

- 7:50-9.9 Access
- 7:50-9.10 Acquisition funding
- 7:50-9.11 Purchase and conditions
- 7:50-9.12 Landowner right of refusal

SUBCHAPTER 10. PILOT PROGRAMS

PART I—PURPOSE

- 7:50-10.1 Purpose
- 7:50-10.2 through 7:50-10.10 (Reserved)

PART II—TOWNSHIP OF GALLOWAY AND CITY OF EGG HARBOR CITY PILOT OFF-SITE CLUSTERING PROGRAM

- 7:50-10.11 Authorized Pinelands Management Area adjustments
- 7:50-10.12 Zoning provisions for redesignated area
- 7:50-10.13 Pinelands Commission approval and evaluation

PART III—TOWNSHIP OF TABERNACLE AND TOWNSHIP OF PEMBERTON PUBLIC EDUCATIONAL FACILITIES PILOT PROGRAM

- 7:50-10.14 Authorized Pinelands Management Area adjustments
- 7:50-10.15 Zoning provisions for redesignated areas
- 7:50-10.16 Pinelands Commission approval and evaluation
- 7:50-10.17 through 7:50-10.20 (Reserved)

PART IV—ALTERNATE DESIGN TREATMENT SYSTEMS PILOT PROGRAM

- 7:50-10.21 Purpose
- 7:50-10.22 General standards
- 7:50-10.23 Pinelands Commission approval and evaluation
- 7:50-10.24 through 7:50-10.27 (Reserved)

PART V—FORT DIX CONSUMER ELECTRONICS RECYCLING CENTER PILOT PROGRAM

- 7:50-10.28 Purpose
- 7:50-10.29 General standards
- 7:50-10.30 Pinelands Commission approval and evaluation

PART VI—ELECTRIC TRANSMISSION RIGHT-OF-WAY MAINTENANCE

- 7:50-10.31 Purpose
- 7:50-10.32 General standards
- 7:50-10.33 Progress reports and conformance
- 7:50-10.34 Amendments
- 7:50-10.35 Pilot program evaluation

SUBCHAPTER 1. GENERAL PROVISIONS

PART I—TITLE, AUTHORITY, PURPOSE, APPLICABILITY, FEES AND SEVERABILITY

7:50-1.1 Title

This chapter shall be known as the Implementation Element of Pinelands Comprehensive Management Plan.

Case Notes

Certification and approval of master plan which designated forest area as municipal reserve area was improper where municipal reserve area created was immediately adjacent to forest area. In re: Certification of Master Plan and Land Use Ordinances of Berkeley Twp., 214 N.J.Super. 390, 519 A.2d 901 (App.Div.1986).

Regulations set forth the minimum standards for protection of the Pinelands. *Fine v. Galloway Twp. Committee*, 190 N.J.Super. 432, 463 A.2d 990 (Law Div.1983).

7:50-1.2 Authority

This chapter is adopted pursuant to the Pinelands Protection Act, N.J.S.A. 13:18A-1 to 29, as amended by Laws of 1980, Chapter 65, adopted on July 10, 1980.

7:50-1.3 General purpose and intent

This chapter is adopted in order to implement, and is an exercise of the powers granted to the Pinelands Commission by, the Pinelands Protection Act and the Federal Act. The regulations and standards it contains are designed to promote orderly development of the Pinelands so as to preserve and protect the significant and unique natural, ecological, agricultural, archaeological, historical, scenic, cultural and recreational resources of the Pinelands.

7:50-1.4 Applicability

This chapter shall apply to all development within the Pinelands Area and shall supersede the interim rules and regulations adopted by the Pinelands Commission contained in N.J.A.C. 7:1G-1.1 et seq. and 2.1 et seq. and the Plan for the Preservation Area adopted by the Pinelands Commission on August 8, 1980. It shall be unlawful for any person to carry out any development in the Pinelands Area which does not conform to the minimum standards of this Plan.

Case Notes

Former N.J.A.C. 7:1G applied to any application for development between July 27, 1979 and January 14, 1981; regulations have no demonstrable effect on land values for property tax assessment purposes; regulatory history. *Riarano Inc. v. Weymouth Twp.*, 4 N.J.Tax 550 (Tax Ct.1982), affirmed 6 N.J.Tax 253.

7:50-1.5 Effective date

This chapter shall take effect as provided in Sections 5h and 7 of the Pinelands Protection Act, N.J.S.A. 13:18A-1 to 29, as amended by Laws of 1980, Chapter 65, adopted on July 10, 1980.

7:50-1.6 Fees

(a) Except as provided in (a)1 and 2 below, all applications required or permitted by any provision of this Plan shall be accompanied by a nonrefundable application fee of \$200.00 or a fee calculated according to the fee schedule set forth in (b) through (k) below, whichever is greater. No application filed pursuant to this Plan shall be reviewed or considered complete unless all fees required by this Part have been paid and any escrow required pursuant to N.J.A.C. 7:50-1.7 has been submitted.

1. No application fee shall be required for an application processed in accordance with an alternative local permitting program certified by the Commission pursuant to N.J.A.C. 7:50-3.83; and

2. No application fee shall be required for development that is processed in accordance with an intergovernmental agreement approved by the Commission pursuant to N.J.A.C. 7:50-4.52(c)1.

(b) The application fee for a residential development application submitted pursuant to N.J.A.C. 7:50-4.14 or 4.33 shall be calculated as follows:

1. There shall be a \$200.00 fee for a residential development consisting of one unit or one lot; and
2. The fee for all other residential developments shall be calculated based on the number of proposed dwelling units or lots, whichever is greater, including those to be utilized for stormwater facilities, open space, recreational facilities or other accessory elements of a residential development, according to the following:
 - i. \$200.00 per dwelling unit or lot for the first four units or lots;
 - ii. \$225.00 per dwelling unit or lot for units/lots five through 50;
 - iii. \$125.00 per dwelling unit or lot for units/lots 51 through 150; and
 - iv. \$100.00 per dwelling unit or lots for units/lots in excess of 150.

(c) The application fee for a commercial, institutional, industrial or other non-residential development application submitted pursuant to N.J.A.C. 7:50-4.14 or 4.33 shall be calculated in accordance with the following based on typical construction costs except as provided in (c)1 through 7 below: one percent of construction costs for the first \$500,000 of the total construction cost; three-fourths percent of construction costs for the portion of the construction costs between \$500,000 and \$1 million; and one-half percent of construction costs for the portion of the construction costs in excess of \$1 million. Typical construction costs shall include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs, but shall not include interior furnishings, atypical features, decorative materials or other similar features. For fees calculated based on the percentage of construction costs, such costs shall be supported by the sworn statement of a licensed architect, licensed engineer, or other qualified individual, if an architect or engineer has not been retained for the project, as to the expected construction costs.

1. For an off-road vehicle event conducted in accordance with N.J.A.C. 7:50-6.143(a)4, the fee shall be \$5.00 per mile of the route proposed;
2. For a forestry application or renewal application, submitted pursuant to N.J.A.C. 7:50-6.43(b) or (c), for forestry activities involving 10 or more acres, the fee shall be \$5.00 per acre that is subject to the forestry activities;
3. For the development of a golf course, the fee shall be \$150.00 per acre devoted to the golf course facility, including, but not limited to, the golf course and associated

forested areas, club house, putting greens, driving range, parking areas, locker rooms and accessory buildings, such as rest rooms, maintenance buildings, and other recreational areas depicted on the site plan submitted as part of the application. All areas associated with the planning, construction, operation or maintenance of a golf course facility, including those areas not directly associated with golfing or a recreational activity, must be included in the acreage used to calculate the applicable application fee for the development of a golf course;

4. For a proposed linear development, the application fee shall be \$150.00 per acre of all land included in the right of way of the proposed linear development project plus \$150.00 per acre located outside of the right of way that will be disturbed as part of a linear development project. "Linear development" means land uses such as roads, railroads, sewerage and stormwater management pipes, gas and water pipelines, electric, telephone and other transmission or distribution lines, which have the basic function of connecting two points, the rights-of-way therefore, and any accessory structures or uses directly associated therewith. Linear development shall not include residential, commercial, office or industrial buildings, improvements within a development such as utility lines or pipes, or internal circulation roads;

5. For a resource extraction permit application or permit renewal application, the application fee shall be \$1,500 plus \$30.00 per acre to be mined within each permit period;

6. For a change of use with no additional development or home occupations, the application fee shall be \$200.00; and

7. For an application for a subdivision or resubdivision only, with no other development, the application fee shall be calculated according to the formula in (b)2 above, based on the total number of lots which will exist following the subdivision or resubdivision regardless of the number of lots that existed prior to the subdivision.

(d) The application fee for mixed residential and non-residential development shall be the sum of the residential and non-residential development fees as calculated according to the relevant fee schedules in (b) and (c) above.

(e) The application fee required at the time of submission of a development application in accordance with (a) through (d) above shall:

1. Be increased by \$2,500 if an individual on-site septic system is proposed pursuant to N.J.A.C. 7:50-6.84(a)5;
2. Equal 50 percent of the calculated fee if a public agency is the applicant; and

1. A centralized waste water treatment plant; or
2. A community on-site waste water treatment system serving two or more residential dwelling units which meets the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23, provided that the overall residential density on the parcel does not exceed one dwelling unit per acre.

Amended by R.1990 d.170, effective March 19, 1990.
 See: 21 N.J.R. 3381(a), 22 N.J.R. 948(a).
 In (a)1vi, xxix and xxx, units per acre; deleted xxx(1). Revised (a)3ii, 4 and 5; added new (a)6 and renumbered 6 as 7.
 Amended by R.1992 d.91, effective March 2, 1992.
 See: 23 N.J.R. 2458(b), 24 N.J.R. 832(b).
 Language added regarding nonresidential use; term "local" changed to "municipal".
 Amended by R.1994 d.590, effective December 5, 1994.
 See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).
 Amended by R.1995 d.449, effective August 21, 1995.
 See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).
 Substituted "municipal variance" for "local variance" in (a)5.
 Amended by R.1996 d.225, effective May 20, 1996.
 See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).
 In (a) prohibited hazardous waste facilities, landfills and incinerators.
 Amended by R.2000 d.272, effective July 3, 2000.
 See: 32 N.J.R. 145(a), 32 N.J.R. 2435(a).
 In (a), rewrote 5 and 6.
 Amended by R.2002 d.67, effective March 4, 2002.
 See: 33 N.J.R. 3399(a), 34 N.J.R. 1024(a).
 In (a), added 7iii.
 Amended by R.2002 d.247, effective August 5, 2002.
 See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).
 Rewrote (b).
 Amended by R.2006 d.159, effective May 1, 2006.
 See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).
 Rewrote (a)4.

Case Notes

Certification and approval of master plan which designated forest area as municipal reserve area was improper where municipal reserve area created was immediately adjacent to forest area. In Re: Certification of Master Plan and Land Use Ordinances of Berkeley Twp., 214 N.J.Super. 390, 519 A.2d 901 (App.Div.1986).

Extraordinary hardship; waiver of lot size requirement, seasonal high water table requirement, and ground water nitrate-nitrogen requirement. *Eni v. Pinelands Commission*, 92 N.J.A.R.2d (EPC) 31.

The Commission lacked jurisdiction to hear developer's appeal of his voluntary purchase of one-quarter Pinelands development credit. *Carino v. Pinelands Commission*, 92 N.J.A.R.2d (EPC) 7.

Residents living in former gun club were entitled to waiver of strict compliance from minimum lot size and water quality requirements. *Swezeny v. Fulford*, 92 N.J.A.R.2d (EPC) 1.

Approval condition requiring waterless toilets on less-than-one-acre residential lots upheld as neither arbitrary, capricious nor unreasonable. *Country Village Homes, Inc. v. Pinelands Commission*, 8 N.J.A.R. 205 (1985).

7:50-5.29 Minimum standards governing the distribution and intensity of development and land use in Military and Federal Installation Areas

(a) Any use associated with the function of the Federal Installation may be permitted in a Military and Federal Installation Area, provided that:

1. Where feasible, development shall be located in that portion of the installation located within the Pinelands Protection Area;
2. The use shall not require any development, including public service infrastructure, in the Preservation Area District or in a Forest Area;
3. No hazardous waste facility, landfill or incinerator shall be permitted, except as expressly authorized in N.J.A.C. 7:50-6.75 or 6.78; and
4. All development undertaken by the Federal government substantially meets the standards of N.J.A.C. 7:50-6 of this Plan or an intergovernmental agreement entered into pursuant to N.J.A.C. 7:50-4, Part IV.

(b) Any other public purpose use undertaken by or on behalf of another level of government may be permitted in a Military and Federal Installation Area, provided that:

1. The use is sanctioned by the installation;
2. The use is located within a substantially developed area which is served by a centralized sewer treatment and collection system;
3. No hazardous waste facility, landfill or incinerator shall be permitted, except as expressly authorized in N.J.A.C. 7:50-6.75 or 6.78; and
4. All development meets the standards of N.J.A.C. 7:50-6 or an intergovernmental agreement entered into pursuant to N.J.A.C. 7:50-4, Part IV.

Amended by R.1994 d.590, effective December 5, 1994.
 See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).
 Amended by R.1996 d.225, effective May 20, 1996.
 See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).
 In (a) prohibited hazardous waste facilities, landfills and incinerators.

7:50-5.30 Development transfer programs in Forest Areas and Rural Development Areas

(a) Each municipality with land in either a Forest Area or a Rural Development Area shall establish within said area or areas a program which permits residential development on otherwise undersized lots if other land, equivalent to that needed to meet the assigned density, is protected through a permanent deed restriction.

(b) The density transfer programs shall adhere to the following minimum standards:

1. No lot less than one acre can be developed;
2. All parcels involved in the density transfer shall be located within the same Pinelands management area;
3. The total acreage of the parcels involved in the density transfer shall at least equal the density required for that zoning district; and
4. Any parcel whose acreage is being utilized to meet the density requirement but which will not be developed

shall be permanently protected through recordation of a deed of restriction.

i. Such restriction shall be in favor of the parcel to be developed and, if provided by municipal ordinance, the municipality or another public agency or a non profit conservation organization. In all cases, such restriction shall be expressly enforceable by the Pinelands Commission;

ii. Such deed of restriction shall permit the parcel to be managed for low intensity recreation, ecological management and forestry, provided that no more than five percent of the parcel may be cleared, no more than one percent of the parcel may be covered with impervious surfaces and any such uses or activities are approved and conducted in accordance with the requirements of this Plan, including any municipal ordinance certified pursuant thereto;

iii. Where agricultural use exists on a parcel to be protected as of April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses, and the expansion of the area of agricultural use by up to 50 percent;

iv. Where agricultural use was established on the parcel to be protected after April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses, provided the agricultural use has been in existence for a period of at least five years prior to submission of an application for development pursuant to the development transfer program and N.J.A.C. 7:50-4;

v. Where agricultural use was established on the parcel to be protected after April 6, 2009 that does not meet the standards of (b)4iv above, the deed of restriction shall permit the land to be managed only in accordance with (b)4ii above and shall not provide for continuation of any agricultural use on the parcel; and

vi. The deed of restriction to be recorded pursuant to (b)4iii or iv above shall provided that impervious surface may not exceed that which currently exists or three percent, whichever is greater, unless a Resource Management System Plan has been prepared. Before these impervious surface may be exceeded, the Resource Management System Plan must be approved by the Pinelands Commission and, if the deed of restriction is in favor of the county or the State Agriculture Development Committee, by such agency; and

5. The municipal ordinance may set forth reasonable conditions or requirements governing ownership of the parcel to be protected.

(c) A municipality shall adapt the program to its particular circumstances and may vary the standards in (b) above provided that those standards are supported through the application of sound land use planning principles and do not

undermine the overall goals and objectives of N.J.A.C. 7:50-5.30. This may include, but is not limited to:

1. Permitting the permanent protection of lands in a Forest Area pursuant to (b)4 above to meet the density requirement for the development of otherwise undersized lots in the Rural Development Area;

2. Permitting the permanent protection of lands in a Forest Area or Rural Development Area pursuant to (b)4 above as a means of transferring development to a Pinelands Village;

3. Identifying specific areas to receive the development transfers. Within such receiving areas, residential development shall be permitted on one acre lots and shall be served by individual or community on-site septic waste water treatment systems which meet the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23. Receiving areas shall be delineated in a manner which:

i. Promotes efficient use of existing public service infrastructure;

ii. Coordinates with and is located in close proximity to areas of existing development, including residential dwellings and other principal structures;

iii. Minimizes the potential for land use conflicts with existing uses on adjacent parcels, including, but not limited to, agricultural uses;

iv. Recognizes the presence and location of areas containing numerous existing undersized lots; and

v. Excludes expansive areas that are unlikely to meet the development standards of N.J.A.C. 7:50-6; and

4. Identifying specific areas within which development will not be permitted pursuant to a development transfer program but from which density may be transferred to facilitate the development of otherwise undersized lots elsewhere in the municipality. Such sending areas may be delineated for purposes of:

i. Promoting the establishment and continuation of greenways and maximizing the contiguity of forested lands and protected open space; and

ii. Protecting the environmental and unique natural attributes of areas within a Forest or Rural Development Area, including but not limited to extensive areas that:

(1) Contain wetlands and wetlands transition areas;

(2) Support those threatened and endangered plant and animal species defined as such in N.J.A.C. 7:50-6.27 and 6.33; and

(3) Are unlikely to meet the development standards of N.J.A.C. 7:50-6.

Amended by R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).
Rewrote section.

7:50-6.72 Waste management program

In order to be certified under the provisions of N.J.A.C. 7:50-3, a municipal or county master plan and land use ordinance must contain a program for waste management. It is not necessary that the municipal or county program incorporate the literal terms of the program set out in this Part; rather, a municipality or county may adopt alternative or additional management techniques which will achieve the protection of the Pinelands equivalent to that which would be achieved under the provisions of this Part.

7:50-6.73 General prohibitions

(a) Except as expressly authorized in this Part, no waste management facility shall be developed within the Pinelands.

(b) Except as expressly authorized in this Part, no hazardous or toxic substances, including hazardous wastes shall be stored, transferred, processed, discharged, disposed or otherwise used within the Pinelands. Provided it is permitted by State or Federal law, this prohibition does not apply to a hazardous or toxic substance, other than a waste, associated with a commercial, industrial, agricultural, domestic, community or other lawful use of a property.

(c) No waste shall be accepted for disposal, stored, collected, processed, transferred, separated, recycled, reclaimed, recovered or reused in the Pinelands unless it originates from one or more Pinelands municipalities or from one or more non-Pinelands municipalities located within Atlantic, Burlington, Cape May or Ocean counties. The following shall be exempt from this importation limitation:

1. Recyclable materials;
2. Suitable sewage sludge and sludge products derived from suitable sewage sludge; and
3. Regulated medical waste, in accordance with the limitations prescribed in N.J.A.C. 7:50-6.78.

(d) Except for the waste importation limitations prescribed in (c) above, nothing in this Part or in N.J.A.C. 7:50-5 shall be construed to prohibit or otherwise constrain either the development and operation of a waste management facility essential for the remediation of a site contaminated with wastes or hazardous or toxic substances and located within the Pinelands or the management of by-products of an otherwise lawful use of a property in a manner essential for complying with State or Federal requirements.

Repeal and New Rule, R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).
Section was "Landfills prohibited".

7:50-6.74 Recyclables and other special materials

(a) In addition to the standards set forth in N.J.A.C. 7:50-6.76 through 6.78, waste management facilities and industrial facilities which accept suitable sewage sludge, sludge products derived from suitable sewage sludge or any recyclable material other than source-separated non-putrescible metal, glass, paper, plastic containers, corrugated and other cardboard or vegetative waste shall meet the following standards:

1. The facility shall be designed and managed so as to eliminate the impacts of leachate on the quality of surface and ground water;
2. The facility shall be designed and managed so as to protect surface water flows and ground water regimes from excessively depletive water uses;
3. Any waste or recyclable material that is accepted at the facility shall be stored for no more than 12 months; and
4. The storage of any waste generated from the facility shall comply with the standards of this Part.

(b) Nothing in this Part shall be construed to prohibit the use of any recyclable material as a raw material in a manufacturing process.

Repeal and New Rule, R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).
Section was "Existing landfills".

Law Review and Journal Commentaries

Environmental Law—Solid Waste. P.R. Chenoweth, 137 N.J.L.J. No. 16, 51 (1994).

7:50-6.75 Landfills

(a) Landfills which accept only vegetative waste shall be ancillary to an agricultural use of the parcel on which they are located.

(b) Nothing in this Part shall be construed to prohibit the disposal of vegetative waste on the parcel on which it was generated, provided that the vegetative clearing or harvesting is otherwise authorized by this Plan. For agricultural operations, the disposal of vegetative waste on non-contiguous parcels in common ownership which have an active production history as a unit or where a farm management plan has been prepared which demonstrates that the parcels will be farmed as a unit, shall also be permitted.

(c) All landfills which ceased operation on or after September 23, 1980 if located in the Preservation Area on or after January 14, 1981 if located in the Protection Area shall be capped with an impermeable material unless it can be clearly demonstrated that:

1. The landfill accepted only vegetative waste or construction debris for disposal;

2. An alternative means of addressing the public health and ecological risks associated with the landfill is available that will afford an equivalent level of protection of the resources of the Pinelands than would be provided if the landfill were capped with an impermeable material or

3. No leachate plume associated with the landfill exists and the landfill is not generating leachate.

(d) Plans to cap landfills or carry out the alternative treatment methods set forth in (c)2 above shall be submitted to the Commission by May 20, 1997. Capping or alternative treatment of all landfills shall begin immediately following approval of such plans by the Commission pursuant to N.J.A.C. 7:50-4.51 through 4.58, except when an extension pursuant to (e) below has been granted.

(e) An extension of the requirement set forth in (d) above concerning the commencement of capping or alternative treatment methods immediately upon obtaining approval by the Commission shall be granted, provided that it can be clearly demonstrated that there are presently insufficient funds reasonably available to meet that requirement and one of the following standards is met and continues to be met:

1. The levels of chemical constituents in the leachate plume associated with the landfill do not exceed background levels of those pollutants as measured at the parcel line and the plume is not moving offsite; or

2. The levels of chemical constituents in the leachate plume associated with the landfill exceed background levels of those pollutants or the plume is moving offsite but:

i. The plume does not pose a significant public health risk, as determined by the Department of Environmental Protection; and

ii. The plume does not pose a significant ecological risk, as determined by examining whether the plume is located within an undisturbed subwatershed or is likely to impact publicly owned conservation lands or systems which support known populations of threatened or endangered species.

(f) In the event that an extension is granted pursuant to (e) above, capping or alternative treatment of the landfill in question must proceed immediately upon sufficient funds being obtained. Timely application for State or Federal funding assistance shall be made when such assistance becomes available.

(g) Closure techniques to reduce the volume or surface area of a landfill to be capped, including landfill mining, shall be permitted.

(h) Closure techniques involving the use of non-sludge derived composted materials, vegetative waste or the following recycled materials: source-separated non-putrescible glass, paper, plastic or cardboard; waste concrete, asphalt,

brick or block; wood that has been processed through a chipper; or other similar materials, excluding those materials classified as dry industrial wastes (Type 27) pursuant to N.J.A.C. 7:26-2.13(g)1vi, for landfill caps or covers shall be permitted, provided that the standards of this section and N.J.A.C. 7:50-6.81 through 6.87 are met and that the use of such techniques is part of a total financial commitment that ensures that final capping is completed. For purposes of this section, the use of such techniques shall not be considered land application of waste. Nothing herein shall be construed as permitting the height or extent of a landfill to be raised beyond what is necessary to complete final contouring to enable impermeable capping or provide for a limited final cover over the impermeable cap.

(i) Subject to the procedural and substantive requirements of this Plan, the landfill operated by the Cape May County Municipal Utilities Authority that was authorized to stay in operation after August 8, 1990 as a result of waivers of strict compliance previously approved by the Pinelands Commission pursuant to the provisions of this Plan may continue in operation provided that:

1. All landfilling is located within the Pinelands Town management area on approximately 167 acres of land owned by the Cape May County Municipal Utilities Authority as of May 1, 2006, north of a line running parallel approximately 900 feet south of the boundary between Upper Township and Woodbine Borough;

2. All landfilling occurs in the following areas:

i. At the previously approved cells 1A, 1B and 1C and on up to 42 acres of land which are contiguous with those existing cells, totaling approximately 93 acres; and

ii. On an additional 74 acres of land located northeast and southeast of the areas identified in (i)2i above;

3. The height of all existing cells may be increased beyond the currently permitted elevations subject to the approval of the Department of Environmental Protection. The height of any future cells shall be as approved by the Department of Environmental Protection;

4. Except as otherwise permitted by this Part, landfilling is limited to those wastes previously authorized by the Pinelands Commission and the Department of Environmental Protection;

5. Landfill mining operations may occur within the areas authorized for landfilling pursuant to (i)2 above;

6. Prior to May 1, 2006, the Cape May County Municipal Utilities Authority shall impose a permanent deed restriction on all lands owned by it in the Pinelands Area as of May 1, 2006. Said deed restriction shall be specifically enforceable by the Pinelands Commission and shall:

i. Prohibit any landfilling on lands owned by the Cape May County Municipal Utilities Authority in the Pinelands Area as of May 1, 2006, except on those lands authorized for landfilling pursuant to (i)2 above; and

ii. Prohibit any development on those lands owned by the Cape May County Municipal Utilities Authority as of May 1, 2006 which are located north of the areas authorized for landfilling pursuant to (i)2 above, consisting of approximately 90 acres.

7. In mitigation for the impacts upon the resources of the Pinelands caused by the landfill expansion and the continued use of the landfill after May 1, 1996:

i. A payment of \$2.04 per ton of waste disposed in the landfill after May 1, 1996 shall be made to the Pinelands Commission by the operator of the landfill. Said payments shall be made until \$2.25 million has been paid to the Pinelands Commission. Said payments shall be made quarterly within 45 days of the end of any quarter, with the first quarter ending on August 1, 1996. As an alternative to said quarterly payments, the Cape May County Municipal Utilities Authority and the Pinelands Commission may agree to the Authority's making a present value payment to the Pinelands Commission of the equivalent, based upon an agreed upon formula, to the \$2.25 million paid quarterly as set forth above. Any such present value payment shall be made prior to May 1, 1996;

ii. A present value payment of \$4,651,045 as of December 31, 2004 shall be made to the Pinelands Commission by the operator of the landfill based upon the projected landfilling capacity or tonnage gained as a result of the expansion permitted pursuant to (i)2ii above and one-half of the escalated host community benefit. Said payment shall be prior to May 1, 2006; and

iii. Should the total tonnage of solid waste materials landfilled during any five-year increment exceed the projections for that period upon which the required payment in (c)7ii above was based, a payment shall be made to the Pinelands Commission of the difference between the number of tons received and the number of tons originally projected, multiplied by one-half of then prevailing host community benefit paid to Upper Township and the Borough of Woodbine by the operator of the landfill. Such payment shall be in the form of a lump sum amount to be paid to the Commission by the operator of the landfill prior to April 30th of the first year immediately following the completion of each five year incremental calculation period. This analysis shall be conducted beginning May 1, 2011 and continue until 2034. In the event that an Act of God, including but not limited to floods and or hurricane category winds, cause the total tons landfilled to exceed the projected amount, the Commission may determine that all or a portion of the excess tonnage payment is unnecessary for a particular year; and

8. Use of funds:

i. Funds transmitted to the Commission pursuant to (i)7i above shall be used solely for the acquisition of conservation and recreation lands throughout the Pinelands National Reserve. The Commission shall devote at least eight percent of those funds to purchases in Cape May County. The Commission, where practicable, will seek matching funds for the funds used for acquisition in Cape May County.

ii. To the extent that the Commission elects to use any portion of the funds transmitted to the Commission pursuant to (i)7ii or iii above for the acquisition of conservation and recreation lands in the Pinelands National Reserve, the Commission shall devote at least eight percent of the funds to be used for acquisition to purchases in Cape May County.

Amended by R.1996 d.170, effective April 1, 1996.

See: 27 N.J.R. 3532(a), 27 N.J.R. 3895(a), 28 N.J.R. 1848(a).

Added (c).

Repeal and New Rule, R.1996 d.225, effective May 20, 1996.

See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

Section was "New landfills".

Administrative correction.

See: 28 N.J.R. 4101(a).

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

Rewrote (i).

7:50-6.76 Transfer stations, collection facilities and recycling centers

(a) Transfer stations, collection facilities and recycling centers which are located in Pinelands Villages and at closed landfills outside Regional Growth Areas and Pinelands Towns shall accept only waste or recyclable material that is generated within the municipality in which the facility is located. Waste or recyclable materials from other municipalities qualifying under N.J.A.C. 7:50-6.73(c) may be accepted at the facility provided that the total amount of waste and recyclable materials handled at the facility does not exceed 25 tons per day.

(b) Petroleum waste collection and transfer facilities shall be permitted in any Pinelands management area, provided that the wastes are not stored for more than six months and that the facilities are ancillary to an otherwise lawful use of the parcel on which they are located.

(c) Household hazardous waste collection and transfer facilities shall be permitted in any Pinelands management area, provided that the wastes are not stored for more than six months and that the facilities are ancillary to an otherwise lawful use of the parcel on which they are located.

(d) Recycling centers that process concrete, asphalt, brick or block resulting from construction or demolition activities shall be permitted in any Pinelands management area, provided that they are accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility.

(e) Nothing in this Part shall be construed to prohibit the use of containers or the development of facilities which are intended solely for the collection and storage of waste generated from the lawful use of the parcel on which the containers or facilities are located. Wastes shall not be stored for more than six months.

Repeal and New Rule, R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).
Section was "Solid waste transfer stations".

7:50-6.77 Composting facilities

(a) Composting facilities which accept only vegetative waste shall be ancillary to an agricultural use of the parcel on which they are located.

(b) Composting facilities which accept only vegetative waste and are located in Pinelands Villages and at closed landfills outside Regional Growth Areas and Pinelands Towns shall accept only vegetative waste for composting that is generated within the municipality in which the composting facility is located. Vegetative waste from other Pinelands municipalities may be accepted provided that the composting facility will process less than 20,000 cubic yards of vegetative waste per year.

Repeal and New Rule, R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).
Section was "Categories of wastes prohibited".

7:50-6.78 Regulated medical waste

(a) The Fort Dix solid waste incinerator may accept regulated medical waste from outside the Pinelands subject to the total volume limitations for all waste previously approved by the Commission pursuant to N.J.A.C. 7:50-4.51 through 4.58.

(b) Notwithstanding (a) above, generators of regulated medical waste may, as an accessory use, collect, store, treat and destroy such waste on-site or at another generator's facility. Such facilities may accept regulated medical waste from outside the Pinelands if the nature and volume of such waste is incidental to that which the facility handles from within the Pinelands.

Repeal and New Rule, R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

Section was "Compliance with county, state and federal requirements".

7:50-6.79 Land application of waste or waste derived materials

(a) The application of waste or waste derived material to any parcel of land is prohibited except as expressly authorized in this Part and as follows:

1. The lawful application to any parcel of land of not more than 100 cubic yards per principal structure of sludge derived product, composted vegetative waste, vegetative waste, or animal manure in support of an otherwise lawful use of the parcel shall be permitted;

2. Mulch from paper, vegetative waste or composted vegetative waste may be used for landscaping purposes for an otherwise lawful use or as necessary to meet the restoration standards set forth in N.J.A.C. 7:50-6.69 for resource extraction operations; and

3. Nothing herein is intended to prohibit the use of recycled concrete, asphalt or brick as aggregate fill in support of an otherwise lawful use.

(b) The land application of liquid or dewatered sludge and sludge derived products may be permitted by the State, a county or a municipality, provided that:

1. The parcel is an active agricultural operation;
2. The material is applied to benefit the agricultural operation;
3. The material is applied according to the agronomic rate of application for its intended purpose;
4. The parcel is located in the Pinelands Protection Area or that portion of the Pinelands Preservation Area designated as an Agricultural Production Area; and
5. No treatment or processing occurs at the site of land application except as necessary to meet pathogen or vector attraction reduction requirements imposed by the Department of Environmental Protection.

(c) Vegetative and composted vegetative waste may be applied to land for agricultural purposes, provided that any such land application shall be in conformance with an agricultural management plan approved by the soil conservation district in which the agricultural operation is located.

(d) Nothing in this Part shall be construed to prohibit the use of animal manure as a fertilizer for agricultural operation, provided that all relevant criteria and standards developed by the New Jersey Department of Agriculture are met.

New Rule, R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

7:50-6.80 Memoranda of agreement may permit deviations

(a) The Pinelands Commission may enter into intergovernmental memoranda of agreement with other governmental agencies which authorize exemptions only to the waste importation limitations prescribed in N.J.A.C. 7:50-6.73(c), provided that the Commission determines that:

1. Such agreement serves to implement a comprehensive district or region-wide waste management plan;
2. Such agreement provides that certain waste management facilities and activities which could otherwise occur within the Pinelands will occur outside of the Pinelands;
3. The net effect of the waste management plan, when viewed in its entirety, is that the resources of the Pinelands are afforded a greater level of protection than would be

provided through a strict application of the requirements of this Part. As appropriate, the following conditions must be met:

- i. The volume and types of wastes proposed for import and export, and the environmental risks associated with them, should be considered in the balancing tests;
 - ii. Any non-recyclable residues produced in the Pinelands should have adequate provisions for their ultimate disposal outside the Pinelands; and
 - iii. The entire waste management program for the affected jurisdictions should be considered, including both current and proposed methods and siting of all waste management facilities; and
4. The exemption will not in any way authorize the importation of waste which originates from other than Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester or Ocean counties.

(b) The Pinelands Commission may enter into intergovernmental memoranda of agreement with other governmental agencies which authorize only the use of existing waste management facilities located in the Rural Development Area that were originally developed in accordance with the provisions of this Plan, provided that the Commission determines that:

1. The proposed waste management use is otherwise permitted in the Pinelands pursuant to the standards set forth in N.J.A.C. 7:50-5 and 6, except that no hazardous waste facilities, landfills or incinerators shall be permitted;
2. The existing facility is uniquely suited for the proposed waste management use;
3. The proposed use will not materially increase the area or previously approved design or permitted capacity of the existing facility;
4. There will be no material increase in traffic, impervious surface or clearing of vegetation as a result of the proposed use;
5. The type of waste to be managed is either the same as is currently permitted at the facility or is a recyclable material as defined in N.J.A.C. 7:50-2.11; and
6. A deviation from N.J.A.C. 7:50-6.73(c) is not proposed and that, as necessary, the standards in N.J.A.C. 7:50-6.74(a) for recyclables and other special materials are met.

(c) The Pinelands Commission may enter into intergovernmental memoranda of agreement with other governmental agencies which authorize exemptions only to the limitations prescribed in N.J.A.C. 7:50-6.79(a) and (b)1 and 2 and to those in N.J.A.C. 7:50-6.75(h) which set forth the list of

materials which may be used for landfill closure for the land application or use of liquid or dewatered sludge and sludge derived products, provided that the Commission determines that:

1. The sludge or sludge derived products shall be used only as follows:
 - i. For land application in support of otherwise permitted land uses;
 - ii. For land application in support of the reclamation of disturbed areas; or
 - iii. To facilitate the closure of a landfill.
2. Reasonable safeguards are established to limit the type and total amount of material to be land applied or used;
3. Such agreement serves to implement a monitoring program to determine the effects of the activities on Pinelands resources; and
4. The duration of the agreement is limited to that necessary to complete the monitoring program, except if extended to permit subsequent rulemaking.

(d) The Pinelands Commission may also enter into intergovernmental memoranda of agreement with other governmental agencies which authorize only the land application of compost derived from source separated municipal waste, provided that the provisions of (c) above are met.

(e) Prior to the execution of any intergovernmental memorandum of agreement pursuant to this section, a public hearing shall be held by the Executive Director in accordance with the provisions of N.J.A.C. 7:50-4.52(c)3.

New Rule, R.1996 d.225, effective May 20, 1996.
See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).
Amended by R.2009 d.108, effective April 6, 2009.
See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

In (b)4, substituted "impervious" for "impermeable".

PART VIII—WATER QUALITY

7:50-6.81 Purpose

An essential element of the overall ecological value of the Pinelands environment is its extensive surface and ground water resources of exceptional quality. The Pinelands Protection Act provides that the Plan protect and maintain the quality of surface and ground water through the control of development and land use, and close cooperation and coordination with local, state and federal agencies of government. This management program is intended to protect and preserve surface and ground waters of the Pinelands and to ensure that random and uncontrolled growth and development will not degrade the Pinelands environment. Nothing in this Part applies to agricultural activities except as otherwise provided by state or Federal regulation.

(b) The property owner shall not be held liable for poor system performance if the system has been properly operated and maintained.

New Rule, R.2002 d.247, effective August 5, 2002.
 See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).
 Public Notice: Ashco-A-Corporation, RFS^{III} Wastewater Treatment System.
 See: 35 N.J.R. 2750(b).
 Public Notice: Amphidrome® Treatment System.
 See: 35 N.J.R. 4135(b).
 Public Notice: Ascho-A-Corporation, RFS^{III} Gravity Dosing Treatment System.
 See: 35 N.J.R. 4136(a).
 Public Notice: Approval of Aquapoint, Inc, Bioclere™ Treatment System.
 See: 36 N.J.R. 221(c).
 Public Notice: Approval of Cromaglass® Treatment System.
 See: 36 N.J.R. 1238(a).
 Petition for Rulemaking.
 See: 37 N.J.R. 1237(a), 2707(a), 3074(c).
 Amended by R.2006 d.159, effective May 1, 2006.
 See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).
 Rewrote (a)6i.
 Amended by R.2007 d.372, effective December 3, 2007.
 See: 39 N.J.R. 1970(a), 39 N.J.R. 5077(b).
 In the introductory paragraph of (a), substituted “in all municipalities” for “where the proposed lot size and density is consistent with the provisions of N.J.A.C. 7:50-5 and the municipal land use ordinance that has been certified by the Commission pursuant to N.J.A.C. 7:50-3 and”; rewrote (a)1; in (a)3, deleted “each Ashco RFS III system shall be located on a parcel containing at least 1.5 acres for each dwelling unit that will be served by the system and” preceding “each FAST”; and in (a)4, substituted “eight” for “five”.

7:50-10.23 Pinelands Commission approval and evaluation

(a) If otherwise appropriate under N.J.A.C. 7:50-3, the Commission shall approve a municipal ordinance authorizing use of alternate design pilot program treatment systems if it finds that the standards of N.J.A.C. 7:50-10.22 are met.

(b) The Executive Director shall review this pilot program seven years after August 5, 2002 and shall report to the Commission within three months of that date on its implementation. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:

1. The level of nitrogen in the effluent in each alternate design pilot program treatment system technology based on an evaluation of all monitoring results for that technology under this pilot program;
2. The maintenance required for each alternate design pilot program treatment system technology to meet the efficiency set forth in (b)1 above;
3. The cost of installing and maintaining each alternate design pilot program treatment system technology;
4. The problems associated with the installation, operation and maintenance of each alternate design pilot program treatment system technology and the frequency with which each such problem occurs, the measures taken to

eliminate any such problem and the success of those measures;

5. The number of systems of each technology that have been authorized under the pilot program; and

6. Whether the pilot program, when viewed in its entirety, has served to further the purposes and objectives of the Pinelands Protection Act, the Federal Act and this Plan.

(c) If the Executive Director finds that the number of monitoring events for any alternate design pilot program treatment system technology is not adequate to evaluate that technology under this pilot program in accordance with (b) above, the Executive Director shall so inform the Commission and, upon receiving the Commission’s approval, initiate a second review to be completed within eight years of August 5, 2002.

(d) If the Executive Director finds that this pilot program has not been implemented or has not been successful for one or more of the alternate design pilot program treatment system technologies based on the criteria set forth in (b) above, the Executive Director shall propose, within three months of the issuance of the report required in (b) above, an amendment to this subchapter, in accordance with N.J.A.C. 7:50-7, to repeal the pilot program as to that technology or technologies.

(e) If the Executive Director finds that this pilot program has not been successfully implemented for one or more of the alternate design pilot program treatment system technologies because insufficient numbers of that technology or technologies have been installed to fully evaluate any such technology but the available information indicates that the technology can significantly reduce the level of nitrogen in the effluent, the Executive Director may propose an amendment to this subchapter, in accordance with N.J.A.C. 7:50-7, to establish a new pilot program as to that technology or technologies.

(f) If the Executive Director finds that this pilot program has been successful for one or more of the alternate design pilot program treatment system technologies based on the criteria set forth in (b) above, the Executive Director shall propose, within three months of the issuance of the report required in (b) above, an amendment to this Plan in accordance with N.J.A.C. 7:50-7 to permit installation of said technology or technologies on a permanent basis. Prior to submitting that proposal, the Executive Director shall specify either in the report required in (b) above or in a separate report to the Commission the institutional and governmental arrangements necessary to ensure adequate maintenance and monitoring of each such technology and the minimum lot size required for each such technology to comply with the water quality standards of N.J.A.C. 7:50-6, Part VIII.

(g) Nothing in this section shall be construed to authorize the installation of an alternate design pilot program treatment system after August 5, 2010 as set forth in N.J.A.C. 7:50-

10.22(a)4, unless a rule has been adopted by the Commission which expressly authorizes such installation pursuant to (e) or (f) above.

New Rule, R.2002 d.247, effective August 5, 2002.

See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).

Amended by R.2007 d.372, effective December 3, 2007.

See: 39 N.J.R. 1970(a), 39 N.J.R. 5077(b).

In the introductory paragraph of (b), substituted "seven" for "four"; in (c), substituted "eight" for "six" and a period for the semicolon at the end; and in (g), substituted "2010" for "2007".

7:50-10.24 through 7:50-10.27 (Reserved)

PART V—FORT DIX CONSUMER ELECTRONICS RECYCLING CENTER PILOT PROGRAM

7:50-10.28 Purpose

(a) N.J.A.C. 7:50-6, Part VII, contains standards and requirements for waste management which apply throughout the Pinelands. These standards were last revised by the Pinelands Commission in 1996, in part to ensure that hazardous wastes, which were considered not to be recyclable because of the dangers they posed through contamination of the surrounding environment, not be stored, transferred, processed, discharged, disposed or otherwise used in the Pinelands. The Commission elected to adopt a definition of "hazardous waste" which included all hazardous wastes defined as such by the New Jersey Department of Environmental Protection and the Environmental Protection Agency as of May 20, 1996 and any other wastes defined as hazardous by that Department and Agency subsequent to May 20, 1996. The Commission further chose to write its definition in such a way that if the State were to remove a waste from its list of hazardous wastes subsequent to May 20, 1996, such removal would not automatically affect the list of wastes which this Plan defines as hazardous in the Pinelands. In so doing, the Commission reserved for itself the ability to individually evaluate whether or not the State's decision to remove a waste from the list was appropriate for the Pinelands.

(b) Subsequent to the Commission's adoption of its revised waste management rules, the New Jersey Department of Environmental Protection began to reexamine its own approach to the handling of hazardous wastes. The Department came to the conclusion that advances in technology relating to the processing of certain types of hazardous wastes allowed for their safe and effective recycling, provided it was done according to a specific, controlled regime. Consequently, the Department adopted a series of rule changes between 1996 and 2003 that identified classes of hazardous wastes that could now be recycled and the procedures for doing so. The latest of these rules went into effect as recently as December 2002 and added "consumer electronics" to the category of "Class D Recyclables." Consumer electronics are household and business appliances that incorporate circuitry; they include, among other things, computers, printers, stereos, VCRs, televisions and telecommunication devices. Their reclassification by the Department was intended to permit a

simpler and more economical means of processing their reusable components. At the same time, the Department devised a pilot program to test the overall efficiency of recycling such wastes and began issuing temporary "Research, Demonstration and Development Certificates" as part of the evaluation process. These certificates authorized the recycling of specific hazardous waste materials at newly established facilities.

(c) Pursuant to its pilot program, the Department of Environmental Protection granted a certificate allowing a consumer electronics recycling center to operate at the Federal prison at Fort Dix in 1999. The recycling center in question, as well as all of Fort Dix, is located within the Pinelands Area and included in a Military and Federal Installation Area on the Land Capability Map adopted as part of the Comprehensive Management Plan at N.J.A.C. 7:50-5.3(a) 24. Consumer electronics continue to be defined in this Plan as a hazardous waste; therefore, their recycling is not permitted in any portion of the Pinelands pursuant to N.J.A.C. 7:50-6.73(b). In recognition of the Department's actions, however, the Commission determined that it would be appropriate to allow for the continued operation of the existing recycling center in order to determine whether the State's decision to reclassify consumer electronics as recyclable hazardous waste is appropriate for the Pinelands. The Fort Dix Consumer Electronics Recycling Center Pilot Program is therefore authorized as a means to test whether continued operation of the center, if effectively regulated and monitored, would reduce the waste stream to landfills and enhance protection of the natural resources of the Pinelands and its unique ecosystem.

New Rule, R.2005 d.171, effective June 6, 2005.

See: 36 N.J.R. 4401(a), 37 N.J.R. 172(a), 37 N.J.R. 2013(b).

7:50-10.29 General standards

(a) The consumer electronics recycling center currently in operation and located within the boundaries of Fort Dix in New Hanover Township is authorized to continue the recycling of cathode ray tubes and consumer electronics until June 6, 2010, provided its operation is otherwise consistent with the standards of N.J.A.C. 7:50-5 and 6 and subject to the following conditions:

1. The recycling center shall accept for repair and/or recycling only materials which are solid components of cathode ray tubes or consumer electronics. No other hazardous wastes of any kind, and in particular no liquid wastes, shall be accepted for transfer, storage, disposal or recycling or for any other purpose;
2. The recycling center shall at all times be maintained and operated in conformance with the January 22, 2003 amendment to the Burlington County District Solid Waste Management Plan, certified by the Commissioner of the New Jersey Department of Environmental Protection and dated June 25, 2003;

3. Transportation of cathode ray tubes and consumer electronics to and from the recycling center and disposition of the processed product shall be accomplished in accordance with N.J.A.C. 7:26A-7.6, except that a transporter may not store the materials in the Pinelands;

4. The waste importation limitations prescribed in N.J.A.C. 7:50-6.73(c) shall not apply;

5. The total amount of consumer electronics materials accepted for recycling shall not exceed 200 tons per day;

6. No materials intended for recycling or repair shall be stored at the center for more than three months and the total amount of recyclable materials on site at any time shall not exceed 1,000 tons;

7. The recycling center shall not be expanded or modified in any way, except as necessary to facilitate the recycling function prescribed herein and only after written notice has been provided to the Commission and an application for development, if required pursuant to N.J.A.C. 7:50-4, has been approved by the Commission;

8. Recyclable materials shall be stored in secure, enclosed, weather-tight buildings or containers and the design and operation of the recycling center shall be in accordance with the appropriate standards of N.J.A.C. 7:26A-4.1 through 4.6; and

9. The New Jersey Department of Environmental Protection and the Commission shall conduct annual joint inspections of the operations of the recycling center, as permitted by N.J.A.C. 7:26A-4.3, during the period the Fort Dix Consumer Electronics Recycling Center Pilot Program is in effect.

(b) The operators of the Fort Dix consumer electronics recycling center shall, on an annual basis, provide to the Commission the following information:

1. The tonnage of consumer electronics received at the facility for recycling; and

2. The tonnage of consumer electronics sent from the facility for disposal in a landfill.

New Rule, R.2005 d.171, effective June 6, 2005.
See: 36 N.J.R. 4401(a), 37 N.J.R. 172(a), 37 N.J.R. 2013(b).

7:50-10.30 Pinelands Commission approval and evaluation

(a) If otherwise appropriate under N.J.A.C. 7:50-4, the Pinelands Commission shall approve the development application for the Fort Dix consumer electronics recycling center if it finds that the standards of N.J.A.C. 7:50-10.29 are met.

(b) The Executive Director shall review this pilot program three years following the Commission's approval pursuant to (a) above and shall report to the Commission on its implementation. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:

1. The facility has operated in a manner entirely and uniformly consistent with the standards of N.J.A.C. 7:50-10.29;

2. There have been no incidents at the Fort Dix computer electronics recycling facility or any other Class D consumer electronics recycling facility in New Jersey which would cause any of the provisions of the contingency plan required by N.J.A.C. 7:26A-4.6(c) to go into effect;

3. The amount of solid waste returned to the waste stream for disposal in a landfill has been significantly reduced; and

4. The net effect of the pilot program, when viewed in its entirety, is that the resources of the Pinelands have been afforded the same or greater level of protection than would be provided by the standards and requirements set forth in N.J.A.C. 7:50-5 and 6.

(c) If the Executive Director finds that this pilot program has not been implemented or has not been successful based on the criteria set forth in (b) above, the Executive Director shall propose an amendment to this subchapter, in accordance with N.J.A.C. 7:50-7, to repeal the pilot program.

(d) If the Executive Director finds that this pilot program has been successful based on the criteria set forth in (b) above, the Executive Director may propose an amendment to this Plan in accordance with N.J.A.C. 7:50-7 which would allow for the continued operation of the Fort Dix computer electronics recycling facility and broaden the applicability of this pilot program in the Pinelands.

New Rule, R.2005 d.171, effective June 6, 2005.
See: 36 N.J.R. 4401(a), 37 N.J.R. 172(a), 37 N.J.R. 2013(b).

PART VI—ELECTRIC TRANSMISSION RIGHT-OF-WAY MAINTENANCE

7:50-10.31 Purpose

(a) The purpose of this pilot program is to implement and evaluate the New Jersey Pinelands Electric Transmission Right-of-Way Maintenance Plan (ROW Plan), which is hereby adopted by the Pinelands Commission. The ROW Plan identifies detailed vegetation management prescriptions for approximately 233 miles of existing electric transmission rights-of-way managed by Public Service Enterprise Group, Jersey Central Power and Light and Atlantic City Electric, a subsidiary of Pepco Holdings, Inc.

(b) The ROW Plan has two primary objectives:

1. To create and maintain 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; and

2. To ensure the reliability and safety of the electric transmission system in the Pinelands by creating and maintaining low growth vegetation communities.

New Rule, R.2009 d.386, effective December 21, 2009.
See: 41 N.J.R. 2412(a), 41 N.J.R. 4788(a).

7:50-10.32 General standards

(a) Electric transmission right-of-way vegetation management activities shall be authorized in the Pinelands Area in accordance with the provisions of the New Jersey Pinelands Electric Transmission Right-of-Way Plan, dated February 2009, as amended and supplemented and available at the principal office of the Commission or at www.nj.gov/pinelands until December 31, 2019, or as extended pursuant to N.J.A.C. 7:50-10.35(c).

(b) The utility companies and their successors or assigns are authorized to proceed with conforming vegetation management prescriptions without prior notice to and review by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, provided that:

1. Each utility company shall submit an annual report to the Executive Director, in such form as he or she shall prescribe, that identifies the specific right-of-way spans in which prescribed vegetation management activities have been performed. This report shall be due on January 31 of each year and shall cover the preceding calendar year; and

2. In lieu of any application fees required by N.J.A.C. 7:50-1.6, each utility company shall remit to the Executive Director the following amounts on January 31 of each year to help finance the Commission's inspection and monitoring obligations specified in (c) and (d) below. The first payment shall be due on January 31, 2010 and the last payment shall be due on January 31, 2018.

- i. Public Service Enterprise Group - \$22,500;
- ii. Jersey Central Power and Light - \$8,900; and
- iii. Atlantic City Electric - \$27,800.

(c) The Executive Director shall establish and implement an annual inspection program to verify that the vegetation management activities undertaken by the utility companies are consistent with the ROW Plan.

(d) The Executive Director shall establish and implement a scientifically based monitoring program to assess the outcomes of the vegetation management activities and whether they are accomplishing the objectives of the ROW Plan.

New Rule, R.2009 d.386, effective December 21, 2009.
See: 41 N.J.R. 2412(a), 41 N.J.R. 4788(a).

7:50-10.33 Progress reports and conformance

(a) The Executive Director shall submit a biennial progress report to the Commission, each of the utility companies and the Board of Public Utilities which describes the type and

extent of vegetation management activities undertaken to date, any significant problems or issues encountered during the period and the need for any amendments to the ROW Plan. The first such report shall be due March 30, 2012.

(b) The Executive Director shall submit such other interim reports to the Commission as may be necessary to inform the Commission of any significant issues with respect to the utility companies' conformance with the terms of the ROW Plan. Copies of such reports shall be provided to each of the utility companies and the Board of Public Utilities.

(c) If the Executive Director identifies a significant and recurring conformance issue in a progress or interim report, the applicable utility company or companies shall thereafter be required to submit individual development applications pursuant to the requirements of N.J.A.C. 7:50-4 until such time as the Executive Director notifies the Commission, the utility company or companies and the Board of Public Utilities that the conformance issues have been satisfactorily resolved. Such development applications shall be subject to the fee requirements of N.J.A.C. 7:50-1.6. Any annual payment required pursuant to N.J.A.C. 7:50-10.32(b)2 shall be adjusted to account for the period during which individual development applications are submitted.

New Rule, R.2009 d.386, effective December 21, 2009.
See: 41 N.J.R. 2412(a), 41 N.J.R. 4788(a).

7:50-10.34 Amendments

(a) Although the ROW Plan provides that minor adjustments to the vegetation management prescriptions may be made with the Executive Director's prior approval, a need may periodically arise for substantive amendments to the ROW Plan. Such an amendment proposal may be made by the Executive Director, one or more of the utility companies or the Board of Public Utilities.

(b) Upon receipt of a complete amendment proposal, the Executive Director shall give notice of and set the date, time and place for a public hearing. The public hearing shall be held by the Executive Director within 60 days following receipt of the amendment proposal.

(c) Within 90 days of the receipt of the amendment proposal, the Executive Director shall submit a report to the Pinelands Commission setting forth proposed findings and a recommended order as to whether the amendment should be approved, approved with conditions or disapproved.

(d) Upon receipt of the Executive Director's report, the Commission shall review the findings, conclusions and recommendations of the Executive Director and shall, within 120 days following receipt of the amendment, approve, approve with conditions or disapprove the amendment.

New Rule, R.2009 d.386, effective December 21, 2009.
See: 41 N.J.R. 2412(a), 41 N.J.R. 4788(a).