complete on the Commission's website on May 23, 2017. The Commission's public comment period closed on June 9, 2017. No public comment was submitted to the Commission regarding this application.

### **CONDITIONS**

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of three sheets, prepared by Federici & Akin, P.A., all sheets dated February 1, 2017.
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

### **CONCLUSION**

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.





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Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

**PINELANDS COMMISSION**  
**APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 PM on July 10, 2017 and must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-17- 18

**TITLE:** Approving With Conditions Applications for Public Development (Application Numbers 1990-0260.004 & 1996-1396.006)

Commissioner Pickett moves and Commissioner Braun seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Reports and the recommendation of the Executive Director that the following applications for Public Development be approved with conditions:

**1990-0260.004**

**Applicant:** NJDEP, Parks and Forestry, Forest Service  
**Municipality:** Manchester Township  
**Management Area:** Pinelands Forest Area  
Pinelands Preservation Area District  
**Date of Report:** June 23, 2017  
**Proposed Development:** Forestry in Brendan Byrne State Forest; and

**1996-1396.006**

**Applicant:** NJDEP, Parks and Forestry, Forest Service  
**Municipality:** Pemberton Township  
Woodland Township  
**Management Area:** Pinelands Preservation Area District  
**Date of Report:** June 22, 2017  
**Proposed Development:** Forestry in Brendan Byrne State Forest.

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for any of these applications; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for each of the proposed developments; and

WHEREAS, the Pinelands Commission hereby determines that each of the proposed public developments conform to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that Application Numbers 1990-0260.004 & 1996-1396.006 for public development are hereby approved subject to the conditions recommended by the Executive Director.

Record of Commission Votes

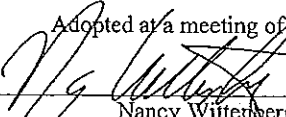
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*				
Ashmun			X	Galletta			X	Prickett	X			
Avery			X	Jannarone	X			Quinn	X			
Barr	X			Lloyd	X			Rohan Green			X	
Brown	X			Lohbauer	X			Earlen	X			
Chila	X			McGlinchey	X							

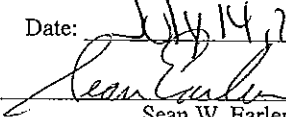
\* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date:

July 14, 2017

  
 Nancy Wittenberg  
 Executive Director

  
 Sean W. Earlen  
 Chairman



# State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands



Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

General Information: [Info@njpines.state.nj.us](mailto:Info@njpines.state.nj.us)  
Application Specific Information: [AppInfo@njpines.state.nj.us](mailto:AppInfo@njpines.state.nj.us)

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

June 23, 2017

John Sacco  
NJDEP, Parks and Forestry, Forest Service  
501 East State Street, PO Box 420  
Mail Code 501-04  
Trenton, NJ 08625

Re: Application # 1990-0260.004  
Brendan Byrne State Forest  
Block 119, Lots 3 & 13  
Manchester Township

Dear Mr. Sacco:

The Commission staff has completed its review of this application for forestry in Brendan Byrne State Forest. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 14, 2017 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Manchester Township Planning Board (via email)  
Manchester Township Environmental Commission (via email)  
Secretary, Ocean County Planning Board (via email)  
William Zipse (via email)





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Chris Christie  
 Governor

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 Lt. Governor

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

Sean W. Earlen  
 Chairman

Nancy Wittenberg  
 Executive Director

**PUBLIC DEVELOPMENT APPLICATION REPORT**

June 23, 2017

John Sacco  
 NJDEP, Parks and Forestry, Forest Service  
 501 East State Street, PO Box 420  
 Mail Code 501-04  
 Trenton, NJ 08625

Application No.: 1990-0260.004  
 Brendan Byrne State Forest  
 Block 119, Lots 3 & 13  
 Manchester Township

This application proposes 163 acres of forestry in 37,242 acre Brendan Byrne State Forest. Specifically, forestry is proposed on 106 acres of 786 acre Block 119, Lot 3 and on 57 acres of 3,428 acre Block 119, Lot 13.

**STANDARDS**

The Commission staff has reviewed the proposed forestry for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.22(a)3 and 5.23(a)5)

The 163 acres subject of forestry are located partially within the Pinelands Preservation Area District (57 acres) and partially within a Pinelands Forest Management Area (106 acres). Forestry is permitted in all Pinelands Management Areas.

Forestry (N.J.A.C. 7:50-6.41)

This application proposes forest thinning. The purpose of the proposed forest thinning is to reduce competition induced mortality and reduce the risk of wildfire and southern pine beetle attack. The proposed forest thinning will allow for natural regeneration and perpetuate the current forest composition. The proposed forest thinning will maintain a Pine dominated forest, a Pinelands native forest type. The proposed forestry will be conducted in uplands.

There are approximately 445 trees per acre in the 57 acres subject of the proposed forest thinning. After the proposed thinning, the 57 acres will have approximately 129 trees per acre. The canopy cover will be reduced from 72% to 67%.

There are approximately 384 trees per acre in the 106 acres subject of the proposed forest thinning. After the proposed thinning, the 106 acres will have approximately 329 trees per acre. The canopy cover will be reduced from 75% to 70%.

The applicant proposes to undertake post-harvest site preparation, as necessary. Proposed site preparation techniques are prescribed burning and the spot spraying of herbicides to control invasive species. The CMP (N.J.A.C. 7:50-6.46(a)9ii) allows application of herbicide in association with forestry provided that, among other conditions, control of competitive plant species by other non-chemical means is not practical. The applicant has represented that hand cutting or mechanical removal of invasive species is not feasible. The CMP also requires that any herbicides that are applied be expressly labeled for forestry use and be used and mixed in a manner that is consistent with relevant State and Federal requirements. This approval is specifically conditioned upon this requirement.

#### Threatened and Endangered Species Standards (N.J.A.C. 7:50-6.27 & 6.33)

Available information identifies known sightings of threatened and endangered (T&E) animal species in the vicinity of the proposed forestry. The NJDEP Endangered and Nongame Species Program staff and the Commission staff reviewed the proposed forestry to determine whether it was designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of T&E animal species.

To avoid irreversible adverse impacts on any T&E avian species, prior to undertaking the proposed forestry, the applicant proposes to conduct visual surveys to identify and mark any potential avian cavity or nesting trees. Any trees containing potential T&E avian species nests or occupied cavities will be left standing. To avoid any irreversible adverse impacts on habitats that are critical to the survival of any local populations of T&E snake species, the applicant proposes to utilize low ground pressure equipment for any forestry undertaken between November 1 and April 30.

Available information identifies known sightings of T&E plants in the vicinity of the proposed forestry. The concerned T&E plants are all wetlands species. The NJDEP Office of Natural Lands Management staff and the Commission staff reviewed the proposed forestry to determine whether it was designed to avoid irreversible adverse impacts on the survival of any local populations of T&E plant species.

To avoid an irreversible adverse impact on the survival of any local populations of T&E plant species, the applicant proposes to maintain a 300 foot undisturbed buffer to wetlands.

The proposed forestry is designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of T&E animal species and irreversible adverse impacts on the survival of any local populations of T&E plant species.

#### Cultural Resource Standards (N.J.A.C. 7:50-6.151)

No disturbance will occur greater than six inches below the ground surface. The Commission staff determined that, since the proposed forestry will result in minimal ground disturbance, a cultural resource survey was not required.

### **PUBLIC COMMENT**

The applicant has provided the requisite public notice. Newspaper public notice was completed on May 20, 2017. The application was designated as complete on the Commission's website on May 30, 2017. The Commission's public comment period closed on June 9, 2017. No public comment was submitted to the Commission regarding this application.

### **CONDITIONS**

1. Except as modified by the below conditions, the proposed forestry activity shall adhere to the "Proposal for Silvicultural Activity on State Forest and Park Lands," prepared by the New Jersey Forest Service and dated May 18, 2017.
2. Prior to any forestry, the applicant shall obtain any other necessary permits and approvals.
3. Any herbicides that are applied for site preparation shall be expressly labeled for forestry use and shall be used and mixed in a manner that is consistent with relevant State and Federal requirements.
4. Prior to any forestry, the applicant shall complete a visual survey of the above referenced parcels for potential avian cavities or nests. Any trees containing cavities or nest shall be marked and left standing.
5. Only low ground pressure equipment shall be used for any forestry undertaken between November 1 and April 30.
6. This forestry approval is valid for a period of ten years from the July 14, 2017 date of Commission approval.

### **CONCLUSION**

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



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](http://www.nj.gov/pinelands)

General Information: [Info@njpines.state.nj.us](mailto:Info@njpines.state.nj.us)  
Application Specific Information: [AppInfo@njpines.state.nj.us](mailto:AppInfo@njpines.state.nj.us)



Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

### **PINELANDS COMMISSION** **APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 PM on July 11, 2017 and must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.





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

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

June 22, 2017

John Sacco  
NJDEP, Parks and Forestry, Forest Service  
501 East State Street  
P.O. Box 420, Mail Code 501-04  
Trenton, NJ 08625

Re: Application # 1996-1396.006  
Brendan Byrne State Forest  
Block 927, Lot 1  
Pemberton Township  
Block 7102, Lots 4 & 7  
Woodland Township

Dear Mr. Sacco:

The Commission staff has completed its review of this application for forestry in Brendan Byrne State Forest. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its July 14, 2017 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.  
Director of Regulatory Programs

Enc: Appeal Procedure

c: Secretary, Pemberton Township Planning Board (via email)



Pemberton Township Environmental Commission (via email)  
Secretary, Woodland Township Planning Board (via email)  
Secretary, Burlington County Planning Board (via email)  
William Zipse (via email)



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

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

## **PUBLIC DEVELOPMENT APPLICATION REPORT**

June 22, 2017

John Sacco  
NJDEP, Parks and Forestry, Forest Service  
501 East State Street  
P.O. Box 420, Mail Code 501-04  
Trenton, NJ 08625

Application No.: 1996-1396.006  
Brendan Byrne State Forest  
Block 927, Lot 1  
Pemberton Township  
Block 7102, Lots 4 & 7  
Woodland Township

This application proposes forestry on 42 acres in the 37,242 acre Brendan Byrne State Forest. Specifically, forestry is proposed on two non-contiguous parcels: 10 acres of the above referenced 231.8 acre parcel in Pemberton Township and 32 acres of the above referenced 81 acre parcel in Woodland Township.

### **STANDARDS**

The Commission staff has reviewed the proposed forestry for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

#### **Land Use (N.J.A.C. 7:50-5.22(a)3)**

The 42 acres subject of forestry are located in the Pinelands Preservation Area District. Forestry is permitted in all Pinelands management areas.

#### **Forestry (N.J.A.C. 7:50-6.41)**

The application proposes forest thinning. The purpose of the proposed forest thinning is to regenerate and restore native shortleaf pine. The forestry will allow for the natural regeneration of an open canopy shortleaf pine dominated forest with an oak component. The proposed forest thinning will maintain a Pinelands native forest type. The proposed forestry will be conducted in uplands.

There are approximately 1,965 trees per acre in the 10 acres subject of the proposed forest thinning in Pemberton Township. After the proposed thinning, the 10 acres will have approximately 179 trees per acre. Canopy cover in the 10 acres will be reduced from 85% to 39%.

There are approximately 565 trees per acre in the 32 acres subject of the proposed forest thinning in Woodland Township. After the proposed thinning, the 32 acres will have approximately 273 trees per acre. Canopy cover in the 32 acres will be reduced from 53% to 49%.

The applicant proposes to undertake post-harvest site preparation, as necessary. Proposed site preparation techniques are prescribed burning and the spot spraying of herbicides to control invasive species. The CMP (N.J.A.C. 7:50-6.46(a)9ii) allows herbiciding in association with forestry provided that, among other conditions, control of competitive plant species by other non-chemical means is not practical. The applicant has represented that hand cutting or mechanical removal of invasive species is not feasible. The CMP also requires that any herbicides that are applied be expressly labeled for forestry use and be used and mixed in a manner that is consistent with relevant State and Federal requirements. This approval is specifically conditioned upon this requirement.

#### Threatened and Endangered Species Standards (N.J.A.C. 7:50-6.27 & 6.33)

Available information indicates that there are no known sightings of threatened and endangered (T&E) plants in the vicinity of the proposed forestry.

Available information identifies known sightings of T&E animal species in the vicinity of the proposed forestry. The NJDEP Endangered and Nongame Species Program staff and the Commission staff reviewed the proposed forestry to determine whether it was designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of T&E animal species.

To avoid irreversible adverse impacts on any T&E avian species, prior to undertaking the proposed forestry, the applicant proposes to conduct visual surveys to identify and mark any potential avian cavity or nesting trees. Any trees containing potential T&E avian species nests or occupied cavities will be left standing. To avoid any irreversible adverse impacts on habitats that are critical to the survival of any local populations of T&E snake species, the applicant proposes to utilize low ground pressure equipment for any forestry undertaken between November 1 and April 30.

The proposed forestry is designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of T&E animal species.

#### Cultural Resource Standards (N.J.A.C. 7:50-6.151)

No disturbance will occur greater than six inches below the ground surface. The Commission staff determined that, since the proposed forestry will result in minimal ground disturbance, a cultural resource survey was not required.

### **PUBLIC COMMENT**

The applicant has provided the requisite public notice. Newspaper public notice was completed on May 22, 2017. The application was designated as complete on the Commission's website on May 30, 2017. The Commission's public comment period closed on June 9, 2017. No public comment was submitted to the Commission regarding this application.

### **CONDITIONS**

1. Except as modified by the below conditions, the proposed forestry activity shall adhere to the "Proposal for Silvicultural Activity on State Forest and Park Lands," prepared by the New Jersey Forest Service and dated May 18, 2017.
2. Prior to any forestry, the applicant shall obtain any other necessary permits and approvals.
3. Any herbicides that are applied for site preparation shall be expressly labeled for forestry use and shall be used and mixed in a manner that is consistent with relevant State and Federal requirements.
4. Prior to any forestry, the applicant shall complete a visual survey of the above referenced parcels for potential avian cavities or nests. Any trees containing cavities or nest shall be marked and left standing.
5. Only low ground pressure equipment shall be used for any forestry undertaken between November 1 and April 30.
6. This forestry approval is valid for a period of ten years from the July 14, 2017 date of Commission approval.

### **CONCLUSION**

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.



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Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

**PINELANDS COMMISSION**  
**APPEAL PROCEDURE**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 PM on July 10, 2017 and must include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



## RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17-19

**TITLE:** Issuing an Order to Certify Ordinance 2017-12, Amending Chapter 55 (Land Use) of the Code of Barnegat Township

Commissioner Lohbauer moves and Commissioner McGlinchey seconds the motion that:

WHEREAS, on April 8, 1983, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of Barnegat Township; and

WHEREAS, Resolution #PC4-83-29 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-29 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on April 4, 2017, Barnegat Township adopted Ordinance 2017-12, amending Chapter 55 (Land Use) of the Township's Code by adding condominium development as a conditional use in that portion of the C-N (Neighborhood Commercial) Zone located in the Pinelands Regional Growth Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2017-12 on April 17, 2014; and

WHEREAS, by letter dated April 25, 2017, the Executive Director notified the Township that Ordinance 2017-12 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 2017-12 was duly advertised, noticed and held on May 10, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinance 2017-12 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinance 2017-12 is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinances 2017-12 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2017-12 and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5H, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Ordinance 2017-12, amending Chapter 55 (Land Use) of the Code of Barnegat Township, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Barnegat Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

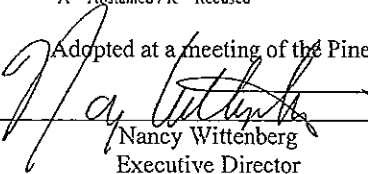
Record of Commission Votes

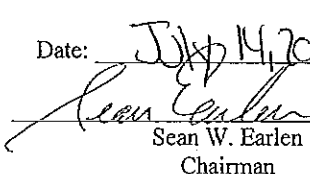
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun			X	Galletta	X			Prickett	X		
Avery			X	Jannarone		X		Quinn	X		
Barr	X			Lloyd	X			Rohan Green		X	
Brown	X			Lohbauer	X			Earlen	X		
Chila	X			McGlinchey	X						

\* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 14, 2017

  
 Nancy Wittenberg  
 Executive Director

  
 Sean W. Earlen  
 Chairman





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Chris Christie  
 Governor

Kim Guadagno  
 Lt. Governor

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

Sean W. Earlen  
 Chairman

Nancy Wittenberg  
 Executive Director

**REPORT ON ORDINANCE 2017-12, AMENDING CHAPTER 55  
 (LAND USE) OF THE CODE OF BARNEGAT TOWNSHIP**

June 30, 2017

Barnegat Township  
 900 West Bay Avenue  
 Barnegat, NJ 08005

**FINDINGS OF FACT**

I. Background

The Township of Barnegat is located in southern Ocean County, in the eastern portion of the Pinelands Area. Pinelands municipalities that abut Barnegat Township include the Townships of Lacey, Ocean, Stafford and Little Egg Harbor in Ocean County, and Bass River and Woodland Townships in Burlington County.

On April 8, 1983, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of Barnegat Township.

On April 4, 2017, Barnegat Township adopted Ordinance 2017-12, amending Chapter 55 (Land Use) of the Township's Code by adding condominium developments as a conditional use in that portion of the C-N (Neighborhood Commercial) Zone located in the Pinelands Regional Growth Area. The Pinelands Commission received a certified copy of Ordinance 2017-12 on April 17, 2017.

By letter dated April 25, 2017, the Executive Director notified the Township that Ordinance 2017-12 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

- \* Ordinance 2017-12, amending Chapter 55 (Land Use) of the Code of Barnegat Township, introduced on March 7, 2017 and adopted on April 4, 2017.

This amendment has been reviewed to determine whether it conforms with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50 3.39 of the Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50 3.39.

**1. Natural Resource Inventory**

Not applicable.

**2. Required Provisions of Land Use Ordinance Relating to Development Standards**

Ordinance 2017-12 amends Chapter 55 (Land Use) of the Code of Barnegat Township by adding condominium developments as a conditional use in the C-N (Neighborhood Commercial) Zone. Prior to the adoption of Ordinance 2017-12, permitted uses in the C-N Zone were limited to various retail and service uses, professional offices, self-storage facilities, churches, libraries, nursing homes and other institutional uses. According to the standards adopted by Ordinance 2017-12, condominium developments must be located on property directly accessed by a county road. All units must be age-restricted and limited to one- and two-bedroom units. Maximum residential density is 15 units per acre, and Pinelands Development Credits must be purchased and redeemed for 25% of all units in a condominium development. In order to qualify for the new conditional use, properties must be at least nine acres in size. Finally, Ordinance 2017-12 makes clear that condominium developments are permitted only on properties in the C-N Zone that are located within a Pinelands Regional Growth Area.

The C-N Zone in the Regional Growth Area is located along West Bay Avenue, immediately to the north of Ocean Acres (see Exhibit #1). Based on the Township's analysis, there is one approximately 10-acre parcel in the C-N Zone that could satisfy the new conditional use standards for condominium developments. Ordinance 2017-12 therefore creates the potential for approximately 148 new units in the C-N Zone. The purchase of PDCs would be necessary for 25 percent, or 37, of these potential units.

The standards adopted by Ordinance 2017-12 for condominium developments are appropriate for a Regional Growth Area. In addition, the ordinance provides a new opportunity for residential development within Barnegat's Regional Growth Area in a manner that achieves an appropriate balance between "base" units and those requiring the use of Pinelands Development Credits. Therefore, Ordinance 2017-12 is consistent with the land use and development standards of the Comprehensive Management Plan and this standard for certification is met.

**3. Requirement for Certificate of Filing and Content of Development Applications**

Not applicable.

**4. Requirement for Municipal Review and Action on All Development**

Not applicable.

**5. Review and Action on Forestry Applications**

Not applicable.

**6. Review of Local Permits**

Not applicable.

**7. Requirement for Capital Improvement Program**

Not applicable.

**8. Accommodation of Pinelands Development Credits**

Ordinance 2017-12 amends Chapter 55 (Land Use) of Barnegat Township's Code by adding condominium developments as a conditional use in the Regional Growth Area portion of the C-N (Neighborhood Commercial) Zone. Based on the standards adopted by Ordinance 2017-12, condominium developments must be comprised of age-restricted, one- and two-bedroom units, at a maximum density of 15 units per acre. The use of Pinelands Development Credits is required for 25 percent of all units.

N.J.A.C. 7:50-3.39(a)8 specifies that in order to be certified by the Commission, municipal land use ordinances must provide for sufficiently residentially zoned property in the Regional Growth Area to be eligible for an increase in density to accommodate Pinelands Development Credits as provided for in N.J.A.C. 7:50-5.28(a)3. By allowing condominium developments as a conditional use in the C-N (Neighborhood Commercial) Zone, Ordinance 2017-12 increases the amount of land available for residential development in Barnegat Township's Regional Growth Area by approximately 10 acres. In order to comply with N.J.A.C. 7:50-5.28(a)3, Ordinance 2017-12 requires that PDCs be acquired and redeemed for 25 percent of all residential units in any condominium development in the C-N Zone (one right for every four units). Based on the 15 unit per acre maximum density established for the new conditional use, the PDC requirements adopted by Ordinance 2017-12 will result in an opportunity for the use of 37 rights (9.25 full Credits).

While the 25 percent requirement for condominium developments in the C-N Zone is not as high a number as would be provided through the more traditional zoning approach where PDCs would account for 33 percent of the total number of permitted units, it is important to remember that the traditional base density/bonus density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any particular development project. Ordinance 2017-12 *guarantees* that PDCs will be purchased and redeemed as part of the approval of any

condominium development within the C-N Zone, regardless of the density or number of units which are ultimately built. Given the greater certainty provided by this approach, the Executive Director believes that the 25 percent PDC requirement adopted by Ordinance 2017-12 should be viewed as being consistent with Comprehensive Management Plan standards.

This standard for certification is met.

**9. Referral of Development Applications to Environmental Commission**

Not applicable.

**10. General Conformance Requirements**

Ordinance 2017-12, amending Chapter 55 (Land Use) of the Code of Barnegat Township, is consistent with standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

**11. Conformance with Energy Conservation**

Not applicable.

**12. Conformance with the Federal Act**

Ordinance 2017-12, amending Chapter 55 (Land Use) of the Code of Barnegat Township, is consistent with standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

**13. Procedure to Resolve Intermunicipal Conflicts**

Not applicable.

**PUBLIC HEARING**

A public hearing to receive testimony concerning Barnegat Township's application for certification of Ordinance 2017-12 was duly advertised, noticed and held on May 10, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments on Ordinance 2017-12 were accepted through May 12, 2017; however, none were received.

**CONCLUSION**

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 2017-12, amending Chapter 55 (Land Use) of the Code of Barnegat Township, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 2017-12 of Barnegat Township.

SRG/CBA  
Attachment



## RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17- 20

**TITLE:** Issuing an Order to Certify Ocean County's May 2017 Amendment to the Comprehensive Public Safety Tower Plan for Pinelands

Commissioner Lothbauer moves and Commissioner Prickett seconds the motion that:

WHEREAS, the Pinelands Commission amended the Pinelands Comprehensive Management Plan in 1995 to permit local communications facilities to exceed the height limitations set forth in N.J.A.C. 7:50-5.4 provided that, if a facility is proposed to be located in any Pinelands Management Area other than a Regional Growth Area or a Pinelands Town, then a comprehensive plan for the entire Pinelands Area must be submitted by providers of like service to the Pinelands Commission for certification; and

WHEREAS, the Comprehensive Plan for Cellular Telephone Facilities submitted by providers of cellular service was certified by the Pinelands Commission on September 11, 1998; and

WHEREAS, the Comprehensive Plan for Personal Communications Service (PCS) Communications Facilities in the Pinelands Area submitted by providers of PCS service was certified by the Pinelands Commission on January 14, 2000; and

WHEREAS, the Amendment to the Comprehensive Plans for Cellular and Personal Communications Service submitted by AT&T Wireless PCS of Philadelphia, LLC and its Affiliates was certified by the Pinelands Commission on December 12, 2003; and

WHEREAS, the Amendment to the Comprehensive Plan for PCS Communications Facilities in the Pinelands submitted by T-Mobile Northeast, LLC was certified by the Pinelands Commission on November 10, 2011; and

WHEREAS, the Amendment to the Comprehensive Plans for Cellular and Personal Communications Service Facilities submitted by Sprint Spectrum L.P. and its Affiliates was certified by the Pinelands Commission on November 8, 2013; and

WHEREAS, the Comprehensive Public Safety Tower Plan for Pinelands submitted by the public safety agencies of the seven counties within the Pinelands Area was certified by the Pinelands Commission on May 11, 2012; and

WHEREAS, each certified comprehensive plan for local communications facilities, or amendment thereof, has included a siting policy establishing procedures for the final site selection for a given proposed facility; and

WHEREAS, Ocean County submitted an amendment to the tower siting policy of the Comprehensive Public Safety Tower Plan for Pinelands (hereinafter the Amendment) that the Executive Director deemed complete for purposes of review on May 18, 2017; and

WHEREAS, a public hearing on the Amendment was duly advertised, noticed and held on June 7, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the New Jersey Office of Information Technology's Office of Emergency Telecommunications Services has reviewed the Amendment and submitted written comment supporting the Amendment given the technological characteristics of such facilities and the critical need for counties to provide emergency telecommunications services; and

WHEREAS, the Executive Director has found that the Amendment is consistent with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Pinelands Commission recommending issuance of an order to certify the Amendment; and

WHEREAS, the Pinelands Commission's CMP Policy and Implementation Committee has reviewed the Amendment and the Executive Director's report and has recommended that the Amendment be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Pinelands Commission concerning the Amendment and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission expressly recognizes that approval of this Amendment modifies a framework for siting local communications facilities but does not approve any specific application for development for any local communications facility; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director to approve the Amendment and hereby affirms the procedures for the siting of individual local communications facilities proposed in the Comprehensive Public Safety Tower Plan for Pinelands, as set forth in Exhibit A to her report; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Pinelands Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Pinelands Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to approve Ocean County's May 2017 Amendment to the siting policy of the Comprehensive Public Safety Tower Plan for Pinelands.

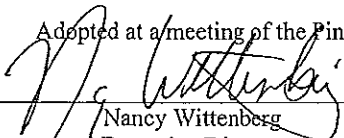
Record of Commission Votes

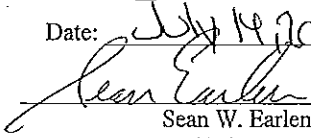
AYE	NAY	NP	A/R*	AYE	NAY	NP	A/R*	AYE	NAY	NP	A/R*
		X				X		X			
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\* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: July 14, 2017

  
 Nancy Wittenberg  
 Executive Director

  
 Sean W. Earlen  
 Chairman



State of New Jersey  
THE PINELANDS COMMISSION  
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Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

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

Sean W. Earlen  
Chairman

Nancy Wittenberg  
Executive Director

**REPORT ON OCEAN COUNTY'S MAY 2017 AMENDMENT TO  
THE SITING POLICY OF THE COMPREHENSIVE PUBLIC  
SAFETY TOWER PLAN FOR PINELANDS**

June 30, 2017

Michael J. Fiure  
Assistant County Administrator  
County of Ocean  
P.O. Box 2191  
Toms River, New Jersey 08064

**FINDINGS OF FACT**

**I. Background**

**A. Summary of Pinelands Local Communications Facility Plans**

In 1995 the Pinelands Commission amended the Pinelands Comprehensive Management Plan (CMP) in recognition of the legitimate and growing need for the delivery of wireless communication services within the Pinelands Area. The amendment allowed for local communication facilities taller than thirty-five feet to be permitted in those management areas outside of Regional Growth Areas and Pinelands Towns, provided that procedures and siting standards established in the amendment were met (N.J.A.C. 7:50-5.4(c)).

These procedures required the submission, and Commission certification, of a comprehensive local communications facilities plan (LCF Plan) for the Pinelands Area. LCF Plans are to be jointly submitted by providers of the same type of wireless service and include the locations of all proposed facilities within the Pinelands Area. As outlined in Table 1 below, there have been six certified LCF plans, each incorporating and expanding upon the proposed network configuration of all preceding LCF Plans. Once an LCF Plan is certified, applications seeking to construct individual facilities proposed within a plan are then reviewed in accordance with CMP's environmental regulations, the standards for siting local communications facilities, as well as the relevant LCF Plan(s).



**Table 1. Summary of Approved LCF Plans**

<b>LCF Plan</b>	<b>Certification Date</b>	<b>Participants</b>	<b>Service Frequency (in MHz)</b>	<b>Search Area Extent (in miles)</b>
Cellular Plan	9/11/1998	Bell Atlantic Mobile, Comcast, Nextel	800	5
PCS Plan	1/14/2000	Sprint, Omnipoint	1850-1900	0.5
AT&T Plan	12/12/2003	AT&T	1850-1900	0.5
T-Mobile Plan	11/10/2011	T-Mobile	1850-1900	1
Public Safety Tower Plan	5/11/2012	Pinelands Area Counties	700	1
Sprint Plan	11/8/2013	Sprint	1850-1900	1

## **B. Submission of the Proposed Amendment**

Ocean County is a participant of the Comprehensive Public Safety Tower Plan for Pinelands (Public Safety Tower Plan). The Public Safety Tower Plan, certified by the Pinelands Commission on May 11, 2012, includes the proposed locations of county local communications facilities needed to provide critical public safety communications coverage within the Pinelands Area. The Public Safety Tower Plan included a siting policy with a 1-mile radius search area (see Exhibit B).

The Public Safety Tower Plan includes a facility proposed by Ocean County to be located at Patriots Park in Jackson Township's Rural Development Area. Ocean County has since determined that a county-owned maintenance garage on Don Connor Boulevard in Jackson Township is a more suitable site (see Exhibit C). Patriots Park is on the state's Recreational and Open Space Inventory (ROSI). The park's inclusion on the ROSI means that, prior to any change of use other than recreation or conservation, the County would need to successfully obtain a diversion from the New Jersey Department of Environmental Protection's Green Acres Program, which is strongly discouraged by the program (N.J.A.C. 7:36-26.1). The County has also determined that construction of the tower at the garage would meet the same service needs that the Patriots Park site would provide, while requiring considerably less site disturbance and visual impact.

A new tower at the county-owned maintenance garage is not permitted because it is not within a 1-mile radius search area of a proposed site in the Public Safety Tower Plan. The county-owned maintenance garage is approximately 2.5 miles from Patriots Park. Therefore, consideration of the maintenance facility as a viable site for a new public safety tower would require Ocean County to submit an amendment to the Public Safety Tower Plan. Applicants may propose amendments to an approved LCF Plan pursuant to N.J.A.C. 7:50-5.4(c)6v.

Between March and May of 2017, Commission staff, Ocean County, the New Jersey Office of Information Technology (OIT) Office of Emergency Telecommunications Services, and the other six Pinelands Area Counties worked to develop a revised siting policy for the Public Safety Tower Plan. On May 18, 2017, Ocean County submitted the proposed amendment (see Exhibit A). The amendment was deemed complete for the purposes of Commission review on May 19, 2017.

## **II. Comprehensive Local Communications Facilities Plans and Amendments**

The following document has been submitted to the Pinelands Commission for certification:

- Ocean County's May 2017 Amendment to the siting policy of the Comprehensive Public Safety Tower Plan for Pinelands

### **A. Summary of the Proposed Amendment**

Ocean County's May 2017 Amendment seeks to revise the siting policy of the Public Safety Tower Plan in two ways: 1) to expand the size of the search area for the final siting of a proposed facility from a 1-mile radius to a 3-mile radius; and 2) to provide greater flexibility when siting a facility on developed, publically-owned land. It is important to note that the amendment does not include any additional proposed facilities and would apply only to facilities proposed in the Public Safety Tower Plan.

The Commission has approved a siting policy with each LCF Plan to be applied during the application process for siting individual facilities. This policy acknowledges that LCF Plans are akin to master plans in that they are long-range plans based on present conditions subject to change over time. Given this uncertainty, the siting policy provides flexibility to move a proposed site within an approved vicinity known as the search area. The search area recognizes that a facility can be moved within the approved vicinity without creating the need for additional facilities.

Each siting policy also provides constraints for siting towers within search areas that cross the Pinelands Area border or multiple management areas. In these cases, applicants seeking to construct a new tower must look for sites within the search area based on a hierarchy of preferred management areas as enumerated in the policy. This hierarchy directs applicants to search in the development-oriented management areas first. It is important to note that the CMP requires the use of existing suitable structures, to the extent practicable, as a first option prior to constructing a new tower or significantly altering an existing structure. This provision is incorporated into each siting policy and is included as part of the amendment under consideration.

In discussions between Ocean County and Pinelands Commission staff, it was determined that the 1-mile radius search area approved with the Public Safety Tower plan was overly-restrictive based on the frequencies used for public safety radio communications. The Commission has established the extent of a search area on a plan-by-plan basis based on the radio frequency of the service provided (see Table 1). This acknowledges that signals transmitted at lower frequencies in the spectrum (e.g., cellular service operating at 800 MHz) propagate over much greater distances than signals transmitted at higher frequencies in the spectrum (e.g., PCS service operating at 1850-1900 MHz). Given that the County Public Safety Agencies are using the 700 MHz frequency range, there is greater siting flexibility provided by the signal propagation characteristics than currently allowed for in the siting policy.

A 3-mile radius search area was selected in discussions with Ocean County and the OIT Office of Emergency Telecommunications Services, the latter of which has submitted written testimony supporting the technical justification for the expansion of the search area (see Exhibit D). This increased flexibility will not only benefit Ocean County as it will also apply to the other Pinelands Area counties that have proposed sites in the Public Safety Tower Plan.

County representatives also highlighted the differences between providers of commercial wireless services and providers of public safety communications services. The CMP regulations regarding local

communications facilities were written primarily in response to commercial wireless providers whose networks are designed around cellular arrays requiring relatively more towers that are more likely to be constructed on leased lands. Conversely, public safety towers have more powerful transmission systems that operate on a point-to-point basis requiring relatively fewer towers that are more likely to be sited on county-owned lands for both economic and security reasons.

While the CMP is explicit that proposed facilities utilize an existing suitable structure to the extent practicable, staff found that in instances when a new tower is needed, the current siting policy's hierarchy of preferred locations may create situations where counties would be forced to purchase land even if developed public lands may be available. The counties have indicated that such situations may be cost prohibitive, ultimately rendering a project infeasible, and prolong the deployment of critical public infrastructure. The amendment therefore provides added flexibility in siting new towers on developed, publically owned lands for public safety towers only. Again, this increased flexibility will not only benefit Ocean County as it will also apply to the other Pinelands Area counties that have proposed sites in the Public Safety Tower Plan.

The amendment under consideration would apply to proposed Phase-1 and Phase-2 facilities included within the Public Safety Tower Plan. There are a total of twenty-one proposed facilities in Phase-1 and 2, six of which are proposed in the most conservation-oriented management areas and five of which are proposed in a Regional Growth Area or Pinelands Town. It's important to note that proposed Phase-3 facilities are planned to be co-located on existing towers or proposed towers included in other plans.

## **B. Standards for Certification**

The above-referenced amendment has been reviewed to determine whether it conforms with the standards for certification of amendments to LCF Plans as set out in N.J.A.C. 7:50-5.4(c)6v of the Pinelands Comprehensive Management Plan. The various standards required to be met for certification of LCF Plans and their amendments contained in N.J.A.C. 7:50-5.4(c)6 are outlined below along with relevant findings for each standard.

- 1. The amendment shall be agreed to and submitted jointly by all providers of the same type of service, where feasible. In the event that any provider declines to participate in the amendment process, the Commission may proceed with its review of the amendment.**

On April 20, 2017, Commission staff briefed representatives of the Pinelands Area counties on the proposed amendment at the OIT Office of Emergency Telecommunications Services' regularly scheduled Statewide Regional Communications meeting.

On April 26, 2017, OIT Office of Emergency Telecommunications Services emailed representatives of the Pinelands Area counties. The correspondence included the proposed amendment, a summary of the briefing and discussion at the April 20, 2017 meeting, and a request for written comment on the proposed amendment by May 10, 2017. No comment was received from the other six Pinelands Area counties.

On May 17, 2017, OIT Office of Emergency Telecommunications Services emailed representatives of the Pinelands Area counties to inform them that no comments were received and that the Pinelands Commission was advising Ocean County to move forward with officially

submitting the amendment. No comments were received by any of the other six participating Counties during the official comment period ending June 12, 2017.

Ocean County, with the assistance of Commission staff and the OIT Office of Emergency Telecommunications Services, has offered the other six Pinelands Area counties opportunities to participate in the submission of this amendment. The Executive Director finds that the absence of response to these offers for the other Pinelands Area counties to participate or comment on the proposed amendment is recognized as their tacit decision to not formally participate in the submission of the amendment. Therefore, this standard for certification is met.

**2. The amendment shall include a review of alternative technologies that may become available for use in the near future.**

The certified Public Safety Tower Plan included a review of alternative technology known as Distributed Antenna Systems. The Commission accepted this review as part of its certification of the Public Safety Tower Plan. The Executive Director finds that this review continues to sufficiently address this requirement. Therefore, this standard for certification is met.

**3. The amendment shall include the approximate location of all proposed facilities.**

The certified Public Safety Tower Plan included the geographic coordinates of each proposed facility's location. The amendment under consideration does not include any additional proposed towers. The Executive Director finds that the Public Safety Tower Plan continues to sufficiently address this requirement. Therefore, this standard for certification is met.

**4. The amendment shall include five- and ten-year horizons.**

The certified Public Safety Tower Plan included three different planning phases. Phase-1 included seventeen facilities planned to be deployed within five years of certification. Phase-2 included six facilities planned to be deployed within five to ten years of certification. Phase-3 included twenty-seven facilities without a proposed timeline for deployment.

At present, only one Phase-1 facility has been built and an additional Phase-1 facility has received a public development approval from the Commission. There have been no other approved facilities. Given that the build-out of this plan has progressed more slowly than planned, the Executive Director finds that the phases within the certified plan still sufficiently provide five- and ten-year horizons. Therefore, this standard for certification is met.

**5. The amendment shall demonstrate the likely consistency that for each proposed facility there is a need for the facility to serve the local communication needs of the Pinelands, including those related to public health and safety, as well as a need to locate the facility in the Pinelands in order to provide adequate service to meet these needs.**

During the review of the Public Safety Tower Plan in 2012, the OIT Office of Emergency Communication Services, in its technical capacity, found that there was a critical public safety need for each of the facilities proposed in the plan. They noted that, wherever possible, sites outside of the Pinelands Area were selected to fulfill this critical public safety need. To further

support this demonstration, a consulting firm, V-COMM, analyzed data provided by the participating public agencies. This analysis resulted in signal propagation maps depicting both the existing coverage within the area of each proposed facility as well as the expected level of coverage post-installation. This analysis demonstrated the need for each of the proposed facilities to serve the communications needs of the plan participants, and V-COMM affirmed that the only way to provide adequate service was to locate the proposed facilities within the Pinelands Area.

Ocean County's May 2017 Amendment does not include any additional proposed towers. There has been no change in the radio frequency to be used by the proposed facilities within the certified Public Safety Tower Plan. The analysis described above conducted by the OIT Office of Emergency Communications Services and V-COMM was done independent of the siting policy approved for the plan and would be impacted only if new towers were proposed or if different radio frequencies would be used by the proposed facilities. The Executive Director finds that the analysis conducted by the OIT Office of Emergency Communication Services and V-COMM is still valid and continues to sufficiently demonstrate the stated need as required by the CMP. Therefore, this standard for certification is met.

- 6. The amendment shall demonstrate that the facilities to be located in the Preservation Area District, the Forest Area, the Special Agricultural Production Area and the seventeen Pinelands Villages enumerated in N.J.A.C. 7:50-5.4(c)6 are the least number necessary to provide adequate service, taking into consideration the location of facilities outside the Pinelands.**

During the review of the Public Safety Tower Plan in 2012, the OIT Office of Emergency Communication Services, in its technical capacity, and with support of a consulting firm V-COMM, demonstrated consistency with this standard based on the analysis described above. V-COMM demonstrated via signal propagation maps that, taking into account the location of facilities outside the Pinelands Area, the new facilities proposed in conservation-oriented management areas are the least number necessary to provide adequate service.

Ocean County's May 2017 Amendment does not include any additional proposed towers. There has been no change in the radio frequency to be used by the proposed facilities within the Public Safety Tower Plan. The analysis described above conducted by the OIT Office of Emergency Communications Services and V-COMM was done independent of the siting policy approved for the plan and would be impacted only if new towers were proposed or if different radio frequencies would be used by the proposed facilities. Furthermore, Ocean County's May 2017 Amendment includes provisions describing a hierarchy of preferred siting locations. These provisions ensure that movement of the final siting of a proposed facility within a given search area does not result in relocation of a facility to a more conservation-oriented management area, unless there are no viable sites available within the less-restrictive management areas or outside the Pinelands Area. The Executive Director finds that the analysis described above is still valid and continues to sufficiently demonstrate the stated need as required by the CMP. Therefore, this standard for certification is met.

- 7. The amendment shall demonstrate the likely consistency, and note the need to demonstrate consistency during the application process for siting individual facilities, that existing communications or other suitable structures have been used to the extent practicable.**

The certified Public Safety Tower Plan sufficiently demonstrated the likely consistency that existing communications structures or other suitable structures will be used. Furthermore, the siting policy adopted with the plan noted the need to demonstrate this during the application process for siting individual facilities.

Ocean County's May 2017 Amendment does not include any additional towers. The amendment maintains the siting policy provision that requires applicants to use existing suitable structures, to the extent practicable, prior to the construction of a new tower. Therefore, this standard for certification is met.

- 8. The amendment shall demonstrate the likely consistency, and note the need to demonstrate consistency during the application process for siting individual facilities, that if an existing communications structure or other suitable structure cannot be used, then the antenna and any necessary supporting structure is located to meet the siting criteria contained in N.J.A.C. 7:50-5.4(c)4.**

During the review of the Public Safety Tower Plan in 2012, Commission staff conducted an analysis of the 1-mile radius search area surrounding each of the proposed facilities included in the plan to determine the likely consistency that a tower could be sited within the search area consistent the CMP. The result of the analysis demonstrated a likely consistency that each proposed facility could be sited consistent with the CMP with the exception of two sites proposed by Burlington County. The consistency issues for these two sites were discussed at length in the 2012 Executive Director's report that reviewed Public Safety Tower Plan. The report concluded that this standard had been met, provided that the inconsistencies with the two sites were remedied at the time of application.

Ocean County's May 2017 Amendment expands the search area from a 1-mile radius to a 3-mile radius. An expanded search is not expected to decrease the likelihood for any of the proposed facilities to be sited consistent with the standards of the CMP. In fact, the expanded search area should provide more opportunities to search for permissible locations in the event that a new tower is necessary. The proposed amendment may in fact help with the siting of the two proposed facilities discussed above. However, if it is not possible to meet the CMP's siting criteria for these two facilities, or any other proposed facility included in an LCF Plan, the CMP includes provisions for these cases that would allow the Commission to require the implementation of alternative sites or tower designs that will result in the greatest avoidance or minimization of visual impacts. Therefore, this standard for certification is met.

- 9. The amendment shall note the need to demonstrate during the application process for siting individual facilities that support structures are designed to accommodate the needs of any other local communications provider that has identified a need to locate a facility within an overlapping service area and that the antenna and supporting structure does not exceed 200 feet in height, but if of a lesser height, can be increased to 200 feet to accommodate other local communications facilities in the future. The amendment shall also provide for the joint construction and use of the least number of facilities that will provide adequate service by all providers for the local communication system intended.**

The certified Public Safety Tower Plan acknowledged that, with respect to non-plan participants, all sites within the Public Safety Tower Plan are subject to the same co-location and design

policies as are incorporated into the four previous plans submitted by the commercial wireless providers. The amendment under consideration does not alter co-location or design policies incorporated in the Public Safety Tower Plan. Therefore, this standard for certification is met.

**10. The amendment shall include a plan for shared services, unless precluded by Federal law or regulation, if it reduces the number of facilities to be developed.**

The certified Public Safety Tower Plan did not include a plan for shared services. The purpose of this standard is to encourage wireless communications providers to consider the possibility of single server coverage. None of the certified LCF Plans have included a plan for shared services on the grounds that it is precluded by federal law. The amendment under consideration maintains this stated position and does not include any provisions related to shared services. Therefore, this standard for certification is met.

### **PUBLIC HEARING**

A public hearing to receive testimony concerning Ocean County's application for certification of its May 2017 Amendment to the Comprehensive Public Safety Tower Plan for Pinelands siting policy was duly advertised, noticed and held on June 7, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing at which the following testimony was received:

**Michael Fiure, Assistant County Administrator, Ocean County** stated that the County is upgrading its 500 MHz public radio system to a 700 MHz system due to existing radio interference. In the approved plan, Ocean County has a tower site located in Patriots Park. The County has a roads garage in Jackson that has been in existence for decades. The County would like to move the tower from the park. In order to build the tower in the park, the County would need to do clearing and cut trees down. The County does not want to site a public safety tower in a natural area. The County felt that the existing garage was a better location given that it is already developed land. The issue that the County encountered was that the garage is outside of the 1-mile search area of the Patriots Park site, which is what led the County to propose the amendment. This tower would be the last tower that would need to be built. All other Ocean County public safety towers are either constructed or in the permitting phase.

**Katherine Smith, Policy Advocate, Pinelands Preservation Alliance** provided testimony that was also submitted in writing (Exhibit D).

**David McKeon, Planning Director, Ocean County** testified in support of the proposed amendment. He stated that in the County's recent experience, they found no difference in how privately-owned towers and publicly-owned towers are treated by the Pinelands regulations. He stated that public safety towers are required for the safety of everybody including residents of the Pinelands, and they need to be in certain locations. The plan that was developed several years ago made an attempt to provide adequate coverage. However, it lacked consideration of developed versus undeveloped sites. The County agrees with the intent of the plan to minimize the visual impacts to the Pinelands, where possible, and that is what this amendment seeks to do.

He stated that the original location that was chosen was Patriots Park. It is a County park. While it does have an active component, the majority of the property is natural. It is also surrounded by thousands of acres of county-owned natural lands and state-owned forested areas. The County no longer desires to place the tower at this site, and it prefers to relocate the site to the County roads garage in Jackson. The garage is within 3miles of Patriots Park and is a fully developed site. The tower that the county proposes to construct works adequately in that area, and would not degrade the visual aesthetics of the area given current development.

He stated that Ocean County did meet with other counties in the area. This is not a problem unique to Ocean County. We need to be flexible with Public Safety Towers. The original plan's intent was to prevent the proliferation of many towers, most of those from private interests. These towers are publically-owned and have different needs, and in some cases publically-owned land is the only realistic location where these towers can be developed.

Written comments on Ocean County's application for certification of the May 2017 amendment were accepted through June 12, 2017 and were received from the following parties and included in Exhibit E:

**Katherine Smith, Policy Advocate, Pinelands Preservation Alliance**

**Lizzi Schippert**

**Sarah B. Dougan**

**Jody Vaughn**

**Jean Public**

### **EXECUTIVE DIRECTOR'S RESPONSE**

Ms. Smith, on behalf of the Pinelands Preservation Alliance, stated her concerns that: (1) the siting policy no longer maintains an initial presumption that a tower will be sited in the immediate area of the proposed location in the plan; and that the revisions to the hierarchy of preferred locations for new towers would (2) allow for more towers than necessary in the most conservation-oriented management areas and (3) not prevent or discourage the use of public recreation or conservation lands in Regional Growth Areas and Pinelands Towns as future tower sites.

With regard to (1) above, Ms. Smith is correct that Ocean County's May 2017 Amendment does not include a presumption that the final siting of a proposed facility will be located in the immediate area (as defined as within the municipality and management area of the proposed location). This change should in fact be recognized as helping to protect the conservation-oriented areas and undeveloped sites of the Pinelands from visual impacts. For example, in instances where the proposed location is in a conservation-oriented management area, the immediate area provision would lock proposed sites within the management area and municipality proposed unless there is not a feasible site within that area. With this presumption removed, the hierarchy policy would direct the siting to preferred locations within a larger search area that may include less sensitive developed sites or management areas. It is also important to note that development applications for individual facilities receive a greater degree of scrutiny than during the LCF Plan review process. Therefore, there should be no concern that individual applications are not adequately vetted.



With regard to (2) above, Ms. Smith's concern should be allayed by the demonstrations that were provided by the OIT Office of Telecommunications Services and V-COMM as described in II.B.6 above. In the certification of the Public Safety Tower Plan, the Commission affirmed the demonstration that the least number of towers necessary to provide adequate service were located in the most conservation-oriented areas. Ms. Smith correctly notes that there may be limited instances where a site proposed in a conservation-oriented management area may be moved to a different management area and still meet the coverage needs. However, the flexibility provided to the County Public Safety Agencies is limited to developed, publically owned sites and only for those sites already proposed in the most conservation-oriented management areas. In no case does the Amendment allow for the siting of a new tower in a more restrictive management area, although it may result in siting in an equally- or less-restrictive management area. This added flexibility is in recognition that public communications facilities face different constraints than commercial facilities and provide a critical public safety need.

With regard to (3) above, we respectfully disagree with Ms. Smith. Regional Growth Areas and Pinelands Towns are not subject to CMP height limitations. As such, CMP local communication facilities regulations do not apply to the siting of towers in these management areas. They need only comply with the minimum environmental standards included in Subchapter 6 of the CMP. To the extent that a publically-owned property in a Regional Growth Area, Pinelands Town or any other management area is deed restricted or otherwise reserved for recreation and/or open space, the development of a new tower would not be permitted unless a diversion were approved (as discussed in Section I.B above). The Amendment does not facilitate the development of new towers on deed restricted open space, conservation or recreation lands. If, however, a publically-owned property in the Regional Growth Area is not preserved as open space or subject to a deed restriction, the Amendment does indeed encourage a new tower to be sited there, whether or not the property is vacant. This is wholly in keeping with the primary objective of N.J.A.C. 7:50-5.4(c)6, which is to minimize the need for new towers in other more conservation-oriented portions of the Pinelands Area.

While we appreciate the other written comments received from the above stated parties, their expressed concerns are not germane to the particular provisions of the amendment currently under consideration.

### **CONCLUSION**

Based on the Findings of Fact cited above, the Executive Director has concluded that Ocean County's May 2017 Amendment complies with Comprehensive Management Plan standards for the certification of an amendment to a certified comprehensive local communications facilities plan. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ocean County's May 2017 Amendment to the Comprehensive Public Safety Tower Plan for Pinelands siting policy.

LLL/SRG/DBL/  
Attachments

**Comprehensive Public Safety Tower Plan for Pinelands  
Proposed-Tower Siting Policy**

1. For each proposed site identified in the Comprehensive Public Safety Tower Plan for Pinelands (herein, the Plan), as further defined by the geographic coordinates of Table 1 of the Plan, there will be a general presumption that a facility's final location will be within a search area consistent with the service need for the facility and in conformity with other appropriate technical considerations, but in no case will that area extend beyond a three-mile radius.
2. Within that search area, consideration will first be given to locating the needed antenna on an existing, suitable structure that does not require a change in mass or height that significantly alters its appearance. The existing suitable structure may be located in any Pinelands Management Area.
3. If it is infeasible to site the proposed facility on an existing suitable structure within the search area, then consideration will be given to either the use of other existing structures that require a significant change in mass or height or land suitable for a new support structure, provided that:
  - a. Only those existing structures or sites within the search area will be considered; and
  - b. Only those existing structures or sites that meet the requirements of N.J.A.C. 7:50-5.4(c)4 and other applicable CMP standards will be eligible sites; and
  - c. The County will need to provide confirmation that the selected site meets the needs of other parties to this Plan, or previously approved local communications facilities plans, who have proposed to share the proposed facility; and
  - d. If the search area crosses the boundaries of the Pinelands Area or multiple Pinelands Management Areas, the County will consider existing structures that require a significant change in mass or height or land suitable for a new support structure in accordance with the following hierarchy of preference, from most preferred to least preferred:
    - i. At the option of the County, publicly-owned land, provided that:
      - (a) If the site proposed in the Plan is located in a Pinelands Regional Growth Area, Pinelands Town, Garden State Parkway Overlay District, or the developed portion of a Military and Federal Installation Area, only publicly-owned sites within these management areas shall be considered.
      - (b) If the site proposed in the Plan is located in a Pinelands Rural Development Area, Agricultural Production Area, undeveloped portion of a Military and Federal Installation Area or Pinelands Village other than those expressly identified in N.J.A.C. 7:50-5.4(c)6, only developed, publicly-owned sites within these management areas, as well as those of (a) above, shall be considered.
      - (c) If the site proposed in the Plan is located in the Pinelands Preservation Area District, Special Agricultural Production Area, Forest Area or a Pinelands Village expressly identified in N.J.A.C. 7:50-5.5(c)6, only developed, publicly-owned

sites within these management areas as well as, those of (a) and (b) above, shall be considered.

- ii.** Any other land in the following order of preference, from most preferred to least preferred:
  - (a)** Outside the Pinelands;
  - (b)** Pinelands Regional Growth Areas, Pinelands Towns, Garden State Parkway Overlay District and the developed portions of Military and Federal Installation Areas;
  - (c)** Pinelands Rural Development Areas, Agricultural Production Areas, undeveloped portions of Military and Federal Installation Areas and Pinelands Villages other than those expressly identified in N.J.A.C. 7:50-5.4(c)6; and
  - (d)** Pinelands Preservation Area District, Special Agricultural Production Areas, Forest Areas and the Pinelands Villages expressly identified in N.J.A.C. 7:50-5.4(c)6, provided that the resulting site does not result in an increase in the number of new towers identified in the Plan for this management area group.
- 4.** If no feasible structures or sites are found, the County will consult with Pinelands Commission staff to identify other possible mechanisms to find a site consistent with N.J.A.C. 7:50-1.1 et seq., including the potential for an amendment to the Plan, siting flexibility pursuant to N.J.A.C. 7:50-5.4(c)6, or a waiver of strict compliance.

Appendix E – Hierarchical Policy for Siting Individual Wireless Communications Facilities

The Plan incorporates a one-mile radius around every proposed facility's approximate location. To properly apply the CMP's standards within the context of this Plan, if approved, the following procedure will be used when the companies seek to finalize these approximate locations.

1. Except as otherwise specifically noted in this report, there will be a general presumption that a facility's final location will be within the immediate area of the location proposed in this Plan, i.e., the Pinelands management area group and municipality described in the Plan as further defined using the geographic coordinates prepared by the Commission's staff. If it proves to be infeasible to site the facility on an existing, suitable structure (i.e., one that does not require a change in mass or height which significantly alters its appearance), the use of other structures or, as appropriate, eligible sites which meet the standards in N.J.A.C. 7:50-5.4(c)4 will be considered. The company's feasibility assessment will need to include confirmation from other parties to this Plan who are slated to share the facility that the selected site meets their needs.
2. If siting of the facility within the immediate area of the Plan location is infeasible, the company will broaden its search area consistent with the service need for the facility and in conformity with other appropriate technical considerations, but in no case will that area extend beyond a one-mile radius. This will require consultation with other parties to this Plan who are slated to share the facility to ensure that any new location meets their needs.
3. Within that broader search area, consideration will first be given to locating the needed antenna on an existing, suitable structure if that structure does not require a change in mass or height that significantly alters its appearance.
4. Failing that, the use of other existing structures that may require a significant change in mass or height (if appropriate in view of the CMP's standards, including those related to visual impacts) or sites for a new structure within the search area will be evaluated. Only those structures or sites which meet the requirements of N.J.A.C. 7:50-5.4(c)4 and other applicable CMP standards will be selected. If that broader search area crosses the boundaries of the Pinelands Area or its management areas, the company will seek to site the facility in the following order of preference:
  - a. Outside of the Pinelands;
  - b. Pinelands Regional Growth Areas, Pinelands Towns and the developed portions of Military and Federal Installation Areas;
  - c. Pinelands Rural Development Areas, Agricultural Production Areas, undeveloped portions of Military and Federal Installation Areas and Pinelands Villages other than those expressly identified in N.J.A.C. 7:50-5.4(c)6; and,
  - d. Pinelands Preservation Area District, Special Agricultural Production Areas, Forest Areas and the Pinelands Villages expressly identified in N.J.A.C. 7:50-5.5(c)6.

5. If no feasible structures or sites are found, the company should reexamine the surrounding facility network and propose an amendment to this Plan which conforms to CMP standards. Of course, the company retains its right to seek a waiver of strict compliance from the standards of the CMP, although the Executive Director notes that the tests will be difficult to meet.



Proposed Tower location (60'x60')





**Fixed Asset Key**

Ownership	Color	Symbol	Year Bld.
Municipal	Red	None	1978
Federal	Blue	None	1978
County	Yellow	None	1978
State	Green	None	1978
Leased	None	Circle with number	1978

**Government Owned Land**

- Municipal (Red outline)
- Federal (Blue outline)
- County (Yellow outline)
- State (Green outline)

**Leased**

- County Owned (2 in circle)
- Leased (3 in circle)

OCEAN COUNTY FACILITIES MANAGEMENT  
JACKSON GARAGE  
JACKSON TWP

**BUS STOPS**

- OCEAN RIDE BUS STOPS (Blue line)
- LAKEWOOD TWP "1" BUS STOPS (Red line)
- LAKEWOOD TWP "2" BUS STOPS (Yellow line)
- OCEAN RIDE BUS ROUTES (Blue line)
- NJ TRANSIT BUS ROUTES (Orange line)

**Scale**

0 50 100 Feet

**North Arrow**

**Map 2**



**Proposed Location of Tower**



*State of New Jersey*

Office of Information Technology  
P.O. Box 212  
Trenton, New Jersey 08625-0212

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

DAVE WEINSTEIN  
*Chief Technology Officer*

May 23, 2017

Larry L. Liggett, Director  
Land Use and Technology  
New Jersey Pinelands Commission  
P.O. Box 359  
New Lisbon, NJ 08604

**RE: Amendment to Comprehensive Public Safety Tower Plan**

Dear Mr. Liggett

The New Jersey Office of Information Technology (OIT) through the Office of Emergency Telecommunications Service (OETS) has reviewed Ocean County proposed amendment to the Tower Siting Police of the Public Safety Tower Plan and is in full support. This amendment will permit counties the flexibility in siting towers for critical public safety communications within a three mile radius as well as the ability to utilize developed publicly owned land where appropriate.

As you are aware the current Plan was developed with input from the counties in 2012. Changes in technology and impending FCC requirements since then has mandated the transition the 700 MHz public safety spectrum. With this 700 MHz transition, the locations identified in 2012 are more tolerant to change and the three mile flexibility would not adversely affect system performance while permitting the counties in some cases to construct on developed publicly owned land.

The tower locations identified in 2012 were chosen after much deliberation and effort was expended trying to locate sites outside of the Pinelands to serve the critical Public Safety needs. As counties now begin construction of their systems difficulty developing the initial locations in some cases has become problematic. This amendment maintains the mission of the Pinelands Commission while expediting the construction of several public safety radio systems and potentially saving tax payer dollars.

In the event there are any questions please contact me at 609 777-3698.

Sincerely

  
Craig A. Reiner, Director  
Office of Emergency Telecommunications Services





## Pinelands Preservation Alliance

Bishop Farmstead ♦ 17 Pemberton Road ♦ Southampton NJ ♦ 08088  
Phone: 609-859-8860 ♦ ppa@pinelandsalliance.org ♦ www.pinelandsalliance.org

Protecting the Pinelands  
since 1989

Printed on recycled paper  
with linseed ink.

Dear Mr. Liggett, Mr. Lanute, and Pinelands Commission staff,

I am writing to express our concerns regarding the amendments to particularly the tower siting hierarchy. Several of the proposed changes reduce the ability of the Commission to lessen visual and construction impacts on the Pinelands from radio towers.

The existing siting policy states: "Except as otherwise specifically noted in this report, there will be a general presumption that a facility's final location will be within the immediate area of the location proposed in this Plan, i.e., the Pinelands management area group and municipality described in the Plan as further defined using the geographic coordinates prepared by the Commission's staff." It is troubling that the proposed amendment does not include the presumption that the radio tower be sited in the immediate area of the location indicated within the plan. Rather, the amendment immediately jumps to the three-mile search radius. The presumption that the radio tower be sited per the plan is essential, as the plan, and locations therein, were already vetted and approved by the Commission. If there is an opportunity for the tower to be sited in a less damaging site, that would be beneficial, but that is not included in the amendment language.

Other than the expansion of the search radius, none of the changes are required to actually site any of the towers. There is no expansion of eligible sites, just a change in how they are ranked. Thus, the only portion of the amendment that increases public safety is the change in search radius. The change to the siting hierarchy actually does a disservice to the safeguards set up in the original plan.

The siting policy then enters the hierarchy of siting preferences. After co-location, public lands are all treated equally, as long as the location is not in a more restrictive area than that proposed within the plan. This is concerning; if the Preservation Area, Special Agricultural Production Area, Forest Area, and Pinelands Villages are to be truly the least number regions as per the plan, any chance to move towers outside of these areas must be taken. The public lands must be subject to the same hierarchy as all other lands.

The new hierarchy also lists all publicly-owned land in regional growth areas, Pinelands Towns, and in the Garden State Parkway Overlay District as preferred sites, over all other non-publicly owned land. This preference does not separate out whether the publicly-owned land is developed. It is especially concerning that publicly owned land that may be held for recreation or conservation within these areas would be a preferred site for tower construction. While the Pinelands Commission may not have the authority under the CMP to ban construction on these sites, it can certainly *discourage* it as compared to other sites, and for the public interest it is compelled to do so.

Sincerely,

Katherine Smith  
Policy Advocate

Pinelands Preservation Alliance

**From:** "Lizzi Schippert" <openingyoureyes@verizon.net>  
**To:** <comments@njpines.state.nj.us>  
**Date:** 6/5/2017 7:50 PM  
**Subject:** comment on Radio Towers

The need for reliable wireless communication must be balanced with the protection of the fragile Pine Barrens ecosystem. Radio towers range in size from 150 to 250 ft.

Dear Decision Makers -

One must always balance 'progress' with the needs of the ecosystem. I live in Island Heights and two summers ago two MacMansions were built near us, one on the adjoining property and one behind us, across the lane. The Code Enforcement in this town did little or nothing to protect the already existing tree ordinance, construction trucks dug up the asphalt street behind our house, the construction men left their truck engines running, sometimes for the entire day, two years later there are still bits of insulation debris landing in my yard which have been carried by the wind - etc etc.

My point is that even if there are rules in place which should protect the environment, the contractors themselves, and their machines, seem to run wild with the 'importance' of their construction and it is the neighbors and environment, which suffer. In this case the neighbors are wild creatures dependent upon that environment and its integrity.

Please have ecological supervisors on hand so that if and where these towers are constructed there will be a clear voice to minimize collateral damage to the surroundings, including any temporary roadways which are made to access the site. It is essential that construction debris be removed completely.

Thank you for keeping the integrity of the environment foremost- don't indulge in careless destruction, and clean up after yourselves.

Lizzi Schippert

PO Box

Island Hts.,NJ 08732

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This email has been checked for viruses by Avast antivirus software.  
<https://www.avast.com/antivirus>

**From:** sally dougan <saldougan@aol.com>  
**To:** <comments@njpines.state.nj.us>  
**Date:** 6/5/2017 10:35 PM  
**Subject:** Please do not amend the existing plan

Please do not amend the existing plan. To do so would endanger the few protections and certainty that we have for the treasured Pinelands. This shouldn't be toyed with!

It would be irresponsible and show lack of concern for the integrity of the important Pinelands area.

Thank you,

Sarah B. Dougan  
25 McCatharn Road  
Lebanon, NJ 08833

**From:** Jody <jodylynn123@comcast.net>  
**To:** <comments@njpines.state.nj.us>  
**Date:** 6/7/2017 4:17 PM  
**Subject:** radio towers

Dear Pinelands Committttee members,

I knew as soon as you allowed soccer tournaments and gas pipelines in the Pinelands, it would be just the start of further encroachment in this valuable asset of New Jersey and the world. Pretty soon, it will look like Trenton, Hoboken, or any other inhabited area of New Jersey. Please think and be very careful about where you allow these radio towers to be built. Thank your for your consideration.

Jody Vaughn

**From:** Jean Public <jeanpublic1@yahoo.com>  
**To:** "COMMENTS@NJPINES.STATE.NJ.US" <COMMENTS@NJPINES.STATE.NJ.US>  
**Date:** 6/8/2017 3:05 PM  
**Subject:** Re: Public Hearing on Radio Towers

MY COMMENT FOR THE RECORD IS TO INSTALL RADIO TOWERS OUTSIDE OF THE PINELANDS PRESERVATION AREA.I AM CERTAIN IN THESE TIMES OF TECHNOLOGICAL ACHIEVEMENTS, THAT SUCH SITES CAN BE INSTALLED OUTSIDE THE PRESERVED PINELANDS AREA AND STILL SERVE THE INTERESTS OF ALL. WE DO NOT NEED AND SHOULD NOT ALLOWENDLESS UTILITY USE OF THE PINELANDS AREA. FAR TOO MUCH HAS DESTROYED WITHINT TH EPINELANDS ALREADY. THE ASSAULT ON NATURE BY NJ CORRPT GOVT IS EXTENSIVE. JEAN PUBLIEE JEANPUBLIC1@GMAIL.COM

@media screen and (max-width:480px){#yiv7695819303 td .filtered99999 {display:none;}}@media screen and (max-width:480px){#yiv7695819303 table .filtered99999 , #yiv7695819303 img .filtered99999 , #yiv7695819303 td .filtered99999 , #yiv7695819303 span .filtered99999 {display:none;}#yiv7695819303 td .filtered99999 , #yiv7695819303 table .filtered99999 , #yiv7695819303 span .filtered99999 {display:block;}#yiv7695819303 .yiv7695819303FooterText {line-height:1.6 !important;}#yiv7695819303 blockquote .yiv7695819303hideInRplyFwd, #yiv7695819303 .yiv7695819303WordSection1 .yiv7695819303hideInRplyFwd, #yiv7695819303 Take Action Protect the Pinelands

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**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

NO. PC4-17- 21

**TITLE:** To Accept the Fiscal Year 2015 Audit Report

Commissioner Lohbauer moves and Commissioner McGlinchey seconds the motion that:

**WHEREAS**, the audit of the Pinelands Commission Fiscal Year 2015 Financial Statements, Notes to the Financial Statements and Schedules of Federal and State Assistance was performed by the Office of the State Auditor; and

**WHEREAS**, the Fiscal Year 2015 Audit Report contains two findings for the Commission to address. This includes strengthening the internal controls by ensuring the Bank Account Reconciliations are prepared and reviewed by the independent accounting firm and the testing of the Disaster Recovery Plan; and

**WHEREAS**, to address the internal controls finding, the Pinelands Commission staff and the independent accounting firm have created a new bank reconciliation process to be used until a new accounting system is purchased and installed. To address the testing of the disaster recovery plan, the Commission's MIS department has included additional hardware in the FY18 Budget needed to perform simulated disaster testing.

**WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE BE IT RESOLVED** that the Pinelands Commission hereby accepts the attached Audit Report for Fiscal Year 2015 and directs that it be included as a publication available through the Pinelands Commission's website.

**Record of Commission Votes**

	AYE	NAY	NP	AR*		AYE	NAY	NP	AR*		AYE	NAY	NP	AR*
Ashmun				X	Galletta				X	Prickett	X			
Avery				X	Jannarone	X			X	Quinn	X			
Barr	X				Lloyd	X				Rohan Green			X	
Brown	X				Lohbauer	X				Earlen	X			
Chila	X				McGlinchey	X								

\* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission  
Nancy Wittenberg  
Nancy Wittenberg  
Executive Director

Date: JULY 14, 2017  
Sean W. Earlen  
Sean W. Earlen  
Chairman



## RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17- 22

**TITLE:** To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Application Fees; Escrows; Application Procedures; Landfills; Water Quality; Signs; Alternate Design Wastewater Treatment Systems Pilot Program)

Commissioner Brown moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, in 2014, the Pinelands Commission completed its fourth comprehensive review of the Pinelands Comprehensive Management Plan and issued The Fourth Progress Report on Plan Implementation; and

WHEREAS, the 2014 Progress Report identifies a number of recommendations to be pursued by the Commission, many of which were developed in response to public input; and

WHEREAS, the Executive Director has prepared and submitted to the Commission proposed amendments to the Comprehensive Management Plan in response to several of the recommendations contained in the Progress Report; and

WHEREAS, these proposed amendments adjust application fees, clarify application exemptions, simplify notice and mailing procedures for applicants, municipalities and the Commission, clarify landfill closure requirements and update Comprehensive Management Plan sign standards; and

WHEREAS, the proposed amendments also recognize the successful performance of one of the technologies in the Commission's Alternate Design Treatment Systems Pilot Program by authorizing use of the FAST technology on a permanent basis for residential development on lots of at least 1.4 acres in size;

WHEREAS, the proposed amendments also provide an opportunity for advanced treatment systems, such as the Fast technology, to be used to facilitate the expansion of existing nonresidential uses outside the Regional Growth Area, Pinelands Towns and Pinelands Villages; and

WHEREAS, all of the proposed amendments have been reviewed by the Commission's CMP Policy and Implementation Committee; and

WHEREAS, the Pinelands Commission is desirous of considering the amendments to the Comprehensive Management Plan set forth in the attachment hereto, dated July 5, 2017; and

WHEREAS, the Administrative Procedure Act of 1968, as amended, and the Office of Administrative Law implementing regulations set forth a detailed procedure governing proposed rulemaking; and

WHEREAS, the Pinelands Commission is also desirous of obtaining the comments of the public, governmental agencies and the Pinelands Municipal Council on the proposed amendments, in accordance with the Pinelands Protection Act and Subchapter 7 of the Comprehensive Management Plan; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE, BE IT RESOLVED that:

1. The Commission hereby authorizes the Executive Director to submit the proposed amendments to the Comprehensive Management Plan, attached hereto and dated July 5, 2017, and the required supporting documentation to the Office of Administrative Law for publication as proposed regulations;
2. The Executive Director shall transmit the proposed amendments to all Pinelands municipalities and counties and the Pinelands Municipal Council for review;

3. The public comment period on the proposed amendments shall extend 60 days from the date of publication of the proposal in the *New Jersey Register* and the Executive Director shall affix the date of a public hearing to receive comments on the proposed amendments; and
4. Subsequent to the comment period, the Executive Director shall expeditiously prepare proposed final amendments, with any pertinent changes to these amendments, for review by the Commission's CMP Policy and Implementation Committee, and shall submit same to the Commission for final action.

**Record of Commission Votes**

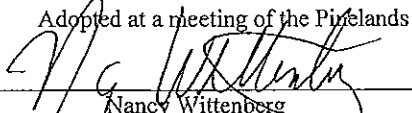
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun			X	Galletta			X	Prickett	X		
Avery			X	Jannarone	X			Quinn	X		
Barr	X			Lloyd	X			Rohan Green			X
Brown	X			Lohbauer	X			Earlen	X		
Chila	X			McGlinchey	X						

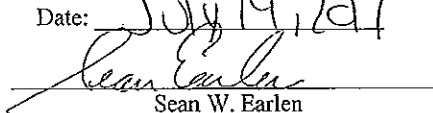
\* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date:

July 14, 2017

  
 Nancy Wittenberg  
 Executive Director

  
 Sean W. Earlen  
 Chairman



July 5, 2017

**PINELANDS COMMISSION**

**Pinelands Comprehensive Management Plan**

**Fees; Escrows; Definitions; Standards for Certification; Application Requirements and Procedures; Landfills; Water Quality; Signs; Petitions for Amendment; 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, 4.19, 4.20, 4.22, 4.23, 4.25, 4.26, 4.35, 4.37, 4.38, 4.40, 4.41, 4.53-4.56, 4.66-4.68, 4.74, 4.79, 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:

October 4, 2017 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 November 4, 2017 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](mailto: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, 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, 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](http://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, 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 \$1,384,000 on its application review functions and recouped 34% or \$472,000 in application fee revenue. Over the next seven fiscal years, the Commission's permit-related expenses decreased to an annual average of \$1,194,775.

Application fee revenue varied widely during the same time period, from a high of \$648,750 in fiscal year 2016 to a low of \$253,000 in fiscal year 2014. Some of this variation was due to a decrease in the number of applications submitted each year. In fiscal year 2010, 577 new development applications were received. For fiscal years 2011 through 2017, the average number of applications received per year was only 457. The Commission's permitting expenses likewise decreased over time as project review staff retired, were laid off or left for other reasons and were not replaced.

The Commission has charged application fees for development applications since 2004 and last increased the amount of those fees in 2008. Over the past seven fiscal years, fee revenue has covered an average of 37 percent of the cost incurred by the Commission to review and act on development applications. (Average annual fee revenue for the past seven fiscal years is just under \$450,000 and the Commission's annual average application review cost during the same time period is \$1,194,775). The balance of the cost is funded almost exclusively by annual General Fund appropriations. The Commission proposes to increase most application fees by 25 percent, which could yield an additional \$70,000 in revenue annually. Such an increase would allow fee revenue to cover approximately 43 percent of the cost incurred to review development applications. The proposed increase in application fees would ensure that fee revenue funds a more appropriate share of the cost incurred to review and act on development applications. For comparison, application fees assessed by the New Jersey Department of Environmental Protection program cover about 50 percent of the cost to review and act on those applications.

The proposed fee increases are reflected in the proposed amendments to N.J.A.C. 7:50-1.6(a), (b), (c), (e), (h), (i) and (j). It should be emphasized that the maximum application fees specified in N.J.A.C. 7:50-1.6(e)2 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 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 omissions 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 clarify that bridges are not considered “linear development” for purposes of calculating required application fees.

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 \$250. 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.

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 five years 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 only 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 table below illustrates how the above-described fee amendments would affect selected types of 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	\$250
50 lot residential subdivision	\$11,150	\$13,937.50
15,000 square foot retail building	\$18,750	\$23,437.50
20 acre resource extraction application	\$2,100	\$2,625
3 acre solar energy facility	\$10,000	\$3,000
Municipal recreational improvements	\$1,600	\$2,000

*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 use escrow funds for unusual expenditures, including the purchase of software and other equipment necessary for review of a development application or memorandum of agreement. In addition, escrow funds could be used to procure services (e.g., preparation of public meeting transcripts by court reporters) or rent off-site facilities necessary to accommodate larger than normal public attendance at meetings on particular development applications or other matters pending before the Commission.

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, equipment facilities and services to the list of items that can be acquired 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.

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.

#### *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 add a requirement for posting of the notice on the Commission's website. This reflects the Commission's current practice.

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 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. 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 post notices in the newspaper and provide notice to counties, municipalities and adjacent landowners.

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)liv is being amended to delete the requirement for posting of notices relative to amendment petitions 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.

The Commission is also proposing to amend the notice and hearing procedures set forth in 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.

### *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 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.

The Commission will be aided in its 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, 2015 and 2016 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 report, 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 2016 annual report is available on the Commission's website at

<http://www.nj.gov/pinelands/landuse/current/altseptic/2016%20FINAL%20SEPTIC%20PILOT%20PRORAM%20ANNUAL%20REPORT.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, 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.

The proposed escrow amendments are expected to have a positive social impact for New Jersey's taxpayers as they will allow the Commission 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, without the need to expend public funds. Likewise, escrow funds will be available for use if a particularly complex or contentious application necessitates rental of a larger public meeting space than the Commission can provide at its own offices.

The proposed amendments to the Commission's hearing procedures, set forth at N.J.A.C. 7:50-4.3(b)2i, 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 the requirement that certain hearing and other notices be posted on properties proposed for development is not expected to reduce public awareness of or participation at hearings held by the Commission.

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 application fees in the future will be a function of the number and type of development applications submitted to the Commission each year.

The following examples help to illustrate the impact of the proposed fee changes on several types of projects:

- A 50-lot residential subdivision will be subject to a \$2,787.50 fee increase, amounting to an additional cost of \$55.75 per lot;
- The fee for a 20-acre resource extraction (mining) proposal will increase by \$525 or \$26.25 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 \$2,344, or an additional cost of \$0.16 per square foot.

Although the Commission views these as modest increases, it also recognizes that applicants may view them in a negative light. However, it should be noted that the Commission's fee schedule is not designed to recapture all of the Commission's permit-related expenses. Rather, the Commission expects that, if current application trends continue, perhaps 43 percent of the Commission's permit-related expenses could be recouped through application fee revenue.

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, equipment, facilities or services 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 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.

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.

Decreased fees for solar energy facilities may serve to encourage applicants to move forward with the development of such facilities, consistent with the goals of the New Jersey Energy Master Plan.

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.

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 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 not significant and are not expected to result in a loss of 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 acquisition of software, equipment, facilities or services deemed necessary for the review of matters pending before the Commission that involve complex issues, necessitate specialized



expertise or require considerable staff review. 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 housing.

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 with strikeouts**; 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 **\$250.00** [200.00] or a fee calculated according to the fee schedule set forth in (b) through **(1)**[~~(4)~~] 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 **\$250** [~~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. **\$250.00** [~~200.00~~] per dwelling unit or lot for the first four units or lots;
  - ii. **\$281.25** [~~225.00~~] per dwelling unit or lot for units/lots five through 50;
  - iii. **\$156.25** [~~125.00~~] per dwelling unit or lot for units/lots 51 through 150; and
  - iv. **\$125.00** [~~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:

<b>Construction Cost</b>	<b>Required Application Fee</b>
<b>\$0 - \$500,000</b>	<b>1.25% of construction costs</b>
<b>\$500,001 - \$1,000,000</b>	<b>\$6,250 + 1% of construction costs above \$500,000</b>
<b>Greater than \$1,000,000</b>	<b>\$11,250 + 0.75% of construction costs above \$1,000,000</b>

~~[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 **\$6.25** ~~[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 **\$6.25** ~~[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 **\$187.50** ~~[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 **\$187.50** [~~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, 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, **bridges** or internal circulation roads;
5. For a resource extraction permit application or permit renewal application, the application fee shall be **\$1,875** [~~1,500~~] plus **\$37.50** [~~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 **\$250.00** [~~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 \$250.00; 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 **or (f) below** shall:
1. Be increased by **\$3,125** [~~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.-3. (No change.)
- (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 **\$250.00** [~~200.00~~] plus **\$6.25** [~~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 **\$250.00** [~~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 **\$250.00** [~~200.00~~].
- (j) The application fee for an Amended Certificate of Filing, **Amended Certificate of Completeness or amended public development approval** shall be **\$250.00** [~~200.00~~] or 10 percent of the original permit fee, whichever is greater, with a maximum fee of **\$3,750** [~~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 unusual expenditures, including costs associated with specialized software, equipment, facilities or services.** 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 **pursuant to (a) above** [~~either as a result of retaining any consultants 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.-16. (No change.)

17. **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~~];

18.-23. (No change.)

(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, publication of the notice in an official newspaper of the Commission having general circulation in the area 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 [tø] 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, publication of the notice in an official newspaper of the Commission having general circulation in the area 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 on the Commission’s website and published in an official newspaper of the Commission having general circulation in the area. [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 of the notice shall be published in all the official newspapers of the Pinelands Commission and **posted 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 of the notice 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 **and posted 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 of the notice shall be published in all the official newspapers of the Pinelands Commission and **posted 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(e)~~].

(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).

7:50-4.18 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.)

7:50-4.35 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 ~~[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.-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.-6. (No change.)
- (f) (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. F]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.)

#### 7:50-4.40 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.

7:50-4.73 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.

7:50-4.91 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; ~~[or]~~

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 ecological risk to wetlands.**

(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**
  - iii. The size of such signs shall be limited to that necessary to convey directions.****
- 2. Off-site signs advertising agricultural commercial establishments shall comply with the following standards:**

- 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 United States 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.**
- 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.**
- (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. (No change.)
  - 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); **and**
  - 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.-3. (No change.)

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