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**ENVIRONMENTAL PROTECTION**

**PINELANDS COMMISSION**

**Pinelands Comprehensive Management Plan**

**Fees; Escrows; Definitions; Standards for Certification; Application Requirements and Procedures; Landfills; Water Quality; Signs; Petitions for Amendment; Pilot Program for Alternate Design Wastewater Treatment Systems**

**Adopted Amendments: N.J.A.C. 7:50-1.6, 1.7, 2.11, 3.24, 3.39, 4.1, 4.3, 4.15, 4.18, 4.19, 4.20, 4.22, 4.23, 4.25, 4.26, 4.35, 4.37, 4.38, 4.40, 4.41, 4.54, 4.66, 4.67, 4.74, 4.91, 6.75, 6.84, 6.85, 6.106, 7.3, 7.5, 10.21, 10.22, and 10.23**

**Adopted Repeals and New Rules: N.J.A.C. 7:50-6.107, 6.108, and 6.109**

Proposed: September 18, 2017, at 49 N.J.R. 3075(a).

Adopted: December 12, 2017, by the New Jersey Pinelands Commission, Nancy Wittenberg, Executive Director.

Filed: February 1, 2018, as R.2018 d.089, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3) and **with the proposed amendments at N.J.A.C. 7:50-4.1(a)17, 4.53, 4.55, 4.56, 4.68, 4.73, 4.79, 6.64, and 9.7 not adopted.**

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

Effective Date: March 5, 2018.

Expiration Date: Exempt.

The New Jersey Pinelands Commission (Commission) is adopting new rules and amendments to Subchapters 1, General Provisions, 2, Interpretations and Definitions, 3, Certification of County, Municipal and Federal Installation Plans, 4, Development Review, 5,

Minimum Standards for Land Uses and Intensities, 6, Management Programs and Minimum Standards, 9, Acquisition of Properties with Limited Practical Use, and 10, Pilot Programs, of the Pinelands Comprehensive Management Plan (CMP). The adopted amendments and new rules relate to fees, escrows, application requirements and procedures, public notice and mailing requirements, water quality standards, landfill closure, signs, and the Pilot Program for Alternate Design Wastewater Treatment Systems. The changes codify current Commission practice, clarify existing standards and requirements, increase the efficiency of the Commission and its staff, eliminate unnecessary application requirements, simplify procedures for the Commission, Pinelands municipalities and applicants, clarify the circumstances under which installation of an impermeable cap is not necessary for existing Pinelands landfills, allow for the use of advanced treatment technologies as a means of facilitating expansion of certain existing nonresidential uses, update and revise CMP sign standards, and recognize the successful participation of one alternate design wastewater treatment technology in a long-standing pilot program.

In association with publication of the proposed amendments and new rules in the September 18, 2017 issue of the New Jersey Register, the Pinelands 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 Pinelands 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, the health departments of all seven Pinelands counties, the alternate design wastewater treatment system vendors for technologies approved in the Pinelands Area, 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 web page;
- Submitted the proposed amendments and new rules to the Pinelands Municipal Council pursuant to N.J.S.A. 13:18A-7.f;
- Distributed the proposed amendments and new rules to the news media maintaining a press office in the State House Complex; and
- Published a copy of the proposed amendments and new rules on its web page at [www.nj.gov/pinelands](http://www.nj.gov/pinelands).

**Summary of Hearing Officer Recommendations and Agency Response:**

A formal public hearing was held before the Commission staff on October 4, 2017. One person attended the hearing and provided oral testimony on the notice of proposal.

The public hearing was recorded on magnetic tape, which is on file at the Commission's office at 15 Springfield Road, New Lisbon, New Jersey. The record of this rulemaking is available for inspection in accordance with applicable law by contacting:

Betsy Piner

Pinelands Commission

PO Box 359

New Lisbon, NJ 08064

In addition to the oral testimony, the Commission received 669 written comments on the proposed amendments and new rules.

The hearing officer's recommendations are in accordance with the public comment and agency responses below.

**Summary of Public Comments and Agency Responses:**

The Commission accepted oral comments on the September 18, 2017 proposal at the above-discussed October 4, 2017 public hearing and written comments by regular mail, facsimile or e-mail through November 17, 2017.

The following individuals and organizations submitted comments:

1. Jean Q. Public
2. Mayor Chuck Chiarello, Buena Vista Township
3. Connie Herman
4. Roger Bynum
5. Laura Nesbitt
6. Charlotte Tomaszewski
7. Patricia Haines
8. Marko Capoferri
9. Kathy Antenar
10. Nancy Klein
11. Robert Bennett
12. Cheryl Baysal
13. Jeri Mower
14. Kevin Sparkman
15. Maria Scotto diCarlo
16. Norah English
17. Melissa Tomlinson
18. Michael McFadden

19. Kate Pourshariati
20. Cathy Patsco
21. Alina Taylor
22. Clayton Gashlin
23. Georgina Shanley
24. Greg Gates
25. Lisa Kruczek
26. Bill Brash, President, Board of Trustees, New Jersey Fire Safety Council
27. John Comella
28. Carroll Arkema
29. Holly McDonald
30. Chuck Graver
31. Hillary Persky
32. Patricia Mathis
33. Tom Harris
34. Frank DiDonato
35. David Steinberg
36. Paul Purcell
37. James Adams
38. Amy Hansen
39. Melissa Kendall
40. Joseph McConnell
41. Steven Fenster

42. April Redmond, Trustee, Tavistock Homeowners Association
43. Anthony DeStasio
44. Judith Kuhmichel, Chairperson, Country Walk of Lake Ridge Firewise Program
45. Horace Somes
46. William Edwards
47. Anne Carroll
48. Stephen Marshall
49. Barbara Milloy
50. Janet Fair
51. Moira Flynn, chairperson, Community Safety Committee, Four Seasons at Mirage,  
Barnegat
52. Denise Mackey
53. Manchester Township Council
54. Mayor Kenneth Palmer, Manchester Township
55. Kathleen Agolio
56. Edward & Elizabeth Lynch
57. Patrick Lenaghan
58. Betty Musetto
59. Horizons at Barnegat Firewise Committee
60. Diane Schlagel, President, Firewise Board of Brighton at Barnegat
61. P. Mondelli
62. Jay E. Mounier
63. Edward Walz, President, Board of Directors, Cedar Glen Lakes, Inc.

64. Barbara Trought
65. Robert R. Williams, Certified Forester, Pine Creek Forestry, LLC
66. Gordon Gross, Emergency Management Coordinator, Office of Emergency Management,  
Maurice River Township
67. Mayor Dudley Lewis, Washington Township
68. Atul Bhankharia
69. Aaron Cela
70. Monty Tilles
71. Linda Mikes
72. Joan Walters
73. Dawn Boughal
74. Anita Rosinola
75. Julia Cranmer
76. Joann Eckstut
77. Jo Ann McGreevy
78. Robert Candelmo
79. Charles ODonnell
80. Jazmene Smith
81. Caroline Binder
82. Ann Michalowski
83. Anita Kasbarian
84. Graham Ellis
85. Dennis Huyler

86. Bettina Hempel
87. Peter Lenshoek
88. Janis Todd
89. Gina Stagliano
90. Bonner Doemling
91. David Lawrence
92. Kathi Cooley
93. Marjorie Royle
94. Cheri Dzubak
95. Harriet Jernquist
96. Carol Lindsey
97. Izabela Lambert
98. Chris Hazynski
99. Irene Pendze
100. John Swanson
101. Jay Powell
102. Jeff Barton
103. Cori Bishop
104. Theresa Sapigo
105. Petr Khlyabich
106. Timothy Beitel
107. Susan Terris
108. Christopher D'Amato



109. Marilyn Weschselblatt
110. Nancy Feldman
111. Ronald Sverdlove
112. Aurelle Sprout
113. B. Fleitman
114. Nancy Keating
115. Arthur Anderson
116. Mary Loielo
117. James Merlo
118. Hennessy Hennessy
119. Joseph Attamante
120. Dale Smith
121. Robert Rader
122. Arlene Aughey
123. Dorothy Jackson
124. Jay Hendra
125. Jane Dineen
126. Jeffrey Rattner
127. Jeanne Out
128. Tara Cruser-Moss
129. Ae Petrilla
130. Jenny Ludmer
131. Chris Scholl

132. Barbara Darwin
133. Guy Harris
134. Louis Dallara
135. Rozina Barker
136. Joseph Porter
137. Justin Kaluza
138. Tabernacle Township Committee
139. William Hague
140. Shawn Cutts, President, American Cranberry Growers Association
141. John Drew
142. Sam Mufalli
143. Alice Golin
144. Donald Cramer
145. Helene Matthews
146. Ibn-Umar Abbasparker
147. James Shea
148. Joseph Braun
149. Marian Reiff
150. William Frantz
151. Charles Davis
152. Clive Smith
153. Jean Publee
154. James Tomczyk

155. Mike Simonet
156. Leonard Berkowitz
157. Katherine Smith, Dr. Ryan Rebozo and Dr. Emile DeVito, Pinelands Preservation Alliance
158. Don Vonderschmidt
159. Warren Tuttle, Sr.
160. David Vanek
161. Judith Arik-McGrail and Timothy McGrail
162. Heather John
163. Margaret Wianecki
164. Esterina Bodarky
165. Ruth Boroshok
166. Gina Megay
167. Lascinda Goetschius
168. Jutta Von Sivers
169. Steve Gross
170. James Anglely
171. Sandy Pelland
172. Tom Murray
173. Elaine Goodman
174. Sharon Sauro
175. Marion Chayes
176. Kathy Hart

177. Terry Edlefsen
178. Lisa Blume
179. Aaron Kirtz
180. Matthew Garvin
181. Rhoda Lewis
182. Brian de Castro
183. Stewart and Barbara Carr
184. Kelly Riley
185. Candace Bassat
186. Olga Vannucci
187. Christopher Carlin
188. Keating, C
189. Sherry Gordon
190. Richard Anscher
191. John Wheeler
192. David Fritsche
193. Peter Burval
194. Paul Lerman
195. Richard Kelly
196. Brian Schranz
197. Robert Barrett
198. Carol Joseph
199. Glenn and Meg Turner

200. Paul Riley
201. Patricia Munn
202. Bruce Gordon
203. Rui Moreira
204. David Snope
205. Glenn Novak
206. Robert McPherson
207. Stephanie Eckert
208. Leora Broche
209. Richard Riggs
210. Gregory Rosmaita
211. Susan Tull
212. David Kaplan
213. Robert Szuter
214. Mark Canright
215. Michael Dawson
216. Lee Johnson
217. Carmen Dinescu
218. Stan Hershey
219. Karen Hauck
220. Wayne Strelecki
221. Kelley Nelson
222. Donna Pfeffer

223. Debra Johnson
224. Daniel Kurz
225. Frances Benson
226. Jeffrey Howell
227. Marie Street
228. MaryAnn Muscavage
229. Joseph Basralian
230. James Golden
231. Susan Chenelle
232. Mariusz Dziewulski
233. Carl Ford
234. Zorina Weber
235. Merelyn Dollins
236. Joseph Pylka
237. Sherry Taylor
238. Peter Ingerman
239. Margaret Bordak
240. Joseph Brigandi
241. Iris Block
242. Christine Balint
243. Alan Harwick
244. Diane Geary
245. Corey Schade

246. George Chernetz
247. Joyce Milinowicz
248. Kenneth Grosso
249. David Briede
250. Brooke Harris
251. Gail Andrews
252. Diane Bynum
253. Christina Perella
254. Karen Abel
255. Julie von Uffel
256. Julian Madison
257. Pete Mooney
258. M Sidey
259. Eleanor Liggio
260. Eugene Gorrin
261. Kerry Heck
262. John Bruce
263. Julie Aronson
264. Jackie Garwin
265. Maureen Levier
266. Helen Hamilton
267. Gregory Gates
268. Rosemary Topar

269. Joseph Matar
270. Walter Tulys
271. Tom Beatini
272. Renee Simone-Wiley
273. Gertrude Glazer
274. Dorian Charles
275. Donald White
276. Glenn Welsh
277. Bonnie Bayardi
278. Jean Kuhn
279. Ismael Rodriguez
280. Gairda Jensen
281. Jann Jasper
282. M March
283. H Cunningham
284. James Macaluso
285. Walt Anen
286. Sue Vanleeuwen
287. Shawn Liddick
288. Paul Lucas
289. Sandra Gordon
290. Kevin Kimmel
291. Michele Richards



292. Elsie Polsenski
293. Barbara Nyce
294. Charles Avatar
295. Betsy Hays Gatti
296. Ken Burkhardt
297. John Schreiber
298. Kate Gibbons
299. Margaret Yelenik
300. George Hurst
301. Steven Villani
302. Michael DiGiore
303. Linda Franklin Dreker
304. Stephen Piotrowski
305. Susan Covert
306. Miriam MacGillis
307. David Caccia
308. Matty Giuliano
309. Carl Casella
310. Ginger Mc Rae
311. Joseph Fysz
312. William Roller
313. Jay Steele
314. Matthew Di Clemente

315. Jason Bladzinski
316. Donna O'Leary
317. Margaret Mitchell
318. Felicia Lewis
319. Karen McGuinness
320. Kathleen Maher
321. Denise Summer
322. Lynn Mignola
323. Francie Goldstein
324. Patricia Martinelli
325. Gilda Dibenedetto
326. Nicholas Homyak
327. Sally Warner
328. Matthew Franck
329. MaryJo Kenny
330. William Diviney
331. Robert Veralli
332. Myron Rosenberg
333. Bruce Revesz
334. David Fisher
335. Wayne Jablonski
336. Beth Toussaint
337. Charissa Murray

338. Ann Tung
339. Lynnette Krueger
340. Leslie Lanphear
341. Eileen Corbett
342. Penny Bannister
343. Susan Hamann
344. Susan Godoy
345. Stephen V. Lee, III, President, Lee Brothers, Inc.
346. Jennifer Parisi
347. Tracey Tronolone
348. Jarrett Cloud
349. Dianne Swensen
350. Andrea Hall
351. Jack Spector
352. Rich McFeeters
353. David Schatanoff
354. Marcia Aronoff
355. Jill Arbuckle
356. Michael Gallaway
357. Robert Garcia
358. Betsy Barrett
359. Teresa Brown
360. Paul Petto

361. Lynn Roberts
362. Greg Krawczyk
363. Marco Palladino
364. Richard Reeves
365. Nancy Newcomer
366. Ruth H Varney
367. Louis Ginsburg
368. Lawrence Hoffman
369. Patricia Soteropoulos
370. Lisa Quartararo
371. Virginia & George Breza
372. Nancy Yarnall
373. Donna Nina
374. Kathi Lombardi
375. Carol Kuehn
376. John Bradford
377. Mark van Rossen
378. Martin Judd
379. Helen Schafer
380. Debra Miller
381. John Muits
382. Catherine Kuzma
383. Robert Smith

384. Thomas Koven
385. Patricia Castine
386. Roger Johnson
387. Elizabeth Bates
388. Jacob Johnson
389. Melanie Murphy
390. Leland Montgomery
391. Deborah Martin
392. Fran Ransom
393. Raphael Wolfson
394. Marta Garcia
395. Pamela Shuman
396. Patricia Nardone
397. Florence Wohl
398. Suzanne Hutter
399. Daniel Weinberger
400. Donald Widmyer
401. William Welkowitz
402. Gibson Reynolds
403. George Gallagher
404. Bonnie Hall
405. Colleen Loughran
406. Jim Van Arsdale

407. Janine Nichols
408. Tracy Foster
409. Thomas Bauer
410. Jeanette Gallagher
411. Marylis Saltzmann
412. Damian Velez
413. Jonathan Rosenblatt
414. Chris Stock
415. Patrica Guthrie
416. Robert Keller
417. Janice Dlugosz
418. Stuart Way
419. Meredith Kates
420. Nicole Scott-Harris
421. Jacob Pease
422. Linda McKillip
423. Harry Hudson
424. Jerry Rivers
425. Sharyn Magee
426. James Hemm
427. Marvin Feil
428. Barbara Spector
429. Sandra Garcia

430. C. Ortiz
431. Thomas Cahill
432. Jo Legg
433. Adam Gross
434. Phyllis Fast
435. Kenneth Maskell
436. Thomas Gillen
437. Amy Steinberg
438. Heidi Hess
439. Erica Johanson
440. Jason Ksepka
441. Lynn Gale
442. Pete Dershimer
443. Elizabeth Guimes
444. Naomi Lonergan
445. Jessica Anderson
446. Victoria Mack
447. Gennaro F. DeLucia
448. Deborah Bianco
449. Jeanne Rothwarf
450. Richard Puglisi
451. Mitzi Deitch
452. Kathy Pippen

- 453. John Teevan
- 454. MJ Cittadino
- 455. Mekala Ravishankar
- 456. Justin Powell
- 457. Brian Moscatello
- 458. Debbie Smith
- 459. George Bourlotos
- 460. John Pasqua
- 461. Pat Foltz
- 462. Deirdre Evangelista
- 463. Phillip Desousa
- 464. John Rech
- 465. Takako Ishii-Kiefer
- 466. Darvin Schild
- 467. Wayne Goldsboro
- 468. Joann Ramos
- 469. Jack Schwartz
- 470. Daniel D'Auria
- 471. Scott Bruinooge
- 472. Kathleen Metzger
- 473. Lara Richards
- 474. Paul Bartholomew
- 475. Kathy Aprile



476. Lorraine Brabham
477. David Herbert
478. Rhoda Ondov
479. Patrick Mulligan
480. Jennifer Bulava
481. Heather Bollwark
482. Linda Mack
483. Margaret Woo
484. John Bryans
485. Jacqueline Eliopoulos
486. Jim Miller
487. Kris Smalley
488. Denise Lytle
489. Frank Ferguson
490. Dolores Danks
491. Roland Patterson
492. Sean Derman
493. Curt Baker
494. Marya Parral
495. Ruth Coop
496. Judith Bennis
497. Maureen Neville
498. Kevin Bolembach

499. David Hubbard
500. Marie Keegan
501. Brian Reynolds
502. Cathy Cappiello
503. Sean Ebersole
504. Gregory Miller
505. Janice Buchalski
506. William J Bolen
507. Joan Maccari
508. Timothy Rolle
509. Michael Shakarjian
510. Susan Clark
511. Nicholas Bertram
512. Bryan Mitchell
513. Richard Watson
514. Robert Kwiecinski
515. Jim Kerner
516. Peter Green
517. Christine Mueller
518. Nichole Diamond
519. Jean Parsons
520. John D'Agostino
521. Heidi West

- 522. Natalie Weiss
- 523. Morgan Clark
- 524. Meredith DiMeola
- 525. Susan Shapiro
- 526. Teresa Petersen
- 527. Ashley Farreny
- 528. Charles Mcghee Hassrick
- 529. Dan Tollinchi
- 530. G Derner
- 531. Katharine Larocca
- 532. Catharine Flaherty
- 533. Christopher F. Vota
- 534. Felice Schlesinger
- 535. Joshua Noreuil
- 536. Murugan Elu
- 537. Meg Sleeper
- 538. Janice Ewertsen
- 539. Robert Carnevale
- 540. Lyle Finocchiaro
- 541. Mihaela Dinu
- 542. Edward Brigante
- 543. Karen Snow
- 544. Karen Pepe

- 545. Grace Ramus
- 546. Lauren Morse
- 547. Carol Meyer
- 548. Susan Warner
- 549. Adam Copestick
- 550. Linda Elsenhans
- 551. Mike Albar
- 552. Natalie Szuter
- 553. Benito Leon
- 554. Ann Plaisted
- 555. Brenda Carmichael
- 556. Andrea Bonette
- 557. Keith Megay
- 558. Kyle Bracken
- 559. Robert Hartman
- 560. Anu Hansen
- 561. Peter McCarthy
- 562. Arlene Griscom
- 563. Richard Boornazian, Assistant Commissioner, Natural and Historic Resources, New  
Jersey Department of Environmental Protection
- 564. L. Helaudais
- 565. Susan Samtak
- 566. Jane Flanagan

567. Marjorie Woodward
568. Al Chazin
569. Len Wassum
570. Bernadette Tourtual
571. Maureen Crowley
572. Doris Jackson
573. Patricia Daly
574. Karen Taylor-Ogren
575. Lauren Beglin
576. Shiela Mitchell
577. Elizabeth George-Cheniara, Esq., Vice President of Regulatory and Legal Affairs, New Jersey Builders Association
578. Gerald Reisner
579. Rita Sheehan
580. Stuart and Fran Brooks
581. Mary Hamilton
582. Susan Holland
583. Theodore Chase
584. Rosemary Doherty
585. Judith Navetta
586. Gerald and Ann Williams
587. Shawn Sori
588. James Rowley

589. Dan Vitelli
590. Alexander Hall
591. Bruce Smith
592. Loretta Aja
593. Jean Strickholm
594. David Approvato
595. Katherine Yvinskas
596. Alice Edgerton
597. Mercedes Dotter
598. Peggy Barbella
599. Mary Ann Cernak
600. Belinda Caraballo
601. Bill Simmons
602. Rita Thompson
603. Melissa Glick
604. Frank A. Brincka
605. Township of Ocean
606. Bethany Sattur
607. John Rossi
608. Jan Lilly
609. Kim Sellon
610. Dawn Canna
611. Ruby Weeks

612. Patricia Guida
613. Kathleen Huffman
614. Dionne Polk
615. Karen Kent
616. Andrew Levin
617. Marie Leithauser
618. Hyun Chul Kim
619. Jennifer Jacoppo
620. Carol Paszamant
621. Galen Preble, Trustee and Treasurer, Whiting Village at Crestwood
622. Elizabeth Brown
623. Krista Florin
624. Tom Conklin
625. Ellen Hochberger
626. Reshma Mongia
627. South Jersey Quail Project
628. D. Janszky
629. Brian Murray
630. George Schaefer
631. Tracy Carcione
632. Ian Whelan
633. Albert McComas, Board President, Country Walk of Lake Ridge
634. Amy Price

635. Mike Anderson
636. Cindy Kerekes
637. Donna Yavorsky
638. Hugh Carola
639. Rich Paterson
640. Chris Arney
641. Senator Christopher J. Connors
642. Douglas Cramer, Cramer & Son
643. Mark Villinger, Supervising Planner, Ocean County Planning Board
644. William J. Cutts, Cutts Brothers, LLC and Wading River Cranberries, LLC
645. Peter J. Furey, Executive Director, New Jersey Farm Bureau
646. Dawn Gabriel
647. Claire Whitcomb
648. Ellen Bleidorn
649. Lauren Gonnella
650. Patty Wysong
651. Kate Schumacher
652. Athenia Ibragimov
653. Robert Deems
654. Gary Gentert
655. Anthony Ivankovic
656. David J Pustizzi Sr
657. Linda Williams



- 658. Lance Laccoff
- 659. Robert Graver
- 660. Joan detyna
- 661. Tatiana Durbak
- 662. Susan Farro
- 663. Linda O'Donnell
- 664. Dawn Zelinski
- 665. Marie Curtis
- 666. Jen Perlaki
- 667. Margaret M. Burns
- 668. Jerry Balabanian
- 669. Dave Maynard

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: The commenter suggested that the Commission immediately increase its development application fees by 1,000 percent, as a means of reducing the amount of development occurring in the Pinelands. (1)

RESPONSE: The proposed amendments to N.J.A.C. 7:50-1.6 increase most application fees by 25 percent. The Commission believes this is an appropriate increase, given application fee

revenue and the costs incurred by the Commission to review and act on development applications.

2. COMMENT: The commenter stated that off-road vehicle events, for which an application fee is required, should be prohibited in the Pinelands due to their impacts on wildlife. (1)

RESPONSE: The proposed amendments to N.J.A.C. 7:50-1.6(c)1 increase application fees for off-road vehicle events from \$5.00 to \$6.25 per mile of the route proposed. The question of whether or not such events should be allowed in the Pinelands Area is not the subject of the current rulemaking effort.

3. COMMENT: The commenter stated that all solar energy facilities should be located on the roofs of building, rather than on the ground, so that land may be retained in its natural state. (1)

RESPONSE: The proposed amendments to N.J.A.C. 7:50-1.6(c)9 merely adopt specific fees for development applications involving solar energy facilities. The location of such facilities and the standards that apply to their development are not the subject of this rulemaking effort.

4. COMMENT: The commenter expressed support for the application fee amendments but raised concerns with any requirement for fees related to pre-application conferences, particularly as they might involve applications for general development plan approval in accordance with N.J.A.C. 7:50-1.6(l). (577)

RESPONSE: The Commission appreciates the support of the commenter. The Comprehensive Management Plan has never required fees for pre-application conferences, which are meetings

between property owners, potential applicants, and Commission staff to discuss possible development projects. The amendments do not impose fees for pre-application conferences, regardless of the type of development or application being proposed.

**Definitions (N.J.A.C. 7:50-2.11)**

5. COMMENT: The commenter supported the change in definition from “interested person” to “interested party.” (577)

RESPONSE: The Commission appreciates the expression of support; however, as noted in the Response to Comment 6, the Commission is not adopting the proposed amendment to the definition.

6. COMMENT: Numerous commenters objected to the change in definition from “interested person” to “interested party” at N.J.A.C. 7:50-2.11, stating that use of the amended definition will limit the rights of Pinelands homeowners and business owners. These commenters submit that the current definition in the CMP allows individuals to intervene if their properties or activities would be genuinely impacted by a Commission action, and should, therefore, remain unchanged. The commenters state that the proposed new definition fails to describe who is actually considered an interested party. The commenters assert that the amendments contradict the Commission’s mandate to encourage maximum public participation, particularly as it is expressed in Section 502 of the National Parks and Recreation Act of 1978, Pub.L. 95-625 (16 U.S.C. § 471i(f)) (3 through 18, 20 through 25, 27 through 41, 47, 48, 49, 50, 52, 57, 58, 61, 64, 68 through 137, 139, 141 through 344, 346 through 562, 564 through 576, 578, 579, 581 through

604, 606 through 620, 622, 623, 624, 625, 626, 628, 629, 630, 631, 632, 634 through 640, and 646 through 669)

RESPONSE: The proposed amendments to the definition of “interested person” at N.J.A.C. 7:50-2.11 and to the procedures at N.J.A.C. 7:50-4.19(b), 4.25(b), 4.37(b), 4.55, 4.68, 4.73(d), 4.79, 4.91(a) and (b), 6.64(a)2v, and 9.7, were the Commission’s much-delayed response to the 1993 amendments to the Administrative Procedure Act, which curtailed third-party adjudicatory hearing rights and withdrew the authority of State agencies to confer a right to an adjudicatory hearing to third parties by rule or regulation. The Commission has determined that further analysis of a potential Federal issue is advisable and is, therefore, not adopting any changes to the definition of “interested person” at this time. Likewise, the term “interested party” will not be changed in the procedural requirements set forth at N.J.A.C. 7:50-4.19(b), 4.25(b), 4.37(b), 4.55, 4.68, 4.73(d), 4.79, 4.91(a) and (b), 6.64(a)2v and 9.7.

#### **Application Exemptions (N.J.A.C. 7:50-4.1)**

7. COMMENT: A number of organizations and individuals objected to the proposed amendments to the exemption for prescribed burning and the creation and maintenance of fire breaks at N.J.A.C. 7:50-4.1(a)17. These commenters cited a number of reasons for their objections, including concerns with air pollution, public safety, application fees, administrative procedures, and increased workload for the Commission staff. Specific objections were raised to the proposed six-foot threshold at which clearing for a new fire break would require application to the Commission, with many commenters suggesting that the threshold should be increased to anywhere from 10 to 200 feet. A number of commenters warned that the imposition of application fees and procedures could lead to decreased prescribed burning in the Pinelands, as

well as decreased maintenance and fewer fire breaks, which in turn will create public safety issues. Many of the commenters encouraged the Commission to abandon the proposed amendment completely while others asked that the Commission delay adoption of the amendment until such time as consultation with appropriate agencies (such as the New Jersey Forest Fire Service) has occurred. (26, 42, 43, 44, 45, 46, 51, 53, 54, 55, 56, 59, 60, 62, 63, 65, 66, 67, 138, 140, 157, 345, 563, 580, 605, 621, 627, 633, 641, 642, 643, 644, and 645)

RESPONSE: The volume of comments received on this application exemption clearly indicate that prescribed burning and the creation of fire breaks in the Pinelands Area are of significant concern. It is also clear from the public comments that these practices are far more widespread than the Commission was previously aware, particularly on privately owned properties and in association with agricultural uses. The Commission recognizes the importance of affording adequate time and effort to address this issue and is, therefore, not adopting the proposed amendments to N.J.A.C. 7:50-4.1(a)17 at this time. Instead, the Commission will engage all stakeholders to discuss the issue and assist in developing an amended application exemption to be incorporated in a future rule proposal.

### **Public Hearings (N.J.A.C. 7:50-4.3)**

8. COMMENT: The commenter stated that the Commission needs to continue to hold public hearings, so that all can voice their concerns and take an interest in protecting nature and the future. (19)

RESPONSE: The amendments do not in any way curtail the public hearing requirements of the CMP. Rather, they merely require the Commission to post hearing notices on its website, in addition to publication in the newspaper and distribution to various individuals and governmental

agencies, and shift the responsibility for notice of certain hearings from applicants to the Commission. Any matter for which the CMP required a public hearing prior to the adoption of these amendments will continue to require a hearing.

**Notice and Report Requirements (N.J.A.C. 7:50-4.19, 4.20, 4.22, 4.23, 4.25, 4.26, 4.37, 4.40, and 4.41)**

9. COMMENT: Numerous commenters objected to the elimination of the requirements at 7:50-4.19(b) and (c), 4.20(a), 4.22(b), 4.23, 4.25(c), 4.26(a), 4.37(b) and (c), 4.40(b), and 4.41, that call for the Commission to provide notices to individuals who participate in the local (municipal) approval process for a development project in the Pinelands Area. These commenters stated that they can more easily voice their concerns to their municipal officials than to the Commission. The commenters stated that they do not have time to monitor the activities of the Commission, largely because the Commission meets during the day and the agency's headquarters are "difficult to get to." They suggested that notifying individuals who participated in the local approval process is reasonable and helpful to the Commission. The commenters submitted that elimination of these notice requirements will discourage public participation. (3 through 18, 20 through 25, 27 through 41, 47, 48, 49, 50, 52, 57, 58, 61, 64, 68 through 137, 139, 141 through 344, 346 through 562, 564 through 576, 578, 579, 581 through 604, 606 through 620, 622, 623, 624, 625, 626, 628, 629, 630, 631, 632, 634 through 640, and 646 through 669)

RESPONSE: The amendments revise the provisions set forth at N.J.A.C. 7:50-4.18(d)7 and 4.35(d)7 that local approval agencies must meet when providing notice to the Commission of certain approvals. Approval agencies will no longer be required to include in such notices the names and mailing addresses of the individuals who testified or otherwise participated at a

municipal planning, zoning, or land use board meeting where an application for development in the Pinelands Area was heard.

The amendments make similar revisions to the notice requirements at N.J.A.C. 7:50-4.19(b) and (c), 4.20(a), 4.22(b), 4.23, 4.25(c), 4.26(a), 4.37(b) and (c), 4.40(b), and 4.41, which the Commission must follow when the Executive Director reviews a local approval and makes a determination as to its consistency with the CMP. The Commission will no longer be required to mail notices of such determinations to the individuals identified by the municipality as having actively participated at a local board meeting. The Commission will, however, continue to provide notice to individuals who have submitted information to the Commission on a particular development application and to those individuals who have requested a copy of the Executive Director's determination. In addition, the Commission will continue to provide notice to all individuals, organizations, and agencies that have registered pursuant to N.J.A.C. 7:50-4.3(b)2i(2) to receive notice of all public hearings and determinations by the Executive Director on development applications.

The Commission disagrees that the amendments will curtail or otherwise negatively affect public participation. The amendments merely eliminate an inefficient and ineffective notice provision, one that may have made sense when the CMP was adopted in 1980, but is no longer necessary given today's technology. Ample opportunities remain for individuals concerned with development projects in the Pinelands Area to register their concerns directly with the Commission and receive notification of the Executive Director's determinations. Attendance or testimony at a Commission meeting is not required; rather, an e-mail or phone call to the Commission will suffice.

The Commission also maintains a website that contains status reports on all active applications for development in the Pinelands Area. Reports on active public development applications and requests for waivers of strict compliance are updated daily. An updated status report on all development applications with recent activity is posted every week. These status reports are available to the public 24 hours a day, seven days a week. In a matter of minutes, anyone who is concerned with a particular application can identify its status and simply call or e-mail the Commission for more detailed information and/or request to receive notice of future Commission actions on that application.

**Water Quality (N.J.A.C. 7:50-6.84)**

10. COMMENT: The commenter supported the amendments at N.J.A.C. 7:50-6.84(a)5iii that allow use of advanced wastewater treatment systems for the expansion and improvement of certain existing businesses in the Pinelands Area. (2)

RESPONSE: The Commission appreciates the support of the commenter and hopes the amendment will be of benefit to existing businesses in the more rural portions of the Pinelands Area.

**Septic management (N.J.A.C. 7:50-6.85)**

11. COMMENT: The commenter supported the amendments at N.J.A.C. 7:50-6.85 that refer to, and rely on, the Department of Environmental Protection's septic management requirements. (577)

RESPONSE: The Commission appreciates the support of the commenter.



**Alternate Design Treatment Systems Pilot Program (N.J.A.C. 7:50-6.84, 10.21, 10.22, and 10.23)**

12. COMMENT: The commenter supported the amendments at N.J.A.C. 7:50-10.21, 10.22, and 10.23 that release the FAST wastewater treatment system from the Alternate Design Treatment Systems Pilot Program in recognition of the system's success in meeting CMP water quality standards for residential development. (577)

RESPONSE: The Commission appreciates the support of the commenter.

**Miscellaneous**

13. COMMENT: The commenter stated that affordable housing should be provided outside the Pinelands, in other portions of the State. (1)

RESPONSE: The opinion of the commenter is noted; however, none of the proposed amendments or new rules relate to the provision of affordable housing.

14. COMMENT: The commenter complained about the actions of certain Federal representatives and officials with respect to the Paris Climate Change agreement and the future of the planet. The commenter stated that such officials and the Commission should say no to all pipelines. (407)

RESPONSE: The opinion of the commenter is noted; however, none of the proposed amendments or new rules relate to these matters.

**Summary of Agency-Initiated Changes:**

The Commission is correcting publication errors made during the processing of the proposed amendments. Specifically, references to “Pinelands villages” in N.J.A.C. 7:50-6.108(a)4iii and “Pinelands towns” in N.J.A.C. 7:50-6.108(a)4ii and iii and (a)5 are being replaced with “Pinelands Villages” and “Pinelands Towns.” This correction, which merely replaces lower case letters with upper case letters, will make clear that the rules refer to specific Pinelands management areas, as established and delineated in N.J.A.C. 7:50-5, rather than entire municipalities, towns, or villages.

### **Federal Standards Analysis**

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. § 471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation, and enhancement of the land and water resources of the Pinelands. The adopted amendments are designed to meet those goals by providing an opportunity for water quality improvements through the use of advanced waste water treatment systems. The other amendments and new rules may be categorized as clarifications or largely procedural in nature.

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

**Full text** of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

7:50-2.11 Definitions

When used in this Plan, the following terms shall have the meanings ascribed to them.

...

“Interested **\*[party]\* \*person\***” means any **\*[person or entity who has either submitted an application for development to the Pinelands Commission or who has a particularized property interest sufficient to require a hearing on constitutional or statutory grounds]\* \*persons whose right to use, acquire, or enjoy property is or may be affected by any action taken under this Plan, or whose right to use, acquire, or enjoy property under this Plan or under any other law of this State or of the United States has been denied, violated, or infringed upon by an action or failure to act under this Plan\***.

...

7:50-4.1 Applicability

(a) For the purposes of this subchapter only, the following shall not be considered development except for development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154:

1.-16. (No change from proposal.)

17. Prescribed burning and the clearing and maintaining of fire breaks;

18.-23. (No change.)

(b)-(d) (No change.)

7:50-4.19 Commission review following preliminary approval

- (a) (No change.)
- (b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.18(d), the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that granted such preliminary approval, 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 N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, the notice shall indicate that the applicant, the local permitting agency, or any interested *\*[party]\** **\*person\*** may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing such preliminary approval.
- (c)-(e) (No change from proposal.)

7:50-4.25 Commission review following local denial

- (a) (No change.)
- (b) Notice of decision and hearing: Within 30 days following receipt of a notice of a denial containing all the information specified in N.J.A.C. 7:50-4.18(e) the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that denied the applicant, 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 which has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the denial should be reviewed by the Commission, the notice shall be sent by mail to the applicant and the local agency that granted the approval. The notice shall indicate that the applicant, the local permitting agency, or any interested \*[party]\* **\*person\*** may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing the denial.

(c) (No change from proposal.)

7:50-4.37 Commission review following preliminary approval

(a) (No change.)

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.35(d), the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that granted such preliminary approval, 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 N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, the notice shall indicate that either the applicant, the local permitting agency or any interested \*[party]\* **\*person\*** may, within 21 days of mailing of such notice, request that a hearing be held before an

Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing such preliminary approval.

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

7:50-4.38 Decision on review

(a) Determination by Executive Director: If no hearing is requested by the applicant, the local permitting agency or any interested \*[party]\* **\*person\*** pursuant to N.J.A.C. 7:50-4.37(b), the Executive Director shall, within 60 days after the time to request a hearing has expired, review the application, all other information in the file including any staff reports and the local approval and determine whether the preliminary approval is in conformance with the minimum standards of this Plan and the provisions of the relevant certified local ordinance. The Executive Director may recommend the Commission approve the preliminary approval, approve the preliminary approval with conditions, or disapprove the preliminary approval. The Executive Director shall give written notification of his or her findings and conclusions to the applicant, the Commission, the local approving 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 N.J.A.C.

7:50-4.3(b)2i(2).

(b)-(d) (No change.)

7:50-4.66 Application

(a)-(c) (No change.)

(d) The notice in (b) and (c) above shall state:

1.-6. (No change from proposal.)

7. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested \*[party]\* **\*person\*** who is aggrieved by said determination is entitled to a hearing by appealing the determination.

#### 7:50-4.91 Appeal

(a) Notice: Any \*[interested party]\* **\*person\*** who has a right to appeal any determination made by the Executive Director to the Commission shall, within 15 days of the date the decision is deemed rendered in accordance with N.J.A.C. 7:50-4.3(e)3, perfect such right by giving notice by mail of his or her intent to appeal to the Commission. Such notice shall include:

1.-5. (No change.)

(b) Any \*[interested party]\* **\*person\*** who has a right to request a hearing conducted by the Office of Administrative Law concerning a local approval that the Executive Director has determined should be reviewed by the Pinelands Commission shall, within 15 days of the date the Executive Director's determination is deemed rendered in accordance with N.J.A.C. 7:50-4.3(e)3, perfect such right by giving notice by mail of his or her intent to request a hearing to the Commission. Such notice shall include the information specified in (a)1 through 5 above.

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

7:50-6.108 Off-site signs

(a) Off-site signs are permitted only as follows:

1.-3. (No change.)

4. Off-site signs lawfully in existence as of January 14, 1981, shall be permitted in:

i. Regional Growth Areas;

ii. Pinelands \*[towns]\* **\*Towns\***; and

iii. Certified municipal non-residential zones in Rural Development Areas and Pinelands \*[villages]\* **\*Villages\*** in existence as of December 5, 1994, if the sign is located within 1,000 feet of a Regional Growth Area or Pinelands \*[town]\* **\*Town\*** and is located on a United States highway;  
and

5. New off-site signs may be permitted by certified municipalities in Regional Growth Areas and Pinelands \*[towns]\* **\*Towns\***, provided that the applicant can demonstrate that, for each new sign, a non-conforming off-site sign pursuant to (b) below has been removed.