

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted remotely

All participants were present via Zoom conference

The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Meeting ID: 833 5477 1666.

September 24, 2021 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Alan Avery, Ed Lloyd, and Mark Lohbauer

MEMBERS ABSENT: Jerome H. Irick

STAFF PRESENT: Susan R. Grogan, Stacey P. Roth, Charles Horner, Ed Wengrowski, Brad Lanute, Gina Berg, Kim Laidig, John Bunnell, Ernest Deman, Paul Leakan, and Dawn Holgersen. Also present was Rudy Rodas, with the Governor's Authorities Unit.

1. Call to Order

Chairman Prickett called the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee meeting to order at 9:33 a.m. and Ms. Grogan identified all staff attending/participating in the meeting.

2. Adoption of minutes from the July 30, 2021 CMP Policy and Implementation Committee meeting

Commissioner Lohbauer moved the adoption of the minutes of the July 30, 2021 Committee meeting. Commissioner Lloyd seconded the motion. All voted in favor.

3. Update on Pinelands Conservation Fund Land Acquisition grants

Ms. Berg provided an update on the Pinelands Conservation Fund Land Acquisition grants.

Ms. Berg explained that the application acceptance time period began in March and ended in July.

She said only one application was received. She indicated that the parcel was already preserved through the Pinelands Development Credit (PDC) program and that it did not fit well in the matrix.

Ms. Berg recommended that the Commission not proceed with funding and reopen the application process next year using the same matrix.

Commissioner Lohbauer remarked that he liked the scoring guidelines and asked if they may have been too strict.

Ms. Berg said that she spoke to other agencies, and they were very supportive of the criteria. She said that finding grassland habitat is difficult.

Commissioner Lloyd moved to approve the recommendation to not proceed with funding and reopen the application process next year. Commissioner Lohbauer seconded the motion.

Chairman Prickett asked if proposals including Atlantic white cedars would be something to look at next year.

Ms. Berg said that may be something to add to the matrix.

In response to a question from Chairman Prickett, Ms. Grogan said that properties funded by the Land Acquisition grants would still be privately owned. She also said that PDC-severed properties had received funding in the past. She said that there could be a benefit if a non-profit purchased these properties in instances where there is absentee ownership.

All voted in favor of postponing the Pinelands Conservation Fund Land Acquisition grant funding until next year.

Commissioner Avery joined the meeting at 9:49 a.m.

4. Electric Transmission Right-of-Way Maintenance Pilot Program

Ms. Grogan said that the pilot program was an inter-office cooperative effort.

She said that work on the program began in 2004 with a Memorandum of Agreement (MOA) with the Board of Public Utilities (BPU). The BPU provided funding to the Commission for research.

She said that the Pilot Program was adopted in 2009. She indicated that the program covered about 3,000 spans. She said that the Pilot Program was scheduled to last for 10 years.

Ms. Grogan stated that a 2-year extension was granted by the Commission so that staff could finalize its monitoring and evaluation reports.

Mr. Horner began the presentation on the Pilot Program. *(attached to these minutes and on the Commission's website at:*

<https://www.nj.gov/pinelands/home/presentations/Electric%20transmission%20ROW%20Monitoring%20Pilot%20Program%209%2024%202021%20Final.pdf>).

Mr. Horner said that most of the site data presented was collected between 2016 and 2018. He said that there was difficulty accessing spans during the pandemic.

Mr. Horner explained that the Right-of-Way (ROW) Plan was approved in 2009 and added to the CMP as a Pilot Program. He said that it specifies a vegetation management prescription for each of the 3,041 spans.

He said that yearly reports began in 2010 from the three utility companies and staff conducted site inspections. He said that many of the inspections were conducted by former staff member Jean Montgomerie.

Mr. Horner mentioned that he is presenting the third progress report and that the reports were required by the Pilot Program and that they must address three specific items.

He said the first item is the type and extent of vegetation management activities undertaken by the three utility companies.

Mr. Horner said that Jersey Central Power and Light (JCP&L) and Public Service Electric and Gas (PSE&G) managed all their spans. He mentioned that the number of spans was not relative to the acreage involved.

He said the second item addressed any significant problems. He said that there were no significant problems or issues. Mr. Horner noted that there were 33 miles of newer electric transmission line spans along the Garden State Parkway (GSP) between the Townships of Barnegat and Egg Harbor that were not included in the ROW Plan.

He said the third item is a need for any amendments to the ROW Plan. He indicated that no new amendments to the ROW Plan were identified that were not previously identified in prior progress reports.

Mr. Horner said that there were struggles with prescriptions for wetlands spans. He said that there were issues with the use of vehicles to cut and remove trees and that hand cutting was problematic.

He said that when threatened and endangered (T&E) species were identified, it required a different approach to protect the species while maintaining the ROW.

He said there was difficulty in defining what constitutes “access road maintenance”. He said that the utility companies had not maintained some of the access roads. He also said there were applications to improve some of the access roads.

Mr. Horner said that in the early years there was an issue with the utility companies and contractors understanding the prescriptions, but that issue was resolved over time.

In response to Commissioner Lloyd’s question, Mr. Horner stated that the 33 miles of line spans will be addressed in the CMP amendments.

In response to Commissioner Lloyd's concern that issues were not listed in the presentation, Mr. Horner said that he would create a slide to outline past issues.

In response to a question from Commissioner Lohbauer, Mr. Horner explained that the use of herbicides was not authorized. He said that the provision prohibiting the use of herbicides is in the CMP and that the ROW Plan was not intended to supersede it.

Commissioner Lohbauer said that he is proud that the Pilot Program was applied successfully with each span having its own plan.

In response to Chairman Prickett's question regarding the use of vehicles in wetlands, Mr. Horner said that the techniques did not change and that they were using existing access roads and the boom mower technique.

Mr. Laidig continued the presentation. He said that the second part of the Pilot Program determined whether the prescriptions resulted in stable and sustainable early successional habitats that have characteristics of the Pinelands.

He said that the Science staff monitored 24 spans annually between 2011 and 2017. He said that staff monitored 6 types of spans, with two types of prescription (cut manually or mowed), widespread, among the 3 utility companies.

Mr. Laidig said that the first analysis was whether the plant communities are considered stable. He said that staff compared dominant shrubs and herbaceous plant species and determined that they were consistent over the monitoring period.

He said that staff also compared year-to-year gains and losses in plants and determined that there were few additions or losses. He concluded that dominant plant species were not affected by vegetation management, which indicated a high degree of stability.

Mr. Laidig said that the second analysis is how often vegetation management occurred. He said that during the evaluation period, the 24 spans were managed one to three times for an average 3- to 4-year return interval.

He said that the third analysis is whether plant species in the managed ROW are characteristic Pinelands species.

He said that the comparison to adjacent forest plants determined that the woody species were similar, but the herbaceous species differed. He said that the removal of canopy in the ROW allowed more herbaceous species to grow.

Mr. Laidig said that the comparison to access road and tower plants determined that ROW plots had a higher percentage of native Pinelands species while tower and access road plots supported a higher percentage of introduced species. He said that limiting the amount of disturbance may

help reduce the amount of introduced species. He mentioned that some of the access roads may not have been created by the utility companies.

Ms. Roth continued the presentation. She explained that the evaluation of the Pilot Program was determined by four criteria.

She said the first was that the vegetation management prescriptions had been implemented in a reliable and predictable way.

She said the second was the vegetation management prescriptions had resulted in relatively stable and sustainable early successional habitat that is characteristic of the Pinelands and which provides habitat for native Pinelands plants and animals, including T&E species.

She said the third was the vegetation management prescriptions have contributed to the reliability and safety of the electric transmission system in the Pinelands by creating and maintaining low-growth vegetation communities.

She said the fourth is the notification and inspection system authorized in the Pilot Program that simplified Pinelands permitting procedures for the utility companies and the Commission staff.

Ms. Roth said the staff's conclusion is that the Pilot program was successful and the vegetation management prescriptions were implemented consistently.

She said that through vegetation monitoring, it was determined that implementation of the vegetation management prescriptions resulted in low species turnover in the managed ROW, and that equated to a high degree of plant community stability.

She said that vegetation within the managed ROW consisted of characteristic Pinelands plant species that were similar to adjacent forested areas. She also said these plant communities provided habitat for T&E species.

She said that a return interval of 3-4 years was required to maintain low-growth plant communities using the vegetation management prescriptions in the ROW.

Ms. Roth said the Pilot Program simplified the permitting process for the utilities and Commission staff by providing certainty to the utility companies as to what prescriptions were permitted. In addition, the program resulted in a reduction in submission and review of individual development applications for vegetation management. She also said that annual reporting and inspections confirmed that vegetation management was being implemented as prescribed.

Ms. Roth said that the CMP should be amended to repeal the Pilot Program rules, permanently incorporate the ROW plan, provide that vegetation management for existing ROWs that have a prescription in the ROW plan do not have to submit an application to the Commission, and to

include vegetation management standards that will be applicable to new or expanded facilities and development within electric transmission line ROWs within the Pinelands Area.

Commissioner Lohbauer expressed concern that some spans with multiple access roads may be vulnerable to off-road vehicle (ORV) use.

Mr. Laidig agreed. He said that more gates have been installed by the utility companies to prevent access.

Commissioner Lohbauer also expressed concern regarding access road disturbance from ORV use creating an invasive species issue.

He went on to say that he supports making the ROW Plan permanent and that this could possibly be used as guidance elsewhere for vegetation management.

In response to a question from Commissioner Lloyd, Ms. Roth indicated that an application would have to be submitted for vegetation management in the 33-mile span that was not previously included in the ROW plan.

Ms. Grogan said that the CMP amendment would apply to existing spans that were in the Pilot Program and that standards and prescriptions will be put in place for other spans not previously included in the ROW plan. She said that an application would be required for new towers/spans or expansion of the managed portion of existing spans.

Commissioner Lloyd expressed concern that utility companies may avoid rules by not applying.

Ms. Roth replied that, even though an application is not required, they would still be obligated to meet the standards that will be in the CMP.

Ms. Grogan said that if the utility company proposes something that is not in the ROW Plan, they will have to submit a development application. She reiterated as long as the vegetation management activities follow the standards in the Plan, no application would be required. She said the intent was to continue the process that was in the Pilot Program because of its success.

Commissioner Avery asked about lines that were not in the ROW Plan, specifically the 33 miles of line that was mentioned, if the utility companies have to characterize each span as to what types of plants exist and what prescriptions are assigned. Ms. Grogan replied yes, that would be done as part of a development application.

Mr. Horner said that the application for line installation includes standards for vegetation clearing and that the CMP amendment would have basic standards that the utility companies would have to abide by.

In response to a question from Commissioner Avery, Mr. Horner said that the Commission would receive information from the applicant, such as wetlands mapping, that would provide the guidance needed to create the appropriate prescription.

In response to a question from Chairman Prickett, Mr. Laidig said that the Commission does not have information on whether T&E species have been introduced or expanded in the ROW. He said that staff did find T&E species in their research plots.

Mr. Bunnell said that removing canopy and mowing does create habitat suitable for T&E species.

In response to another question from Chairman Prickett, Mr. Bunnell said that he had hoped to add T&E animal research to the Pilot Program, but that didn't come to be. He said that reptiles/snakes may have used the open areas.

In response to an additional question from Chairman Prickett, Ms. Roth indicated that removal of tall vegetation was intended to avoid damage to electric lines and that fire was not a concern.

In response to Chairman Prickett's question regarding site inspection, Ms. Grogan said that there have been many site inspections. She said that the intention is to have fewer inspections in the future, based on the demonstrated success of the program over the past 10-12 years. She went on to say that funding for the inspections was provided in the Pilot Program.

In response to a question from Chairman Prickett, Ms. Roth said that the ROW Plan allows the Executive Director to make minor alterations to the prescriptions. She said that former Executive Director Nancy Wittenberg approved one change and also denied a change. She said the denied change was for the use of herbicide. She went on to say that any major changes would require an application or rule change.

Chairman Prickett expressed concern on the priority of the CMP amendments for the ROW Plan. Ms. Grogan indicated that it is on the top of the list so as to avoid a gap in rules. She said that she hopes to have a draft of amendments prepared for the October meeting and that staff have already begun writing the draft.

Ms. Grogan also said that the staff provided copies of its memorandum and report to the BPU and utility companies. They will also be provided with copies of any draft amendments for comment.

Chairman Prickett stressed the importance of the CMP amendments. He said that he appreciates the cooperation of the utility companies.

5. Overview of the New Jersey Cannabis Regulatory Commission's newly adopted rules

Ms. Roth provided a presentation on the New Jersey Cannabis Regulatory Commission's newly adopted rules (*attached to these minutes and on the commission website at: <https://www.nj.gov/pinelands/home/presentations/2021.09.24%20-%20PandI%20-%20Cannabis%20Presentation%20Final.pdf>*).

Ms. Roth indicated that the New Jersey Cannabis Regulatory Commission (CRC) adopted its rules as Special Adopted rules on August 19, 2021, under the authority of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (CREAMM). She said the rules expire on August 19, 2022. She said that it was to give the CRC time for the normal rulemaking process.

She said that the CRC covers all aspects of the process for the personal (adult) use of cannabis. She said that the rules address the purchase, sale, cultivation, production, manufacturing, transportation, and delivery of cannabis/cannabis items.

She said that the CREAMM Act establishes six classes of license based on which part of the process for cannabis use a company will participate in.

Ms. Roth said that the Class 1 license is for cannabis cultivators and authorizes a business to grow and process the cannabis. She said they are also authorized to sell the item to other cultivators, manufacturers, wholesalers, and retailers.

Ms. Roth noted that cannabis cultivation cannot be located on lands assessed under the Farmland Assessment Act due to the federal prohibition on cannabis.

Ms. Roth indicated a lack in clarity in describing some of the cultivation activities as agriculture or agricultural processing.

She said that the Class 2 license is for cannabis manufacturers. She said that the license authorizes the preparation or conversion of useable cannabis to produce a cannabis product. She mentioned that all manufacturing must take place in an enclosed, indoor, locked facility.

Ms. Roth said the Class 3 license is for cannabis wholesalers, the Class 4 license is for cannabis distributors, the Class 5 license is for cannabis retailers, and the Class 6 license is for cannabis deliveries.

Ms. Roth said that municipalities had until August 21, 2021 to pass ordinances prohibiting the operation of cannabis-related businesses. If they failed to pass an ordinance, they would be subject to default provisions. She said those provisions would permit cultivation, manufacturing, wholesale, and distribution facilities in all municipal industrial zones. She said it would also permit retail facilities as a conditional use in all municipal commercial or retail zones.

She said that municipalities in default would be subject to a 5-year period where the default provisions would apply. After the 5-year period, the municipality would have 180 days to adopt

an ordinance. She also said that a cannabis business established within the default period would not be subject to new ordinances.

She said that municipalities that are not in default may adopt standards that are not in conflict with CREAMM such as limitations on the number of permitted cannabis businesses, maximum number of each class of license, restrictions on the operation of cannabis businesses, civil penalties for violations, and local licensing requirements.

She said those municipalities may prohibit outdoor cultivation and most Pinelands municipalities have done so. She also said municipalities may provide input to the CRC on the issuance of a license to a particular facility.

Mr. Lanute continued the presentation. He said that so far, 34 Pinelands Area municipalities have adopted ordinances prohibiting all classes of cannabis business. He said that some municipalities may have done so in order to give themselves time to decide which classes the municipality would want to approve.

He said that 17 municipalities have adopted ordinances to permit one or more classes of cannabis business. He also said the status of two municipalities is not known at this time. He said he believes they may be in default.

Mr. Lanute explained what classes of business would be allowed in the different Pinelands management areas. He said in the Forest and Agricultural Production Areas, cultivation would be permitted as long as the growth of cannabis is considered agriculture. He said that classes 2-4 could be permitted as light industrial uses, but the CMP provides very limited opportunities for light industrial uses in the Forest and Agricultural Production Areas. He said for classes 5 and 6, roadside retail sales and services establishments are permitted under very limited circumstances in these two management areas. He said they would have to be located within 300 feet of businesses that had been established prior to February 7, 1979.

Mr. Lanute outlined some questions that have been raised while reviewing the ordinances. The first question is whether cannabis cultivation meets the CMP definition of “agricultural or horticultural purpose or use”. The second and third questions ask to what extent cultivation and manufacturing activities permitted by the CRC fall under the CMP definition of “agricultural products processing facilities”.

He said that some of the language in the rules regarding cultivation are close to the definition of agricultural processing in the CMP. He noted the drying of cannabis as an example.

Ms. Grogan emphasized the concern about whether cannabis cultivation is considered agriculture. She said that if it is, no application to the Commission would be required and it would be a permitted use in most Pinelands Management Areas. She said that the CRC rules, while not being as clear as hoped, indicated the cultivation of cannabis is considered an

agricultural use. This interpretation has been confirmed through discussions with State Agriculture Development Committee (SADC) staff as well.

She also said that cannabis processing facilities would be considered agricultural processing, which is allowed in the Agricultural Production Area with application. She said that the Commission is also reviewing the ordinances to ensure that they make a direct reference to the definition of and standards for agricultural products processing facilities in the CMP.

Ms. Grogan identified a concern with the size of indoor cannabis cultivation facilities. She said that she has seen some proposals, and that the buildings look similar to a large warehouse. She said that the Commission will need to look at the CMP to create standards for this type of facility. She mentioned that when the rules were created 40 years ago, this type of large agricultural structure was not common.

Commissioner Avery asked: If this activity is viewed as agriculture, how would additional regulations affect the Pinelands Protection Act's mission to "preserve and enhance agriculture"?

Ms. Grogan clarified that cannabis cultivation is agriculture, which will be allowed and encouraged, as with any other form of agriculture. She said the Commission should simply ensure that these larger structures adhere to environmental standards.

In response to Commissioner Avery's question regarding the difference between an indoor cannabis growing facility and a cranberry processing facility, Ms. Grogan said that if it is a processing facility, it would require an application and is permitted in the Agricultural Production area. She said the issue is growing in large, warehouse type buildings. She said that the Pinelands does not have many large indoor growing facilities, but the Commission should consider creating standards and requiring applications for these facilities.

In response to another question from Commissioner Avery, Mr. Lanute indicated that the CRC will have 37 cultivation licenses available statewide in the 2-year period starting in February 2021. It could be adjusted due to supply and demand.

Ms. Grogan said there may not be many large-scale growing facilities proposed in Agricultural Production Areas. Thus far, most proposals are in management areas where the use is permitted and requires application because processing is involved.

Commissioner Lohbauer expressed concern about the staff interpretation of the CMP to consider the cultivation of cannabis as agriculture. He asked if the Commission should make the decision.

Ms. Grogan said the Commission will ultimately make the determination by adopting rules. She said that it would be better to have a consistent definition. She said, for example, if the Commission says it is not agriculture and the SADC says it is, it could affect farmland preservation programs.

She said the best approach would be to ensure that the municipal ordinances include language that is consistent with definitions in the CMP.

Commissioner Lohbauer agreed that this is a complex situation. He mentioned that the Commission should examine what the legislative intent was regarding the definition of agriculture in the Pinelands Protection Act and the CMP.

Mr. Lanute added that the agricultural definition in the CMP came directly from the Pinelands Protection Act. He said that staff members have looked to the language for guidance on this matter. He also said that the legislators that crafted the Act probably did not envision agriculture in these large warehouse buildings.

Ms. Roth said that the State issued a summary document for the rules. She said it gave the municipalities the right to put limitations on how cannabis businesses would look in their own community.

Commissioner Avery commented on the situation with Tuckahoe Turf Farms, whereby the Legislature ultimately decided to modify and create definitions applicable in the Pinelands Area. He said this was an injustice to the Pinelands Protection Act. He said that he doesn't want to see a similar outcome with the cannabis rules.

Ms. Roth pointed out language in the Pinelands Protection Act that defines agriculture as "crops beneficial to man". She said that it is a broad definition and that growing cannabis as a cash crop could be perceived as agricultural "crops beneficial to man". She echoed Ms. Grogan's concern on the size of the structure not being consistent overall with the regional planning objectives in the Act.

Chairman Prickett expressed concern that the large structures could make the soil infertile. He also spoke on the thought of cannabis being considered an invasive species. He said that the Commission should have concerns about how cannabis will affect Pineland native plants.

In response to a question from Chairman Prickett, Mr. Lanute indicated that a 37-license limit was only for the Class 1 cannabis cultivator. He said that the other licenses do not have a limit.

Chairman Prickett questioned whether the Commission should act quickly to make CMP amendments.

Ms. Grogan said that, given the license limit of 37 applies to the entire state, she doesn't foresee there being too many applications in the Pinelands Area immediately. She also said that since it is agriculture-related, the Commission's mission to preserve and enhance agriculture should be kept in mind.

She said that the Commission take care when creating CMP amendments related to agriculture. She said staff will continue to coordinate with SADC for guidance. She also said that it will take a few months to draft language for potential amendments.

Commissioner Lloyd echoed Commissioner Avery's concern regarding the situation with Tuckahoe Turf Farms.

Chairman Prickett suggested that the Committee revisit this matter in the future.

Mr. Horner left the meeting at 12:03 p.m.

Public Comment

Rhyan Grech, a representative from the Pinelands Preservation Alliance (PPA), thanked the Committee for the informative presentation on the cannabis rules. She said that she looks forward to hearing comments from Commissioners Jerome Irick and Shannon Higginbotham.

She recognized the success of the ROW Pilot Program. She expressed concern with applications not being required and less inspections and how it could lead to the utility companies not keeping up with the maintenance.

She also expressed concern with the land disturbance when a new electric line is installed. She said that it could create habitat for T&E species that would make prior studies of the area outdated, and that the maintenance plans could potentially be inappropriate in that instance. She also stressed the importance of having more oversight of the maintenance.

Ms. Grech also expressed concern about ORV use. She encouraged the Commission to urge the New Jersey Department of Environmental Protection (NJDEP) to proceed with the studies.

Chairman Prickett commented that he saw the damage from ORV use on Google Earth. He said the damage in ROWs is significant. He also said that utility companies are probably working to regulate the use of ORVs but assumed it was a difficult task.

Commissioner Lloyd suggested the Commission ask the utility companies for their input on the matter.

Commissioner Avery commented that the utility companies have been more active in installing gates and keeping them closed. He also mentioned the difficulty in blocking off all of the sand roads.

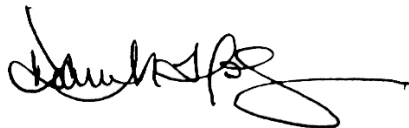
Commissioner Lohbauer expressed his thanks to Governor Phil Murphy and NJDEP Commissioner Shawn LaTourette for the program they announced yesterday for the restoration of Atlantic white cedar forests in the Pinelands. He also said that Chairman Prickett was a strong advocate.

Chairman Prickett echoed Commissioner Lohbauer's sentiment. He also described the benefits of the Atlantic white cedar forests.

Chairman Prickett closed public comment at 12:14 p.m.

There being no further discussion, Commissioner Lohbauer moved the adjournment of the meeting. Commissioner Avery seconded the motion. The meeting adjourned at 12:15 p.m.

Certified as true and correct

A handwritten signature in black ink, appearing to read "Dawn Holgersen", with a long horizontal flourish extending to the right.

Dawn Holgersen
Office Assistant
October 14, 2021

NJ Pinelands Electric Transmission Right-of-Way Vegetation Management Plan



**Policy & Implementation
Committee Meeting
9/24/2021**

Background

- The New Jersey Pinelands Electric-Transmission Right-of-Way Vegetation Management Plan (ROW Plan) is incorporated into the CMP as a “Pilot Program.”
- The ROW Plan specifies a vegetation management prescription for each of the 3,041 electric transmission line spans. A span is the segment of the utility company right-of-way located between two electric transmission line towers.
- Each year beginning in 2010, the three utility companies report to the Commission the individual spans subject of vegetation management in the prior year.
- The Commission staff site inspects the spans for conformance with the required vegetation management prescriptions.

Progress Reports

- The CMP Pilot Program requires progress reports.
- Each progress report must address three specific items.

First Progress Report:	2010-2012
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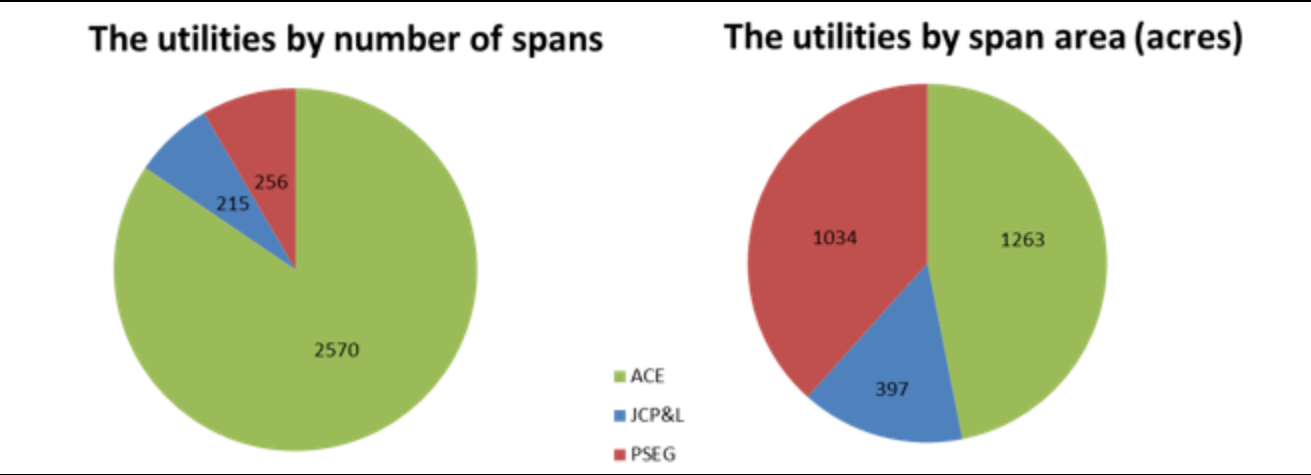
Second Progress Report:	2013-2015
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Third Progress Report:	2016-2018
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Summary of 2016-2018 Progress Report

Item One: The type and extent of vegetation management activities undertaken by the three utility companies

Atlantic City Electric:	managed 1,163 of its 2,570 spans
Jersey Central Power and Light:	managed all 215 of its 215 spans
Public Service Electric and Gas:	managed all 256 of its 256 spans



Item Two: Any significant problems

- As would be expected after six years of experience with the ROW Plan, there were no significant problems or issues
- Note that 33 miles of new electric transmission line spans along the Garden State Parkway between Barnegat Township and Egg Harbor Township were not included in the ROW Plan

Item Three: Need for any amendments to the ROW Plan

- As would be expected after six years of experience with the ROW Plan, no new amendments to the ROW Plan were identified that were not previously identified in prior Progress Reports

Vegetation Monitoring

Criterion #2: Determine “whether the vegetation management prescriptions have resulted in relatively stable and sustainable early successional habitats that are characteristic of the Pinelands and which provide habitat for native-Pinelands plants and animals, including threatened and endangered species.”

- 1. Are right-of-way plant communities stable?**
- 2. How often did vegetation management occur?**
- 3. Are plant species in the managed rights-of-way characteristic Pinelands species?**

Monitored vegetation annually 2011-2017

24 Spans (6 Types, 2 Prescriptions, Widespread, 3 utilities)

1. Are ROW plant communities stable?

- Compared year-to-year dominant species

Dominant shrubs and dominant herbaceous plant species were largely consistent over the monitoring period.

- Compared year-to-year gains and losses in all species

Few, year-to-year, additions or losses in individual plant species

Conclusion:

Few changes in dominant shrub and herb species and low gains and losses in plants indicated a relatively high degree of stability in the managed ROW vegetation

Dominant shrub stability

Group	Span	Dominant species*	2011	2012	2013	2014	2015	2016	2017
Upland herb	J25	golden heather	○	○	○	○	○	○	○
	J28	highbush blueberry	○	○	○	○	○	●	○
	N103	lowbush blueberry	○	○	○	○	○	○	○
	S423	blackberry	○	○	○	○	○	○	○
Upland scrub	A33	bear oak	○	○	○	○	○	○	○
	A36	bear oak	○	○	○	○	○	○	○
	N102	bear oak	○	○	○	○	○	○	○
	N114	bear oak	○	○	○	○	○	○	○
Upland shrub	A29	lowbush blueberry	○	○	○	○	○	○	○
	J13	lowbush blueberry	●	●	○	○	○	○	○
	J18	black huckleberry	○	○	●	○	●	○	●
	S384	lowbush blueberry	○	○	○	○	○	○	○
Upland tree	N112	lowbush blueberry	○	○	○	○	●	○	○
	S364	bear oak	○	○	○	○	○	○	○
	S372	black huckleberry	○	○	○	○	●	○	○
	S442	lowbush blueberry	○	○	○	○	○	○	○
Wetland cedar	A16	highbush blueberry	○	○	○	○	○	○	○
	A65	bayberry	○	○	○	○	○	○	○
	J11	leatherleaf	○	○	○	○	○	○	○
	J20	sweet pepperbush	○	○	○	○	○	○	○
Wetland shrub	A147	dangleberry	○	○	○	○	○	○	○
	J27	sheep laurel	○	●	○	○	○	○	○
	N115	sheep laurel	○	○	○	○	○	○	○
	N81	dangleberry	○	○	○	○	○	○	○

2. How often did vegetation management occur?

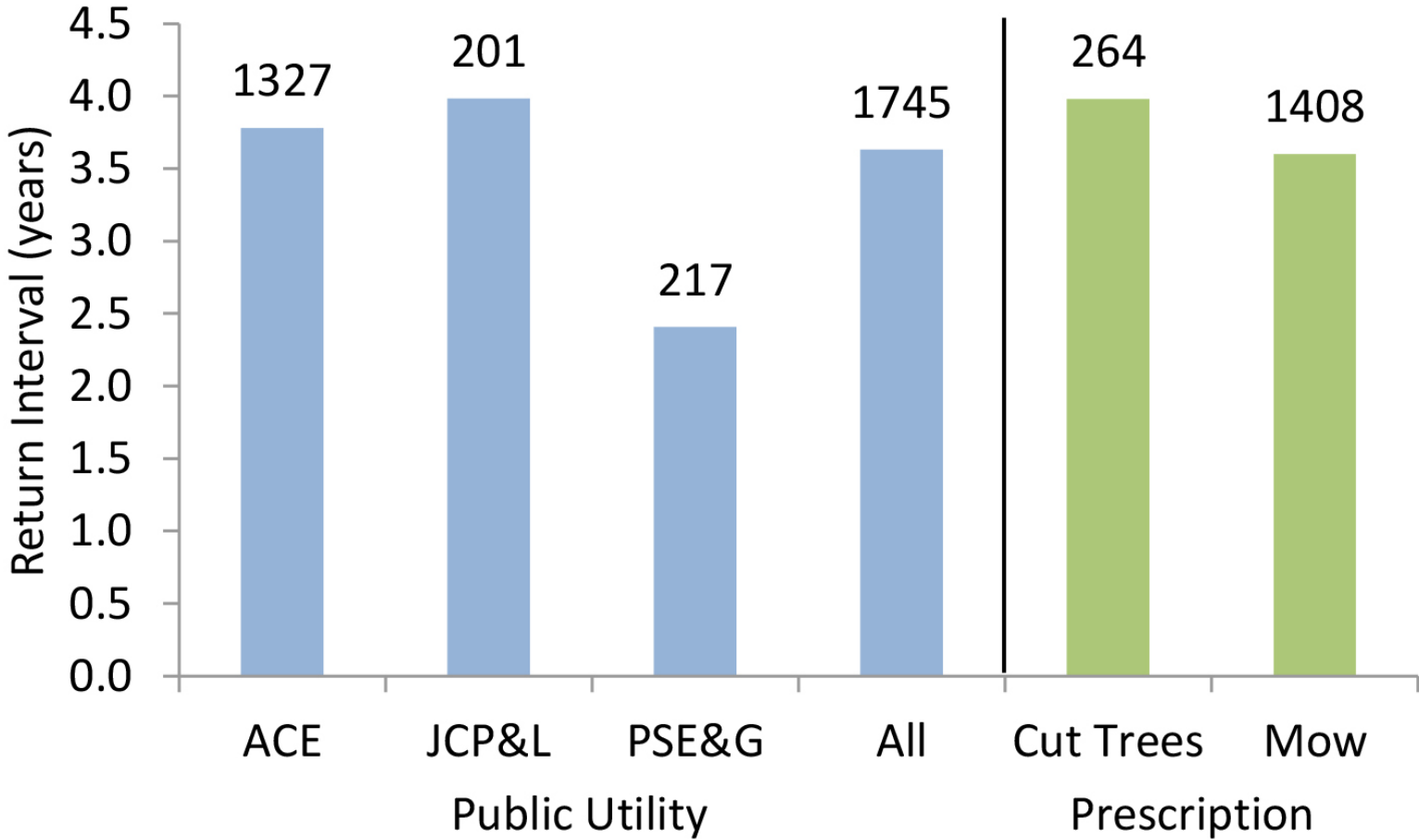
24 study spans:

1 to 3 times (1x = 11 spans, 2x = 9 spans, 3x = 4 spans)

All Pinelands spans (N = 1745):

3- to 4-year return intervals were typically used to manage vegetation in Pinelands rights-of-way.

Management return interval



3. Are plant species in managed rights-of-way characteristic Pinelands species?

- Comparison to adjacent forest plants (composition and number of species)

Woody species similar

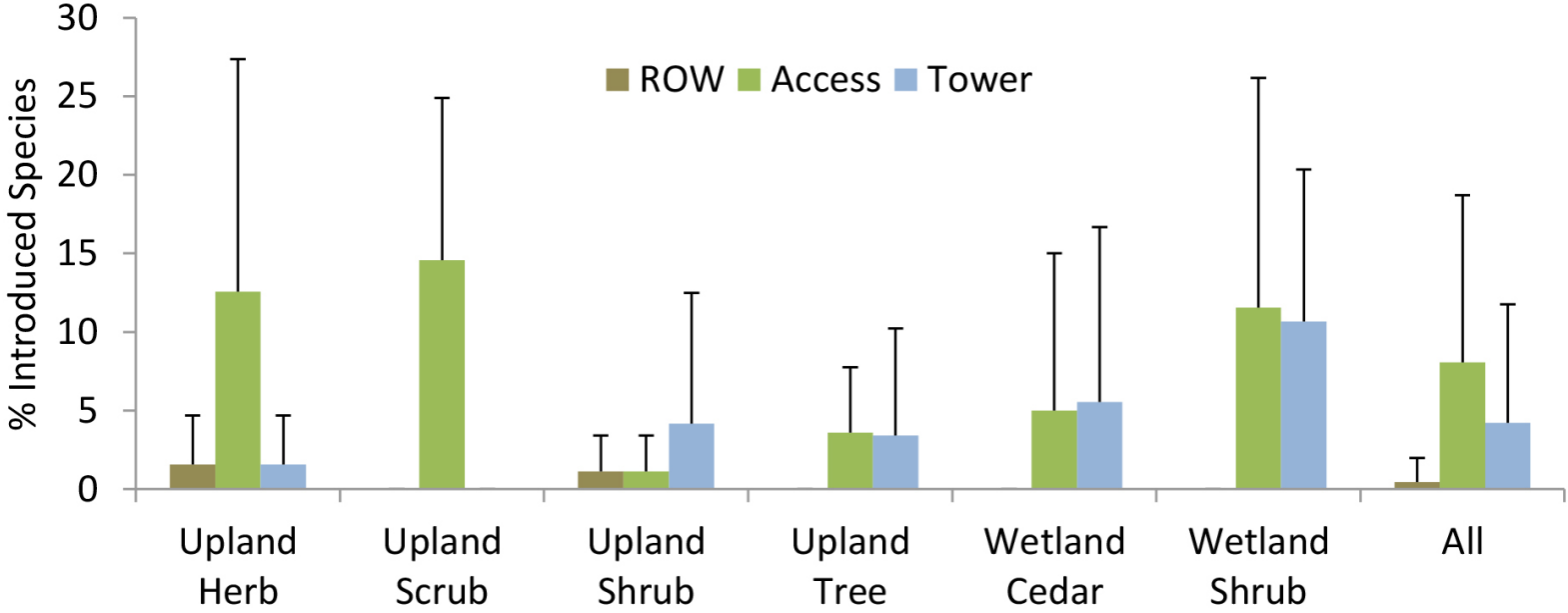
Herbaceous species differed

- Comparison to access road and tower plants

ROW plots higher % of native Pinelands species

Tower and access road plots supported a higher % of introduced species

Introduced species



Evaluation of the Pilot Program

- N.J.A.C. 7:50-10.35(a)
 - The success of the Pilot Program is to be determined based on the following criteria:
 1. The vegetation management prescriptions have been implemented in a reliable and predictable way;
 2. The vegetation management prescriptions have resulted in relatively stable and sustainable early successional habitats that are characteristic of the Pinelands and which provide habitat for native Pinelands plants and animals, including threatened and endangered species;
 3. The vegetation management prescriptions have contributed to the reliability and safety of the electric transmission system in the Pinelands by creating and maintaining low growth vegetation communities; and
 4. The notification and inspection system authorized in this pilot program has simplified Pinelands permitting procedures for the utility companies and the Commission's staff.

Conclusions

- The Pilot Program was successful.
- The vegetation management prescriptions were implemented consistently.
- Through vegetation monitoring, it was determined that implementation of the vegetation management prescriptions resulted in:
 1. Species turnover in the managed RsOW was low and equated to a high degree of plant community stability.
 2. Vegetation within the managed RsOW consisted of characteristic Pinelands plant species that were similar to adjacent forest areas.
 3. To the extent the extent these plant communities provided habitat for T&E species, these species were likely to be found in the managed ROW.
 4. A return interval of 3-4 years was required to maintain low growth plant communities using the vegetation management prescription in the RsOW.

Conclusions (cont.)

- Implementation of the vegetation management prescriptions resulted in:
 1. Elimination of tall vegetation within the managed RsOW;
 2. Maintenance of low growth plant communities; and
 3. Contributed to reliability and safety of the electric transmission system in the Pinelands.

- Pilot Program simplified the permitting process for the utilities and the Commission's staff:
 1. Provided vegetation management prescriptions per span to utility companies – predictability, consistency – all vegetation management prescriptions conducted in accordance with prescriptions
 2. Reduction in submission and review of individual development applications to conduct vegetation management in RsOW.
 3. Annual reporting and inspections confirmed vegetation management prescriptions were being implemented as prescribed.

Recommendations

- **CMP should be amended to:**
 1. **Permanently incorporate the ROW Plan;**
 2. **Repeal ROW Pilot Program rules (N.J.A.C. 7:50-10.31 to -10.35); and**
 3. **Provide that vegetation management of existing RsOW for which prescriptions are included within the ROW Plan do not have to submit individual applications to the Commission; and**
 4. **Include vegetation management standards within N.J.A.C. 7:50-6, Part II (Vegetation) that will be applicable to new or expanded facilities and development within electric transmission line RsOW within the Pinelands Area.**

Questions?



STATE CANNABIS RULES AND THE PINELANDS CMP

Pinelands Commission

Policy & Implementation Committee

9/24/2021

Presentation outline

- Cannabis business licensing classes
- Municipal role in cannabis licensing process
- Status of Pinelands municipal ordinances

Cannabis Rules N.J.A.C. 17:30

- Rules were adopted as Special Adopted Rules on August 19, 2021.
 - Effective Date: August 19, 2021
 - Expiration Date: August 19, 2022
- Authority: New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (CREAMM), N.J.S.A. 24:6I-31 *et seq.*
- The Cannabis Regulatory Commission is charged with overseeing the development, regulation and enforcement activities associated with the personnel (adult) use of cannabis in accordance with CREAMM
- Rules address the purchase, sale, cultivation, production, manufacturing, transportation, and delivery of cannabis or cannabis items

Recreational Use Licenses

- The CREAMM Act established six (6) classes of licenses for recreational cannabis businesses
 - Class 1 License – Cannabis Cultivator
 - Class 2 License – Cannabis Manufacturer
 - Class 3 License – Cannabis Wholesaler
 - Class 4 License – Cannabis Distributor
 - Class 5 License – Cannabis Retailer
 - Class 6 License – Cannabis Delivery

Class 1 – Cannabis Cultivator

- A licensed cannabis cultivator is authorized to:
 - 1. Possess, propagate, germinate, plant, cultivate, grow, harvest, dry, cure, process, and package; and
 - 2. Transport, transfer, distribute, supply, and sell this usable or unusable cannabis to other cannabis cultivators or cannabis manufacturers, sell usable cannabis to cannabis wholesalers, or cannabis retailers.
- A licensed cannabis cultivator is not licensed or authorized to:
 - 1. Manufacture or otherwise create cannabis products; or
 - 2. Transport, transfer, distribute, supply, or sell cannabis, usable cannabis, cannabis products, paraphernalia, or related supplies to consumers.
- Cannabis cultivation may occur indoors or outdoors
 - Outdoor cultivation may occur in a full greenhouse with rigid walls, a partial greenhouse, a hoop house, or other non-rigid structure, or an expanse of open or cleared ground fully enclosed by a physical-barrier
- Cannabis cultivation shall not be located on lands valued, assessed or taxed as an agricultural or horticultural use pursuant to the Farmland Assessment Act

Cannabis Cultivation Production Management Tiers

- All cannabis cultivators are assigned a cultivation production management tier
- **Mature Cannabis Plant Grow Canopy** - the total square feet in which a cannabis cultivator plants and grows cannabis plants, and does not include area exclusively used for harvesting, drying, curing, packaging, labeling or storing cannabis

Production Management Tier	Mature Cannabis Plant Canopy	
	Minimum Square Feet	Maximum Square Feet
Microbusiness	-	2,500
1	-	10,000
2	10,000	25,000
3	25,000	50,000
4	50,000	75,000
5	75,000	100,000
6	100,000	150,000

Class 2 – Cannabis Manufacturer

- Defined as preparing, compounding, mixing, or converting usable cannabis to produce, make, or otherwise create a cannabis product
- **Cannabis product** is a cannabis concentrate or a cannabis infused product that a cannabis manufacturer manufactures or creates from usable cannabis or cannabis concentrate
- **Cannabis infused product** is a product manufactured by a cannabis manufacturer in an authorized form that contains usable cannabis or cannabis concentrate, in solid or liquid form, and one or more ingredients intended for human consumption or use, including an ingestible product, inhalable product or dermal product
- All manufacturing of cannabis must take place in an enclosed indoor, and locked facility

Remaining Cannabis Licenses

Class 3 – Cannabis Wholesaler

- Stores, sells or otherwise transfers recreational use cannabis items between cannabis cultivators, wholesalers or retailers

Class 4 – Cannabis Distributor

- Transports cannabis items in bulk between cannabis cultivators, manufacturers or retailers within the State of New Jersey

Class 5 – Cannabis Retailer

- Purchases recreational use cannabis from licensed cultivators, manufacturers, or wholesalers and sells those items in a retail store

Class 6 – Cannabis Delivery

- Transports a consumer's purchases of recreational cannabis and related supplies from the retailer to that customer

Municipal Authority Provisions in CREAMM

- Municipalities had until 8/21/2021 to pass ordinances prohibiting the operation of cannabis-related businesses. Failure to pass an ordinance prohibiting cannabis establishments results in default provisions as follows:
 - Cultivation, manufacturing, wholesale and distribution facilities are permitted in all municipal industrial zones; and
 - Retail facilities are permitted as a conditional use in all municipal commercial or retail zones

Municipal Authority in CRC Special Regulations

- Municipalities (not in default) may adopt standards that are not in conflict with CREAMM, such as:
 - Limitations on the number of permitted cannabis businesses (maximum number of each class of license permitted)
 - Restrictions on the location, manner, and time of operation of cannabis businesses, except for the times of operation of a delivery service
 - Civil penalties for violations
 - Local licensing requirements
- Municipalities may prohibit outdoor cultivation (and most have)
- Municipalities may provide input to the CRC on the issuance of a license to a particular facility
 - Letter or affidavit from municipal officials indicating whether the location of the facility conforms to zoning requirements and has received approvals (including variances)
 - Proof of local support for the suitability of a cannabis facility's proposed location

Status of Pinelands Area Cannabis Ordinances

- 34 municipalities have adopted ordinances prohibiting all classes of cannabis business
 - Subject to change; towns may decide to permit one or more classes in the future
- 17 municipalities have adopted ordinances to permit one or more classes of cannabis business
- 2 municipalities status not known

Pinelands Management Areas and Cannabis Business Classes

Cannabis Business Classes Permitted by Pinelands Management Area

Business Class	PAD/SAPA	FA/APA	RDA/PV/ PT/RGA
Class 1 - Cultivation	N	P	P
Class 2 – Manufacture	N	Limited	P
Class 3 – Wholesale	N	Limited	P
Class 4 – Distribution	N	Limited	P
Class 5 – Retail	N	Limited	P
Class 6 – Delivery	N	Limited	P
<i>P = Permitted / N = Not Permitted</i>			

- Light industrial uses are permitted in very limited areas of the FA/APA.
- Roadside retail sales and service establishments are permitted in very limited areas of the FA/APA

Questions raised during review of ordinances

- Does cannabis cultivation meet the CMP definition of “agricultural or horticultural purpose or use”?
- To what extent do cultivation activities permitted by the CRC fall under the CMP definition of “agricultural products processing facility”?
- To what extent do manufacturing activities permitted by the CRC fall under the CMP definition of “agricultural products processing facility”?

Outstanding Concerns

- Large cannabis cultivation operations
 - Agriculture is exempt from application to the Commission
 - Scale of facilities permitted under the CRC rules (up to 150,000 s.f.)
 - Particularly impacts of large structures for indoor cultivation in the FA and APA
 - Water consumption
 - Wastewater on septic



Questions?