



PHILIP D. MURPHY
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TAHESHA L. WAY
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Gina A. Berg *gab*
Director, Land Use Programs

Date: September 17, 2025

Subject: September 26, 2025 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on Friday, September 26, 2025. We have also enclosed the following:

- minutes from the Committee's August 29, 2025 meeting;
- A packet of material related to the Rule Package #1 CMP amendments including a cover memo, draft resolution, and adoption notice.

The Committee meeting will be conducted in-person and via teleconference. Specific access information will be provided to all Committee members in a separate email. The public is invited to attend the meeting in-person or view and participate in the meeting through the following YouTube link:

www.youtube.com/c/PinelandsCommission



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CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

September 26, 2025 – 9:30 a.m.

This meeting will be held in person and virtually

Richard J. Sullivan Center for Environmental Policy and Education
Terrence D. Moore Conference Room
15C Springfield Road
New Lisbon, New Jersey

Watch the meeting on the Pinelands Commission YouTube channel:

www.youtube.com/c/PinelandsCommission

To Provide Public Comment, Please Dial: 1-929-205-6099 Meeting ID: **859 5919 1063**

Agenda

1. Call to Order
2. Adoption of minutes from August 29, 2025, CMP Policy & Implementation Committee Meeting
3. Rule Package #1 Response to Comments
 - Review of public comments and draft adoption notice
 - Recommendation to Commission
4. Pinelands Long-Term Water Level Monitoring Program Summary
5. Update on Commission Review of 4th Round Affordable Housing Plans
6. Public Comment
7. Adjournment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted both remotely and in-person
The public could view/comment through Pinelands Commission YouTube link:

www.youtube.com/c/PinelandsCommission

Richard J. Sullivan Center
15C Springfield Rd
New Lisbon, New Jersey 08064
August 29, 2025 – 9:30 a.m.

MINUTES

Members in Attendance: Deborah Buzby-Cope, Jerome H. Irick, Jessica Rittler Sanchez

Members in Attendance (Zoom): Alan W. Avery, Jr., Mark S. Lohbauer, Chair Laura E. Matos

Members Absent: Theresa Lettman, Douglas Wallner

Staff Present: Gina Berg, John Bunnell, Ernest Deman, Lori Friddell, Susan R. Grogan, Brad Lanute, Paul Leakan, Stacey P. Roth

Also in attendance: Michael Eleneski with the Governor's Authorities Unit (Zoom)

1. Call to Order

Chair Matos called the meeting to order at 9:32 a.m.

2. Adoption of minutes from the July 25, 2025 CMP Policy & Implementation Committee Meeting

Commissioner Irick moved the adoption of the July 25, 2025 meeting minutes. Commissioner Lohbauer seconded the motion. Commissioners Avery, Irick, Lohbauer, Matos and Rittler Sanchez voted to adopt. Commissioner Buzby-Cope abstained. The motion passed.

3. Rutgers University Agrivoltaics Presentation

Attachment A to these minutes and posted on the Commission's website at the following address:
<https://www.nj.gov/pinelands/home/presentations/Rutgers%20Agrivoltaics%20Program%20Presentation.pdf>

Dave Specca of the Rutgers University Agrivoltaics Program provided an overview of their program. He explained that the program is multidisciplinary and includes interaction among the Program's team of scientists, the municipalities, the community, and the landowner or farmer. He discussed the initial results from three farms that are participating in the Agrivoltaics Program, the arrays, types of panels in use, energy production, and results of the crop trials. He explained the advantages and disadvantages of vertical bifacial panels, as well as single or double-wide axis tracker arrays on both crop production and energy export. He said the program continues to evaluate how solar panels affect growth and aims to identify which type of installation is best suited to a particular crop, region and climate. He said the university does not

want to make predictions based upon one year's crop trial results but will continue to gather data over the full three-year program period.

Mr. Specca said that in consideration of the importance of cranberry production to the Pinelands, he would share a presentation from an agrivoltaics project on a cranberry farm in Massachusetts. *Attachment B to these minutes and posted on the Commission's website at the following address:* <https://www.nj.gov/pinelands/home/presentations/Ring%20Road%20Solar%20Project%2008.06.25.pdf>

He said that agrivoltaics project results will vary regionally as impacted by climate. He presented the Ring Road Solar and ESS project of Massachusetts, noting that this project includes a DC-Coupled energy storage system, which creates a steadier flow of power and makes balancing the grid easier for the utility company. He reviewed the project design, explaining that the installation within a bog is challenging, as it requires higher elevation of the panel pivot to allow clearance and specific equipment to install mounting posts without cement or drilling. However, the results suggest crops benefit from the additional shading and reduction of temperature extremes. He explained the use of a DC-coupled battery for additional solar energy storage and grid-balanced delivery of the generated electricity. Mr. Specca said they found that coordination is essential between an Energy Production Company (EPC) firm, the farmer and the local utility.

Mr. Specca continued with a review of the New Jersey Board of Public Utilities' (BPU) Dual-Use Solar Energy Pilot Program, which intends to install 200 megawatts of energy production over a three-year period. He explained that the BPU is working to develop rules and regulations for dual-use solar in New Jersey. He said the BPU has contracted with the Rutgers Agrivoltaics Program (RAP) to assist with implementation and monitoring of the program.

He presented the program's project requirements noting the competitive selection process and necessary commitment to keeping the farmland in active agricultural/horticultural use with dual-use solar in place. He said there may be a monetary incentive to participating in the program through value-added to the SREC-II certificate for producing solar. Mr. Specca reviewed the dual-use project requirements and restrictions, noting that it cannot be sited on farms in the New Jersey Farmland Preservation Program, wetlands, or in Pinelands preservation areas without a waiver from the BPU. Mr. Specca also outlined the pilot program research requirements.

Mr. Specca said the dual-use solar program can provide benefits to farmers by creating a new, stable revenue source or in reducing energy costs. Program participation allows continued crop yield while producing clean energy for the state.

Chair Matos asked for Commissioner comments.

Commissioner Lohbauer said he supports the concept of agrivoltaics and hopes trial results are encouraging. He inquired if the three Rutgers farms are participating in the BPU pilot program. Mr. Specca said they are not part of the pilot since the program was not available at the start of the Rutgers research.

Commissioner Lohbauer asked if data shows which type of panel is more efficient in solar production. Mr. Specca said that a vertical, fixed bifacial is less efficient for energy production

due to its non-perpendicular orientation to the sun. A single axis that tracks the sun is more efficient and favored by farmers since it can be oriented to allow full sun on crops, tracking can be overridden, and it offers protection from hail and frost.

Commissioner Lohbauer asked if testing has evaluated the impact of higher post heights on farm production. Mr. Specca said higher posts cost more to install but offer lighting and equipment access advantages. He said the goal is to optimize both crop and energy systems. Mr. Specca said communities are more accepting of solar fields if agriculture continues.

Commissioner Lohbauer asked if the pilot program is engaging blueberry and cranberry bog farms. He said Pinelands farms could benefit from the resulting data. Mr. Specca said Rutgers recommended that the BPU look at the agricultural survey data to better allocate projects among regionally important crops throughout the state.

Commissioner Lohbauer noted the benefit of utility scale storage batteries onsite. Mr. Specca said with current technology and the right size agrivoltaics, farms could become energy independent and potentially produce some of their own nitrogen fertilizer.

Commissioner Lohbauer inquired if the Rutgers agrivoltaics program results show promise for implementation in New Jersey. Mr. Specca said it is too soon to predict, but certain crops seem more promising. He added that agrivoltaics creates a second income stream that might help farms become more economically stable and encourage long-term, generational farming.

Commissioner Rittler Sanchez asked if crop rotation affects solar design choice. Mr. Specca said it has a significant impact and design versatility is a scoring component on system evaluations. He said a system needs to have flexibility for crop change.

Commissioner Rittler Sanchez inquired if trials were completed on corn crops. Mr. Specca said trials were not conducted locally due to corn being a tall crop requiring a lot of light, but he said the state of Indiana is conducting corn crop research using 10-foot posts.

Commissioner Rittler Sanchez asked if using onsite battery storage capacity would allow a group of farms to generate sufficient electricity to qualify as community solar projects where the electric grid is weak. Mr. Specca said battery storage can regulate energy flow to the grid but added that battery storage can double the cost of a project installation.

Commissioner Rittler Sanchez questioned why electrical utilities are not more involved. Mr. Specca said utility companies support clean energy technology but solar and wind does not produce power 24 hours and thus creates a challenge in balancing the energy grid.

Commissioner Irick thanked Mr. Specca for his presentation and congratulated the Rutgers program on their receiving the National Solar Farm of the Year award. Mr. Specca said that the Rutgers program is considered a model for other universities.

Commissioner Irick inquired about disposal options for panels after their 30-year useful life. Mr. Specca said there is ongoing research on disposal options and reuse. He added that the panels

continue to produce electricity at about 80% of their original capacity after their useful life and potential re-use of the panels is being explored in areas that could benefit from both energy production and additional crop shading. He said that methods of extracting rare earth minerals from recycled panels are being tested.

Commissioner Irick questioned what the Pinelands Commission could consider to facilitate use of agrivoltaics for farmers regarding the constraints on development and clearing in wetlands in the Pinelands Comprehensive Management Plan (CMP.)

Mr. Specca said the BPU does not consider projects for the dual use program that involve new clearing in wetlands but does allow projects on agriculturally modified wetlands. The BPU is creating a model zoning ordinance for municipalities to consider for allowing agrivoltaics.

Chair Matos said the Pinelands Commission has reached out to the BPU to initiate conversation on the topic and to identify opportunities and challenges as the program relates to the Pinelands.

Commissioner Avery thanked Mr. Specca for the presentation and said he believes agrivoltaics have potential benefits for New Jersey farms, but he does not see those projects as supporting the essential character of the Pinelands. He said he prefers these dual use projects to the standard solar farms that do not allow continued agriculture.

Commissioner Avery inquired whether dual use solar is economically viable without public subsidy. Mr. Specca said dual-use solar projects have a faster start-up timeline that reduces cost but the effect of tariffs on the supplies has not been seen yet. Discussion followed on current SREC values. Commissioner Avery inquired if a system still qualifies for an SREC if it only uses battery. Mr. Specca said that if a system is connected to the grid it will qualify for SREC.

Commissioner Avery asked if the NJ Farm Bureau supports the program. Mr. Specca said they have been supportive of the research. Commissioner Avery inquired what considerations are given to system end of life decommissioning. Mr. Specca said projects proposals for the BPU dual use program are also evaluated on their decommissioning plan. He added that some municipalities are asking for an escrow to cover decommissioning.

Commissioner Avery inquired if under the State Farmland Preservation Program would both the county and state need to approve a solar project on a deed restricted farm?

Susan Payne, former Director of the State Agriculture Development Committee (SADC), was asked to respond and said solar is currently allowed on a preserved farm through the SADC only to power the farm and not for exporting electricity to the grid. This type of agrivoltaics facility is not permitted on preserved farms. She said the legislature would have to amend the Farmland Preservation Act to set conditions under which it would be allowed.

Chief of Legal and Legislative Affairs Stacey Roth asked if most of the current agrivoltaics projects are falling under the Competitive Solar Incentive (CSI) program. She also asked if agrivoltaics projects larger than 5 MWs require authorization from the electric provider. She

further inquired whether modifications to existing electric transmission infrastructure are needed to add additional capacity generated by the BPU's Dual Use Solar program.

Mr. Specca said that solar energy developers carefully select their sites to be in areas where the grid is capable.

Chair Matos thanked Mr. Specca for his presentation.

4. Update on the Interagency Council on Climate Resiliency

Attachment C to these minutes and posted on the Commission's website at the following address:
<https://www.nj.gov/pinelands/home/presentations/2025.08.29%20-%20IAC%20Update.pdf>

Chief Planner Brad Lanute provided an update on the work of the Interagency Council on Climate Resilience, of which the Pinelands Commission is a member agency.

He first highlighted the State of the Climate Annual Report released this month by the New Jersey Climate Change Resource Center at Rutgers University. He said the report summarizes historic projected climate trends regarding temperature, sea-level rise and rainfall. He noted the report details the risks of extreme weather events, including recent studies on projected drought trends.

Mr. Lanute highlighted the report's NJ monthly temperature and precipitation departures between August 2024 to July 2025, noting that it was an unusual weather year with dramatic shifts. Mr. Lanute said the report focused on future drought projections. The report suggests New Jersey will see wetter winters, and drier summers with more drought-prone summers in the future.

Commissioner Rittler Sanchez inquired if the data was obtained regionally or statewide. Mr. Lanute deferred to the Rutgers report for findings.

Mr. Lanute presented background on the establishment of the Interagency Council on Climate Resilience (IAC), and its multi-agency work product. He said IAC helps to support the development and implementation of the NJ Statewide Climate Change Resilience Strategy. Regarding the various priorities included in the strategy, he said the work of the Pinelands Commission most closely aligns to the priority of strengthening the resilience of New Jersey's ecosystems. He reviewed the 2024 work products of the IAC, including the release of the 2024 annual report. The 2024 annual report noted the Commission's work regarding the Pinelands Management Area Climate Vulnerability Assessment, Pinelands Conservation Fund land acquisition priorities and the implementation of the K-C rules at the municipal level.

Mr. Lanute said the Statewide Extreme Heat Resilience Action Plan (RAP) update is scheduled to be released later this year. To support the 2024 Extreme Heat RAP, the Commission committed to identifying heat tolerant native plant species for potential inclusion in the CMP list of native species.

Mr. Lanute referenced extreme heat awareness week from earlier in the summer and recent webinars that included how extreme heat threatens NJ's natural world and expert discussion on the unique ecology of the Pinelands. He also highlighted the recent IAC report on the flood resilience initiatives of multiple agencies. With regard to the Pinelands Commission, he said there was discussion involving the implementation of the CMP environmental standards, including stormwater management and water supply management.

He reviewed the IAC working groups and their individual focus points as outlined in his attached presentation. He said the Commission has been participating in the Vulnerability Assessment working group, which seeks to increase the sharing of data and tools among state agencies. He described the challenges of developing standardization for such assessments given the wide diversity among agencies in terms of their missions and size.

Chair Matos thanked Chief Planner Lanute and Land Use Programs Director Gina Berg for their participation in the IAC.

Chair Matos asked for Commissioner comments.

Commissioner Lohbauer thanked Mr. Lanute for the presentation and inquired if the IAC has any projections for actual increased temperatures as opposed to ranges. Mr. Lanute said the 2024 State of the Climate report has a section that looks at where New Jersey is in terms of meeting its greenhouse gas emission targets.

Commissioner Lohbauer asked if the report speaks to whether the state is on target for meeting its greenhouse gas emission reduction targets.

Mr. Lanute said he would have to defer to the report, but that he believed the report suggested the State is on the right path.

5. Public Comment

There were no public comments.

Commissioner Lohbauer thanked Commissioner Irick for his suggestion of the topic of agrivoltaics as an agenda discussion item for this committee.

6. Adjournment

There being no other business, Commissioner Irick moved to adjourn the meeting. Commissioner Buzby-Cope seconded the motion. All voted in favor. The meeting was adjourned at 11:08 a.m.

Certified as true and correct:



Lori Friddell, Land Use Programs Technical Assistant

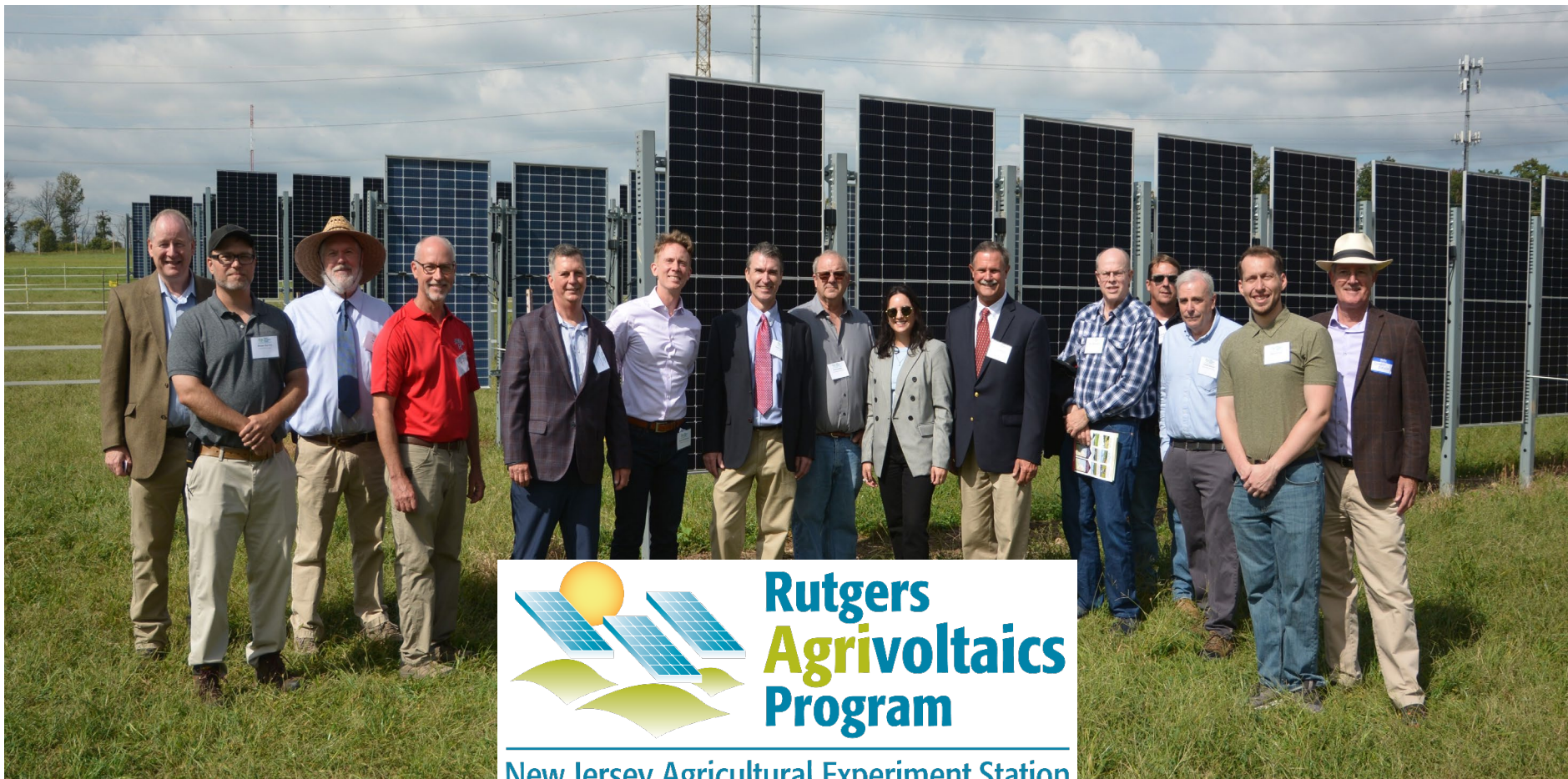
Date: September 12, 2025

Agrivoltaics: Opportunities and Challenges for Agriculture

Dave Specca, RAP Lead

Rutgers Agrivoltaics Program Team(Sept. 2024)

Plant Sciences, Animal Sciences, Engineering, Economics,
Social Science, Environmental Science, Meteorology



Agrivoltaics at Rutgers' NJAES Farms

Animal Farm New Brunswick

170 kW_{DC} Installed

Large Animal
Grazing and
Forage Production



(left) Vertical bifacial panels for beef cattle grazing and forage production

(right) Grass evaluation to understand how solar panels affect growth

RAREC Upper Deerfield

255 kW_{DC} Installed

Staple and Specialty
Crop Production



(left) Tomato, eggplant & pepper under double wide single-axis tracker arrays

(right) Soybeans under single wide single-axis tracker arrays

Snyder Farm Pittstown

95 kW_{DC} Installed

Hay Production



(left) Hay production under single wide single-axis tracker arrays

(right) Raking hay between single-axis tracker arrays

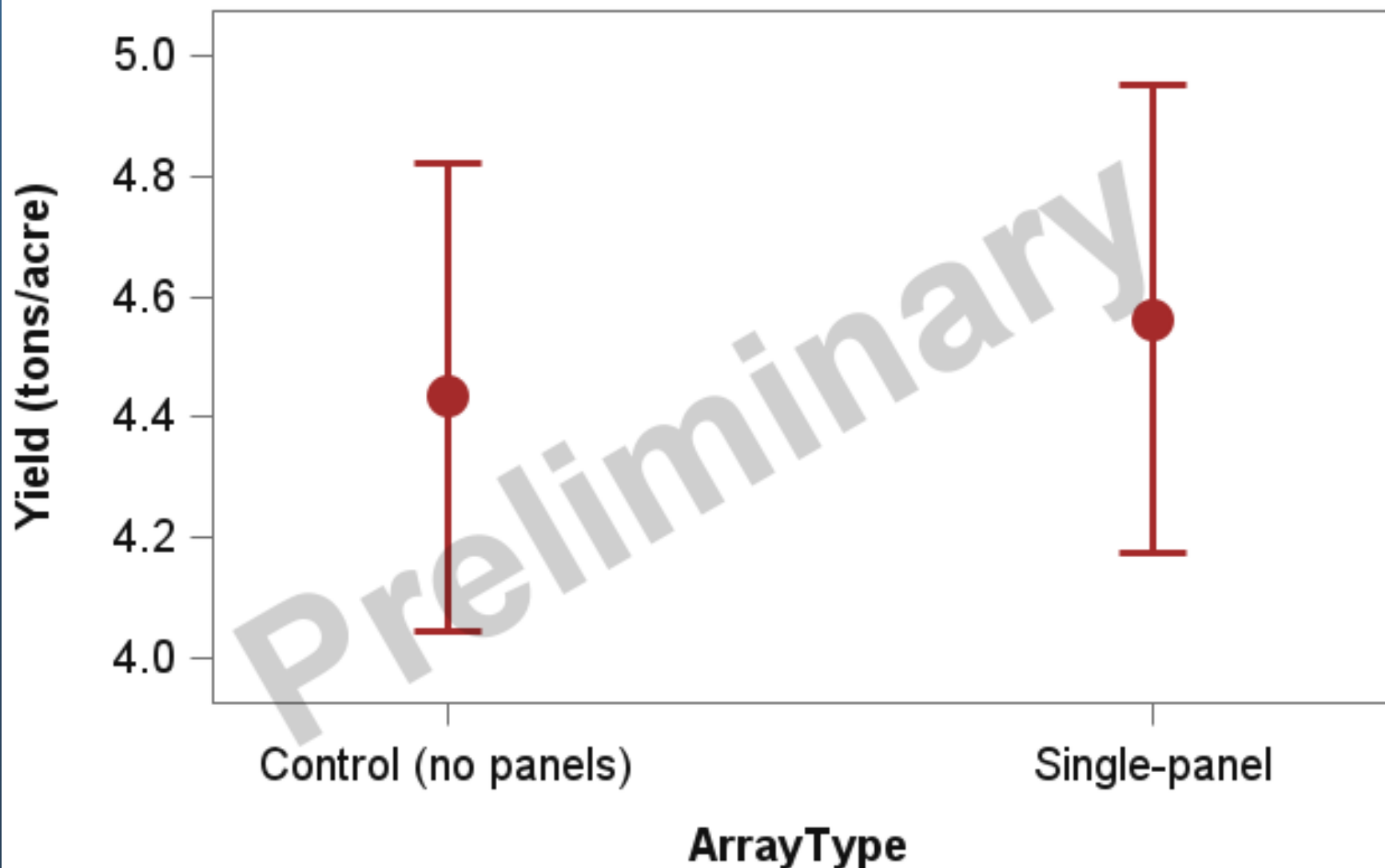
Note: All arrays have bifacial panels. All arrays are exporting power to a utility.

Freshly Mowed Orchard Grass – First Cutting Snyder Farm



Hay yield in 2024

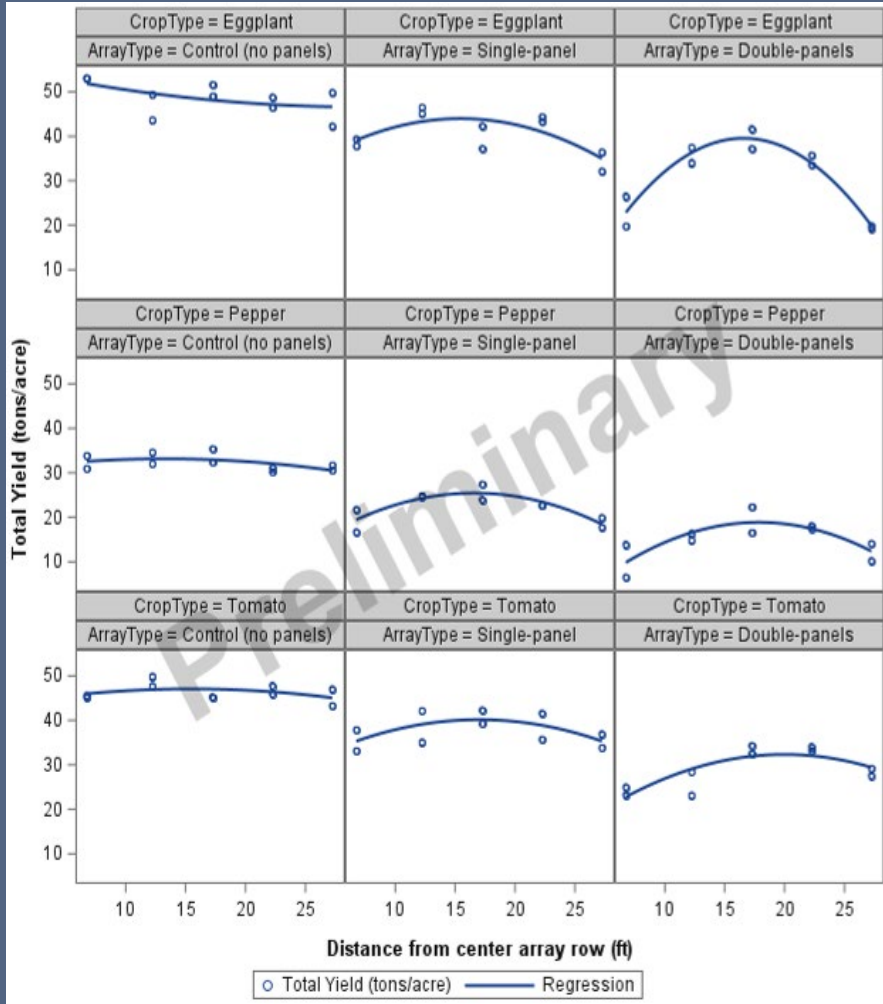
No significant effect of Solar Arrays



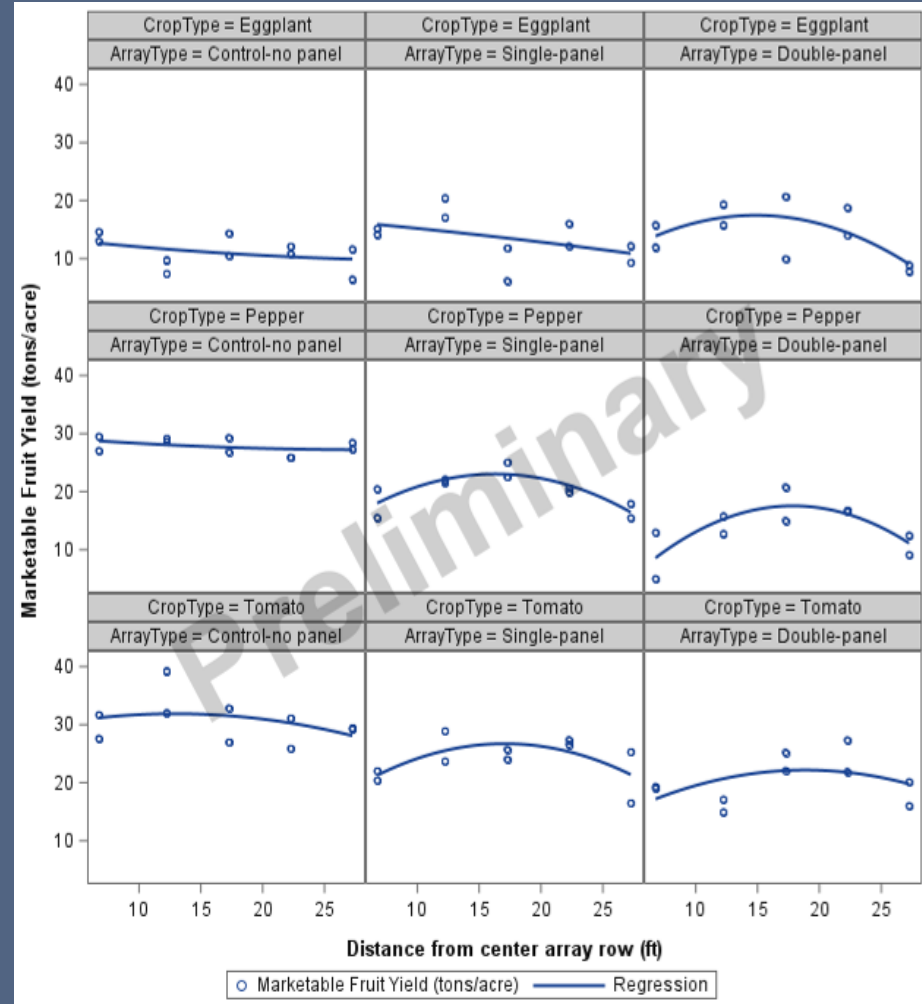
Beefsteak Tomato – Bell Pepper – Sicilian Eggplant, RAREC



Total Yield



Marketable Yield

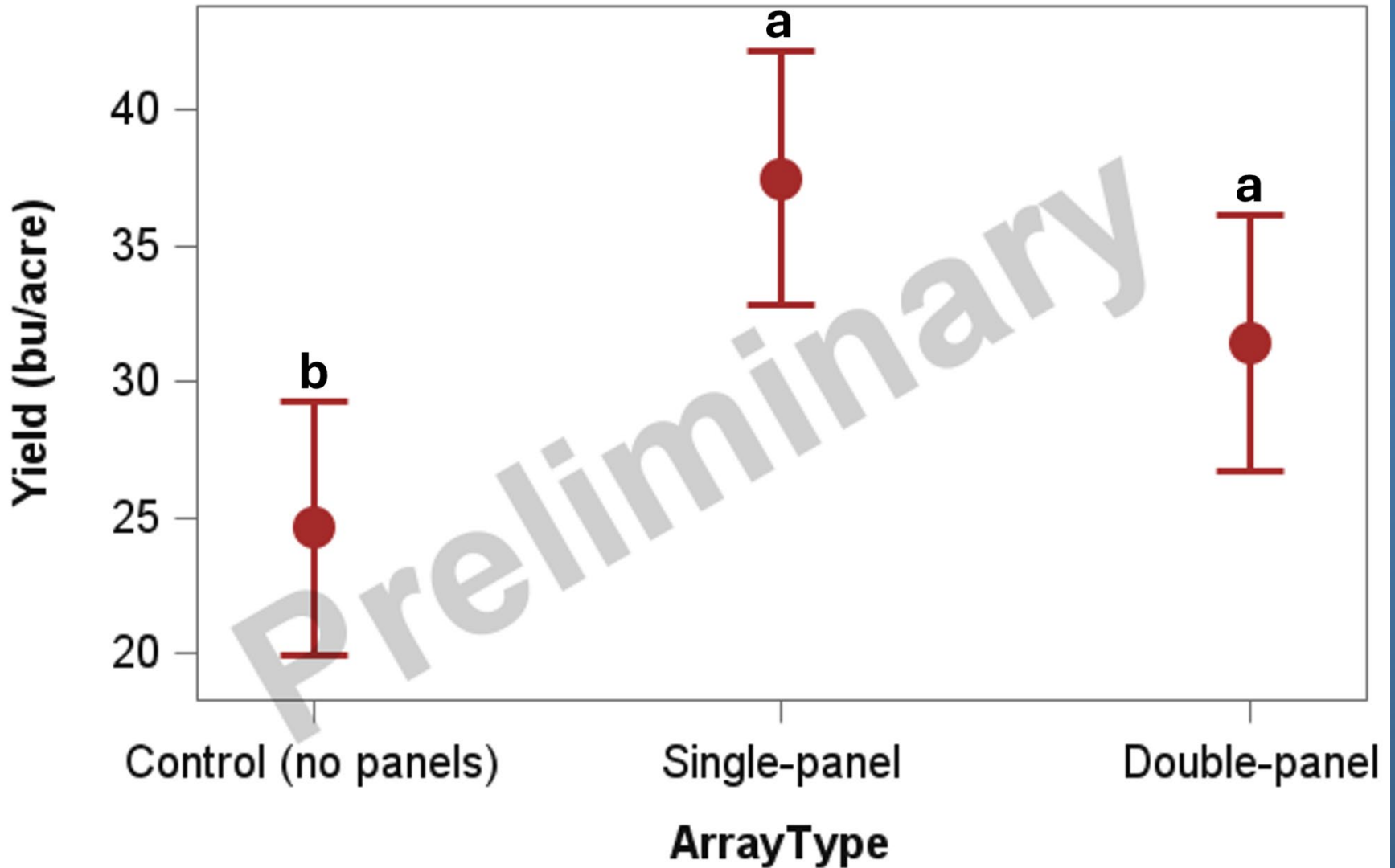


Soybean, RAREC

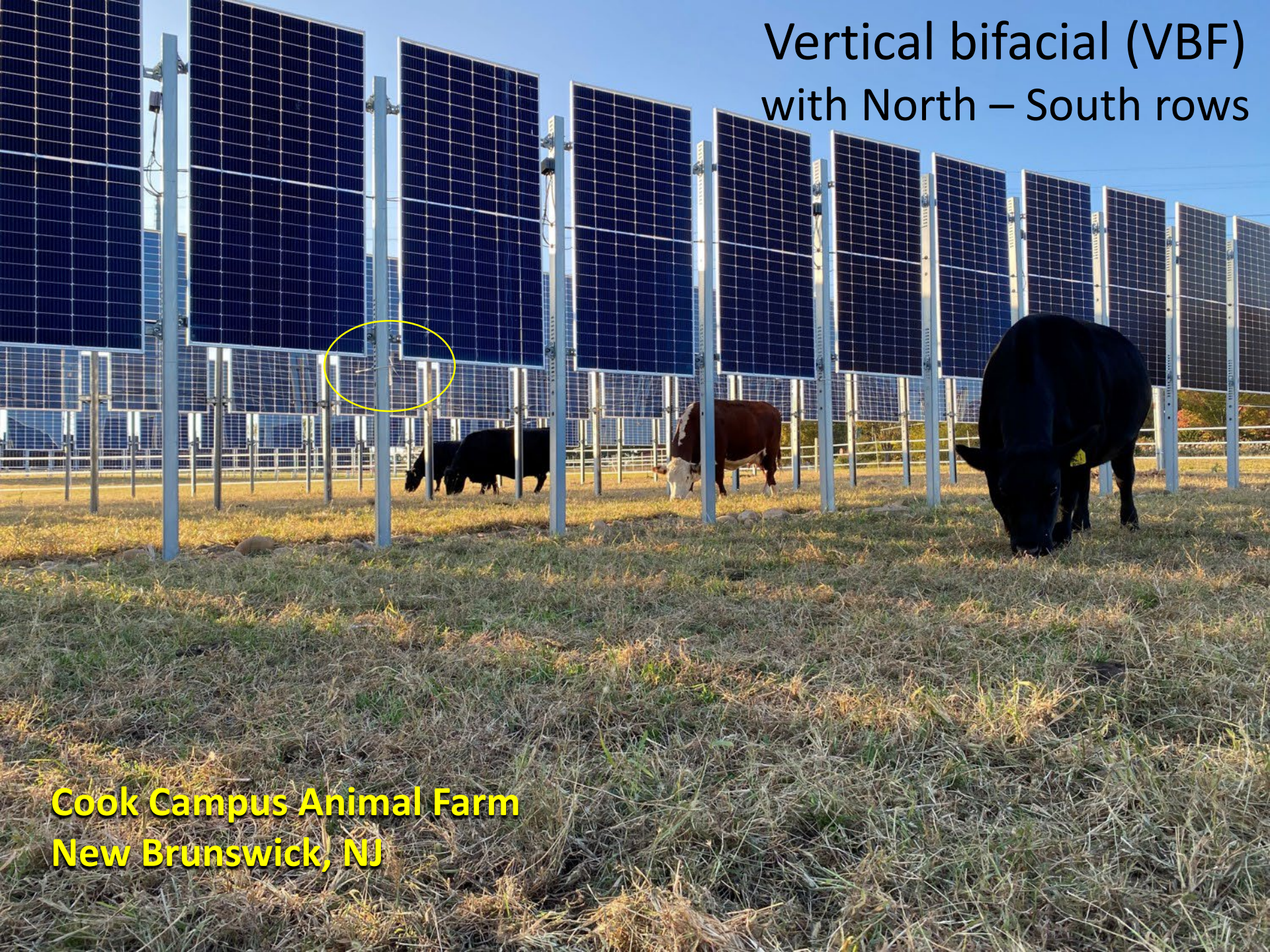


Soybean yield in 2024

Positive significant effect of Solar Arrays



Vertical bifacial (VBF)
with North – South rows



Cook Campus Animal Farm
New Brunswick, NJ

Cranberry Agrivoltaics Project

 [Ring Road Solar Project 08.06.25.pptx](#)



Distributed
ENERGY INFRASTRUCTURE



GreenbackerSM

The Dual-Use Solar Energy Pilot Program



NEW JERSEY
DEPARTMENT OF AGRICULTURE



NJ DEP

- The Dual-Use Solar Energy Act requires Board of Public Utilities (BPU) to develop rules and regulations for dual-use solar in New Jersey
- BPU's process for developing new programs typically involves developing a Straw Proposal, Draft Rules and Final Rules for public stakeholder input
- BPU has contracted with the Rutgers Agrivoltaics Program (RAP) to assist with implementation and monitoring
- Stakeholders have provided input, the BPU is finalizing the program, including eligibility criteria, operational requirements, and processes

Dual-Use Solar Energy Pilot Program

In order to participate in the program, applicants:

- Must apply and be selected through a competitive process.
- Must commit to keeping farmland with dual-use solar in active agricultural/horticultural use
- May propose a monetary incentive in the form of an “adder” to the SREC-II (certificate for producing solar).

Dual-use projects:

- Cannot be sited on “prime agricultural soils and soils of statewide importance,” unless undertaken as part of a research study with a New Jersey agricultural institution
- ***Cannot be sited on wetlands or in Highlands/Pinelands preservation areas, unless a waiver is granted by BPU
- Cannot be sited on farms in the New Jersey Farmland Preservation Program



Rutgers Snyder Farm

Pilot Program Research Requirements

- Management and collection of the data for the first three (3) at no cost to the participant. Participants may choose to contract with a non-Board appointed entity to collect the data at their own cost.
- The Board's designee in this case is the Rutgers Agrivoltaics Program (RAP) at Rutgers University.
- RAP will contact the Project Team of an EOI application after it has been encouraged to apply for the full application to discuss the details of the research program.



Dual-use solar can provide benefits to farmers... and New Jersey

- Farmers derive new revenue, or reduced costs, from generating electricity
- In addition to existing solar incentives, farmers may receive an added economic incentive from being part of the Dual-Use Pilot Program
- Crop yield and performance can continue to be strong with dual-use solar
- *All while producing 100% clean energy for New Jersey*



Snyder Farm



New Jersey Agricultural Experiment Station

Thank You!!!

David Specca
Rutgers Agrivoltaics Program Lead
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1200 Florence-Columbus Rd.
Bordentown, NJ 08505
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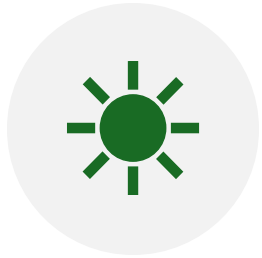
Agrivoltaics.Rutgers.edu

Ring Road Solar & ESS Project



Ring Road Solar & ESS Project

Plympton/Kingston, MA



4,433.00KWDC/2,000.00KW AC
(1P SAT)

13,500 Kwh DC-COUPLED
ENERGY STORAGE SYSTEM



Key Features and Benefits

- **Land Use Efficiency:**
 - Dual Use – Solar and Cranberry Sale Revenues
 - DC Coupled Battery – Additional Solar energy to store!
- **Designed for Farming Access:**
 - Modules installed 10LF high
 - Foundation Locations planned for Equipment Turns
- **Crop Productivity & Water Conservation:**
 - Shade reduces temperature extremes benefiting heat sensitive crops
 - Lesser Irrigation Needs!
- **Smart Program with Agri Adder**
- **Collaboration with UMass**
 - Yield, Compaction & Plant BioMass



Design

- Ground Coverage Ratio
 - Different Pitch/Row-Row for Crop Yields
- Extensive Structural Design due to Organics and 10LF high Modules
- Routing Electrical Infrastructure
 - CAB Posts (minimal trenching!)
 - DC Combiner Locations (for access)
 - Avoiding Irrigation structures/ditches
 - Bog to Bog and then field to field!
- (2) separate AHJs



Pile installation

- Specialized Equipment/predrill
- Routing Path/Matts (min. turns!)
- Refusal Strategy/design
- Protect Wines



Rack/Module Install

- Safety at 10LF high Install
- Low productivity
- Construction Sequence



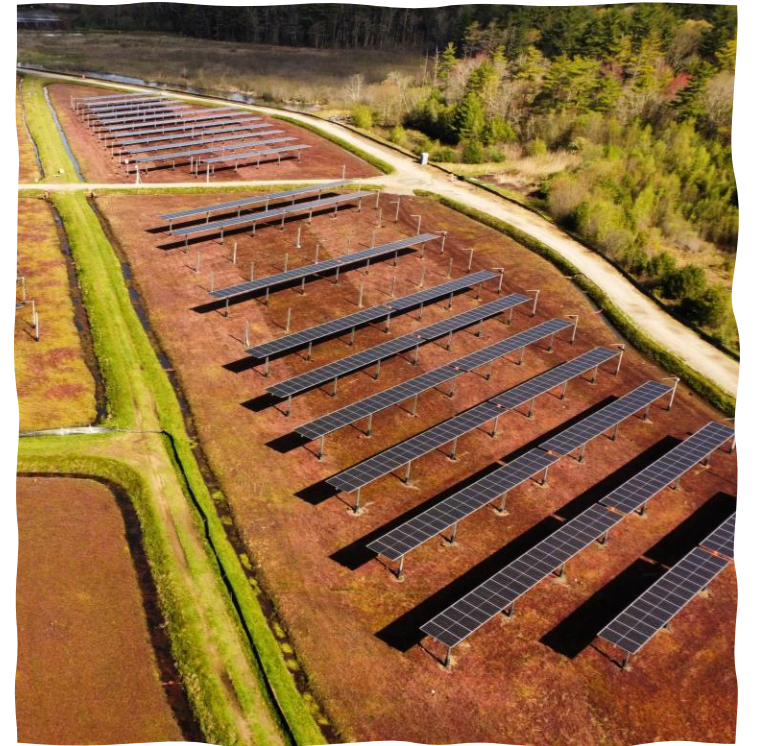
Specialized crew training

- Matting!
 - Types/Color/specifications
 - Duration
- Route Planning
- Material Management
- Debris Management (working with food!)
- Working with a Farmers perspective!



Path forward

An EPC's perspective



- Involve EPC firm as early as possible!
 - Permit Reviews
 - Farming operations and design/construction
 - Constant Stakeholder Communication
 - Sowing/Harvest Seasons & Schedule
 - Farmer Safety!

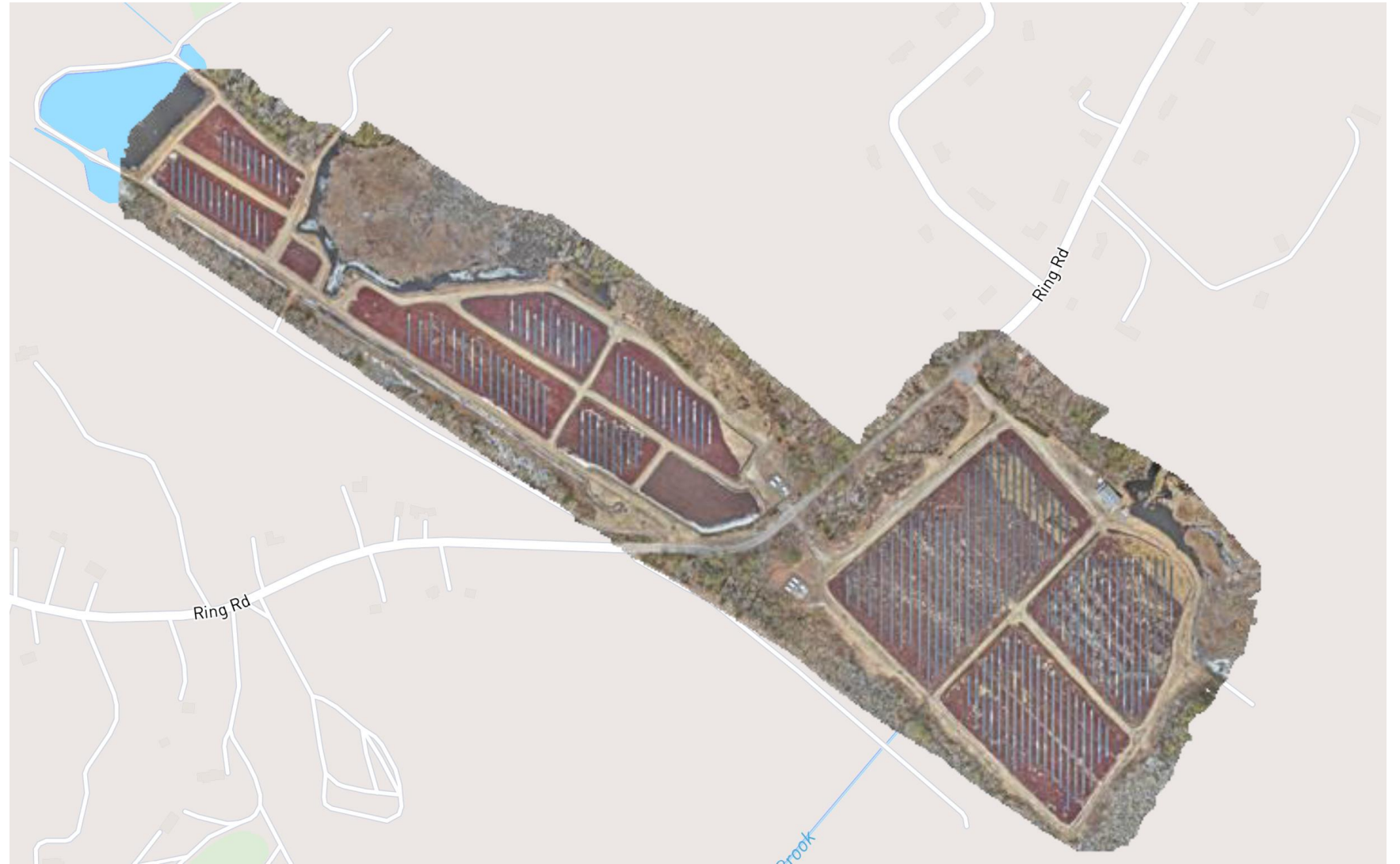


- More data the better!
 - Gaining insights of subsurface conditions!
 - Soil testing & compaction levels
 - Drain tiles/irrigation systems
 - Fertilizer spraying methods
- Equipment Selection
 - Racking System heavily dictates land usage
 - Type of electrical design
 - Trench V/S CAB
 - Equipment in the field
 - Farmer Safety during operations
- Plant Operations/SOP
 - Develop with Farmer's input!



Thank you!

Prateek Tare
Co-Founder/Executive VP
ptare@distributedei.com



Interagency Council on Climate Resilience Update



CMP Policy and Implementation Committee

August 29, 2025

Climate Science in New Jersey

Rutgers: New Jersey Climate Change Resource Center

- Released in August
- Recent webinar available online (James Shope, Anthony Broccoli, David Robinson)

Davies, K., Shope, J., Broccoli, A., Gerbush, M., Kaplan, M., Robinson, D., Nikolopoulos, E., Araujo, D., Kopp, R., Herb, J. & Spector, A. 2025. State of the Climate: New Jersey 2024. Rutgers, The State University of New Jersey, New Brunswick, NJ. DOI: 10.7282/00000539.



Kathryn Davies Anthony Broccoli	Department of Environmental Sciences, Rutgers University
James Shope	Department of Environmental Sciences, Rutgers University New Jersey Agricultural Experiment Station, Rutgers University New Jersey Climate Change Resource Center, Rutgers University
Mathieu Gerbush	Office of the New Jersey State Climatologist, Rutgers University
Marjorie Kaplan	Rutgers Climate and Energy Institute New Jersey Climate Change Resource Center, Rutgers University New Jersey Agricultural Experiment Station, Rutgers University
David Robinson	Office of the New Jersey State Climatologist, Rutgers University Department of Geography, Rutgers University
Efthymios Nikolopoulos Diogo S.D. Araujo	Department of Civil and Environmental Engineering, Rutgers University
Robert Kopp	Department of Earth and Planetary Sciences, Rutgers University
Jeanne Herb	Center for Urban Policy Research, Edward J. Bloustein School of Planning and Public Policy, Rutgers University
Ashlyn Spector	New Jersey Climate Change Resource Center, Rutgers University Center for Urban Policy Research, Edward J. Bloustein School of Planning and Public Policy, Rutgers University

State of the Climate: New Jersey 2024

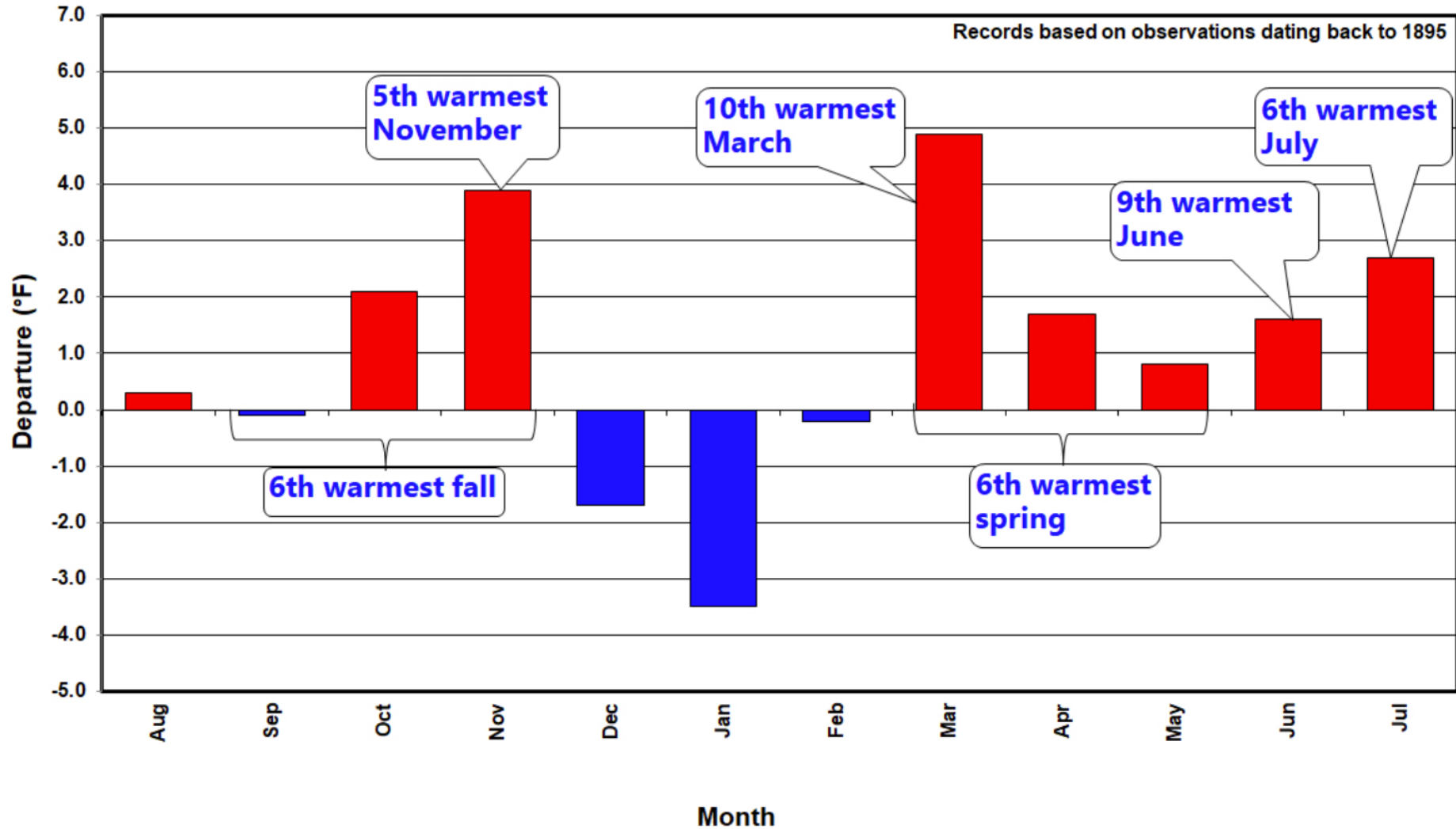
Summary of Historic and Projected Trends in New Jersey Climate

Davies, K., Shope, J., Broccoli, A., Gerbush, M., Kaplan, M., Robinson, D., Nikolopoulos, E., Araujo, D., Kopp, R., Herb, J. & Spector, A. 2025. State of the Climate: New Jersey 2024. Rutgers, The State University of New Jersey, New Brunswick, NJ. DOI: 10.7282/00000539.

	Temperature	Sea-Level Rise	Precipitation	Extreme Events
Historic Trends	New Jersey's annual temperatures have risen by approximately 4 °F since 1900.	Sea level has increased along the New Jersey coastline at 0.17 inches/yr (~18.9 inches since the early 1900s).	Total annual rainfall within New Jersey has increased by ~7% since the early 1900s.	New Jersey has experienced multiple extreme rainfall and flooding events from tropical systems that mirror Post Tropical Cyclone Helene in southern Appalachia.
Future Projections	With moderate greenhouse gas emissions New Jersey's annual temperatures are projected to increase 3.7–6.2 °F by 2100 relative to the 1991–2020 average.	By 2100, sea level in New Jersey will likely rise 1.7–3.9 ft with 2°C of global warming and 2.0–5.1 ft with 3.5°C of global warming.	With moderate greenhouse gas emissions, annual rainfall is expected to increase by 3–13% by 2100 and extreme 24-hour rainfall is projected to increase by 5–15%.	With a warming climate, it is more likely that New Jersey will experience more intense rainfall from tropical systems and greater impacts farther inland.

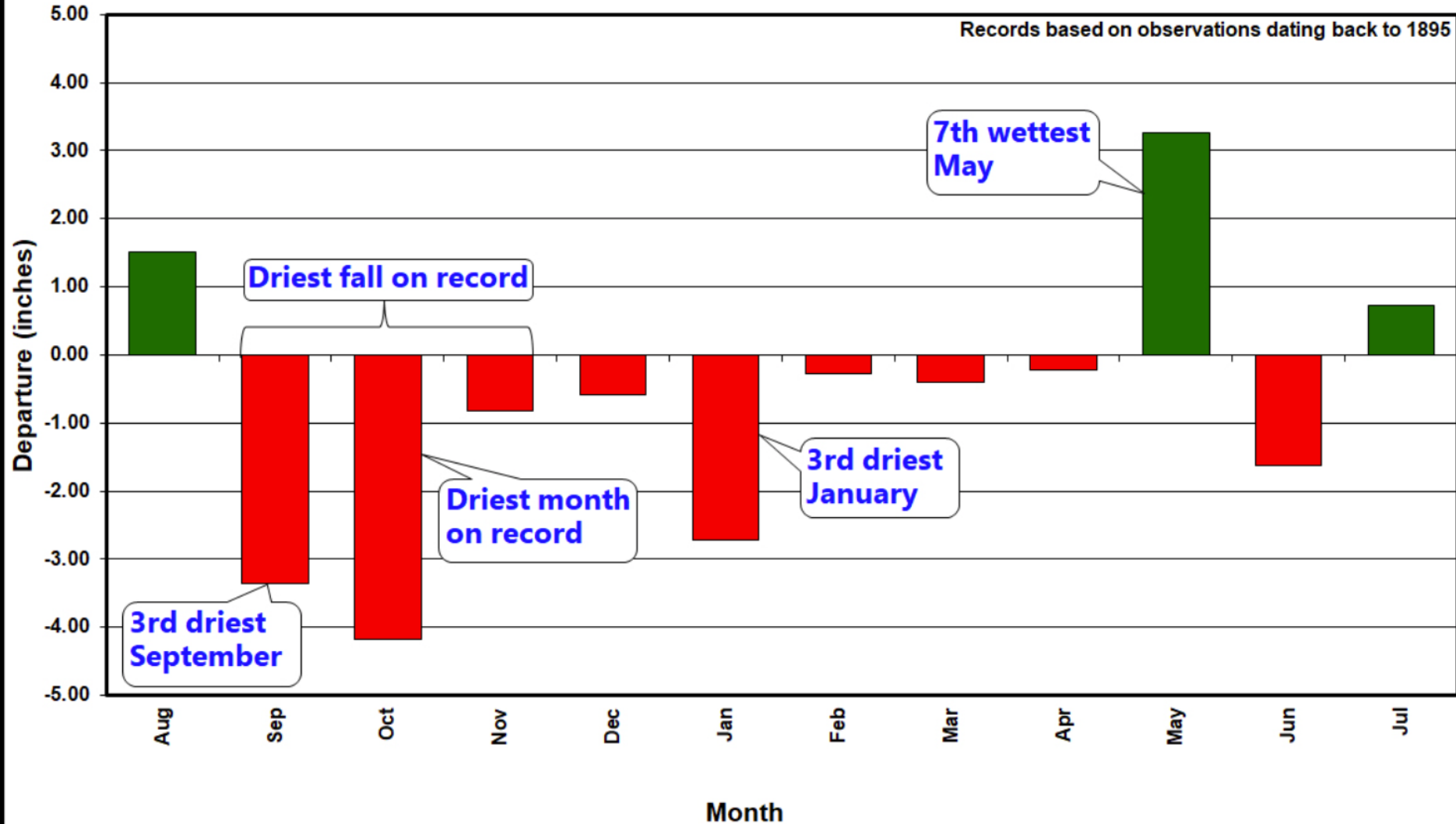
NJ Monthly Temperature Departures (August 2024 – July 2025)

Departures calculated from differences between observed monthly temperatures and 1991–2020 monthly averages



NJ Monthly Precipitation Departures (August 2024 – July 2025)

Departures calculated from differences between observed monthly precipitation and 1991–2020 monthly averages



Future Drought Projections

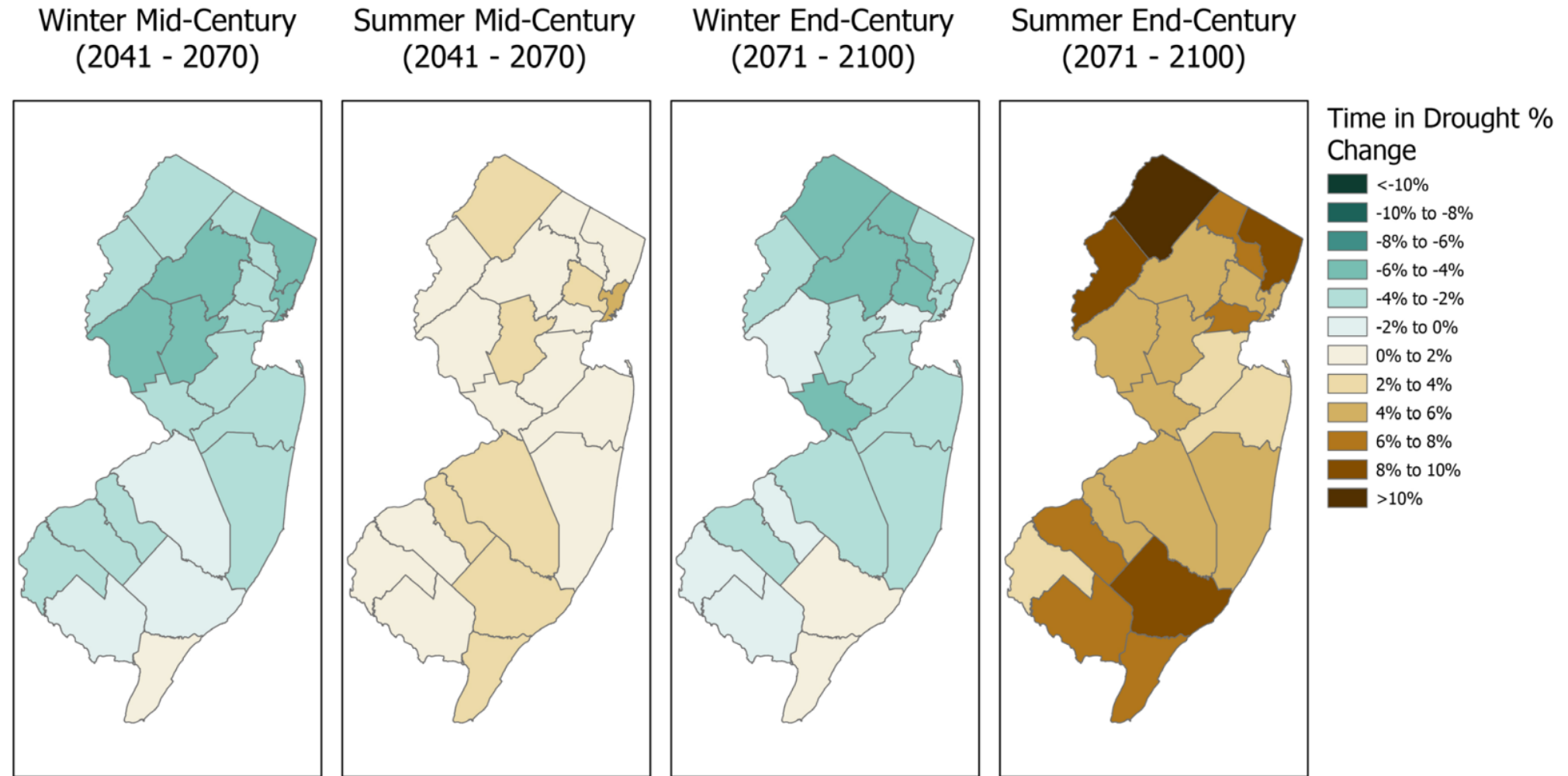
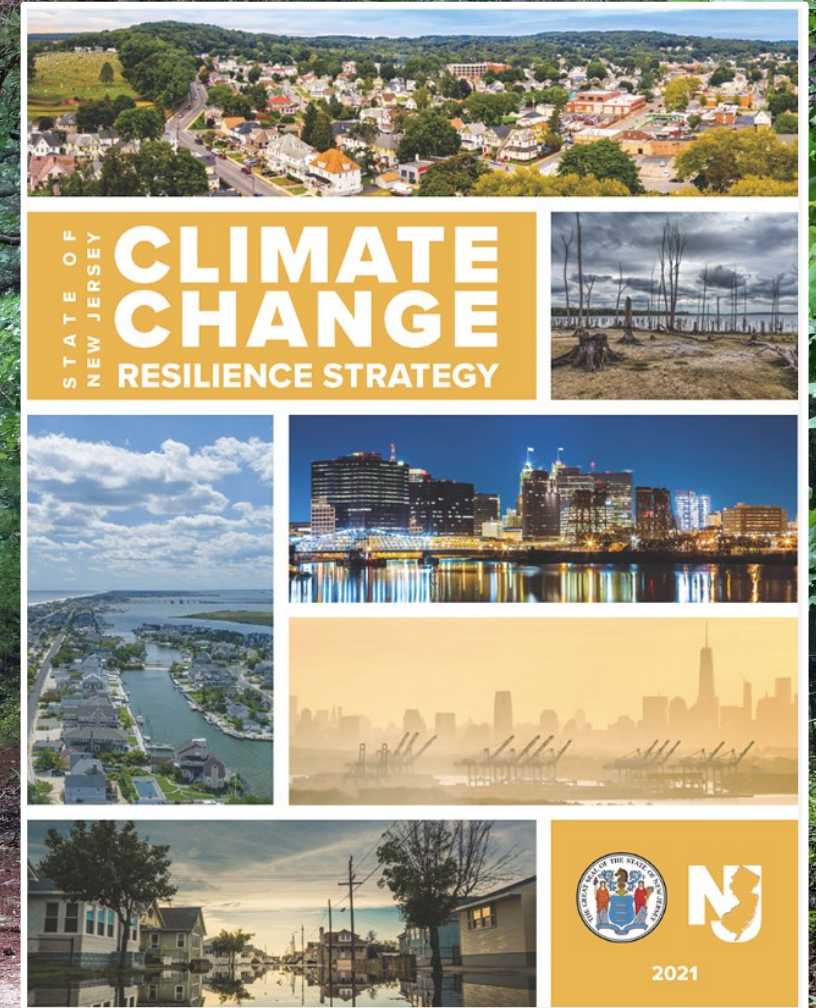


Figure S1. Projected change in percent time in drought conditions by county for the winter and summer seasons by the mid- and end-21st century.

Interagency Council on Climate Resilience

- Established in 2019 by EO No. 89 to develop short- and long-term actions plans that will promote the mitigation, adaptation, and resilience of New Jersey's economy, communities, infrastructure, and natural resources.
- The IAC helps support the development and implementation of the NJ Statewide Climate Change Resilience Strategy (2021).

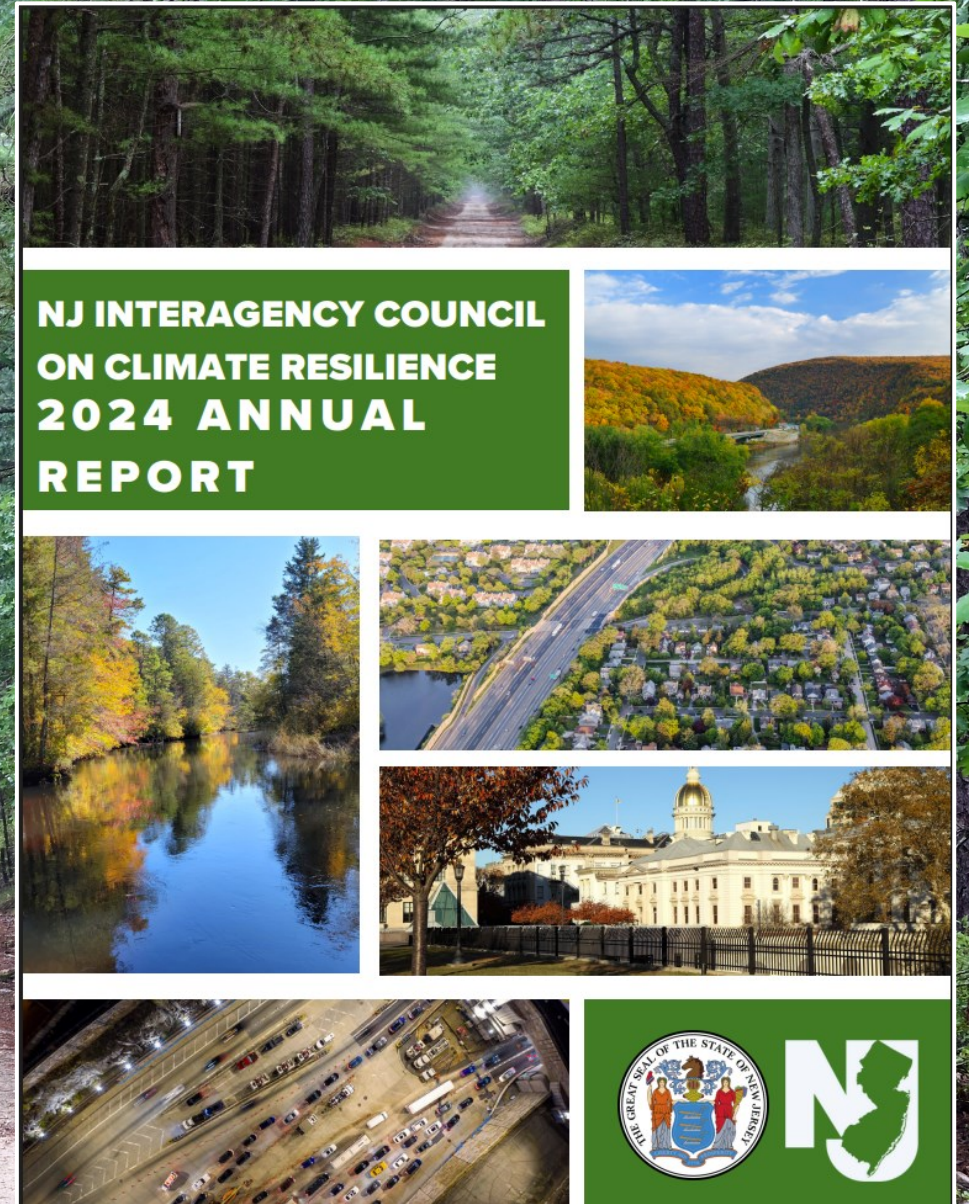


Interagency Council on Climate Resilience

- 26 member agencies
- Strategic direction and support provided by the DEP Office of Climate Resilience
- Monthly meetings; periodic agency-head meetings

IAC Work Products

- **2024 Annual Report – Released in March**
 - Pinelands Management Area Climate Vulnerability Assessment; PCF Acquisition Priorities; Implementation of K-C Rules at municipal level
- **New Jersey Statewide Flood Resilience Initiatives – Released this week**
- **Statewide Extreme Heat Resilience Action Plan – Update planned for later this year**



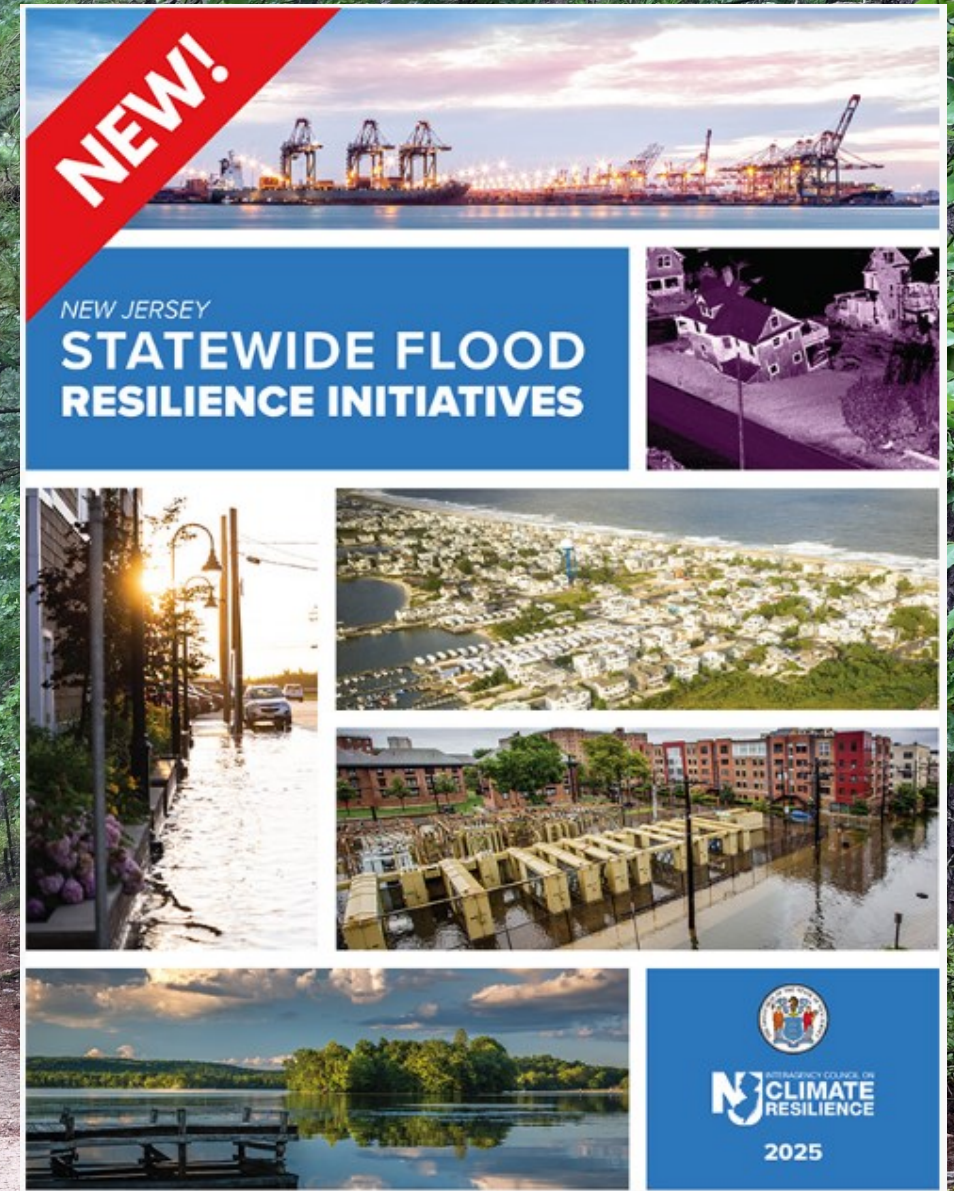
Extreme Heat RAP

- Extreme Heat RAP was released in 2024
 - Heat tolerant native species
- Extreme heat awareness week 2025 (June 2nd – June 6th)
 - 4 Webinars, including one on how Extreme Heat Threatens NJ's Natural World
- 2025 Update due out later this year



Flood Resilience Initiatives

- Flood Safety Week - August 25th – August 29th (This week)
- Statewide Flood Initiatives Report
- Discusses implementation of Pinelands CMP environmental standards including, stormwater management and water supply management.



IAC Working Groups

- **Extreme Heat Coordinated Communications**
 - Focus: developing and disseminating consistent outreach and educational materials on extreme heat (e.g., webinar series)
- **IAC Outreach & Engagement Strategy**
 - Focus: enhancing and improving public understanding of the work of the IAC (e.g., public listening sessions)
- **Vulnerability Assessment**
 - Focus: sharing information on how state agencies are conducting vulnerability assessments; look for standardization where possible (e.g., sharing of latest data and tools – NJ Adapt)



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
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PHILIP D. MURPHY
Governor
TAHESHA L. WAY
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

Memorandum

To: Members of the Policy and Implementation Committee

From: Susan R. Grogan 
Executive Director

Subject: Adoption of Rule Package #1

Date: September 17, 2025

Please find attached for your review and recommendation a packet of information related to Comprehensive Management Plan (CMP) amendments known as Rule Package #1. Rule Package #1 amendments deal with various sections of the CMP including 1) application fees; 2) expiration of completeness documents; 3) Regional Growth Areas and the Pinelands Development Credit Program (PDC); 4) redesignation of the Black Run watershed in Evesham Township from Rural Development Area to Forest Area on the Land Capability Map; and 5) minor clarifications and updates.

Following authorization by the Commission on April 11, 2025, the amendments were published in the New Jersey Register on June 16, 2025. Subsequently, a public hearing was held on July 15, 2025, and written comments were accepted through August 15, 2025. A copy of the original proposal, the written comments, a summary of the oral comments and the draft adoption notice are attached for your review. After reviewing the submitted comments, we recommend adoption of the amendments without change.

A total of 490 commenters submitted comments through written and/or oral testimony. Most comments supported redesignation of the Black Run watershed to Forest Area, either stating specific support of the rule (342) and/or support for added protection of the watershed and its resources (111). Other commenters offered more general support for the proposed amendments, protection of the Pinelands and the natural resources of the Pinelands. The remaining comments discussed application fees, expiration of completeness documents, and the PDC Program in Regional Growth Areas. Copies of all the written comments and a summary of the oral comments are included with this packet.

In addition to the required public hearing and comment period, staff sent or will send notification letters to applicants whose Certificates of Filing or Waivers of Strict Compliance will be expiring. Staff completed an extensive outreach effort to contact 1,647 applicants whose Certificates of Filing were issued between 2004 and August 2025. Over 600 of those notifications were sent by regular mail due to the lack of email addresses. Following Commission adoption of the amendments, staff plans to notify

an additional group of applicants that Waivers of Strict Compliance issued prior to March 2, 1992 will expire one year from the effective date of the amendments. All applicants are afforded the opportunity to submit new applications if they still wish to pursue development of their properties. Re-application is expected to give applicants, municipalities, and the Commission a clearer path to obtaining/issuing/approving local approvals if the application does proceed.

Staff will be prepared to review and discuss the comments and responses to comments at the Policy and Implementation Committee meeting on September 26, 2025. Following the Committee's consideration, and approval by the Governor's office, the resolution will be placed on the agenda of the full Commission for adoption. Our hope is to schedule Commission action for the November 14, 2025 meeting.

If the Commission adopts these amendments on November 14th, publication of the adoption notice in the New Jersey Register would occur in early February 2026. Upon adoption, the amended rules will take effect.

Attachments:

- 1) Draft resolution
- 2) Draft adoption notice
- 3) Summary of Oral Comments
- 4) Compiled Written Comments
- 5) Rule proposal (PRN 2025-063)



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-25-_____

TITLE: To Adopt Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Fees; Certificates of Filing; Waivers of Strict Compliance; Land Capability Map; Regional Growth Areas; Pinelands Development Credits)

Commissioner _____ moves and Commissioner _____ seconds the motion that:

WHEREAS, N.J.A.C. 7:50-5 of the Comprehensive Management Plan sets forth criteria for the designation of Pinelands management areas and depicts the boundaries of these areas on a Land Capability Map, adopted as part of the Comprehensive Management Plan at N.J.A.C. 7:50-5.3(a)24; and

WHEREAS, updated information generated by and made available to the Commission concerning natural resources in the Black Run Watershed indicates that a change in the designation of an area in Evesham Township, Burlington County, from a Rural Development Area to a Forest Area is warranted; and

WHEREAS, the Commission is therefore amending the Land Capability Map adopted at N.J.A.C. 7:50-5.3(a)24 in order to implement the above-described management area change; and

WHEREAS, the Commission has also identified the need to amend the Comprehensive Management Plan to adjust fees required for certain development applications so as to better reflect staff resources expended on the review of such applications; and

WHEREAS, the Commission also wishes to establish expiration provisions for certain Waivers of Strict Compliance, Certificates of Filing and other completeness documents issued by the Commission in order to ensure that proposed development is consistent with current Comprehensive Management Plan standards and reduce the confusion and administrative burden that results when applicants seek to rely on decades-old documents; and

WHEREAS, the Commission further wishes to update provisions related to development and land use in Pinelands Regional Growth Areas, as well as standards related to the allocation, use and severance of Pinelands Development Credits; and

WHEREAS, the Executive Director has submitted to the Commission proposed amendments to the Pinelands Comprehensive Management Plan to accomplish the above-described objectives in a manner that furthers the goals of the Comprehensive Management Plan; and

WHEREAS, on April 9, 2025, the Pinelands Commission authorized publication of the proposed amendments through adoption of Resolution PC4-25-11; and

WHEREAS, the proposed amendments were published in the June 16, 2025, New Jersey Register at 57 N.J.R. 1210(a); and

WHEREAS, the Pinelands Commission held a public hearing to receive testimony on the proposed amendments on July 15, 2025; and

WHEREAS, the Pinelands Commission also solicited written comments on the proposed amendments through August 15, 2025; and

WHEREAS, the Pinelands Commission received both oral and written comments on the notice of proposed amendments; and

WHEREAS, at its September 26, 2025 meeting, the Commission's Policy and Implementation Committee reviewed all public comments received on the proposed Comprehensive Management Plan amendments and the responses prepared by Commission staff; and

WHEREAS, the Pinelands Commission has reviewed the Notice of Adoption dated September __, 2025 and all public comments received by the Commission on the rule proposal; and

WHEREAS, the Pinelands Commission desires to adopt the proposed amendments in accordance with the September __, 2025 Notice of Adoption; 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 adopts the proposed Comprehensive Management Plan amendments as published in the June 16, 2025 New Jersey Register, and in accordance with the attached September __, 2025 Notice of Adoption.
2. The Executive Director shall forward the amendments and minutes of this action to the Governor of the State of New Jersey and shall also forward these amendments to the United States Secretary of the Interior for review in accordance with Section 502 of the National Parks and Recreation Act of 1978.
3. The amendments shall take effect as provided in the Pinelands Protection Act and upon publication in the New Jersey Register.

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: _____ 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 15, 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. Tony Butch
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:

DRAFT

CMP Amendment Public Hearing July 15, 2025

Summary of Oral Comments

The fifty-seven commenters listed below gave oral testimony at the July 15, 2025 public hearing held via Zoom. All spoke in favor of the redesignation of the Black Run watershed from Rural Development Area to Forest Area. The public hearing was recorded and can be viewed on the Commission's YouTube page: <https://www.youtube.com/watch?v=MDXpTFQXsv4>

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|------|------------------------------------|------|--|
| 21. | Lori Chimento | 159. | Dominic Sorrentino |
| 41. | Carly Degirolamo | 160. | Kate Brady |
| 65. | Tracey Doron | 161. | Jason Howell, Pinelands
Preservation Alliance |
| 89. | Kevin Papa | 162. | Tom Kenny |
| 135. | Dave Storms | 163. | Sheila Woznuknau |
| 136. | Tina Cooper | 164. | Trisha Beling |
| 137. | Maegan Kuhlmann, NJ Sierra
Club | 165. | Lisa & Brian Berg |
| 138. | Kyle Novoa | 166. | Alaina Bromley |
| 139. | Jessica Vanliere | 167. | Dr. Amy Golden, Friends of
the Black Run Preserve |
| 140. | Jackie Greger, NJ Sierra Club | 168. | William Skinner |
| 141. | Vanessa Marrocco | 169. | Nika Svirinazichyus |
| 142. | Denise Brush | 170. | Maureen Toman-Logan |
| 143. | Jessica Bader | 171. | Rose Taylor |
| 144. | Lea Dixon | 172. | Francesca Martelli |
| 145. | Denise Pietsch | 173. | Jaylin Baez |
| 146. | Julia Gandy | 174. | Christy Steglik |
| 147. | Mary Peyerl | 175. | Maria Pezzato |
| 148. | Leonard Morlino | 176. | Mandy Skalski |
| 149. | Katie Prutzman | 177. | Amy Gonzalez |
| 150. | Alex Meder | 178. | Teresa Mullen |
| 151. | Patrick Ditmars | 179. | Olga Koturlash |
| 152. | Carolyn McCrath | 180. | Susan Pettijohn |
| 153. | Alaina Clune | 181. | Ahnelizse Solwaczny |
| 154. | Diane Herbert | 182. | Rosemary Bernardi |
| 155. | Bill Craig | 183. | Dan Donnelly |
| 156. | Karen Greenfeld | 184. | Vanessa Garcia |
| 157. | Julia Maravich | | |
| 158. | Claire Joslyn | | |

displayed on the meter for a representative number of impulses. If the “hold” setting is employed after measuring an impulse, press the reset button to prepare for measurement of the next impulse. If [the] **there are numerous** impulses [follow each other rapidly as for example in a fusillade], it is not necessary to measure every impulse. [In such a case, measure as many impulses as feasible, estimate the number of impulses occurring, and the time period during which they occur.] **Impulsive sounds that are rapidly repetitive over a duration of one second or longer shall be measured as continuous airborne sound.**

vi. While making sound level measurements, observe whether the meter reading is increased by extraneous sound sources such as passing vehicles, aircraft flying overhead, barking dogs, etc. In such cases, postpone the sound level measurement until the extraneous sound has abated. [This shall not apply, however, if the source of the extraneous sound is located on the facility under investigation.]

vii. There are instances in which the sound propagation from a source is such that the sound level varies significantly with [altitude] **elevation**. In such cases, [connect the sound level meter to its microphone by a long cable and, after calibrating, elevate the microphone with a long pole or other means to measure the sound level at different altitudes.] **the investigator may also conduct measurements at the window or other appropriate elevation of the affected person. A field calibration check of the assembled sound measurement equipment shall be performed in accordance with (f)ix below.**

viii. (No change.)

ix. [No less frequently than at one hour intervals during the investigation,] **Prior to beginning sound measurements**, and again at the conclusion of measurements, [calibrate] **perform a field calibration check** of the sound level meter, check the condition of the batteries, measure the wind speed, and record the results for inclusion in the Noise Measurement Report. If the sound level meter has drifted more than 0.5 dB off calibration, or if the sound level meter battery check procedure indicates that the battery charge is too low, or if the wind speed has increased to greater than 12 miles per hour (5.4 meters per second), then measurements taken since the previous calibration check shall be considered invalid. A meter with an electronic display showing a “low battery” indication may continue to be operated for the duration specified in the manufacturer’s manual without invalidating the previous readings, if a subsequent calibration check is satisfactory. [Wind gusts over 12 miles per hour (5.4 meters per second) that begin after at least one hour of measurements shall not invalidate measurements already collected.] **Periodic wind gusts greater than 12 mph shall not invalidate measurements taken during periods when sustained wind speeds remain at or below 12 mph.**

2.-3. (No change.)

7:29-[2.10]**2.8** Calculations

(a) Corrected source sound level: Correct the total sound level for the neighborhood residual sound in accordance with the procedure for using Table 1 to determine the sound level from the sound source of interest. If the difference between the total sound level and the neighborhood residual sound level is greater than 10 dB, no correction is necessary.

TABLE 1

THE DETERMINATION OF SOURCE SOUND LEVEL FROM TOTAL AND NEIGHBORHOOD RESIDUAL SOUND MEASUREMENTS

A Sound Level Difference (Decibels)	B Correction Factor (Decibels)
0.5	9.6
1	[7] 6.9
2	[4] 4.3
3	3
4	[1.8] 2.2
5	[1.6] 1.7

A Sound Level Difference (Decibels)	B Correction Factor (Decibels)
6	[1.2] 1.3
7	[1] 1.0
8	[0.75] 0.7
9	0.6
10	0.5
Greater than 10	0.0

Procedure for Using Table 1 (No change.)

7:29-[2.11]**2.9** Qualifications of enforcement personnel

For the purposes of this chapter, an employee representing an authorized enforcement agency shall be considered qualified to [make noise] **conduct sound** measurements and enforce [the State’s Noise] rules] **this chapter** or a municipal noise ordinance approved by the Department,[as the case may be] if such person completes a noise certification course, and is recertified, at least once every two years, at a **Department-approved** noise certification course [which] that is offered by [the Department of Environmental Sciences of Cook College,] Rutgers, the State University of New Jersey, or another **Department-approved institution, found at the Department’s noise control website (currently at www.nj.gov/dep/enforcement/ncp.html).** The Department [of Environmental Protection] shall provide an extension for recertification on a case-by-case basis beyond the [two year] **two-year** period for a person until the next time the recertification course is offered. Such requests shall be made, in writing, **by submitting a Department-approved form, available from the Department’s noise control website**, to the Department at least 10 working days prior to the expiration of the person’s certification. **The Department will consider, on a case-by-case basis, a request for an extension for recertification that is submitted fewer than 10 working days prior to the expiration of the person’s certification, if the person presents documentation of an emergency or extenuating circumstance that prevented timely submission of the request. If a scheduled recertification course is canceled, the person’s certification shall automatically be extended, without making a request to the Department, until the next time the recertification course is offered.**

(a)

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

Proposed 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

Authorized By: New Jersey Pinelands Commission, Susan R. Grogan, Executive Director.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-063.

A **public hearing** concerning this notice of proposal will be held virtually on July 15, 2025, at 9:30 A.M.

A link to the virtual public hearing and more information about the live hearing will be provided on the Pinelands Commission's (Commission) website at <https://www.nj.gov/pinelands/home/hearings/>.

Submit written comments by regular mail, facsimile, or email by August 15, 2025, to:

Susan R. Grogan, P.P., AICP
Executive Director
Pinelands Commission
PO Box 359
New Lisbon, NJ 08064
Facsimile: (609) 894-7330
Email: planning@pinelands.nj.gov or through the Commission's website at <http://nj.gov/pinelands/home/contact/planning.shtml>

The name and email address of the commenter must be submitted with all public comments. Commenters who do not wish their names and affiliations to be published in any notice of adoption subsequently prepared by the Commission should so indicate when they submit their comments.

The agency proposal follows:

Summary

The New Jersey Pinelands Commission ("Pinelands Commission" or "Commission") proposes to amend 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 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 many times, most recently in December 2023, through a set of amendments related to water management, which strengthened the ecological protections of the Kirkwood-Cohansey aquifer (See 55 N.J.R. 247(a)).

The proposed amendments relate to: (1) application fees; (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 proposed amendments were discussed and reviewed at multiple public meetings of the Commission's CMP Policy & Implementation Committee between 2022 and 2024. With respect to the proposed amendment to the Pinelands Land Capability Map, a more significant outreach effort was undertaken over an extended period of time. The rulemaking was the subject of discussion at numerous public Policy & Implementation Committee meetings in 2015 and 2016, during which time a series of meetings were also held with Evesham Township officials and representatives of the major property owner in the affected area. A full rulemaking was drafted at that time, but ultimately did not proceed. In more recent years, Commission staff drafted a simpler rulemaking and met with Evesham Township representatives, neighboring residents, legislators, and the non-profit organization charged with overseeing the existing Black Run Preserve. All indicated a strong interest in providing increased protection to the area.

If requested, Commission staff will provide a presentation on the proposed amendments at a public meeting of the Pinelands Municipal Council (PMC). The PMC, created by the Pinelands Protection Act, is made up of the mayors of the 53 municipalities in the Pinelands Area, or their designees. The PMC is empowered to review and comment upon changes to the CMP proposed by the Commission and advises the Commission on matters of interest regarding the Pinelands. The PMC has unfortunately been inactive since late 2022, but could play an important role in the review of these and any future proposed CMP amendments.

Application Fees

Since April 2004, the Commission has assessed 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 application process (see 36 N.J.R. 1804(a)). The Commission previously amended its fee schedule in June 2006 (see 38 N.J.R. 2708(a)), December 2008 (see

40 N.J.R. 6805(a)), March 2018 (see 50 N.J.R. 969(a)), and December 2023 (see 55 N.J.R. 247(a)).

A series of amendments to the Commission's application fee requirements are now being proposed to better align fees with the staff resources expended on development applications involving: the resolution of an existing, identified violation of the CMP; a Waiver of Strict Compliance to alleviate an extraordinary hardship; or a Letter of Interpretation. The proposed fee increases are reflected in the proposed amendments at N.J.A.C. 7:50-1.6(e), (g), and (h).

Applications Involving CMP Violations

New rules at N.J.A.C. 7:50-1.6(e)3 and 4 are proposed to address staff resources expended on the review of development applications that are submitted, in whole or in part, to resolve an identified violation of the CMP. Proposed new paragraph (e)3 will assess an additional fee of \$1,000 when a major development application is submitted, in whole or in part, to resolve an identified violation. Proposed new paragraph (e)4 will assess an additional fee of \$500.00 when a minor development application is submitted, in whole or in part, to resolve an identified violation. The terms "development, major" and "development, minor" are defined at N.J.A.C. 7:50-2.11. Major development means any subdivision of land into five or more lots, construction of five or more dwelling units, nonresidential development on a site of more than three acres in size, or grading, clearing, or disturbance of an area in excess of 5,000 square feet. In both cases, this new fee is to be assessed in addition to the application fee already required pursuant to N.J.A.C. 7:50-1.6(a), (b), (c), (d), or (f).

Violations of the CMP most often involve development that has occurred on a parcel in the Pinelands Area without prior application to the Commission or local approval by the relevant county or municipality. Such development typically consists of clearing, expansion of nonresidential buildings or structures (for example, parking lots), or construction of accessory structures. A violation may also occur when development on a parcel is not in accordance with a previously approved site plan, leading to inconsistencies with the approved stormwater management plan or maintenance of required buffers to wetlands. When such a violation is identified, the landowner is usually required to submit a development application to the Commission for the development that has occurred without approval. Existing violations of the CMP are often identified during the review of a separate and subsequent development proposal for which an application is submitted after the unpermitted development activity has occurred. In such cases, the applicant is required to amend their development application to resolve the violation.

The fee increase is proposed to recognize the additional staff resources required to identify, evaluate, and resolve violations. Multiple site visits are often necessary, as are meetings with applicants, their representatives, and relevant county and municipal officials. Staff must often interpret aerial photography, spanning decades, to identify the extent of violations and the timeframe within which they occurred. In some cases, staff are asked to appear in court in support of municipal enforcement actions. Applicants are often required to design and submit restoration plans that the Commission must review and sometimes monitor. The increased fee is in no way intended to be punitive. It is merely a way of ensuring that fees for various types of development applications appropriately correspond to the staff resources required to review and process them.

Pursuant to the current rules, an applicant, regardless of whether the application involves a violation, is assessed an application fee based on the application fee provisions at N.J.A.C. 7:50-1.6(a), (b), (c), (d), or (f), as well as the characteristics of the proposed development. This may include any existing development included in the application to resolve an identified violation. For example, if an applicant constructed an accessory structure or cleared an acre of land without prior application to the Commission or approval by the relevant municipality, the applicant would be assessed the same fee as an applicant that applied and received approvals prior to the construction or clearing. Pursuant to the proposed amendment, the application to resolve the violation would be assessed an additional fee of \$500.00 or \$1,000, depending on the size and intensity of the development.

In the 10-year period between 2013 and 2023, there were approximately 1,000 CMP violations reported, of which approximately 650 were pursued by the Commission. The majority occurred on privately

owned parcels. Less than 10 percent were associated with public development, which includes State, county, and municipal lands and projects. Of the 650 violations pursued, 75 percent met the definition of minor development.

The fees assessed for minor development applications involving a violation were generally less than \$500.00 per application. The proposed amendment would require an additional \$500.00 when a minor development application is submitted, in whole or in part, to resolve an identified violation.

Less common are substantial violations involving extensive clearing, soil disturbance, or the construction of new or expanded nonresidential structures at a scale that meets the definition of major development. Examples in recent years include installation of storage buildings, establishment of a composting facility, and expansion of active recreational facilities. In these cases, an application to resolve the violation would be assessed an additional fee of \$1,000.

Given the staff time and effort necessary to review and resolve violations, even those characterized as minor development, the Commission believes these increased fees are justified and appropriate.

Recodified N.J.A.C. 7:50-1.6(e)6 is proposed for amendment to maintain the existing application fee cap of \$25,000 for applications submitted by a public agency and \$50,000 for all other applications. However, the rule is amended to allow those caps to be exceeded if the application involves an existing violation. Pursuant to the proposed amendment, if an assessed application fee reaches the established fee cap and the application for development involves the resolution of an existing violation, then the proposed rule would allow the cap to be exceeded by as much as \$500.00 for a minor development application and by as much as \$1,000 for a major development application.

The existing rule at N.J.A.C. 7:50-1.6(g) provides an application fee cap of \$500.00 for applications submitted by a qualified tax-exempt religious association or corporation or a qualified tax-exempt non-profit organization. In similar fashion to the amendment proposed at paragraph (e)6, an amendment is proposed at subsection (g) to allow the established cap to be exceeded if the application involves the resolution of an existing violation. Pursuant to the proposed amendment, if an assessed application fee reaches the \$500.00 fee cap and the application for development involves the resolution of an existing violation, then the proposed rule would allow the cap to be exceeded by as much as \$500.00 for a minor development application and by as much as \$1,000 for a major development application.

Applications Requiring a Waiver of Strict Compliance

The CMP provides procedures and standards by which the Commission is authorized to waive strict compliance with the standards in the CMP (see N.J.A.C. 7:50-4 Part V). If a development proposal is not consistent with all applicable requirements of the CMP, it cannot be carried out without a valid Waiver of Strict Compliance. Waivers granted pursuant to these provisions are intended to provide relief where strict compliance with the CMP will create an extraordinary hardship or where the waiver is necessary to serve a compelling public need.

Proposed new N.J.A.C. 7:50-1.6(e)2 addresses staff resources expended on the review of development applications requiring a Waiver of Strict Compliance to alleviate an extraordinary hardship. The proposed rule will assess an additional fee of \$250.00 for any application submitted that requires such a waiver. This lump sum fee is assessed in addition to any applicable fee for development assessed in accordance with N.J.A.C. 7:50-1.6(a), (b), (c), (d), or (f).

The proposed fee is necessary to recognize the additional staff resources required to review and process waiver applications seeking to alleviate an extraordinary hardship in accordance with N.J.A.C. 7:50-4.63. All such applications involve additional staff resources beyond those that are required of a typical development application, as staff must: ensure that the applicant has properly met all notice requirements provided by the CMP; schedule an opportunity for public comment; review and consider any submitted public comment; draft a report and resolution, along with a recommendation for the Commission's consideration; and schedule the waiver application for final consideration at a Commission meeting. These procedural obligations are in addition to the substantive review that must also occur, requiring historical research

related to ownership of the parcel and contiguous lands and determining the minimum buffers that must be maintained to one or more wetlands areas on a parcel.

The new \$250.00 fee is not expected to impact many applicants. Over the past 10 years, the Commission has approved an average of just three extraordinary hardship waiver applications per year. The increased fee is, therefore, likely to impact only a small number of applicants and is not expected to generate a significant increase in application fee revenue. The proposed fee is also quite modest, in recognition of the fact that waivers to alleviate an extraordinary hardship are almost always associated with an application to develop only one single-family dwelling unit.

It should be noted that, for any waiver granted to alleviate an extraordinary hardship that has expired in accordance with N.J.A.C. 7:50-4.70, the applicant must resubmit an application for a new waiver if they wish to pursue the development. Such an application will be assessed a fee in accordance with N.J.A.C. 7:50-1.6, including the additional \$250.00 fee if the application still requires a waiver.

If an applicant is seeking a waiver to alleviate an extraordinary hardship for the sole purpose of demonstrating that the parcel is of "limited practical use" pursuant to N.J.A.C. 7:50-9.2(a), the proposed rule will not require the applicant to pay the additional \$250.00 fee. The Limited Practical Use Land Acquisition Program (LPU Program) offers owners of small properties with a limited development potential an opportunity to sell their properties to the State. The regulations associated with the LPU Program were adopted by the Commission in 1995 and are set forth in the CMP at N.J.A.C. 7:50-9. To be eligible for an acquisition pursuant to the LPU Program, the property must be less than 50 acres in size and the property owner may not own 50 or more acres total anywhere in the Pinelands National Reserve. In addition, the Pinelands Commission must have denied an application requesting a waiver for the development of a residential unit on the property. While the staff does devote time and attention to the review and processing of such waiver applications, it is typically somewhat less extensive. More importantly, the Commission does not want to discourage property owners interested in pursuing State acquisition through the LPU Program.

While the Commission may also approve waivers based upon a compelling public need in accordance with N.J.A.C. 7:50-4.64, no additional fee is proposed for that type of waiver. This latter category of waiver generally involves large, nonresidential development that, pursuant to the existing rules, are assessed an application fee that appropriately aligns with staff resources spent on the review and processing of such applications.

Applications Requesting a Letter of Interpretation

Letters of Interpretation (LOI) are issued by the Commission pursuant to N.J.A.C. 7:50-4, Part VI, at the request of an applicant. LOIs may be requested for any standard set forth in the CMP and, upon issuance by the Commission, are valid for five years. The majority of LOI applications involve requests for an allocation of Pinelands Development Credits (PDCs) to a particular parcel. Most other LOI applications relate to the extent of wetlands or wetlands buffer areas on specific parcels.

New rules at N.J.A.C. 7:50-1.6(h)2 and 3 are proposed to establish distinct fees for wetlands-related Letters of Interpretation (LOIs) in order to better reflect the amount of staff time and effort typically required for these types of applications. The existing rules at N.J.A.C. 7:50-1.6(h) assess a fee of \$250.00 for all LOIs, except there is no fee for an initial LOI involving the allocation of PDCs or an amended PDC LOI after a period of five years. The proposed rule at paragraph (h)2 increases the application fee to \$1,000 for an LOI that determines the presence or absence of wetlands or wetlands transition areas on a parcel. The proposed rule at new paragraph (h)3 increases the application fee to \$1,000, plus \$100.00 per acre of a parcel, or portion thereof, for an LOI that verifies wetlands boundaries or determines the extent of any required wetlands transition area. As an example, an application for an LOI as to the extent of wetlands or required buffers on a parcel of 25.3 acres would be assessed a fee of \$1,000, plus \$2,600 for a total of \$3,600. While such an increase is not insignificant for the applicant, it appropriately reflects the need for site visit(s), fieldwork, and sometimes complex analysis to determine multiple wetlands buffer requirements, given the size of the parcel.

It should be noted that the proposed rule includes a cap on the fee for an LOI involving the extent of wetlands or required wetlands buffer areas. In keeping with existing fee caps at recodified N.J.A.C. 7:50-1.6(e)6, the maximum fee will be \$25,000 if the LOI applicant is a public entity and \$50,000 if the applicant is a private landowner or development. While it is unlikely that there will be many wetlands-related LOI applications on parcels large enough to reach these caps, the Commission, nevertheless, feels that it is appropriate to consider and address that possibility in the rule.

As noted above, these fee increases are proposed to better reflect staff resources expended on the review and processing of applications requesting LOIs where extensive fieldwork and analysis by staff is required. The increased fees are consistent with those currently assessed by the Department of Environmental Protection (DEP) at N.J.A.C. 7:7A-18.1(f) for similar types of LOIs. The Commission believes the DEP's LOI fee structure adequately and appropriately reflects the staff resources expended on these types of applications. A 1993 Memorandum of Agreement (MOA) between the Commission and the DEP provides additional justification for the Commission's decision to align its LOI fees with the DEP's fees for similar LOIs. Pursuant to the MOA, the DEP delegated to the Commission, its responsibility to fulfill the requirements of the Section 404 program of the Federal Clean Water Act and to establish a framework for the protection of wetlands within the Pinelands Area. Through this agreement, the Commission assumed responsibility for issuing LOIs to verify the presence or absence of wetlands and to verify wetlands boundaries in the Pinelands Area.

Recodified N.J.A.C. 7:50-1.6(h)4 is proposed for amendment to raise the application fee for all LOIs that do not involve wetlands or the allocation of PDCs from \$250.00 to \$500.00. Such LOIs could involve the clarification or interpretation of any provision of the CMP, such as whether an existing use qualifies for the provisions at N.J.A.C. 7:50-5.2 that permits expansion or changes to nonconforming uses. While relatively few such LOI applications are submitted to the Commission, they can require significant staff resources to research and analyze. The increased fee remains quite modest, while better reflecting the necessary level of staff time and effort.

There will continue to be no fee for an initial PDC LOI application or an amended PDC LOI application submitted five years after the prior LOI was issued. Likewise, the application fee for an amended PDC LOI requested within five years of issuance of the original LOI will remain \$250.00, plus \$6.25 per acre of land for which the amended LOI is requested.

The fee increase is not expected to generate a significant increase in revenue, because the Commission receives and processes relatively few non-PDC LOI applications each year. Since January 2014, the Commission has received approximately 35 non-PDC LOI applications, which equates to an average of four per year. All but two of these applications requested LOIs related to wetlands, either for the presence or absence of wetlands or for confirmation of the extent of wetlands and required wetlands buffer areas. Each applicant paid a fee of just \$200.00 or \$250.00 based on the CMP regulations in effect at the time of application. Pursuant to the proposed rules, the required fee would be a minimum of \$500.00, with additional fees assessed for those LOIs seeking confirmation of wetlands delineations or determination of wetlands buffer requirements. While clearly not a major component of the Commission staff's application review workload, the Commission believes it is important that application fees better reflect staff resources expended on applications requesting these types of LOIs.

Expiration of Completeness Documents and Waivers of Strict Compliance

A series of amendments are proposed to establish expiration provisions for completeness documents and certain Waivers of Strict Compliance. The purpose of these amendments is to reduce the administrative burden imposed on Commission staff, local permitting agencies, and applicants, while also ensuring that any proposed development is consistent with current CMP standards and taking into consideration current environmental conditions of lands proposed for development. The proposed changes are reflected at N.J.A.C. 7:50-4.15, 4.34, and 4.70.

Expiration of Completeness Documents

The CMP provides procedures and standards for the issuance of completeness documents referred to as Certificates of Completeness and Certificates of Filing. No county or municipal permitting agency is permitted to deem any application for development in the Pinelands Area complete unless it is accompanied by either a Certificate of Completeness or a Certificate of Filing issued by the Executive Director of the Commission.

A Certificate of Completeness, issued in accordance with N.J.A.C. 7:50-4.15, verifies that a complete application for development has been filed with the Commission for development in a county or municipality whose master plan and land development ordinances *have not been* certified by the Commission. Prior to December 1994, a Certificate of Completeness was referred to in the CMP as a Certificate of Compliance (see 26 N.J.R. 4795(a)). Certificates of Compliance are incorporated in the statistics provided below and are treated as Certificates of Completeness in the existing rules and as amended in this rulemaking.

A Certificate of Filing, issued in accordance with N.J.A.C. 7:50-4.34, verifies that a complete application for development has been filed with the Commission for development in a county or municipality whose master plan and land development ordinances have been certified by the Commission. As of 2013, the master plans and land use ordinances of all counties and municipalities in the Pinelands Area have been certified in accordance with N.J.A.C. 7:50-3 Parts II and IV.

Once an applicant has received a completeness document issued by the Commission, they may proceed to the local permitting agency to apply for any necessary county or municipal approvals. Pursuant to the existing rules at N.J.A.C. 7:50-4.19, 4.22, 4.37, and 4.40, Commission staff must review any preliminary or final local development approval to ensure that the approved development conforms to the minimum standards of the CMP and the relevant certified local land development ordinance. This review process ensures that any previously identified inconsistencies communicated in the completeness document have been resolved and that any other modifications to the proposal since the completeness document was issued are consistent with current CMP standards. As part of that review, staff must also consider whether the proposed development is consistent with any CMP standards that have been amended since the issuance of the completeness document. This aspect of the review can be substantial, depending on the time elapsed since the completeness document was issued, the scope of the project, and whether any significant changes to the environmental conditions of the land proposed for development have occurred.

In the past 15 years alone, significant amendments have been made to CMP standards regulating onsite wastewater treatment systems, residential clustering, stormwater management, and water management. Amendments to CMP standards often render the application review that preceded the issuance of the completeness document obsolete. The more time that has elapsed between the issuance of a completeness document and the local approval, the greater the chance that the proposed development no longer meets current CMP standards. In many cases, decades may have passed, properties may have been sold multiple times, and applicants and local permitting agencies are unaware that a proposed development project is no longer meeting the current standards of the CMP or the municipal land use ordinance.

If Commission staff reviews a local development approval and finds that the approved development does not conform with the minimum standards of the CMP and the provisions of the certified local land use ordinance, then the local approval is called up for review pursuant to N.J.A.C. 7:50-4.38 or 4.42. This triggers the need to schedule and hold a public hearing, for Commission staff to compile a report to be submitted to the Pinelands Commission, and for the Commission to make a determination on whether to approve, approve with conditions, or disapprove the local approval. In almost all cases, the applicant opts to revise their development proposal to resolve any inconsistencies prior to the Commission's rendering a formal decision. Any revised proposal must also be resubmitted to the local permitting agency for review and approval, in some cases triggering additional hearings on the application before the local Planning or Zoning Board.

Amendments are proposed at N.J.A.C. 7:50-4.15 to establish expiration provisions for Certificates of Completeness, and amendments are proposed at N.J.A.C. 7:50-4.34 to establish expiration provisions for Certificates of Filing. These proposed expiration provisions (new N.J.A.C. 7:50-4.15(b) and (c) and 4.34(c) and (d)) are the same for both types of completeness documents. Pursuant to the proposed new subsections, any certificate issued prior to January 1, 2004, shall be deemed expired and may not be used to obtain local approval or approval by the Commission. Any certificate issued on or after January 1, 2004, will expire five years after it has been issued unless the applicant has obtained local approval and the Executive Director has determined that the locally approved development is consistent with the minimum standards of the CMP.

Pursuant to the proposed new subsections, an applicant seeking local development approval, whose Certificate of Completeness or Certificate of Filing has expired, will need to reapply to the Pinelands Commission to receive a valid completeness document prior to any subsequent county or municipal approval. Through the process of reapplying, the applicant will be made aware of any inconsistencies that the development proposal has with respect to current CMP standards, taking into consideration current environmental conditions of the lands proposed for development. This will allow the applicant to address those inconsistencies prior to receiving local approval and, therefore, reduce the incidence of applicants having to return to the local permitting agency with revised development proposals.

Although the master plans and land use ordinances of all counties and municipalities in the Pinelands Area are certified, the rules for development review in jurisdictions without certification are maintained in the event that county or municipal certification is revoked or suspended in the future, in accordance with N.J.A.C. 7:50-3.64. Therefore, the proposed amendments will apply to any future Certificates of Completeness issued in the event that a county or municipality is no longer certified.

Upon adoption of the proposed rulemaking, Certificates of Completeness and Certificates of Filing issued between 1980 and 2003 will be deemed expired. The Commission issued approximately 12,600 certificates during that period. Of those issued, approximately 2,500 certificates were for development that did not obtain a local approval that was reviewed and approved by the Executive Director. Pursuant to the current rules, these 2,500 applications, filed between 20 and 43 years ago, could pursue local development approval at any time, using their now very old certificates as evidence of completion of an application with the Commission. As described above, it is unlikely that the development proposed in these decades-old applications meets current CMP or municipal standards, given the time elapsed. The proposed rules recognize the problems that can and have arisen when property owners attempt to pursue local approvals using such outdated documents, only to subsequently discover that their projects do not comply with current CMP standards and may need to be significantly redesigned. Assigning an expiration date to these old certificates sends an appropriate signal to property owners, applicants, and municipalities that new applications and reviews are necessary.

Certificates of Completeness and Certificates of Filing issued after 2004 will expire five years after their date of issuance pursuant to the proposed rules, unless the applicant received local approval for the development, and the local approval was reviewed and approved by the Executive Director. Between 2004 and 2023, the Commission issued approximately 4,600 certificates. Of those issued, approximately 1,700 certificates were for development that never obtained a local approval that was reviewed and approved by the Executive Director. Of those 1,700 certificates, approximately 1,250 certificates were issued prior to 2018 and would be deemed expired pursuant to the proposed rules. The remaining 450 certificates will expire once five years have elapsed from the date of issuance, unless a local approval is granted and the approval is reviewed and approved by the Executive Director.

It is also noted that, pursuant to the proposed rules, it is not sufficient for an applicant to have received a local approval in order to avoid the expiration of their completeness document. The local approval must also have been reviewed, determined to be consistent with the CMP, and allowed to take effect by the Executive Director. The CMP requires, at

N.J.A.C. 7:50-4.18 and 4.35, that notice of any preliminary or final site plan, subdivision, or other development approval be provided to the Commission within five days of issuance. However, there are instances where the Commission is not notified or does not receive all of the required information associated with a local approval to enable its review for consistency with the CMP. This may include site plans or professional reports. In those instances, the completeness document will not be protected from expiration.

If a completeness document expires pursuant to the proposed rules, the applicant must reapply to the Commission and receive a valid Certificate of Filing prior to proceeding to the local permitting agency for county or municipal approval. In such cases, applicants will have to submit an application fee in accordance with N.J.A.C. 7:50-1.6. Most certificates that will immediately expire pursuant to the proposed rules are for single-family residential units on existing lots. In fact, 94 percent of the certificates issued by the Commission prior to 2004 for residential development were for minor development (for example, applications for four or fewer residential units). Pursuant to the proposed rule, those applicants whose certificates expired will be required to reapply for a new Certificate of Filing, which will be assessed an application fee of \$250.00 per dwelling unit or lot, whichever is greater, in accordance with N.J.A.C. 7:50-1.6(b). Some expired certificates were associated with much larger proposed developments involving significant acreage, which will appropriately be assessed larger application fees as they necessitate more comprehensive reviews. For example, an applicant may need to complete updated surveys to determine the presence of critical habitat for a threatened or endangered animal species or reconfigure a project's design in order to accommodate new or additional stormwater management measures.

Expiration of Waivers of Strict Compliance

As described above, the CMP provides procedures and standards for the Commission to waive strict compliance with the minimum standards of the CMP (see N.J.A.C. 7:50-4 Part V). These exemptions, required pursuant to the 1979 Pinelands Protection Act, are called "Waivers of Strict Compliance" (Waivers). Waivers are somewhat similar in concept, although not identical, to zoning variances issued by municipalities. Unlike variances; however, Waivers of Strict Compliance are exemptions from CMP standards and can only be granted by the Pinelands Commission to alleviate extraordinary hardships or to satisfy compelling public needs. The Commission must also determine that granting the waiver will not result in a substantial impairment of Pinelands resources and will not be inconsistent with the purposes, objectives, or general spirit of the Pinelands Protection Act, the Federal Act, or the Comprehensive Management Plan.

In March 1992, the Commission adopted a series of amendments to the CMP waiver regulations that provide greater environmental protections to Pinelands resources by setting stricter waiver standards (see 24 N.J.R. 832(b)). Among those amendments was an expiration provision for waivers granted to alleviate an extraordinary hardship. Pursuant to the current rules, at N.J.A.C. 7:50-4.70(c), such waivers, granted on or after March 2, 1992, expire after five years unless all necessary construction permits have been issued and the authorized work was commenced within 12 months of issuance of the permits and no such permit becomes invalid. Notably, the expiration provision did not apply to waivers granted prior to March 2, 1992, that continued to be valid in perpetuity.

Proposed new N.J.A.C. 7:50-4.70(e) establishes an expiration provision for Waivers of Strict Compliance granted prior to March 2, 1992, to alleviate an extraordinary hardship. Pursuant to the proposed rule, these types of waivers will be deemed expired one year from the effective date of the adoption of this rulemaking. The Commission believes it is necessary to periodically reevaluate the conditions through which waivers are granted to ensure that potential environmental changes and amendments to the CMP are given adequate consideration. This responsibility clearly extends to waivers that were granted between 25 and 35 years ago that are currently valid in perpetuity. While the March 1992 amendment did not include such expiration provisions, the Commission feels that it is appropriate to do so, now that at least 25 years have elapsed, allowing affected property owners ample time to proceed with development.

The existing rule, at N.J.A.C. 7:50-4.70(e), which provided a limited number of applicants with the option of requesting that their active waiver application be reviewed pursuant to the pre-1992 CMP waiver regulations, is proposed for deletion, as there are no longer any applications for which these provisions could apply.

The Commission estimates that there are approximately 200 waivers approved between 1981 and March 1992 that could be affected by the proposed rulemaking. These waivers were almost exclusively for the development of one residential unit on an existing lot. According to Commission records, these applicants did not subsequently complete a development application or obtain a municipal building permit to develop the proposed residential unit. The Commission will make every effort to contact these affected applicants and property owners and advise them of the pending waiver expiration and their options. Some may be able to complete a development application and receive a municipal building permit within the one-year period. However, it is likely that many will not. If an applicant's waiver expires pursuant to the proposed rulemaking, they must reapply to the Commission if they want to pursue the development for which the expired waiver was approved. This will require the submission of any application fee assessed in accordance with N.J.A.C. 7:50-1.6.

There may be instances where the proposed development no longer requires a waiver. Many of the affected waivers were granted in the early 1980s, prior to the Commission's certification of many municipal master plans and land use ordinances. Numerous changes in zoning and Pinelands management area designations were made during that initial certification process. For example, lands originally designated as a Forest Area by the CMP could have been redesignated to a Rural Development Area through the Commission's certification of a municipal zoning map. Permitted density in the Rural Development Area is significantly higher than that permitted in the Forest Area. If a waiver was originally required because a property did not meet the lot area or density requirements for a Forest Area, it may no longer be necessary now that the property is in a management area and zone where more intensive development is permitted.

Applications that still require a Waiver of Strict Compliance will be processed by the Commission in accordance with current CMP waiver standards and procedures. Such applications will also be assessed the \$250.00 fee proposed in this rulemaking, unless the waiver request is solely to demonstrate that the parcel is of "limited practical use" pursuant to N.J.A.C. 7:50-9.2(a). If an application does not meet the current waiver standards, the Commission must deny the requested waiver.

An applicant requesting a new waiver for the same development proposal that previously received a waiver cannot be guaranteed to receive another waiver. The standards at N.J.A.C. 7:50-4.63, which provide the conditions that must be demonstrated by the applicant for the Commission to deem an extraordinary hardship to exist, have been amended several times since 1981, and most substantially in March 1992. Those amendments more clearly defined when hardship conditions exist, and narrowed the circumstances that qualify for an extraordinary hardship. Pursuant to the proposed rulemaking, there are likely to be waivers that expire for which the applicant will not qualify for an extraordinary hardship if they reapply pursuant to the current CMP standards. If so, the Commission must deny the waiver request. In cases where a waiver is denied, the land may become eligible for State acquisition through the LPU Program described above.

There may be circumstances where an applicant reapplies for a waiver and demonstrates that an extraordinary hardship exists pursuant to current CMP standards, but where the Commission finds that the waiver would result in substantial impairment to Pinelands resources. As noted above, the Commission cannot waive strict compliance if it will result in a substantial impairment of the resources of the Pinelands. Prior to March 1992, the CMP did not expressly define substantial impairment. The March 1992 amendments set standards, at N.J.A.C. 7:50-4.65, that determine whether the requested waiver would result in substantial impairment. The purpose of these amendments was not only to provide clear standards, but also to make them more stringent than the Commission's past practice. Pursuant to the proposed rulemaking, there are likely to be waivers that expire for which the applicant will be able to meet the current CMP standards for demonstrating an extraordinary

hardship, but will not be able to meet the current standards for substantial impairment. In such cases, the Commission must grant the waiver, but instead of allowing any on-site development to occur, the waiver will grant the applicant an allocation of PDCs based on the fair market value of the parcel and the market value of the PDCs at the time the waiver application is completed in accordance with N.J.A.C. 7:50-4.62(d)2. Such applicants will be entitled to a minimum one-quarter PDC.

In cases where a waiver is approved and it will not result in a substantial impairment to Pinelands resources, the applicant may proceed with the development application. If the waiver granted waives strict compliance with one or more of the standards at N.J.A.C. 7:50-6, then the applicant will be required to purchase and redeem one-quarter PDC in accordance with N.J.A.C. 7:50-4.62(d)1iii. This PDC requirement was adopted as part of the March 1992 amendments and, therefore, was not a requirement imposed on waivers granted prior to March 1992. The Commission continues to maintain that this provision helps to reduce the overall impact of each waiver on the resources of the Pinelands as it results in the permanent protection of important forested or agricultural land in the Preservation Area District, Special Agricultural Production Areas, and Agricultural Production Areas.

It is important to note that only those waivers granted to relieve an extraordinary hardship will be impacted by these amendments. Waivers granted to satisfy a compelling public need pursuant to N.J.A.C. 7:50-4.64 will continue to be valid in perpetuity. The Commission believes this distinction is appropriate, given that the development associated with such waivers typically consists of larger municipal or county facilities necessary for public safety or other public purposes (for example, site remediation or infrastructure).

Regional Growth Areas and the Pinelands Development Credit Program

Minimum Standards for Land Use Distribution and Intensities; Pinelands Development Credits; N.J.A.C. 7:50-5.28, 5.43, 5.46, and 5.47

A driving force for the establishment of the Pinelands Protection Act in 1979 was the realization that a vast tract of relatively unspoiled land would eventually be lost through the effects of scattered and piecemeal development. While each new development by itself may not have caused irreparable harm to the unique Pinelands ecosystem, the continuation of the development patterns occurring in the 1960s and 1970s would, in time, be the death knell for the Pinelands. The State and Federal Pinelands legislation, and the plan developed in response to that legislation (the CMP), have as a primary purpose, the preservation and protection of the essential character of the Pinelands, which is that of an area with large unbroken landscapes. The CMP seeks to maintain this character by channeling growth to areas already experiencing development and by protecting outlying areas through a variety of management techniques.

Pinelands Regional Growth Areas, generally located on the outer fringes of the Pinelands Area, were designed to accommodate most of the region's anticipated growth. On the other hand, lands within the Preservation Area District, Special Agricultural Production Area, and Agricultural Production Area were afforded protection through rigorous land use policies intended to minimize disturbance and conserve important ecological and agricultural resources. It is estimated that approximately 80 percent of the residential development approved in the Pinelands Area over the past several decades is located within Regional Growth Areas, which comprise only eight percent of the land in the Pinelands Area. Less than one percent of the approved residential units during that same time period is located within the Preservation Area District, Special Agricultural Production Area, and Agricultural Production Area; areas which together represent almost 42 percent of the Pinelands Area's land mass.

One of the key growth management and preservation techniques established in the CMP is the PDC program, a transferable development rights program designed to: (1) shift development away from the Preservation Area District, Special Agricultural Production Area, and Agricultural Production Area; and (2) provide a way for landowners in these three management areas to benefit from increased land values in Regional Growth Areas. The PDC program works by allocating development rights to properties in "sending areas"—the Preservation Area District, Special Agricultural Production Area, and Agricultural

Production Area. These rights can be sold and used to increase the density of residential development in Regional Growth Areas, allow for development on otherwise nonconforming lots in Regional Growth Areas, Pinelands Villages, and Pinelands Towns, and offset the environmental impacts associated with waivers of strict compliance. In order for the rights to be available for sale, they must be severed from a sending area property. The severance process requires recordation of an agricultural or conservation easement on the property to permanently protect it against future residential and non-agricultural development. As of June 30, 2024, nearly 58,000 acres of land in Pinelands sending areas have been preserved in this manner and 4,471 rights have been used for development, predominantly in Regional Growth Areas.

The amendments now being proposed are intended to update provisions related to development and land use in Regional Growth Areas and standards related to the allocation, use, and severance of PDCs. The primary purpose of these amendments is to codify long-standing Commission practice of affording municipalities flexibility in designing their master plans and land use ordinances to accommodate a variety of housing types, higher residential densities, redevelopment designations, and nonresidential and mixed use development opportunities in their Regional Growth Areas. Not only does this sort of flexibility allow municipalities to respond to changing market demands and other State mandates, it also ensures that opportunities for the use of PDCs remain real, which, in turn, provides continued value to sending area property owners with PDCs to sell.

The proposed amendment revises N.J.A.C. 7:50-5.28(a)1, which requires that municipalities zone their Regional Growth Areas, so as to accommodate a specific number of dwelling units, based on a prescribed density per acre of developable land. As currently worded, this section indicates that the prescribed number of units must be equal to “and not exceed” the prescribed density. Municipalities will still be required to zone their Regional Growth Area in a manner that accommodates a minimum residential density; however, N.J.A.C. 7:50-5.28(a)1 will no longer prohibit municipal zoning plans from exceeding the number of required units. This amendment recognizes that the CMP has, for many years, included other provisions that specifically allow for density increases in Regional Growth Area residential zoning capacity. The amendment is also an acknowledgement that it is simply impractical to require that a municipality consistently zone for a very specific number of units in a large geographic area where development and redevelopment occurs or is proposed on a daily basis. The intent of the amendment is to recognize the ability of municipalities to plan for well-balanced communities based on local needs and conditions, which can shift significantly over time.

Additional amendments are proposed to clarify N.J.A.C. 7:50-5.28(a)3, which sets forth requirements for the accommodation of opportunities to use PDCs. While this paragraph will continue to require that municipal zoning plans provide for a certain number of PDC opportunities, it is being subcodified. Newly codified N.J.A.C. 7:50-5.28(a)3i will simply specify the number of PDC opportunities that must be provided. The requirement that a reasonable proportion of such opportunities be associated with development of single-family detached homes is being deleted. This amendment is being made to recognize that desired housing types change over time and vary from site to site and municipality to municipality. It is a component of a zoning plan that is more appropriately left to municipal discretion. Furthermore, a requirement to zone for single-family-detached development is not conducive to the efficient use of land as it tends to involve larger lot zoning and “sprawl.”

As newly codified and amended, N.J.A.C. 7:50-5.28(a)3ii will now set forth only the simple requirement that municipal zoning plans ensure all residentially zoned districts are reasonably expected to be developed within their assigned density ranges. The guidelines for such density ranges, codified at N.J.A.C. 7:50-5.28(a)j, are eliminated. These were included in the CMP as guidance for municipalities only and, over time, have proven to be unnecessary.

Recodified N.J.A.C. 7:50-5.28(a)3iii is clarified to recognize that both municipal master plans and land use ordinances must provide for the use of PDCs to achieve bonus residential densities.

New N.J.A.C. 7:50-5.28(a)3iv provides Pinelands municipalities with the express authority to meet their assigned PDC zoning obligations by requiring the use of PDCs for nonresidential development. This amendment does not require any increase or change in the number of PDC opportunities to be accommodated in a municipal Regional Growth Area. Rather, it simply makes explicit that a municipality has the option of shifting requirements for the use of PDCs from one type of development (residential) to another (nonresidential). Whereas, for residential development, PDCs are generally required based on density, the use of PDCs for nonresidential development could be based on floor area, impervious surface, or developed acreage, depending on the type of use that a municipal ordinance or redevelopment plan seeks to accommodate. The amendment recognizes that Pinelands municipalities need the ability to adapt their certified zoning plans to changing conditions or development opportunities. Provided these adaptations are made in a way that does not harm the PDC program, the Commission supports them. In fact, the Commission has certified a number of municipal ordinances in recent years that require the use of PDCs for certain nonresidential uses or in certain zoning districts. This has proven to be an effective way of preserving PDC demand and, in some cases, enhancing it. N.J.A.C. 7:50-5.28(a)3iv is essentially a codification of this particular example of municipal flexibility.

New N.J.A.C. 7:50-5.28(a)3v acknowledges that Pinelands municipalities may adopt zoning plans that identify housing types for which no PDC use will be necessary, including housing units made affordable to low- and moderate-income households pursuant to N.J.S.A. 52:27D-311. If a municipality makes this choice, its zoning plan must include provisions that guarantee the use of PDCs for other housing types or in the municipality’s other Regional Growth Area zoning districts. This can most easily be accomplished through the imposition of a requirement that a certain percentage of the units to be developed on a parcel in a given zoning district require the use of PDCs, regardless of project density. The minimum number of PDC opportunities required in the municipality’s Regional Growth Area must still be provided, thereby ensuring that there is no overall reduction in PDC opportunities. Many Pinelands municipalities have adopted such provisions over the past 10 to 20 years based on the municipal flexibility provisions of the CMP. N.J.A.C. 7:50-5.28(a)3v merely codifies this successful practice by expressly stating that municipalities have this option if certain requirements are met.

It is important to note that N.J.A.C. 7:50-5.28(a)3v should not be construed as an automatic exemption of all low- and moderate-income housing units from the requirement to purchase and redeem PDCs. Such an exemption must be expressly incorporated into a municipal land use ordinance and coupled with a requirement for the use of PDCs for other housing types (for example, market rate units) in order for low- and moderate-income units to be “exempt.” Allowing certain housing types to be exempted, addresses concerns expressed by stakeholders and members of the public that dwelling units proposed to meet affordable housing obligations will be made infeasible by the added cost of PDCs.

N.J.A.C. 7:50-5.28(a)4 is amended to clarify that the existing PDC requirements associated with municipal density or lot area variances apply to residential uses only. This has always been the intent of this particular section, but occasional confusion has arisen with variances involving nonresidential development. The addition of the word “residential” will serve to prevent future issues from developing.

New N.J.A.C. 7:50-5.28(a)7ii is added to specify the requirements that must be met when a municipality elects to provide for increased residential zoning capacity in its Regional Growth Area in accordance with N.J.A.C. 7:50-5.28(a)1 and 3. This is yet another instance where the CMP is being updated to reflect the Commission’s long-standing practice of providing municipalities with the flexibility to make these sorts of decisions when designing or amending their Regional Growth Area zoning plans, provided certain conditions related to infrastructure, environmental limitations, and the accommodation of PDCs are satisfied. If a municipality wishes to zone for increased residential density in a particular portion of its Regional Growth Area, whether in an existing zone, or in a newly created zone or redevelopment area, infrastructure (that is, roads, water, sewer) must be available or able to be provided to serve the area(s) in question. Such area(s) must be free of significant environmental limitations, such as wetlands or critical habitat for rare

animals. Finally, PDCs must be a required component of zones or redevelopment areas where higher densities than those required by the CMP are to be permitted.

Over the past 10 to 20 years, Pinelands municipalities have proposed and the Commission has approved many redevelopment plans and land use ordinance amendments that permit densities well in excess of what the CMP requires. These plans and ordinances have satisfied the conditions described above, enabling the Commission to approve the changes in zoning based on the flexibility afforded to municipalities by the CMP. In terms of PDC requirements, municipalities have typically incorporated a requirement that PDCs be redeemed for 20 to 30 percent of the market-rate units to be developed in a project. Such a requirement has not resulted in significant changes to the theoretical number of PDC opportunities provided through municipal zoning plans. However, by reframing PDC use as a mandatory element of residential development in a Regional Growth Area zone, rather than as an optional bonus density mechanism, the use of PDCs becomes much more certain, no matter what the ultimate density of any particular project might be. This greater certainty benefits both the developer and the holders of PDCs, while allowing Pinelands municipalities the flexibility they need to make zoning changes and capture new market demand. Codification of this successful practice in the CMP is now appropriate.

Recodified N.J.A.C. 7:50-5.28(a)7iii is amended to clarify the ability of municipalities to vary from the residential density assignments set forth at N.J.A.C. 7:50-5.28(a)1. This section will now only provide municipalities with the ability to implement 10 percent decreases in the number of dwelling units assigned to their Regional Growth Areas. The ability to implement a 10 percent increase is being deleted. Given the amendments discussed above, which explicitly acknowledge the ability of Pinelands municipalities to zone their Regional Growth Areas for higher densities, limitation to and standards for a 10 percent increase are no longer necessary.

Finally, recodified N.J.A.C. 7:50-5.28(a)7iv is amended to limit opportunities for municipalities to decrease their Regional Growth Area-assigned residential densities to 2.5 units per acre of developable land. The amendment specifies that this density reduction is available only to those municipalities who have already implemented such decreases, as evidenced through the Commission's prior certification of amended master plans and land use ordinances.

Existing N.J.A.C. 7:50-5.28(a)7iii was adopted by the Commission in 2002 in order to provide municipalities with the highest assigned Regional Growth Area densities (3.0 units per developable acre or higher) with the ability to reduce their residential zoning capacities (see 34 N.J.R. 1024(a)). The Commission believed this decreased density prescription could result in more appropriate patterns of development in certain Regional Growth Areas while providing municipalities with increased flexibility in the design of their zoning plans, so as to better achieve local objectives, recognize areas with natural or cultural resource constraints, and accommodate the use of PDCs. The amendment was largely a response to ongoing concerns raised by some municipalities with the impacts of the CMP's assigned densities on their ability to plan for community development.

At the time of adoption of the amendment, the Commission predicted that perhaps four of the 12 municipalities with assigned Regional Growth Area densities of 3.0 units per acre, or more, might seek to implement the density decrease. In the years that followed, only three of the municipalities did so, and their revised zoning plans were certified by the Commission between 2002 and 2008. In subsequent years, numerous development projects were effectively "grandfathered" by various iterations of the State's Permit Extension Act and two of the three municipalities routinely granted extensions of prior approvals, thereby delaying or, in some cases, negating the decreased densities permitted by the revised zoning plans. This meant that development largely proceeded pursuant to the prior zoning plans and densities, with little to none of the benefits the Commission hoped would accrue to the PDC program. It is also noteworthy that, subsequent to the Commission's approval of the density decreases, the three municipalities adopted zoning changes and/or redevelopment plans that permit significantly higher densities, in some cases, to accommodate affordable housing obligations and in other cases

to respond to market demand for housing types other than single-family detached dwellings.

Shortly after adopting the density reduction rule described above, the Commission convened a task force for the purposes of updating housing demand estimates and determining how much demand should be accommodated with Pinelands development areas. The task force's final report, issued in January 2007, made a number of conclusions. Among them were findings that areas within the Pinelands Area that are targeted for residential development (Regional Growth Area, Pinelands Towns, and certain Pinelands Villages) could readily accommodate housing demand well beyond 2020. The task force also recommended that zoning policies in these areas should promote greater land development efficiency to reduce sprawl and meet the diverse housing needs of the population. Specifically, the task force concluded that average densities of at least 4.5 units per acre of developable land were necessary to encourage the efficient use of land and reasonably accommodate future housing needs, largely within Regional Growth Areas. The Pinelands Housing Task Force report is available on the Commission's website at www.nj.gov/pinelands/landuse/recent/housing/Housing%20Final%Rpt.pdf. This density recommendation exceeds the Regional Growth Area assignments set forth at N.J.A.C. 7:50-5.28(a)1 and illustrates the importance of providing Pinelands municipalities with the flexibility to zone for increased densities in appropriate portions of their Regional Growth Areas. It also highlights the need to limit the ability of municipalities to significantly decrease their permitted Regional Growth Area densities. Given the findings of the Housing Task Force and the demonstrated lack of municipal interest in implementing and maintaining the decreased density offered by the CMP, there is no justification for continuing to allow municipalities to reduce their densities to 2.5 units per developable acre.

The proposed amendments also revise N.J.A.C. 7:50-5.43(a) by clarifying where and why PDCs may be used in the Pinelands Area. The use of PDCs was traditionally limited to achieving residential density bonuses in Regional Growth Areas; therefore, N.J.A.C. 7:50-5.43(a) has, for years, referenced only that opportunity for PDC use. However, a series of prior amendments to the CMP expanded opportunities and requirements for the use of PDCs to other Pinelands management areas and types of development. Likewise, the amendments now proposed at N.J.A.C. 7:50-5.28(a)3 make clear that municipalities have the ability to incorporate the use of PDCs into their zoning and redevelopment plans in a wide variety of ways. Therefore, N.J.A.C. 7:50-5.43(a) is being amended to more broadly refer to the use of PDCs for development in Regional Growth Areas, as well as for waivers of strict compliance granted by the Commission (N.J.A.C. 7:50-4.62(a)), variances granted by municipalities in Pinelands Villages and Pinelands Towns (N.J.A.C. 7:50-5.27(c)), variances granted by municipalities for undersized lots that qualify for development of homes pursuant to the CMP's cultural housing provisions (N.J.A.C. 7:50-5.32(b)), and development within designated Municipal Reserve Areas (N.J.A.C. 7:50-5.63(b)).

N.J.A.C. 7:50-5.43(b)5 is amended to clarify that all PDC allocations are rounded to the nearest one-quarter of a credit, not only those exceeding one-quarter (0.25) of a credit. For example, if a parcel is eligible for an allocation of 0.13 PDCs based on the formula at N.J.A.C. 7:50-5.43(b)1 and 2, that allocation will be rounded up to 0.25 PDCs. The one exception to this "rounding rule" will be allocations of less than 0.125 PDCs. Such allocations will not be rounded to the nearest quarter PDC, as that would result in an allocation of zero PDCs. In these situations, allocation of "fractional" (less than one-quarter) PDCs will continue, unless the property owner qualifies for an increase to 0.25 PDCs through the special allocation provisions set forth at N.J.A.C. 7:50-5.43(b)6 or 7. While this amendment is unlikely to affect a large number of PDC allocations, it is consistent with current practice in the calculation of most other allocations and recognizes that obtaining an allocation of at least 0.25 PDCs is important because it is the minimum denomination that can be severed, sold, or redeemed.

Also, amendments are proposed to update the language at N.J.A.C. 7:50-5.46 that currently allows PDCs allocated to different parcels of land in sending areas to be aggregated and used to achieve bonus density in a Regional Growth Area. N.J.A.C. 7:50-5.43 establishes how PDCs are allocated and other sections, described above, provide for the use of PDCs

for a variety of purposes beyond density bonuses in a Regional Growth Area. As amended, N.J.A.C. 7:50-5.46 will now simply state that PDCs may be aggregated for use in accordance with any of the provisions specified at N.J.A.C. 7:50-5.43(a).

Finally, N.J.A.C. 7:50-5.47(b) is amended to clarify the required content of deed restrictions that are recorded for purposes of severing PDCs from a parcel of land in a sending area. The existing CMP at N.J.A.C. 7:50-5.47(b) mistakenly uses the word "sold," leading to the perception that severance of PDCs and recordation of the required deed restriction occurs when PDCs are sold. In practice, PDCs must be allocated by the Commission and severed from the land by the property owner through a recorded deed restriction before any sale, transfer, or redemption can occur. Therefore, one word in this section is being changed to indicate that PDC deed restrictions must refer to the number of PDCs allocated to the parcel subject of the deed restriction.

Redesignation of Black Run Watershed, Evesham Township, Burlington County

The Commission is proposing to redesignate an area in Evesham Township, Burlington County, from a Pinelands Rural Development Area to a Pinelands Forest Area. The proposed amendment is an outgrowth of two important Commission initiatives: the 2006 Southern Medford/Evesham Sub-Regional Resource Protection Plan and the 2008 Ecological Integrity Assessment. These initiatives, described in further detail below, confirmed the ecological sensitivity and importance of protecting a largely undisturbed watershed in Evesham Township known as the Black Run. Subsequently, protection of the Black Run and surrounding areas was once again emphasized as a priority during the Commission's 2014 comprehensive plan review process.

Southern Medford/Evesham Plan

In June 2004, the Commission began an innovative natural resource conservation planning project for the southern portions of Evesham and Medford Townships. The Commission organized a Steering Committee comprised of representatives from the New Jersey Department of Environmental Protection and the two municipalities to oversee development of a conservation plan for a 22-square-mile project area. This Steering Committee appointed an 18-person Project Advisory Committee and a 17-person Technical Support Group to help guide the Steering Committee's decisions. With the support of Commission staff, the three committees met regularly throughout 2004 to gather and evaluate data and discuss and formulate a series of strategies that would offer increased protection to the Black Run watershed and surrounding areas. Numerous public meetings were held to gather suggestions and review proposed zoning changes. All potentially affected landowners were notified of the planning project and made aware of their opportunities to participate in public meetings. The recommended strategies were detailed in the Southern Medford/Evesham Sub-Regional Natural Resources Protection Plan authored by Commission staff and issued in 2006. A copy of the plan, and additional information about the Southern Medford/Evesham planning process, is available on the Commission's website at <http://www.nj.gov/pinelands/landuse/recent/medeves/>.

The Southern Medford/Evesham Plan includes innovative zoning, land preservation, resource management, and community design recommendations, all premised on the fact that the Black Run watershed was identified as having high ecological values based on water quality data, rare plant and animal documentation, and landscape, wetlands, and watershed integrity assessments. The plan notes that less than 10 percent of the land in the Black Run drainage area is disturbed. As disturbance in excess of 10 percent of land area is considered a tipping point for ecological impacts, the report urged that this area be protected through a series of regulatory and land preservation strategies. In terms of land preservation, the plan recommended acquisition and deed restriction of properties in the study area by various governmental agencies and non-profit conservation organizations. Land stewardship efforts were to be promoted through public education for homeowners, builders, and planning and zoning boards. In addition, surveys were recommended to identify the area's rare plants with the intent of helping public landowners, homeowner's associations, and the municipalities to protect, manage, and recover native plant populations.

In terms of regulatory strategies, the Southern Medford/Evesham Plan recommended a number of zoning changes to reduce future zone capacity and land disturbance in high-quality natural resource areas. Additional zoning strategies called for creating incentives to transfer development potential out of high-value natural resource areas to areas more capable of accommodating it. Clustering of residential development was also recommended, with the hope that it would result in the conservation of significant acreage. The plan also recommended the creation of a green belt consisting of public lands, preservation areas, and low-density zoning districts through the middle of the study area in Evesham and Medford Townships as a means of further protecting the area's water quality and maintaining biodiversity.

The Pinelands Commission endorsed the Southern Medford/Evesham Plan in 2006 and spent the next several years working to implement many of the plan's recommendations. Notably, the CMP was amended in 2009, to require clustering of residential development in all Pinelands Forest and Rural Development Areas, including those in Medford and Evesham Townships. Both municipalities adopted ordinances to implement the mandatory clustering provisions. Evesham Township designed its clustering provisions in such a way as to offer greater protection to the Black Run watershed, one of the primary goals of the Southern Medford/Evesham Plan. However, neither municipality pursued any of the other recommended zoning changes, so the Commission focused its efforts on education, surveys, and land preservation.

Ecological Integrity Assessment

In April 2008, the Commission completed a report entitled [An Ecological-Integrity Assessment of the New Jersey Pinelands: A Comprehensive Assessment of the Landscape and Aquatic and Wetland Systems of the Region](#) ("EIA Report"), which comprehensively and objectively evaluated the ecological status of the entire ecosystem within the Pinelands Area. The EIA Report evaluated three levels of the Pinelands ecological hierarchy: the entire regional upland-forest and wetland landscape; aquatic systems and associated watersheds; and freshwater wetlands and adjacent upland areas. The EIA Report's evaluation of Pinelands ecology was guided by three basic principles concerning landscape, aquatic, and wetland-drainage integrity. The principles were based on the results of various ecological studies conducted both within the Pinelands and elsewhere.

Landscape integrity focuses upon species that move across wetlands and uplands and processes that operate at a regional-landscape level. The guiding principle behind the idea of landscape integrity is that the conservation of characteristic Pinelands plant and animal species and communities, including wide-ranging species, requires the protection of relatively large tracts of Pinelands habitat, including upland forests, wetlands, and water bodies. Thus, landscape integrity is a measure of the extent of Pinelands habitat in an area.

Aquatic integrity primarily focuses upon processes that operate at the watershed level and the species and communities that are influenced by the quantity and quality of surface waters. The guiding principle behind the idea of aquatic integrity is that the conservation of characteristic Pinelands water quality and lake, pond, and stream communities and the indigenous plant and animal species that make up these communities requires the protection of associated watersheds. Thus, aquatic integrity is a measure of the percentage of land within a watershed that is neither developed land nor upland agriculture.

A wetland-drainage unit is a discrete area of wetlands and the adjacent uplands that contribute surface water and groundwater to those wetlands. Wetland-drainage integrity focuses upon land uses that affect the quantity and quality of groundwater flowing to palustrine wetlands. The guiding principle behind the idea of wetland-drainage integrity is that the conservation of characteristic Pinelands palustrine wetlands and the indigenous plant and animal species that inhabit these wetlands requires the protection of adjacent uplands that influence the hydrologic integrity of the wetlands. Thus, wetland-drainage integrity is a measure of the percentage of land within a wetland-drainage unit that is neither developed land nor upland agriculture.

The EIA Report characterized landscape integrity using a moving-window analysis to measure the amount of Pinelands habitat within a circle referred to as a "window." A moving-window analysis moves a

“window” across a layer of rasterized or cell-based spatial data, performs a specified calculation on the data within the window, and assigns the result of that calculation to the center cell within the window. The window then moves to the next cell, performs the same calculation again, and applies the results to the center cell of that window. This process continues until all the cells in the input-raster layer have been analyzed and an output-raster layer with the new values is created. To assess landscape integrity, the EIA Report analyzed 10×10-meter Pinelands-habitat cells using a 1,000-meter-radius window. Pinelands-habitat cells were classified using the 2002 DEP land-use/land-cover data. The result of the analysis was a data layer composed of about 31 million Pinelands-habitat cells, with each cell assigned a landscape-integrity score represented by the percentage of habitat in the surrounding window. High landscape integrity was equated with a high percentage of surrounding Pinelands habitat.

The EIA Report characterized aquatic integrity and wetland-drainage integrity using the same measure of ecological integrity. Aquatic and wetland-drainage integrity scores were assigned by determining the percentage of each watershed or wetland-drainage unit, respectively, that was neither developed land nor upland agriculture. The percentage of each watershed or wetland-drainage unit that was neither developed land nor upland agriculture was then assigned to that watershed or wetland-drainage unit and to every 10×10-meter cell therein. High aquatic and wetland-drainage integrity scores were equated with a low percentage of developed land and upland agriculture.

The overall ecological integrity of the 900,000-plus-acre Pinelands Area was determined by using a composite of all three integrity measures—landscape, aquatic, and wetlands-drainage integrity. The ecological integrity score represents an average of the landscape-, aquatic-, and wetlands-drainage-integrity scores for each 10×10-meter Pinelands-habitat cell. High ecological integrity was equated with a high average score. All three measures of integrity, as well as the composite measure of integrity were determined for the entire Pinelands Area and for each of the Pinelands management areas.

In 2009, the Commission completed an analysis of Pinelands management area boundaries using the EIA Report’s integrity scores as the basis for recommended changes. In particular, areas worthy of protection due to their high ecological-integrity scores were identified as candidates for redesignation from growth-oriented management areas to more conservation-oriented management areas, such as the Pinelands Forest Area. Ultimately, 11 areas large enough to be of regional significance were delineated. Not surprisingly, given the results of the already completed Southern Medford/Evesham Plan, one of the identified areas was the Black Run watershed and surrounding lands in Medford and Evesham Townships. This area, comprising approximately 3,700 acres, was recommended for redesignation from a Rural Development to a Forest Area. Ultimately, the Commission elected not to proceed with proposal or adoption of any of the recommended management area adjustments and instead worked with individual municipalities on rezoning efforts, where appropriate, and when opportunities arose.

Plan Review Process

Since the completion of the Southern Medford/Evesham Plan and the Ecological Integrity Assessment, various efforts to provide increased protection to the Black Run watershed and surrounding areas have been undertaken. Municipal ordinances were adopted to mandate the clustering of residential development. Land acquisition efforts were successful in preserving hundreds of acres in the area. While these efforts were not insignificant, large portions of the watershed remain unprotected, a problem that was emphasized during the Commission’s fourth comprehensive review of the CMP. Completed in 2014, this plan review process involved the establishment of a Plan Review Committee, comprised of five Commission members, and a vigorous effort to solicit public comment on the CMP and its implementation. The Plan Review Committee held 14 meetings throughout 2012 through 2014, all of which were open to the public, and additional public meetings were held during the summer of 2012 for purposes of receiving public comment. Written comments were also encouraged and received on a wide variety of topics. All written comments received by the Commission were posted and

remain available on the Commission’s website at <http://www.nj.gov/pinelands/cmp/planreview/Public%20comments.pdf>.

Ultimately, after review and evaluation of public comment, the Plan Review Committee developed a list of specific recommendations that became the focus of the Commission’s staff’s efforts from 2014 to date. Eight such recommendations were of such high priority to the Commission and interest to the public that they were discussed in detail in the Commission’s Fourth Report on Plan Implementation, issued in 2014 (see <http://www.nj.gov/pinelands/cmp/planreview/PR%20reports/PlanReviewReportFinalDraft.pdf>). One of the eight high priority recommendations involved protection of the Black Run watershed.

Strategies to protect the Black Run watershed and surrounding areas were then discussed at several public meetings of the Commission’s CMP Policy & Implementation Committee in 2015 and 2016 and again beginning in 2022. These discussions identified the need to better recognize the environmental sensitivity of the area through a change in Pinelands management area designations. Details on the proposed management area change, which can only be implemented through an amendment to the CMP, are provided below.

Subchapter 5, Minimum Standards for Land Uses and Intensities, of the CMP establishes requirements that govern the type, location, and intensity of land uses permitted throughout the Pinelands. Part II of Subchapter 5 establishes nine land use management areas and sets forth the goals, objectives, and permitted uses for each. The boundaries of these management areas are provided on the Land Capability Map, adopted as part of the CMP at N.J.A.C. 7:50-5.3(a)24.

Although refined over the years through the Commission’s approval of municipal land use ordinances, the boundaries of the management areas were originally established by the Commission in 1980 when the CMP was adopted. The management area delineation procedure began with the Commission’s definition of what constituted the “essential character” of the Pinelands Protection Area (defined as that area located outside the legislatively defined Pinelands Preservation Area). Seven criteria were developed: the presence of ecologically critical areas; undisturbed watersheds; wetlands; cranberry cultivation areas; areas of deep aquifer recharge; unique resources requiring high levels of protection; and public lands managed for resource protection or recreation. Undisturbed watersheds were drainages that had very little development in them (less than five percent), particularly development that degrades surface and groundwater quality and fragments the Pinelands ecosystem. Wetlands included cedar swamps, hardwood swamps, pitch pine lowland forests, bogs, inland marshes, and coastal marshes. Unique resources requiring high levels of protection included the Pine Plains and a surrounding buffer zone and subwatersheds supporting characteristic Pinelands aquatic species. The presence of threatened and endangered species was one of the most important factors in determining the designation of a subwatershed as an ecologically critical area.

These seven components, and their mapped expressions, served as the determinants of the essential character of the Pinelands environment within the Preservation Area. The delineation of areas of essential character provided the basis for the designation of Pinelands Forest Areas, largely undisturbed forest and coastal wetlands adjoining the Preservation Area and extending into the southern portion of the Pinelands. Designation of other management areas followed, including Rural Development Areas, which were generally defined as transitional areas, separating the less developed, forested areas of the Pinelands from growth areas, serving as both buffers and reserves for future development. The identification of conflict areas was the last step. Conflict areas were areas where lands considered suitable for appropriate patterns of development overlapped with areas displaying essential character. When a conflict area that was classified as a Rural Development Area exhibited essential character as an undisturbed watershed or had greater than 75 percent wetlands or critical areas, it was reclassified as a Forest Area. Additionally, areas of less than 1,000 acres that did not exhibit essential character but were entirely surrounded by areas of essential character became Forest Areas.

Upon adoption of the CMP in 1980, the majority of the Black Run watershed within the Pinelands Area in Evesham Township was designated as a Rural Development Area. The area was identified as a conflict area by the Commission in its original delineation procedure but

ultimately designated a Rural Development Area primarily because of the presence of an existing landfill and its anticipated impacts on water quality.

The new information made available to the Commission as a result of the Southern Medford/Evesham planning process and the Ecological Integrity Assessment strongly suggests the presence of the existing landfill was given a disproportionate amount of weight in 1980, resulting in the designation of this area as a Rural Development Area. It is clear that the Black Run watershed area demonstrates the characteristics associated with a Forest Area designation and is worthy of the enhanced protection that would be provided by such a management area designation. Since the Southern Medford/Evesham Plan and Ecological Integrity Assessment were completed, additional lands in the Black Run and surrounding areas in Evesham and Medford Townships have been permanently protected by various non-profit and governmental agencies. More recently, surveys in the area have confirmed the presence of threatened and endangered species. All of these factors emphasize the importance of protecting the area and provide the basis for a change in management area designations to do so.

Rule Change and Impact

To accomplish a management area redesignation of this magnitude, it is necessary for the Commission to amend the CMP. Specifically, it is proposing to amend the Land Capability Map at N.J.A.C. 7:50-5.3(a)24 to reflect a revision in Pinelands management area boundaries. The Black Run watershed and nearby preserved, publicly owned, or severely environmentally constrained lands, previously located in a Rural Development Area, will now be located in a Pinelands Forest Area. A map depicting the boundaries of the redesignated area is available on the Commission's website at https://nj.gov/pinelands/cmp/amend/Amended%20Land%20Capability%20Map_archE.pdf.

The redesignated area encompasses approximately 2,440 acres in Evesham Township and is located in close proximity to Evesham's existing Pinelands Forest Area. Close to 60 percent of the redesignated area (1,450 acres) is already preserved or in public ownership. Only 990 acres of privately owned land remain available for development within the area proposed for redesignation. The majority of the undeveloped land in what would become Evesham's new Forest Area is comprised of wetlands and required wetlands buffer areas, making any new development on such lands unlikely, regardless of zoning or management area designation.

Upon the Commission's adoption of the proposed amendment to the Land Capability Map, Evesham Township will be required to revise its master plan and land use ordinances to reflect the new management area designation. Maximum permitted density in the affected area will decrease from one unit per 3.2 acres of privately owned vacant upland to one unit per 15.8 acres of privately owned vacant upland in order to comply with CMP standards for Pinelands Forest Areas. The likely result in terms of municipal zoning is a new Forest Area zone with a residential density of one unit per 25 acres. Mandatory clustering on one acre lots will be required and all development will need to be served by septic systems, as is the case pursuant to the current Rural Development Area designation and zoning. The pattern of permitted residential development, therefore, will not change, nor will the environmental standards that apply to all development. Rather, it is the theoretical zoning capacity of the area that will decrease significantly. The current municipal zoning plan would allow for the development of 249 units, based on currently permitted residential densities. After the redesignation to the Pinelands Forest Area, residential zoning capacity would decrease to 38 units. While a significant decrease in theoretical zoning capacity, much of the redesignated area is so heavily constrained by wetlands and other environmental limitations that development is a virtual impossibility on the majority of vacant lots, regardless of zoning. For the few developable upland properties in the redesignated area, however, development potential will certainly be reduced, which the Commission believes is appropriate, given the environmental sensitivity of the area.

Clearly, the Commission has considered a number of different strategies to increase protection of the Black Run watershed over the years, including the creation of innovative density transfer and off-site clustering programs. While both had merit, they are complex, require

significant cooperation among landowners, and rely on the identification of an available area for development outside the watershed that has access to infrastructure and limited environmental constraints. The Commission's primary goal is to decrease disturbance in, and increase protection of, the Black Run watershed, something that can most readily be accomplished through the management area redesignation discussed above. Evesham Township retains the ability to modify its zoning plan in ways that further encourage cluster development in the area.

Minor Amendments

The Commission is proposing to update internal cross-references and terms and correct a minor omission.

Commission Hearing Procedures (N.J.A.C. 7:50-4.3)

Minor changes are being proposed at N.J.A.C. 7:50-4.3 to replace the term "freeholder director" with "director of the board of county commissioners" in response to recent legislation that changed the title of "freeholder" and "chosen freeholder" to "county commissioner" and the term "board of chosen freeholders" to "board of county commissioners." (See P.L. 2020, c. 67)

Public Hearings on Local Approvals (N.J.A.C. 7:50-4.41)

An internal citation is being updated in the first sentence from N.J.A.C. 7:50-4.35(c) to 4.35(e).

Alternative Design Treatment Systems Pilot Program (N.J.A.C. 7:50-10.22)

A minor, non-substantial change is being made at N.J.A.C. 7:50-10.22(a)5ix to correct the reference to the operation and maintenance manual required as part of this Pilot Program.

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

The proposed fee amendments are expected to have a positive social impact for New Jersey's taxpayers because the increased fees will, on a relative basis, reduce the need for general State funding to support the legislatively mandated permitting responsibilities of the Commission. The proposed amendments to the 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.

The establishment of expiration dates for various Commission documents should also have a positive social impact by eliminating any uncertainty that currently exists concerning the continued validity of approvals and documents issued decades ago. The amendments will also provide Pinelands municipalities with a greater ability to address questions from residents and property owners about their ability to rely on old approvals and documents. It is better for municipalities if applicants have up-to-date documents and it is better for applicants to understand how their old development proposals might be affected by current standards. The expiration of old completeness documents and required completion of new applications with the Commission will provide that opportunity and prevent issues from arising only after a municipal construction permit or other approval has been issued.

The proposed amendments relative to zoning plans and the PDC program recognize the importance of municipal flexibility in designing their own Regional Growth Area zoning plans, based on community needs and desires, market conditions, etc. The 24 municipalities throughout the Pinelands Area that contain Regional Growth Areas may find it easier to adjust density requirements and zoning plans to fit local circumstances, provide opportunities for affordable housing, and foster desired development patterns. While municipalities have long had the ability to do so, the provisions being added and amended throughout N.J.A.C. 7:50-5.28(a) will make this explicit. The reaction from both municipalities and property owners in Regional Growth Areas is expected to be positive.

The proposed amendment to the Land Capability Map is expected to have a positive social impact because it recognizes an environmentally sensitive area and appropriately reduces its development potential. The

existing Black Run Preserve (Preserve) is of great importance, not only to Evesham Township residents, but also to the larger Burlington and Camden County communities, as evidenced by the formation and involvement of a non-profit conservation organization dedicated to management and continued protection of the Preserve. Redesignation of the Preserve and surrounding lands from the Rural Development Area to the Forest Area will reduce the potential for future land use conflicts with and negative environmental impacts on the existing Preserve. Although clustered residential development in the redesignated area will still be permitted, the number of units and amount of associated disturbance will be reduced and the amount of protected open space required as part of a cluster development will be increased.

Economic Impact

The proposed amendments make a number of changes to the Commission's application fee requirements. New fees are established for certain applications requiring waivers of strict compliance and for applications involving resolution of identified violations of the CMP. Increased fees are proposed for applications seeking LOIs, with the exception of those related to the allocation of PDCs. It is difficult to predict the exact impact of these fee increases, as the actual amount of revenue generated by the application fees in the future will be a function of the number and type of applications submitted to the Commission each year.

For the most part, the fee changes will result in relatively modest increases of between \$250.00 to \$1,000 for any particular application. In what is likely to be a very limited number of instances involving requests for wetlands-related LOIs on very large parcels, the increase will be more significant. Given the amount of staff resources that must be dedicated to such requests, the Commission believes the increase is warranted. It should be noted that the Commission does not require applicants to secure wetlands-related LOIs. Rather, Commission staff regularly makes determinations as to the extent of wetlands and the size of required wetlands buffers as part of its review of development applications. For those applicants who prefer to obtain wetlands-related LOIs prior to submitting development applications or are required to do so by other agencies, the increased fee will be assessed.

Although in most cases, the proposed amendments will result in modest increases, the Commission recognizes that applicants may view them in a negative light. However, it must be recognized that even with the proposed increases, the Commission's fee schedule does not recapture all of the Commission's permit-related expenses. Rather, the Commission expects that, if current application trends continue, perhaps only 50-60 percent of the Commission's total permit-related expenses could be recouped through application fee revenue.

Upon the expiration of Certificates of Filing and certain waivers of strict compliance in accordance with the proposed amendments, new applications will need to be submitted to the Commission. Such applications will require payment of application fees and completion of new or updated site plans and surveys. While this might mean increased or unanticipated costs, applicants will benefit from the identification of potential inconsistencies with the CMP at the outset of the Commission's review of a new application, rather than later in the review process when an applicant may have relied on a very old waiver or completeness document to obtain municipal approval. The requirement to obtain a new Certificate of Filing will facilitate identification and earlier notice of potential problems and the impact of new or revised standards, perhaps ultimately reducing costs associated with lengthy reviews and multiple redesigns of projects.

The proposed amendments related to Regional Growth Area zoning plans and the PDC program are not expected to have significant economic impacts on municipalities, developers, or property owners. The amendments do not impose new or increased PDC obligations, nor do they require Pinelands municipalities to revise their zoning plans. Rather, the amendments set forth the requirements that must be met if a municipality elects to create new zoning districts, increase permitted densities in existing zoning districts, or seek to accommodate new types of uses through redevelopment plans. When such changes are made, increased opportunities for PDC use may result, as well as more certainty in terms of demand for PDCs, which should have a positive economic impact in

terms of the ability of PDC holders to sell their PDCs for appropriate prices.

The proposed amendment at N.J.A.C. 7:50-5.43(b)5 will result in the rounding of PDC allocations of at least 0.125 PDCs to 0.25 PDCs. This will have a positive economic impact on the owners of properties in PDC sending areas to which the Commission has made such allocations. PDCs are severed, bought, sold, and redeemed in one-quarter credit increments, with 0.25 PDCs being the minimum increment necessary for any such transactions. The value of 0.25 PDCs varies over time. In 2024, the average sales price for 0.25 PDCs was \$21,827.

The economic impact of the proposed amendment to the Land Capability Map will be perceived as negative by many of the owners of vacant land in the new Pinelands Forest Area due to the decrease in permitted residential density. Most of these lots are so constrained by wetlands and required wetlands buffers, however, that on-site development is currently infeasible or, at best, highly unlikely, without the Commission's approval of a waiver of strict compliance. These landowners, as well as those who own the few vacant developable properties in the redesignated area, will retain an opportunity for residential cluster development, albeit at lower density than that currently permitted. Owners of vacant undersized lots will also have the opportunity to "transfer" density to developable noncontiguous lots elsewhere in Evesham Township's Forest or Rural Development Areas pursuant to N.J.A.C. 7:50-5.30.

Owners of developable upland properties in the new Forest Area will experience a significant decrease in development potential, which clearly has a negative economic impact. Given the highly sensitive nature of the area, however, the Commission believes this decreased development potential is fully warranted and necessary.

Evesham Township will incur costs associated with the master plan and ordinance amendment process required to implement the new Forest Area designation. The municipality will be required to amend its master plan and land use ordinance to create a new Forest Area zoning district or assign one of its existing Forest Area zoning district designations and create a revised zoning map. Additional master plan and ordinance amendments will be required if Evesham Township elects to implement a new density transfer program or revise its existing cluster development standards for the new Forest Area zone. These costs might include notification to all property owners of the proposed master plan and zoning changes.

Environmental Impact

As the purpose of many of the proposed amendments is to strengthen the level of environmental protection afforded through the CMP, overall environmental benefits should result. No negative impacts from these proposed amendments are expected.

The proposed amendments to the Commission's application fees schedule are not expected to have any negative environmental impact as they do not modify the land use and environmental standards of the CMP in any way. If anything, the proposed increased fees assessed to applications involving resolution of violations of the CMP may serve as a disincentive to future violations of CMP standards, which would have a positive environmental impact.

The proposed expiration dates for various Commission completeness documents should have a positive environmental impact by alerting landowners and applicants to the current environmental standards of the CMP that must be met. Additional benefits will be realized through establishment of an expiration date for waivers of strict compliance which, by definition, involves development that does not meet all CMP environmental standards.

The proposed amendments related to Regional Growth Area and the use of PDCs are largely a codification of the current Commission practice; however, they may, nevertheless, have a positive environmental impact. Maintaining and enhancing demand for PDCs through changes to municipal zoning plans ensures the existence of an active market for PDCs, which facilitates sales and encourages owners of sending areas lands to participate in the PDC program by deed restricting their properties.

It is unknown how many of the 24 Regional Growth Area municipalities will avail themselves of the flexibility provisions related to

residential density and assignment of PDC opportunities to nonresidential uses. Many have already done so, and the amendments merely codify practices that the towns and Commission have employed for many years based on the existing flexibility provisions throughout the CMP. It is likely that municipalities will continue to make zoning changes and adopt redevelopment plans that provide for higher densities and a variety of housing types within already designated Regional Growth Areas. No negative environmental impacts are anticipated. In fact, making the rules clearer for municipalities who wish to accommodate more housing or development within the existing boundaries of their Regional Growth Areas may ultimately forestall future requests for expansion of these growth areas into portions of the Pinelands Area that the Commission is charged with protecting.

The proposed amendment at N.J.A.C. 7:50-5.43(b)5 to round up certain fractional PDC allocations could have a positive environmental impact. It will provide landowners whose properties have PDC allocations between 0.125 and 0.25 with the ability to complete the PDC severance process and subsequently sell or redeem their development rights. Previously, landowners with these fractional allocations were unable to do so, because PDCs are severed and transacted in quarter-credit increments. With an increase to 0.25 PDCs, affected landowners will be able to record the required deed restriction and sever their credits. The severance process results in permanent preservation of forested and agricultural lands in the Pinelands Preservation Area District, Agricultural Production Area, or Special Agricultural Production Area.

The proposed amendment to the Land Capability Map is expected to have a positive environmental impact as it provides the potential for reduced impacts on and increased protection of some of the most environmentally sensitive lands in the Pinelands Area, namely, the Black Run watershed and lands in the surrounding Pinelands Forest Area. Redesignation of the 2,440-acre area from the Rural Development Area to the Forest Area carries with it a reduction in theoretical residential zoning capacity from 249 to 38 potential units. The clustering of residential units on one-acre lots will be required, just as it is in the current Rural Development Area zoning plan, but fewer permitted units will mean smaller clusters of development, less land disturbance, and larger areas of preserved open space in this highly sensitive area.

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 proposed 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 proposed.

Jobs Impact

The proposed amendments are not expected to have a significant jobs impact.

The amendments do increase certain development application fees on the private and public sectors; however, the added costs are relatively minor and not expected to result in a loss of jobs. The proposed establishment of an expiration date for various completeness documents and waivers issued by the Commission may trigger the need for submission of new development applications to the Commission. If new or revised site plans, updated surveys, or new stormwater management plans are necessary for such applications, increased job opportunities for engineers and other environmental consultants may result. The proposed amendments to the Land Capability Map and the standards related to Regional Growth Area zoning plans and the use of PDCs may affect the number of new homes permitted in portions of the Pinelands Area, potentially impacting the number of jobs associated with new home construction. However, it is impossible for the Commission to estimate the number of jobs that might result.

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 are not expected to significantly impact the agriculture industry.

To the extent that members of the agriculture industry located within the Pinelands Area intend to engage in activities that will necessitate submission of a development application, they may be impacted by the proposed fee increases. It is important to note that, for the most part, principal agricultural activities do not require the submission of development applications and will, therefore, continue to pay no fees to the Commission. The proposed fee increases, including \$250.00 for a waiver of strict compliance application and \$500.00 or \$1,000 for an application involving resolution of a violation, are relatively small and unlikely to affect many farm owners. The same is true for the increased fee for various types of LOIs. More importantly, there will continue to be no fee for the most commonly requested type of LOI, namely, the allocation of PDCs to any particular parcel in a PDC sending area.

The proposed amendments establishing expiration dates for certain waivers of strict compliance and completeness documents issued by the Commission could impact farm owners and operators. They may need to submit new development applications to the Commission and demonstrate consistency with current CMP standards and municipal land use ordinance provisions. Development applications in the Agricultural Production Area and Special Agricultural Production Area, where the vast majority of Pinelands farms are located, most often involve the development of one single-family home. Application fees for such proposals remain modest (\$250.00), as are the costs typically associated with approval for minor development.

The proposed amendments related to Regional Growth Area zoning plans and the PDC program are expected to have a positive impact on the agriculture industry. By providing municipalities with explicit authority to zone for higher densities in their Regional Growth Area if PDC use is mandatory, or to shift PDC obligations from residential to nonresidential uses when warranted, there will be continued and more certain demand for PDCs. The amendments also eliminate the ability of municipalities to implement significant decreases in their Regional Growth Area residential zoning capacities, thereby preserving existing opportunities for the use of PDCs. All of these amendments keep the market for PDCs active, which generates increased prices being paid to the holders of PDCs, a large number of whom are farmers or long-time landowners in the agricultural sending areas of the Pinelands. By helping to ensure that consistent, guaranteed opportunities for PDC use in Regional Growth Area will exist in the future, an economic incentive will remain for sending area landowners to sever and sell PDCs.

The proposed amendment to round certain fractional allocations of PDCs up to equal 0.25 PDCs may also benefit farm owners in the PDC sending areas. Such landowners will now have the minimum PDC increment required for severance and sale. As noted previously, 0.25 PDCs hold significant value, with an average sales price of nearly \$22,000 in 2024.

The proposed amendment to the Land Capability Map is expected to have no impact on the agriculture industry. There is limited active agriculture in the area being redesignated from the Rural Development Area to the Forest Area, where farming will continue to be a permitted use.

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, the proposed amendments may have an impact on developers and property owners involved or interested in certain development projects within the Pinelands Area. As most businesses in the Pinelands Area may be characterized as small in size and number of employees, 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. The proposed fee increases are also modest and not expected to

impact a large percentage of the Commission’s applicants. 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.

Housing Affordability Impact Analysis

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 or on the average cost of housing.

The proposed amendments to the Commission’s application fee requirements are unlikely to have any noticeable effect on housing affordability. Increased fees (\$500.00 for minor development; \$1,000 for major development) are proposed to be assessed to resolve a violation of the CMP, which could occur as part of residential development application. Also, the proposed \$250.00 fee for an application requiring a waiver of strict compliance based on extraordinary hardship will, in nearly all cases, involve proposed development of a single-family detached home. The fee increases will have an impact on such applications. However, the amount of the increased fees will constitute a very small portion of the total project cost for all such developments, even those proposing only one unit. 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.

Similarly, the proposed amendments to establish expiration dates for certain completeness documents and old waivers of strict compliance are unlikely to have any significant impact on housing affordability. When a waiver or completeness document expires, submission of a new and possibly revised development application to the Commission will be required. Some of these applications will be for residential projects of varying sizes, housing types, and locations. In order for a new waiver or Certificate of Filing to be issued, the payment of application fees will be necessary, as will preparation and submission of new or revised site plans and supporting studies or reports. While there are costs associated with fulfilling these requirements, they are not unreasonable given the importance of ensuring that development in the Pinelands Area meets all current CMP standards. The need to obtain new waivers or Certificates of Filing is unlikely to have a marked impact on housing affordability.

The proposed amendments at N.J.A.C. 7:50-5.28(a)1 and 7ii acknowledge that Pinelands municipalities have the flexibility to increase permitted densities within their Regional Growth Area in order to permit a wider variety of housing types, which is often necessary to accommodate the provision of affordable housing. The proposed amendment at N.J.A.C. 7:50-5.28(a)3v expressly provides these municipalities with the ability to relieve affordable housing units from the requirement to redeem PDCs if certain conditions are met. These amendments should have a positive impact on the affordability of housing.

The proposed amendment to the Land Capability Map affects lands in Evesham Township that are currently zoned for single-family residential development. All such development must be clustered on one-acre lots and served by on-site septic systems, pursuant to both the current Rural Development Area designation and the proposed Forest Area designation. The CMP does not permit sewer service in these two management areas, making them unlikely and largely inappropriate targets for the development of affordable housing. Therefore, the proposed amendments are unlikely to evoke a change in the average costs associated with housing in the affected area.

Smart Growth Development Impact Analysis

N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, requires that the proposed amendments be evaluated to determine their impacts, if any, on housing production in Planning Areas 1 and 2, or within designated centers, pursuant to 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. Rather, 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 (that is, Regional

Growth Areas, Pinelands Villages, and Pinelands Towns), as designated by the CMP.

The proposed amendments related to application fees and expiration of old waivers and completeness documents are not expected to have any impact on housing production. The proposed redesignation of lands from the Rural Development Area to the Forest Area in Evesham Township will have no impact on housing production in Regional Growth Areas, Pinelands Villages, or Pinelands Towns.

The proposed amendments at N.J.A.C. 7:50-5.28 may have a positive impact on housing production in the Regional Growth Area. These amendments effectively codify the flexibility municipalities have to make changes to their zoning plans for purposes of accommodating housing of all types and intensities in their Regional Growth Areas. The provision of explicit standards will be of benefit to municipalities, landowners, and developers seeking to increase permitted residential densities in order to facilitate housing projects in the Regional Growth Area.

No other smart growth impacts are anticipated from the proposed amendments.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 1. GENERAL PROVISIONS

7:50-1.6 Fees

(a)-(b) (No change.)

(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, 4.33, 4.52, or 4.66 shall be calculated in accordance with the following, based on typical construction costs, except as provided at (c)1 through 10 below:

Construction Cost	Required Application Fee
\$0 - \$500,000	1.25 percent of construction costs
\$500,001 - \$1,000,000	\$6,250 + one percent of construction costs above \$500,000
Greater than \$1,000,000	\$11,250 + 0.75 percent of construction costs above \$1,000,000

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)3] **(e)6** below is required, in which case, no such documentation shall be necessary.

1.-10. (No change.)

(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 if an individual on-site septic system is proposed pursuant to N.J.A.C. 7:50-6.84(a)5iv(2)[(1)](J) or (3);

2. **Be increased by \$250.00 if a Waiver of Strict Compliance is required pursuant to N.J.A.C. 7:50-4.63, unless the application is submitted solely for purposes of demonstrating that a parcel is of limited practical use pursuant to N.J.A.C. 7:50-9.2(a);**

3. **Be increased by \$1,000 for any application for major development that is submitted, in part or in whole, for purposes of resolving an outstanding violation of this Plan;**

4. Be increased by \$500.00 for any application for minor development that is submitted, in part or in whole, for purposes of resolving an outstanding violation of this Plan;

[2.] **5.** (No change in text.)

[3.] **6.** [Not] **Except where an increased fee is required pursuant to (e)3 or 4 above, not exceed \$50,000, unless a public agency is the applicant, in which case, the fee shall not exceed \$25,000.**

(f) (No change.)

(g) The application fee for a development application submitted by a qualified tax-exempt religious association or corporation or a qualified [tax exempt] **tax-exempt** non-profit organization shall be \$500.00 or the amount calculated in accordance with (a) through (d) above, whichever is less. **If the development application is submitted, in part or in whole, for purposes of resolving an outstanding violation of this Plan, the application fee shall be increased in accordance with (e)3 or 4 above.** For purposes of this provision, the term "qualified tax-exempt religious association or corporation" means a religious association or corporation [which] **that is exempt from Federal income taxation [under] pursuant to Sections 501(c)(3) or (d) of the Internal Revenue Service Code, Title 26, Subtitle A, Chapter 1, Subchapter F, Part I, Sections 501(c)(3) and (d).** For purposes of this provision, the term "qualified tax-exempt non-profit organization" means a non-profit organization [which] **that is exempt from [federal] Federal income taxation [under] pursuant to Section[s] 501(c)(3) of the Internal Revenue Service Code, Title 26, Subtitle A, Chapter 1, Subchapter F, Part I, Section[s] 501(c)(3).**

(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 the issuance of the original Letter of Interpretation, in which case, the fee shall be \$250.00 plus \$6.25 per acre of land for which the amended allocation is requested; [and]

2. The application fee for [any other] a Letter of Interpretation or Amended Letter of Interpretation **to determine the presence or absence of wetlands or wetlands transition areas shall be [\$250.00.] \$1,000;**

3. **The application fee for a Letter of Interpretation or Amended Letter of Interpretation to verify a wetlands line or to determine the extent of any required wetlands transition areas shall be \$1,000 plus \$100.00 per acre of the parcel, or portion thereof, subject to the provisions at (e)6 above; and**

4. **The application fee for any other Letter of Interpretation or Amended Letter of Interpretation shall be \$500.00.**

(i)-(l) (No change.)

SUBCHAPTER 4. DEVELOPMENT REVIEW

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 hearings shall be given by the Commission:

(1)-(5) (No change.)

(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 of the board of county commissioners** 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 inter-governmental 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 **to the [freeholder] director of the board of county commissioners** 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 of the board of county commissioners** and county executive, if any, of each Pinelands county. In addition, a copy of the notice shall be published in all of the official newspapers of the Pinelands Commission and posted on the Commission's website.

ii. (No change.)

3.-4. (No change.)

(c)-(e) (No change.)

7:50-4.15 Action by Executive Director on application

(a) 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] **that** may be imposed, conforms to each of the minimum standards for development approval established [by] **at** N.J.A.C. 7:50-4.16. The Executive Director may propose in said Certificate of Completeness any reasonable condition that he or she 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, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization, or agency that has registered [under] **pursuant to** N.J.A.C. 7:50-4.3(b)2i(2).

(b) **Any Certificate of Completeness issued by the Executive Director on or after January 1, 2004, shall expire five years from the date of issuance, unless:**

1. **The applicant has obtained local approval and the Executive Director has determined that the approval raises no substantial issues with respect to the conformance of the proposed development with the minimum standards of this Plan pursuant to N.J.A.C. 7:50-4.19 or 4.22; or**

2. **The applicant has obtained approval by the Commission pursuant to N.J.A.C. 7:50-4.5.**

(c) **Any Certificate of Completeness issued by the Executive Director prior to January 1, 2004, shall be deemed expired and may not be used to obtain local approval or approval by the Commission.**

7:50-4.34 Certificate of Filing; required for determination of completeness

(a) Upon determining that an application is complete, the Executive Director shall issue a Certificate of Filing.

(b) No local permitting agency shall determine that any application for development is complete unless it is accompanied by a Certificate of Filing issued pursuant to this section. Such certificate may identify any inconsistencies of the proposed development with the standards of this Plan or the local certified land use ordinances and may indicate that if such inconsistencies are not resolved by a local approval, that local approval will be subject to review by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.37 and 4.40. Any such information [contained] in the Certificate of Filing is for the guidance of the applicant and local permitting agency only. Such information in no way shall be considered a final determination by either the Executive Director or the Pinelands Commission.

(c) **Any Certificate of Filing issued by the Executive Director on or after January 1, 2004, shall expire five years from the date of issuance, unless:**

1. **The applicant has obtained local approval and the Executive Director has determined that the approval raises no substantial issues with respect to the conformance of the proposed development with the minimum standards of this Plan pursuant to N.J.A.C. 7:50-4.37 or 4.40; or**

2. The applicant has obtained approval by the Commission pursuant to N.J.A.C. 7:50-4.5.

(d) Any Certificate of Filing issued by the Executive Director prior to January 1, 2004, shall be deemed expired and may not be used to obtain local approval or approval by the Commission.

7:50-4.41 Public hearing

If the Executive Director determines that the approval should be reviewed by the Commission, he or she 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)](e), conduct a public hearing to be held pursuant to the procedures set [out in] **forth** at 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 or her findings and conclusions to the applicant, the Commission, the local permitting agency, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said determination, and any person, organization, or agency that has registered [under] **pursuant to** N.J.A.C. 7:50-4.3(b)2i(2). However, an applicant may, at his or her 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] **administrative law judge** pursuant to the procedures established [in] **at** N.J.A.C. 7:50-4.91.

7:50-4.70 Effect of grant of waiver; expiration; recordation; effective date

(a)-(d) (No change.)

[(e) The N.J.A.C. 7:50-2.11 definitions of “contiguous lands,” “fair market value” and “impaired wetlands,” and N.J.A.C. 7:50-4.2(b)7 and 4.61 through this section, as amended or adopted effective March 2, 1992, shall apply to all applications except for those applications on which an Executive Director’s determination was issued prior to March 2, 1992. For those applications, the above-referenced provisions in effect prior to March 2, 1992 shall govern, provided that:

1. The Pinelands Commission action on the Waiver of Strict Compliance is based on information that was submitted to the Pinelands Commission prior to March 2, 1992;

2. The applicant has not requested that the application be reviewed pursuant to the N.J.A.C. 7:50-2.11 definitions of “contiguous lands,” “fair market value” and “impaired wetlands,” and N.J.A.C. 7:50-4.2(b)7 and 4.61 through this section, as amended or adopted effective March 2, 1992; and either

3. The Pinelands Commission acts on the application at its next regularly scheduled meeting after the time to appeal under N.J.A.C. 7:50-4.91 has expired and no request for appeal has been received; or

4. A timely request for an appeal is received under N.J.A.C. 7:50-4.91 or the Executive Director’s determination is referred to the Office of Administrative Law by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.69 (formerly N.J.A.C. 7:50-4.65).]

(e) Waivers approved pursuant to former N.J.A.C. 7:50-4.66(a)1, repealed effective March 2, 1992, shall expire one year from the effective date of these rules.

SUBCHAPTER 5. MINIMUM STANDARDS FOR LAND USES AND INTENSITIES

7:50-5.3 Map status

(a) The following maps, the originals of which are maintained at the offices of the Commission, are hereby designated and established as a part of this Plan and shall be as much a part of this Plan as if they were set out in full in this Plan:

1.-23. (No change.)

24. Land Capability, Plate 28, as amended as of [June 19, 2006] **(the effective date of this rulemaking);**

25.-26. (No change.)

7:50-5.28 Minimum standards governing the distribution and intensity of development and land use in Regional Growth Areas

(a) Any use not otherwise limited pursuant to N.J.A.C. 7:50-6 may be permitted in a Regional Growth Area, provided that:

1. Except as provided [in] **at** (a)2, 3, 4, 5, 6, and 7 below and Part IV of this subchapter, the total number of dwelling units authorized by a municipality for a Regional Growth Area shall be equal to [and not exceed] the following density per acre of developable land:

i.-xxx. (No change.)

2. (No change.)

3. The land use element of a municipal master plan and land use ordinance shall reasonably permit development to occur within a range of densities[.]; provided that [the]:

i. The total amount of residential development permitted [in] at (a)1 above is exceeded by at least 50 percent through the use of Pinelands Development Credits; [that a reasonable proportion of the density increase permits the development of single family detached residences; and that the]

ii. All residentially zoned districts [in which the ranges are established] are reasonably expected to be developed within [the] their assigned density ranges[.];

[i. The following guidelines may be used by municipalities in establishing these ranges:

(1) Less than .5 dwelling units per acre;

(2) One-half to one dwelling units per acre;

(3) One to two dwelling units per acre;

(4) Two to three dwelling units per acre;

(5) Three to four dwelling units per acre;

(6) Four to six dwelling units per acre;

(7) Six to nine dwelling units per acre;

(8) Nine to twelve dwelling units per acre; and

(9) Twelve and greater dwelling units per acre.]

[ii.] **iii. Municipal master plans [or] and land use ordinances shall provide that development at a density [which] that is greater than the lowest density in each range can be carried out only if the increase in density is achieved through a density bonus for use of Pinelands Development Credits[.];**

iv. Municipal master plans and land use ordinances may accommodate all or a portion of the Pinelands Development Credit obligation assigned at (a)3i above by requiring the use of Pinelands Development Credits for nonresidential development; and

v. Municipalities may identify housing types for which no PDC use will be necessary, including housing units made affordable to low, and moderate-income households pursuant to N.J.S.A. 52:27D-311, provided the municipal land use ordinance includes provisions to guarantee the use of Pinelands Development Credits for other housing types or in other zoning districts within the municipality’s Regional Growth Area, such that the minimum requirements at (a)3i above are met.

4. Any local approval, including variances, [which] **that** grants relief from **residential** density or lot area requirements shall require that Pinelands Development Credits be used for all dwelling units or lots in excess of that otherwise permitted, unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V.

5.-6. (No change.)

7. Nothing [in] **at** (a) above is intended to prevent a municipality, as part of a certified master plan or land use ordinance, from:

i. (No change.)

ii. Increasing the total number of dwelling units assigned pursuant to (a)1 and 3 above in order to achieve identified municipal objectives; provided that infrastructure is available or can be provided to serve the areas to be zoned for increased residential density, such areas do not include significant environmental limitations and the use of Pinelands Development Credits is required for a percentage of the

permitted dwelling units. Said percentage shall be established in consideration of the type of dwelling unit permitted, maximum permitted density, and the rate at which Pinelands Development Credits have been used in the municipality's Regional Growth Area as a whole;

[ii.] iii. [Increasing or decreasing] **Decreasing** by as much as 10 percent the total number of dwelling units assigned pursuant to (a)1 above[.]; provided that the Pinelands Development Credit program requirements set forth [in] **at** (a)3 above are met relative to the adjusted dwelling unit total and provided further that the adjustment is consistent with land tenure patterns, the character of portions of the regional growth area, the provision of infrastructure and community services, and the natural resource characteristics of the area; or

[iii.] iv. Decreasing the total number of dwelling units assigned pursuant to (a)1 above to a density of no less [that] **than** 2.5 units per acre of developable land[.]; provided that **any such decrease is certified by the Commission pursuant to N.J.A.C. 7:50-3 as of (the effective date of this rulemaking) and:**

- (1)-(3) (No change.)
- 8. (No change.)
- (b) (No change.)

7:50-5.43 Pinelands Development Credits established

(a) Except for land which is owned by a public agency on January 14, 1981, land [which] **that** is thereafter purchased by the State for conservation purposes, land [which] **that** is subject to an easement limiting the use of land to [nonresidential] **non-residential** uses or land otherwise excluded from entitlement pursuant to (b) below, every parcel of land in the Preservation Area District, an Agricultural Production Area, or a Special Agricultural Production Area shall have a use right known as "Pinelands Development Credits" that can be used [to secure a density bonus for lands located] **for development** in Regional Growth Areas **and in accordance with N.J.A.C. 7:50-4.62(d), 5.27(c), and 5.32(b).**

(b) Pinelands Development Credits are hereby established at the following ratios:

1.-4. (No change.)

5. Pinelands Development Credit allocations [exceeding one-quarter of a Pinelands Development Credit] shall be rounded to the nearest one-quarter of a Credit, **with the exception of any such allocation that totals less than 0.125 Pinelands Development Credits, unless the standards at (b)6 or 7 below are met.**

6.-8. (No change.)

(c) (No change.)

7:50-5.46 Aggregation of Pinelands Development Credits

Pinelands Development Credits may be aggregated from different parcels for use in [securing a bonus for a single parcel of land in a Regional Growth Area, provided that the density does not exceed the limits of the density range specified in the municipal district in which the parcel is located] **accordance with N.J.A.C. 7:50-5.43(a).**

7:50-5.47 Recordation of deed restriction

(a) (No change.)

(b) Such deed restriction shall specify the number of Pinelands Development Credits [sold] **allocated** and that the parcel may only be used in perpetuity for the following uses:

1.-4. (No change.)

(c) (No change.)

SUBCHAPTER 10. PILOT PROGRAMS

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.-4. (No change.)

5. Conditions for **the** use of alternate design pilot program treatment systems are as follows:

i.-viii. (No change.)

ix. The property owner shall record, with the deed to the property, a notice consistent with the sample deed notice approved pursuant to (a)2vi above that identifies the technology, acknowledges the owner's

responsibility to operate and maintain it in accordance with the manual required at [(a)2vi] **(a)2iv** above, and grants access, with reasonable notice, to the local board of health, the Commission, and its agents for inspection and monitoring purposes. The recorded deed shall run with the property and shall ensure that the maintenance requirements are binding on any owner of the property during the life of the system and that the monitoring requirements are binding on any owner of the property during the time period the monitoring requirements apply pursuant to this pilot program or any subsequent rules adopted by the Commission that apply to said system;

x.-xiii. (No change.)

(b)-(c) (No change.)

OTHER AGENCIES

(a)

ECONOMIC DEVELOPMENT AUTHORITY

Authority Assistance Programs

Garden State Film and Digital Media Jobs Program

Proposed Readoption of Specially Adopted

Amendments with Substantial Changes: N.J.A.C. 19:31T-1.1 through 1.7, 1.10, 1.11, 1.12, and 1.14

Proposed Readoption of Specially Adopted New

Rules with Substantial Changes: N.J.A.C. 19:31T-1.8, 1.9, and 1.13

Authorized By New Jersey Economic Development Authority, Tim Sullivan, Chief Executive Officer.

Authority: P.L. 2019, c. 506, P.L. 2020, c. 156, P.L. 2021, c. 160, P.L. 2021, c. 367, P.L. 2023, c. 97, and P.L. 2024, c. 33.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-066.

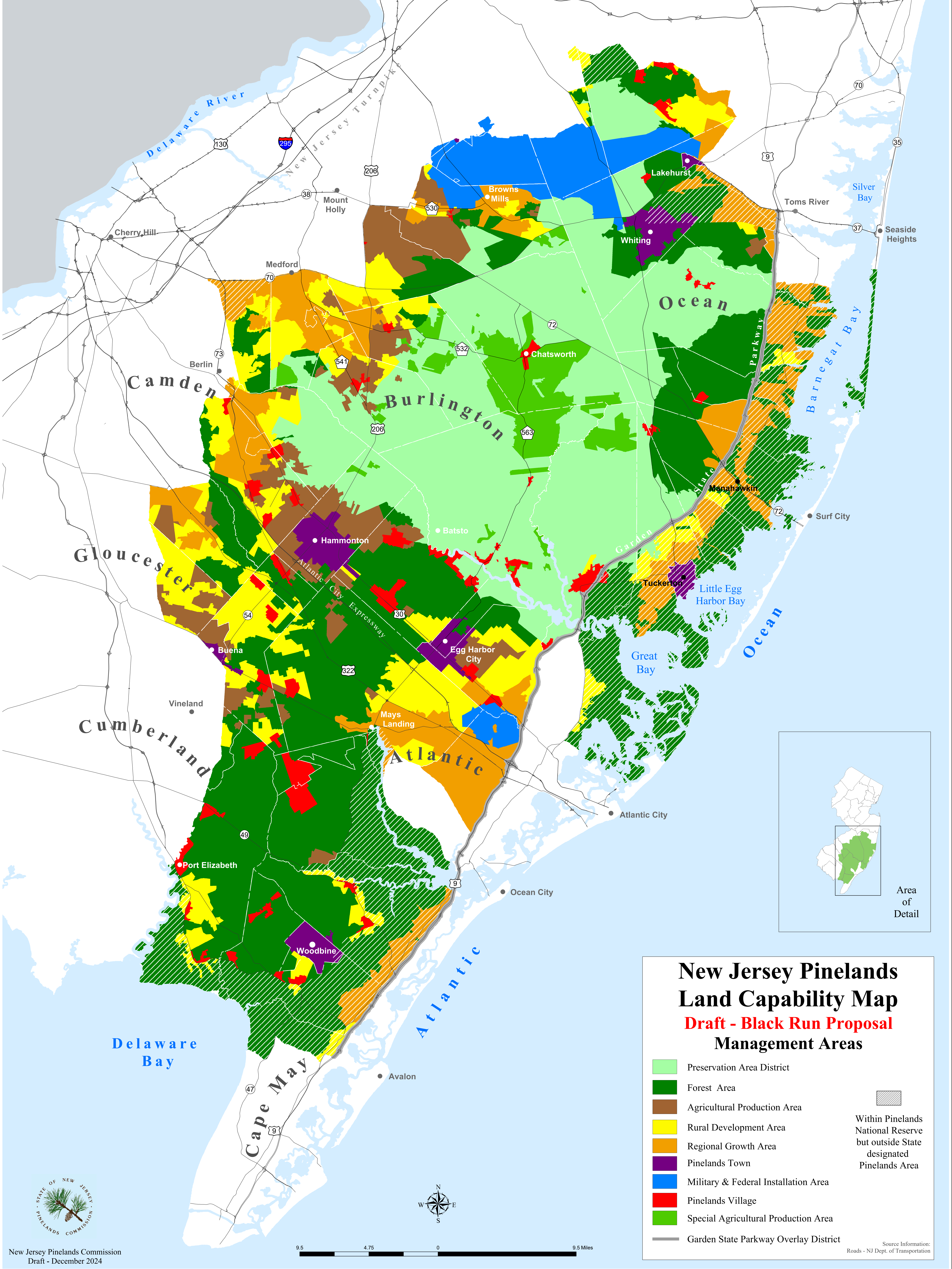
Submit written comments by August 15, 2025, to:

Alyson Jones, Managing Director of Legislative and Regulatory Affairs
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990
Alyson.Jones@njeda.gov

Take notice that in accordance with P.L. 2019, c. 506, P.L. 2020, c. 156, P.L. 2021, c. 160, P.L. 2021, c. 367, P.L. 2023, c. 97, and P.L. 2024, c. 33, the New Jersey Economic Development Authority ("NJEDA" or "Authority") is proposing to readopt the specially adopted amendments and new rules and proposing substantial changes to implement the provisions of the Garden State Film and Digital Media Jobs Act, N.J.S.A. 54:10A-5.39b and 54A:4-12b.

The specially adopted amendments and new rules became effective on February 26, 2024, upon acceptance for filing by the Office of Administrative Law (OAL). The specially adopted amendments and new rules were to be effective for a period not to exceed 180 days from the date of filing, that is, until August 26, 2024. Concurrently, the amendments and new rules were proposed for amendment in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. As the NJEDA filed the original notice of readoption before August 26, 2024, the expiration date was extended 180 days to February 22, 2025, pursuant to N.J.S.A. 52:14B-5.1.c. The concurrently proposed amendments and new rules would have become effective and permanent upon notice of adoption if filed on or before February 22, 2025. See N.J.A.C. 1:30-6.4(f).

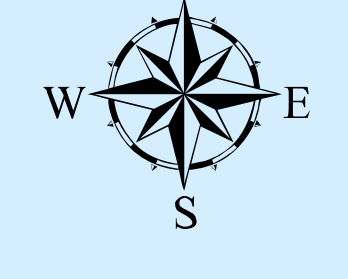
On February 22, 2025, Governor Murphy extended the expiration date of the specially adopted amendments and new rules for one year. The new expiration date is February 22, 2026. See 57 N.J.R. 388(a). The notice of concurrent proposal expired on April 1, 2025, pursuant to N.J.A.C. 1:30-6.4. The Authority is now proposing to readopt the specially adopted



New Jersey Pinelands Land Capability Map Draft - Black Run Proposal Management Areas

 Preservation Area District	
 Forest Area	
 Agricultural Production Area	
 Rural Development Area	
 Regional Growth Area	
 Pinelands Town	
 Military & Federal Installation Area	
 Pinelands Village	
 Special Agricultural Production Area	
 Garden State Parkway Overlay District	
	 Within Pinelands National Reserve but outside State designated Pinelands Area

Source Information:
Roads - NJ Dept. of Transportation



Pinelands Commission Draft Black Run Rule Proposal

Pinelands Management Areas

- | | | |
|---|--|--|
|  Municipal Boundaries |  Preservation Area District |  Rural Development Area |
|  Pinelands Area Boundary |  Forest Area |  Pinelands Town |
|  Proposed Redesignation to Forest Area |  Agricultural Production Area |  Pinelands Village |
| |  Special Agricultural Production Area |  Regional Growth Area |

February 2025

