

ENVIRONMENTAL PROTECTION

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

Fees; Hearing Procedures; Action on Applications; Certificates of Filing; Public Hearings; Waivers of Strict Compliance; Map Status; Standards for Development and Land Use in Regional Growth Areas; Pinelands Development Credits; Pilot Program for Alternate Design Wastewater Treatment Systems

Adopted Amendments: N.J.A.C. 7:50-1.6, 4.3, 4.15, 4.34, 4.41, 4.70, 5.3, 5.28, 5.43, 5.46, 5.47 and 10.22

Proposed: June 16, 2025, at 57 N.J.R. 1210(a).

Adopted: October 10, 2025, by the New Jersey Pinelands Commission, Susan R. Grogan,
Executive Director

Filed: _____, as R. ____ d. _____, **without change.**

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

Effective Date: _____

Expiration Date: Exempt.

The New Jersey Pinelands Commission (Commission) is adopting amendments to N.J.A.C.

7:50-1, General Provisions, 4, Development Review, 5, Minimum Standards for Land Uses and Intensities, and 10, Pilot Programs of the Pinelands Comprehensive Management Plan (CMP).

The amendments were proposed on June 16, 2025 at 57 N.J.R. 1210(a). The adopted amendments more specifically relate to (1) application fees for certain categories of development and Letters of Interpretation; (2) the expiration of completeness documents and waivers of strict

compliance; (3) Regional Growth Areas and the Pinelands Development Credit Program; (4) the redesignation of the Black Run watershed in Evesham Township, Burlington County, from a Pinelands Rural Development Area to a Pinelands Forest Area; and (5) minor clarifications and updates.

The Commission transmitted the notice of proposal to each Pinelands municipality and county, as well as to other interested parties, for review and comment. Additionally, the Commission:

- Sent notice of the public hearing to all persons and organizations that subscribe to the Commission's public hearing registry;
- Sent notice of the public hearing and provided a copy of the notice of proposal to all Pinelands counties and municipalities, and other interested parties;
- Placed advertisements of the public hearing in the four official newspapers of the Commission, as well as on the Commission's own webpage;
- Submitted the proposed amendments to the Pinelands Municipal Council, pursuant to N.J.S.A. 13:18A-7.f;
- Distributed the proposed amendments to the news media maintaining a press office in the State House Complex; and
- Published a copy of the proposed amendments on its webpage at www.nj.gov/pinelands.

Summary of Public Comments and Agency Response:

The Commission accepted oral comments on the June 16, 2025 proposal at the formal public hearing held in live video format (Zoom) before Commission staff on July 15, 2025, and written

comments by regular mail, facsimile, or e-mail through August 15, 2025. The public hearing was recorded in video format and is on file in the Commission's digital records.

A total of 490 people provided comments on the proposal either by oral testimony at the public hearing or in written comments.

The following individuals and organizations submitted comments:

1. Nicole Wall
2. Joseph DeFeo
3. JR
4. Stephanie Wisenauer
5. Megan Applegate-Wood
6. Jennifer Rubeo
7. Abigail Bierman
8. Valerie Chumbley
9. Sherrie Pearl
10. Nicole Jacobberger
11. Joan Ford
12. Christina Bartnikowski
13. Charles and Beverly Trueland
14. Karina Sandoval
15. George
16. Werner Raff

17. Darren Marcotte
18. Allison Coulter
19. Maria Escalante
20. Christine Mamas
21. Lori Chimento (submitted written and oral comments)
22. Carl Stone
23. Diane Fanucci
24. Thomas Pluck
25. Clark Perks
26. Michael Lippert
27. Julie Alway
28. Jonathan M. Korn
29. Ed Stahl
30. Jillian Lauk
31. Michael Curran
32. Mary Franklin
33. Nancy Carter
34. Carol Arrowood
35. Patricia Kiernan
36. Kandie Press
37. Dr. Howard Press
38. Brandon Tomei
39. Maxwell McClendon

40. Julia Pestalozzi
41. Carly DeGirolamo
42. David C. Patterson, Esq., Maressa Patterson, LLC
43. Steve Malitsky
44. Joshua Dossick
45. Phil Warren
46. Anonymous
47. Edward Ferruggia
48. Marty Lawler
49. Anthony Bombara
50. Dipankar Chatterjee
51. Rick Walsh
52. Deana Siri
53. Sara Pyle
54. Rich & Loretta Lipp
55. Gwenn Albrecht
56. Marcin Kuszynski
57. Robert Talewsky
58. Jeff Alken
59. Evelyn Perkowska
60. Jesmin Mitra
61. Richard Bernstein
62. Roberta Bachman

63. Richard Taylor, Friends of the Black Run Preserve
64. Steven Fenster
65. Tracey Doron (submitted written and oral comments)
66. Brittany Jacobsen
67. Lori Bonfrisco
68. Rachel Read
69. Katharine
70. Andreea Trifas
71. Bruce George Smith
72. Denise L. Lytle
73. Diana Chauca
74. Kathleen Goodman
75. Aimee Prendergast
76. Gia Wizeman
77. Don Vonderschmidt
78. Erica Jackson
79. Serena Jackson
80. Emily Darcy
81. Deborah Larsen
82. Juliana DePasquale
83. Stefania Mis
84. Alexander Bershadsky
85. Rebecca Canright

86. Nancy Reamy
87. Eric Baratta
88. Michael Rothmel
89. Kevin Papa (submitted written and oral comments)
90. Ellen Pedersen
91. Tyler Putman
92. Nicole Belolan
93. Kristie Desousa
94. Robert Paccione
95. Jessica Sautter
96. Alice Houseal
97. Christopher Norulak
98. Kathryn Newell
99. Margaret Harbison
100. Tara Rozanski
101. Darlene Saggiomo
102. Kim DeMeo
103. Jake Matro
104. Tim Batten
105. Thomas J. Carroll
106. Marina Linderman
107. Judith Leshner
108. Jennifer Mcloskey

109. Valerie Rey
110. Perry Capelakos
111. Anna Linderman
112. Christine Panagotopoulos
113. Mary DeLia
114. Erin Panagotopoulos
115. Nancy Raleigh
116. Jenna Romano
117. Alex Linderman
118. Stephanie Horton
119. Michael Pellegrino
120. Chantel Rivera
121. Linda Scholz
122. Sophia Wenzke
123. Mike Paglia
124. Emily Wheatley
125. Olesya Rosner
126. Julia McCay
127. Rajdeep Usgaonker
128. Chris Raab
129. Jen Wolfson
130. Amy King
131. Patrick Doyle

132. Evan Sharko
133. Diana Ryan
134. Autumn Haig
135. Dave Storms
136. Tina Cooper
137. Maegan Kuhlmann, New Jersey Sierra Club (submitted written and oral
comments)
138. Kyle Novoa
139. Jessica Vanliere
140. Jackie Greger, New Jersey Sierra Club
141. Vanessa Marrocco
142. Denise Brush
143. Jessica Bader
144. Lea Dixon
145. Denise Pietsch
146. Julia Gandy
147. Mary Peyerl
148. Leonard Morlino
149. Katie Prutzman
150. Alex Meder
151. Patrick Ditmars
152. Carolyn McCrath
153. Alaina Clune

154. Diane Herbert (submitted written and oral comments)
155. Bill Craig
156. Karen Greenfeld
157. Julie Maravich
158. Claire Joslyn
159. Dominic Sorrentino
160. Kate Brady
161. Jason Howell, Pinelands Preservation Alliance
162. Tom Kenny
163. Sheila Woznuknau
164. Trisha Beling
165. Lisa Berg (submitted written and oral comments)
166. Alaina Bromley
167. Dr. Amy Golden, Friends of the Black Run Preserve
168. William Skinner
169. Nika Svirinazichyus
170. Maureen Toman-Logan
171. Rose Taylor
172. Francesca Martelli
173. Jaylin Baez
174. Christy Steglik
175. Maria Pezzato (submitted written and oral comments)
176. Mandy Skalski

177. Amy Gonzalez
178. Teresa Mullen
179. Olga Koturlash
180. Susan Pettijohn
181. Ahnelizse Solwaczny
182. Rosemary Bernardi
183. Dan Donnelly
184. Vanessa Garcia
185. Jeanette York
186. Tracy Capistrand
187. For Every Child, Student Led Organization
188. Adam C. Warner
189. Brandon Weinberg
190. Joan Nemeth
191. Lidia
192. Christian Bifulco
193. Kaitlyn Buchler
194. Sarah Linehan
195. Shane Heeraman
196. Paul Bartholomew
197. Sandra Myer
198. Brooke C
199. Anne Harrison

200. Tara Turse
201. Brett Greenfeld
202. John Long
203. Don Werder
204. Susan Harrison
205. Sarah Thomasson
206. Nicquelle Denney
207. Lydia Smith
208. Wendy Canzanese
209. Anna Ferster
210. Angelica
211. Zephy Turturro
212. Randy Freed
213. Stephen Nuttall
214. Megan Manogue
215. Edwin Wurster
216. Kevin Kraft
217. Jennifer L. Kraft
218. Christian Corby
219. Brandon Lodriguss
220. Kalista Kraft
221. Sam Lyons
222. Ryan Rupertus

- 223. Anna Paccione
- 224. Mark Midura
- 225. Kollin Hughes
- 226. Nanette Wizov
- 227. Theodore Liu
- 228. Eric Penalver
- 229. Shaina Galley
- 230. Christopher McManus
- 231. Nathaniel Kott
- 232. Marcus Coia
- 233. Elyse Forcier
- 234. Amanda Germain
- 235. Colleen Keyser
- 236. Edward Drakhlis
- 237. Alexander J. Wenner
- 238. Brittney Shepherd
- 239. Willis Scott Moses
- 240. Martha Cannon
- 241. Marjorie Howley
- 242. Nia Diamond
- 243. Dominic Carrea
- 244. Shantic
- 245. Christopher Jardine

- 246. Amber Stone
- 247. Gianna
- 248. Erin
- 249. Beth Beetel
- 250. Sarah Beard
- 251. Racquel Pascucci
- 252. Ranica Arrowsmith
- 253. Sandy Koch
- 254. Siera Carusone
- 255. M
- 256. Heather Weiss
- 257. Kevin Gallardo
- 258. Michael S. Scaramella, Esq.
- 259. Kelsie Busch
- 260. Colleen DePietro
- 261. Ellen Fennick
- 262. Linda Hall
- 263. Hope Hall
- 264. Greg Smith
- 265. Bill Dreisbach
- 266. Jeffrey A. Monico
- 267. Lynda McDonough
- 268. Catherine Herbert

- 269. John Selvaggio
- 270. Valerie Fogleman
- 271. Sven Pfahlert
- 272. Bobbie J. Herbs
- 273. Sheila Nau
- 274. Beth Holt
- 275. Scott Schlafer
- 276. Cary
- 277. Ila Vassallo
- 278. Jennifer Cardoso
- 279. Tom Wall
- 280. Ann Ferruggia
- 281. Connie Evans
- 282. Deborah Kahn
- 283. Emily Iacovoni
- 284. David Taylor
- 285. Holly Widzins
- 286. Christine Todd
- 287. Regina Disco
- 288. Matt McCann, M.S. & Maya K. van Rossum, Delaware Riverkeeper Network
- 289. Rajeev Sharma
- 290. Kathy Emrich
- 291. Melanie Ryan

- 292. Britt Paris
- 293. Cheryl Fisher
- 294. Mike Kaliss
- 295. Darren Morze
- 296. Michelle Santore
- 297. Denise Longo
- 298. Jessica Franzini
- 299. Alison Goldberg
- 300. Colleen Mikolajczak
- 301. Debbie Bonfiglio
- 302. Lancelot Jeff-Macauley
- 303. Robert Miller
- 304. Richard Woodward
- 305. Jeanette Basaure
- 306. Andy Brzozowski
- 307. Janet Slaven
- 308. MaryAnne Cotugno
- 309. Kimberly Corrigan
- 310. James McGee
- 311. Louis Surovick
- 312. Sangita Kansupada
- 313. Nicolle Krieger
- 314. Jaime Austino

- 315. Jed Singer
- 316. Nancy Dippolito
- 317. Matt Purcell
- 318. Patrick Violante
- 319. Anne Krieger
- 320. Phyllis Garelick
- 321. John Volpa
- 322. Guy Romaniello
- 323. Vince Santore
- 324. Robert N. Spivack
- 325. Wendy Joan Spivack
- 326. Richard
- 327. Herman Bhasin
- 328. Eric Nelson
- 329. Josh Falcone
- 330. Kevin Krieger
- 331. Terry & David Bongiovanni
- 332. Martha Scull
- 333. Andrew Finn
- 334. Diane M. Foster
- 335. Mr. & Mrs. RP Wolfangel
- 336. Linda Marie Ross
- 337. Natalie Smith

- 338. Julie Gandy
- 339. Steve Rakoczy
- 340. Joseph Planamente
- 341. Lucille Planamente
- 342. Karen Kaplan
- 343. Jordan Mead
- 344. Lisa Swing
- 345. Norma
- 346. Harold Koenig
- 347. Kurt Williams
- 348. Robert Thomson
- 349. Donna & Tuck Marcum
- 350. Elena Grigoryeva
- 351. Joseph D. Beronio
- 352. Natalie Santore
- 353. Benjamin Spalter
- 354. Michael Natale
- 355. Zachary Dunn
- 356. Matt Adler
- 357. Mike Raleigh
- 358. Edward Doescher
- 359. Aimee K. Bentley
- 360. Darren Norgren

- 361. Ann Gillespie
- 362. Stacey Behm
- 363. Elizabeth Quinn
- 364. Sandra L. Perchetti
- 365. Jeanne Mugler
- 366. Shannon May
- 367. Maria T. Byrne
- 368. Richard W. Nixon
- 369. Lesley C. Kirsch
- 370. Gaetano D'Agostino
- 371. Ewa Tzaferos
- 372. Kelly Banks
- 373. Kei Drashner
- 374. Steven Freeman
- 375. Courtney Warner
- 376. Alexander Karpodinis
- 377. Gabrielle Hance
- 378. Alfredo
- 379. Patrick Hennessy
- 380. Thomas
- 381. Kyle Rosencranz
- 382. Maureen Brandau
- 383. Jasmine Starks

- 384. Jeff Greenberg
- 385. David Pavelko
- 386. Eileen Anglin
- 387. Jonathan Lahoda
- 388. Michael J. Calhoun
- 389. Jennifer Cipparone
- 390. Anthony R. Algieri
- 391. Brielle Andrews
- 392. Kristen Roskam
- 393. Ryan Grantuskas
- 394. Diane Hardies
- 395. Nicole Toth
- 396. Melinda Johnson
- 397. Debbie Polekoff
- 398. Edward P. Coyle, Jr.
- 399. John Summer
- 400. Rebecca Corson
- 401. Frederick Smith
- 402. Matthew Duffield
- 403. Michael
- 404. Darcy Oordt
- 405. Robert Cleary
- 406. Liz Prazeres

- 407. Brian Lipski
- 408. William
- 409. Victoria Crowell
- 410. Erica Newsham
- 411. Chris
- 412. Edward
- 413. Jessica Sharick
- 414. Brandon T. Rozelle
- 415. Karyn Tappe
- 416. Sean R. Saunders
- 417. Candace Dare
- 418. Alex Younger
- 419. Holly Jarrett
- 420. Eileen White
- 421. Ashley Cubbler
- 422. Max Weiss
- 423. Daniel Duffield
- 424. Julianne Germain
- 425. Sandra Doyle
- 426. Corey Therrien
- 427. Kyle Dillon
- 428. Ben
- 429. Justin Schlaffer

- 430. Such Patel
- 431. Jay Jones
- 432. Bab Adase
- 433. George Rayzis
- 434. Katie Gatto
- 435. Stephen Klem
- 436. Kristin Wyka
- 437. Erika Frick
- 438. Matthew Zaum
- 439. David Acampa
- 440. Jamie Zaum
- 441. Diane Holzschuh
- 442. Evan Holzschuh
- 443. Chelsea Ward McIntosh
- 444. Kenny
- 445. Alex Charnow
- 446. Victoria Agovino
- 447. Tiffany Shinn
- 448. Philip Andrianos
- 449. Logan Penna
- 450. Arthur Pisko, Jr.
- 451. Chris Toner
- 452. Alexander Houseal, Jr.

- 453. Kyle Sosnicki
- 454. Leonard Rusciani
- 455. Mark J. Matthews
- 456. Emily Kulpa
- 457. Max Perry
- 458. Elizabeth Chen
- 459. Sharon Bennett
- 460. John J. Parker
- 461. David L. Hall
- 462. Waverly Pross
- 463. Dara Purvis
- 464. Nichole Hall
- 465. Michael Logue
- 466. J. Curley
- 467. Ben Brotsker
- 468. William Cavagnaro
- 469. Nicholas Cox
- 470. Katharine Bolton (Kaplan)
- 471. Dennis M. Toft, Esq.
- 472. Alyssa
- 473. Dina Cirignano
- 474. Aslan Basol
- 475. Christine Bresser

- 476. Philip Falcone
- 477. Art Citron
- 478. Kathy King
- 479. Shannon Chau
- 480. Melanie Love
- 481. Austin Carrig
- 482. Amy Noble
- 483. Alexa Guarni
- 484. Rebecca Murray
- 485. Anakaren Michel
- 486. Kathleen Ross
- 487. Heidi Yeh, Pinelands Preservation Alliance
- 488. Erin Dennison
- 489. Gabrielle Mangiamele
- 490. Teresa Mullen

The Commission's detailed response to the comments is set forth below. The numbers in parentheses after each comment correspond to the list of commenters above.

Application Fees (N.J.A.C. 7:50-1.6)

1. COMMENT: Two commenters expressed support for the proposed amendments to application fees. (187, 487)

RESPONSE: The Commission thanks the commenters for their support.

Redesignation of Black Run Watershed, Evesham Township, Burlington County (N.J.A.C. 7:50-5.3)

2. COMMENT: A total of 342 commenters supported the amendments to the Land Capability Map redesignating the Black Run watershed from Rural Development Area to Forest Area, citing a wide range of reasons. Many expressed support for increased protection of the watershed's wildlife, habitats, water quality, and ecology. Some cited the need to protect the Kirkwood-Cohansey aquifer. Others highlighted the importance of protecting open space for health benefits and emotional well-being, or as a means to preserve the watershed and prevent development. (16, 17, 20 – 28, 36, 38, 40, 41, 43 – 47, 50 – 53, 56, 58 – 60, 62 – 66, 72, 77 – 80, 84, 85, 87 – 91, 94, 95, 98, 99, 102, 104, 105, 110 – 113, 115, 117, 118, 125, 127, 130 – 132, 135 - 184, 187, 188, 190, 193, 194, 197, 202 – 204, 206 – 211, 214 – 217, 219, 222, 223, 226, 228, 231, 232, 234 – 236, 239 – 243, 245, 249, 253, 254, 256 – 260, 262 – 268, 270 – 272, 274 – 280, 282 – 284, 287 – 300, 302 – 306, 309 – 331, 333, 335 – 338, 340 – 342, 345 – 369, 371 – 375, 377, 379 – 383, 385, 387, 389 – 392, 394 – 396, 398 – 410, 412 – 428, 430, 431, 435 – 440, 444 – 447, 449 – 454, 457, 458, 460, 462 – 464, 466, 467, 469, 470, 472 – 474, 476, 477, 479 – 481, 484, 485, 487, 490)

RESPONSE: The Commission appreciates the widespread support for the amendment.

Over the past two decades, the Commission has conducted extensive work to evaluate the Black Run watershed's ecological integrity and to identify appropriate measures to

protect its natural resources. The redesignation from Rural Development Area to Forest Area enhances resource protection by reducing development potential within the watershed. However, it should be recognized that the new Pinelands management area designation does not preserve lands in the watershed nor prevent all future development. It merely reduces the range and intensity of permitted land uses. Landowners may still pursue development of their properties consistent with the new Forest Area designation.

3. COMMENT: A total of 111 commenters opposed development in the Black Run watershed or the Black Run Preserve, with some expressing concern that the Black Run Preserve could be developed absent this rulemaking. (1- 19, 21, 29 – 33, 35, 37, 41, 48, 54, 55, 57, 61, 67 – 71, 73 – 76, 81 – 83, 86, 93, 96, 97, 100, 101, 103, 106 – 109, 114, 116, 119 – 122, 128, 129, 134, 175, 186, 191, 195, 196, 198 – 201, 205, 212, 221, 238, 244, 246, 251, 252, 255, 261, 269, 273, 281, 285, 286, 301, 307, 308, 334, 339, 343, 370, 376, 384, 386, 388, 397, 411, 429, 432, 433, 442, 443, 448, 455, 456, 459, 461, 465, 468, 486)

RESPONSE: This rulemaking does not relate to any specific development proposal, nor does it approve or prohibit development or result in the preservation of any land outright. Rather, it redesignates the Pinelands management area of the Black Run watershed from Rural Development Area to Forest Area, thereby imposing stricter land use regulations that reduce the intensity of permitted development. Owners of land within the affected area retain the right to pursue development projects that are consistent with the new Forest Area designation, as set forth at N.J.A.C. 7:50-5.23, and forthcoming amendments

to Evesham's land use ordinance that are required to implement the new management area designation.

Notably, close to 60 percent of the redesignated area, including the area known as the Black Run Preserve, is already permanently preserved through various deed restrictions. The Preserve itself remains subject to a deed restriction that requires protection of all lands in their natural, scenic and open existing state, with only low intensity recreational uses (e.g., hiking and nature study) permitted. All other development in the Preserve is not permitted, either under the prior Rural Development Area designation or the new Forest Area designation.

4. COMMENT: One commenter, identifying themselves as the owner of an undeveloped property in the Black Run watershed without public road access, expressed concern about the effect of the management area redesignation on potential development of surrounding parcels that could provide access if developed. They requested designated legal access to their property and the ability for their family to develop the property in the future or to sell it to another party to develop. (202)

RESPONSE: The identified property and the surrounding lots are not located in the Black Run watershed and are not included in the area being redesignated from the Rural Development Area to the Forest Area. The property and adjacent lots are located in Evesham Township's Rural Development-3 (RD-3) Zone, which is within a Rural Development Area. Residential development in the RD-3 Zone is permitted at a density of 3.2 units per acre, with clustering of residential units on one-acre lots required when

two or more units are proposed. The commenter's property and the surrounding lots may be developed consistent with the minimum standards of the CMP and Evesham Township's land development regulations. The Commission has no authority to grant easements across private lands. Finally, the CMP does not restrict the sale of property or other property transactions anywhere in the Pinelands.

5. COMMENT: Multiple commenters requested that Evesham Township rezone the Black Run watershed to a Forest Area zoning district to protect the watershed and halt development. (482, 483, 486, 488, 489)

RESPONSE: The Pinelands Protection Act and the CMP require Pinelands municipalities to adopt master plans and land development regulations consistent with the CMP and any amendment thereto. In accordance with N.J.S.A. 13:18A-12.b and N.J.A.C. 7:50-3.32, Evesham Township has one year from the effective date of this rule adoption to amend its ordinances to reflect the management area redesignation and submit implementing ordinance amendments, including a revised zoning map, to the Commission for review and certification. It must be noted that while the Forest Area designation effectuated by the CMP amendment and the required municipal implementing ordinances will enhance protection of the watershed, limited residential and nonresidential development will continue to be permitted. Elimination of future development potential can only be accomplished through acquisition and preservation of property or imposition of conservation easements or restrictions.

6. COMMENT: A total of 32 commenters expressed either general support for protecting the Pinelands Area and its resources or general opposition to development in the Pinelands. (15, 34, 49, 92, 123, 124, 126, 133, 185, 192, 213, 218, 220, 224, 225, 227, 229, 230, 233, 237, 247, 248, 250, 332, 334, 344, 378, 393, 434, 441, 475, 478)

RESPONSE: The Commission thanks the commenters for their support in protecting the resources of the Pinelands and affirms that this rulemaking advances the goals of the Pinelands Protection Act and the CMP to preserve, protect, and enhance the resources of the Pinelands.

7. COMMENT: One commenter said the amendments should have included trail management standards for Pinelands open spaces affected by the redesignation to maximize accessibility for non-destructive, inclusive recreation. (476)

RESPONSE: While not the subject of this rulemaking, the Commission recognizes that availability of accessible trails in the Black Run watershed and throughout the Pinelands Area is an important issue. The development of any new recreational trails in the Pinelands Area requires application to the Commission and must meet the CMP's minimum environmental standards. These standards appropriately focus on resource protection and currently do not include special provisions for accessible trails. The Commission will be evaluating appropriate amendments to the CMP related to this issue as part of a future rulemaking effort.

Expiration of Completeness Documents and Waivers of Strict Compliance (N.J.A.C. 7:50-4.15, 4.34 and 4.70)

8. COMMENT: One commenter requested a grace period for applicants whose Certificate(s) of Filing will expire on the effective date of this rule adoption to allow submission of information necessary to advance their proposed development. (42)

RESPONSE: The Commission does not agree that an additional grace period is warranted. In all cases, the completeness documents (Certificates of Completeness and Certificates of Filing) affected by this rulemaking are at least five years old and, in most cases, significantly older. Upon the effective date of these rules, all completeness documents issued prior to January 1, 2004 will expire. Likewise, any Certificate of Completeness or Certificate of Filing that is five years old or older will expire unless it has been used to obtain a municipal or county approval and the Executive Director has determined that the local approval does not raise any substantial issues with respect to conformance with the CMP and the municipal land use ordinance. The Commission believes this provides sufficient time for any applicant to obtain at least one local approval that is consistent with the CMP, particularly given the fact that Certificates of Filing clearly identify any inconsistencies an application has with the CMP and often spell out how those inconsistencies may be resolved. The same is true of letters that the Commission issues in response to local approvals when they are determined to raise substantial issues with respect to one or more CMP standards.

The Commission has already completed extensive efforts to notify applicants whose completeness documents were issued since January 1, 2004 for proposed development where no local approvals have been submitted to the Commission and found consistent with the CMP. These individual notices advised applicants that their Certificates of Filing would expire upon adoption of these rules or otherwise provided a future expiration date based on the amendments. Affected applicants were thus provided with an opportunity to obtain and/or submit local approvals and permits to the Commission prior to the effective date of this rulemaking or expiration of the associated completeness document.

The Executive Director retains the ability to determine that a preliminary or final municipal or county approval may take effect because it does not raise a substantial issue with respect to the CMP (see N.J.A.C. 7:50-4.37 and 4.40). This review process provides an opportunity for consideration of the particular circumstances of a development application and associated local approval(s) submitted for Commission review. As an example, such circumstances could include the Commission's receipt of a local approval in the days leading up to the expiration of the associated Certificate of Filing. If the Commission's review determines that approval raises no substantive issues, meaning all CMP land use and environmental standards are met, the Executive Director has the authority to allow the approval to take effect even after the expiration date of the Certificate of Filing. A similar decision could be made for a local approval issued and submitted one or two days after the expiration date of a Certificate of Filing. The Commission believes current CMP procedures provide sufficient flexibility to appropriately address the situations that inevitably arise when expiration dates are

assigned. In other cases, particularly those where substantial issues related to an application and local approval have not been resolved, or CMP standards and/or municipal zoning have significantly changed in the years since a Certificate of Filing was issued, applicants and property owners will need to apply to the Commission for new Certificates of Filing.

9. COMMENT: One commenter said that a Certificate of Filing should remain in effect without expiration while applicants are pursuing local approvals or assembling property for a development project. (471)

RESPONSE: The Commission affirms its rationale for establishing a five-year duration for completeness documents and does not support broad extensions of the type described by the commenter. The purpose of these amendments is to reduce administrative burdens on Commission staff, local permitting agencies, and applicants, while ensuring that proposed development is consistent with current CMP and municipal standards by providing a more efficient and effective way of taking current environmental conditions of lands proposed for development into consideration. Allowing Certificates of Filing to remain in effect based on a subjective determination as to what constitutes “pursuit” of a local approval would be administratively burdensome to document and track, contrary to the intent of the amendments. Likewise, extending the life span of a Certificate of Filing to accommodate an applicant’s timeline for assemblage or acquisition of property would be extremely difficult to implement by regulation and likely impossible to track, given

that the Commission is generally unaware of and uninvolved in such property transactions.

It is also important to note that Certificates of Completeness and Certificates of Filing are not approvals. Rather, these documents signify that a complete application for development in the Pinelands Area has been submitted to the Commission and allow the applicant to move forward with obtaining required approvals from municipal and county permitting agencies. Completeness documents do not provide protection from changes to regulations in the CMP or at the State or municipal level. Expiration ensures that outdated completeness documents are not used to advance applications unlikely to meet current CMP standards. Over time, the likelihood of regulatory changes that could affect consistency of the proposed development with CMP, State, or municipal regulations tends to increase. The practical impact on affected applicants is that they must reapply to the Commission if they wish to pursue development of their property.

Under these amendments, a Certificate of Filing does not expire if the applicant obtains a local approval and the Commission issues a letter stating that the local approval can take effect. An applicant needs only one local permit or approval, followed by a Commission letter allowing it to take effect, to have the associated Certificate of Filing remain in effect in perpetuity. For example, after these amendments take effect, if the Commission issues a Certificate of Filing on May 1, 2026 indicating consistency with applicable standards, the applicant could use that Certificate of Filing to obtain municipal site plan approval on January 15, 2031. Upon timely receipt of that approval and assuming all standards continue to be met, the Commission would complete its review and issue a

letter within 15-30 days allowing the site plan approval to take effect. That effective local approval prevents the Certificate of Filing from expiring on May 1, 2031, and allows the applicant to continue to obtain any other necessary permits and approvals such as septic permits and building permits.

10. COMMENT: One commenter said that automatic expiration of Certificates of Filing constitutes a taking of property. (471)

RESPONSE: The Commission respectfully disagrees. The Commission's issuance of a Certificate of Filing does not confer or remove any ownership or development rights. As described above, it merely documents that an applicant has filed a complete application for development with the Commission, and it identifies any aspects of the proposal that are inconsistent with the CMP or municipal ordinances. Issuance of the Certificate of Filing allows the applicant to obtain necessary municipal or county approvals for the development proposal. If a Certificate of Filing expires in accordance with these amendments, the applicant or property owner will simply need to submit a new application to the Commission for review and processing.

11. COMMENT: One commenter expressed support for expiration of Certificates of Completeness documents and certain Waivers of Strict Compliance granted prior to March 2, 1992. (487)

RESPONSE: The Commission thanks the commenter for their support.

Regional Growth Areas and Pinelands Development Credits (N.J.A.C. 7:50-5.28, 5.43, and 5.46)

12. COMMENT: One commenter expressed support for the intent of the amendments at N.J.A.C. 7:50-5.28(a)3v but opposed allowing municipal discretion to exempt units made affordable to low- and moderate-income households from Pinelands Development Credit (PDC) requirements. Rather, they requested the rule contain an automatic exemption for such units and advocated that no PDCs be required for any inclusionary development projects, not just the affordable units. (471)

RESPONSE: The Commission appreciates the support for the amendment's intent but does not agree with and cannot implement the requested change. The Pinelands Protection Act (N.J.S.A. 13:18A; L.1979, c111, s. 14, eff. June 29, 1979. Amended by L.1987, c. 267, s.2, eff. Sept. 11, 1987) prohibits the Commission from considering the number of low- or moderate-income housing units as a criterion for approval, rejection, or conditional approval of any municipal master plan or land use ordinance (see N.J.S.A. 13:18A-12a). As such, the Commission does not have the authority to require municipalities to exempt any or all affordable or inclusionary housing units from the requirement to redeem PDCs.

However, the Commission has reviewed and certified municipal ordinances that exempt certain housing types, such as affordable units, from PDC redemption pursuant to the municipal flexibility provisions of the CMP. The amendments codify this successful

practice by expressly allowing municipalities to adopt such exemptions if they so choose and if specified requirements are met. These requirements are intended to ensure that a reduction in the overall number of PDC opportunities that a municipality is required to provide in its RGA zoning plan does not occur. Therefore, any exemption from PDC redemption requirements must be offset by increased and/or guaranteed PDC use elsewhere within the municipality's Regional Growth Area so that the necessary number of PDC opportunities is maintained.

Under these amendments, a municipality may adopt an ordinance exempting 100% affordable housing projects or inclusionary developments from PDC redemption, provided the municipal land use ordinance continues to accommodate the minimum number of required opportunities for the use of PDCs in the municipality's Regional Growth Area zoning plan. Over the past 10-15 years, Pinelands municipalities have accomplished these sorts of amended zoning plans by transferring PDC obligations to other lands or zones in the municipal RGA or adopting mandatory PDC requirements for development of market rate units in one or more zoning districts or redevelopment areas. Broad PDC exemptions for all units in inclusionary developments in one or more RGA zoning districts are likely to be challenging to accommodate. A more limited approach, such as through a redevelopment plan designed to permit a specific project on a specific parcel of land, has and will continue to be more feasible. However, all such proposals will have to be reviewed in the context of the municipality's overall Regional Growth Area plan.

13. COMMENT: One commenter expressed support for the amendments at N.J.A.C. 7:50-28, specifically those providing greater flexibility in the distribution of housing types zoned for in Regional Growth Areas, allowing PDC use for non-residential development, and allowing certain housing types, such as affordable housing, to be exempt from PDC requirements. (487)

RESPONSE: The Commission thanks the commenter for their support.

General Comments

14. COMMENT: One commenter said the rule proposal must be supported. (189)

RESPONSE: The Commission appreciates the commenter's support.

15. COMMENT: One commenter expressed support for a prohibition of deforestation. (39)

RESPONSE: The rulemaking does not expressly prohibit deforestation. However, the redesignation of the Black Run watershed from Rural Development Area to Forest Area reduces development potential and, consequently, the extent of deforestation associated with development. The amendments also include revisions to the PDC program, which incentivize the preservation of sensitive environmental and agricultural lands within the Pinelands.

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. This legislation set forth rigorous goals that the plan must meet but did not specify standards governing individual uses or topics, such as those covered by the adopted amendments. The plan was subject to the approval of the United States Secretary of the Interior, as are all amendments to the CMP.

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

Full text of the adoption follows: