

PINELANDS COMMISSION

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

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

Proposed: June 15, 2009 at 41 N.J.R. 2412(a)

Adopted: October 9, 2009 by the New Jersey Pinelands Commission,  
John C. Stokes, Executive Director

Filed: November 25, 2009 **without change.**

Authorized by: New Jersey Pinelands Commission

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

Effective Date: December 21, 2009

Expiration Date: Exempt.

The New Jersey Pinelands Commission (Commission) is adopting amendments to subchapter 10, Pilot Programs, of the Pinelands Comprehensive Management Plan (CMP). The amendments were proposed on June 15, 2009 at 41 N.J.R. 2412(a). The adopted amendments establish a new pilot program for the maintenance of electric transmission rights-of-way within the Pinelands.

In association with publication of the proposed amendments in the June 15, 2009 issue of the New Jersey Register, the Pinelands Commission transmitted the 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 which subscribe to the Commission's public hearing registry;
- 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 to the Pinelands Municipal Council pursuant to N.J.S.A. 13:18A-7f;
- Distributed the proposed amendments to the news media maintaining a press office in the State House Complex;
- Published a copy of the proposed amendments on its web page at [www.nj.gov/pinelands](http://www.nj.gov/pinelands); and
- Distributed press releases concerning the proposed amendments to the news media

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

A formal public hearing was held before the Commission staff on July 22, 2009. No oral testimony on the proposed amendments was received. The hearing officer's recommendations are in accordance with the public comment and agency responses below.

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

P.O. Box 7

New Lisbon, NJ 08064

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

The Commission accepted oral comments on the June 15, 2009 proposal at the above-discussed July 22, 2009 public hearing and written comments by regular mail, facsimile or e-mail through August 14, 2009.

The following individuals and organizations submitted comments:

1. Donald M. McCloskey, Director, Environmental Strategy & Policy,  
PSE&G
2. Jeanne P. Lennon, Environmental Department, JCP&L
3. Carleton Montgomery, Executive Director, Pinelands Preservation Alliance

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

1. **COMMENT:** Three commenters expressed support for the proposed amendments. One of the commenters indicated that the new pilot program will provide ecological benefits for the Pinelands while enhancing the safety and reliability of the electric transmission system. Another pointed specifically to anticipated benefits to Pinelands plants and wildlife. (1, 2, 3)

**RESPONSE:** The Pinelands Commission agrees and appreciates the support of these commenters.

2. **COMMENT:** One commenter concurred with the time of year restrictions for work activities within rights-of-way established in the Electric

Transmission Right-of-Way Maintenance Plan (ROW Plan), but suggested that the Commission might want to extend this July 1 to October 1 work window, at the discretion of the Commission's science office. An amendment to N.J.A.C. 7:50-10.34 was suggested to accomplish this objective. (1)

**RESPONSE:** Based on the prescriptions established in the ROW Plan, wetlands timing restrictions apply to only 41 of the 3,041 spans covered by the plan. These timing restrictions include a July 1-October 31 window (not July 1-October 1 as referenced by the commenter) within which the prescribed vegetation management activities must be completed as this is the period of low water-table levels in Pinelands wetlands. The use of mats is also required for the cutting of wetland forests during this time period. The commenter offered no substantive basis for the suggested extension of the work window. The Commission continues to believe that the July 1-October 31 work window established in the ROW Plan is necessary to minimize wetland-soil disturbance.

It should be noted that the ROW Plan recognizes that some flexibility in implementation of the vegetation management prescriptions will be necessary and that the Plan itself is intended to be dynamic. Therefore, the ROW Plan recommends that the Commission's Executive Director have the ability to approve relatively minor changes to the ROW Plan and that a more formal process be developed to address substantial changes to the plan. These recommendations are adopted at N.J.A.C. 7:50-10.34(a) of the new rules. Minor adjustments to the vegetation management prescriptions set forth in the ROW Plan may be made with the Executive Director's prior approval. More

substantive amendments may also be proposed but will require formal consideration by the Commission in accordance with the procedures set forth at N.J.A.C. 7:50-10.34(b) through (d). Should one of the utilities subject to the ROW Plan request a short extension of the timing restrictions for work activities in a specific wetland, the Executive Director will have the ability to consider and approve such an extension as a minor adjustment to the vegetation management prescriptions. The Commission believes this approach provides an appropriate level of flexibility and that further amendments to N.J.A.C. 7:50-10.34 are unnecessary.

3. **COMMENT:** One commenter expressed concern with the use of rights-of-way by illegal off road vehicles, leading to the damage of native plant populations and wildlife habitat. The commenter urged the Commission and the utility companies to address this issue in the future, as the pilot program is implemented. (3)

**RESPONSE:** Although the Commission agrees that off-road vehicle use is an issue of growing concern throughout the Pinelands, it is not a matter which could appropriately or adequately be addressed in a plan or set of regulations dealing with vegetation management by utility companies.

### **Federal Standards Statement**

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. 471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted

in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals which the comprehensive management plan must meet, including the protection, preservation and enhancement of the land and water resources of the Pinelands. The new rules now being adopted are designed to meet those goals by implementing vegetation management prescriptions that should achieve ecological objectives while ensuring greater reliability and safety within electric transmission corridors.

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