

PINELANDS COMMISSION

**Pinelands Comprehensive Management Plan  
Pilot Program – Electric Transmission Right-of-Way Maintenance**

**Proposed New Rules: N.J.A.C. 7:50-10.31 through 10.35**

Authorized By:

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New Jersey Pinelands Commission,  
John C. Stokes, 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:

Wednesday, July 22, 2009 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 August 14, 2009 to:

Susan R. Grogan, P.P., AICP  
Chief Planner  
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P.O. Box 7  
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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 (Commission) proposes to amend Subchapter 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 2009 through a set of amendments related to on-site clustering of residential development in Forest and Rural Development Areas, development transfer programs (so called off-site clustering) in the Forest and Rural Development Areas and stormwater management for public development.

Subchapter 10 of the CMP describes the Commission's ability to periodically authorize pilot programs as a means of testing whether or not alternative methods might achieve the goals and objectives which the requirements and standards in N.J.A.C. 7:50-5 and 6 represent. Four such pilot programs have been authorized to date: the Township of Galloway and City of Egg Harbor City Pilot Off-Site Clustering Program (see 28 N.J.R. 4101), the Township of Tabernacle and Township of Pemberton Public Educational Facilities Pilot Program (see 32 N.J.R. 2082), the Alternate Design Treatment Systems Pilot Program (see 34 N.J.R. 722) and the Fort Dix Consumer Electronics Recycling Center Pilot Program (see 36 N.J.R. 4401). Provisions for those pilot programs are set forth in N.J.A.C. 7:50-10, Parts II-V.

The amendments now being proposed establish a new pilot program related to the maintenance of electric transmission rights-of-way within the Pinelands. In 2004, the Commission authorized the development of a new electric transmission line on the

eastern fringe of the Pinelands Area through an intergovernmental agreement with the Board of Public Utilities (Board). Recognizing that proper maintenance within electric transmission rights-of-way can provide ecological benefits for the Pinelands Area and improve electric transmission safety and reliability, the Commission and the Board agreed that a comprehensive maintenance plan should be prepared to achieve these objectives. After developing a work plan for the project in cooperation with the Board and the three utility companies that own and manage electric transmission rights-of-way in the Pinelands Area, the Commission engaged Rutgers University to prepare the plan in cooperation with the Commission Science Office. The project was managed by the Commission's Science Office and the plan was prepared in consultation with the Board and the three companies – the Public Service Enterprise Group, Jersey Central Power and Light and Atlantic City Electric, a subsidiary of Pepco Holdings, Inc.

The New Jersey Pinelands Electric Transmission Right-of-Way Maintenance Plan (ROW Plan), dated February 2009, prescribes a variety of vegetation management practices that seek to achieve several ecological and transmission objectives, chief among them to (1) create and maintain relatively stable and sustainable early successional habitats that are characteristic of the Pinelands and which provide habitat for native Pinelands plants and animals, including threatened and endangered species and (2) ensure the reliability and safety of the electric transmission system in the Pinelands by creating and maintaining low growth vegetation communities. It is noteworthy that all utility companies are required by federal and Board requirements to maintain clearance requirements to ensure transmission line safety and reliability.

The ROW Plan is available for review at the principal office of the Commission

or at [www.nj.gov/pinelands](http://www.nj.gov/pinelands). It proposes specific vegetation management prescriptions for each of more than 3,000 spans (the ROW area between two consecutive structures that support transmission lines) along approximately 233 miles of right-of-way. These prescriptions directly affect the management of approximately 2,700 acres of land within the rights-of-way.

Based upon analysis of aerial photography and in-field survey methods, the percentage cover of forest, trees that had been topped, tree sprouts, shrub oaks, shrubs, herbaceous and bare ground in each span was estimated. Depending on the existing cover, each span was assigned a vegetation management prescription to cut trees manually, cut trees mechanically or mow. These prescriptions were predicated upon the goal of creating and maintaining relatively stable and sustainable early successional habitats that are characteristic of the Pinelands. More conservative prescriptions (such as manual tree cutting) were specified for many spans that traversed wetland areas so as to reduce the intrusive nature of the work. Timing restrictions and the use of mats were also incorporated into the vegetation management prescriptions of wetland spans that require forest to be cut. To minimize wetland-soil disturbance, work in these spans is to be conducted within the July 1 through October 1 period when wetland water levels are low and mats (flat wooden or fiberglass platforms) are to be used to access the work areas with heavy equipment.

The potential existence of plant or animal species that the Pinelands Comprehensive Management Plan designates as threatened or endangered (N.J.A.C. 7:50- 6.27 and 6.33) also led to timing restrictions. These restrictions were identified for spans located within 1,000 feet of a threatened or endangered plant or animal record

when a timing restriction would minimize impacts to the particular plant or animal species. For example, if a barred owl were associated with a forested span, the prescription was timed to avoid cutting trees during the active period of mating, nesting and fledging. For spans that were associated with threatened or endangered plant species, mowing will be restricted to a window after the period of growth, flowering and seed set. Records of these rare plants and animals were obtained from the New Jersey Department of Environmental Protection (Office of Natural Lands Management and Endangered and Nongame Species Program), the United States Fish and Wildlife Service, the New Jersey Pinelands Commission and local botanists. In the case of American Mistletoe, a plant survey will be conducted as part of the prescription because this species grows in the canopy of trees and the spans to be cut are currently forested.

The ROW plan specifies 59 different vegetation-management prescriptions that apply to the more than 3,000 spans. The 59 prescriptions represent various combinations of cutting, mowing, and timing restrictions. A total of 2,431 spans involve mowing, 866 spans involve cutting, and 529 spans involve a timing restriction. Six spans also involve a survey for a single threatened and endangered plant species.

Of the 529 that involve a timing restriction, wetland-timing restrictions and mat requirements apply to 41 spans and threatened and endangered plant and animal timing restrictions for 15 animal and 27 plant species involve 488 spans. Specific surveys for American mistletoe will be conducted in six spans and, if the plant is found, the utility company will prepare a plan to minimize the impact of vegetation management activities within the span. Span-by-span details of all of the recommended management prescriptions are presented in the ROW Plan.

Although the vegetation management and maintenance prescriptions are site specific, they can not anticipate every conceivable condition that may arise within a given span. Therefore, the ROW Plan also recognizes that some flexibility must exist. This flexibility will exist to deal with individual large-diameter or topped trees that were not identified during the inventory; trees and branches along the ROW boundaries that create hazards; removal or chipping of vegetation; cutting of shrubs that reach heights that pose safety and reliability concerns; vegetation management activities that may not be able to be fully completed within timing windows; management boundaries in the field that don't mirror digitized span polygons; access road maintenance; and emergency situations. Finally, the ROW Plan also authorizes a utility company to propose additional vegetation management prescriptions that are intended to establish a low growth, characteristic Pinelands vegetation community in areas that are populated by non-characteristic vegetation.

The Electric Transmission Right-of-Way Maintenance Plan Pilot Program rules proposed at 7:50-10.31 through 10.35 adopt and implement the ROW Plan on a trial basis, in line with the purpose for pilot programs. Specifically, N.J.A.C. 7:50-10.31 describes the purpose of the ROW Plan, which is to (1) create and maintain relatively stable and sustainable early successional habitats that are characteristic of the Pinelands and which provide habitat for native Pinelands plants and animals, including threatened and endangered species and (2) ensure the reliability and safety of the electric transmission system in the Pinelands by creating and maintaining low growth vegetation communities.

N.J.A.C. 7:50-10.31(a) authorizes the utility companies to carry out vegetation

management prescriptions in accord with the ROW Plan for an approximate ten year period. This period will allow the Commission's Science office to carry out an extensive scientific monitoring program to evaluate the effectiveness of the various management prescriptions and determine whether the goals of the ROW Plan have been met. The ten year monitoring period will allow for two to three maintenance cycles to occur within each span and will afford sufficient time to evaluate the change in vegetation communities that occur as a result of those prescriptions.

N.J.A.C. 7:50-10.32(b) permits the utility companies to undertake those prescriptions without prior notice to and approval by the Commission. Since the ROW Plan establishes specific span-by-span management prescriptions, time consuming and costly reviews of development applications for individual spans will not be necessary. However, each company will be required to submit an annual report of its management activities to the Commission so that Commission staff can fulfill the inspection and monitoring responsibilities described in N.J.A.C. 7:50-10.32(c) and (d).

N.J.A.C. 7:50-10.32(b)2 requires the companies to remit annual payments to the Commission to help finance these inspections and monitoring responsibilities. The nine annual payments, amounting to \$22,500 for Public Service Enterprise Group, \$8,900 for Jersey Central Power and Light and \$27,800 for Atlantic City Electric, will finance the Commission's estimated ten year costs of \$532,800 for inspection and monitoring. The costs were apportioned to the utility companies on the basis of the estimated acreage within each company's rights-of-way. Public Service Enterprise Group manages approximately 1,034 acres (or 38% of the total), Jersey Central Power and Light manages approximately 397 acres (or 15% of the total) and Atlantic City Electric manages

approximately 1,263 acres (or 47% of the total).

N.J.A.C. 7:50-10.33(a) requires the Executive Director to submit biennial progress reports to the Commission beginning in March 2012. These reports will enable the Commission to track the progress of the pilot program's activities. The Executive Director is also authorized in N.J.A.C. 7:50-10.33(b) to submit such other interim reports to the Commission as may be necessary to inform the Commission of any significant issues that arise during the program. N.J.A.C. 7:50-10.33(c) prescribes a remedy in the event that the Executive Director identifies any significant and recurring issue relative to a company's conformance with the ROW Plan. Specifically, identification of such an issue will automatically result in the need for the company to submit specific development applications for each individual span in accordance with the normal permitting procedures set forth in N.J.A.C. 7:50, Subchapter 4. These applications will be subject to the fee requirements of N.J.A.C. 7:50-1.6. The need for individual development applications can be ended only if the Executive Director reports to the Commission that the conformance issues have been satisfactorily resolved. A company's annual payment pursuant to this pilot program will be adjusted to account for the period during which individual development applications were submitted.

N.J.A.C. 7:50-10.34 addresses amendments to the ROW Plan. Specifically, N.J.A.C. 7:50-10.34(a) recognizes that the ROW Plan itself affords an opportunity to adjust the Plan's vegetation management prescriptions without the need for a formal amendment to the Plan. As described earlier and more fully identified in the ROW Plan itself, these relatively minor adjustments recognize that the detailed span-by-span prescriptions can not account for every conceivable condition that may arise. However,



more significant changes will necessitate an amendment to the ROW Plan. The procedures, set forth in N.J.A.C. 7:50-10.34(b) through (d), provide that the Executive Director, the Board of Public Utilities or any of the three companies may propose an amendment to the ROW Plan, that a hearing on the proposed amendment shall be conducted within 60 days, that the Executive Director shall submit a recommendation to the Commission within 90 days and that the Commission shall decide whether to approve, approve with conditions or disapprove the amendment within 120 days.

N.J.A.C. 7:50-10.35 sets forth the procedures and standards for evaluating the pilot program. N.J.A.C. 7:50-10.35(a) provides that the Executive Director shall prepare a report on the pilot program's implementation by September 30, 2019. The success of the program must be judged against the following four criteria:

1. The vegetation management prescriptions have been implemented in a reliable and predictable way;
2. The vegetation management prescriptions have resulted in relatively stable and sustainable early successional habitats that are characteristic of the Pinelands and which provide habitat for native Pinelands plants and animals, including threatened and endangered species;
3. The vegetation management prescriptions contributed to the reliability and safety of the electric transmission system in the Pinelands by creating and maintaining low growth vegetation communities; and
4. The notification and inspection system authorized in the pilot program has simplified Pinelands permitting procedures for the utility companies and the Commission's staff.

N.J.A.C. 7:50-10.35(b) through (d) describe the potential outcomes of the review. If the program is found to be successful, the Executive Director is required to propose a regulatory amendment to permanently incorporate it into the Pinelands Comprehensive Management Plan. Such a proposal, which may include changes to the vegetation management prescriptions or procedures designed to improve the program's implementation, will then be considered by the Pinelands Commission. If additional time is needed to fully assess the program, N.J.A.C. 7:50-10.35(c) provides that the Executive Director may recommend and the Commission may extend the pilot program for up to two years. Finally, if the program is not found to be successful, the Executive Director is required to propose other measures, including amendments to the Pinelands Comprehensive Management Plan, to govern future electric transmission right-of-way maintenance in the Pinelands.

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**

Positive social impacts should be achieved through this proposed pilot program by increasing the reliability and safety of electric transmission facilities within the Pinelands Area. Removing tall vegetation within the rights-of-way should decrease the likelihood that electric transmission service will be interrupted as a result of damage to the transmission system brought on by improper clearance between vegetation and transmission lines. The flexibility for routine access-road maintenance will allow utility

companies to maintain their roads for ground inspections, vegetation management, and routine and emergency line work. These all have a positive impact upon service reliability and will benefit the utilities' customers within the Pinelands and in surrounding regions.

No widespread adverse social impacts are anticipated; however, some owners of properties that abut the rights-of-way may view the pilot program in a negative light. A total of 166 spans covering 490 acres have some amount of forest or trees present that are to be cut to ensure transmission reliability and safety and to encourage the establishment of low growth scrub-shrub communities. Some of these spans are heavily forested and others contain topped trees or tree screens that block views at roads and transmission-line towers. Since existing screening will be eliminated in these areas, it is likely that adjoining property owners and passersby will view the aesthetic impacts as negative.

### **Economic Impact**

Adoption of this pilot program should have a generally positive, albeit modest, economic impact on the three utility companies in the short term. The span-specific prescriptions are designed to reflect the most appropriate maintenance practices possible, given existing conditions, environmental limitations and federal and BPU requirements. Although some would argue that less expensive maintenance techniques such as the use of herbicides exist, these are not authorized under current CMP standards nor would they be permitted under the proposed pilot program. Compliance with the specified maintenance prescriptions in the ROW Plan is not expected to be any more costly than compliance with current CMP standards. In fact, costs may be reduced due to the greater

certainty provided by the very specific maintenance prescriptions set forth in the ROW Plan. In addition, avoidance of regulatory delays and inefficient staging of right-of-way-maintenance should provide an economic benefit to the companies, although these savings may be offset by the companies' annual payments to the Commission for inspection and monitoring services.

In the long term, the establishment of low growth, characteristic Pinelands scrub-shrub communities within the rights-of-way may extend the time between maintenance cycles, thereby reducing future maintenance costs. The companies will also avoid potentially significant costs of repairing transmission systems that are damaged as a result of improper clearances between vegetation and the lines. Increased access-road maintenance should provide for more efficient ground inspections, vegetation management, and transmission-line work providing an economic benefit to the utility company. Residents and businesses of the Pinelands and surrounding regions will also benefit from avoiding the economic consequences of a loss or diminution of electrical service during one of these episodes.

Some adjoining property owners may perceive that their properties' values have been reduced because of the more visually intrusive state of some rights-of-way.

### **Environmental Impact**

The long term environmental impact of the proposed pilot program should be positive. Because forest land comprises about 75% of the Pinelands Area, the maintenance of existing low growth Pinelands vegetation communities and the establishment of new low-growth communities from forested spans prescribed to be cut

will contribute to the diversity of early successional habitats found throughout the Pinelands. The authorization for a utility company to propose additional vegetation-management prescriptions to establish low growth Pinelands vegetation communities in areas dominated by non-Pinelands vegetation may also contribute to regional-habitat diversity.

At the same time, these low growth vegetation communities will provide open canopy conditions upon which many of the Pinelands common and threatened or endangered plant species depend. These low growth communities will also provide habitat that helps to support the life cycle needs of a variety of native Pinelands animals, including threatened or endangered species. Studies in other regions indicate that wildlife diversity is higher in rights-of-way compared to the surrounding forest landscape due to the mosaic of tree, shrub, and herb habitats found in managed right-of-way corridors.

It must be acknowledged that vegetation management activities themselves have in the past directly impacted native Pinelands flora and fauna. Although these types of impacts can not be entirely eliminated, they will be reduced because of the ROW Plan's prescriptions. Vegetation management in most wetlands is prescribed to occur using manual-cutting methods to avoid the vehicles needed for mechanized mowing operations. This will reduce wetland-soil disturbance. Cutting wetland forests will occur with the use of mats during the July 1 through October 1 period when wetland water levels are low so as to minimize wetland-soil disturbance. Timing restrictions, designed to avoid vegetation management during particularly important mating, nesting, fledging, plant growth, flowering and seed set periods, will also reduce the impact to threatened or

endangered plants and animals which may already inhabit parts of these rights-of-way. Prescribing vegetation-management activities that preserve shrub vegetation in right-of-way areas that receive a high amount of off-road vehicle activity should help to discourage habitat damage by these vehicles.

Finally, the ecological monitoring program provided for in these rules will yield important information that will help land stewards throughout the Pinelands better manage diverse Pinelands vegetation communities. The results of the monitoring program may also provide useful information for vegetation-management on rights-of-way in other regions and vegetation management for other purposes in the Pinelands, such as fuel reduction for fire breaks.

### **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 which the comprehensive management 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 implementing vegetation management prescriptions that should achieve ecological objectives while ensuring greater reliability and safety within electric transmission corridors.

The ROW plan also responds to federal (Occupational Safety and Health Administration, Federal Energy Regulatory Commission, US Department of Energy and US Department of Homeland Security) requirements relating to clearance needs of transmission lines.

### **Jobs Impact**

The proposed amendments are not expected to cause the generation or loss of jobs.

### **Agriculture Industry Impact**

The proposed amendments are not expected to impact the agriculture industry.

### **Regulatory Flexibility Statement**

As required by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Commission has evaluated the reporting, recordkeeping, and other compliance requirements that the proposed amendments would impose upon small businesses. The Act defines the term “small business” as “any business which is a resident of this State, independently owned and operated and not dominant in its field and which employees fewer than 100 full-time employees. N.J.S.A. 52:14B-17. The three utility companies to which these amendments apply do not meet the definition of small businesses. The proposed amendments, therefore, do not establish any additional compliance requirements on small businesses. Small businesses may be retained by the utility companies to undertake vegetation maintenance activities and that practice should not be

affected by these amendments.

### **Smart Growth Impact**

Executive Order No. 4 (2002) requires State agencies which adopt, amend or repeal any rule adopted pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-4(a)) to describe the impact of the proposed rule on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Commission has evaluated the proposed amendments to determine the nature and extent of their impact on smart growth and implementation of the State Plan. There will be no direct effect on smart growth objectives; however, creating characteristic vegetation communities and maintaining electrical service that is vital to the region's citizens and businesses does advance environmental and economic principles implicit in the State Plan.

### **Housing Affordability Impact**

In accordance with Subsection (a) of Section 4 of P.L.1968, c.410 (C.52:14B-4), all proposed amendments and new rules must take into consideration potential impacts on housing affordability. The new rules being proposed by the Commission relate to the maintenance of electric transmission rights-of-way throughout the Pinelands and should have no impact on the location, amount or affordability of housing.

### **Smart Growth Development Impact**

In accordance with Subsection (a) of Section 4 of P.L.1968, c.410 (C.52:14B-4),



all proposed amendments and new rules must describe: (1) the type and number of housing units to which the proposed rule will apply, (2) the estimated increase or decrease in the availability of affordable housing that will be affected by the proposed rule; and (3) whether the proposed rule will affect, in any manner, new construction within Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan.

The proposed new rules establish a pilot program for the maintenance of electric transmission rights-of-way in the Pinelands. They do not apply to housing units, nor will they have any impact on the availability of affordable housing. Furthermore, the proposed new rules will not affect new construction in Planning Areas 1 and 2 as designated by the State Development and Redevelopment Plan because these State Planning Areas do not exist in the Pinelands Area. In terms of designated centers, all Pinelands Villages in the Pinelands Area are accorded such status by virtue of the 1999 Memorandum of Agreement between the Pinelands Commission and the State Planning Commission. However, as noted above, the proposed new rules relate only to the maintenance of existing electric transmission rights-of-way. They will have no impact on the construction of housing or business development in Pinelands Villages or other portions of the Pinelands Area. Therefore, there will be no impact upon smart growth development.

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

**7:50-10.31 Purpose**

- (a) The purpose of this pilot program is to implement and evaluate the New Jersey Pinelands Electric Transmission Right-of-Way Maintenance Plan (ROW Plan), which is hereby adopted by the Pinelands Commission. The ROW Plan identifies detailed vegetation management prescriptions for approximately 233 miles of existing electric transmission rights-of-way managed by Public Service Enterprise Group, Jersey Central Power and Light and Atlantic City Electric, a subsidiary of Pepco Holdings, Inc.
- (b) The ROW Plan has two primary objectives:
1. To create and maintain relatively stable and sustainable early successional habitats that are characteristic of the Pinelands and which provide habitat for native Pinelands plants and animals, including threatened and endangered species; and
  2. To ensure the reliability and safety of the electric transmission system in the Pinelands by creating and maintaining low growth vegetation communities.

### **7:50-10.32 General Standards**

- (a) Electric transmission right-of-way vegetation management activities shall be authorized in the Pinelands Area in accordance with the provisions of the New Jersey Pinelands Electric Transmission Right-of-Way Plan, dated February 2009, as amended and supplemented and available at the principal office of the Commission or at [www.nj.gov/pinelands](http://www.nj.gov/pinelands) until December 31, 2019, or as extended pursuant to N.J.A.C. 7:50-10.35(c).

- (b) The utility companies and their successors or assigns are authorized to proceed with conforming vegetation management prescriptions without prior notice to and review by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, provided that:
1. Each utility company shall submit an annual report to the Executive Director, in such form as s/he shall prescribe, that identifies the specific right-of-way spans in which prescribed vegetation management activities have been performed. This report shall be due on January 31 of each year and shall cover the preceding calendar year; and
  2. In lieu of any application fees required by N.J.A.C. 7:50-1.6, each utility company shall remit to the Executive Director the following amounts on January 31 of each year to help finance the Commission's inspection and monitoring obligations specified in (c) and (d) below. The first payment shall be due on January 31, 2010 and the last payment shall be due on January 31, 2018.
    - i. Public Service Enterprise Group - \$22,500.00;
    - ii. Jersey Central Power and Light - \$8,900.00; and
    - iii. Atlantic City Electric - \$27,800.00.
- (c) The Executive Director shall establish and implement an annual inspection program to verify that the vegetation management activities undertaken by the utility companies are consistent with the ROW Plan.
- (d) The Executive Director shall establish and implement a scientifically based monitoring program to assess the outcomes of the vegetation management activities and whether they are accomplishing the objectives of the ROW Plan.

**7:50-10.33 Progress Reports and Conformance**

- (a) The Executive Director shall submit a biennial progress report to the Commission, each of the utility companies and the Board of Public Utilities which describes the type and extent of vegetation management activities undertaken to date, any significant problems or issues encountered during the period and the need for any amendments to the ROW Plan. The first such report shall be due March 30, 2012.
- (b) The Executive Director shall submit such other interim reports to the Commission as may be necessary to inform the Commission of any significant issues with respect to the utility companies' conformance with the terms of the ROW Plan. Copies of such reports shall be provided to each of the utility companies and the Board of Public Utilities.
- (c) If the Executive Director identifies a significant and recurring conformance issue in a progress or interim report, the applicable utility company or companies shall thereafter be required to submit individual development applications pursuant to the requirements of N.J.A.C. 7:50-4 until such time as the Executive Director notifies the Commission, the utility company or companies and the Board of Public Utilities that the conformance issues have been satisfactorily resolved. Such development applications shall be subject to the fee requirements of N.J.A.C. 7:50-1.6. Any annual payment required pursuant to N.J.A.C. 7:50-10.32(b)2. shall be adjusted to account for the period during which individual development applications are submitted.

**7:50-10.34 Amendments**

- (a) Although the ROW Plan provides that minor adjustments to the vegetation management prescriptions may be made with the Executive Director's prior approval, a need may periodically arise for substantive amendments to the ROW Plan. Such an amendment proposal may be made by the Executive Director, one or more of the utility companies or the Board of Public Utilities.
- (b) Upon receipt of a complete amendment proposal, the Executive Director shall give notice of and set the date, time and place for a public hearing. The public hearing shall be held by the Executive Director within 60 days following receipt of the amendment proposal.
- (c) Within 90 days of the receipt of the amendment proposal, the Executive Director shall submit a report to the Pinelands Commission setting forth proposed findings and a recommended order as to whether the amendment should be approved, approved with conditions or disapproved.
- (d) Upon receipt of the Executive Director's report, the Commission shall review the findings, conclusions and recommendations of the Executive Director and shall, within 120 days following receipt of the amendment, approve, approve with conditions or disapprove the amendment.

**7:50-10.35 Pilot Program Evaluation**

- (a) The Executive Director shall review this pilot program and report to the Pinelands Commission on its implementation by September 30, 2019. The report shall be provided to the utility companies and the Board of Public Utilities. The Executive

Director shall determine whether the pilot program is successful in accordance with the following criteria:

1. The vegetation management prescriptions have been implemented in a reliable and predictable way;
  2. The vegetation management prescriptions have resulted in relatively stable and sustainable early successional habitats that are characteristic of the Pinelands and which provide habitat for native Pinelands plants and animals, including threatened and endangered species;
  3. The vegetation management prescriptions contributed to the reliability and safety of the electric transmission system in the Pinelands by creating and maintaining low growth vegetation communities; and
  4. The notification and inspection system authorized in this pilot program has simplified Pinelands permitting procedures for the utility companies and the Commission's staff.
- (b) If the Executive Director finds that this pilot program has been successful, s/he shall propose an amendment to the Comprehensive Management Plan to institute the New Jersey Pinelands Electric Transmission Right-of-Way Maintenance Plan on a permanent basis. In so doing, the Executive Director may propose changes to the ROW Plan or to the procedural requirements of this Part to improve the implementation of the program. The Commission shall thereafter determine whether or not to amend the Comprehensive Management Plan.
- (c) If the Executive Director finds that additional time is needed to fully assess the results, s/he shall so inform the Commission and, upon Commission approval, this

- pilot program may be extended for up to two years. In such an event, all of the conditions of this pilot program, including the responsibilities set forth in N.J.A.C. 7:50-10.32(b), shall be extended and remain in full force and effect.
- (d) If the Executive Director finds that this pilot program has not been successful, s/he shall propose such other measures, including other amendments to the Comprehensive Management Plan, to govern future electric transmission right-of-way maintenance and management in the Pinelands.