PINELANDS COMPREHENSIVE MANAGEMENT PLAN

Authority
N.J.S.A. 13:18A-1 et. seq.
Source and Effective Date
R.1981 d.13, effective January 14, 1981.
See: 12 N.J.R. 513(b), 13 N.J.R. 91(e)

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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 the Pinelands Comprehensive Management Plan.

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. 7:50-1.1 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.

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 $250 or a fee calculated according to the fee schedule set forth in (b) through (l) 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 memorandum of 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, 4.33, 4.52 or 4.66 shall be calculated as follows:

1. There shall be a $250 fee for a residential development consisting of one unit or one lot;

2. The fee for all other residential developments shall be calculated based on the number of proposed dwelling units or lots, 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. $250.00 per dwelling unit or lot for the first four units or lots;

ii. $281.25 per dwelling unit or lot for units/lots five through 50;

iii. $156.25 per dwelling unit or lot for units/lots 51 through 150; and

iv. $125.00 per dwelling unit or lot 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, 4.33, 4.52 or 4.66 shall be calculated in accordance with the following, based on typical construction costs, except as provided in (c)1 through 9 below:

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

Typical construction costs shall include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs, but shall not include interior furnishings, atypical features, decorative materials or other similar features. Supporting documentation of the expected construction costs shall be submitted as part of the application for development, unless the maximum fee pursuant to (e)4 below is required, in which case no such documentation shall be necessary.

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 $6.25 per mile, or portion thereof, 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 $6.25 per acre, or portion thereof, that is subject to the forestry activities;

3. For the development of a golf course, the fee shall be $187.50 per acre, or portion thereof, 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 $187.50 per acre, or portion thereof, of all land included in the right of way of the proposed linear development project and all land 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 therefor, and any accessory structures or uses directly associated therewith. For purposes of this section, linear development shall not include residential, commercial, office or industrial buildings, improvements within a development such as utility lines or pipes, bridges, or internal circulation roads;
5. For a resource extraction permit application or permit renewal application, the application fee shall be $1,875 plus $37.50 per acre, or portion thereof, to be mined within each permit period;
6. For a change of use with no additional development or a home occupation, the application fee shall be $250.00; 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 that will exist following the subdivision or resubdivision regardless of the number of lots that existed prior to the subdivision;
8. For the demolition of a structure 50 years or older, the fee shall be $250.00; and
9. For the development of a solar energy facility, the fee shall be $1,500 plus $500.00 per acre of land to be developed, or portion thereof, including any off-site development.

(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 or (f) below shall:

1. Be increased by $3,125 if an individual on-site septic system is proposed pursuant to N.J.A.C. 7:50-6.84(a)5iv(2)(I) or 6.84(a)5iv(3);
2. Equal 50 percent of the calculated fee if a public agency is the

applicant; and

3. Not exceed $50,000 unless a public agency is the applicant, in which case the fee shall not exceed $25,000.

(f) An application fee in accordance with (a) through (d) above shall be submitted for an application where a certificate of filing, a certificate of completeness or a public development approval has not been issued pursuant to N.J.A.C. 7:50-4.34, 4.15 or 4.56 and either no direct activity in furtherance of the Commissions application process has occurred for a period of two years or there has been a significant and material change in the proposed development that is the subject of the application.

(g) The application fee for a development application submitted by a qualified tax-exempt religious association or corporation or a qualified tax-exempt non-profit organization shall be $500.00 or the amount calculated in accordance with (a) through (d) above, whichever is less. For purposes of this provision, the term qualified tax-exempt religious association or corporation• means a religious association or corporation which is exempt from Federal income taxation under Sections 501(c)(3) or (d) of the Internal Revenue Service Code, Title 26, Subtitle A, Chapter 1, Subchapter F, Part I, Sections 501(c)(3) and (d). For purposes of this provision, the term qualified tax-exempt non-profit organization• means a non-profit organization which is exempt from Federal income taxation under Section 501(c)(3) of the Internal Revenue Service Code, Title 26, Subtitle A, Chapter 1, Subchapter F, Part I, Section 501(c)(3).

(h) The fee for a Letter of Interpretation or Amended Letter of Interpretation pursuant to N.J.A.C. 7:50-4, Part VI, shall be determined according to the following:

1. There shall be no fee for a Letter of Interpretation involving the allocation of Pinelands Development Credits except for an Amended Letter of Interpretation requested within five years of the issuance of the original Letter of Interpretation, in which case the fee shall be $250.00 plus $6.25 per acre of land for which the amended allocation is requested; and

2. The application fee for any other Letter of Interpretation or Amended Letter of Interpretation shall be $250.00.

(i) The application fee for the review and processing of a request for a letter stating information that is available in a municipal land use ordinance or stating other information readily available to the public from a source other than the Pinelands Commission shall be $250.00.

(j) The application fee for an Amended Certificate of Filing, Amended Certificate of Completeness or amended public development approval shall be $250.00 or 10 percent of the original permit fee, whichever is greater, with a maximum fee of $3,750. If a request for an Amended Certificate of Filing, Amended Certificate of Completeness or public development approval is submitted more than five years following the issuance of the original Certificate of Filing, Certificate of Completeness or public development approval, the fee shall be calculated as if a

new application had been submitted.

(k) The fee for the review of any study or survey prior to the submission of a development application pursuant to N.J.A.C. 7:50-4.14 or 4.33, including, but not limited to, any threatened or endangered species protocol, threatened or endangered species protocol results or a cultural resource survey, shall be one-third of the estimated application fee calculated in accordance with (b) through (d) above. Any fee submitted in accordance with this provision shall be deducted from the application fee due at the time of submission of the application for the proposed development for which the study or survey was prepared or conducted.

(l) The application fee for a Certificate of Filing or Certificate of Completeness associated with an application for general development plan approval in accordance with N.J.S.A. 40:55D-45.3 shall be one-half of the estimated application fee calculated in accordance with (b) through (d) above. The remainder of the application fee, adjusted as necessary to reflect any changes from the general development approval, shall be due upon submission of any subsequent applications for individual phases of the development, each of which shall require a new Certificate of Filing or Certificate of Completeness.

7:50-1.7 Escrows

(a) Notwithstanding any other provision of N.J.A.C. 7:50-1.6, the Executive Director may request an escrow for development applications or other matters pending before the Commission that involve complex issues which, either because of the need for specialized expertise, necessitate the retention of consultants to assist in the Commission's review, or will require considerable staff review or unusual expenditures, including costs associated with specialized software, equipment, facilities or services. Should the Executive Director determine that an escrow is necessary:

1. The Executive Director shall notify the entity initiating the matter or the applicant of such determination and the escrow amount to be submitted;

2. Monies submitted pursuant to (a)1 above shall be held in an escrow account and shall be used by the Commission to reimburse any costs it incurs pursuant to (a) above. In the case of an escrow for an intergovernmental agreement authorized pursuant to N.J.A.C. 7:50-4.52(c)2, monies submitted shall also be used for developing, implementing and monitoring such agreement;

3. Should the funds held in escrow be insufficient to defray the costs identified in (a)2 above, the Executive Director will provide the entity initiating the matter or the applicant with a statement of the account and will request from the entity or the applicant the additional amount estimated to be required for the escrow account;

4. At the time that the Commission renders its decision on the matter or, for a development application, the final municipal approval takes effect pursuant to N.J.A.C. 7:50-4, Part III, or, in the case of an intergovernmental memorandum of agreement authorized pursuant to N.J.A.C. 7:50-4.52(c)2 when the monitoring of such agreement is no longer required, the Executive Director shall provide a statement of the account to the entity initiating the matter or the applicant and any funds remaining in the escrow account shall be returned to that entity or applicant;

5. No additional review of the matter or application will occur until the escrow amount requested pursuant to (a)1 or 3 above has been submitted; and

6. An entity or applicant who objects to the escrow amount requested pursuant to (a)1 or (3) above shall notify the Executive Director, in writing, within 15 days of receipt of the Executive Director's determination of such objection. Depending upon the basis for the escrow amount, the entity or applicant shall submit with this notification either:

i. An estimate from a qualified professional, having the requisite knowledge and expertise required to address the issues raised by the matter pending before the Commission or the development application, to support the entity or applicant's estimation of the appropriate additional amount to be assessed; or

ii. An estimate of the number of hours the entity or applicant believes are required to complete a review of the matter or development application and the rates and qualifications of professionals with the knowledge and expertise required to conduct such a review; and

7. The Executive Director shall review the information submitted pursuant to (a)6 above and notify the entity or applicant, within 10 days thereof, of the additional amount to be provided.

(b) The escrow requirements in (a) above shall not apply to applications for minor residential development.

7:50-1.8 Severability

If any section, part, phrase, or provision of this Plan or the application thereof to any person be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the validity of the remainder of this Plan or the application thereof to other persons.

7:50-1.9 through 7:50-1.10 (Reserved)

PART II-DUTIES AND POWERS OF THE COMMISSION

7:50-1.11 Duties and powers

The Commission bears the ultimate responsibility for implementing and enforcing the provisions of the Pinelands Protection Act and this Plan. In addition, it constitutes the planning entity provided for in the Federal Act and is responsible for achieving the purposes and provisions of the Federal Act. The Commission shall exercise the powers necessary to implement the objectives of the Federal Act, the Pinelands Protection Act and this Plan.

7:50-1.12 Meetings, hearings and procedures

(a) The Commission shall fix the time and place for holding its regular meetings. Special meetings may be held at the call of the Chairman. All meetings of the Commission shall be held in accordance with the provisions of the "Open Public Meetings Act", N.J.S.A. 10:4-6.
(b) All hearings of the Commission shall be set, noticed and conducted in accordance with the provisions of N.J.A.C. 7:50-4.3.
(c) The Commission shall adopt its own procedures for the conduct of its business, meetings and hearings not inconsistent with the Pinelands Protection Act and this Plan. Copies thereof shall be available to any person upon request.
(d) A true copy of the minutes of every meeting of the Commission shall be delivered to the Governor. No action taken by the Commission shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, following delivery of the minutes to the Governor.

7:50-1.13 through 7:50-1.20 (Reserved)

PART III-DUTIES AND POWERS OF THE EXECUTIVE DIRECTOR

7:50-1.21 Duties and powers

(a) The Executive Director shall be the chief administrative officer of the Commission and, subject to the approval of his actions by the Commission as provided herein, shall be charged with the administration and enforcement of this Plan. He shall supervise, manage and be responsible for the affairs and activities of the Commission staff, including, but not limited to, the exercise of the following duties and powers:
    1. Rules and Regulations: The Executive Director shall, consistent with the express standards, purposes and intent of this Plan, establish administrative procedures and forms as are in his opinion necessary to the effective administration and enforcement of the provisions of this Plan and the rules and regulations of the Commission.
    2. Records: The Executive Director shall maintain:
        i. Permanent and current records of this Plan including all maps, amendments, development approvals and denials, interpretations and decisions rendered by the Commission or by the Executive Director together with relevant background files and materials.
        ii. A current file of all certificates and approvals issued pursuant to this Plan for such time as necessary to ensure continuous compliance with the provisions of this Plan and such certificates and approvals.
        iii. A current file of all letters of interpretation issued pursuant to N.J.A.C. 7:50-4 of this Plan.
        iv. Permanent and current records of all meetings, hearings and proceedings, and the minutes and transcripts taken therein, held by the Commission or the Executive Director pursuant to this Plan.

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

PART I-INTERPRETATION

7:50-2.1 Provisions are minimum requirements
In their interpretation and application, the provisions of this Plan shall be held to be the minimum standards for the preservation of the Pinelands, as set forth in the provisions of this element. Where the provisions of this Plan are more restrictive than those of any other statute, ordinance or regulation, the provisions of this Plan shall control.

7:50-2.2 Construction
This Plan, being necessary for the protection and preservation of the resources of the Pinelands, shall be construed liberally to effect the purposes of the Federal Act and the Pinelands Protection Act.

7:50-2.3 Word usage
(a) In the interpretation of this Plan, the provisions and rules of this section shall be observed and applied, except where the context clearly requires otherwise:
    1. Words used or defined in one tense or form shall include other tenses and derivative forms.
    2. Words in the singular shall include plural and words in the plural shall include the singular.
    3. The masculine gender shall include the feminine and the feminine gender shall include the masculine.
    4. The word "shall" is mandatory.
    5. The word "may" is permissive.
    6. In case of any difference of meaning or implication between the text of this Plan and any caption, the text shall control.

7:50-2.4 through 7:50-2.10 (Reserved)

PART II-DEFINITIONS

7:50-2.11 Definitions

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

"**Abandonment**" means the voluntary cessation or discontinuation of a use, not including temporary or short-term interruptions to a use during periods of remodeling, maintaining or otherwise improving

or rearranging a facility, or during normal periods of vacation or seasonal closure. Cessation or discontinuation of a use for two or more years shall constitute prima facie evidence of abandonment. An applicant may rebut this presumption of abandonment by demonstrating, by a preponderance of the evidence, objective proof of intent to continue a use such that a reasonable person would believe there was no intent to abandon said use. Factors to be considered by the Commission in evaluating such intent may include, but are not limited to:

1. The length of time of cessation or discontinuation of the use;
2. Whether the owner of the use has allowed it to fall into disrepair;
3. Bills of lading, delivery records, phone records or utility bills affirmatively documenting continuation of the use; and
4. Any other record, bill or correspondence affirmatively documenting continuation of the use.

"**Accessory structure or use**" means a structure or use which:

1. Is subordinate to and serves a principal building or a principal use, including but not limited to the production, harvesting, and storage as well as washing, grading and packaging of unprocessed produce grown on-site; and
2. Is subordinate in area, extent and purpose to the principal structure or principal building or a principal use served; and
3. Contributes primarily to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served; and
4. Is located on the same parcel as the principal structure or principal use served, except as otherwise expressly authorized by the provisions of this Plan.

"**Agricultural commercial establishment**" means a retail sales establishment primarily intended to sell agricultural products produced in the Pinelands. An agricultural commercial establishment may be seasonal or year round and may or may not be associated directly with a farm; however it does not include supermarkets, convenience stores, restaurants and other establishments which coincidentally sell agricultural products, nor does it include agricultural production facilities such as a farm itself, nor facilities which are solely processing facilities.

"**Agricultural employee housing**" means residential dwellings, for the seasonal use of employees of an agricultural or horticultural use, which because of their character or location are not to be used for permanent housekeeping units and which are otherwise accessory to a principal use of the parcel for agriculture.

"**Agricultural or horticultural purpose or use**" means any production of plants or animals useful to man, including but not limited to: forages or sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, and including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; aquaculture; or any land devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agency of the Federal Government.

"**Agricultural products processing facility**" means a facility designed, constructed, and operated for the express purpose of processing agricultural products grown in the Pinelands, including washing,

grading, and packaging of those products.

"**Alternate design pilot program treatment system"** means an individual or community on site waste water treatment system that has the capability of providing a high level of treatment including a significant reduction in the level of total nitrogen in the wastewater, and that has been approved by the Commission for participation in the alternate design wastewater treatment systems pilot program pursuant to N.J.A.C. 7:50-10.23(b). Detailed plans and specifications for each authorized technology are available at the principal office of the Commission.

"**Amendment**" is a means for making changes in this Plan as expressly authorized by the provisions of N.J.A.C. 7:50-7 or any change to a certified local master plan or land use ordinance.

"**Ancillary**" means a structure or use which:

1. Is located on the same parcel but is not necessarily related to a principal structure or use; and
2. Is subordinate in area, extent and purpose to the principal structure or principal building.

"**Animals, threatened or endangered**". See: N.J.A.C. 7:50-6.32.

"**Application for development**" means any application, filed with any permitting agency, for any approval, authorization or permit which is a prerequisite to initiating development in the Pinelands Area, except as provided in N.J.A.C. 7:50-4.1(a).

"**Approval, final**" means any approval to develop issued by a local permitting agency which represents the final action to be taken on the application for development by that agency, including but not limited to final approval of major subdivisions and site plans, approval of minor subdivisions, and the issuance of zoning or construction permits.

"**Approval, preliminary**" means any approval to develop issued by a local permitting agency which is a prerequisite to the issuance of a final approval by that agency, including but not limited to preliminary approvals of major subdivisions and site plans.

"**Aquaculture**" means the propagation, rearing and subsequent harvesting of aquatic organisms in controlled or selected environments, and their subsequent processing, packaging and marketing, including, but not limited to, activities to intervene in the rearing process to increase production such as stocking, feeding, transplanting and providing for protection from predators.

"**Aquatic organisms**" means, but is not limited to, finfish, mollusks, crustaceans and aquatic plants which are the property of a person engaged in aquaculture.

"**Artificial regeneration**" means the establishment of tree cover through direct or supplemental seeding or planting.

"**Assisted living facility**" means a facility licensed by the New Jersey Department of Health and Senior Services pursuant to N.J.A.C. 8:36-1 et seq. which is designed and operated to provide apartment style housing and congregate dining while assuring that a coordinated array of supportive personal and health services are available, as needed, to four (4) or more adult persons unrelated to the proprietor. Each unit in an assisted living facility shall offer, at minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance. For purposes of this Plan, assisted living facility shall include assisted living residences and assisted living programs as defined at N.J.A.C. 8:36-1.3.

"**Bedding**" means a silvicultural practice involving the preparation of land before planting in the form of small mounds so as to concentrate topsoil and elevate the root zone of seedlings above temporary standing water.

"**Broadcast scarification**" means a silvicultural practice involving the dragging of cut trees or other objects across a parcel to remove or reduce above-ground shrub cover, debris, leaf litter and humus without disturbance to mineral soil horizons and associated roots.

"**Building**" means any structure, either temporary or permanent, having a roof and designed, intended or used for the sheltering or protection of persons, animals, chattel or property of any kind.

"**Camper**" means a portable structure, which is self propelled or mounted on or towed by another vehicle, designed and used for temporary living for travel, recreation, vacation or other short-term uses. Camper does not include mobile homes or other dwellings.

"**Campsite**" means a place used or suitable for camping, on which temporary shelter such as a tent or camper may be placed and occupied on a temporary and seasonal basis.

"**Certificate of appropriateness**". See N.J.A.C. 7:50-6.156

"**Certificate of completeness**". See N.J.A.C. 7:50-4.11 through 4.27.

"**Certificate of filing**". See N.J.A.C. 7:50-4.34 and 4.82.

"**Certified county master plan or regulation**" means any county master plan or regulation certified by the Commission pursuant to N.J.A.C. 7:50-3, Part II as being in conformance with the minimum standards of this Plan.

"**Certified municipal master plan or land use ordinance**" means any municipal master plan or land use ordinance certified by the Commission pursuant to N.J.A.C. 7:50-3, Part IV as being in conformance with the minimum standards of this Plan.

"**Clearcutting**" means a silvicultural practice involving removal of an entire forest stand in one cutting for purposes of regeneration either obtained artificially, by natural seed or from advanced regeneration. Clearcutting typically results in the removal of all woody vegetation from a parcel in preparation for the establishment of new trees; however, some trees may be left on the parcel.

"**Collection facility**" menas a facility where source-separated or commingled waste is dropped off in a container and temporarily stored before transportation to another waste management facility.

"**Commencement of construction**" means actual construction on a parcel of land in accordance with a permit issued by the applicable jurisdiction if the cost of the physical improvements completed constitutes at least 25 percent of the projected total cost of the development or the completion of all required foundations, of a form and character such that the foundations are not usable for any other form of development except that authorized by the issued permit.

"**Commission**" means the Pinelands Commission created pursuant to Section 5 of the Pinelands Protection Act, as amended.

"**Comprehensive Management Plan**" means the plan adopted by the Commission pursuant to Section 7 of the Pinelands Protection Act, as amended.

"**Construction**" means the construction, erection, reconstruction, alteration, conversion, demolition, removal or equipping of buildings or structures.

"**Consumer electronics**" means any appliance used in the home or business that includes circuitry and contains hazardous substances. It includes the components and sub-assemblies that collectively make up the electronic products and may, when individually broken down, include batteries, mercury switches, capacitors containing PCBs, cadmium plated parts and lead or cadmium containing plastics. Examples include, but are not limited to, computers, printers, copiers, telefacsimiles, VCRs, stereos, televisions, and telecommunication devices.

"**Contiguous lands**" means land which is connected or adjacent to other land so as to permit the land to be used as a functional unit; provided that separation by lot line, streams, dedicated public roads which are not paved, rights-of-way, and easements shall not affect the contiguity of land unless a substantial physical barrier is created which prevents the land from being used as a functional unit.

"**Continuing care retirement community**" means a development regulated in accordance with the rules of the Department of Community Affairs pursuant to N.J.A.C. 5:19-1.1 et seq. which provides a continuum of accommodations and care, from independent living to assisted living to long-term bed care in a nursing facility, at the same or another location to an individual pursuant to an agreement effective for the life of the individual or for a period greater than one year.

"**Coppicing**" means a silvicultural practice involving the production of forest stands from vegetative sprouting by the trees that are harvested (stump sprouts, root suckers, and naturally rooted layers). Coppicing typically involves short rotations with dense stands of short trees.

"**County**" means the New Jersey counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Ocean.

"**County master plan**" means a composite of the master plan for the physical development of a New Jersey county with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to N.J.S.A. 40:27-2 and 40:27-4 or their successor statutes.

"**County planning board**" means the governing authority responsible for the county planning and organized pursuant to N.J.S.A. 40:27-6.1, and defined therein.
"**Day**" means, for purposes of computing time limits, a calendar day; provided, however, that should the last day of a specified time limit be a Saturday, Sunday or holiday, then the time limit shall extend until the next working day following said Saturday, Sunday or holiday.

"**Density**" means the average number of housing units per unit of land.

"**Developer**" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"**Development**" means the change of or enlargement of any use or disturbance of any land, the performance of any building or mining operation, the division of land into two or more parcels, and the creation or termination of rights of access or riparian rights including, but not limited to:

1. A change in type of use of a structure or land;
2. A reconstruction, alteration of the size, or material change in the external appearance of a structure or land;
3. A material increase in the intensity of use of land, such as an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land;
4. Commencement of resource extraction or drilling or excavation on a parcel of land;
5. Demolition of a structure or removal of trees;
6. Commencement of forestry activities;
7. Deposit of refuse, solid or liquid waste or fill on a parcel of land;
8. In connection with the use of land, the making of any material change in noise levels, thermal conditions, or emissions of waste material; and
9. Alteration, either physically or chemically, of a shore, bank, or flood plain, seacoast, river, stream, lake, pond, wetlands or artificial body of water.

"**Development approval**" means any approval granted by the Commission pursuant to N.J.A.C. 7:50-4, Part II or Part IV.

"**Development, major**" means any division of land into five or more lots; any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than three acres; or any grading, clearing or disturbance of an area in excess of 5,000 square feet.

"**Development, minor**" means all development other than major development.

"**Development, public**" means any development by a public agency.

"**Disking**" means a silvicultural practice involving the drawing of one or more heavy, round, concave, sharpened, freely rotating steel disks across a site for the purposes of cutting through soil and roots or cutting and turning a furrow over an area.

"**District**" means a portion of the territory of the Pinelands Area within which certain regulations and requirements or various combinations thereof apply pursuant to the provisions of this Plan.

"**Domestic treatment works**" means a public or privately owned treatment works that processes primarily domestic wastewater and pollutants.

"**Domestic wastewater**" means wastewater which results from the discharge of household, commercial or other wastes from bathrooms, toilet facilities, home laundries and kitchens.

"**Drainage**" means the removal of surface water or ground water from land by drains, grading or other means including control of runoff to minimize erosion and sedimentation during and after construction or development and means necessary for water supply preservation or prevention or alleviation of flooding.

"**Drum chopping**" means a silvicultural practice involving the drawing of a large cylindrical drum with cutting blades mounted parallel to its axis across a site to break up slash, crush scrubby vegetation prior to burning or planting or to chop up and disturb the organic turf and roots in the upper foot of soil.

"**Dwelling**" means any structure or portion thereof which is designed or used for residential purposes.

"**Dwelling unit**" means any room or group of rooms located within a structure forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating and sanitation by one family. Dwelling unit shall include each separate apartment or unit where one or more individuals reside within an assisted living facility and each room, apartment, cottage or other area within a continuing care retirement community set aside for the exclusive use or control of one or more individuals constituting a household unit.

"**Electric distribution lines**" means all electric lines other than electric transmission lines.

"**Electronic message display**" means an element of a sign that is capable of displaying words, symbols, figures, or images that electronically or mechanically change by remote or automatic means.

"**Electric transmission lines**" means electric lines which are part of an electric company's transmission and subtransmission system, which provide a direct connection between a generating station or substation of the utility company and: (a) another substation of the utility company; (b) a substation of or interconnection point with another interconnecting utility company; (c) a substation of a high-load customer of the utility.

"**Enlargement**" means an addition to the floor area of an existing building, an increase in the size of any other existing structure or an increase in that portion of a tract of land occupied by an existing use.

"**Erosion**" means the detachment and movement of soil rock fragments by water, wind, ice or gravity.

"**Executive Director**" means the chief administrative officer of the Commission or any representative designated by such chief administrative officer to perform any functions delegated to such chief administrative officer pursuant to any provision of this Plan.

"**Fair market value**" means the value of a parcel based on what a willing buyer will pay a willing seller in an arms length transaction for the parcel if no Waiver of Strict Compliance is approved. For undersized lots, the determination of fair market value shall include consideration of the extent to which the parcel would contribute to the value of a developable parcel if combined with one or more other parcels.

"**Family**" means one or more persons related by blood, marriage, adoption or guardianship, or any number of persons not so related occupying a dwelling unit and living as a single housekeeping unit.

"**Family, immediate**". See "Immediate family".

"**Federal Act**" means Section 502 of the National Parks and Recreation Act of 1978 (PL 95-625).

"**First order stream**" means that portion of a stream, as identifiable on the USGS 7 1/2 foot quadrangle maps, from the point of upstream origin, downstream to the first point of intersection with another branch, stream or tributary.

"**Fish and wildlife management**" means the changing of the characteristics and interactions of fish and wildlife populations and their habitats in order to promote, protect and enhance the ecological integrity of those populations.

"**Flood plain**" means the relatively flat area adjoining the channel of a natural stream, which has been or may be hereafter covered by floodwater.

"**Floor area**" means the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls, or from the center line of a wall separating two buildings.

"**Forestry**" means the planting, cultivating and harvesting of trees for the production of wood products, including firewood or for forest health. It includes such practices as reforestation, site preparation and other silvicultural practices, including but not limited to artificial regeneration, bedding, broadcast scarification, clearcutting, coppicing, disking, drum chopping, group selection, individual selection, natural regeneration, root raking, seed tree cut, shelterwood cut and thinning. For purposes of this Plan, the following activities shall not be defined as forestry:

1. Removal of trees located on a parcel of land one acre or less on which a dwelling has been constructed;
2. Horticultural activities involving the planting, cultivating or harvesting of nursery stock or Christmas trees;
3. Removal of trees necessitated by the development of the parcel as otherwise authorized by this Plan;

4. Removal of trees necessary for the maintenance of utility or public rights-of-way;
5. Removal or planting of trees for the personal use of the parcel owner; and
6. Removal of trees for public safety.

"**Forestry management plan**". See N.J.A.C. 7:50-6.44(b)7.

"**Forest stand**" means a uniform group of trees of similar species, composition, size, age and similar forest structure.

"**Group selection**" means a silvicultural practice whereby a group of trees is periodically selected to be removed from a large area so that age and size classes of the reproduction are mixed.

"**Habitat**" means the natural environment of an individual animal or plant, population, or community.

"**Hazardous or toxic substances**" means such elements, compounds and substances which pose a present or potential threat to human health, living organisms or the environment. They consist of all hazardous or toxic substances defined as such by the Department of Environmental Protection and the Environmental Protection Agency as of May 20, 1996 and any other substances defined as hazardous or toxic by the Department of Environmental Protection and the Environmental Protection Agency subsequent to May 20, 1996.

"**Hazardous waste**" means any waste or combination of wastes, including toxic, carcinogenic, corrosive, irritating, sensitizing, radioactive, biologically infectious, explosive or flammable waste, which poses a present or potential threat to human health, living organisms or the environment. They consist of all hazardous wastes defined as such by the Department of Environmental Protection and the Environmental Protection Agency as of May 20, 1996 and any other wastes defined as hazardous by the Department of Environmental Protection and the Environmental Protection Agency subsequent to May 20, 1996.

"**Height of building**" means the vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

"**Historic Preservation Commission**" See N.J.A.C. 7:50-6.153.

"**Historic resource**" means any site, building, area, district, structure or object important in American history or prehistory, architecture, archaeology and culture at the national, state, county, local or regional level.

"**Home occupations**" means an activity for economic gain, carried out in a residential dwelling or accessory structure thereto, in which an occupant of the residence and no more than two other individuals are employed and which is clearly secondary to the use of the dwelling as a residence.

"**Household hazardous waste**" means any hazardous waste material derived from households, including single-family and multi-family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas.

"**Hydrophytes**" means any plant growing in water or in substrate that is at least periodically deficient in oxygen as a result of excessive water content.

"**Immediate family**" means those persons related by blood or legal relationship in the following manner: spouses, domestic partners, great-grandparents, grandparents, great-grandchildren, grandchildren, parents, sons, daughters, brothers and sisters, aunts and uncles, nephews, nieces and first cousins.

"**Impermeable surface**" means any surface which does not permit fluids to pass through or penetrate its pores or spaces, typically having a maximum permeability for water of 10^{-7} cm/second at the maximum anticipated hydrostatic pressure. The term "impermeable" is equivalent in meaning.

"**Impervious surface**" means any surface that has been compacted or covered with a layer of material so that it prevents, impedes or slows infiltration or absorption of fluid, including stormwater directly into the ground, and results in either reduced groundwater recharge or increased stormwater runoff sufficient to be classified as impervious in Urban Areas by the United States Department of Agriculture, Natural Resources Conservation Service Title 210 - Engineering, 210-3-1 - Small Watershed Hydrology (WINTR-55) Version 1.0, as amended and supplemented, available with user guide and tutorials at http://www.wsi.nrcs.usda.gov/products/W2Q/H&H/Tools_Models/WinTr55.html or at Natural Resources Conservation Service, 220 Davidson Avenue, Somerset, NJ 08873. Such surfaces may have varying degrees of permeability.

"**Incinerator**" means a thermal device in which waste is burned and results in volume reduction. For purposes of this definition, it shall include a facility used to obtain energy but shall not include a facility where methane gas burnoff occurs in association with an approved landfill closure and post-closure plan.

"**Individual onsite subsurface sewage disposal system**" means a system designed to treat and dispose of sanitary sewage as defined at N.J.A.C. 7:9A-2.1, with an engineering design flow no greater than 2,000 gallons per day, serving a single family detached residential dwelling unit. The term includes both Traditional Onsite Wastewater Subsurface Sewage Disposal Systems and Pinelands Alternate Design Wastewater Treatment Systems.

"**Individual selection**" means a silvicultural practice whereby single trees are periodically selected to be removed from a large area so that age and size classes of the reproduction are mixed.

"**Institutional use**" means any land used for the following public or private purposes: educational facilities, including universities, colleges, elementary and secondary and vocational schools, kindergartens and nurseries; cultural facilities such as libraries, galleries, museums, concert halls, theaters and the like; hospitals, including such educational, clinical, research and convalescent facilities as are integral to the operation of the hospital; medical and health service facilities, including nursing homes, rehabilitation therapy centers and public health facilities; law enforcement facilities; military facilities; churches; public office buildings; cemeteries; and other similar facilities. For purposes of this Plan, institutional use shall not include medical offices which are not associated

with hospitals or other medical or health service facilities, nor shall it include assisted living facilities.

"**Interested person**" means any persons whose right to use, acquire or enjoy property, is or may be affected by any action taken under this Plan, or whose right to use, acquire or enjoy property under this Plan or under any other law of this State or of the United States has been denied, violated or infringed upon by an action or a failure to act under this Plan.

"**Interim rules and regulations**" means the regulations adopted by the Pinelands Commission pursuant to the Pinelands Protection Act to govern the review of applications from the adoption of the regulations until the Comprehensive Management Plan took effect on January 14, 1981. These Regulations were formerly codified as N.J.A.C. 7:1G-1 et seq.

"**Land**" includes the surface and subsurface of the earth as well as improvements and fixtures on, above, or below the surface and any water found thereon.
"**Landfill**" means a site where any waste is disposed of by application on or into the land, with or without the use of management practices or soil covering. It does not include a site where land application of waste or waste derived material occurs in accordance with N.J.A.C. 7:50-6.79.

"**Landscaping**" means the installation of plant material or seed as part of development.

"**Land use ordinance**" or "land use regulation" means any county or municipal ordinance or regulation which, in any way, regulates or affects the development of land.

"**Lawful use**" means a use of land, building or structure, or portion thereof, that is permitted under all relevant local, State and Federal land use, nuisance and environmental statutes.

"**Leachate collector**", for the purposes of this Plan, shall mean attributed to the phrase by, and each such "leachate collector" shall conform to the requirements of the New Jersey Solid Waste Administration.

"**Local communications facility**" means an antenna and any support structure, together with any accessory facilities, which complies with the standards in N.J.A.C. 7:50-5.4 and which is intended to serve a limited, localized audience through point to point communication, including cellular telephone cells, paging systems and dispatch communications. It does not include radio or television broadcasting facilities or microwave transmitters.

"**Local permitting agency**" means any county or municipal official, department agency or other body authorized to rule on any application for development.

"**Local review officer**" means an individual with experience in municipal land use and environmental permitting procedures and the Pinelands development review process who is designated by a certified municipality to administer the review procedures set forth in N.J.A.C. 7:50-4.34(b).

"**Lot**" means a designated parcel, tract or area of land designated for use or development as a unit.

“**Mail**” means regular mail or e-mail

"**Mobile home**" means a dwelling unit manufactured in one or more sections, designed for long-term occupancy and which can be transported after fabrication to a site where it is to be occupied.

"**Municipal master plan**" means a composite of one or more written or graphic proposals for development of the municipality as set forth and adopted pursuant to N.J.S.A. 40:55-28.

"**Municipality**" means any city, borough, town or township wholly or partially located within the Pinelands Area or Pinelands National Reserve.

“**Natural regeneration**” means the establishment of a plant or plant age class from natural seeding, sprouting, suckering or layering.

"**Navigable waters**" means water capable of being traversed by pleasure craft.

“**Nonconforming use**” means a use or activity which was lawful prior to the adoption or amendment of this Plan, but which fails to conform to the requirements of the municipal zoning district and/or Pinelands management area in which it is located by reasons of adoption or amendment of this Plan.

“**Non-individual onsite subsurface sewage disposal system**” means an onsite subsurface sewage disposal system designed to treat and dispose of sanitary, sewage as defined at N.J.A.C. 7:9A-2.1 serving a property other than a single family dwelling with an engineering design flow no greater than 2,000 gallons per day. Such systems include but are not limited to those systems defined in N.J.A.C. 7:9A-1.8(a)2. Typical examples include but are not limited to systems serving: commercial buildings, restaurants, food establishments, commercial/residential mixed uses, and systems servicing multiple commercial or dwelling units. The term includes both Traditional Onsite Wastewater Subsurface Sewage Disposal Systems and Pinelands Alternate Design Wastewater Treatment Systems.

"**Notice of filing**". See N.J.A.C. 7:50-4.34(b).

"**Off-site sign**" means a sign that directs attention to a business, commodity, product, service, entertainment or other attraction conducted, sold or offered at a location other than the premises on which the sign is located.

“**Qualified service technician**” means a person, firm or corporation authorized by a specific Pinelands Alternate Design Wastewater Treatment manufacturer or vendor to provide operation, maintenance, or repair services on said wastewater treatment system or a person who holds a valid public wastewater treatment works operators license issued by the New Jersey Department of Environmental Protection at a level of S2 or higher.

"**Parcel**" means any quantity of land, consisting of one or more lots, that is capable of being described with such definiteness that its location and boundaries may be established. For agricultural or horticultural purpose or use, parcel includes noncontiguous lands 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.

"**Permeability**" means the rate at which water moves through a unit area of soil, rock, or other material at hydraulic gradient of one.

"**Person**" means an individual, corporation, public agency, business trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

"**Pinelands**" means the Pinelands National Reserve and the Pinelands Area.

"Pinelands alternate design wastewater treatment system" means an individual or non-individual onsite subsurface wastewater treatment and disposal system authorized for use by the Pinelands Commission and intended to reduce the concentration of total nitrogen in sanitary sewage to meet the water quality standards of N.J.A.C. 7:50-6.84.

"**Pinelands Area**" means that area designated as such by Section 10(a) of the Pinelands Protection Act.

"**Pinelands Development Review Board**" means the agency responsible from February 8, 1979 until June 28, 1979 for the review of and action on applications for development in the Pinelands Area which required approvals of other state agencies, except where the Pinelands Commission acted on applications during that time period.

"**Pinelands National Reserve**" means that area designated as such by Section 3(i) of the Pinelands Protection Act.

"**Pinelands Protection Act**". See: N.J.S.A. 13:18A-1 to 29.

"**Pinelands resource related use**" means any use which is based on resources which are indigenous to the Pinelands including but not limited to forest products, berry agriculture and sand, gravel, clay or ilmenite.

"**Plants, threatened or endangered**" means a Pinelands plant species whose survival worldwide, nationwide, or in the state is in jeopardy.

"**Plat**" means one or more maps of a subdivision or a site plan which shows the location, boundaries and ownerships of individual properties.
"**Plan**" means the Comprehensive Management Plan for the Pinelands.

"**Pre-application conference**" See N.J.A.C. 7:50-4.2.

"**Preservation Area**" means that area so designated by Section 10(b) of the Pinelands Protection Act.

"**Protection Area**" means all land within the Pinelands Area which is not included in the Preservation Area.

"**Public agencies**" means the government of the United States of America; the State of New Jersey or any other state; their political subdivisions, agencies or instrumentalities; and interstate and regional agencies exercising sovereign powers of government.

"**Public services**" means sewer service, gas, electricity, water, telephone, television and other public utilities, roads and streets and other similar services provided or maintained by any public or private entity.

"**Public service infrastructure**" means sewer service, gas, electricity, water, telephone, cable television and other public utilities developed linearly, roads and streets and other similar services provided or maintained by any public or private entity.

"**Recommended management practice**" means the management program which employs the most efficient use of available technology, natural, human and economic resources.

"**Record tree**" means the largest tree of a particular species in New Jersey based on its circumference at 4.5 feet above ground level. A listing of the largest known tree of each species and its location is maintained at the principal office of the Commission.

"**Recreational facility, intensive**" means any recreational facility which does not satisfy the definition of low intensive recreational facility including but not limited to golf courses, marinas, amusement parks, hotels, and motels.

"**Recreational facility, low intensive**" means a facility or area which complies with the standards in N.J.A.C. 7:50-5, Part III, utilizes and depends on the natural environment of the Pinelands and requires no significant modifications of that environment other than to provide access, and which has an insignificant impact on surrounding uses or on the environmental integrity of the area. It permits such low intensity uses as hiking, hunting, trapping, fishing, canoeing, nature study, orienteering, horseback riding and bicycling.

"**Recyclable material**" means the following materials which would otherwise become solid waste and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products: Source-separated non-putrescible metal, glass, paper, plastic containers, corrugated and other cardboard; vegetative waste; waste concrete; asphalt; brick; block; asphalt-based roofing scrap and wood waste; other waste resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures; whole trees, tree trunks, tree parts, tree stumps, brush and leaves that are not composted; scrap tires; petroleum contaminated soil that is delivered to a non-mobile in-State asphalt plant, concrete production plant or brick-making facility for incorporation as a raw material; and petroleum contaminated soil that is processed at its point of generation by mobile recycling equipment which produces asphalt, concrete or bricks by incorporating it as a raw material in its mobile production process.

"**Recycling center**" means a facility designed and operated solely for receiving, storing, processing or transferring recyclable materials, except that recycling center shall not include a manufacturer.

For purposes of this definition, processing may include, but is not necessarily limited to, separating by type, grade or color, crushing, grinding, shredding or baling.

"**Regulated medical waste**" means any waste regulated pursuant to the New Jersey Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq.

"**Remediation**" means a process to remove or treat a waste or hazardous or toxic substance from soil or water but does not include any subsequent burial or land application of contaminated soil or other solids.

"**Resource conservation plan**" means a plan, prepared for review by the Soil Conservation District, which details the proposed use of agricultural recommended management practices.

"**Resource management system plan**" means a plan, prepared in accordance with the United States Department of Agriculture, Natural Resources Conservation Service New Jersey Field Office Technical Guide, dated June 2005, incorporated herein by reference, as amended and supplemented and available at http://www.nrcs.usda.gov/technical/efotg . Such plans shall:

1. Prescribe needed land treatment and related conservation and natural resources management measures, including forest management practices, for the conservation, protection and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of non-point source pollution; and
2. Establish criteria for resource sustainability of soil, water, air, plants and animals.

"**Resource extraction**" means the dredging, digging, extraction, mining and quarrying of sand, gravel, clay, or ilmenite for commercial purposes, not including, however, the private or agricultural extraction and use of the extracted material on the same parcel by the landowner.

"**Resource extraction, agricultural**" means those resource extraction activities accessory to an existing agricultural or horticultural use which meet the standards contained in N.J.A.C. 7:50-6.55 or which do not require an application to the Pinelands Commission pursuant to N.J.A.C. 7:50-4.1(a)19.

"**Root raking**" means a silvicultural practice involving the drawing of a set of tines, mounted on the front or trailed behind a tractor, over an area to thoroughly disturb tree and vegetation roots and/or to collect stumps and slash.

"**Scenic corridors**". See: N.J.A.C. 7:50-6.103.

"**Seasonal high water table**" means the level below the natural surface of the ground to which water seasonally rises in the soil in most years.

"**Seed tree cut**" means a silvicultural practice involving the removal of old forest stand in one cutting, except for a small number of trees left singly, in small groups or narrow strips, as a source of seed for natural regeneration.

"**Sewage sludge**" means the solid residue and associated liquid resulting from the physical, chemical or biological treatment of wastewater in a domestic treatment works.

"**Shelterwood cut**" means a silvicultural practice involving the establishment of a new, essentially even-aged forest stand from release, typically in a series of cuttings, of new trees started under the old forest stand. A shelterwood cut involves the establishment of the new forest stand before the old forest stand is removed.

"**Sign**" means any structure including, but not limited to, an advertising structure and sign face used outdoors and affixed to or upon property to display messages and/or images within public view that is designed to attract, or does attract, the attention of pedestrians or operators or passengers of motor vehicles using the roads, highways, and other public thoroughfares and places, and shall include any writing, printing, painting, display, emblem, drawing, or other device whether placed on the ground, rocks, trees, tree stumps, or other natural structures, or on a building, structure, signboard, billboard, wallboard, roofboard, frame, support, fence, or elsewhere, and any lighting or other accessories in conjunction therewith.

"**Solar energy facility**" means a solar energy system and all associated components, including, but not limited to, panels, arrays, footings, supports, mounting and stabilization devices, inverters, electrical distribution wires and other on-site or off-site infrastructure necessary for the facility, which converts solar energy into usable electrical energy, heats water or produces hot air or other similar function.

"**Structural alteration**" means any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

"**Structure**" means a combination of materials to form a construction for occupancy, use or ornamentation having a fixed location on, above or below the surface of land or attached to something having a fixed location on, above or below the surface of land.

"**Subdivision**" means the division of a parcel of land into two or more lots, tracts, parcels or other divisions of land. The following shall not be considered subdivisions within the meaning of this Plan, if no development occurs or is proposed in connection therewith:

1. Divisions of property by testamentary or intestate provisions;
2. Divisions of property upon court order; and
3. Conveyances so as to combine existing lots by deed or other instrument.

The term "subdivision" shall also include the term "resubdivision".

"**Submerged land**" means those lands which are inundated with water throughout the year.

"**Suitable sewage sludge**" means sewage sludge in which the concentrations of any metals, measured on a dry weight basis, do not exceed the following limits: 10 parts per million arsenic; 40 parts per million cadmium; 1,000 parts per million chromium; 1,200 parts per million copper; 4,800 parts per million lead; 10 parts per million mercury; 1,250 parts per million nickel; and 2,400 parts per million zinc. The metal concentration limits used to define suitable sewage sludge are identical to those set forth in the Department of Environmental Protection's September 1993 draft Solid Waste Management State Plan Update for Class B sludge.

"**Thinning**" means a silvicultural practice involving the removal of competing trees to favor certain species, sizes and qualities of trees.

"**Traditional onsite subsurface sewage disposal system**" means an individual or non-individual subsurface sewage disposal system which functions to treat and dispose of sanitary sewage in a manner that is not intended to reduce the total nitrogen concentration in the effluent but is intended to retain most of the settleable solids in a septic tank and to discharge the liquid effluent to a subsurface disposal field. Traditional Onsite Subsurface Sewage Disposal Systems include gravity flow, gravity dosing and pressure dosing septic systems and may utilize septic tanks, dosing tanks, distribution boxes, disposal beds, disposal trenches and seepage pits. Existing privies and cesspools which are determined to be functioning properly shall also be considered to be traditional onsite subsurface sewage disposal systems.

"**Transfer station or facility**" means a facility at which waste is transferred from one waste vehicle to another waste vehicle for transportation to a waste management facility.

"**Uncertified municipality or county**" means a municipality or county whose master plan and land use ordinances or regulations have not been certified by the Commission under N.J.A.C. 7:50-3.

"**Utility distribution lines**" means lines, conduits or pipes located in a street, road, alley or easement through which natural gas, electricity, telephone, cable television, water, sewage or storm water discharge is distributed to or from service lines extending from the main line to the distribution system of the building or premises served. Utility distribution lines do not include electric transmission lines.

"**Vegetation**" means any plant material including grasses, shrubs and trees.

"**Vegetative waste**" means leaves, grass clippings, twigs, shrubbery and residue from the raising of plants, such as stalks, hulls and leaves. It includes vegetative processing wastes which do not contain non-vegetative additives; and whole trees, branches, tree trunks and stumps processed through a wood chipper.

"**Waste**" means any hazardous waste, regulated medical waste, garbage, refuse, septage, sludge, discarded materials, and other by-products and substances which become unsuitable for their original purpose, resulting from industrial, commercial and agricultural operations and from domestic and community activities. They shall include solid and liquid waste materials. For purposes of this definition, liquids which are released from a sewage treatment plant or on-site septic waste water treatment system and solid animal and vegetable wastes collected by swine producers licensed by the New Jersey Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms shall not be considered waste.

"**Waste derived material**" means a waste which has been separated, collected or processed such that it is converted into an economically valuable raw material or product which is not hazardous.

"**Waste management facility**" means any property, site, system, equipment or structure which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, reclama-

tion, recovery, reuse or disposal of waste. It includes, but is not necessarily limited to, landfills, composting facilities, recycling facilities and centers, incinerators, materials recovery facilities, reclamation facilities, resource recovery facilities, waste reuse facilities and transfer facilities.

"**Waste water collection facility**" means any part of a system used to carry waste water and includes laterals, mains, trunks, interceptors and other similar facilities.
"**Wetlands**" See N.J.A.C. 7:50-6.3.

"**Wetlands, coastal**" See N.J.A.C. 7:50-6.4.

"**Wetlands, impaired**" means any wetland that meets each of the following three tests:

1. The wetland meets at least one of the following two criteria:
   i. The entire wetland is less than one acre; or
   ii. The overall wetland area is larger than one acre but the portion of the wetland that is to be directly impacted is less than one acre and the impacted area is separated from the remainder of the wetland by a substantial hydrologic barrier; and
2. The wetland meets at least one of the following three criteria:
   i. The wetland is within an area that is predominantly developed, has direct access to a paved public road and is serviced by a municipal wastewater treatment system; or
   ii. The wetland was filled prior to February 8, 1979, the fill is at least one foot in depth, and the seasonal high water table is not within one foot of the altered land surface; or
   iii. The wetland is an actively cultivated non-berry agricultural field which was cleared and in production prior to February 8, 1979; and
3. The wetland is not:
   i. An Atlantic white cedar swamp;
   ii. A wetland which is frequently ponded or flooded for a period of at least seven days during the growing season;
   iii. A herbaceous or shrub dominated wetland type found in naturally occurring circular or nearly circular depressions within upland or wetland complexes;
   iv. Located within 300 feet of a lake, pond, river or permanent stream; or
   v. A wetland supporting plant species which are designated as endangered pursuant to N.J.S.A. 13:lB-15.151 et seq. or supporting plant or wildlife species designated as threatened or endangered pursuant to N.J.A.C. 7:50-6.27 and N.J.A.C. 7:50-6.33.

"**Wetland soils**" means those soils designated as very poorly drained or poorly drained by the Soil Conservation Service of the United States Department of Agriculture, including but not limited to Atsion, Bayboro, Berryland, Colemantown, Elkton, Keansbury, Leon, Muck, Othello, Pocomoke, St. Johns and Freshwater Marsh and Tidal Marsh soil types.

"**Wetlands management**" means the establishment of a characteristic wetland or the removal of exotic species or Phragmites from a wetland in accordance with the standards of N.J.A.C. 7:50-6.10. For purposes of this definition, exotic species are those that are not indigenous to North America.

SUBCHAPTER 3. CERTIFICATION OF COUNTY, MUNICIPAL AND FEDERAL INSTALLATION PLANS

PART I-PURPOSE

7:50-3.1 Purpose

(a) The Pinelands Protection Act is a legislative determination that management and protection of the essential character and ecological values of the Pinelands require a regional perspective in the formulation and implementation of land use policies and regulations. The Act also recognizes, as does this Plan, that local government participation in the management process is fundamental to achieving the goals and objectives of the Act. The Act and this Plan contemplate that local governments will be the principal management entities implementing the Plan, with the Pinelands Commission providing technical assistance to local authorities, monitoring development review and updating the Plan.

(b) The Act also contemplates that the Commission will achieve local participation in the implementation program and oversee implementation of the Plan. The Act provides for certification of local master plans and land use ordinances by the Commission, after which the certified plans and ordinances act as the governing regulations for the municipalities. However, if a local government should choose not to participate in the implementation program, then the Act requires that the Commission adopt and enforce such rules and regulations as are necessary to implement the minimum standards of this Plan.

(c) This Plan is intended, therefore, to serve two functions: as a general guide for local authorities in preparing master plans and land use ordinances for certification by the Commission, and as a planning and regulatory mechanism that can be adopted and enforced by the Commission if a county or municipality fails to secure certification.

(d) A local authority that incorporates all of the elements of this Plan in its local plan and ordinances will be assured of certification. In contrast, municipal plans and ordinances that deviate from the essential nature of this Plan are unlikely to be certified. However, it is a policy of this Plan to allow municipalities the greatest degree of flexibility and discretion in the preparation of local plans and ordinances so long as the plans and ordinances do not conflict with the ultimate objectives and minimum requirements of this Plan. There are some elements of this Plan which must be strictly followed. For example, the maximum density limitations in the designated forest and rural development areas are critical to the overall objectives of the Plan for the distribution and intensity of land uses, as is the requirement that lands in designated growth areas be eligible for density bonuses in the form of transferred Pinelands Development Credits. Conversely, the distribution of densities and many of the uses authorized in the various areas are left to local discretion. This subchapter permits the Commission to assess local decisions on an individualized basis and will

preserve local discretion to the maximum extent practical, provided that local preferences are in fundamental harmony with the overall objectives of this Plan.

7:50-3.2 through 7:50-3.10 (Reserved)

PART II-CERTIFICATION OF COUNTY PLANS

7:50-3.11 Conformance of county master plans and regulations required

Within one year after the effective date of this Plan, or any amendment thereof, each county with jurisdiction over land located within the Pinelands Area shall adopt or amend a master plan applicable to such land and shall amend any regulations applicable to the development of land so that the master plan and regulations are in conformance with the minimum standards of this Plan.

7:50-3.12 Submission of plan and regulations

Within one year after the effective date of this Plan, or any amendment thereof, each county located in whole or in part in the Pinelands Area shall submit, in accordance with the provisions of this Part, its county master plan and any regulations applicable to the development of land to the Commission for review and determination of whether the county master plan and regulations are in conformance with the minimum requirements of this Plan. Such county master plan and regulations shall be in such form and number and shall contain such information as may be required by the Executive Director in order to make the findings required by N.J.A.C. 7:50-3.19.

7:50-3.13 Setting of hearing

After receipt of a county master plan and regulations, the Executive Director shall give notice of and set the date, time and place for a public hearing for consideration of the application, plan and regulations. The public hearing shall be held by the Executive Director within 30 days following the receipt of the plan and regulations in accordance with the provisions of N.J.A.C. 7:50-4.3.

7:50-3.14 Recommendation of Executive Director

Upon completion of the public hearing, the Executive Director shall review the application and the record of the hearings and shall, within 45 days following the receipt of the plan and ordinances, submit a report to the Commission setting forth proposed findings and a recommended order as to whether the county master plan and regulations are in conformance with the minimum standards of this Plan.

7:50-3.15 Certification of county master plans and regulations

Upon receipt of the report of the Executive Director, the Commission shall review findings, conclusions and recommendations of the Executive Director and shall, within 60 days following the receipt of the plan and regulations, issue an order certifying, certifying with conditions or disapproving the county master plan and regulations. If the county master plan or regulations are conditionally certified or disapproved, the Commission shall specify the changes necessary in order to secure Commission certification.

7:50-3.16 Responsibility of county upon conditional certification or disapproval

Any county whose master plan or regulations have been disapproved or certified with conditions shall modify such master plan or regulations as is necessary to conform to the minimum standards of this Plan, the conditions attached to a conditional certification or specified changes. Within 120 days after entry of the Commission order disapproving or certifying with conditions, each county shall submit its modified master plan and regulations for review, pursuant to the provisions of N.J.A.C. 7:50-3.13 through 3.15.

7:50-3.17 Effect of failure of county to obtain Commission approval of master plan and regulations

No person shall initiate any development which requires county approval or receive any county approval for development of land in the Preservation Area or, subsequent to one year following the adoption of this Plan, of any land in the Pinelands Area located within any county whose master plan or regulations have not been certified by the Commission pursuant to N.J.A.C. 7:50-3.15 without first obtaining approval by the Commission pursuant to N.J.A.C. 7:50-4, Part II. If the Commission conditionally certifies or disapproves an amendment to a county master plan or regulation pursuant to N.J.A.C. 7:50-3.15 and the county does not comply with the requirements of N.J.A.C. 7:50-3.16, the amendment shall be deemed to be disapproved. The county's previously certified master plan and regulations shall remain in effect unless the amendment constituted the required response to an order issued pursuant to Part VI of this subchapter or to an amendment adopted by the Commission pursuant to N.J.A.C. 7:50-7. In that case, the county's master plan and regulations shall be deemed to be uncertified.

7:50-3.18 Effect on and responsibilities of county upon certification

(a) Commission certification of a county master plan and regulations shall authorize such county:

1. To petition the Commission, pursuant to N.J.A.C. 7:50-3, Part III for authority to conduct preliminary review of municipal master plans and land use ordinances within the county, and
2. To grant, to the extent that it is so authorized by state law or county ordinance, any permits or approvals within its Pinelands Area jurisdiction, subject to N.J.A.C. 7:50-4.31 through 4.42 or N.J.A.C. 7:50-3.81 through 3.85; provided, however, that all such permits or approvals granted, and any other action taken by such county with respect to the development of land within the Pinelands Area, shall be in strict conformance with the certified county master plan and regulations and the minimum standards of this Plan.

7:50-3.19 Standards for certification of county master plans and ordinances

(a) County master plans and regulations, or any parts thereof, shall be certified only if:

1. They are based upon a current and comprehensive inventory and analysis of the natural resources of the county prepared by the county or any other source. A county may use the inventory provided by the Commission;
2. All standards established by a county for review of applications for subdivision or site plan approval for development proposed within municipalities located within the county, or for any other permit or approval to be granted by any county department, body or agency as a prerequisite to initiating development in the Pinelands Area, are in conformance with the minimum standards of this Plan;
3. They include a capital improvements program that demonstrates that adequate and necessary facilities will be available to serve permitted development;
4. They include provisions relating to solid and liquid waste management which are in conformance with the waste management and water quality programs and standards contained in this Plan;
5. They provide that no application for development within the Pinelands Area, except as provided in N.J.A.C. 7:50-3.81 through 3.85, shall be determined to be complete by any county department, body or agency unless:
   i. It is accompanied by a Certificate of Filing issued by the Commission pursuant to N.J.A.C. 7:50-4.34; and
   ii. It contains at least the information required by the Commission pursuant to N.J.A.C. 7:50-4.2(b).
6. They provide that notice of the issuance of any county permit or approval which is a prerequisite to initiating development within the Pinelands Area, except as provided in N.J.A.C. 7:50-3.81 through 3.85, must be given to the Commission as provided in N.J.A.C. 7:50-4.25(d) or (e); and
7. They otherwise are in conformance with and contain all provisions necessary to implement the objectives of this Plan.

7:50-3.20 Submission and review of amendments to certified county master plans and ordinances

(a) Submission: No amendment to any certified county master plan or ordinance shall be effective until the county shall have submitted such amendment to the Commission and such amendment has been certified by the Commission, pursuant to N.J.A.C. 7:50-3.15, or the Executive Director has, pursuant to (b) below, notified the county that such amendment does not affect the prior certification of the master plan or ordinance.

(b) Decision not to review: Within 15 days following receipt of any amendment to a certified master plan or ordinance, the Executive Director shall determine whether or not the amendment raises a substantial issue with respect to the conformance of the county master plan or ordinance with this Plan. If the Executive Director determines no such substantial issue is raised, he shall certify such fact to the clerk of the county and such amendment shall thereupon take effect in accordance with its terms and applicable law.

(c) Decision to review: If the Executive Director determines that the amendment raises a substantial issue with respect to the conformance of the amended county master plan or ordinance to this Plan, the amended county master plan or ordinance shall be reviewed pursuant to N.J.A.C. 7:50-3.18 and 3.19, and the Executive Director shall so inform the county clerk.

(d)

PART III-DELEGATION TO COUNTY PLANNING BOARDS OF PRELIMINARY REVIEW OF MUNICIPAL PLANS AND ORDINANCES

7:50-3.21 Application by County for Delegation

The governing body of any county whose master plan and regulations have been certified by the Commission pursuant to N.J.A.C. 7:50-3, Part II, may petition the Commission for authority to conduct preliminary review of municipal master plans and land use ordinances located within the county by submitting a request for such authority in such form and number and containing such information as may be required by the Executive Director.

7:50-3.22 Delegation by Commission

(a) Recommendation of Executive Director: Within 30 days after receipt of a request filed pursuant to N.J.A.C. 7:50-3.21, the Executive Director shall submit to the Commission his recommendation as to whether the requested delegation is consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and this Plan.

(b) Action by the Commission: Upon receipt of the Executive Director's recommendation, the Commission shall review the request for authorization and the recommendation of the Executive Director and may, if it determines

that the requested delegation is consistent with the purposes and provisions of the Pinelands Protection Act, Federal Act and this Plan, delegate to the petitioning county the preliminary review of municipal master plans and land use ordinances prescribed in Part IV of this subchapter. The Commission may, in its discretion, limit such delegation to designated municipalities within a county for a fixed term, with or without provision for automatic or other renewal; and may make such delegation subject to any special terms, conditions or limitations deemed necessary or appropriate by the Commission.

7:50-3.23 List of reviewing counties and notice to municipalities

The Executive Director shall maintain a list of those counties to which a delegation pursuant to N.J.A.C. 7:50-3.22(b) has been made and shall, within 10 days following entry of any order by the Commission pursuant to N.J.A.C. 7:50-3.22(b) delegating preliminary review authority to any county, notify the clerks of all municipalities within the county of such delegation and of its specific terms.

7:50-3.24 Revocation of delegation and notice thereof

(a) Recommendation by Executive Director: If at any time after a delegation pursuant to N.J.A.C. 7:50-3.22(b) has been made the Executive Director has reason to believe that a county is exercising the delegated preliminary review authority in a manner inconsistent with that represented to the Commission in the request filed pursuant to N.J.A.C. 7:50-3.21 or in any manner inconsistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act or this Plan, he shall report all facts giving rise to such determination, together with his recommendation that the delegation be revoked, suspended or modified, to the Commission.

(b) Action by the Commission: Upon receipt of any report and recommendation from the Executive Director pursuant to (a) above, the Commission shall determine whether such county has exercised the delegated preliminary review authority in a manner inconsistent with that represented to the Commission in the request filed pursuant to N.J.A.C. 7:50-3.21 or in any manner not consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act or this Plan and, if it so determines, shall revoke, suspend or modify such delegation.

(c) Notice of revocation: Within 10 days following entry of any order entered by the Commission pursuant to (b) above, revoking, suspending or modifying any delegation pursuant to N.J.A.C. 7:50-3.22(b), the Executive Director shall give notice of such order and of its terms, by mail, to the affected county and to all municipalities within such county.

7:50-3.25 through 7:50-3.30 (Reserved)

PART IV-CERTIFICATION OF MUNICIPAL PLANS

7:50-3.31 Conformance of municipal master plan and land use ordinances required

Within one year after the effective date of this Plan, or any amendment hereof, each municipality with jurisdiction over land located within the Pinelands Area shall conform its master plan and land use ordinances applicable to such land to the minimum standards of this Plan.

7:50-3.32 Submission of plan and land use ordinances

Within one year after the effective date of this Plan, or any amendment thereof, each municipality located in whole or in part in the Pinelands Area shall submit, in accordance with the provisions of this Part, its master plan and land use ordinances to the Commission for review and determination of whether such plan and ordinances are in conformance with the minimum standards of this Plan; provided, however, that municipalities in any county which has been delegated preliminary review authority pursuant to Part III of this subchapter shall submit their master plans and land use ordinances to such county in accordance with N.J.A.C. 7:50-3.40 and the provision of any applicable ordinance or regulation of such county. Such municipal master plan and land use ordinances shall be in such form and number and shall contain such information as may be required by the Executive Director in order to make the findings required by N.J.A.C. 7:50-3.39. In no case shall the Executive Director accept a master plan for formal review and certification pursuant to N.J.A.C. 7:50-3.39 without an adopted ordinance which implements said master plan, unless no such ordinance is necessary.

7:50-3.33 Setting of hearing

After receipt of the master plan and land use ordinances, the Executive Director shall give notice of and set the date, time, and place for a public hearing for consideration of the application. The public hearing shall be held by the Executive Director within 60 days following the receipt of the master plan and ordinances in accordance with the provisions of N.J.A.C. 7:50-4.3. At the hearing any person may present any relevant information, including but not limited to nominations of Special Agricultural Production Areas and Agricultural Production Areas that are not designated in the submitted municipal master plan or land use ordinance.

7:50-3.34 Recommendation of Executive Director

Upon completion of the public hearing, the Executive Director shall review the application and the record of the hearing and shall, within 100 days following the receipt of the master plan and land use ordinances, submit a report to the Commission setting forth proposed findings and a recommended order as to whether the master plan and land use ordinances are in conformance with the minimum standards of this Plan.

7:50-3.35 Certification of municipal master plans and land use ordinances

Upon receipt of the report of the Executive Director, the Commission shall review the findings, conclusions and recommendation of the Executive Director and shall, within 120 days following receipt of the plan and land use ordinances, issue an order certifying, certifying with conditions or disapproving the municipal master plan and land use ordinances. If the municipal master plan and land use ordinances are conditionally certified or disapproved the Commission shall specify the changes necessary in order to secure Commission certification of the municipal master plan and land use ordinance.

7:50-3.36 Responsibility of municipality upon conditional certification or disapproval

Any municipality whose master plan or land use ordinances have been disapproved or certified with conditions shall modify such master plan or land use ordinances as is necessary to conform to the minimum standards of this Plan and the provisions of any conditions attached to a conditional certification. Within 120 days after the Commission order disapproving or certifying with conditions, each such municipality shall submit its modified master plan and land use ordinances for review pursuant to the provisions of N.J.A.C. 7:50-3.33 through 3.35.

7:50-3.37 Effect of municipality's failure to obtain Commission certification of master plan and land use ordinances

In the Preservation Area, and after one year from the effective date of this Plan, in the Pinelands Area, no person shall carry out any development in an uncertified municipality unless such development has been approved by the Commission pursuant to N.J.A.C. 7:50-4, Part II. Such approval shall supersede any local decision if a municipality has not received certification of its master plan and land use ordinances. If the Commission conditionally certifies or disapproves an amendment to a municipal master plan or land use ordinance pursuant to N.J.A.C. 7:50-3.35 and the municipality does not comply with the requirements of N.J.A.C. 7:50-3.36, the amendment shall be deemed to be disapproved. The municipality's previously certified master plan and land use ordinances shall remain in effect unless the amendment constituted the required response to an order issued pursuant to Part VI of this subchapter or to an amendment adopted by the Commission pursuant to N.J.A.C. 7:50-7. In that case, the municipality's master plan and land use ordinances shall be deemed to be uncertified and the provisions of N.J.A.C. 7:50-4, Part II shall apply to all development requiring municipal approval.

7:50-3.38 Effect on and responsibilities of municipality upon certification

Commission certification of a municipal master plan and land use ordinances shall authorize such municipality to grant, to the extent that it is so authorized by state law or municipal ordinance, any permits or approvals of development within its Pinelands

Area jurisdiction subject to N.J.A.C. 7:50-4.31 through 4.42 or N.J.A.C. 7:50-3.81 through 3.85; provided, however, that all such permits or approvals granted, and any other action taken by such municipality with respect to the development or use of land within the Pinelands Area, shall be in strict conformance with the certified municipal master plan, land use ordinances and this Plan.

7:50-3.39 Standards for certification of municipal master plans and land use ordinances

(a) Municipal master plans and land use ordinances, and any parts thereof, shall be certified only if:

1. They are based upon a current and comprehensive inventory and analysis of the natural resources of the municipality prepared by the municipality or any other source. A municipality may use the inventory provided by the Commission;
2. They include provisions which:
   - i. Regulate the character, location and magnitude of development within the Pinelands Area;
   - ii. Prescribe standards relating to lot layout, road design and construction, and public utility installation which conform to all similar standards contained in this Plan;
   - iii. Implement the overall development intensity standards contained in this Plan through minimum lot area specifications or other appropriate means;
   - iv. Are adequate to ensure that all development of land in the Pinelands Area is in conformance with the development standards established by N.J.A.C. 7:50-5 and 6;
   - v. Encourage coordinated development along roadways be concentrating commercial development at transportation nodes, providing shared access points, encouraging comprehensive commercial planning and design and use of other appropriate techniques;
   - vi. Implement Pinelands management area and zoning district boundaries in a manner which provides consistent treatment of similarly situated lands and considers the suitability of lands for their assigned management area and zoning district designations as they relate to the standards and objectives of this Plan;
   - vii. Enable permitted densities in each Regional Growth Area zoning district in which residential development is permitted to be reasonably achieved in most cases; and
   - viii. Establish and implement a mitigation plan as part of any municipal stormwater management plan and ordinance adopted in accordance with N.J.A.C. 7:8-4.2(c)11 that:
     - (1) Identifies those measures necessary to offset the granting of exceptions to the standards set forth in N.J.A.C. 7:50-6.84(a)6i through v;

(2) Specifies that exceptions to the standards set forth in N.J.A.C. 7:50-6.84(a)6i through v will be considered only in cases where an applicant is able to demonstrate that such standards cannot be met on a particular parcel or where the municipality determines that stormwater management would more effectively be achieved through alternative measures;

(3) Requires that any off-site mitigation measures identified pursuant to (a)2ix(1) above occur within the Pinelands Area and within the same drainage area as the parcel proposed for development;

(4) Allows for monetary contributions to be made to the municipality in lieu of performing the off-mitigation measures identified pursuant to (a)2ix(1) above, with the amount of any such in-lieu contribution being equivalent to the cost of implementing and maintaining the stormwater management measures for which an exception is granted; and

(5) Requires that the municipality expend any contributions collected pursuant to (a)2ix(4) above within five years of their receipt; and

ix. Are designed to implement a clear and straightforward process for the review of applications for residential cluster development in the Forest and Rural Development Areas, in accordance with the requirements for cluster development set forth in N.J.A.C. 7:50-5.19(c) and (d). The Commission may certify municipal clustering ordinances that contain different clustering standards than those set forth in N.J.A.C. 7:50-5.19(c) and (d) provided that those standards are supported through the application of sound land use planning principles, are based upon local conditions or circumstances that warrant such changes and do not undermine the overall goals and objectives of the Forest and Rural Development Area clustering program set forth at N.J.A.C. 7:50-5.19(c) and (d).

3. They provide that no application for development within the Pinelands Area, except as provided in N.J.A.C. 7:50-3.81 through 3.85, shall be determined to be complete by any municipal department, body or agency unless it is accompanied by a Certificate of Filing issued by the Commission pursuant to N.J.A.C. 7:50-4.34 and contains at least the information required by the Commission pursuant to N.J.A.C. 7:50-4.2(b);
4. They provide that municipal review and approval or denial are required for all development in the Pinelands Area except where pre-empted by State or Federal laws or regulations.
5. They include provisions relative to the review and action on applications for forestry operations which:

i. Are designed to implement a clear and straightforward process for the review of forestry applications that does not involve municipal site plan approval;

ii. Require that forestry permits be approved or denied within 45 days after submission of a complete application to a municipality, or within such further time as may be consented to by the applicant;

iii. Provide that failure of a municipality to act within the period prescribed in (a)5ii above shall constitute municipal approval of the permit; and

iv. At the option of the municipality, provide for the establishment of reasonable application fees for forestry permits in accordance with N.J.S.A. 40:55D-8(b) and the posting of financial sureties in accordance with N.J.A.C. 7:50-6.47.

6. They provide that no local permit shall be effective, except as provided in N.J.A.C. 7:50-3.81 through 3.85, until the review procedures in N.J.A.C. 7:50-4.31 through 4.42 have been completed;
7. They include a capital improvements program which demonstrates that adequate and necessary facilities will be available to serve permitted development;
8. They provide for sufficient residentially zoned property to be eligible for an increase in density to accommodate transferred Pinelands Development Credits as provided for in N.J.A.C. 7:50-5, Part IV;
9. If the municipality has established an environmental commission, they provide for referral of applications for development approval to the environmental commission for review and comment;
10. They otherwise are in conformance with and contain all provisions necessary to implement the objectives of this Plan;
11. They demonstrate conformance to the energy conservation requirements of L. 1980, ch. 146;
12. They demonstrate that they are in conformance with the provisions of the Federal Act; and
13. In the event that the distribution and density of land uses at the boundary of a municipality are in conflict with or otherwise inconsistent with the distribution and density of land uses in adjacent municipalities, they include a description of steps which have been taken to resolve such conflicts including consultation with the county or counties in which the municipalities are located.

(b) Municipalities with areas outside the Pinelands Area but within the Pinelands may request review by the Commission of their land use ordinances and master plans for these areas to determine substantial compliance with the provisions of N.J.A.C. 7:50-5 and 6 of this Plan. Equivalent protection of the resources of the Pinelands will be the overall standard used in such compliance review rather than strict adherence to every standard in N.J.A.C. 7:50-5 and 6. Buffer requirements to wetlands will be evaluated based on the provisions of the Freshwater Wetlands Protection Act rather than on the standards set forth in N.J.A.C. 7:50-6.14. To encourage voluntary compliance, if the Commission determines that the

municipality is in substantial compliance with the provisions of N.J.A.C. 7:50-5 and 6, the Commission will rely upon the complying master plan and ordinances, rather than a strict interpretation of this Plan, to provide comment to relevant state and federal regulatory agencies in its role as the planning entity for the Pinelands.

7:50-3.40 Submission to county planning board for preliminary review

When a county has, pursuant to the provisions of N.J.A.C. 7:50-3, Part III, been delegated preliminary review authority with respect to any municipal plan or land use ordinance, the submission required by N.J.A.C. 7:50-3.32 in connection with such plan or ordinance shall be made to such county. Within five days following the submission of the plan and land use ordinances, the county shall forward a copy of such application to the Commission.

7:50-3.41 Setting of hearing and procedures therefore

Within 15 days following the submission of a plan and land use ordinances, the clerk of the county shall set and give notice of, the date, time and place for a hearing thereon. Such hearing shall be held within 30 days following the submission of a plan and land use ordinances.

7:50-3.42 Recommendation of county board

After the hearing held pursuant to N.J.A.C. 7:50-3.41 is completed, the county planning board shall review the plan and land use ordinances and the record of the hearing and shall, within 60 days following receipt of the plan and land use ordinances, submit a report to the Commission setting forth its findings and recommendation as to whether the municipal master plan and land use ordinances are in conformance with the minimum standards of this Plan.

7:50-3.43 Recommendation of Executive Director

Upon receipt of the report of the county planning board with respect to the certification of any municipal master plan and land use ordinances, the Executive Director shall review the findings, conclusions and recommendation of the county planning board and the record of the hearing and shall, within 100 days following receipt of the plan and land use ordinances by the county planning board, submit a report to the Commission setting forth his recommendation as to whether the municipal master plan and land use ordinances should be certified as being in conformance with the minimum standards of this Plan.

7:50-3.44 Action by Commission

Within 120 days following the receipt of the plan and land use ordinances by the county planning board, and following the receipt of the reports of the Executive Director and the county planning board with respect to the certification of such

municipal master plan and land use ordinances, the Commission shall review the reports and enter an order as provided in N.J.A.C. 7:50-3.35.

7:50-3.45 Submission and review of amendments to certified municipal master plans and land use ordinances

(a) Submission: No amendments to any part of a certified municipal master plan or land use ordinance shall be effective until the municipality shall have submitted such amendment to the Commission and either the Commission has certified such amendment pursuant to N.J.A.C. 7:50-3.35, or the Executive Director has, pursuant to (b) below notified the municipality that such amendment does not affect the prior certification of the master plan or land use ordinance.

(b) Decision not to review: Within 30 days following receipt of any amendment to a certified master plan or land use ordinance, the Executive Director shall determine whether or not the amendment raises a substantial issue with respect to the conformance of the municipal master plan or land use ordinances with this Plan. If the Executive Director determines that no such substantial issue is raised, he shall certify such fact to the municipal clerk and such amendment shall thereupon take effect in accordance with its terms and applicable law.

(c) Decision to review: If the Executive Director determines that the amendment raises a substantial issue with respect to the conformance of the amended municipal master plan or land use ordinance to this Plan, the amended municipal master plan or land use ordinance shall be reviewed pursuant to N.J.A.C. 7:50-3.33 through 3.44 and the Executive Director shall so inform the municipal clerk.

7:50-3.46 through 7:50-3.50 (Reserved)

PART V-FEDERAL INSTALLATION PLANS

7:50-3.51 Conformance of Federal installation master plans

Within one year after approval of this Plan by the Secretary of the Interior, each military installation and Federal aviation facility shall provide a copy of its master plan for the installation or facility to the Commission. The preparation and adoption of the installation master plan shall be independent of the application procedures as set forth in N.J.A.C. 7:50-4.

7:50-3.52 Elements of Federal installation master plan

(a) A Federal installation master plan shall include at least, if applicable to that Federal installation, the following items in the standard format applicable to that installation:

1. Environmental information prepared by the installation or other appropriate agency as required by the National Environmental Policy Act of 1969;

2. A delineation of any areas of critical ecological importance;
3. An existing land use map which should include the location, character, and intensity of existing land uses;
4. A future land use map depicting planned or anticipated land uses which should include the location, character, and intensity of uses; and
5. The status of major construction projects which should include a description of ongoing or planned projects and projected dates of commencement and completion.

7:50-3.53 Preparation of the plan for review

Each Federal installation shall prepare, with the assistance of the Commission staff as may be available from time to time, its Federal installation master plan in accordance with provisions of Part V of this subchapter, and upon its review and approval by the Department of Defense, shall submit it to the Commission for review and determination of whether the master plan is in substantial conformance with this Plan.

7:50-3.54 Recommendation of Executive Director

The Executive Director shall review the plan, together with the recommendation of the staff, and shall submit a report to the Commission setting forth proposed findings and recommendations as to whether the Federal installation master plan is in substantial conformance with this Plan.

7:50-3.55 Review of Federal installation master plans

Within 60 days after receipt of the Executive Director's report, the Commission shall review the findings and recommendations. The Commission shall specify the changes necessary in order to ensure substantial conformance with this Plan. The Commission shall inform the Federal installation of its recommendations.

7:50-3.56 Amendments to Federal installation plans

Each Federal installation and the Commission may propose amendments to an approved installation plan from time to time. Such amendments shall be approved in the manner provided in this Part for approval of the original plan and such amendments shall not require the revision or approval of the plan as a whole.

7:50-3.57 through 7:50-3.60 (Reserved)

PART VI-MODIFICATION OR REVOCATION OF CERTIFICATION OF COUNTY AND MUNICIPAL PLANS AND ORDINANCES

7:50-3.61 Initiation by Executive Director

(a) Any person may request the Executive Director to assess whether a certified county or municipal master plan, regulation or ordinance is being implemented in accordance with the provisions of this Plan. Such request shall be in writing and shall specify the county or municipal acts which are alleged to be not in conformance with this Plan by date, time and other identifying characteristics.

(b) If the Executive Director determines, at any time, that any county or municipality is not implementing and enforcing its certified master plan, regulations or ordinances as is necessary to implement this Plan, he shall notify the Commission of such determination and upon its concurrence initiate proceedings pursuant to this Part to revoke, suspend or modify the Commission certification of the municipal or county master plan, regulations or ordinances.

7:50-3.62 Notice and Hearing

Upon making a determination to initiate proceedings to revoke, suspend or modify Commission certification of a county or municipal master plan, regulation or land use ordinance, the Executive Director shall give notice and conduct a public hearing in accordance with the provisions of N.J.A.C. 7:50-4.

7:50-3.63 Recommendation of Executive Director

After the completion of the hearing required by N.J.A.C. 7:50-3.62, the Executive Director shall review the record of the hearing and shall, within 45 days of the conclusion of the hearing, submit a report to the Commission setting forth his findings, conclusions and recommendations as to the action which should be taken by the Commission pursuant to this Part. He may recommend any action which the Commission is authorized to take pursuant to N.J.A.C. 7:50-3.64.

7:50-3.64 Action by Commission

(a) Upon receipt of the report of the Executive Director pursuant to N.J.A.C. 7:50-3.63, the Commission shall review the findings, conclusions and recommendations of the Executive Director and shall issue a final order with respect to the revocation, suspension or modification of the Commission certification of the county or municipal master plan, regulations or ordinances. Upon determining that the county or municipality is not implementing its master plan, regulations, ordinances or this Plan, the Commission shall issue an order:

1. Revoking or suspending Commission certification of the county or municipal master plan, regulations or land use ordinances;

2. Modifying such certification to impose any conditions necessary to ensure adequate county or municipal review of development within its jurisdiction; or
3. Taking any other action it deems necessary to ensure county or municipal cooperation in the implementation of the objectives of this Plan.

7:50-3.65 Effect of modification or revocation of Commission certification

Revocation, suspension or modification of Commission certification of any county or municipal master plan, regulation or land use ordinance shall have the same effect as if the county or municipal master plan, regulation or land use ordinance had been disapproved or certified with conditions in the first instance as provided in N.J.A.C. 7:50-3.17 or 3.37. Any revocation, suspension or modification of Commission certification pursuant to this Part shall remain in effect until otherwise ordered by the Commission.

7:50-3.66 through 7:50-3.70 (Reserved)

PART VII-ADOPTION OF RULES AND REGULATIONS FOR UNCERTIFIED AREAS

7:50-3.71 Commission adoption of rules and regulations for uncertified areas

In the event that any county or municipality fails to obtain certification of its land use plan, regulations and ordinances, the Commission shall adopt and enforce such rules and regulations as may be necessary to implement the minimum standards contained in this Plan and as may be applicable to any such county or municipality.

7:50-3.72 Preparation and review of rules and regulations

(a) The Commission shall prepare or cause to be prepared such rules and regulations which are consistent with and implement this Plan for any municipality or county which fails to obtain certification under this Plan. Said rules and regulations shall include those provisions necessary to implement the goals and objectives of this Plan including:
   1. A procedure for nominating and designating Special Agricultural Production Areas; and
   2. A procedure for implementing all the mandatory and optional elements of N.J.A.C. 7:50-6. Said rules and regulations shall not include the optional programs in N.J.A.C. 7:50-5.

7:50-3.73 Public hearing

The Commission shall conduct a public hearing in accordance with the provisions of N.J.A.C. 7:50-4 to consider the proposed rules and regulations for uncertified areas.

7:50-3.74 Adoption of rules and regulations

Upon completion of the public hearing provided in N.J.A.C. 7:50-3.73, the Commission shall revise and adopt said rules and regulations.

PART VIII-ALTERNATIVE LOCAL PERMITTING PROGRAMS

7:50-3.81 Purposes of alternative local permitting programs

In order to provide for more efficient or simplified processing of development applications or to allow municipalities to exercise additional direct decision making authority, the Commission may alter the development review procedures in N.J.A.C. 7:50-4.31 through 4.42 through its certification of county regulations or a municipal ordinance pursuant to this Subchapter.

7:50-3.82 Description of alternative permitting programs

Alternative permitting programs may establish application processing procedures or decision making requirements which differ from those set forth in N.J.A.C. 7:50-4.31 through 4.42. The Commission in its discretion may disapprove a requested alternative program due to the type, magnitude, location or complexity of development to be reviewed under the proposed program.

7:50-3.83 Certification standards

(a) The Commission may certify a county regulation or municipal ordinance which contains an alternative permitting program only if the following standards are met, taking into account the type, magnitude, location or complexity of development for which the program applies:
    1. The county or municipality has demonstrated capability to implement the program in an efficient and effective manner;
    2. The program, including the procedures to be followed, standing alone or in combination with activities continuing to be administered by the Commission, ensures that application requirements and permit decisions are adequate to determine compliance with the relevant criteria and standards of N.J.A.C. 7:50-5 and 6 and the provisions of the relevant certified local regulation or ordinance;
    3. The program ensures that adequate, qualified and capable personnel will administer the program and that safeguards exist to ensure that (a)2 above is met in the event of personnel changes;
    4. The program ensures that applicants receive any necessary waivers of strict compliance from the Pinelands Commission; and
    5. Either the program allows for Commission review of local approvals pursuant to N.J.A.C. 7:50-4.31 through 4.42 or includes an alternative procedure to ensure that periodic review of permits by the Commission may be conducted to assess consistency of the program with the standards of

N.J.A.C. 7:50-5 and 6 and the provisions of the relevant certified local regulation or ordinance. The alternative procedure shall also include a requirement for all local approvals to be subject to review by the Commission pursuant to N.J.A.C. 7:50-4.31 through 4.42 in the event that the Executive Director makes a recommendation to the Commission pursuant to N.J.A.C. 7:50-3.85. In that event, the procedures for the review of local approvals set forth in N.J.A.C. 7:50-4.31 through 4.42 shall remain in effect until such time as the procedures in N.J.A.C. 7:50-3.61 through 3.65 have been followed.

7:50-3.84 Assistance and monitoring

(a) The Executive Director is authorized to provide such assistance to counties and municipalities as he or she deems necessary and appropriate and within the means of the Commission to help implement and maintain an alternative permitting program.

(b) The Executive Director shall report on each alternative permitting program to the Commission and the appropriate county or municipality in accordance with a specific review program approved by the Commission concurrent with its certification of the alternative permitting program. Such report shall describe the elements of the permitting program and evaluate their operation according to the standards of N.J.A.C. 7:50-3.83.

7:50-3.85 Failure to implement

Should the Executive Director recommend that the Commission revoke, suspend, or modify its certification of a county regulation or municipal ordinance which institutes an alternative permitting program because one or more of the certification standards is not being adequately fulfilled, the procedures set forth in N.J.A.C. 7:50-3.61 through 3.65 shall be followed. In such cases, the revocation, suspension or modification shall affect the alternative permitting program and procedures and not the certification status of the substantive provisions of the certified county regulation or municipal land use ordinance, unless such county or municipality willfully ignores or refuses to implement such revocation, suspension or modification order.

SUBCHAPTER 4. DEVELOPMENT REVIEW

INTRODUCTION

The Pinelands Protection Act charges the Pinelands Commission with ensuring that the minimum standards, goals and objectives of this Plan are implemented and enforced. The procedures by which the Commission will discharge its development review responsibilities are set out in this subchapter, according to whether the applicant is a public or private entity and whether the proposed activity is located in a certified or uncertified municipality. Part I establishes a set of uniform application requirements which include a pre-application conference which is designed to afford an applicant the opportunity to informally resolve preliminary application problems and to determine the extent and form of the information and documentation which must be submitted in the application. Part I also establishes a uniform procedure for determining when an application for development approval is complete. N.J.A.C. 7:50-4 prescribes notice and public hearing requirements for development review as well as for the certification of municipal or county plans, regulations and ordinances (N.J.A.C. 7:50-3), the review of comprehensive plans submitted pursuant to N.J.A.C. 7:50-5.4, inter-governmental agreements (N.J.A.C. 7:50-4.52) and certain resource extraction issues (N.J.A.C. 7:50-6.64) or amendments to the Plan itself (N.J.A.C. 7:50-7).

Part II of this subchapter establishes the procedures for development review in uncertified jurisdictions. Part III of this subchapter sets forth the procedures for development review in certified areas, including the Commission's authority to review development approvals at the local level. It is recognized that the specific provisions of this Part can be refined at the local level provided that the objectives and goals the procedural requirements represent will be achieved. In addition, the procedures may be modified through the implementation of alternative permitting programs as provided in N.J.A.C. 7:50-3.81 through 3.85. Part IV contains those procedures applicable to review of public development in the Pinelands Area.

In addition, Part V of this subchapter contains provisions for the procedures to be employed in consideration of applications to waive strict compliance with the standards of the Plan. If a waiver is granted by the Commission, the applicant may proceed with the development review procedures in Part III, if in a certified area, or Part II, if in an uncertified area, or Part IV, if it is an application by a public agency.

Part VI sets forth a procedure whereby any person may secure a clarification or interpretation of the meaning or applicability of any provision of this Plan. Part VII provides for coordinated permitting with other state agencies.

Part VIII sets forth the procedures to follow if any applicant or other aggrieved person wishes to appeal a decision by the Executive Director or the Commission.

PART 1-UNIFORM PROCEDURES

7:50-4.1 Applicability

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

1. The improvement, expansion, or reconstruction within five years of destruction or demolition, of any single family dwelling unit or appurtenance thereto;
2. The improvement, expansion, construction or reconstruction of any structure accessory to a single family dwelling;
3. The improvement, expansion, construction or reconstruction of any structure used exclusively for agricultural or horticultural purposes;
4. The construction, repair or removal of any sign, except for the construction or replacement of any off-site sign in accordance with N.J.A.C. 7:50-6.108(a)3, 4 or 5;
5. The repair of existing utility distribution lines;
6. The installation of utility distribution lines, except for sewage lines, to serve areas which are effectively developed or development which has received all necessary approvals and permits;
7. The clearing of less than 1,500 square feet of land;
8. The construction of any addition or accessory structure for any non-residential use or any multi-family residential structure provided that**:**
   i. If the addition or structure will be located on or below an existing impervious surface**,** either the existing use is served by public sewers or the addition or structure will generate no wastewater flows, and said addition or structure will cover an area of no more than 4,999 square feet**;** and
   ii. If the addition or structure will not be located on or below an impervious surface, said addition or structure will generate no wastewater flows and will cover an area of no more than 1,000 square feet.
9. The demolition of any structure less than 50 years old;
10. The repair or replacement of any existing on-site waste water disposal system;
11. The repaving of existing paved roads and other paved surfaces, provided no increase in the paved width or area of said roads and surfaces will occur;
12. The clearing of land solely for agricultural or horticultural purposes;
13. Fences, provided no more than 1,500 square feet of land is to be cleared;
14. Above-ground telephone equipment cabinets;
15. Tree pruning;
16. The following forestry activities:
   i. Normal and customary forestry practices on residentially improved parcels of land that are five acres or less in size;
   ii. Tree harvesting, provided that no more than one cord of wood per five acres of land is harvested in any one year and that no more than five cords of wood are harvested from the entire parcel in any one year;

iii. Tree planting, provided that the area to be planted does not exceed five acres in any one year, no soil disturbance occurs other than that caused by the planting activity and no trees other than those authorized by N.J.A.C. 7:50-6.25 are to be planted; and

iv. Forest stand improvement designed to selectively thin trees and brush, provided that no clearing or soil disturbance occurs and that the total land area on the parcel in which the activity occurs does not exceed five acres in any one year;

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

18. Normal and customary landscape plantings, unless a landscaping plan is required pursuant to N.J.A.C. 7:50-6.24;

19. Agricultural resource extraction, provided that:

i. All of the removed soil remains in agricultural or horticultural use within the Pinelands Area;

ii. No more than 2,000 cubic yards of soil per calendar year are removed from any parcel; or

iii. No more than 20,000 cubic yards of soil per calendar year are removed from any parcel and a Farm Conservation Plan, designed in accordance with the United States Department of Agriculture, Natural Resources Conservation Service New Jersey Field Office Technical Guide, section 4, dated May 2001, incorporated herein by reference, as amended and supplemented, is approved by the Soil Conservation District and submitted to the Pinelands Commission by the owner of the parcel, demonstrating that the proposed resource extraction is for one of the following agricultural purposes:

(1) Agricultural irrigation ponds;

(2) Blueberry/cranberry agriculture site preparation and horticulture of other wetland species, provided the activity is located on wetland soils or soil types that are somewhat poorly drained or moderately well drained with a seasonal high water table within 24 inches of the natural surface of the ground, as defined in the applicable county soil survey, published by the United States Department of Agriculture, Natural Resources Conservation Service, as amended and or supplemented; or

(3) The offsite removal of overlying soils to access underlying sand for cranberry management practices, provided the quantity of overlying soil removed offsite does not exceed the quantity of underlying sand to be used for the management practices listed in N.J.A.C. 7:50-6.55(a)4 and the quantity of overlying soil removed offsite does not exceed that reasonably necessary to provide access to underlying sand to be utilized within a three year period.

20. The installation of an accessory solar energy facility on any existing structure or impervious surface;

21. The installation of a local communications facilities antenna on an existing communications or other suitable structure, provided such antenna is not inconsistent with any comprehensive plan for local communications facilities approved by the Commission pursuant to N.J.A.C. 7:50-5.4(c)6**;**

22. The establishment of a home occupation within an existing dwelling unit or structure accessory thereto, provided that no additional development is proposed; and
23. The change of one nonresidential use to another nonresidential use, provided that the existing and proposed uses are or will be served by public sewers and no additional development is proposed.

(b) As of January 14, 1991, the provisions of this Plan shall apply to any proposed development or portion thereof which received approval from the Pinelands Commission pursuant to the Interim Rules and Regulations or which received approval from the Pinelands Development Review Board and said approvals expired as of that date or will expire subsequent to that date, without exception, unless the requirements in (b)1, 2 and either 3 or 4 below have been met and continue to be met:

1. All necessary municipal planning board or board of adjustment approvals were obtained by January 14, 1991;
2. No additional approval, extension, renewal or any other action whatsoever is required or received from either the municipal planning board or board of adjustment after January 14, 1991; and either
3. All necessary approvals, including all necessary construction permits, were obtained by January 3, 1995 or within 18 months of the expiration of any tolling pursuant to N.J.S.A. 40:55D 21 of the running of the period of the planning board or board of adjustment approval pursuant to N.J.S.A. 40:55D 47 or 40:55D 52, whichever is later; and no construction permit becomes invalid pursuant to N.J.A.C. 5:23 2.16(b) after the latter of said dates; or
4. All necessary approvals, including all necessary construction permits, are obtained by December 31, 1996 and no construction permit becomes invalid pursuant to N.J.A.C. 5:23 2.16(b) after said date, provided that the lot for which the approvals and permits are issued either fronts on a road that prior to January 3, 1995 was improved at least to the extent of the installation of a subbase or had a foundation or septic system lawfully constructed on said lot prior to January 3, 1995.

(c) The Commission shall determine that an application for the improvement or reconstruction of a single family dwelling or appurtenance thereto five years or more after destruction or demolition of the single family dwelling is in conformance with this Plan, provided the applicant demonstrates that:

1. The improvement or reconstruction does not involve a historic resource designated by the Commission pursuant to N.J.A.C. 7:50-6.154;
2. The improvement or reconstruction is performed within 25 years of the destruction or demolition of a single family dwelling unit or appurtenance thereto;
3. The foundation of the demolished or destroyed single family dwelling unit is intact, will be used for the development and will constitute the footprint of the improvement or reconstruction; and
4. The destroyed or demolished building was a single family dwelling.

(d) Nothing herein shall preclude any local or state agency from reviewing, in accordance with the provisions of any applicable ordinance or regulation,

any proposed development which does not require an application to the Pinelands Commission pursuant to (a) or (b) above or which is determined by the Commission to be in conformance with this Plan pursuant to (c) above.

7:50-4.2 Pre-application conference; application requirements

(a) Pre-application conference.

1. Request: Any applicant for any application provided for in this Plan may request an informal conference with the Executive Director prior to filing an application. However, any applicant seeking approval pursuant to the provisions of Part III of this subchapter is encouraged to discuss the application with the appropriate officials in the certified municipality prior to requesting a conference with the Executive Director. All requests for a pre-application conference shall include the name and address of the applicant, the legal description and street address, if any, of the parcel proposed for development, a brief description of the nature of any proposed development and the nature of the approval or waiver sought by the applicant.
2. Scheduling of conference: Within 15 days following receipt of any request for a pre-application conference, the Executive Director shall schedule a pre-application conference and notify the applicant of the time, date and location of the conference and specify any additional information which the Executive Director determines is necessary.
3. Conduct and purpose of conference: The Executive Director shall conduct the pre-application conference. The conference shall be informal and its purpose shall be to openly consider the proposals, views and concerns of the applicant and the Commission and to determine whether any of the application requirements of (b) below should be waived or any additional information should be required.
4. Pre-application conference orders: At the conclusion of the pre-application conference, the Executive Director shall inform the applicant in writing whether any of the application requirements contained in (b) below are to be waived or any additional information is to be submitted.
5. Representations of the Executive Director: No representation made by the Executive Director or any member of the staff designated by the Executive Director during the course of any pre-application conference shall be binding on the Commission or the Executive Director with respect to any application subsequently submitted.

(b) Application requirements.

1. General requirements: All applications shall be submitted to the Executive Director at the principal office of the Commission in such form and number as he shall from time to time establish. The filing of an application shall be deemed to be authorization for the Executive Director or his staff to inspect the parcel which is the subject of the application.

The application shall be accompanied by a sworn statement that the requirements of (b)2 below have been satisfied.

2. Notice: The applicant shall provide notice of all applications for development in uncertified municipalities, applications for waivers and applications for letters of interpretation filed with the Commission to the municipal and county clerk, and the environmental commission, if any, of the municipality.

3. Waiver of application requirements following pre-application conference: The Executive Director may waive or modify any of the application requirements contained in this subsection if, after a pre-application conference held pursuant to (a) above, he determines that any required information is either not relevant or not necessary to assure proper consideration of any application. Such waiver or modification shall be made in a pre-application order issued pursuant to (a)4 above.

4. Application for approval of minor development: Unless the submission requirements are modified or waived pursuant to (b)3 above, an application filed pursuant to N.J.A.C. 7:50-4.13 or 4.33 for approval of minor development shall include at least the following information:
   i. The applicant's name and address and his interest in the subject parcel;
   ii. The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application;
   iii. The legal description, including block and lot designation and street address, if any, of the subject parcel;
   iv. A description of all existing uses of the subject parcel;
   v. A brief written statement generally describing the proposed development;
   vi. A USGS Quadrangle map, or copy thereof, and a copy of the municipal tax map sheet on which the boundaries of the subject parcel and the Pinelands management area designation and the municipal zoning designation in a certified municipality are shown;
   vii. A plat or plan showing the location of all boundaries of the subject parcel, the location of all proposed development, and existing or proposed facilities to provide water for the use and consumption of occupants of all buildings and sanitary facilities which will serve the proposed development. The following information shall be included with respect to existing or proposed sanitary facilities:
      (1) On-Site Treatment Facilities: Location, size, type and capacity of any proposed on-site wastewater treatment facilities; and
      (2) Soil Borings and Percolation Tests: If on-site sewage disposal is proposed, results of soil borings and percolation tests in accordance with N.J.S.A. 58:11-23 et seq. and the regulations adopted pursuant thereto shall be submitted at suitable location with a tract map showing location, logs, elevations of all test holes, indicating where ground water

was encountered, estimating the seasonal high water table and demonstrating that such facility is adequate to meet the water quality standards contained in subchapter 6 of this Plan.

viii. A location map, including the area extending at least 300 feet beyond each boundary of the subject parcel, showing ownership boundary lines, the boundary of the proposed development, owners of holdings adjoining and adjacent to the subject parcel, existing facilities, buildings and structures on the site, all proposed development, wetlands, streams (including intermittent streams), rivers, lakes and other waterbodies and existing roads,

ix. A soils map including a county soils survey which conforms to the guidelines of the United States Department of Agriculture Soil Conservation Service, showing the location of all proposed development; and

x. A map showing existing vegetation, identifying predominant vegetation types in the area and showing proposed landscaping of the subject parcel, including the location of the tree line before and after development and all areas to be disturbed as a result of the proposed development.

5. Application for approval of major development: Unless the submission requirements are modified or waived pursuant to (b)3 above, an application filed pursuant to N.J.A.C. 7:50-4.13 or 4.33 for approval of major development, except for forestry and resource extraction operations, shall include at least the following information:

i. All information required by (b)4i through iv;

ii. A brief written statement generally describing the proposed development; the number of total units; and the floor area of all units to be included in the proposed development;

iii. A written statement addressing each of the standards or guidelines set forth in subchapters 5 and 6 of this Plan, and stating specifically how the proposed development meets each such standard or guideline;

iv. A plat or plan showing the location of all boundaries of the subject parcel, the location of all proposed development, and existing or proposed facilities to provide water for the use and consumption of occupants of all buildings and sanitary facilities which will serve the proposed development. The following information shall be included with respect to existing or proposed wastewater treatment facilities:

(1) Sanitary Sewer Distribution: Location, size and direction of flow of all existing and proposed sanitary sewer lines and pumping stations serving the proposed development and all existing and proposed connections to existing facilities;

(2) On-Site Treatment Facilities: Location, size, type and capacity of any proposed on-site wastewater treatment facilities including, except with respect to discharges into

an individual residential septic system, quantities, composition, proposed pretreatment and ultimate means of disposal;

(3) Soil Borings and Percolation Tests: If on-site sewage disposal is proposed, results of soil borings and percolation tests in accordance with the requirements of N.J.S.A. 58:11-23 et seq. and the regulations adopted pursuant thereto shall be submitted with tract map showing location, logs and elevations of all test holes, indicating where ground water was encountered, and estimating the seasonal high water table; and

(4) The proposed hours and days of operation and number of employees of any non-residential facility.

v. A project site base map, at a scale of no less than one inch to 200 feet and including the areas extending at least 300 feet beyond each boundary of the subject parcel, showing ownership boundary lines, the boundary of the proposed development, owners of holdings, if any, adjoining and adjacent to the subject parcel, existing facilities, buildings and structures on the site, all proposed development, wetlands, streams (including intermittent streams), rivers, lakes and other waterbodies, and existing roads;

vi. A soils map including a county soils survey in conformance with the guidelines of the United States Department of Agriculture Soil Conservation Service, at the same size and scale as the project site base map, delineating all soil series at an appropriate level of detail and, in sewered projects, sufficient soil borings to confirm the accuracy of the soils map;

vii. A slope map, at the same size and scale as the project site base map, indicating contour elevations at two foot intervals;

viii. A resource capability map, at the same size and scale as the project site map, indicating the cumulative limitations to development due to the standards and the guidelines contained in this Plan. This map should be prepared prior to any engineering, site layout or design work;

ix. A proposed development map, at the same size and scale as the project site base map, showing areas of proposed development; the location of surveyor's tape or other markers placed on the site delineating the boundaries of the parcel; the number of residential lots and other type of development in each general area, all proposed lot lines; areas proposed to be retained as open space; the applicable land use areas boundaries; the location of proposed facilities such as dams and impoundments, public or private water systems, storm drainage systems, public or private sewerage systems, public utilities, soil erosion and sedimentation control devices, industrial waste water discharges and solid waste disposal areas; sources of air pollution; the proposed primary road network; all areas to be disturbed by construction activities;

x. A stormwater management facilities map, at the same size and scale as the project site base map, showing existing topography at minimum one foot contour intervals, storm water drainage patterns and calculations and the applicant's proposed plan to manage stormwater, which shall contain results of all permeability tests and soil test pit logs performed in each recharge area including the estimated seasonal high water table. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention (if applicable) and emergency spillway provisions with the maximum discharge capacity of each spillway shall also be provided. In addition, a land use planning and source control plan shall be submitted, demonstrating how development of the parcel will comply with the standards of N.J.A.C. 7:50-6.84(a)6 through use of nonstructural techniques and source controls to the maximum extent practical. A detailed narrative and associated illustrative maps and/or plans which specifically address the nine nonstructural strategies for stormwater management identified in N.J.A.C. 7:8-5.3 must be included;

xi. Legal instruments evidencing the applicant's right, title or interest in any Pinelands Development Credits and any existing or proposed deed restrictions or easements relating to the subject parcel;

xii. A landscaping schedule and plan on a map, of the same size and scale as the project site base map, identifying the species of plants to be installed and the quantity and location of all plants proposed to be planted, demonstrating that the landscaping will be carried out within six months of the completion of construction and demonstrating that the landscaping will stabilize soils,

xiii. All public service infrastructure agreements, or other documentation, evidencing the availability of electric, gas, water, sewer and other necessary public service infrastructure;

xiv. The cultural resources survey described in N.J.A.C. 7:50-6, Part XV;

xv. A list of all permits required for the proposed development from county, municipal, state and federal agencies.

6. Application for resource extraction: Unless the submission requirements are modified or waived pursuant to (b)3 above, an application filed pursuant to N.J.A.C. 7:50-4.13 or 4.33 for resource extraction shall include at least the following information:

i. All information required by (b)4i through vi above;

ii. A topographic map at a scale of one inch equals 200 feet, showing the proposed dimensions, location and operations on the subject parcel;

iii. The location, size and intended use of all buildings;

iv. The location of all points of ingress and egress;

v. A location map, including the area extending at least 300 feet beyond each boundary of the subject parcel, showing all streams, wetlands and significant vegetation, forest associations and wildlife habitats;

vi. The location of all existing and proposed streets and rights-of-way, including railroad rights-of-way;

vii. A soils map;

viii. A restoration plan which includes:

(1) Method of stockpiling topsoil and overburden;

(2) Proposed grading and final elevations;

(3) Topsoil material application and preparation;

(4) Type, quantity and age of vegetation to be used;

(5) Fertilizer application including method and rates;

(6) Planting method and schedules; and

(7) Maintenance requirements schedule;

ix. A signed acknowledgment from both the owner and the applicant that they are responsible for any resource extraction activities which are contrary to any provision of this Plan or of the approved resource extraction plan done by any agent, employee, contractor, subcontractor or any other person authorized to be on the parcel by either the owner or the applicant;

x. A financial surety, guaranteeing performance of the requirements of N.J.A.C. 7:50-6.68 and 7:50-6.69 in the form of a letter of credit, certified check, surety bond or other recognized form of financial surety acceptable to the Commission. The financial surety shall be equal to the cost of restoration of the area to be excavated during the duration of any approval which is granted. The financial surety, which shall name the Commission and the certified municipality, if applicable, as the obligee, shall be posted by the property owner or his agent with the municipality if the municipality has had its master plan and ordinances certified pursuant to N.J.A.C. 7:50-3 or with the Pinelands Commission if the municipality has not had its master plan and ordinances so certified.

7. Application for waiver: An application for a waiver of strict compliance filed pursuant to N.J.A.C. 7:50-4, Part V shall include at least the following information:

i. All information required in an application for development approval as set out in (b)4 above;

ii. The waiver sought, the provisions or standards of this Plan from which a waiver is requested and a statement of the reasons for the waiver;

iii. At the option of the applicant, all other information required in (b)5 above;

iv. A demonstration of the existence of an extraordinary hardship based on the criteria set forth in N.J.A.C. 7:50-4.63(a) or (b) or a demonstration of the compelling public need for the proposed

development based on the criteria set forth in N.J.A.C. 7:50-4.64(a)l or 2; and

v. A demonstration of whether the requested waiver will meet the requirements set forth in N.J.A.C. 7:50-4.65.

8. Application for letter of interpretation: An application for a letter of interpretation pursuant to N.J.A.C. 7:50-4, Part VI shall include all information which, after a pre-application conference held pursuant to (a) above, the Executive Director determines is necessary for evaluation of the applicant's request.

9. Imposition of additional application requirements: At any time during the review of any application filed pursuant to this Plan, the Executive Director may require an applicant to submit any additional information which he determines is reasonably necessary to facilitate adequate review of the application. If the applicant does not submit the additional material or undertake any direct activity in furtherance of the application process within two years, the application shall be deemed to be withdrawn.

(c) Determination of whether application is complete.

1. Determination by Executive Director:

i. Within 30 days following receipt of any application or any additional information concerning an application filed pursuant to this Plan except as provided in N.J.A.C. 7:50-4.34(b), the Executive Director shall determine whether such application is complete. If he determines that the application is not complete, he shall mail a written statement to the applicant specifying the deficiencies of the application. The Executive Director shall take no further action on the application until the deficiencies are remedied.

ii. Except for a completed application made pursuant to provisions of the subchapter which is exclusively to resolve an outstanding violation, no application shall be deemed complete by the Executive Director if there are outstanding unresolved violations of this Plan on the parcel which is the subject of the application. Where no application made exclusively to resolve a violation has been completed, a violation shall be deemed to be unresolved until such time as the violator has specifically agreed in writing to take all measures that have been specified by the Executive Director as being necessary to eliminate the violation in a time period acceptable to the Executive Director.

iii. Any applicant who is aggrieved by any determination by the Executive Director pursuant to (c)1ii above may within 15 days of that determination appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91.

2. Remedy of deficiencies: upon receipt of a statement of deficiencies from the Executive Director, the applicant shall submit all additional information requested in such statement. The failure of the applicant to submit such additional information or undertake any direct activity in

furtherance of the application process within two years shall be deemed a withdrawal of the application.

3. Effect of determination: Any determination of completeness made by the Executive Director pursuant to (c)1 above shall not preclude any local permitting agency or other public agency from requiring additional information as a prerequisite to consideration of any application which must be filed with such agency.

7:50-4.3 Commission hearing procedures

(a) Applicability: The procedures set out in this section shall be applicable, except to the extent that they are specifically modified by other provisions of this Plan with respect to particular subject matters, to all public hearings held pursuant to this Plan.

(b) Notice of public hearing.

1. Content: All notices of public hearings shall include:

i. The time and place of hearing;

ii. The authority pursuant to which the hearing is held;

iii. The name and address of the applicant;

iv. A brief description of the subject matter to be considered at the hearing;

v. A statement that the application and supporting materials are available for public inspection and copying at the principal offices of the Commission; and

vi. A statement that any person may at such public hearing speak or submit a written statement.

2. Persons entitled to notice:

i. Notice of public hearings shall be given by the Commission:

(1) By sending a copy of the notice to the applicant;

(2) By sending a copy of the notice, by mail to any person, organization or agency which has previously filed with the Commission a written request, together with an annual fee in an amount to be determined from time to time by the Commission to cover the actual cost of such notice.

(3) If the public hearing involves certification of a municipal master plan or land use ordinances, by posting the notice on the Commission's website, publication of the notice in an official newspaper of the Commission having general circulation in the area and sending a copy of the notice, by mail, to the municipal clerk and the planning board secretary of the municipality seeking certification, the municipal clerk and planning board secretary of each Pinelands municipality bordering the municipality seeking certification and the county clerk and the county planning board secretary of the county in which the municipality is located and of the adjacent county if the municipality borders another county.

(4) If the public hearing involves certification of a county master plan or regulation, by posting the notice on the Commission's website, publication of the notice in an official newspaper of the Commission having general circulation in the area and sending a copy of the notice, by mail, to the clerk and the planning board

secretary of the county seeking certification, each Pinelands municipality in the county seeking certification and each Pinelands county bordering the county seeking certification.

(5) If the public hearing involves an application for a Waiver of Strict Compliance submitted pursuant to N.J.A.C. 7:50-4.64(a)1, by sending a copy of the notice, by mail, to the applicant and the secretary of the county and municipal planning board and environmental commission, if any, with jurisdiction over the parcel on which development is proposed. In addition, a copy of the notice shall be posted on the Commission's website and published in an official newspaper of the Commission having general circulation in the area.

(6) If the public hearing involves an amendment proposed by the Commission pursuant to N.J.A.C. 7:50-7, by sending a copy of the notice, by mail, to the mayor of each Pinelands municipality and to the freeholder director and county executive of each Pinelands county. In addition, a copy of the notice shall be published in all the official newspapers of the Pinelands Commission and posted on the Commission's website.

(7) If the public hearing involves an intergovernmental memorandum of agreement pursuant to N.J.A.C. 7:50-4.52, by sending a copy of the notice, by mail, to the mayor of each Pinelands municipality and to the freeholder director and county executive of each Pinelands county that may be directly affected by the memorandum of agreement under consideration. In addition, a copy of the notice shall be published in those official newspapers of the Pinelands Commission having general circulation in the area that may be directly affected by the memorandum of agreement and posted on the Commission's website.

(8) If the public hearing involves a resource extraction issue arising pursuant to N.J.A.C. 7:50-6.64(a), by sending a copy of the notice, by mail, to the local permitting agency and the resource extraction operator.

(9) If the public hearing involves a comprehensive plan submitted to the Commission pursuant to N.J.A.C. 7:50-5.4(c)6, by sending a copy of the notice and the comprehensive plan, by mail, to the mayor of each Pinelands municipality and the freeholder director and county executive, if any, of each Pinelands county. In addition, a copy of the notice shall be published in all the official newspapers of the Pinelands Commission and posted on the Commission's website.

ii. Notice of public hearings shall be given by the applicant:

(1) If the public hearing relates to an application for development approval or an application for designation pursuant to N.J.A.C.7:50-6.154, by sending a copy of the notice by certified mail to each owner of record, if different from the applicant, of any land on which development or designation is proposed;

(2) If the public hearing relates to an application for development approval, by sending a copy of the notice, by mail, to:
    (A) The secretary of the county and municipal planning board and environmental commission, if any, with jurisdiction over the parcel on which development has been proposed; and
    (B) Any landowners within 200 feet of any border of the parcel proposed for development.
(3) By publication of a copy of the notice, at least once, in a newspaper having general circulation in the area.

3. Time of notice: All notices required by (b)2 shall be published, posted or mailed at least 10 days in advance of the hearing.
4. Notice to be given by applicant: The applicant shall file with the Executive Director, no less than seven days prior to the hearing for which notice was given, an affidavit that the requirements of (b)2ii have been satisfied.

(c) Duty of Commission staff:
1. Presentation of information: At the hearing the Commission staff shall present information concerning pertinent application considerations and the standards set out in this Plan. The Commission staff shall have the right to participate fully in the hearing process and shall act as an advocate for a full and complete record upon which an informed decision can be made.
2. Statement of pertinent considerations: The Commission staff shall state at the outset of the hearing which considerations and required findings it considers pertinent to the application and shall briefly outline the information it intends to present.
3. Production of additional information: Upon a sufficient showing by any person made at any time during the hearing, or on his own motion, the Executive Director may order the Commission staff to produce any additional information with respect to any of the required findings.

(d) Conduct of the hearing:
1. Submission of information: Any person may appear at a public hearing and submit information or written materials, either individually or as a representative of an organization. Each person who appears at a public hearing or who submits written materials shall identify himself and his address and state the name and mailing address of any organization he represents. The Executive Director may exclude information that he finds to be irrelevant, immaterial or unduly repetitious.
2. Continuance by Executive Director: The Executive Director may continue the hearing to a fixed date, time and place. Unless such continuance is publicly announced at a properly noticed and convened hearing, the Executive Director shall cause notice to be given to all persons originally entitled to notice of the date, time and place of such continued hearing in the same manner as specified in (b) above.
3. Record of hearing:
    i. The Executive Director shall assure that the proceedings are recorded by any appropriate means and such record of proceedings shall be transcribed at the request of any person upon application to the Executive Director and payment of a fee to cover the cost of transcription, or on order of the Executive Director. If a sound recording is made, any person shall be

entitled to listen to the recording at any reasonable time or to make copies at his own expense.

ii. The record of proceedings shall consist of the transcript of testimony, if ordered; all applications, exhibits and papers submitted in any proceeding with respect to the matter being considered; and the summary and report or reports of the Executive Director.

iii. All summaries and reports of the Executive Director shall be public records, open to inspection at a reasonable time and upon reasonable notice.

(e) Content and service of decision of Executive Director or Commission:

1. All decisions and orders of the Executive Director or the Commission, and all recommendations of the Executive Director to the Commission, shall be in writing and shall include findings of fact, shall refer to the information in the record upon which such decision or order is based, shall specify the reason or reasons for such decision, and shall contain a conclusion or statement separate from the findings of fact which shall set forth any recommendation or final approval, conditional approval, or denial of the application being considered.

2. Except as provided in N.J.A.C. 7:50-4 for letters of interpretation, notice of all decisions and orders of the Executive Director or the Commission shall be mailed to:

i. The applicant;

ii. Any person, organization or agency which has previously filed with the Commission a written request, together with an annual fee in an amount to be determined from time to time by the Commission to cover the actual cost of said notice;

iii. The secretary of the county and municipal planning board and environmental commission, if any, with jurisdiction over the property which was the subject of the decision or order;

iv. Any other person who has demonstrated an interest in the proceeding.

3. All decisions and orders of the Executive Director or the Commission shall be considered rendered three days after notice of such decisions and orders has been deposited in the mail addressed to those persons identified in (e)2 above. For purposes of computing the three-day period, the date of deposition of the notice in the mail shall not be included.

7:50-4.4 Waiver of time limits

(a) By agreement: Any time limit imposed by statute or by any subchapter of this Plan on the processing of any application may be waived or extended by agreement of the Executive Director and the applicant.

(b) Automatic waiver: Any applicant who requests a continuance of any hearing at which his application is being considered, or who requests any extension of any time limit imposed by statute or this Plan, shall be deemed to have waived the applicability of that time limit.

7:50-4.5 Emergency provision

Notwithstanding any other provisions of this subchapter, in any case where the Executive Director determines that immediate action pursuant to this plan is necessary to remedy or prevent a condition that is dangerous to life, health or safety, the Executive

Director may, after consultation with the Commission Chairman, pursuant to such a finding, perform whatever action is minimally necessary to remedy or prevent the danger to life, health or safety. The Executive Director shall inform the Commission of any action taken pursuant to this provision at its next regularly scheduled meeting. Should action by the Commission be necessary, the Commission may take such action as it deems appropriate.

7:50-4.6 through 7:50-4.10 (Reserved)

PART II-DEVELOPMENT IN AREAS WITHOUT CERTIFIED LOCAL PLANS

7:50-4.11 Purpose

This Part establishes the procedures and standards for development review in a jurisdiction which has not received certification of its master plan and land use ordinances. No development in such jurisdictions shall be carried out unless the Commission determines that the proposed development is in conformance with the minimum standards of this Plan, including adequate consideration of on-site and off-site engineering, planning and design elements, so as to preserve and maximize the benefits to the wide diversity of rare, threatened and endangered plant and animal species and the many significant and unique natural, ecological, agricultural, scenic and recreational resources found in the Pinelands Area. In particular, it is the purpose of this Part to ensure that all development which is not regulated by certified local master plans and land use ordinances is located, planned, designed, laid out, constructed and serviced in conformance with the minimum standards of this Plan.

7:50-4.12 Applicability

The provisions of this Part shall be applicable to all development in any portion of the Pinelands Area located in any municipality where the master plan or land use ordinances have not been fully certified by the Commission and in any previously certified municipality whose certification has been revoked or suspended by the Commission pursuant to Part VI of subchapter 3 or which has failed to have any necessary changes to its master plan and land use ordinances certified by the Commission within one year after the effective date of any amendment to this Plan, except for those activities specifically excepted in N.J.A.C. 7:50-4.1.

7:50-4.13 Compliance with this part required for development in uncertified areas

Subject to the provisions of N.J.A.C. 7:50-4.12, no person shall carry out any development in any portion of the Pinelands Area located within the jurisdiction of a municipality with an uncertified master plan or land use ordinance without first complying with all applicable procedures set out in this Part. Any decision made pursuant to this Part shall supersede any local decision. All development shall adhere to the terms of any decision made pursuant to this Part. No local decision shall impose any

requirements which in any way contravenes any standard contained in this Plan. No decision by an uncertified county or any agency thereof shall in any way contravene any standard contained in a certified municipal land use ordinance.

7:50-4.14 Application for development approval in uncertified municipalities

(a) An application for development in uncertified municipalities shall be submitted to the Commission in accordance with the requirements of N.J.A.C. 7:50-4.2(b).

(b) In addition to the requirements of N.J.A.C. 7:50-4.2(b), an applicant for major development, as defined in N.J.A.C. 7:50-2.11 of this Plan which will be located on a specific parcel, shall provide notice of the application for development as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:55D-12(b). The administrative officer of the municipality shall provide a certified list of said property owners as provided for in N.J.S.A. 40:55D-12(c). The applicant shall be entitled to rely upon the information contained in said certified list as provided in N.J.S.A. 40:55D-12(c); and
2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12; or

(c) In addition to the requirements of N.J.A.C. 7:50-4.2(b), an applicant for major development, as defined in N.J.A.C. 7:50-2.11 of the Plan, which will not be located on a specific parcel, including a proposed development located within a right-of-way or easement, shall provide notice of the application for development as follows:

1. Notice shall be given by publication in any official newspaper of the Pinelands Commission having general circulation in any municipality in which the proposed development is located; and
2. Notice shall be given by publication in the official newspapers, if any, of all municipalities in which the proposed development will be located or if there is no official newspaper in any such municipality then in a newspaper of general circulation in that municipality.

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

1. The nature of the application pending before the Pinelands Commission, including a description of the proposed development;
2. That action may be taken on the application after 10 days from the date the notice is published and mailed;
3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments received within 10 days of the mailing or publication of the notice will be considered in the review of the application;
4. That the application is available for inspection at the office of the Pinelands Commission;
5. The address and phone number of the Pinelands Commission; and
6. That any person who provides comments or requests a copy of the Executive Director's determination shall be provided a copy of said determination.

(e) If the applicant significantly modifies the proposed development from that described in the most recent notice given pursuant to (b), (c) and (d) above, then the

applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development.

(f) No application for which the above notice is required, shall be deemed complete until proof that the requisite notice has been given is received.

(g) The Executive Director shall not issue a Certificate of Completeness for any application for which the above notice is required until five days after the 10 day comment period set forth herein has expired. If any public comments have been received concerning the application, the Executive Director shall inform the applicant that the public comments have been received prior to issuing a Certificate of Completeness.

7:50-4.15 Action by Executive Director on application

Within 90 days following the receipt of a complete application for development, the Executive Director shall review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review issue a Certificate of Completeness stating whether the application should be approved, approved with conditions or disapproved. The application may be approved or approved with conditions only if the development as proposed, or subject to any conditions which may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C. 7:50-4.16. The Executive Director may propose in said Certificate of Completeness any reasonable condition that he or she finds is necessary to achieve the objectives of this Plan. The Executive Director shall provide a copy of the Certificate of Completeness to the applicant, the Commission, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

7:50-4.16 Standards for uncertified areas

(a) No local approval may be granted by an uncertified municipality and no approval may be granted pursuant to this Part unless the proposed development:

1. Satisfies all of the criteria and standards established in N.J.A.C. 7:50-5 and 6 of this Plan, provided, however, that the optional land uses contained in N.J.A.C. 7:50-5 shall be permitted, that N.J.A.C. 7:50-5.28(a) shall not apply to exclusive non-residential uses, and that in N.J.A.C. 7:50-6 only the optional elements of N.J.A.C. 7:50-6.144 shall be mandatory for any jurisdiction which is uncertified: and
2. Is otherwise consistent with the objectives of the Federal Act, the Pinelands Protection Act and this Plan.

7:50-4.17 Certificate of Completeness required for determination of completeness and action

No local permitting agency shall determine that any application for development is complete or take any action on any application for development unless the application is accompanied by a Certificate of Completeness issued pursuant to N.J.A.C. 7:50-4.15.

7:50-4.18 Report requirements of local permitting agency with respect to applications for development

(a) General requirement: Every local permitting agency shall give notice to the Pinelands Commission, as hereinafter specified, of the filing of, and of any changes to, and of any hearings and meetings concerning, and of the disposition of every application for development filed with it. Failure to provide said notices shall void any local decision for which such notices were not provided.

(b) Notice of application: Within seven days following a determination of completeness of an application for development, or any change to any application for development which was previously filed, notice of such application shall be given by the local agency, in writing, to the Commission. The notice shall be in such form as the Executive Director shall from time to time specify; but each such notice shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the parcel which the applicant proposes to develop;
3. A brief description of the proposed development, including uses and intensity of uses proposed;
4. The application number of the Certificate of Completeness issued by the Executive Director and the date on which it was issued;
5. The date on which the application, or change thereto, was filed and any application or other identifying number assigned to such application by the local permitting agency;
6. The local permitting agency with which the application or change thereto was filed;
7. The content of any change made to any, such application since it was filed with the Commission; and
8. The nature of the local approval or approvals being sought.

(c) Notice of hearings and meetings: Notice of any hearing, public meeting or other formal proceeding at which an application for development is to be considered shall be given to the Commission by the local agency in writing not less than five days prior to such meeting, hearing or proceeding and shall be in such form as the Executive Director shall from time to time specify. Each notice shall contain at least the following information:

1. The name and address of the applicant;
2. The application number of the Certificate of Completeness issued by the Executive Director and the date on which it was issued;
3. The date, time and location of the meeting, hearing, or other formal proceeding;
4. The name of the local permitting agency or representative there of which will be conducting the meeting, hearing, or other formal proceeding;
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; and
6. The purpose for which the meeting, hearing or other formal proceeding is to be held.

(d) Notice of preliminary approval: Notice of any grant of preliminary site plan or subdivision approval or any other preliminary approval of any application for development provided for by the Municipal Land Use Law or any county or municipal regulations or ordinance shall be given to the Commission by the local agency, by mail, within five days following such grant or approval. Such notice shall be in such form as the Executive Director shall from time to time specify, but shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the parcel which the applicant proposes to develop;
3. The application number of the Certificate of Completeness issued by the Executive Director and the date on which it was issued;
4. The date on which the preliminary approval was granted;
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; and
6. A copy of the resolution or other documentation of the preliminary approval which was granted and a copy of the plans which were approved.

(e) Notice of final determination: Notice of any final determination approving or denying any application for development shall be given to the Commission by the local agency, by mail, within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:
1. The name and address of the applicant;
2. The legal description and street address, if any, of the parcel which the applicant proposes to develop;
3. The application number of the Certificate of Completeness issued by the Executive Director and the date on which it was issued;
4. The date on which the final approval or denial was granted;
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; and
6. A copy of the resolution or other documentation of the local permitting agency approving or denying the application and, if the application was approved, a copy of any final site or subdivision plan or plat or similar plan which was approved by the local permitting agency.

(f) Nothing in this section shall provide for a tolling of time pursuant to N.J.S.A. 40:55D-21 due to the failure of the applicant or local permitting agency to meet the notice requirements of (a) through (e) above. No person shall carry out any development in the Pinelands Area prior to satisfying the notice requirements of (a) through (e) above.

7:50-4.19 Commission review following preliminary approval

(a) Decision to review local approval: Upon receipt of any notice of preliminary local approval given pursuant to N.J.A.C. 7:50-4.18(d), the Executive Director shall review the application for development and all other information in the file, the Certificate of Completeness and the local action and determine whether the local action conforms to the requirements of this Plan. If the Executive Director determines that the proposed development, as approved by the local agency, may not conform to the minimum standards set forth in N.J.A.C. 7:50-4.16, he shall initiate the review procedures set forth in this section. The preliminary approval shall also be reviewed pursuant to this section if the Executive Director determines that there is insufficient information to evaluate whether the proposed development conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16. If the Executive Director determines that the proposed development,

as approved by the local agency, conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16 the preliminary approval will not be reviewed by the Commission.

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.18(d), the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that granted such preliminary approval, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, the notice shall indicate that the applicant, the local permitting agency or any interested person may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing such preliminary approval.

(c) If the Executive Director determines that a preliminary approval shall be reviewed by the Commission and a hearing has been requested before an Administrative Law Judge pursuant to (b) above, he or she shall notify all persons who individually submitted information on the application to the Commission, all persons who have requested a copy of the Commission's decision, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(d) No action by applicant prior to receipt of notice: No person shall carry out any development pursuant to any preliminary approval granted by any local permitting agency until he has received notice provided for in (b) above. If such notice indicates that the Commission will conduct a review of such preliminary approval pursuant to this section, no development shall be carried out unless such review has been completed and the Commission has approved or approved with conditions the proposed development and the provisions of N.J.A.C. 7:50-4.20(d) have been fulfilled.

(e) Termination of review: For any application which has been called up for review by the Commission pursuant to the provisions of this section, the Executive Director may at any time, terminate the review of the application if the applicant submits additional information to demonstrate that the local approval does not raise any issues with respect to the conformance of the proposed development with the minimum standards of the Plan. The Executive Director may also, at any time, terminate the review of the application, if the local permitting agency whose approval has been called up for review modifies its approval so that the approval no longer raises any issues.

7:50-4.20 Decision on review

(a) If no hearing is requested pursuant to N.J.A.C. 7:50-4.19(b), the Executive Director shall, within 60 days after the time to request an appeal has expired, review the application, all other information in the file, the Certificate of Completeness and the local approval and determine whether the preliminary approval is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the preliminary approval, approve the preliminary approval with conditions or disapprove the preliminary approval. The Executive Director shall give written notification of his or her findings and conclusions to the applicant, the Commission, the local approving agency, all persons who have individually submitted information concerning the

application, all persons who have requested a copy of said determination, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(b) Review by the Commission: If a hearing is requested pursuant to N.J.A.C. 7:50-4.19(b), the Commission shall, upon receipt of the initial decision of the Administrative Law Judge, review the initial decision, the application. and the record of the hearing only, and approve, approve with conditions, or disapprove the preliminary approval. If no hearing is requested pursuant to N.J.A.C. 7:50-4.19(b), the Commission shall, after receipt of the Executive Director's recommendation, review said recommendation, the application, other material in the file, the Certificate of Completeness and the local approval only and approve, approve with conditions or disapprove the preliminary approval.

(c) Standards: Preliminary approvals shall be approved or approved with conditions only if the Commission determines that the development as proposed or with any conditions which are imposed, conforms with the minimum standards established in N.J.A.C. 7:50-4.16.

(d) Effect of the determination:

1. If the Commission disapproves any preliminary approval of an application for development, the local permitting agency shall within 30 days revoke such preliminary approval, and, thereafter, deny such application.
2. If the Commission approves a preliminary approval subject to conditions, the local permitting agency shall, within 30 days, modify its preliminary approval to include all conditions imposed by the Commission, and shall grant final approval only if the application for final approval demonstrates that such conditions have been or will be met by the applicant.

7:50-4.21 Notice of changes made subsequent to local preliminary approval

(a) Each local permitting agency shall give notice to the Commission of any design, engineering or other changes made to any application for development by an applicant subsequent to any local preliminary approval reported to the Commission pursuant to N.J.A.C. 7:50-4.18(d), including changes made in response to conditions imposed by the Commission pursuant to N.J.A.C. 7:50-4.20, to the Executive Director, within five days of receipt of such changes. Such notice shall be in such form as the Executive Director shall from time to time specify but shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the parcel which the applicant proposes to develop;
3. The application number of the Certificate of Completeness issued by the Executive Director and the date on which it was issued;
4. Copies of any amended application, site or subdivision plans, plats and other documents reflecting such changes; and
5. A brief description of the nature of such changes.

(b) Any such changes shall be subject to review by the Commission pursuant to N.J.A.C. 7:50-4.19 and 7:50-4.20 in the same manner as the original preliminary approval.

7:50-4.22 Commission review following final local approval

(a) Decision to review local approval: Upon receipt of any notice of final local approval given pursuant to N.J.A.C. 7:50-4.18(e), the Executive Director shall review the application for development, all other information in the file, the Certificate of Completeness and the local action and determine whether the local action conforms to the requirements of this Plan. If the Executive Director determines that the proposed development, as approved by the local agency, may not conform to the minimum standards set forth in N.J.A.C. 7:50-4.16, he shall initiate the review procedures set forth in this section. The Executive Director shall also initiate the review procedures set forth in this section if it is determined there is insufficient information to evaluate whether the proposed development conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16. If the Executive Director determines that sufficient information is available and that the proposed development, as approved by the local agency, conforms to the minimum standards set forth in N.J.A.C. 7:50-4.16 the final approval will not be reviewed by the Commission.

(b) Notice of decision and hearing: Within 15 days following receipt of a notice of final determination containing all the information specified in N.J.A.C. 7:50-4.18(e), the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that granted such approval, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). If applicable, such notice shall set a date, time and place for public hearing as required by N.J.A.C. 7:50-4.23.

(c) No person shall carry out any development pursuant to an approval of an application for development which has been granted by any local permitting agency until he has received the notice provided for in (b) above. If such notice provides that the Commission intends to review such approval pursuant to N.J.A.C. 7:50-4.23 and 4.24, no development shall be carried out until such review has been completed and the Commission has approved or approved with conditions the proposed development and the provisions of N.J.A.C. 7:50-4.24(c) have been fulfilled.

(d) Termination of review: For any application which has been called up for review by the Commission pursuant to the provisions of this section, the Executive Director may, at any time, terminate the review of the application if the applicant submits additional information to demonstrate that the local approval does not raise any issues with respect to the conformance of the proposed development with the minimum standards of the Plan. The Executive Director may also, at any time, terminate the review of the application if the local permitting agency whose approval has been called up for review modifies its approval so that the approval no longer raises any issues.

7:50-4.23 Public hearing

If the Executive Director determines that the approval should be reviewed by the Commission, he shall, within 45 days following receipt of a completed notice of final determination given pursuant to N.J.A.C. 7:50-4.18(e), conduct a public hearing to be held pursuant to the procedures set out in N.J.A.C. 7:50-4.3 of this Plan. The applicant shall have the burden of going forward and the burden of proof at the public hearing. Following conclusion of the public hearing, the Executive Director shall review the record of the public hearing and issue a report on the public hearing to the Commission. The Executive Director may recommend that

the Commission approve the application, approve the application with conditions or disapprove the application. The Executive Director shall given written notification of his or her findings and conclusions to the applicant, the Commission, the local permitting agency, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said determination, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). However, an applicant may, at his or her option, waive all time limits for review imposed by the Pinelands Protection Act or this Plan and request that the hearing be held by an Administrative Law Judge pursuant to the procedures established in N.J.A.C. 7:50-4.91.

7:50-4.24 Decision on review

(a) Determination by Commission: If a hearing is held pursuant to N.J.A.C. 7:50-4.3, the Commission shall, within 45 days following the notice given pursuant to N.J.A.C. 7:50-4.22(b), review the record of the hearing and the Executive Director's report only and make a determination as to whether the proposed development should be approved, approved with conditions or disapproved. If a hearing is held before an Administrative Law Judge pursuant to N.J.A.C. 7:50-4.91, the Commission shall within 45 days of receipt of the initial decision of the Administrative Law Judge, review the initial decision, the record of the hearing and the application only and approve, approve with conditions or disapprove the proposed development.

(b) Standards: The development shall be approved or approved with conditions only if the Commission determines that the development as proposed, or with any conditions which are imposed, conforms with the minimum standards established in N.J.A.C. 7:50-4.16.

(c) Effect of the Commission's decision.

1. If the Commission disapproves the final local approval of any such application, the local permitting agency shall within 30 days revoke such approval and, thereafter, deny final approval of such application.
2. If the Commission approves the local permitting agency's approval of any such application subject to conditions, the local permitting agency shall within 30 days modify its approval to include all conditions imposed.

7:50-4.25 Commission review following local denial

(a) Decision to review local denial: Upon receipt of a notice of a local denial given pursuant to N.J.A.C. 7:50-4.18(e), the Executive Director shall review the application for development, all other information in the file, the Certificate of Completeness and the local action and determine whether the local action conforms to the requirements of this Plan. If the Executive Director determines that the proposed development may conform to the minimum standards set forth in N.J.A.C. 7:50-4.16 and that the local denial may be contrary to the standards of the Plan, he shall initiate the review procedures set forth in this section. If the Executive Director determines that the proposed development does not conform to the minimum standards set forth in N.J.A.C. 7:50-4.16 or that the local denial is based on matters not regulated by the Plan and is not contrary to any such standards, the local denial will not be reviewed by the Commission.

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of a denial containing all the information specified in N.J.A.C. 7:50-4.18(e) the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that denied the applicant, all persons who have individually submitted

information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the denial should be reviewed by the Commission, the notice shall be sent by mail to the applicant and the local agency that granted the approval. The notice shall indicate that the applicant, the local permitting agency or any interested person may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing the denial.

(c) If the Executive Director determines that a denial shall be reviewed by the Commission and a hearing before an Administrative Law Judge has been requested pursuant to (b) above, he or she shall notify all persons who individually submitted information on the application to the Commission, all persons who have requested a copy of the Commission's decision and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

7:50-4.26 Decision on review

(a) If no hearing is requested pursuant to N.J.A.C. 7:50-4.25(b), the Executive Director shall, within 60 days after the time to request an appeal has expired, review the application and all other information in the file, the Certificate of Completeness and the local denial and determine whether the denial is in conformance with the minimum standards of this Plan. The Executive Director may recommend the Commission approve the application, approve the application with conditions, disapprove the application or allow the local denial to stand. The Executive Director shall give written notification of his or her findings and conclusions to the applicant, the Commission, the local approving agency, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said determination, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(b) Review by the Commission: If a hearing is requested pursuant to N.J.A.C. 7:50-4.25(b), the Commission shall, upon receipt of the initial decision of the Administrative Law Judge, review the initial decision, the application, and the record of the hearing only, and approve, approve with conditions, or disapprove the proposed development or let the local denial stand. If no hearing is requested pursuant to N.J.A.C. 7:50-4.25(b), the Commission shall after receipt of the Executive Director's recommendation, review said recommendation, the application, the Certificate of Completeness, other material in the file and the local denial only, and approve, approve with conditions or disapprove the proposed development or allow the local denial to stand.

(c) Standards: The development shall be approved or approved with conditions only if the Commission determines that the development as proposed, or with any conditions which are imposed, conforms with the minimum standards established in N.J.A.C. 7:50-4.16 and that the local denial is based on matters regulated by the Plan.

(d) Effect of the determination:

1. If the Commission approves an application which received a local denial, the local permitting agency shall revoke the denial, and, thereafter, approve of such application within 30 days.
2. If the Commission approves, subject to conditions, an application which received a local denial, the local permitting agency shall, within 30 days, revoke its denial and grant approval subject to the conditions imposed by the Commission.

7:50-4.27 Effect of Pinelands Development Approval

A Pinelands Development Approval issued pursuant to the provisions of this Part in effect prior to July 15, 1985 shall have the same effect as a Certificate of Completeness issued pursuant to N.J.A.C. 7:50-4.15 unless the applicant received a valid local approval prior to July 15, 1985. If such a valid local approval was granted, the Pinelands Development Approval shall continue to have the same force and effect as if this Part had not been amended effective July 15, 1985.

7:50-4.28 through 7:50-4.30 (Reserved)

PART III-REVIEW OF LOCAL PERMITS IN CERTIFIED MUNICIPALITIES

7:50-4.31 Purpose

(a) It is the purpose of this Part to establish procedures and standards to govern Commission review of municipal or county approval of applications for development in certified municipalities in the Pinelands Area, to ensure that development will occur only to the extent that it is consistent with the objectives of this Plan, and to ensure that adequate consideration will be given to critical on-site and off-site engineering, planning and design elements so as to preserve and maximize the benefits to the wide diversity of rare, threatened and endangered plant and animal species and the many significant and unique natural, ecological, agricultural, scenic, archaeological, historic, cultural and recreational resources found in the Pinelands Area. In particular, it is the purpose of this Part to ensure that all development approved by local permitting agencies is located, planned, designed, laid out, constructed and serviced in accordance with the standards set forth in N.J.A.C. 7:50-5 and 6 and the objectives of this Plan.

(b) The procedures established in this Part provide for Commission review of all permits issued by local permitting agencies in certified municipalities except for activities specifically exempted by the Pinelands Protection Act or this Plan. Except where municipal review is pre-empted by State or Federal laws or regulations, municipal review and approval or denial shall occur for all development in the Pinelands Area. If development is proposed, but a permit from a local permitting agency is pre-empted by State or Federal laws or regulations, the provisions of Part VII of this subchapter shall apply. The standards of this Part are minimum standards to be met by all development in the Pinelands and are designed to assure that all such development will be adequately planned, designed and served to protect the unique environment of the Pinelands Area.

(c) In order to alert landowners at an early stage to any issues raised by a proposed development in regard to the conformance of the development with the minimum standards of this Plan, this Part also provides for Commission staff participation during the local permitting agency proceedings, as well as providing for Commission review of preliminary local approvals of applications for development.

(d) The provisions of this Part may be modified through the implementation of alternative local permitting programs as provided in N.J.A.C. 7:50-3.81 through 3.85.

7:50-4.32 Applicability

The provisions of this Part shall be applicable to development of land located within a certified municipality, except for those activities specifically excepted in N.J.A.C. 7:50-4.1. Unless otherwise provided through an alternative municipal permitting program which is implemented pursuant to N.J.A.C. 7:50-3.81 through 3.85, no person shall carry out any development in any portion of the Pinelands Area located within the jurisdiction of a municipality with a certified plan and land use ordinances without first complying with all applicable procedures set forth in this Part and the provisions of said certified ordinances. Any decision made pursuant to this Part shall supersede any local decision. No local decision shall impose any requirements which in any way contravene any standard contained in this Plan or the applicable certified land use ordinance.

7:50-4.33 Applicant to submit copies of local applications to Commission

Prior to filing any application for development of land in the Pinelands Area with any local permitting agency, the applicant shall complete an application with the Commission in accordance with the requirements of N.J.A.C. 7:50-4.2(b).

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

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

7:50-4.35 Report requirements of local permitting agency with respect to applications for development

(a) General requirement: Every local permitting agency shall give notice to the Commission, as hereinafter specified, of the filing of, and changes to, any application for development and of hearings and meetings concerning the filing and disposition of every application for development filed with it.

(b) Notice of application: Within seven days following a determination of completeness of an application for development, or any change to any application for development which was previously filed, notice of such application shall be given by the local agency, by mail, to the Commission. The notice shall be in such form as the Executive Director shall from time to time specify; but each such notice shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the parcel which the applicant proposes to develop;

3. A brief description of the proposed development, including uses and intensity of uses proposed;
4. The application number of the Certificate of Filing or Notice of Filing issued by the Executive Director and the date on which it was issued;
5. The date on which the application, or change thereto, was filed and any application or other identifying number assigned to such application by the local permitting agency;
6. The local permitting agency with which the application or change thereto was filed;
7. The content of any change made to any such application since it was filed with the Commission including a copy of any revised plan or reports; and
8. The nature of the local approval or approvals being sought.

(c) Notice of hearings and meetings: Notice of any hearing, public meeting or other formal proceeding at which an application for development is to be considered shall be given to the Commission by mail or delivery of the same to the principal office of the Commission not less than five days prior to such meeting, hearing or proceeding and shall be in such form as the Executive Director shall from time to time specify. Each notice shall contain at least the following information:

1. The name and address of the applicant;
2. The application number of the Certificate of Filing or Notice of Filing issued by the Executive Director and the date on which it was issued;
3. The date, time and location of the meeting, hearing or other formal proceeding;
4. The name of the local permitting agency or representative thereof which will be conducting the meeting, hearing or other formal proceeding;
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; and
6. The purpose for which the meeting, hearing or other formal proceeding is to be held.

(d) Notice of preliminary approval: Notice of any grant of preliminary site plan or subdivision approval or any other preliminary approval of any application for development provided for by the Municipal Land Use Law or any county or municipal regulation or ordinance shall be given to the Commission, by mail, within five days following such grant or approval. Such notice shall be in such form as the Executive Director shall from time to time specify, but shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the parcel which the applicant proposes to develop;
3. The application number of the Certificate of Filing or Notice of Filing issued by the Executive Director and the date on which it was issued;
4. The date on which the preliminary approval was granted;
5. Any written reports or comments received by the local permitting agency on the application for development that have not been previously submitted to the Commission; and
6. A copy of the resolution or other documentation of the preliminary approval and a copy of the submitted preliminary plans that were approved by the local permitting agency.

(e) Notice of final determination: Notice of any final determination with respect to any application for development shall be given to the Commission by mail within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:
1. The name and address of the applicant;
2. The legal description and street address, if any, of the parcel which the applicant proposes to develop;
3. The application number of the Certificate of Filing or Notice of Filing issued by the Executive Director and the date on which it was issued;
4. The date on which the final approval was granted;
5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; and
6. A copy of the resolution or other documentation of the local permitting agency approving or denying the application and, if the application was approved, a copy of any final plan, plot or similar document which was approved by the local permitting agency.

(f) Nothing in this section shall provide for a tolling of time pursuant to N.J.S.A. 40:55D-21 due to the failure of the applicant or local permitting agency to meet the notice requirements of (a) through (e) above. No person shall carry out any development in the Pinelands Area prior to satisfying the notice requirements of (a) through (e) above.

7:50-4.36 Commission staff participation in local review process

(a) Determination of degree of participation: Upon receipt of an application filed pursuant to N.J.A.C. 7:50-4.33 or any notice given pursuant to N.J.A.C. 7:50-4.35(b) or (c), the Executive Director may at his discretion, after reviewing the application for development, determine that, by reason of the nature of the development proposal, the site involved or any other factor, the Commission staff should participate in the local permitting process. The participation of the Commission staff may include, but is not limited to:
1. Submitting, in writing, either within the Certificate of Filing or Notice of Filing or in a separate document, an analysis of any concerns and opinions the Commission staff has with respect to the conformance of the proposed development with the minimum standards of this Plan, including a list of any conditions which it determines should be imposed in the event that a permit is granted; or
2. Submitting written evidence with respect to the satisfaction, by the proposed development, of any applicable standards for development contained in this Plan.

(b) Local permitting agency to allow Commission staff participation: Each local permitting agency granted permitting authority by N.J.A.C. 7:50-3.18 or 3.38, after certification of the jurisdiction's plan, shall permit the Commission staff to appear at any meeting or hearing described in N.J.A.C. 7:50-4.35(c) and present opinions and evidence in regard to the application being considered. At the option of the Executive Director, the opinions and evidence of the Commission staff may be submitted to the local permitting agency in written form in addition to actual appearance at such hearing or meeting.

(c) Conference with Commission staff: Subsequent to any submission by the Commission staff pursuant to (a) above, either the applicant or local permitting agency may request an informal conference with the Executive Director for the purpose of discussing any

application for development. The Executive Director shall schedule such conference within 21 days following any such request.

7:50-4.37 Commission review following preliminary approval

(a) Decision to review local approval: Upon receipt of any notice of local approval given pursuant to N.J.A.C. 7:50-4.35(d), the Executive Director shall review the application for development submitted and any Commission staff recommendation made pursuant to N.J.A.C. 7:50-4.36 and determine whether the grant of preliminary approval raises substantial issues with respect to the conformance of the proposed development with the minimum standards of this Plan. If substantial issues are raised, the preliminary approval shall be reviewed pursuant to this section. The preliminary approval shall also be reviewed pursuant to this section if the Executive Director determines there is insufficient information to evaluate whether there is such a substantial issue. If substantial issues are not raised, the preliminary approval shall not be reviewed.

(b) Notice of decision and hearing: Within 30 days following receipt of a notice of preliminary approval containing all the information specified in N.J.A.C. 7:50-4.3-5(d), the Executive Director shall give notice of his or her determination by mail to the applicant, the local permitting agency that granted such preliminary approval, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). If the Executive Director determines that the preliminary approval should be reviewed by the Commission, the notice shall indicate that either the applicant, the local permitting agency or any interested person may, within 21 days of mailing of such notice, request that a hearing be held before an Administrative Law Judge pursuant to the procedures established by N.J.A.C. 7:50-4.91 for the purpose of reviewing such preliminary approval.

(c) If the Executive Director decides to review a preliminary approval and a hearing before an Administrative Law Judge has been requested pursuant to (b) above, he or she shall notify all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(d) No action by applicant prior to receipt of notice: No person shall carry out any development pursuant to a preliminary approval granted by any local permitting agency until he has received the notice provided for in (b) above. If such notice indicates that the Commission intends to conduct a review of such preliminary approval pursuant to this section, no development shall be carried out unless such review has been completed and the Commission has approved or approved with conditions the proposed development and the provisions of N.J.A.C. 7:50-4.38(d) have been fulfilled.

(e) Termination of review: For any application which has been called up for review by the Commission pursuant to the provisions of this section, the Executive Director may, at any time, terminate the review of the application if the applicant submits additional information to demonstrate that the local approval does not raise a substantial issue with respect to the conformance of the proposed development with the minimum standards of the Plan and the provisions of the relevant certified local ordinance. The Executive Director may also, at any time, terminate the review of the application, if the local permitting agency

whose approval has been called up for review modifies its approval so that the approval no longer raises any substantial issues.

7:50-4.38 Decision on review

(a) Determination by Executive Director: If no hearing is requested by the applicant, the local permitting agency or any interested person pursuant to N.J.A.C. 7:50-4.37(b), the Executive Director shall, within 60 days after the time to request a hearing has expired, review the application, all other information in the file including any staff reports and the local approval and determine whether the preliminary approval is in conformance with the minimum standards of this Plan and the provisions of the relevant certified local ordinance. The Executive Director may recommend the Commission approve the preliminary approval, approve the preliminary approval with conditions or disapprove the preliminary approval. The Executive Director shall give written notification of his or her findings and conclusions to the applicant, the Commission, the local approving agency, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said determination, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(b) Review by the Commission: If a hearing is requested pursuant to N.J.A.C. 7:50-4.37(b), the Commission shall, upon receipt of the findings of fact and recommendations of the Administrative Law Judge, review such findings and recommendation, the application, the file and the record of the hearing only, and approve, approve with conditions or disapprove the preliminary approval. If no hearing is requested pursuant to N.J.A.C. 7:50-4.37(b), the Commission shall, after receipt of the Executive Director's recommendation, review said recommendation, the application, other material in the file including any staff reports and the local approval only and approve, approve with conditions or disapprove the preliminary approval.

(c) Standards: Preliminary approvals shall be approved or approved with conditions only if the Commission determines that the development as proposed, or with any conditions which are imposed, conforms to the minimum standards established by N.J.A.C. 7:50-4.16 and the provisions of the relevant certified local ordinance.

(d) Effect of determination.

1. If the Commission disapproves any preliminary approval of an application for development, the local permitting agency shall, within 30 days, revoke such preliminary approval and, thereafter, deny such application.
2. If the Commission approved a preliminary approval subject to conditions, the local permitting agency shall, within 30 days, modify its preliminary approval to include all conditions imposed by the Commission, and shall grant final approval only if the application for final approval demonstrates that such conditions have been or will be met by the applicant.

7:50-4.39 Notice of changes made subsequent to local preliminary approval

(a) Each local permitting agency shall give notice to the Commission of any design, engineering or other changes made to any application for development by an applicant subsequent to any local preliminary approval reported to the Commission pursuant to N.J.A.C. 7:50-4.35(d), including changes made in response to conditions imposed by the Commission pursuant to N.J.A.C. 7:50-4.38, to the Executive Director, by mail, within

five days of receipt of such changes. Such notice shall be in such form as the Executive Director shall from time to time specify but shall contain at least the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the parcel which the applicant proposes to develop;
3. The application number of the Certificate of Filing or Notice of Filing issued by the Executive Director and the date on which it was issued;
4. Copies of any amended application, site plans, plats or other documents reflecting such changes; and
5. A brief description of the nature of such changes.

(b) Any such change shall be subject to review by the Commission pursuant to N.J.A.C. 7:50-4.37 and 4.38 in the same manner as the original preliminary approval.

7:50-4.40 Commission review following final local approval

(a) Decision to review local approval: Upon receipt of any notice given pursuant to N.J.A.C. 7:50-4.35(e), the Executive Director shall review the application for development submitted, any Commission staff recommendation made pursuant to N.J.A.C. 7:50-4.36 and any decision on preliminary review pursuant to N.J.A.C. 7:50-4.38 and determine whether the approval of the application for development raises substantial issues with respect to the conformance of the proposed development with the minimum standards of this Plan and the provisions of the relevant certified local ordinance. If substantial issues are raised, the approval shall be reviewed pursuant to N.J.A.C. 7:50-4.41 and 4.42. The final approval shall also be reviewed if the Executive Director determines that there is insufficient information to evaluate whether there is such a substantial issue. If sufficient information is available and substantial issues are not raised, the final approval shall not be reviewed by the Commission.

(b) Notice of decision and hearing: Within 15 days following receipt of a notice of final determination containing all the information specified in N.J.A.C. 7:50-4.35(e), the Executive Director shall give notice of his or her determination by mail to the applicant, the clerk of the local permitting authority that granted such approval, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). If applicable, such notice shall set a date, time and place for public hearing, as required by N.J.A.C. 7:50-4.41.

(c) No action by applicant prior to receipt of notice: No person shall carry out any development pursuant to an approval of an application for development which has been granted by any local permitting agency until he has received the notice provided for in (b) above. If such notice provides that the Commission intends to review such approval pursuant to N.J.A.C. 7:50-4.41 and 4.42 of this Part, no development shall be carried out unless such review has been completed and the Commission has approved or approved with conditions the proposed development and the provisions of N.J.A.C. 7:50-4.42(c) have been fulfilled.

(d) Termination of review: For any application which has been called up for review by the Commission pursuant to the provisions of this section, the Executive Director may, at any time, terminate the review of the application if the applicant submits additional information to demonstrate the local approval does not raise a substantial issue with respect to the

conformance of the proposed development with the minimum standards of the Plan and the provisions of the relevant certified local ordinance. The Executive Director may also, at any time, terminate the review of the application if the local permitting agency where approval has been called up for review modifies its approval so that the approval no longer raises any substantial issues.

7:50-4.41 Public hearing

If the Executive Director determines that the approval should be reviewed by the Commission, he or she shall, within 45 days following receipt of a completed notice of final determination given pursuant to N.J.A.C. 7:50-4.35(c), conduct a public hearing to be held pursuant to the procedures set out in N.J.A.C. 7:50-4.3. The applicant shall have the burden of going forward and the burden of proof at the public hearing. Applications from applicants who do not provide notice for any hearing and do not make a timely request for adjournment shall be recommended for denial. For applicants who do not appear at more than one scheduled public hearing, the Executive Director may determine that no further adjournment of the public hearing will be provided. Following conclusion of the public hearing, the Executive Director shall review the record of the public hearing and issue a report on the public hearing to the Commission. The Executive Director may recommend that the Commission approve the application, approve the application with conditions or disapprove the application. The Executive Director shall give written notification of his or her findings and conclusions to the applicant, the Commission, the local approval agency, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said determination, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). However, an applicant may, at his or her option, waive all time limits for review imposed by the Pinelands Protection Act or this Plan and request that the hearing be held by an Administrative Law Judge pursuant to the procedures established in N.J.A.C. 7:50-4.91.

7:50-4.42 Decision on review

(a) Determination by Commission: If a hearing is held pursuant to N.J.A.C. 7:50-4.3, the Commission shall, within 45 days following the notice given pursuant to N.J.A.C. 7:50-4.40(b) unless extended pursuant to N.J.A.C. 7:50-4.4, review the record of the hearing and the Executive Director's report only and make a determination as to whether the proposed development should be approved, approved with conditions or disapproved. If a hearing is held before an Administrative Law Judge pursuant to N.J.A.C. 7:50-4.91, the Commission shall, within 45 days of receipt of the initial decision of the Administrative Law Judge, review the initial decision, the record of the hearing and the application only and approve, approve with conditions or disapprove the proposed development. If no hearing is held because of the failure of the applicant to appear, the Commission shall, within 45 days following the notice given pursuant to N.J.A.C. 7:50-4.40(b), unless extended pursuant to N.J.A.C. 7:50-4.4, review the Executive Director's recommendation, the application, other material in the file including any staff reports and the local approval only and approve, approve with conditions or disapprove the proposed development. If no hearing is held because of the failure of the applicant to provide notice, the Commission shall deny the proposed development without prejudice.

(b) Standards: The permit shall be approved or approved with conditions only if the Commission determines that the development as proposed, or with any conditions which

are imposed, conforms with the minimum standards established in N.J.A.C. 7:50-4.16 and the provisions of the relevant certified local ordinance.

(c) Effect of the Commission's decision:

1. If the Commission disapproves the final local approval of any such application, the local permitting agency shall revoke such approval and, thereafter, within 30 days, deny final approval of such application.
2. If the Commission approves the local permitting agency's approval of any such application, subject to conditions, the local permitting agency shall, within 30 days, modify its approval to include all conditions imposed.

7:50-4.43 through 7:50-4.50 (Reserved)

PART IV-PUBLIC DEVELOPMENT

7:50-4.51 Purpose

This Part establishes procedures and standards designed to assure that public development in the Pinelands Area is in conformance with the goals and provisions of this Plan.

7:50-4.52 General requirements

(a) Conformance with minimum standards: All development within the Pinelands Area by any state or local public agency shall be in conformance with the minimum standards set out in N.J.A.C. 7:50-4.16 and all other standards and guidelines contained in this Plan, except as otherwise provided by memoranda of agreement between the Commission and such agency or a state agency plan approved by the Commission pursuant to (e) below. All development within a Military and Federal Installation Area shall be in substantial conformance with the minimum standards and guidelines contained in this Plan, except where incompatible with national defense mission or other national security requirements as provided in (d) below.

(b) Commission approval required: Except as provided in an intergovernmental agreement, no development shall be initiated by any state or local public agency prior to conferring with and obtaining the approval of the Commission pursuant to the procedures established by this Part. Except as provided in an intergovernmental memorandum of agreement, the Commission shall review development within a federal military installation or development by another federal agency only where a state or local permit is required by Federal law or regulations. Such reviews shall be in accordance with the provisions of Part VII of this subchapter.

(c) Intergovernmental agreements:

1. The Commission may enter into intergovernmental memoranda of agreement with any agency of the Federal, State or local government which authorize such agency to carry out specified development activities without securing individual development approval from the Commission under this Part, provided the specified development activities are consistent with the provisions of N.J.A.C. 7:50-5 and 6.
2. The Commission may enter into intergovernmental memoranda of agreement with any agency of the Federal, State or local government which authorize such agency to

carry out specified development activities that may not be fully consistent with the provisions of N.J.A.C. 7:50-5 and 6, provided such agency demonstrates and the Commission finds that variation from the standards of this Plan is accompanied by measures that will, at a minimum, afford an equivalent level of protection of the resources of the Pinelands than would be provided through a strict application of the standards of this Plan. Any intergovernmental memorandum of agreement relating to waste management shall be consistent with the standards and provisions of N.J.A.C. 7:50-6.80.

3. Prior to the execution of any intergovernmental memorandum of agreement by the Commission, the Executive Director shall set the date, time and place of a public hearing for consideration of the agreement. The public hearing shall be noticed and held by the Executive Director in accordance with the provisions of N.J.A.C. 7:50-4.3.

(d) Exceptions for national defense are as follows:

1. Notwithstanding any provision of this Plan, if the commander of a military installation determines that compliance with the provisions of this Plan, the installation master plan or a memorandum of agreement with a military installation would be incompatible with the installation's mission, safety or other national defense requirements, the installation commander shall notify the Commission in writing.
2. Upon receipt by the Commission of such notification compliance with any provision of this Plan shall be deemed to be waived.
3. In time of war or when war is imminent or a national emergency is declared by Congress or the President, nothing in this Plan shall modify or limit any other provisions of law granting emergency powers to the President, the Secretary of Defense, or persons possessing such authority by delegation from the President or Secretary of Defense, to include but not be limited to acts of using property, mobilizing and training personnel, or acquiring property.

(e) State agency plans:

1. Any agency of the State of New Jersey may submit to the Commission for review and approval a comprehensive plan of its existing and planned land use, resource management and development activities within the Pinelands. Such plans shall:
   - i. Be based upon a current and comprehensive inventory and analysis of the Pinelands natural resources. The Commission's natural resource inventory may be used as a basis for this purpose;
   - ii. Set forth the character, location and magnitude of development within the Pinelands;
   - iii. Be adequate to ensure that all development of land in the Pinelands is carried out in conformance with N.J.A.C. 7:50-5 and 6, provided, however, that alternative or additional techniques may be included if consistent with the goals and objectives of this Plan;
   - iv. Prescribe standards for capital improvement siting, design and construction, including those necessary to ensure that adequate and necessary support facilities will be available to serve permitted development and proposed uses of lands;
   - v. Identify resource management practices which conform to the objectives of this Plan, the Pinelands Protection Act, and the Federal Act;

vi. Be compatible with surrounding land uses and certified municipal and county master plans; and

vii. Be otherwise consistent with and contain all provisions necessary to implement this Plan.

2. Upon Commission approval of such plan, the Commission shall review any proposed development in accordance with the standards of this Plan as modified by specified provisions of the approved agency plan.
3. Each agency and the Commission may propose amendments to an approved plan from time to time. Such amendments shall be approved in the manner provided in this part and such amendments shall not require the revision or approval of the plan as a whole.

7:50-4.53 Pre-application conference and submission requirements

(a) Request for pre-application conference: Prior to initiating any development within the Pinelands Area, a public agency shall submit a request for a pre-application conference to the Executive Director pursuant to N.J.A.C. 7:50-4.2(a).

(b) Submission requirement: Following the completion of the pre-application conference, the public agency shall submit such information which the Executive Director determines is necessary to enable the Commission to review the proposed development for conformity with the standards of this Plan.

(c) In addition to the requirements of (a) and (b) above, a public agency seeking approval for major development, as defined in N.J.A.C. 7:50-2.11, which will be located on a specific parcel, shall provide notice of the application for public development as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject property as provided for in N.J.S.A. 40:55D-12(b). The administrative officer of the municipality shall provide a certified list of said property owners as provided for in N.J.S.A. 40:55D-12(c). The applicant shall be entitled to rely upon the information contained in said certified list as provided in N.J.S.A. 40:55D-12(c); and
2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a); or

(d) In addition to the requirements of (a) and (b) above, a public agency seeking approval for major development, as defined in N.J.A.C. 7:50-2.11, which either is for chemical control of vegetation in a water body where no permanent alteration of the water table is proposed or will not be located on a specific parcel, including a proposed development located within a right-of-way or easement, shall provide notice of the application for public development as follows:

1. Notice shall be given by publication in any official newspapers of the Pinelands Commission having general circulation in any municipality in which the proposed development is located; and
2. Notice shall be given by publication in the official newspaper, if any, of each municipality in which the proposed development will be located or if there is no official newspaper in any such municipality then in a newspaper of general circulation in that municipality.

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

1. The nature of the application pending before the Pinelands Commission, including a description of the proposed development;

2. That action may be taken on the application after 10 days from the date the notice is published and mailed;
3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments received within 10 days of the mailing or publication of the notice will be considered in the review of the application;
4. That the application is available for inspection at the office of the Pinelands Commission;
5. The address and phone number of the Pinelands Commission; and
6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested person who is aggrieved by said determination is entitled to a hearing by appealing the determination.

(f) If the applicant significantly modifies the proposed development from that described in the most recent notice given pursuant to (c), (d) and (e) above, then the applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development.

(g) No application for which the above notice is required, shall be deemed complete until proof that the requisite notice has been given is received.

(h) The Executive Director's action on any application for which the above notice is required shall not be taken until five days after the 10 day period set forth herein has expired. If any public comments have been received concerning the application, the Executive Director shall inform the applicant that public comments have been submitted prior to making a recommendation on the application for public development.

7:50-4.54 Review of submission by Executive Director

Within 30 days following receipt of a completed application for public development, the Executive Director shall review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review make a determination whether the application should be approved, approved with conditions or disapproved. The application may be recommended for approval or approval with conditions only if the development as proposed, or subject to any conditions that may be imposed, conforms to each of the minimum standards for development approval established by N.J.A.C. 7:50-4.57. The Executive Director may attach to any determination to recommend approval of an application any reasonable condition which he or she finds is necessary to achieve the objectives of this Plan. The Executive Director shall give written notification of his or her findings and conclusion to the applicant, the Commission, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said decision, and any person, organization or agency that has registered under 7:50-4.3(b)2i(2).

7:50-4.55 Rights of appeal

Any interested person who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may only be presented to the Pinelands Commission by requesting a hearing pursuant to N.J.A.C. 7:50-4.91.

7:50-4.56 Action by Commission

At the next regular Commission meeting after the time for appeal under N.J.A.C. 7:50-4.91 has expired and no interested person has requested a hearing, the Commission may approve the determination of the Executive Director or refer the determination of the Executive Director to the Office of Administrative Law. If the Pinelands Commission fails to take any action at said meeting, the determination of the Executive Director shall be referred to the Office of Administrative Law unless an extension of time for the Commission to act is approved pursuant to N.J.A.C. 7:50-4.4. If the Executive Director's determination is referred to the Office of Administrative Law, the referral shall be treated as a petition for appeal in accordance with the provisions of N.J.A.C. 7:50-4.91.

7:50-4.57 Standards for public development

(a) The Commission shall approve or conditionally approve an application filed pursuant to this Part only if the development as proposed, or with any conditions which are imposed:

1. Satisfies all of the standards established by N.J.A.C. 7:50-5 and 6 or a certified local plan and if a local agency of a certified municipality or certified county is seeking approval, the provisions of the certified ordinances and master plan of that jurisdiction; and
2. If the proposed development includes any public roads, the applicant demonstrates that: alternative locations or transportation modes including mass transit and non-motorized methods cannot be employed to satisfy transportation needs; and public fishing, crabbing or canoe access facilities in association with bridge crossings will be provided as appropriate.

7:50-4.58 Limits on public agency actions

No public agency shall carry out any development which has been disapproved by the Commission pursuant to this Part, nor shall any public agency initiate any proposed development which has been approved with conditions by the Commission pursuant to this Part unless the conditions imposed are incorporated into the proposed development.

7:50-4.59 through 7:50-4.60 (Reserved)

PART V-WAIVER OF STRICT COMPLIANCE WITH PROVISIONS OF THE COMPREHENSIVE MANAGEMENT PLAN

7:50-4.61 Purpose

This Part establishes procedures and standards pursuant to which the Commission may waive strict compliance with the Plan. Waivers from the standards of N.J.A.C. 7:50-5 or 6 may be granted in limited circumstances. Waivers granted pursuant to this Part are intended to provide relief where strict compliance with this Plan will create an extraordinary hardship or where the waiver is necessary to serve a compelling public need. The relief provided will be consistent with the protection of the resources of the Pinelands. The relief granted will only be the minimum necessary to alleviate the extraordinary hardship or the compelling public need. For some extraordinary hardship cases, the minimum relief granted will allow the development of the

parcel in question; in others the minimum relief will include an allocation of Pinelands Development Credits. These provisions are designed to provide all property owners with at least a minimum beneficial use of their parcels consistent with constitutional requirements. For some compelling public need cases, special measures may need to be taken so there will be an overall improvement to the resources of the Pinelands.

7:50-4.62 General standards

(a) Waivers may only be granted when either:
   1. An extraordinary hardship has been established pursuant to N.J.A.C. 7:50-4.63(a) or (b); or
   2. A compelling public need has been established pursuant to N.J.A.C. 7:50-4.64.

(b) Notwithstanding (a)1 above, the requested relief may not be granted if it will either result in a substantial impairment of the resources of the Pinelands Area or be inconsistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act or this Plan pursuant to the criteria set forth in N.J.A.C. 7:50-4.65.

(c) Notwithstanding (a) and (b) above, the requested relief may not be granted if it will involve trespass or create a public or private nuisance by being materially detrimental or injurious to other property or improvements in the area in which the subject property is located, increase the danger of fire or endanger public safety.

(d) When approved, the waiver may only grant the minimum relief necessary to relieve the extraordinary hardship or satisfy the compelling public need.
   1. Any waiver which grants relief from the standards of this Plan to permit development of the parcel in question shall require:
      i. The reduction as set forth in N.J.A.C. 7:50-5.43(b)3 of any Pinelands Development Credits which are allocated to the parcel pursuant to N.J.A.C. 7:50-5.43(b);
      ii. The acquisition and redemption of any Pinelands Development Credits that are otherwise required pursuant to N.J.A.C. 7:50-5.27, 5.28 or 5.32;
      iii. The acquisition and redemption of 0.25 Pinelands Development Credits for a waiver of one or more of the standards in N.J.A.C. 7:50-6. Nothing in this subparagraph shall be construed as relieving an applicant of the requirement to reduce a Pinelands Development Credit allocation or acquire and redeem Pinelands Development Credits pursuant to (d)1i above. The requirements of this subparagraph shall not apply to the following:
         (1) State projects located on and directly related to the management and use of State conservation lands;
         (2) Projects essential for the remediation of a site contaminated with wastes or hazardous or toxic substances; and
         (3) Projects which qualify for a Waiver of Strict Compliance based on compelling public need pursuant to N.J.A.C. 7:50-4.64 and which involve one or more of the criteria set forth in N.J.A.C. 7:50-4.65(b); and
      iv. The development meets the criteria set forth in N.J.A.C. 7:50-4.65(c) if the waiver is based on compelling public need pursuant to N.J.A.C. 7:50-4.64 and involves one or more of the criteria set forth in N.J.A.C. 7:50-4.65(b).

2. Any parcel for which an extraordinary hardship exists pursuant to N.J.A.C. 7:50-4.63(b) but which is precluded from on-site development pursuant to N.J.A.C. 7:50-4.63(b)4 and 4.65(b) shall receive an additional use right of an allocation of Pinelands Development Credits based on the fair market value of the parcel. The allocation shall be based on the market value of the Pinelands Development Credits at the time the application for a waiver is completed, provided that the applicant shall be entitled to a minimum allocation of 0.25 Pinelands Development Credits. Unless severed from the parcel pursuant to N.J.A.C. 7:50-5.47, any conveyance, sale or transfer of the parcel shall include the Pinelands Development Credits allocated herein. The applicant shall be entitled to demonstrate that the allocation of Pinelands Development Credits based on fair market value in conjunction with the permitted uses on the parcel does not give the parcel a beneficial use. If the applicant believes that even considering this allocation of Credits the parcel does not have a beneficial use, the applicant is entitled to appeal the allocation pursuant to N.J.A.C. 7:50-4.68.

7:50-4.63 Standards for establishing extraordinary hardship

(a) An extraordinary hardship is deemed to exist when the applicant demonstrates based on specific facts and the Pinelands Commission verifies that all of the following conditions exist:

1. Except as provided in (a)1v below, the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for one of the following:
   - i. Cultural housing pursuant to N.J.A.C. 7:50-5.32 on a parcel at least 1.0 acres in size;
   - ii. A single family dwelling or a permitted commercial use within an infill area designated pursuant to N.J.A.C. 7:50-5.22(b)7 and located on a parcel at least 1.0 acres in size;
   - iii. A single family dwelling on a substandard parcel containing at least 1.0 acres pursuant to N.J.A.C. 7:50-5.31;
   - iv. A single family dwelling on a parcel within a Regional Growth Area, Pinelands Town or Pinelands Village which will be served by a centralized waste water treatment system;
   - v. A single family dwelling on a parcel within a Regional Growth Area, Pinelands Town or Pinelands Village which is at least 20,000 square feet, excluding road rights of way, in size and is not served by a centralized waste water treatment system;
   - vi. A single family dwelling on a parcel within a Forest Area that complies with the density and lot area standards set forth in N.J.A.C. 7:50-5.23(a)2 and (c);
   - vii. A single family dwelling on a parcel within a Rural Development Area that complies with the density and lot area standards set forth in N.J.A.C. 7:50-5.26(a) and (c);
   - viii. A single family dwelling on combined properties in either the Forest Area or Rural Development Area which meets the density transfer standards of N.J.A.C. 7:50-5.30;
   - ix. A single family dwelling accessory to an active agricultural operation in an Agricultural Production Area pursuant to the criteria contained in N.J.A.C. 7:50-5.24(a)2;

x. A single family dwelling accessory to an active agricultural operation in a Special Agricultural Production Area pursuant to the criteria contained in N.J.A.C. 7:50-5.25(b)1;

xi. An agricultural commercial establishment with a gross floor area no greater than 500 square feet which is located on a property which otherwise qualifies for a single family dwelling accessory to an active agricultural operation pursuant to either N.J.A.C. 7:50-5.24(a)2 or 5.25(b)1; or

xii. Agricultural employee housing which is located on a property which otherwise qualifies for a single family dwelling accessory to an active agricultural operation pursuant to either N.J.A.C. 7:50-5.24(a)2 or 5.24(b)1;

2. The parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands;
3. Except as expressly provided in N.J.A.C. 7:50-5.1(c), the proposed use will be either the sole principal use or an accessory use to the sole principal use as permitted in (a)1ix, (a)1x, (a)1xi or (a)1xii above on the entire contiguous parcel, as established in (a)2 above;
4. All necessary municipal use, lot area and density variances have been obtained if the property is located in a municipality whose master plan and land use ordinances have been fully certified by the Pinelands Commission pursuant to N.J.A.C. 7:50-3; and
5. The development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b).

(b) An extraordinary hardship as distinguished from a mere inconvenience also exists when the applicant demonstrates and the Pinelands Commission verifies that all of the following conditions exist:

1. The parcel includes all contiguous lands in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands;
2. The parcel includes all contiguous land with no substantial improvements which is available in whole or in part for purchase at fair market value, including lands which become contiguous as a result of the acquisition of other contiguous lands;
3. The parcel, including all contiguous lands which are available pursuant to (b)1 and 2 above, may not have a beneficial use considering the following factors:

i. The value of any existing development or use of the parcel, including any allocation of Pinelands Development Credits to the parcel pursuant to N.J.A.C. 7:50-5.43(b);

ii. The value of any use or development of the parcel that is authorized by the provisions of this Plan;

iii. The ability of the property owner to sell the subject parcel to the owner of a contiguous parcel, any governmental agency or to a nonprofit conservation group for its fair market value;

iv. The ability of the property owner to either buy non-contiguous land or sell the subject parcel to a non-contiguous property owner under a transfer of density provision contained in a certified municipal land use ordinance or pursuant to N.J.A.C. 7:50-5.30 in an uncertified municipality; and

v. Any inability to have a beneficial use relates to or arises out of the characteristics of the subject parcel and results from unique circumstances peculiar to the subject parcel which:

(1) Are not the result of any personal situation of the applicant including the necessity of purchasing additional land to attempt to either meet the minimum lot size, density or management standards of the Plan or to increase the parcel size so it is capable of having a beneficial use; and

(2) Are not the result of any action or inaction by the applicant, the owner or any predecessor in title including any transfer of any contiguous lands which were in common ownership on or after January 14, 1981 or the refusal on or after January 14, 1981 of the applicant, the owner or any predecessor-in-title to either sell the subject parcel for its fair market value at the time the offer was made or to buy a contiguous parcel for its fair market value at the time the offer was made; and

4. The development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b).

7:50-4.64 Standards for establishing compelling public need

(a) An applicant shall be deemed to have established compelling public need if the applicant demonstrates based on specific facts and the Pinelands Commission verifies that one of the following conditions exist:

1. The proposed development will serve an essential health or safety need of the municipality or, in the case of an application serving more than one Pinelands municipality, the county in which the proposed development is located, and:

i. The public health and safety require the requested waiver;

ii. The public benefits from the proposed use are of a character that override the importance of the protection of the Pinelands as established in the Pinelands Protection Act or the Federal Act;

iii. The proposed use is required to serve existing needs of the residents of the Pinelands; and

iv. No feasible alternatives exist outside the Pinelands Area to meet the established public need and that no better alternatives exist within the Pinelands Area; or

2. The proposed development constitutes an adaptive reuse of a historic resource designated pursuant to N.J.A.C. 7:50-6.154, and:

i. The reuse is the minimum relief necessary to ensure the integrity and continued protection of the designated historic resource; and

ii. The designated historic resource's integrity and continued protection cannot be maintained without the granting of a Waiver of Strict Compliance.

(b) The applicant shall also demonstrate either that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b) or that if one or more of the criteria are violated that the development meets the requirements of N.J.A.C. 7:50-4.65(c).

7:50-4.65 Substantial impairment and consistency

(a) No Waiver of Strict Compliance which permits a parcel to be developed shall be approved unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and this Plan and will not result in a substantial impairment of the resources of the Pinelands Area.

(b) Unless alleviating measures are taken pursuant to (c) below for waivers based on compelling public need, the following circumstances do not comply with (a) above:

1. Development of any non-permitted use in the Preservation Area District, any Special Agricultural Production Area, any Forest Area or any Agricultural Production Area;
2. Any residential use in the Preservation Area District, any Special Agricultural Production Area or any Agricultural Production Area which does not meet the requirements set forth in N.J.A.C. 7:50-5.22(b)7, 5.24(a)2, (a)3 or (c), 5.25(b)1 or (c), 5.31 or 5.32;
3. Any residential use to be served by an on-site sewage disposal system where the overall density is greater than one dwelling unit per 20,000 square feet, excluding road rights of way, or where any dwelling will be located on a lot smaller than 20,000 square feet, excluding road rights of way;
4. Any non-residential use to be served by an on-site sewage disposal system where the nitrate-nitrogen level exceeds five parts per million at the parcel line;
5. Any development, except for development permitted in wetlands pursuant to N.J.A.C. 7:50-6, Part I, which will be located on any wetland unless that wetland is an impaired wetland;
6. Any development, except for development permitted in wetlands buffers pursuant to N.J.A.C. 7:50-6, Part I, which will be located within 50 feet of any wetland unless the wetland is either an impaired wetland or located in a Regional Growth Area, Pinelands Town or Pinelands Village;
7. Any development which will violate the threatened and endangered species protection requirements contained in N.J.A.C. 7:50-6.27 and 6.33;
8. Any development which will require the location of a wastewater disposal field in an area where the seasonal high water table is within two feet of the natural ground surface or within 50 feet of any surface water body;
9. Any development which will result in a new direct discharge of storm water into any fresh water wetlands which are not impaired wetlands; or
10. In addition to the criteria specified above, the existence of special or unusual circumstances will be evaluated in determining whether a particular development complies with (a) above.

(c) If an application meets the criteria for establishing a compelling public need pursuant to N.J.A.C. 7:50-4.64, but one or more of the circumstances in (b) above exist, then the application does not meet the criteria of (a) above unless the applicant demonstrates, based on particular facts, that the development, when evaluated in its entirety, including any special measures that are part of the development proposal, will result in an overall improvement of the resources of the Pinelands Area.

(d) Even if an applicant does not violate any of the criteria contained in (b) above, the waiver may only grant the minimum relief necessary to relieve the extraordinary hardship or satisfy the compelling public need.

7:50-4.66 Application

(a) An application for a waiver shall be submitted to the Commission in accordance with the requirements of N.J.A.C. 7:50-4.2(b). An application for a waiver may be filed prior to filing an application for development. If during review of an application for development it appears necessary to obtain a waiver, the applicant may apply for a waiver. Any application for a waiver shall stay the time period for review set forth in Parts II, III or IV of this subchapter as the case may be while the application for the waiver is pending.

(b) In addition to the requirements in (a) above, an applicant requesting a Waiver of Strict Compliance which involves a specific parcel shall provide notice of the application for a Waiver of Strict Compliance as follows:

1. Notice shall be given to owners of real property within 200 feet of the subject parcel as provided for in N.J.S.A. 40:55D-12(b). The administrative officer of the municipality shall provide a certified list of said property owners as provided for in N.J.S.A. 40:55D-12(c). The applicant shall be entitled to rely on the information contained in said certified list as provided in N.J.S.A. 40:55D-12(c).
2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a).

(c) In addition to the requirements in (a) and (b) above, an applicant requesting a Waiver of Strict Compliance which will not be located on a specific parcel, shall provide notice of the application for a Waiver of Strict Compliance as follows:

1. Notice shall be given by publication in any official newspaper of the Pinelands Commission having general circulation in any municipality in which the proposed Waiver of Strict Compliance shall apply; and
2. Notice shall be given by publication in the official newspaper, if any, of all municipalities in which the proposed Waiver of Strict Compliance shall apply or, if there is no official newspaper in any such municipality, then in a newspaper of general circulation in that municipality.

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

1. The nature of the application pending before the Pinelands Commission, including a description of the proposed development and a statement of all Waivers sought;
2. That the Pinelands Commission will schedule and hold a public hearing on the application, the date and time of which will be posted on the Commission's website;
3. That action may be taken on the application after 10 days from the date the notice is published and mailed;
4. That written comments on the application may be submitted to the Pinelands Commission at the public hearing or in writing and that all such comments received within 10 days of the mailing or publication of the notice or within the notice period established for the public hearing will be considered in the review of the application;
5. That the application is available for inspection at the office of the Pinelands Commission;
6. The mailing address, phone number and website address of the Pinelands Commission; and
7. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested person who is aggrieved by said determination is entitled to a hearing by appealing the determination.

(e) If the applicant significantly modifies either the proposed development or the requested Waivers from that described in the most recent notice given pursuant to (b), (c) and (d) above, then the applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development and the requested Waivers.

(f) No application for a Waiver of Strict Compliance shall be deemed complete until proof that the requisite notice has been given is received.

(g) The Executive Director's action on any application for which the above notice is required, shall not be taken until five days after the 10 day comment period set forth herein has expired. If any public comments have been received concerning the application, the Executive Director shall inform the applicant that public comments have been submitted prior to making a recommendation on the application for a Waiver of Strict Compliance.

(h) For an application submitted pursuant to N.J.A.C. 7:50-4.63(a) for which a municipal use, lot area or density variance is required pursuant to N.J.A.C. 7:50-4.63(a)4, the notice required pursuant to (b) above shall not be separately required by the Pinelands Commission provided that the notice for the municipal variance is submitted to the Pinelands Commission and contains at least the information specified in (d) above and the application to the Pinelands Commission is completed within one year of the municipal approval of the variance.

(i) For an application submitted pursuant to N.J.A.C. 7:50-4.64(a)1, the Executive Director shall set the date, time and place for a public hearing for consideration of the application. The public hearing shall be noticed and held by the Executive Director in accordance with the provisions of N.J.A.C. 7:50-4.3.

7:50-4.67 Action By Executive Director on application

Within 90 days following the receipt of a complete application for waiver, the Executive Director shall review the application and all information submitted by the applicant and any other person relating to the application and upon completion of such review make a determination whether the application should be approved, approved with conditions or disapproved. The application may be recommended for approval or approval with conditions only if the applicant, subject to any conditions which may be imposed, meets the standards for a Waiver of Strict Compliance established in N.J.A.C. 7:50-4.62. The Executive Director shall give written notification of his or her findings and conclusion to the applicant, the Commission, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said determination, and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2).

7:50-4.68 Rights of appeal

Any interested person who is aggrieved by any determination made by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional information not included in the Executive Director's determination may be presented to the Pinelands Commission only by requesting a hearing pursuant to N.J.A.C. 7:50-4.91. If the appeal is based on an allegation that the parcel does not have a beneficial use even considering the allocation of Pinelands Development Credits pursuant to N.J.A.C. 7:50-4.62(c)2, the applicant must include specific documentation concerning the economic value of each of the permitted uses of the parcel once

the Pinelands Development Credits are transferred and documentation of the value necessary to give the parcel a beneficial use as part of the appeal process. If the applicant demonstrates that the allocation of the Pinelands Development Credits based on fair market value along with the other permitted uses of the parcel does not result in the parcel having a beneficial use, the allocation of Pinelands Development Credits shall be increased to the number necessary to provide the parcel with a beneficial use.

7:50-4.69 Action by Commission

If at the next regular Commission meeting after the time for appeal under N.J.A.C. 7:50-4.91 has expired and no request for an appeal has been received, the Commission may approve the determination of the Executive Director or refer the determination of the Executive Director to the Office of Administrative Law. If the Commission fails to take any action at said meeting, the determination of the Executive Director shall be referred to the Office of Administrative Law unless an extension of time for the Commission to act is approved pursuant to N.J.A.C. 7:50-4.4. If the Executive Director's determination is referred to the Office of Administrative Law, the referral shall be treated as a petition for appeal in accordance with the provisions of N.J.A.C. 7:50-4.91.

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

(a) Any waiver granted under the provisions of this Part shall only be considered a waiver of the particular standard of this Plan which the Commission waived. It shall not constitute an approval of the entire development proposal. Nor shall it constitute a waiver from any requirements contained within any certified local ordinance.

(b) Waivers approved under former N.J.A.C. 7:50-4.66(a)1ii, repealed effective November 2, 1987, and former N.J.A.C. 7:50-4.55(a)1iii, repealed effective September 12, 1985, shall expire as follows:

1. Any waiver previously approved under the final subdivision standard contained in the now repealed N.J.A.C. 7:50-4.55(a)1iii shall continue to be subject to the condition that the waiver shall expire after two years if substantial construction of improvements is not commenced, or if fewer than 10 percent of the total number of lots in the subdivision are sold or built upon within any succeeding 12 month period; and

2. Any waiver previously approved under the prior municipal development approval standard contained in the previously repealed N.J.A.C. 7:50-4.66(a)1ii has expired or will expire, without exception, unless the requirements in (b)2i, ii and one of iii, iv or v below have been met and continue to be met:

   i. All necessary municipal planning board or board of adjustment approvals were obtained by January 14, 1991;

   ii. No additional approval, extension, renewal or any other action whatsoever is required or received from either the municipal planning board or board of adjustment after January 14, 1991; and either

   iii. All necessary approvals, including all necessary construction permits, were obtained by January 3, 1995 or within 18 months of the expiration of any tolling pursuant to N.J.S.A. 40:55D-21 of the running of the period of the planning board or board of adjustment approval pursuant to N.J.S.A. 40:55D-47 or 40:55D-52,

whichever is later; and no construction permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after the latter of said dates; or

iv. All necessary approvals, including all necessary construction permits, are obtained by December 31, 1996 and no construction permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after said date, provided that the lot for which the approvals and permits are issued either fronts on a road that prior to January 3, 1995 was improved at least to the extent of the installation of a subbase or had a foundation or septic system lawfully constructed on said lot prior to January 3, 1995; or

v. All necessary approvals, including all necessary construction permits, are obtained by February 3, 2007 and no construction permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after said date, provided that development rights have been transferred from other lands in the Pinelands Area in accordance with the following conditions:

(1) Development rights shall only be transferred from lands located in the Preservation Area District, Special Agricultural Production Area or Forest Area, except as provided in (b)2v(4)(c) and (d) below;

(2) At least one of the qualifying parcels in the Preservation Area District, Special Agricultural Production Area or Forest Area from which development rights are to be transferred must be at least 500 acres in size and of conservation value;

(3) All lands to be utilized in the transfer must be:

(A) Deed restricted so as to preclude further development except fish and wildlife management, low intensity recreational uses and limited dedicated public rights-of-way for emergency access; or

(B) Conveyed to the State, a local jurisdiction or a not-for-profit conservation organization in fee simple absolute and deed restricted in accordance with (6)2v(3)(A) above;

(4) The number of development rights to be transferred to the parcel which received a waiver approval pursuant to the previously repealed N.J.A.C. 7:50-4.66(a)1ii shall not exceed the number of units which received all necessary municipal planning board and board of adjustment approvals by January 14, 1991 pursuant to (b)2i above or result in the development of more units on the parcel than were approved pursuant to the previously repealed N.J.A.C. 7:50-4.66(a)1ii and shall be determined based on the following:

(A) The permitted density for lands in the Forest Area;

(B) The number of dwelling units associated with the number of Pinelands Development Credits allocated to a parcel in the Preservation Area District or Special Agricultural Production Area pursuant to N.J.A.C. 7:50-5.43 and 5.45;

(C) For waiver parcels located in a Rural Development Area, the permitted density for other lands located in the Rural Development Area of the municipality in which the waiver

parcel is located, provided that the development rights to be transferred from such land do not exceed 10 percent of the total number of units proposed to be transferred; and

(D) The density permitted pursuant to N.J.A.C. 7:50-5, unless, for waiver parcels located in a Forest Area or Rural Development Area, the certified municipal zoning is consistent with the density requirements of N.J.A.C. 7:50-5.23(a) or 5.26(a), for those undeveloped portions of the site which were designated for development in the original waiver approval. The undeveloped portion of the site will be determined by calculating that percentage of the total number of units approved pursuant to the previously repealed N.J.A.C. 7:50-4.66(a)1ii that will not be developed and applying that percentage to the area designated for development in the waiver approval.

(c) Any waiver approved pursuant to N.J.A.C. 7:50-4.63 which authorizes development of the parcel shall expire five years after the Waiver is approved unless all necessary construction permits have been issued within said five year period, the authorized work was commenced within 12 months after issuance of the permits and no such permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after said five year period.

(d) A copy of any approval of a Waiver of Strict Compliance by the Pinelands Commission shall be recorded in the office of the county recording officer of the county wherein the real estate that is subject to the Waiver is situated pursuant to N.J.S.A. 46:16-2 within 60 days of the approval of the Waiver. Said recording shall be notice to all subsequent judgment creditors, purchasers and mortgagees of the existence and contents of the approved Waiver of Strict Compliance.

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

1. The Pinelands Commission action on the Waiver of Strict Compliance is based on information that was submitted to the Pinelands Commission prior to March 2, 1992;
2. The applicant has not requested that the application be reviewed pursuant to the N.J.A.C. 7:50-2.11 definitions of "contiguous lands," "fair market value" and "impaired wetlands," and N.J.A.C. 7:50-4.2(b)7 and 4.61 through this section, as amended or adopted effective March 2, 1992; and either
3. The Pinelands Commission acts on the application at its next regularly scheduled meeting after the time to appeal under N.J.A.C. 7:50-4.91 has expired and no request for appeal has been received; or
4. A timely request for an appeal is received under N.J.A.C. 7:50-4.91 or the Executive Director's determination is referred to the Office of Administrative Law by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.69 (formerly N.J.A.C. 7:50-4.65).

PART VI-LETTERS OF INTERPRETATION

7:50-4.71 Purpose

This Part is intended to provide an expeditious method by which any person may secure a clarification or interpretation of the meaning of any provision of this Plan, or any rule or regulation adopted pursuant to it.

(a) The Executive Director may, subject to the procedures, standards and limitations set forth in this Part, issue letters of clarification or interpretation of any provision of this Plan, or any rule or regulation issued pursuant to it. No letter of clarification or interpretation shall have the effect of modifying, amending, abrogating or waiving any substantive requirement of this Plan. These interpretations may include:

1. A determination of whether a particular use, which is not expressly authorized in an area, is substantially similar to the uses authorized in the area and should be authorized; or
2. A determination of the definition or application of any provision of this Plan.

7:50-4.73 Request for interpretation

(a) A request for a letter of clarification or interpretation shall be initiated by requesting a pre-application conference pursuant to N.J.A.C. 7:50-4.2(a). This request shall set forth the clarification or interpretation requested and the facts or the circumstances which are the basis for the request for an interpretation, together with any proposed clarification or interpretation desired by the applicant. The applicant shall include all information determined to be necessary by the Executive Director after the pre-application conference. Within 30 days after receipt of a request for a letter of clarification or interpretation, the Executive Director shall inform the applicant of any additional information which is required in order to make a determination of the requested clarification or interpretation.

(b) An applicant for a letter of clarification or interpretation involving a specific parcel, except where the letter of interpretation involves solely the question of the number of Pinelands Development Credits which are attributed to a specific parcel, shall provide notice of the application as follows:

1. Notice shall be given to owners of all real property within 200 feet of the subject parcel as provided for in N.J.S.A. 40:55D-12(b). The administrative officer of the municipality shall provide a certified list of said property owners as provided for in N.J.S.A. 40:55D-12(c). The applicant shall be entitled to rely upon the information contained in said certified list as provided in N.J.S.A. 40:55D-12(c); and
2. Notice shall be given by publication in the official newspaper of the municipality in which the parcel is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12(a).

(c) An applicant for a letter of clarification or interpretation not involving a specific parcel, including a proposed development located within a right-of-way or easement, shall provide notice of the application as follows:

1. Notice shall be given by publication in any official newspaper of the Pinelands Commission having general circulation in any municipality in which the parcel that is the subject of the proposed interpretation or clarification is located or in all the

official newspapers of the Pinelands Commission if the requested clarification or interpretation does not apply to a specific development proposal; and

2. Notice shall be given by publication in the official newspaper, if any, of the municipality in which the parcel subject to the proposed interpretation or clarification is located or, if there is no official newspaper in any such municipality, then in a newspaper of general circulation in that municipality.

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

1. The nature of the application pending before the Pinelands Commission, including a statement of the requested interpretation or clarification and, if known, a description of the proposed development;
2. That action may be taken on the application after 10 days from the date the notice is published and mailed;
3. That written comments on the application may be submitted to the Pinelands Commission and that all such comments received within 10 days of the mailing or publication of the notice will be considered in the review of the application;
4. That the application is available for inspection at the office of the Pinelands Commission;
5. The address and phone number of the Pinelands Commission; and
6. That any person who provides comments or requests a copy of the Executive Director's findings and conclusion shall be provided a copy of said findings and conclusion and that any interested person who is aggrieved by said determination is entitled to a hearing by appealing the determination.

(e) If the applicant significantly modifies either the proposed development or the requested letter of interpretation or clarification from that described in the most recent notice given pursuant to (b), (c) and (d) above, then the applicant shall again provide the notice mandated by said subsections so that the notice accurately describes the proposed development or requested letter of interpretation or clarification.

(f) No application for which the above notice is required, shall be deemed complete until proof that the requisite notice has been given is received.

(g) The Executive Director's action on any application for which the above notice is required shall not be taken until five days after the 10 day comment period set forth herein has expired. If any public comments have been received concerning the application, the Executive Director shall inform the applicant that public comments have been submitted prior to issuing the letter of interpretation or clarification.

7:50-4.74 Interpretation by Executive Director

Except as provided in N.J.A.C. 7:50-4.75, the Executive Director shall, within 45 days following the receipt of a completed request for clarification or interpretation review the application and all information submitted by the applicant or any other person relating to the application and upon completion of such review issue a letter of clarification or interpretation. A copy of the letter shall be provided to the appropriate municipal or county planning board, environmental commission, if any, all persons who have individually submitted information concerning the application, all persons who have requested a copy of said determination and any person, organization or agency that has registered under N.J.A.C. 7:50-4.3(b)2i(2). The letter issued by the Executive Director shall specify the grounds, reasons and analysis upon which the clarification or interpretation is based. In the event the Executive Director fails to render a letter of clarification or interpretation within 45 days of receipt of a completed application or such

longer period of time as may be agreed to by the applicant, the applicant is entitled to request a hearing pursuant to N.J.A.C. 7:50-4.91. Nothing in this section shall be construed to prevent any person from resubmitting a request for clarification or interpretation.

7:50-4.75 Limitations on issuance of use interpretations

(a) No use interpretation shall permit a use listed as an authorized use in any area to be established in any area in which such use is not listed.

(b) No use interpretation shall permit any use in any area unless the Executive Director determines that the use will be in conformity with the minimum standards and requirements of this Plan.

(c) No use interpretations shall authorize any use in a particular area unless the use is substantially similar to other uses authorized in the area.

7:50-4.76 Effect of and limitation on favorable interpretation

(a) No letter of clarification or interpretation shall authorize the establishment of a use or the carrying out of any development, but shall merely authorize the preparation, filing and processing of applications for any permits and approvals which may be required by the codes and ordinances of any local permitting agency with jurisdiction over the subject parcel or this Plan.

(b) No letter of clarification or interpretation shall be valid for a period longer than five years from the date of issuance, unless a final approval pursuant to this Plan has been granted within that period, and development is thereafter diligently pursued to completion, or the use is legally commenced within that period.

7:50-4.77 Binding effect of interpretations

Any letter of clarification or interpretation issued by the Executive Director pursuant to this Part shall be binding so long as the applicant complies with all applicable conditions imposed by the provisions of this Part or other provisions of this Plan.

7:50-4.78 Monthly report

The Executive Director shall keep a record of each clarification or interpretation rendered pursuant to this Part and shall file a monthly report of such clarifications or interpretations with the Commission. The report may include a recommendation of the Executive Director that this Plan be amended to add new uses to the various use lists established by this Plan to reflect any use interpretations given pursuant to this Part.

7:50-4.79 Appeal

Any interested person who is aggrieved by any clarification or interpretation given by the Executive Director pursuant to this Part may within 15 days appeal the Executive Director's clarification or interpretation to the full Commission as provided in N.J.A.C. 7:50-4.91.

7:50-4.80 (Reserved)

PART VII-COORDINATED PERMITTING WITH STATE AGENCIES

7:50-4.81 General requirements; applicant to submit application to Executive Director

(a) No department, board, bureau, official or other agency of the State of New Jersey shall issue any approval, certificate, license, consent, permit, or financial assistance for the construction of any structure or the disturbance of any land in the Pinelands Area unless such approval or grant is consistent with the minimum standards of this Plan.

(b) Prior to filing any application for development in the Pinelands Area with any department, board, bureau, official or other agency of the State of New Jersey, the applicant shall file with the Commission a duplicate copy of the application. The Executive Director may within 30 days require the applicant to submit any additional information which he determines is necessary in order to evaluate the interest of the Commission in such application. No State department, board, bureau, official or other agency shall deem an application for development complete unless it is accompanied by a Certificate of Filing, a Notice of Filing, a Certificate of Completeness or a resolution of the Pinelands Commission approving, pursuant to the provisions of Part IV of this subchapter, an application for public development. Notwithstanding these requirements, the Pinelands Commission may enter into an intergovernmental memorandum of agreement with any State department, board, bureau, official or other agency for the purpose of eliminating or altering any of the procedural requirements set forth in this subsection concerning the review by a State agency of third party development.

7:50-4.82 Determination of Commission interests; Commission staff participation in State review process

(a) Review of application: Within 30 days following receipt of any application or additional information submitted pursuant to N.J.A.C. 7:50-4.81, the Executive Director shall review the application and additional information and determine what, if any, special interests the Commission has with respect to the application, the extent to which the Commission staff should participate in any proceedings held by the state agency with which the application is to be filed, and whether any Commission review provided for in this Plan should be conducted before, after or simultaneously with any proceedings to be conducted by the state agency.

(b) Issuance of Certificate of Filing: If the Executive Director determines that any proceedings to be conducted by the state agency in question should be conducted prior to or simultaneously with any Commission review provided for in this Plan, the Executive Director shall within 30 days issue to the applicant a Certificate of Filing evidencing the fact that the applicant has complied with the provisions of N.J.A.C. 7:50-4.81 and authorizing the filing of the application with the state agency. Such Certificate of Filing shall indicate that any permit, approval or authorization granted by the state agency shall be conditioned upon the issuance of any Commission approval provided for by this Plan.

(c) Determination of degree of participation: If the Executive Director determines pursuant to (a) above that any state agency proceeding, with respect to an application filed pursuant to N.J.A.C. 7:50-4.81, should be conducted before or simultaneously with any Commission review, he shall determine the appropriate nature and extent of Commission staff participation in such proceeding. Its participation may include, but is not limited to:

1. Submitting a written analysis of any concerns and opinions the Commission staff has with respect to the conformance of the proposed development with the minimum standards of the Plan, including a list of conditions which it determines should be imposed in the event that the permit is granted;

2. Submitting written evidence with respect to the conformance by the proposed development with the minimum standards of this Plan.

(d) State agency to allow Commission staff participation: Each state agency with jurisdiction over any application for development in the Pinelands Area shall permit the Commission staff to participate at any meeting, hearing or other proceeding at which an application for development in the Pinelands Area is to be considered and to present the opinions of the Commission staff with respect to the application. At the option of the Executive Director, the Commission staff submissions to the state agency may be in written form in addition to actual appearance at such hearing or meeting.

7:50-4.83 Notice from State agencies with respect to applications for development

(a) General: Every department, board, bureau, official and other agency of the state shall give notice to the Commission of the filing of any applications for development and of hearings, meetings and other formal proceedings concerning the filing and disposition of every application for development in the Pinelands Area filed with it.

(b) Notice of application: Notice of submission of any application for development shall be given by mail within seven days following such filing and shall contain the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the parcel which the applicant proposed to develop;
3. A brief description of the proposed development, including uses and intensity of uses proposed;
4. The Pinelands Commission application number;
5. The date on which the application was filed and any application or other identifying number assigned to such application by the State agency;
6. The state agency with which the application was filed; and
7. The nature of the approval or approvals being sought.

(c) Notice of hearings and meetings: Notice of any hearing, public meeting or other formal proceeding at which the filing or disposition of any application for development in the Pinelands Area is to be considered shall be given by mail no less than five days prior to such meeting or hearing and shall contain the following information:

1. The name and address of the applicant;
2. The Pinelands Commission application number;
3. The date, time and location of the meeting or hearing;
4. The name of the state agency which will conduct the meeting or hearing;
5. Any written reports or comments received by the state agency on the application which have not previously been submitted to the Commission; and
6. The purpose for which the meeting or hearing is to be held.

(d) Notice of grant of final determination: Notice of any final determination by any department, board, bureau, official or other agency of the State with respect to any application for development in the Pinelands Area shall be given by mail within five days of the grant or denial of such approval and shall contain the following information:

1. The name and address of the applicant;
2. The legal description and street address, if any, of the property which the applicant proposes to develop;
3. The Pinelands Commission application number;

4. A copy of the permit, approval or authorization which was issued; and
5. A copy of any approved plans.

7:50-4.84 Referral of matters to state agency

At any stage of any Commission review of development provided for in this Plan, the Executive Director may refer any issue raised in such review to any state department, board, bureau, official or other agency of the state with a request for such information or assistance as may be necessary or convenient to permit the Commission to fulfill its duties and responsibilities. Upon receipt of such referral, the state agency shall provide any requested information, assistance or recommendation relating to any issues within the areas of its expertise. Any such information, assistance or recommendations shall not be binding on such agency with respect to the granting of any permit, approval or other authorization required by the laws and regulations applicable to such agency shall be deemed to be purely advisory to the Commission.

7:50-4.85 Referral of matters to Commission by state agency

At any stage of any proceedings conducted by any state department, board, bureau, official or other agency of the state with respect to development in the Pinelands Area, such agency may refer any issue raised in such proceedings to the Commission. Upon receipt of such referral, the Commission shall provide any requested information or recommendation relating to any issues relating to this Plan, any other Commission rules or regulations, or any other matters of special concern to the Commission. Such recommendations shall not be binding on the Commission with respect to the grant of any approval required by this Plan but shall be deemed purely advisory.

7:50-4.86 through 7:50-4.90 (Reserved)

PART VIII-RECONSIDERATION AND JUDICIAL REVIEW

7:50-4.91 Appeal

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

1. The name and address of the person requesting the appeal;
2. The number of the application which is the subject of the appeal;
3. The date on which the determination to be appealed was made;
4. A statement detailing the basis for the appeal;
5. A certificate of service indicating that service of the notice has been made, by certified mail, on the clerk of the county or municipal planning board and environmental commission, if any, with jurisdiction over the property which was the subject of the decision or order.

(b) Any person who is granted, by any provision of this Plan, a right to request a hearing conducted by the Office of Administrative Law concerning a local approval that the Executive Director has determined should be reviewed by the Pinelands Commission shall, within 15 days of the date the Executive Director's determination is deemed

rendered pursuant to N.J.A.C. 7:50-4.3(e)3, perfect such right by giving notice by mail of his or her intent to request a hearing to the Commission. Such notice shall include the information specified in (a)1 through 5 above.

(c) Hearing: Within 15 days following receipt of a notice filed pursuant to (a) or (b) above, or of any demand for a hearing at which an Administrative Law Judge is to preside which is provided for in this Plan, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.

(d) Burden: The person requesting the appeal or hearing shall have the burden of going forward and the burden of proof on all issues.

(e) Commission review of record: Within 45 days following receipt of the initial decision of the Administrative Law Judge, unless an extension has been approved pursuant to the Administrative Procedures Act, N.J.S.A. 52:15B-1 et seq. and the procedures adopted by the Office of Administrative Law, the Commission shall consider the hearing record and the initial decision only and issue a final order with respect to the matter in controversy.

7:50-4.92 Judicial review

Judicial review may be had of any final determination or order of the Commission as provided by Section 19 of the Pinelands Protection Act or any other provision of State law. All appeals of determinations of the Executive Director shall be made to the Office of Administrative Law pursuant to N.J.A.C. 7:50-4.91. If an appeal of a determination of the Executive Director is sought by any person pursuant to N.J.A.C. 7:50-4.91, all limitation periods provided by State law for seeking judicial review of any decision of the Commission shall be deemed to commence upon entry of the Commission's order on the appeal or hearing pursuant to N.J.A.C. 7:50-4.91(d).

SUBCHAPTER 5. MINIMUM STANDARDS FOR LAND USES AND INTENSITIES

INTRODUCTION

The Pinelands Protection Act provides in part that the Comprehensive Management Plan is to "encourage appropriate patterns of compatible residential, commercial and industrial development in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influences in an orderly way while protecting the Pinelands environment from the individual and cumulative adverse impacts thereof" and to "discourage piecemeal and scattered development" while protecting the Pinelands environment. Subchapter 5 contains minimum standards for the development and use of land which the Pinelands Commission has determined are necessary to protect and maintain the essential character of the Pinelands environment and to accomplish the purposes of the Pinelands Protection Act and the Federal Act.

The provisions of this subchapter are intended to serve as minimum standards for the preparation and adoption of county and municipal master plans and land use ordinances and State agency plans. The provisions of this subchapter are also intended to serve as guidelines for the preparation of Federal installation plans. It is recognized that specific provisions of this subchapter, including the management area delineations, can be refined by local agencies provided that the objectives and goals the minimum standards represent will be achieved. In determining whether to certify a municipal or county master plan or land use ordinance under the provisions of N.J.A.C. 7:50-3 of this Plan, approve a State agency plan under the provisions of N.J.A.C. 7:50-4.52(e) of this Plan, or find a Federal installation master plan in substantial conformance under the provisions of N.J.A.C. 7:50-3, Part V, the Pinelands Commission will consider the extent to which the plan or land use ordinance ensures that all development of land will be in conformance with the minimum standards of this subchapter.

It is also recognized that a municipality, county, State or Federal agency may adopt more restrictive regulations provided that such regulations are compatible with the goals and objectives of this Plan. In such cases, all development must adhere to the more restrictive regulations.

PART I-STANDARDS OF GENERAL APPLICABILITY

7:50-5.1 Development in accordance with this Plan

(a) No development shall be carried out by any person unless that development conforms to the minimum requirements and standards of this Plan.

(b) The extraction or underground storage of natural gas or other minerals not expressly authorized in this Plan is prohibited.

(c) Unless expressly permitted in a certified municipal land use ordinance, no more than one principal use shall be located on one lot, except for forestry, agriculture, horticulture, fish and wildlife management, wetlands management, and, on agricultural lands, recreation development.

(d) A municipality may include in its master plan and land use ordinance provisions which permit mobile homes or other similarly manufactured dwelling units a part of a government-sponsored program which provides housing for the elderly. Such mobile homes or manufactured dwelling units shall be exempt from the density limitations of this Part, provided that:
1. They are associated with existing single family dwellings; and
2. They are intended only for temporary housing and occupancy for no longer than three years.

7:50-5.2 Continuation, expansion and changes of existing uses

(a) Notwithstanding the use restrictions contained in Part III of this subchapter, a municipality may permit the continuation of any nonconforming use, provided that such use is not abandoned, and further provided that no such use shall be expanded, altered, or changed to another nonconforming use, except as provided in (b) and (c) below.

(b) Notwithstanding the use restrictions contained in Part III of this subchapter, a municipality may permit the expansion or alteration of any nonconforming use existing on January 14, 1981 or any nonconforming use which was constructed based upon an approval granted pursuant to this Plan, other than intensive recreation facilities and those uses which are expressly limited in N.J.A.C. 7:50-6, provided that:
1. The use was not abandoned or terminated subsequent to January 14, 1981;
2. The expansion or alteration of the use is in accordance with all of the minimum standards of N.J.A.C. 7:50-6;
3. The area of expansion does not exceed 50 percent of the floor area, the area of the use or the capacity of the use, whichever is applicable, on January 14, 1981 or which was approved pursuant to this Plan.

(c) A municipality may include in its ordinance a provision which, notwithstanding the use restrictions contained in Part III of this subchapter, permits a change in any nonconforming use existing on January 14, 1981 or any nonconforming use which was constructed based upon an approval granted pursuant to this Plan, other than those uses which are expressly limited in N.J.A.C. 7:50-6, provided that:
1. The use was not abandoned or terminated subsequent to January 14, 1981;
2. The new use is in accordance with all of the minimum standards of N.J.A.C. 7:50-6 including N.J.A.C. 7:50-6.84(a)4, unless a new septic system permit will not be required as a result of the change

in use, in which case the standards of N.J.A.C. 7:50-6.83(b) and (c) must be met; and

3. The area, capacity, and intensity of the new use is comparable to that of the existing use.

(d) A municipality may limit the application of (a), (b) and (c) above to those uses which conformed to its zoning ordinance as of January 14, 1981.

7:50-5.3 Map status

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

1. Pinelands Area Jurisdiction Boundaries, Plate 1, as amended as of August 21, 1995;
2. Surficial Geology, Plate 2, as amended as of August 21, 1995;
3. NW-SE Geologic Cross-Section, Plate 3;
4. Hydrogeologic Features, Plate 4, as amended as of August 21, 1995;
5. Surface Water Hydrology, Plate 5, as amended as of August 21, 1995;
6. Agricultural Soils, Plate 6, as amended as of August 21, 1995;
7. Depth to Seasonal High Water Table, Plate 7, as amended as of August 21, 1995;
8. Hydrologic Soil Group, Plate 8, as amended as of August 21, 1995;
9. Soil Factors Limiting Use for Septic Tank Absorption Fields, Plate 9, as amended as of August 21, 1995;
10. Vegetation, Plate 10, as amended as of August 21, 1995;
11. Wildland Fire Hazard Classification, Plate 11, as amended as of August 21, 1995;
12. Watersheds Supporting Characteristics Pinelands Aquatic Communities, Plate 12;
13. Prehistoric Archaeologic Resources, Plate 13, as amended as of August 21, 1995;
14. Historic, Archaeologic and Architectural Resources, Plate 14, as amended as of August 21, 1995;
15. Cultural Subregions, Plate 15, as amended as of August 21, 1995;
16. Land use, Plate 16, as amended as of August 21, 1995;
17. Sewer Service Areas, Plate 17, as amended as of August 21, 1995;
18. Water Service Areas, Plate 18, as amended as of August 21, 1995;
19. Solid Waste Disposal Sites, Plate 19, as amended as of August 21, 1995;
20. Transportation Systems, Plate 20, as amended as of August 21, 1995;
21. Major Public Land Holdings, Plate 21, as amended as of August 21, 1995;

22. Resource Extraction Areas, Plate 22, as amended as of August 21, 1995;
23. Ecological Critical Area Importance Values, Plate 27, as amended as of August 21, 1995;
24. Land Capability, as amended as of June 19, 2006;
25. Zoning maps, master plans and land use ordinances certified by the Commission under the provisions of N.J.A.C. 7:50-3;
26. Special Areas Map, Figure 7.1.

7:50-5.4 Height limitations

(a) In all Pinelands Management Areas other than Regional Growth Areas and Pinelands Towns and in the Parkway Overlay District, no structure, including radio and television transmission and other communication facilities which are not accessory to an otherwise permitted use, shall exceed a height of 35 feet, except as provided in (b) below.

(b) The height limitation in (a) above shall not apply to any of the following structures, provided that such structures are compatible with uses in the immediate vicinity and conform to the objectives of N.J.A.C. 7:50-6, Part X: antennas which do not exceed a height of 200 feet and which are accessory to an otherwise permitted use, silos, barns and other agricultural structures, church spires, cupolas, domes, monuments, water towers, fire observation towers, electric transmission facilities and supporting structures, windmills, smokestacks, derricks, conveyors, flag poles and masts, or aerials, solar energy facilities, chimneys and similar structures required to be placed above the roof level and not intended for human occupancy.

(c) The height limitation in (a) above shall not apply to the antenna and any supporting structure of a local communication facility of greater than 35 feet, provided that:

1. There is a demonstrated need for the facility to serve the local communication needs of the Pinelands, including those related to public health and safety, as well as a demonstrated need to locate the facility in the Pinelands in order to provide adequate service to meet these needs;
2. The supporting structure is designed to accommodate the needs of any other local communications provider which has identified a need to locate a facility within an overlapping service area;
3. The antenna utilizes an existing communications or other suitable structure, to the extent practicable. Should there be more than one such existing communications or other suitable structure available for use, the antenna shall utilize that structure which offers the least potential for visual impacts on those uses and resources listed in 4ii. through v. below;
4. If an existing communications or other suitable structure cannot be utilized, the antenna and any necessary supporting structure is located such that it:
   i. Meets technical operating requirements;

ii. Minimizes visual impacts as viewed from publicly dedicated roads and highways and from other areas frequented by the public by, in order of decreasing priority:

(1) Avoiding, to the maximum extent practicable, any direct line of sight from low intensive recreation facilities and campgrounds; and

(2) Minimizing the length of time that an antenna structure is visible from publicly dedicated roads and highways;

iii. Avoids, to the maximum extent practicable, visual impacts as viewed from the wild and scenic rivers and special scenic corridors listed in N.J.A.C. 7:50-6.105(a), the Pine Plains and area necessary to maintain the ecological integrity of the Pine Plains, as depicted on the Special Areas Map, Figure 7.1;

iv. Maintains a distance of at least five miles from the Forked River Mountains and otherwise minimizes visual impacts as viewed from the Forked River Mountains, as depicted on the Special Areas Map, Figure 7.1;

v. Minimizes visual impacts as viewed from existing residential dwellings located on contiguous parcels through adherence to the buffer and setback requirements established in the certified land use ordinances of the municipality in which the facility is proposed to be located;

vi. If proposed in the Preservation Area District, Forest Area, Special Agricultural Production Area, or Rural Development Area, is located in one of the following areas:

(1) In a certified municipal commercial or industrial zone. If the facility is proposed in the Rural Development Area, it may also be located on the parcel of an existing commercial or industrial use, whether or not that use is included in a certified municipal commercial or industrial zone. If the facility is proposed in an industrial zone within the Forest Area or Preservation Area District where resource extraction is the primary permitted use, the facility shall be located on the parcel of an approved resource extraction operation in accordance with (c)4vi(3) below;

(2) On developed publicly owned lands within 500 feet of an existing structure, provided that the facility will be located on previously disturbed lands that have not subsequently been restored and that no facility will be located on State, county, or municipal conservation lands, State recreation lands or county and municipal lands used for low intensity recreational purposes;

(3) On the parcel of an approved resource extraction operation, provided that the facility will be located on previously disturbed lands that have not subsequently been restored;

(4) On the parcel of an existing first aid or fire station; or

(5) On the parcel of an existing landfill, provided that the facility will be located on previously disturbed lands that have not subsequently been restored.

vii. Should there be more than one location which meets the requirements set forth in 4i. through vi. above, the antenna and any necessary supporting structure shall be sited at that location which will have the least visual impact on those uses and resources described in 4ii, iii. and v. above.

5. The antenna and any supporting structure does not exceed 200 feet in height but, if of a lesser height, shall be designed so that its height can be increased to 200 feet if necessary to accommodate other local communications facilities in the future;

6. If the facility is proposed to be located in any Pinelands management area other than a Regional Growth Area or a Pinelands Town, a comprehensive plan for the entire Pinelands Area must be submitted to the Pinelands Commission for certification. If the facility is proposed to be located in a Military and Federal Installation Area, submission of such a plan shall only be required if the facility is to be located outside the substantially developed area of the installation. Said plan shall include five and 10 year horizons, a review of alternative technologies that may become available for use in the near future, and the approximate location of all proposed facilities. Said plan shall also demonstrate that the facilities to be located in the Preservation Area District, Forest Area, Special Agricultural Production Area and Pinelands Villages of Bamber Lake, Beckerville, Belcoville, Belleplain, Brookville, Chatsworth, Dorothy, Eldora, Elwood, Estell Manor, Green Bank, Jenkins, Lower Bank, North Dennis, Sweet-water, Warren Grove and Weekstown are the least number necessary to provide adequate service, taking into consideration the location of facilities outside the Pinelands that may influence the number and location of facilities needed within the Pinelands. Said plan shall also demonstrate likely consistency with (c)1, 3, and 4 above and note the need to demonstrate consistency with (c)2, 3, 4 and 5 when the actual siting of facilities is proposed when an application for development is submitted to the Commission pursuant to N.J.A.C. 7:50-4. If a proposed new facility cannot be sited in accordance with the requirements of 4vi above or the minimum environmental standards established in N.J.A.C. 7:50-6, or if a proposed new facility would have a significant visual impact on those uses and resources described in 4ii. through v. above, the plan shall specify how the use of alternatives which would meet the technical operating and adequate service requirements identified for the new facility could result in reduced visual impacts, including but not limited to stealthing, multiple shorter facilities, use of sites not listed in 4vi above and alternate technologies. The Commission may require the implementation of the alternative that is technically and economically feasible, and that will result in the greatest avoidance or minimization of visual impacts during its review of the plan or any application for development of a local

communications facility submitted pursuant to N.J.A.C. 7:50-4. Where more than one entity is providing the same type of service or has a franchise for the area in question, the plan shall be agreed to and submitted jointly by all such providers, where feasible, and shall provide for the joint construction and use of the least number of facilities that will provide adequate service by all providers for the local communication system intended. Shared service between entities, unless precluded by Federal law or regulation, shall be part of the plan when such shared services will reduce the number of facilities to be otherwise developed.

i. Upon receipt of the comprehensive plan, or amendments to a previously approved plan, the Executive Director shall give notice of and set the date, time, and place for a public hearing for consideration of the plan. The public hearing shall be held by the Executive Director within 60 days following receipt of the comprehensive plan in accordance with the provisions of N.J.A.C. 7:50-4.3.

ii. Upon completion of the public hearing, the Executive Director shall review the comprehensive plan and the record of the hearing and shall, within 90 days following receipt of the plan, submit a report to the Commission setting forth proposed findings and a recommended order as to whether the plan is in conformance with the minimum standards of this section.

iii. Upon receipt of the report of the Executive Director, the Commission shall review the findings, conclusions, and recommendation of the Executive Director and shall, within 120 days following receipt of the plan, approve, approve with conditions or disapprove the plan. If the plan is disapproved or conditionally approved, the Commission shall specify the changes necessary in order to secure Commission approval of the plan.

iv. Upon Commission approval of a comprehensive plan, the Commission shall review any proposed development in accordance with the standards of N.J.A.C. 7:50-5.4(c)1 through 3, 4i through v and 5, the approved plan, and the other standards of this Plan.

v. Applicants may propose amendments to an approved plan from time to time. Any such amendments shall be sent by the applicant via certified mail to all of the local communications providers who provide the same type of service or have a franchise within the Pinelands Area for their review and comment. Operators with newly awarded franchises that did not participate in the development of the original plan shall be given the opportunity to participate in the proposal of amendments. In the event that any provider declines to participate in the amendment process, the Commission may proceed with its review of the amendment. The Commission may consider in its review of the amendment any information submitted by other local communications providers, particularly information which demonstrates that a proposed

amendment would impact the location of, or necessity for, a local communications facility included in a comprehensive plan previously approved by the Commission pursuant to (c)6 above. All amendments shall be reviewed by the Commission according to the requirements set forth in (c)6 above and according to the procedures set forth in (c)6i through iii above.

7. A certification is submitted to the Commission and the appropriate municipality every five years that the facility is still in use and that its current height can not be decreased because of operational needs. Any facility shall be removed and restoration of the parcel shall be completed in accordance with N.J.A.C. 7:50-6.24 through 6 within 12 months of the original user or users ceasing operations, unless the Commission determines that the facility is necessary for additional users that otherwise would qualify for the construction of a new local communications facility pursuant to this section. Any oversized facility shall be reduced within 12 months of the certification.

(d) Computer simulation models, photographic juxtaposition and other similar techniques may be used by the Commission in determining compliance with the visual impact standards set forth in (c)4ii, iii and iv above.

7:50-5.5 Setback standards

(a) All buildings within the Preservation Area District, Rural Development Area, and Forest Area shall be set back from public, paved roads in accordance with N.J.A.C. 7:50-6.103 and 104.

(b) All structures within 1000 feet of rivers designated in N.J.A.C. 7:50-6.105(a) shall be screened in accordance with the requirements set forth therein.

7:50-5.6 through 5.10 (Reserved)

PART II-PINELANDS MANAGEMENT AREAS

7:50-5.11 Purpose

(a) In order to ensure that the development and use of land in the Pinelands meet the minimum standards of this Plan, the Pinelands Commission hereby finds that it is necessary to establish eight management areas governing the general distribution of land uses and intensities in the Pinelands. Except for Special Agricultural Production Areas and the Pinelands Villages, the boundaries of the Management areas are set forth on the Land Capability Map identified in N.J.A.C. 7:50-5.3. Special Agricultural Production Areas and additional Agricultural Production Areas may be created as an element of a municipal master plan or land use ordinance under the provisions of N.J.A.C. 7:50-5.14 and 5.15. The boundaries of Pinelands Villages shall be delineated in accordance with the criteria in N.J.A.C. 7:50-5.16. The boundaries of the management areas may be refined and/or adjusted through the Commission's certification of municipal master plans and land

use ordinances pursuant to N.J.A.C. 7:50-3, provided that the Commission determines that the goals and objectives of this Plan will be implemented by the proposed municipal master plan or land use ordinance under the municipal plan certification procedures of N.J.A.C. 7:50-3.

(b) The following shall be used by the Commission as guidelines in determining whether a proposed management area change is more appropriate to consider through the Plan amendment procedures of N.J.A.C. 7:50-7 rather than through the certification procedures of N.J.A.C. 7:50-3 and shall be given proper consideration by the Commission when evaluating the need for an amendment to this Plan:

1. A free standing management area is to be created, unless it is an Agricultural Production Area designated by a municipality pursuant to N.J.A.C. 7:50-5.15 or a Special Agricultural Production Area designated by a municipality pursuant to N.J.A.C. 7:50-5.14;
2. A Pinelands Village is to be created that is not otherwise listed in N.J.A.C. 7:50-5.13(f)1;
3. A single management area change would:
   i. Increase development potential for an area which predominantly includes land that:
      (1) Is not appropriate for increased development levels because of known environmental limitations or because of the known presence of important natural or cultural resources;
      (2) Is permanently protected as open space or included in a defined Pinelands acquisition area; or
      (3) Is included in an Agricultural Development Area identified by a county agriculture development board pursuant to N.J.A.C. 2:76; or
   ii. Decrease development potential for an area which predominantly includes land that is not appropriate for decreased development levels because of land tenure and use patterns, the community and environmental character of the area, known accessibility to existing or planned infrastructure and community services, or the role of the land in the Pinelands Development Credit program;
4. The management area change(s) would substantially alter the character of a municipality's overall zoning plan for the Pinelands Area as it relates to the standards and objectives of this Plan, considering the size and character of the area(s) proposed for redesignation and the extent to which increases in development potential are balanced by decreases in development potential through offsetting management area changes;
5. The rationale for the management area change(s) represents such a material and significant departure from past Commission practice

or policy that it requires an amendment to this Plan pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.);

6. The rationale for the management area change(s) is not consistent with the goals and objectives for each management area as set forth in N.J.A.C. 7:50-5.13; or
7. A management area change does not meet the certification standards set forth in N.J.A.C. 7:50-3.39(a).

(c) In order to ensure that special resources and existing uses in the Pinelands are recognized and addressed in an appropriate manner which ensures that the minimum standards of this Plan are met, the Commission hereby finds that it is necessary to establish overlay districts governing such special resources and existing uses. The boundaries of the overlay districts are set forth on the Land Capability Map identified in N.J.A.C. 7:50-5.3. Lands within these overlay districts retain their Pinelands management area designations. The overlay district designation provides a mechanism for the imposition of more targeted standards governing the distribution and intensity of development within specific geographic portions of the various Pinelands management areas in order to accomplish important land use objectives. The boundaries of the overlay districts may be refined and/or adjusted through the Commission's certification of municipal master plans and land use ordinances pursuant to N.J.A.C. 7:50-3, provided that the Commission determines that the goals and objectives of this Plan will be implemented by the proposed municipal master plan or land use ordinance under the municipal plan certification procedures of N.J.A.C. 7:50-3.

7:50-5.12 Pinelands Management Areas and Parkway Overlay District established

(a) The following Pinelands Management Areas are hereby established:

1. Preservation Area District;
2. Forest Areas;
3. Agricultural Production Areas;
4. Special Agricultural Production Areas;
5. Rural Development Areas;
6. Pinelands Villages and Pinelands Towns;
7. Regional Growth Areas;
8. Military and Federal Installation Areas.

(b) The following Pinelands Overlay District is hereby established:

1. Parkway Overlay District.

7:50-5.13 Goals and objectives of Pinelands Management Areas and Parkway Overlay District

(a) The Preservation Area District is the heart of the Pinelands environment and represents the most critical ecological region in the Pinelands. It is an area of significant environmental and economic values that are especially vulnerable to degradation. This large, contiguous, wilderness-like area of forest, transected by a network of pristine wetlands, streams and rivers,

supports diverse plant and animal communities and is home to many of the Pinelands' threatened and endangered species. The area must be protected from development and land use that would adversely affect its long-term ecological integrity.

(b) Forest Areas are similar to the Preservation Area in terms of their ecological value and, along with the Preservation Area, serve to provide a suitable ecological reserve for the maintenance of the Pinelands environment. These undisturbed, forested portions of the Protection Area support characteristic Pinelands plant and animal species and provide suitable habitat for many threatened and endangered species. These largely undeveloped areas are an essential element of the Pinelands environment, contain high quality water resources and wetlands, and are very sensitive to random and uncontrolled development. Although the overall type and level of development must be strictly limited, some parts of the Forest Areas are more suitable for development than others provided that such development is subject to strict environmental performance standards.

(c) Agricultural Production Areas are areas of active agricultural use, together with adjacent areas of prime and unique agricultural soils or soils of statewide significance, which are suitable for expansion of agricultural operations. In order to maintain agriculture as an essential element of the Pinelands region, the level and type of development must be controlled to prevent incompatible land uses from infringing upon these important land resources.

(d) Special Agricultural Production Areas are discrete areas within the Preservation Area District which are primarily used for berry agriculture or horticulture of native Pinelands plants. They represent a unique and essential element of the Pinelands economy and, because they are generally compatible with the ecological values of the Preservation Area, are a part of the essential character of the Pinelands. In order to maintain these agricultural uses in a manner which recognizes their integral relationship to the Preservation Area, very strict limits on non-agricultural land uses are necessary.

(e) Rural Development Areas are areas which are, on an overall basis, slightly modified and may be suitable for limited future development subject to strict adherence to the environmental performance standards of N.J.A.C. 7:50-6. They represent a balance of environmental and development values that is intermediate between the pristine Forest Areas and existing growth areas; however, some parts are more suitable for development than others due to existing development and an absence of critical ecological resources.

(f) Pinelands Villages and Towns are existing spatially discrete settlements in the Pinelands. These traditional communities are appropriate for infill residential, commercial and industrial development that is compatible with their existing character.

1. Pinelands Area Villages are:

i. Bamber Lake;
ii. Beckerville;
iii. Belcoville;
iv. Belleplain;
v. Blue Anchor;
vi. Brookville;
vii. Cassville;
viii. Chatsworth;
ix. Collings Lake;
x. Cologne-Germania;
xi. Cumberland-Hesstown;
xii. Delmont;
xiii. Dennisville;
xiv. Dorchester-Leesburg;
xv. Dorothy;
xvi. Eldora;
xvii. Elm;
xviii. Elwood;
xix. Estell Manor;
xx. Folsom;
xxi. Green Bank;
xxii. Indian Mills;
xxiii. Jenkins;
xxiv. Lake Pine;
xxv. Landisville;
xxvi. Laureldale;
xxvii. Legler;
xxviii. Lower Bank;
xxix. Milmay;
xxx. Mizpah;
xxxi. Nesco-Westcoatville;
xxxii. New Gretna;
xxxiii. New Lisbon;
xxxiv. Newtonville;
xxxv. North Dennis;
xxxvi. Petersburg;
xxxvii. Pomona;
xxxviii. Port Elizabeth-Bricksboro;
xxxix. Port Republic;
xl. Richland;
xli. Sweetwater;
xlii. Tabernacle;
xliii. Tansboro;
xliv. Taunton Lake;
xlv. Tuckahoe;
xlvi. Vanhiseville;

xlvii. Vincentown;
xlviii. Warren Grove;
xlix. Waterford Works;
l. Weekstown; and
li. Winslow.

2. Villages located within the Pinelands National Reserve but outside of the Pinelands Area are:
    i. Clermont;
    ii. Corbin City;
    iii. Goshen;
    iv. Heislerville;
    v. Oceanville;
    vi. Smithville;
    vii. South Dennis;
    viii. Swainton; and
    ix. West Creek.

3. Pinelands Area Towns are:
    i. Buena;
    ii. Egg Harbor City;
    iii. Hammonton;
    iv. Lakehurst;
    v. Whiting;
    vi. Woodbine; and
    vii. Wrightstown.

4. Towns located within the Pinelands National Reserve but outside of the Pinelands Area are:
    i. Tuckerton.

(g) Regional Growth Areas are areas of existing growth or lands immediately adjacent thereto which are capable of accommodating regional growth influences while protecting the essential character and environment of the Pinelands, provided that the environmental objectives of Subchapter 6 are implemented through municipal master plans and land use ordinances.

(h) Military and Federal Installation Areas are federal enclaves within the Pinelands. They represent a unique element of the Pinelands landscape and are a substantial resource to the region and the state, provided that their activities preserve and protect the unique natural, ecological, agricultural, archaeological, historic, scenic, cultural and recreational resources of the Pinelands.

(i) The Parkway Overlay District consists of a limited access highway located at or near the edge of the Pinelands and constitutes an existing transportation corridor established prior to the adoption of this Plan. The boundaries of the Parkway Overlay District coincide with the existing highway right of way as of June 19, 2006. This disturbed area is a specially managed area of the State which is appropriate for continued use as a roadway and for development of other important public service infrastructure. The Parkway Overlay District includes lands located in the

Preservation Area District, Forest Area, Rural Development Area, Regional Growth Area, Military and Federal Installation Area and two Pinelands Villages.

7:50-5.14 Minimum standards for municipal designation of Special Agricultural Production Areas

(a) Special Agricultural Production Areas may be designated at the option of a municipality, or upon nomination to the Commission by an individual prior to certification, in the Preservation Area District in accordance with the following criteria:

1. The area to be designated is primarily agricultural in use, is of a size capable of sustaining active agricultural operation taking into account adjacent and surrounding uses and the availability of agricultural support uses, and includes surrounding actively used agricultural lands in so far as necessary to ensure that a viable, long term agricultural area exists; and
2. The area may include land in an adjacent municipality also designated under this section; and
3. The area is primarily comprised of lands used for active berry agricultural or active native horticultural use and lands which are essential to and held for the protection of active berry agricultural or active native horticultural uses; and
4. Where a nomination is made by an individual prior to certification, the Commission shall conduct a hearing pursuant to N.J.A.C. 7:50-4.3.

7:50-5.15 Minimum standards for municipal designation of Agricultural Production Areas

(a) Agricultural Production Areas may be designated in the Protection Area at the option of a municipality or upon nomination to the Commission by an individual prior to certification, in accordance with the following criteria:

1. The area to be designated is primarily agricultural in use, is of a size capable of sustaining active agricultural operation taking into account adjacent and surrounding uses and the availability of agricultural support uses, and includes surrounding actively used agricultural lands in so far as necessary to ensure that a viable, long term agricultural area exists; and
2. The area may include land in an adjacent municipality also designated under this section; and
3. The area is primarily comprised of lands used for active agricultural use including lands which are held as buffers, water conservation areas or for other protection of active agricultural uses; and
4. Where a nomination is made by an individual prior to certification, the Commission shall conduct a hearing pursuant to N.J.A.C. 7:50-4.3.

7:50-5.16 Guidelines for delineation of boundaries of Pinelands Villages

(a) In the preparation of municipal master plans and land use ordinances, municipalities shall designate the boundaries of Pinelands Villages; provided that the designated village area shall maintain its existing character and does not contain more vacant land than built land, nor provide for an additional increment

of development which is greater than the number of non-accessory structures that currently exist in the village. For the purposes of this requirement, built land for residential structures shall be calculated as the existing lot size or 3.2 acres, whichever is less, built land for non-residential structures shall be calculated as the lot size required by existing zoning at the time of adoption of this Plan and residential development being transferred to a village from a Forest or Rural Development Area pursuant to N.J.A.C. 7:50-5.30(c)2 shall not be included in calculating the additional increment of development. Municipalities should also consider the following guidelines in designating village boundaries to the greatest extent practicable:

1. The village area should include the center of the village, typically located at or near the intersection of two roads, the developed lands contiguous to the village center, and other cleared lands not in active agricultural use.
2. In the Preservation Area District and Forest Areas the village area should not contain more than 50 percent forested land.
3. In Agricultural Production Areas and Forest Areas the village area should not include active agricultural lands except for isolated areas of less than 10 acres.
4. Village boundaries along roads leading to and from the village center should not be extended more than 1/2 mile from the village center.
5. Village delineations should not intrude into wetlands vegetation associations;
6. Villages should include areas of high septic suitability contiguous to developed lands.

7:50-5.17 Incorporation of Pinelands Management Areas into municipal master plans and land use ordinances

In order to be certified under the provisions of N.J.A.C. 7:50-3, Part IV, a municipal master plan or land use ordinance must incorporate and implement the minimum standards of this subchapter governing the distribution and intensity of 1and uses.

7:50-5.18 Minimum residential allocation of density in wetlands

Each municipality shall allocate a minimum residential density to all wetlands that is at least one-fifth of the average gross residential density of uplands located in the same management area as the wetlands.

7:50-5.19 Cluster development

(a) Clustering of residential development on parcels located within the Regional Growth Areas is encouraged, provided that the densities established in the certified municipal ordinance are not exceeded and that the development otherwise conforms to the standards of this Plan.

(b) Clustering of residential development on parcels located within more than one Pinelands management area may be permitted, provided that:

1. The parcel in question is contiguous;

2. The portion of the parcel to be developed is located within the management area with the highest assigned residential density;
3. The amount of development proposed does not exceed that which would be permitted separately in each management area as determined by application of the standards contained in this subchapter and in N.J.A.C. 7:50-6.84;
4. The minimum lot area requirements of the management area in which the portion of the parcel to be developed is located are met; and
5. If any portion of the parcel is located within the Regional Growth Area, opportunities for the use of Pinelands Development Credits established pursuant to N.J.A.C. 7:50-5.28(a)3 are not reduced as a result of the cluster development.

(c) Clustering of residential development on parcels located within the Forest Areas and Rural Development Areas shall be required whenever two or more units are proposed as part of a residential development, except in cases where such development:
1. Conflicts with the provisions of a development transfer program established pursuant to N.J.A.C. 7:50-5.30;
2. Is inconsistent with the standards of Subchapter 6 of this Plan; or
3. Disrupts the contiguity of the forest ecosystem to a greater degree than non-clustered development.

(d) The following standards shall apply to the clustering of residential development within the Forest Areas and Rural Development Areas:
1. The number of residential lots permitted within the cluster shall be calculated on the basis of the size of the parcel of land and the permitted density of the zoning district(s) in which the parcel is located, with a bonus applied in accordance with the following chart. If the parcel is located in more than one municipal zoning district, separate residential lot calculations for each zoning district shall be summed to determine the total number of residential lots to be clustered.

FOREST AND RURAL DEVELPOPMENT AREA CLUSTERING BONUS				
Parcel Size	**Permitted Residential Density**			
	3.2-4.99 acres per unit	5.0-9.99 acres per unit	10-24.99 acres per unit	≥25 acres per unit
<50 acres	0	0	0	0
50-99.99 Acres	+10%	+15%	+20%	+25%
100-149.99 acres	+15%	+20%	+25%	+30%
≥150 acres	+20%	+25%	+30%	+40%

2. The residential cluster shall be located on the parcel such that the development area:
i. Is located proximate to existing roads;

ii. Is located proximate to existing development sites on adjacent or nearby parcels;
iii. Is or will be appropriately buffered from adjoining or nearby non-residential land uses; and
iv. Conforms with the minimum standards of N.J.A.C. 7:50-6, with the exception of N.J.A.C. 7:50-6.104.

3. Development within the residential cluster shall be designed as follows:
   i. Residential lots should be one acre in size but may be larger if dictated by unusual site conditions. In no case shall the average size of residential lots within a cluster exceed 1.1 acres;
   ii. Individual on-site septic waste water treatment systems in accordance with N.J.A.C. 7:50-6.84(a)4 may serve the lots within the cluster development area. However, in the event that existing agricultural uses will continue on the parcel in accordance with (d)5 below, individual on-site septic waste water treatment systems shall comply with the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23. Community on-site waste water treatment systems serving two or more residential units which meet the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23 shall also be permitted;

   iii. The residential cluster development area shall include such land and facilities as are necessary to support the development, including wastewater facilities, streets, stormwater management facilities**,** solar energy facilities and recreation amenities; and

   iv. Permitted recreation amenities shall be specified in the municipal ordinance but in no case may they occupy more than one-half acre of land or the equivalent of one acre of land for every 25 residential lots, whichever is greater.

4. Except as otherwise provided in (d)5 below, the balance of the parcel located outside of the residential cluster development shall be owned and managed by a duly constituted homeowner's association, a non profit conservation organization, the municipality or incorporated as part of one of the lots within the cluster development area.
   i. All such land shall be permanently protected through recordation of a deed of conservation restriction. Such restriction shall be in favor of the residents of the cluster development and, if provided by municipal ordinance, the municipality or another public agency or non profit conservation organization. In all cases, such restriction shall be expressly enforceable by the Pinelands Commission; and
   ii. Such deed of conservation restriction shall permit the land to be managed for low intensity recreation, ecological management and forestry, provided that no more than five percent of the land may be cleared, no more than one percent of the land 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.

5. Where agricultural use exists on a parcel proposed for cluster development, the following standards shall apply:
   i. For those agricultural uses in existence 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;
   ii. For those agricultural uses established after April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses, provided the agricultural use has been in existence on the parcel for a period of at least five years prior to submission of an application for cluster development pursuant to N.J.A.C. 7:50-4;
   iii. For those agricultural uses established after April 6, 2009 which do not meet the standards of (d)5ii above, the deed of restriction shall permit the land to be managed only in accordance with (d)4 above and shall not provide for continuation of any agricultural use on the parcel;
   iv. In lieu of the provisions of (d)4 above, the deed of restriction to be recorded pursuant to (d)5i or ii above may be in favor of a county or the State Agriculture Development Committee. In all cases, such restriction shall be expressly enforceable by the Pinelands Commission;
   v. The deed of restriction to be recorded pursuant to (d)5i or ii above shall authorize agricultural uses and provide that impervious surface may not exceed that which currently exists on the parcel or three percent, whichever is greater, unless Resource Management System Plan has been prepared. Before these impervious surface limits 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
   vi. For parcels which meet the standards of (d)i or ii above, a provision is recorded in the deed for each residential lot within the cluster development area which acknowledges agricultural use of the protected land outside the cluster development area and recognizes the legal protections afforded to that use through the deed of restriction and any applicable statutes.

7:50-5.20 (Reserved)

PART III-MINIMUM STANDARDS FOR LAND USE DISTRIBUTION AND INTENSITIES

7:50-5.21 Purpose

In order to ensure the long-term integrity of the Pinelands environment while accommodating regional growth influences, the Pinelands Commission finds that it is appropriate and necessary to establish minimum standards governing the character, location and magnitude of development and the use of land in the Pinelands.

7:50-5.22 Minimum standards governing the distribution and intensity of development and land use in the Preservation Area District

(a) The following uses shall be permitted in the Preservation Area District:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.
2. Berry agriculture and horticulture of native plants and other agricultural activities compatible with the existing soil and water conditions that support traditional Pinelands berry agriculture.
3. Forestry.
4. Beekeeping.
5. Fish and wildlife management and wetlands management.
6. Low intensity recreational uses, provided that:
   i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;
   ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;
   iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;
   iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and
   v. No more than one percent of the parcel will be covered with impervious surfaces.
7. Pinelands Development Credits.

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in the Preservation Area District:

1. Agricultural employee housing as an element of, and accessory to, an active agricultural operation.
2. Expansion of intensive recreational uses, provided
   i. The intensive recreational use was in existence on February 7, 1979 and was not subsequently abandoned;
   ii. The capacity of the use will not exceed two times the capacity of the use on February 7, 1979;
   iii. The use is necessary to achieve recreational use of a particular element of the existing Pinelands environment; and
   iv. The use is environmentally and aesthetically compatible with the character of the Preservation Area District and the characteristics of the particular basin in which the use is to be located, taking into consideration the proportion of cleared and developed land, ambient water quality, ecologically sensitive areas and unique resources, and will not unduly burden available public services.
3. Campgrounds, in accordance with the standards of (a)6 above, provided that the parcel will contain no more than one campsite per two acres and that, if clustered, the campsites not exceed a net density of six per acre.

4. Public service infrastructure which is necessary to serve only the needs of the Preservation Area District uses. Centralized waste water treatment and collection facilities shall be permitted to service the Preservation Area District only in accordance with N.J.A.C. 7:50-6.84(a)2. Communications cables not primarily intended to serve the needs of the Preservation Area District may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.
5. Continuation of existing resource extraction operations in accordance with the standards of N.J.A.C. 7:50-6, Part VI.
6. Signs.
7. Infill areas: Residential dwellings and commercial uses on lots existing as of January 14, 1981 of at least one acre in size within an area designated by a municipality in its ordinance in accordance with the following criteria:
   i. The area must have direct access to an existing improved public road;
   ii. The area must exhibit a compact pattern of existing development, generally exhibited by more than 20 principal structures and the boundary shall generally conform to that of the existing developed area so that extensive amounts of adjoining vacant land are not included;
   iii. The area must contain vacant lots of at least one acre in size or smaller lots which could reasonably be assembled into one acre or greater lots; and
   iv. Commercial uses shall be limited to those specific portions of the area which are predominantly occupied by existing commercial uses.
8. Accessory uses.
9. Home occupations.
10. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.
11. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:
    i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);
    ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
    iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
    iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d), provided the existing resource extraction operation or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town;
    v. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and
    vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

12. Solar energy facilities, provided the standards of N.J.A.C. 7:50-5.36 are met.

(c) No residential dwelling shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.32.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)4 above, provided, however, that no such structure shall be located on a parcel of less than one acre. The requirements of this section shall not apply to a nonresidential use to be served by an individual on-site septic waste water treatment system in accordance with N.J.A.C. 7:50-6.84(a)5iii(2).

7:50-5.23 Minimum standards governing the distribution and intensity of development and land use in Forest Areas

(a) The following uses shall be permitted in a Forest Area:

1. Residential dwelling units in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32;
2. Residential cluster development in accordance with the provisions of N.J.A.C. 7:50-5.19(c) and (d). Nonclustered residential development shall also be permitted, provided that:
   i. No more than one unit is proposed; or
   ii. The standards of N.J.A.C. 7:50-5.19(c) cannot be met;
3. Residential dwelling units in accordance with the development transfer provisions of N.J.A.C. 7:50-5.30;
4. Agriculture;
5. Forestry;
6. Low intensity recreational uses, provided that:
   i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;
   ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;
   iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;
   iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and
   v. No more than one percent of the parcel will be covered with impervious surfaces.

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in a Forest Area:

1. Institutional uses, provided that:
   i. The use does not require or will not generate subsidiary or satellite development in the Forest Area;
   ii. The applicant has demonstrated that adequate public service infrastructure will be available to serve the use; and
   iii. The use is primarily designed to serve the needs of the Forest Area in which the use is to be located.

2. Pinelands resource-related industrial or manufacturing uses, excluding resource extraction and uses that rely on sand or gravel as raw products, provided that:
   i. The parcel proposed for development has an area of at least five acres;
   ii. The principal raw material for the proposed use is found or produced in the Pinelands; and
   iii. The use does not require or will not generate subsidiary or satellite development in a Forest Area.
3. Light industrial uses within an area designated by a municipality in accordance with the following criteria:
   i. The area adjoins an existing airport, and the airport is either publicly owned or serves a Pinelands Town;
   ii. The area is predominantly developable under the provisions of subchapter 6 of this Plan; and
   iii. The area is limited in size to that which received approval to develop pursuant to the Pinelands Protection Act prior to January 14, 1981.
4. Campgrounds, not to exceed one campsite per gross acre, provided that the campsites may be clustered at a net density not to exceed 10 campsites per acre.
5. Agricultural commercial establishments, excluding supermarkets, restaurants and convenience stores provided that:
   i. The principal goods or products available for sale were produced in the Pinelands; and
   ii. The sales area of the establishment does not exceed 5,000 square feet.
6. Roadside retail sales and service establishments, provided that:
   i. The parcel proposed for development has roadway frontage of at least 50 feet;
   ii. No portion of any structure proposed for development will be more than 300 feet, measured along a line parallel to the roadway, from the closest part of a roadside retail sales and service establishment structure that was in existence on February 7, 1979; and
   iii. The proposed use will not unduly burden public services, including but not limited to water, sewer and roads.
7. Continuation of existing resource extraction operations in accordance with the standards of N.J.A.C. 7:50-6, Part VI.
8. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:
   i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);
   ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
   iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
   iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d), provided the existing resource extraction operation

or manufacturing facility is located within one mile of a Regional Growth Area or Pinelands Town;

v. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and

vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).

9. Fish and wildlife management and wetlands management.
10. Agricultural employee housing as an element of, and accessory to, an active agricultural operation.
11. Expansion of intensive recreational uses, provided that:
    i. The intensive recreational use was in existence on February 7, 1979 and was not subsequently abandoned;
    ii. The capacity of the use will not exceed two times the capacity of the use on February 7, 1979;
    iii. The use is necessary to achieve recreational use of a particular element of the existing Pinelands environment; and
    iv. The use is environmentally and aesthetically compatible with the character of the Forest Area and the characteristics of the particular basin in which the use is to be located, taking into consideration the proportion of cleared and developed land, ambient water quality, ecologically sensitive areas and unique resources, and will not unduly burden available public services.
12. Public service infrastructure intended to primarily serve the needs of the Pinelands. Centralized waste water treatment and collection facilities shall be permitted to service the Forest Area only in accordance with N.J.A.C. 7:50-6.84(a)2. Communications cables not primarily intended to serve the needs of the Forest Area may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.
13. Home occupations.
14. Signs.
15. Accessory Uses.
16. Airport facilities provided:
    i. The airport is publicly owned or serves a Pinelands Town; and
    ii. The airport was in existence on January 14, 1981; and
    iii. The area of the airport is limited in size to that which existed on January 14, 1981; and
    iv. The use will not generate subsidiary or satellite development not otherwise permitted in the Forest Area, Preservation Area District or Special Agricultural Production Area.
17. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.
18. Solar energy facilities, provided the standards of N.J.A.C. 7:50-5.36 are met.

(c) Minimum lot area and density requirements for residential development: No residential dwelling unit shall be located on a lot of less than 3.2 acres, except as

provided in N.J.A.C. 7:50-5.19, 5.30, 5.31 and 5.32. The total number of dwelling units authorized by a municipality shall not exceed a density of one dwelling unit for every 15.8 acres of privately owned, undeveloped land which is not defined in this Plan as wetlands, except as provided in N.J.A.C. 7:50-5.19(d)1. The Executive Director shall maintain a current record of residential units zoned in each municipality pursuant to this section.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)12 above, provided, however, that no such structure shall be located on a parcel of less than one acre. The requirements of this section shall not apply to a nonresidential use to be served by an individual on-site septic waste water treatment system in accordance with N.J.A.C. 7:50-6.84(a)5iii(2).

7:50-5.24 Minimum standards governing the distribution and intensity of development and land use in Agricultural Production Areas

(a) The following uses shall be permitted in an Agricultural Production Area:

1. Residential dwellings in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.
2. Residential dwelling units not to exceed a gross density of one unit per 10 acres provided that:
   i. The dwelling is accessory to an active agricultural operation;
   ii. The dwelling is for an operator or employee of the farm who is actively engaged in and essential to the agricultural operation;
   iii. The dwelling is located on a lot which is under or qualified for agricultural assessment;
   iv. The dwelling is located on a lot which has an active production history or where a farm management plan has been prepared which demonstrates that the property will be farmed as a unit unto itself or as part of another farm operation in the area;
   v. A residential lot has not been subdivided from the property within the previous five years unless the lot has been subdivided pursuant to N.J.A.C. 7:50-5.32; and
   vi. No more than one lot may be created for a dwelling accessory to an active agricultural operation pursuant to this provision at any one time.
3. Residential dwelling units at a gross density of one unit per 40 acres, provided that:
   i. The unit(s) shall be clustered on one acre lots, unless the municipality determines that residential development is not compatible and interferes with the use of the remaining parcel and adjoining lands for agricultural use:
   ii. The remainder of the parcel, including all contiguous lands in common ownership, which is not assigned to individual residential lots shall be permanently dedicated for agricultural uses through recordation of a restriction on the deed to the parcel; and

iii. The restriction on the deed to the parcel, including any rights to be redeemed for future residential development, shall be done in accordance with N.J.A.C. 7:50-5, Part IV, so as to sever any Pinelands Development Credits allocated to the parcel.

4. Agriculture.
5. Forestry.
6. Low intensity recreational uses, provided that:
   i. The parcel proposed for low intensity recreational use has an area of at least 50 acres;
   ii. The recreational use does not involve the use of motorized vehicles except for necessary transportation;
   iii. Access to bodies of water is limited to no more than 15 linear feet of frontage per 1,000 feet of water body frontage;
   iv. Clearing of vegetation, including ground cover and soil disturbance, does not exceed five percent of the parcel; and
   v. No more than one percent of the parcel will be covered with impervious surfaces.
7. Agricultural commercial establishments excluding supermarkets, restaurants and convenience stores, provided that:
   i. The principal goods or products available for sale were produced in the Pinelands; and
   ii. The sales area of the establishment does not exceed 5,000 square feet.
8. Agricultural products processing facilities.
9. Pinelands Development Credits.

(b) In addition to the uses permitted under (a) above, a municipality may permit, at its option, the following uses in an Agricultural Production Area:

1. Roadside retail sales and service establishments, provided that:
   i. The parcel proposed for development has roadway frontage of at least 50 feet;
   ii. No portion of any structure proposed for development will be more than 300 feet, measured along a line parallel to the roadway, from the closest part of a roadside retail sales and service establishment structure that was in existence on February 7, 1979; and
   iii. The proposed use will not unduly burden public services, including but not limited to water, sewer and roads.
2. Pinelands resource-related industries, excluding resource extraction and uses which rely on sand or gravel as raw products, provided that:
   i. The parcel proposed for development has an area of at least five acres;
   ii. The principal raw material for the proposed use is found or produced in the Pinelands; and
   iii. The use does not require or will not generate subsidiary or satellite development in an Agricultural Production Area.
3. Airports and heliports which are accessory to agricultural uses and are used exclusively for the storage, fueling, loading and operation of aircraft as a part of an ongoing agricultural operation.

4. Light industrial uses within an area designated by a municipality in accordance with the following criteria:
   i. The area adjoins a publicly owned airport;
   ii. The area is predominantly developable under the provisions of subchapter 6; and
   iii. The area is limited in size to that which is no greater in size than the airport.
5. Fish and wildlife management and wetlands management.
6. Agricultural employee housing as an element of, and accessory to, an active agricultural operation.
7. Expansion of intensive recreational uses, provided that:
   i. The intensive recreational use was in existence on February 7, 1979 and the capacity of the use will not exceed two times the capacity of the use on February 7, 1979;
   ii. The use is necessary to achieve recreational use of a particular element of the existing Pinelands environment; and
   iii. The use is environmentally and aesthetically compatible with the character of the Agricultural Production Area and the characteristics of the particular basin in which the use is to be located, taking into consideration the proportion of cleared and developed land, ambient water quality, ecologically sensitive areas and unique resources, and will not unduly burden available public services.
8. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:
   i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);
   ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
   iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
   iv. Recycling centers accessory to an existing lawful asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d);
   v. Vegetative waste landfills in accordance with N.J.A.C. 7:50-6.75(a);
   vi. Vegetative waste composting facilities in accordance with N.J.A.C. 7:50-6.77(a);
   vii. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and
   viii. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).
9. Public service infrastructure except that centralized waste water treatment and collection facilities shall be permitted to service the Agricultural Production Area only in accordance with N.J.A.C. 7:50-6.84(a)2. Communications cables not primarily intended to serve the needs of Agricultural Production Areas may be permitted provided that they are installed within existing developed rights of way and are installed

underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.

10. Home occupations.
11. Signs.
12. Accessory Uses.
13. Airport facilities provided:
    i. The airport is publicly owned or serves a Pinelands Town; and
    ii. The airport was in existence on January 14, 1981; and
    iii. The area of the airport is limited in size to that which existed on January 14, 1981; and
    iv. The use will not generate subsidiary or satellite development not otherwise permitted in the Forest Area, Preservation Area District, Special Agricultural Production Area or Agricultural Production Area.
14. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.
15. Solar energy facilities, provided the standards of N.J.A.C. 7:50-5.36 are met.

(c) No residential dwelling unit shall be located on a lot of less than 1.0 acre.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)9 above, provided, however, that no such structure shall be located on a parcel of less than one acre. The requirements of this section shall not apply to a nonresidential use to be served by an individual on-site septic waste water treatment system in accordance with N.J.A.C. 7:50-6.84(a)5iii(2).

7:50-5.25 Minimum standards governing the distribution and intensity of development and land use in Special Agricultural Production Areas

(a) The following uses shall be permitted in a Special Agricultural Production Area:
1. Residential dwellings in accordance with the cultural housing provisions of N.J.A.C. 7:50-5.32.
2. Berry agriculture and horticulture of native plants and other agricultural activities compatible with the existing soil and water conditions that support traditional Pinelands berry agriculture;
3. Beekeeping;
4. Forestry;
5. Fish and wildlife management and wetlands management.
6. Pinelands Development Credits.

(b) In addition to the uses permitted under (a) above, a municipality may, at its option, permit the following uses in a Special Agricultural Production Area:
1. Residential dwelling units provided that the dwelling is:
    i. Accessory to an active agricultural operation;
    ii. For an operator or employee of the farm who is actively engaged in and essential to the agricultural operation;
    iii. To be located on a parcel of land of at least 40 acres in size which is under or qualified for agricultural assessment; and

iv. Located on a property which has an active production history or where a farm management plan has been prepared which demonstrates that the property will be farmed as a unit unto itself or as part of another farm operation in the area.

2. Agricultural employee housing as an element of, and accessory to, an active agricultural operation;
3. Public service infrastructure which is necessary to serve only the needs of the Special Agricultural Production Area uses. Centralized waste water treatment and collection facilities shall be permitted to service the Special Agricultural Production Area only in accordance with N.J.A.C. 7:50-6.84(a)2. Communications cables not primarily intended to serve the needs of Special Agricultural Production Areas may be permitted provided that they are installed within existing developed rights of way and are installed underground or are attached to road bridges, where available, for the purpose of crossing water bodies or wetlands.
4. Home occupations;
5. Accessory uses;
6. Signs; and
7. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.
8. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:
   i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);
   ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
   iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
   iv. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and
   v. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).
9. Solar energy facilities, provided the standards of N.J.A.C. 7:50-5.36 are met

(c) No residential dwelling unit shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.32.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)3 above, provided, however, that no such structure shall be located on a parcel of less than one acre.

7:50-5.26 Minimum standards governing the distribution and intensity of development and land use in Rural Development Areas

(a) The following uses shall be permitted in a Rural Development Area:

1. Residential cluster development in accordance with the provisions of N.J.A.C. 7:50-5.19(c) and (d). Nonclustered residential development shall also be permitted, provided that:
   i. No more than one unit is proposed; or
   ii. The standards of N.J.A.C. 7:50-5.19(c) cannot be met; and
2. Residential dwelling units in accordance with the development transfer provisions of N.J.A.C. 7:50-5.30.

(b) In addition to the residential uses permitted under (a) above, a municipality may permit any use which is compatible with the essential character of the Pinelands environment and is similar in character, intensity and impact to the following uses:
1. Agriculture;
2. Agricultural employee housing as an element of, and accessory to, an active agricultural operation;
3. Forestry;
4. Recreational facilities, other than amusement parks;
5. Agricultural products sales establishments;
6. Agricultural processing facilities and other light industrial uses;
7. Roadside retail sales and service establishments;
8. Resource extraction operations;
9. The following waste management facilities in accordance with N.J.A.C. 7:50-6, Part VII:
   i. Transfer stations, collection facilities and recycling centers located at closed landfills in accordance with N.J.A.C. 7:50-6.76(a);
   ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
   iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
   iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d);
   v. Composting facilities located at closed landfills in accordance with N.J.A.C. 7:50-6.77(b); and
   vi. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b).
10. Public service infrastructure except that centralized waste water treatment and collection facilities shall be permitted to serve the Rural Development Area only in accordance with N.J.A.C. 7:50-6.84(a)2;
11. Institutional uses;
12. Community commercial uses;
13. Signs;
14. Accessory uses; and
15. Local communications facilities, provided that the standards of N.J.A.C. 7:50-5.4(c) are met.
16. Solar energy facilities, provided the standards of N.J.A.C. 7:50-5.36 are met.

(c) Minimum lot area and density requirements for residential development: No residential dwelling unit shall be located on a lot of less than 3.2 acres, except as provided in N.J.A.C. 7:50-5.19, 5.30, 5.31 and 5.32. The total number of dwelling units authorized by a municipality shall not exceed a density of one dwelling unit for every 3.2 acres of privately owned, undeveloped land which is not defined in this Plan as wetlands, except as provided in N.J.A.C. 7:50-5.19(d)1.

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained in N.J.A.C. 7:50-6.84(a)4 whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)10 above, provided, however, that no such structure shall be located on a parcel of less than one acre. The requirements of this section shall not apply to a nonresidential use to be served by an individual on-site septic waste water treatment system in accordance with N.J.A.C. 7:50-6.84(a)5iii(2).

7:50-5.27 Minimum standards governing the distribution and intensity of development and land use in Pinelands Villages and Towns

(a) Any use not otherwise limited pursuant to N.J.A.C. 7:50-6 may be authorized in a Pinelands Village or Town, provided that:

1. Public service infrastructure necessary to support the use is available, or can be provided without any development in the Preservation Area District, Special Agricultural Production Area, or a Forest Area;
2. The character and magnitude of the use is compatible with existing structures and uses in the Village or Town;
3. Only the following waste management facilities shall be permitted in a Pinelands Village in accordance with N.J.A.C. 7:50-6, Part VII:
   i. Transfer stations, collection facilities and recycling centers in accordance with N.J.A.C. 7:50-6.76(a);
   ii. Petroleum waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(b);
   iii. Household hazardous waste collection and transfer facilities in accordance with N.J.A.C. 7:50-6.76(c);
   iv. Recycling centers accessory to an existing lawful resource extraction operation or asphalt or concrete manufacturing facility in accordance with N.J.A.C. 7:50-6.76(d);
   vii. Composting facilities in accordance with N.J.A.C. 7:50-6.77(b); and
   viii. Regulated medical waste facilities accessory to a generator of such waste in accordance with N.J.A.C. 7:50-6.78(b); and
4. No hazardous waste facility, landfill or incinerator shall be permitted in a Pinelands Town, except as expressly authorized in N.J.A.C. 7:50-6.75 or 6.78.

(b) No residential dwelling unit or nonresidential use shall be located on a parcel of less than one acre unless served by either:

1. A centralized waste water treatment plant; or

2. For residential development, a community on-site waste water treatment system serving two or more dwelling units that 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; or
3. For nonresidential development, an individual on-site septic waste water treatment system that meets the standards at N.J.A.C. 7:50-6.84(a)5.

(c) Any local approval, including variances, which grants relief from density or lot area requirements for a residential or principal nonresidential use shall require that Pinelands Development Credits be used for all dwelling units or lots in excess of that otherwise permitted, unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V. The requirement for use of Pinelands Development Credits shall not apply to use variances which authorize development on lots which conform to the area requirements for principal uses normally permitted in the zone.

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

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

1. Except as provided in (a)2, 3, 4, 5, 6 and 7 below and Part IV of this subchapter, the total number of dwelling units authorized by a municipality for a Regional Growth Area shall be equal to and not exceed the following density per acre of developable land:
   - i. In Barnegat Township: 2.0 dwelling units per acre.
   - ii. In Beachwood Borough: 3.5 dwelling units per acre.
   - iii. In Berkeley Township: 2.0 dwelling units per acre.
   - iv. In Berlin Borough: 2.0 dwelling units per acre.
   - v. In Berlin Township: 2.0 dwelling units per acre.
   - vi. In Chesilhurst Borough: 1.125 dwelling units per acre.
   - vii. In Dennis Township: 1.0 dwelling unit per acre.
   - viii. In Dover Township: 3.5 dwelling units per acre.
   - ix. In Eagleswood Township: 2.0 dwelling units per acre.
   - x. In Egg Harbor Township: 3.5 dwelling units per acre.
   - xi. In Evesham Township: 2.0 dwelling units per acre.
   - xii. In Galloway Township: 2.5 dwelling units per acre.
   - xiii. In Hamilton Township: 3.5 dwelling units per acre.
   - xiv. In Jackson Township: 3.0 dwelling units per acre.
   - xv. In Lacey Township: 3.5 dwelling units per acre.
   - xvi. In Little Egg Harbor Township: 3.5 dwelling units per acre.
   - xvii. In Manchester Township: 3.5 dwelling units per acre.
   - xviii. In Medford Township: 1.0 dwelling unit per acre.
   - xix. In Medford Lakes Borough: 3.0 dwelling units per acre.
   - xx. In Monroe Township: 2.0 dwelling units per acre.

xxi. In Ocean Township: 3.5 dwelling units per acre.
xxii. In Pemberton Township: 2.0 dwelling units per acre.
xxiii. In Shamong Township: 1.0 dwelling unit per acre.
xxiv. In Southampton Township: 1.0 dwelling unit per acre.
xxv. In South Toms River Borough: 3.5 dwelling units per acre.
xxvi. In Stafford Township: 3.5 dwelling units per acre.
xxvii. In Tabernacle Township: 1.0 dwelling unit per acre.
xxviii. In Upper Township: 1.0 dwelling unit per acre.
xxix. In Waterford Township: 2.25 dwelling units per acre.
xxx. In Winslow Township: 1.125 dwelling units per acre.

2. For purposes of this section, developable lands are those privately held, non-wetland lands with a depth to seasonal high water table of greater than five feet. Where sewer systems are available, lands with a depth to seasonal high water table exceeding 1.5 feet shall also be considered developable. Developable land may exclude lands which are zoned exclusively for commercial or industrial use, predominantly developed as such, and which otherwise form a part of a reasonable balance between industrial or commercial zoned property and residential zoned lands.
3. The land use element of a municipal master plan and land use ordinance shall reasonably permit development to occur within a range of densities provided that the total amount of residential development permitted in (a)1 above is exceeded by at least 50 percent through the use of Pinelands Development Credits; that a reasonable proportion of the density increase permits the development of single family detached residences; and that the residentially zoned districts in which the ranges are established are reasonably expected to be developed within the assigned density ranges.
   i. The following guidelines may be used by municipalities in establishing these ranges:
      (1) Less than .5 to .5 dwelling units per acre;
      (2) One-half to one dwelling units per acre;
      (3) One to two dwelling units per acre;
      (4) Two to three dwelling units per acre;
      (5) Three to four dwelling units per acre;
      (6) Four to six dwelling units per acre;
      (7) Six to nine dwelling units per acre;
      (8) Nine to 12 dwelling units per acre; and
      (9) Twelve and greater dwelling units per acre.
   ii. Municipal master plans or land use ordinances shall provide that development at a density which is greater than the lowest density in each range can be carried out if the increase in density is achieved through a density bonus for use of Pinelands Development Credits.
4. Any local approval, including variances, which grants relief from density or lot area requirements shall require that Pinelands Development Credits be used for all dwelling units or lots in excess of that otherwise permitted, unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V.

5. Municipal use variances and other municipal approvals which authorize uses in zones where such uses are not permitted shall be subject to the following:
   i. Municipal variances or other municipal approvals which authorize residential development in a zone in which residential development is not otherwise permitted or which authorize nonresidential development in a zone in which the approved nonresidential development is not otherwise permitted, and in which permitted residential density may be increased through the use of Pinelands Development Credits pursuant to (a)3ii above, shall be allowed to take effect pursuant to N.J.A.C. 7:50-4.31 et seq., provided the applicant is able to demonstrate that such a variance or approval will not be substantially detrimental to the purpose or character of the zone in which the development would be located or to the land use and development objectives of this Plan by:
      (1) Involving, on a parcel of at least 50 acres, the development of more than 50 units or more than two percent of the base units allocated pursuant to (a) 1 above by a certified municipal land use ordinance to the Regional Growth Area of the municipality in which the development would be located, whichever is greater;
      (2) Eliminating, on a parcel of at least 50 acres, more than 50 base units or more than two percent of the base units allocated pursuant to (a)1 above by a certified municipal land use ordinance to the Regional Growth Area of the municipality in which the development would be located, whichever is greater. In cases where different types of residential development are permitted at different base densities within the same zone, an average of the permitted base densities shall be used to determine whether the applicable base unit threshold would be exceeded;
      (3) Exceeding the thresholds established in (2) above by impacting surrounding parcels within the Regional Growth Area in such a way as to reduce their potential for residential development; or
      (4) Exceeding the thresholds established in (2) above when considered together with other use variances or similar approvals issued by the municipality during the preceding two years within the same zone.
   ii. If the criteria in (a)5i above are satisfied, the municipal variance or other approval shall be allowed to take effect pursuant to N.J.A.C. 7:50-4.31 et seq., provided the applicant acquires and redeems Pinelands Development Credits as follows:
      (1) For those municipal variances or approvals which authorize residential development in a zone in which residential development is not otherwise permitted, Pinelands Development Credits must be acquired and redeemed for 50 percent of the authorized units for parcels under 10 acres in

size; for 75 percent of the authorized units for parcels between 10 and 20 acres in size and for 100 percent of the authorized units for parcels over 20 acres in size; and

(2) For those municipal variances or approvals which authorize nonresidential development in a zone in which the approved nonresidential development is not otherwise permitted, and in which density may be increased through the use of Pinelands Development Credits pursuant to (a)3ii above, Pinelands Development Credits must be acquired and redeemed at 50 percent of the maximum rate permitted for Pinelands Development Credit use in the zone which the nonresidential use will be located for parcels under 10 acres in size; at 75 percent of the maximum rate for parcels between 10 and 20 acres in size; and at 100 percent of the maximum rate for parcels over 20 acres in size.

iii. The requirements in (a)5ii above shall not apply to municipal variances or other approvals which authorize the expansion of or changes to existing nonresidential uses in accordance with N.J.A.C. 7:50-5.2.

6. If the number of Pinelands Development Credits required pursuant to (a)3 through (5) above is not evenly divisible by 0.25, it shall be increased to the next highest increment of 0.25.
7. Nothing in (a) above is intended to prevent a municipality, as a part of a certified master plan or land use ordinance, from:

i. Employing additional density bonus or incentive programs, provided that such programs do not interfere with nor otherwise impair in any way the required municipal program for use of Pinelands Development Credits;

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

iii. Decreasing the total number of dwelling units assigned pursuant to (a) 1 above to a density of no less than 2.5 units per acre of developable land, provided that:

(1) The municipality's originally assigned density pursuant to (a) 1 above is 3.0 units per developable acre or higher;

(2) The Pinelands Development Credit program requirements of (a) 3 above are met; and

(3) The municipal governing body describes those ongoing and future efforts, projects and other measures that it will implement, individually or collectively, or recommend to

responsible agencies to address the needs identified in (a) 7iii(3)(A) through (D) below, provides reasonable schedules for the implementation of the identified efforts, projects and measures, and describes how they will help to support the land development policies reflected in its municipal land use ordinance and foster the provision of real opportunities to achieve the permitted residential densities provided therein:

(A) The municipality's present and future circulation and utility service needs;

(B) The municipality's present and future recreation, conservation and open space needs;

(C) The municipality's present and long-term economic development needs, taking into account existing non-residential land use patterns within the municipality, non-residential zoning policies of its ordinance and the requirements of (a)2 above; and

(D) The municipality's present and future housing and community development needs, taking into account existing land use patterns and housing stock and the value of having a variety of housing types and neighborhoods where retail and service facilities are readily accessible to residences.

8. 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.

(b) No residential dwelling unit or nonresidential use shall be located on a parcel of less than one acre unless served by either:

1. A centralized waste water treatment plant; or
2. For residential development, a community on-site waste water treatment system serving two or more dwelling units that 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; or
3. For nonresidential development, an individual on-site septic waste water treatment system that meets the standards at N.J.A.C. 7:50-6.84(a)5.

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, 6.76(e) 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.

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 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 land may be cleared, no more than one percent of the land 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;

vi. The deed of restriction to be recorded pursuant to (b)4iii or iv above shall provide that impervious surface may not exceed that which currently exists or three percent, whichever is greater, unless Resource Management System Plan has been prepared. Before these impervious surface limits 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 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 los 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;
   ii. Protecting the environment 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.

(d) The Pinelands Commission shall not approve any transfer program which:
   1. Has extremely limited applicability because of ownership and subdivision patterns or environmental constraints; or
   2. Negatively impacts important natural resources including critical subbasins or publicly managed conservation lands.

7:50-5.31 Minimum standards for substandard lots

(a) A municipality may, as a part of its master plan and land use ordinance prepared and certified under the provisions of N.J.A.C. 7:50-3, exempt the owners of parcels of land within the Protection Area from the density limitations of this Part, provided that:
   1. The dwelling unit will be the principal residence of the property owner or a member of the immediate family of the property owner;
   2. The parcel has been in the continuous ownership since February 7, 1979 of the person whose principal residence the dwelling unit will be, a member of that person's immediate family, or a partnership or corporation in which members of that person's immediate family collectively own more than a majority interest in such partnership or corporation;
   3. No lot that was in common ownership with any contiguous land on or after February 8, 1979 that contains substantial improvements is exempt from the density provisions of this Part;
   4. No lot that does not contain all vacant contiguous lands in common ownership on or after February 8, 1979 is exempt from the density provisions of this Part; and

5. No lot of less than one acre will be exempt from the density provisions of this Part.

(b) A municipality may, as part of its master plan and land use ordinances prepared and certified under the provisions of N.J.A.C. 7:50-3, modify or eliminate one or more of the standards set forth in subsection (a)1 through 3 above, provided that any resulting increase in projected development is offset by a decrease in the densities otherwise permitted in the applicable management area.

7:50-5.32 Special provisions for cultural housing

(a) Residential dwellings on 3.2 acre lots may be permitted within any management area provided that:

1. The dwelling unit will be the principal residence of the property owner or a member of the immediate family of the property owner;
2. The individual whose principal residence the dwelling unit will be has not developed a dwelling unit under this section within the previous five years;
3. The parcel of land on which the dwelling is to be located has been in the continuous ownership since February 7, 1979 of the person whose principal residence the dwelling unit will be, a member of that person's immediate family or a partnership or corporation in which members of that person's immediate family collectively own more than a majority interest in such partnership or corporation; and
4. The person whose principal residence the dwelling unit will be has resided in the Pinelands for at least five years and that person or one or more members of that person's immediate family has resided in the Pinelands for a total of at least 20 different years.

(b) Residential dwelling units on lots smaller than 3.2 acres existing as of February 8, 1979 or created as a result of an approval granted by the Pinelands Development Review Board or by the Pinelands Commission pursuant to the Interim Rules and Regulations prior to January 14, 1981 which otherwise meets the standards of (a) above may be permitted by a municipality within any management area provided that:

1. The lot contains at least 1.0 acres;
2. The applicant qualifies for and receives a variance from the 3.2 acre lot size requirement from the municipality in which the lot is located;
3. Unless a Waiver of Strict Compliance for the dwelling unit or lot has been approved by the Pinelands Commission pursuant to N.J.A.C. 7:50-4, Part V, the applicant acquires and redeems 0.25 Pinelands Development Credits in addition to the reduction in the Pinelands Development Credit allocation that will result from the development of the dwelling unit pursuant to N.J.A.C. 7:50-5.43(b)3; and
4. Any Pinelands Development Credits allocated to the lot are reduced pursuant to N.J.A.C. 7:50-5.43(b)3.

7:50-5.33 (Reserved)

7:50-5.34 Assisted living facilities and continuing care retirement communities

(a) A municipality may include in its master plan and land use ordinance provisions which permit assisted living facilities and continuing care retirement communities, provided that:

1. Such uses shall be permitted only in Regional Growth Areas, Pinelands Villages and Pinelands Towns;
2. Within Regional Growth Areas, assisted living facilities and continuing care retirement communities may be permitted at densities consistent with the standards of N.J.A.C. 7:50-5.28(a); provided, however, that the maximum permitted density for an assisted living facility, including the assisted living component of a continuing care retirement community, shall be permitted to exceed eight units per acre only through the use of Pinelands Development Credits;
3. Within Pinelands Villages and Pinelands Towns, assisted living facilities and continuing care retirement communities may be permitted consistent with the standards of N.J.A.C. 7:50-5.27;
4. Calculations of residential density shall include all dwelling units in a continuing care retirement community and all dwelling units within an assisted living facility. Long term care beds within nursing facilities that have been licensed as such by the Department of Health and Senior Services shall not be included in calculations of density, whether or not said facility is part of a continuing care retirement community; and
5. Residential density for continuing care retirement communities and for any assisted living facilities which are part of a mixed use development shall be calculated by determining the amount of land associated with each use to be located on the parcel proposed for development. When the residential and non-residential uses are located in the same building or share other facilities, the determination of land area occupied by the residential use may take into consideration the size, intensity and capacity of the proposed residential and nonresidential uses on said parcel.

7:50-5.35 Minimum standards governing the distribution and intensity of development and land use in the Parkway Overlay District

(a) The following uses shall be permitted in the Parkway Overlay District, provided they are located within the existing highway right of way:

1. Construction, improvement, expansion, repair, reconstruction and maintenance of roadways, bridges and outlying and accessory facilities associated with operation and maintenance of the highway;
2. Improvement, expansion, repair, reconstruction and maintenance of existing interchanges;
3. Construction, improvement, expansion, repair, reconstruction and maintenance of public service infrastructure, both underground and above-ground, including communications and data transfer utilities and Intelligent Transportation Systems; and

4. Local communications facilities, provided that the standards set forth in N.J.A.C. 7:50-5.4(c)4ii through v are met.

(b) The uses listed in (a)1 through 3 above shall be permitted provided they will not induce changes in the location, pattern or intensity of land use which would be inconsistent with the Pinelands land use program as implemented through the Commission's certification, pursuant to N.J.A.C. 7:50-3, of the master plans and land use ordinances of Pinelands municipalities.

(c) In order to support the continued use and development of the Garden State Parkway and to ensure that only those uses specified in (a) above are allowed to be developed within the Parkway Overlay District, the provisions of (a) and (b) above shall control in the event of a conflict with any other standards set forth elsewhere in this Part for the underlying Pinelands management area designations.

7:50-5.36 Solar energy facilities

(a) A municipality may include in its master plan and land use ordinance provisions which permit solar energy facilities as a principal use in any Pinelands management area, provided that:

1. Public service infrastructure necessary to support the solar energy facility is available, or can be provided without any off-site development in the Preservation Area District, Special Agricultural Production Area, or a Forest Area except in association with a solar energy facility permitted pursuant to (b) below;
2. The solar energy facility, including any proposed off-site infrastructure, shall be located and screened in such a way as to minimize visual impacts as viewed from:
   i. The wild and scenic rivers and special scenic corridors listed in N.J.A.C. 7:50-6.105(a);
   ii. The Pine Plains and area necessary to maintain the ecological integrity of the Pine Plains, and the Forked River Mountains as depicted on the Special Area Map, Figure 7.1;
   iii. Publicly dedicated roads and highways;
   iv. Low intensity recreational facilities and campgrounds; and
   v. Existing residential dwellings located on contiguous parcels;
3. Should the development of new or expansion of existing on-site or off-site infrastructure be necessary to accommodate the solar energy facility, clearing shall be limited to that which is necessary to accommodate the use in accordance with N.J.A.C. 7:50-6.23. New rights-of-way shall be limited to a maximum width of 20 feet, unless additional width is necessary to address specific safety or reliability concerns;
4. Any solar energy facility shall be decommissioned within 12 months of the cessation of its utilization. Decommissioning shall include:
   i. Removal of all energy facilities, structures and equipment, including any subsurface wires and footings, from the parcel;
   ii. Restoration of the parcel in accordance with N.J.A.C. 7:50-6.24, unless restoration is unnecessary because the parcel is to be put into

active agricultural use or approved for development in accordance with the certified local ordinance within that 12 month period; and

iii. Any other measures necessary to address ecological and visual impacts associated with the solar energy facility, including the removal of off-site infrastructure and restoration of affected lands; and

5. The facility shall comply with the applicable limitations in (b) through (d) below.

(b) Special limitations on solar energy facilities as a principal use in the Preservation Area District, Special Agricultural Production Area and Forest Area are as follows:

1. Solar energy facilities shall only be permitted:

i. On the parcel of an existing landfill which has been closed in accordance with this Plan or is the subject of an application to the Commission in accordance with N.J.A.C. 7:50-6.75, provided the facility is located on those portions of the parcel which meet the standards of (b)2 below;

ii. On a parcel which has been remediated or is the subject of an application to the Commission for remediation in accordance with this Plan, due to contamination with wastes or hazardous or toxic substances, provided the facility is located on those portions of the parcel which meet the standards of (b)2 below; or

iii. On the parcel of a resource extraction operation, provided the facility is limited to those portions of the parcel comprised of previously mined areas that are not under an obligation to be restored pursuant to N.J.A.C. 7:50-6, Part VI;

2. The development of solar energy facilities shall be limited to those portions of a parcel meeting the criteria of (b)1 above which are comprised of previously disturbed lands that have not been subsequently restored. Solar energy facilities may be located on other portions of the parcel that are required to be disturbed for purposes of landfill closure or site remediation. The need to use such other lands shall be demonstrated in a comprehensive application for landfill closure or site remediation submitted to the Commission for approval in accordance with this Plan; and

3. Unless the solar energy facility is proposed as part of a comprehensive application for landfill closure or site remediation that has been submitted to the Commission for approval in accordance with this Plan, the acquisition and redemption of 0.25 Pinelands Development Credits shall be required for every four acres of land occupied by the solar energy facility.

(c) Special limitations on solar energy facilities as a principal use in the Agricultural Production Area are as follows:

1. Solar energy facilities may occupy up to 20 percent of any parcel but in no case shall exceed 10 acres. Those parcels for which Farmland Assessment is sought pursuant to N.J.S.A. 54:4.23.1 et seq. shall also comply with the

provisions of N.J.A.C. 18:15 related to Farmland Assessment eligibility, including occupied area restrictions that may be more limiting;

2. Solar energy facilities shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible:
   i. Soils classified as prime farmland by the United States Department of Agriculture, Natural Resources Conservation Service; and
   ii. Lands which have the highest ecological values in the Pinelands Area, as evidenced by large, contiguous areas of forest, undisturbed drainage units, undisturbed wetlands or prime habitat for characteristic and rare Pinelands plant and animal populations; and
3. No Pinelands Development Credits shall be allocated pursuant to N.J.A.C. 7:50-5.43 to that portion of the parcel developed for solar energy facility use until such time as the solar energy facility has been decommissioned in accordance with (a)4 above.

(d) Special limitations on solar energy facilities as a principal use in the Rural Development Area are as follows:
1. Solar energy facilities may occupy any previously disturbed portions of a parcel that have not subsequently been restored. The clearing of additional lands to accommodate a proposed solar energy facility may also be permitted, provided the percentage of cleared land on any parcel does not exceed 30 percent, taking into consideration both existing and proposed clearing; and
2. Solar energy facilities shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, lands which have the highest ecological values in the Pinelands Area, as evidenced by large, contiguous areas of forest, undisturbed drainage units, undisturbed wetlands or prime habitat for characteristic and rare Pinelands plant and animal populations

7:50-5.37 through 7:50-5.40 (Reserved)

PART IV-PINELANDS DEVELOPMENT CREDIT PROGRAM

7:50-5.41 Purpose

If land use and development of the Pinelands is concentrated in Regional Growth Areas, the Pinelands as a region can tolerate additional development without damaging the Pinelands environment. It is the purpose of this Part to facilitate such patterns of growth and development by providing landowners in the Preservation Area District, Special Agricultural Production Areas, and Agricultural Production Areas with an opportunity to secure an additional beneficial use of their land without the risk of damaging the essential ecological character of the Pinelands.

7:50-5.42 Pinelands Development Credit Program required

In order to be certified under the provisions of N.J.A.C. 7:50-3, Part IV, the master plan and land use ordinances of a municipality which has land in the Preservation Area

District, an Agricultural Production Area, a Special Agricultural Production Area, or a Regional Growth Area shall include provisions implementing the Pinelands Development Credit Program.

7:50-5.43 Pinelands Development Credits established

(a) Except for land which is owned by a public agency on January 14, 1981, land which is thereafter purchased by the State for conservation purposes, land which is subject to an easement limiting the use of land to non-residential uses or land otherwise excluded from entitlement pursuant to (b) below, every parcel of land in the Preservation Area District, an Agricultural Production Area or a Special Agricultural Production Area shall have a use right known as "Pinelands Development Credits" that can be used to secure a density bonus for lands located in Regional Growth Areas.

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

1. In the Preservation Area District, including those areas designated pursuant to N.J.A.C. 7:50-5.22(b)7:
   i. Uplands which are undisturbed but currently or previously approved for resource extraction pursuant to this Plan: two Pinelands Development Credits per 39 acres;
   ii. Uplands which are mined as a result of a resource extraction permit approved pursuant to this Plan: zero Pinelands Development Credits per 39 acres;
   iii. Other uplands: one Pinelands Development Credit per 39 acres; and
   iv. Wetlands: two-tenths Pinelands Development Credits per 39 acres.
2. In the Agricultural Production Area and Special Agricultural Production Area:
   i. Uplands which are undisturbed but approved for resource extraction pursuant to this Plan: two Pinelands Development Credits per 39 acres;
   ii. Uplands which are mined as a result of a resource extraction permit approved pursuant to this Plan: zero Pinelands Development Credits per 39 acres;
   iii. Other uplands and areas of active berry agricultural bogs and fields: two Pinelands Development Credits per 39 acres;
   iv. Wetlands in active field agricultural use currently and as of February 7, 1979: two Pinelands Development Credits per 39 acres; and
   v. Other wetlands: two-tenths Pinelands Development Credits per 39 acres.
3. The allocations established in (b)1 and 2 above shall be reduced as follows:
   i. Any parcel of 10 acres or less which is developed for a commercial, industrial, resource extraction, intensive recreation, institutional, campground or landfill use shall not receive Pinelands Development Credit entitlement. For such an improved parcel of more than 10 acres, the area actively used for such use or 10 acres, whichever is greater, shall not receive Pinelands Development Credit entitlement.
   ii. The Pinelands Development Credit entitlement for a parcel of land shall be reduced by .25 PDC for each existing dwelling unit on the parcel.

iii. The Pinelands Development Credit entitlement for a parcel of land shall be reduced by .25 PDC for each reserved right to build a dwelling unit on the parcel retained by the owner of the parcel pursuant to N.J.A.C. 7:50-5.44(b).

4. Pinelands Development Credit allocations shall be calculated for an entire parcel as it exists at the time an application for a Letter of Interpretation is submitted to the Commission pursuant to N.J.A.C. 7:50-4.73 or, at the request of the applicant, for individual lots specified in the application.
5. Pinelands Development Credit allocations exceeding one-quarter of a Pinelands Development Credit shall be rounded to the nearest one-quarter of a Credit.
6. If the allocations established in (b)1, 2, and 4 above are less than one-quarter of a Pinelands Development Credit, the allocation shall be increased to one-quarter of a Pinelands Development Credit if the owner of record of one-tenth or greater acres of land in the Preservation Area District, Agricultural Production Areas and Special Agricultural Production Areas, as of February 7, 1979 owns a vacant parcel of land that was not in common ownership with any contiguous land on or after February 7, 1979, and the parcel has not been sold or transferred except to a member of the owner's immediate family.
7. The provisions of (b)6 above shall also apply to owners of record of less than one-tenth acres of land in the Preservation Area District, Agricultural Production Areas and Special Agricultural Production Areas, as of February 7, 1979, provided that said owners acquire vacant, contiguous lands to which Pinelands Development Credits are allocated pursuant to (a) and (b) above which lands, when combined with the acreage of the parcel owned prior to February 7, 1979, total at least one-tenth of an acre.
8. The total allocations made pursuant to (b)6 and 7 above to any owner of record shall not exceed one-half of a Pinelands Development Credit. At such time as the application of (b)6 and 7 above would exceed a total allocation of one-half of a Pinelands Development Credit to an owner, all remaining lands of that owner in excess of that needed to yield the one-half Pinelands Development Credit allocation shall be entitled to an allocation of Pinelands Development Credits according to the allocation formulas specified in (b)1, 2 and 3 above.

(c) The owners of parcels of land which are smaller than 39 acres shall have fractional Pinelands Development Credits at the same ratio established in (b) above for the management area in which the parcel is located.

7:50-5.44 Limitations on use of Pinelands Development Credits

(a) No Pinelands Development Credit may be conveyed, sold, encumbered or transferred unless the owner of the land from which the credit has been obtained has received a Pinelands Development Credit Certificate from the New Jersey Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-3, and has deed restricted the use of the land in perpetuity to those uses set forth in N.J.A.C.

7:50-5.47(b) by recorded deed restriction which is in favor of a public agency or not for profit incorporated conservation organization and specifically and expressly enforceable by the Commission.

(b) Notwithstanding the provisions of (a) above, an owner of a parcel from which Pinelands Development Credits are sold may retain a right for residential development on that parcel provided that the recorded deed restriction expressly provides for same and that the total allocation of Pinelands Development Credits for that parcel is reduced by .25 Pinelands Development Credit for each reserved right to build a dwelling unit. Subdivision of the parcel shall not be required until such time as the residential development right is exercised.

(c) The bonus density of a parcel of land on which Pinelands Development Credits are used shall not exceed the upper limits of the density range of the municipal zone or district in which the parcel is located.

7:50-5.45 Pinelands Development Credit bonus multipliers

Pinelands Development Credits which are used for securing a density bonus for parcels of land located in a Regional Growth Area shall yield a bonus of four dwelling units per credit.

7:50-5.46 Aggregation of Development Credits

Pinelands Development Credits may be aggregated from different parcels for use in securing a bonus for a single parcel of land in a Regional Growth Area provided that the density does not exceed the limits of the density range specified in the municipal district in which the parcel is located.

7:50-5.47 Recordation of deed restriction

(a) No conveyance, sale or transfer of Pinelands Development Credits shall occur until the municipality with jurisdiction over the parcel of land from which the Pinelands Development Credits were obtained, the agency or organization to which the restriction is in favor, and the Commission have been provided with evidence of recordation of a restriction on the deed to the land from which the development credits were obtained.

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

1. In the Preservation Area District:

i. Berry agriculture; horticulture of native Pinelands plants; forestry; beekeeping; fish and wildlife management; wetlands management; low intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1,000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impervious surfaces; and accessory uses.

ii. Where permitted by a certified municipal land use ordinance or when the property is located in an uncertified municipality, agricultural employee housing as an accessory use may also be specifically permitted in such deed restriction.

2. In Special Agricultural Production Areas:
   i. Berry agriculture; horticulture of native Pinelands plants; forestry; beekeeping; fish and wildlife management; wetlands management**;** and accessory uses.
   ii. Where permitted by a certified municipal land use ordinance or when the property is located in an uncertified municipality, agricultural employee housing as an accessory use may also be specifically permitted in such deed restriction.
3. In Agricultural Production Areas:
   i. Agriculture; forestry; low intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than 15 feet of frontage per 1,000 feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel, and no more than one percent of the parcel will be covered with impervious surfaces; agricultural commercial establishments, excluding supermarkets and restaurants and convenience stores, where the principal goods or products available for sale were produced in the Pinelands and the sales area does not exceed 5,000 square feet; agricultural products processing facilities**;** and accessory uses.
   ii. Where permitted by a certified municipal land use ordinance or when the property is located in an uncertified municipality, the following additional uses may be specifically permitted in such deed restriction: airports and heliports accessory to agricultural uses and which are used exclusively for the storage, fueling, loading, and operation of aircraft as part of an ongoing agricultural operation; fish and wildlife management; wetlands management; and agricultural employee housing as an accessory use.
4. In all other Pinelands management areas where Pinelands Development Credits have been allocated pursuant to N.J.A.C. 7:50-4.62(d)2:
   i. Agriculture; forestry; and low intensity recreational uses.

(c) No development involving the use of Pinelands Development Credits shall be approved by a local permitting agency until the developer has provided the Commission and the municipality in which the parcel of land to be developed is located with evidence of his ownership and redemption of the requisite Pinelands Development Credits; provided, however, that a municipality may grant general development plan, preliminary subdivision or preliminary site plan approval conditioned upon such evidence being presented as a prerequisite to final subdivision or site plan approval. For such a final subdivision or site plan, the developer shall provide evidence of Pinelands Development Credit ownership and redemption to secure the same proportion of lots or residential units as was approved for Pinelands Development Credit use in the preliminary approval or, as appropriate, the general development plan. Notification of a local permitting agency development approval shall be made to the Pinelands Commission

pursuant to N.J.A.C. 7:50-4, and to the New Jersey Pinelands Development Credit Bank in accordance with N.J.A.C. 3:42-3. Redemption of the requisite Pinelands Development Credits shall occur in accordance with N.J.A.C. 3:42-3.6 prior to the memorialization of the resolution granting final subdivision or site plan approval, or if no such approval is required, prior to the issuance of any construction permits.

7:50-5.48 through 7:50-5.50 (Reserved)

PART V-SPECIAL PINELANDS DEVELOPMENT CREDIT PURCHASE PROGRAM

7:50-5.51 Purpose

This Part establishes a special program for the state's purchase of Pinelands Development Credits, utilizing funds appropriated by the state for this purpose. The program is administered in cooperation with the New Jersey Department of Environmental Protection and the New Jersey Pinelands Development Credit Bank and is intended to increase the amount of important agricultural and forested lands permanently protected in the Preservation Area District, the Agricultural Production Areas and the Special Agricultural Production Areas. All Pinelands Development Credits purchased through this special program shall also be retired so that the development rights purchased by the state are not used for density bonuses in Regional Growth Areas or for other development activities authorized in this Plan.

7:50-5.52 Program Administration

(a) The Pinelands Commission shall enter into a memorandum of agreement with the New Jersey Department of Environmental Protection and the New Jersey Pinelands Development Credit Bank to provide for the orderly administration of the special program authorized in this Part. The agreement shall, among other financial and administrative matters, provide for the Pinelands Commission's determination, through letters of interpretation issued pursuant to N.J.A.C. 7:50-4, Part VI, of the number of Pinelands Development Credits attributed to a parcel, the Pinelands Development Credit Bank's purchase of the Pinelands Development Credits on behalf of the Pinelands Commission and the administration of the appropriated funds. The memorandum of agreement may also authorize joint implementation of the program with any County Development Credit Bank.

(b) Nothing in this Part shall be construed to limit the authority of the Pinelands Development Credit Bank to otherwise purchase, extend loan guarantees for, sell, exchange, convey or retire Pinelands Development Credits pursuant to the authorities granted to the Bank in N.J.S.A. 13:18A-30-49.

7:50-5.53 Pinelands Development Credit Purchases

(a) The memorandum of agreement shall authorize the Pinelands Development Credit Bank to purchase Pinelands Development Credits through this special program on behalf of the Pinelands Commission only when sufficient funds are available for such purchases and when all of the requirements of (b) and (c) below are met.

(b) All purchases of Pinelands Development Credits under this program shall meet the following criteria:

1. The deed restriction required pursuant to N.J.A.C. 7:50-5.47 was recorded on or after July 1, 1999 for the parcel to which the Pinelands Development Credits are allocated.
2. The Pinelands Development Credits are owned by the person or entity who owns the parcel to which the Pinelands Development Credits are allocated.
3. The Pinelands Development Credits are not owned by a public agency.
4. If a person or entity owns more than one parcel, each of which is one acre or less in size and each of which receives a PDC allocation pursuant to N.J.A.C. 7:50-5.43(b)4 or 5, no more than a total of 0.50 Pinelands Development Credits allocated to such parcels shall be purchased from that person or entity.
5. No more than 25 Pinelands Development Credits shall be purchased from any person or entity prior to July 1, 2000 unless the full amount of the appropriation by the State for such purposes is not obligated by June 30, 2000.

(c) Upon receipt of a written request from a property owner and the transfer of sufficient funds to the Pinelands Development Credit Bank by the Pinelands Commission, the Bank shall purchase the Pinelands Development Credits if the requirements of (a) and (b) above and the requirements of N.J.A.C. 3:42-3 are met.

(d) The requirements of (a), (b), and (c), above apply to the Pinelands Development Credit Bank's purchase of Pinelands Development Credits pursuant to this special program and shall not otherwise be construed to limit any person's ability to sell Pinelands Development Credits to the Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-5 or to any other person.

7:50-5.54 Purchase price

(a) The purchase price of a Pinelands Development Credit shall be the higher of the following values:

1. The 1985 market value of $12,500 established in the Pinelands Development Credit Bank Act, P.L. 1985, c.310 (N.J.S.A. 13:18A-30-49), adjusted to current dollar value. The adjustment shall be directly proportional to the percent change in the Consumer Price Index from the 1985 annual average index to the annual average index for the calendar year immediately preceding the purchase. The adjustment shall use the Consumer Price Index for All Urban Consumers, Philadelphia-Wilmington-Atlantic City Area, Owners Equivalent Rent of Primary Residence, as compiled by the United States Department of Labor Bureau of Labor Statistics; or
2. The value derived from the more recent of the following:

i. The purchase price for Pinelands Development Credits established by the Pinelands Development Credit Bank pursuant to the Pinelands Development Credit Bank Act, P.L. 1985, c.310 (N.J.S.A. 13:18A-30-49) which is promulgated at N.J.A.C. 3:42-5.6; or
ii. Eighty percent of the highest per unit bid received in conjunction with the most recent sale of Pinelands Development Credits by the Pinelands Development Credit Bank pursuant to N.J.A.C. 3:42-7.

7:50-5.55 Retirement of Pinelands Development Credits Purchased through this Program

All Pinelands Development Credits purchased by the Pinelands Development Credit Bank pursuant to the special program authorized in this Part shall be retired and may never be transferred, sold, conveyed, redeemed or otherwise used in any way. The Pinelands Development Credit Bank shall record the retirement of these Pinelands Development Credits in the registry maintained pursuant to N.J.A.C. 3:42-4.

7:50-5.56 through 7:50-5.60 (Reserved)

PART VI-MINIMUM STANDARDS FOR MUNICIPAL RESERVE AREAS

7:50-5.61 Purpose

In order to enable counties and municipalities with jurisdiction over land in Rural Development Areas and Regional Growth Areas to plan for an orderly rate and pattern of growth within both areas, the Pinelands Commission hereby establishes a municipal option that may be incorporated in a municipal master plan or land use ordinance which allows a municipality to designate areas in a Rural Development Area or Regional Growth Area as Municipal Reserve Areas. These areas would be eligible for development under the minimum standards established for development and land use in Regional Growth Areas, including use of Pinelands Development Credits at a future date.

7:50-5.62 Designation of Municipal Reserve Areas

(a) A municipality may, in its master plan and land use ordinance, designate lands in Rural Development Areas that are adjacent to or contiguous with a Regional Growth Area or areas of existing growth and development located outside of the Pinelands as Municipal Reserve Areas, provided that the area designated:
   1. Does not contain significant amounts of:
      i. Wetlands as defined in N.J.A.C. 7:50-6, Part I;
      ii. Somewhat excessively and excessively drained soils as delineated in Plate 9;
      iii. Active agricultural lands;

iv. Aquifer recharge areas as indicated by a depth of the unsaturated zone of 20-30 and 30-40 feet on Plate 4 and not underlain by a clay aquiclude;
v. Extreme fire hazard areas as delineated in Plate 11; and
vi. Flood-prone areas designated under the Federal Flood Insurance Program.

2. Has a relatively uniform boundary which conforms to physical or environmental features;
3. Is geographically balanced around existing or planned community centers;
4. Is accessible to employment centers, and areas of commercial activity and recreation opportunities;
5. Is not contiguous with a Preservation Area District, Special Agricultural Production Area, Forest Area or Agricultural Production Area and preserves an adequate buffer of low intensity use between the Municipal Reserve Area and such districts;
6. Has available or is planned for full public services including sewer, water, roads, police and fire protection, and schools and libraries.

(b) A municipality may, in its master plan and land use ordinance, designate lands in a Regional Growth Area as Municipal Reserve Areas, provided that sufficient vacant, developable land remains in the municipality's Regional Growth Area and other portions of the municipality to meet the growth needs of the municipality projected for the next six years as determined or approved by the county in which the municipality is located, as well as by the Pinelands Commission. Each area designated shall:

1. Encompass at least 50 contiguous acres which are predominantly vacant;
2. Include parcels in their entirety;
3. Exclude areas predominantly comprised of parcels under 10 acres in size;
4. Exclude lands predominantly comprised of wetlands as defined in N.J.A.C. 7:50-6, Part I;
5. Exclude lands currently served by sanitary sewer or planned for sanitary sewer service in the near future, as demonstrated by the submission of applications to the Commission for the installation of sanitary sewer or the municipal adoption of a capital budget for installation of sewer service within the area; and
6. Be designated as a Rural Development Area.

(c) A municipality that designates a municipal reserve area in accordance with (b) above shall prepare and submit to the Commission a plan which assesses the need for sewer service, other public service infrastructure and capital improvements within the reserve area and indicates how and when such services and improvements will be provided. Should said plan indicate that sewer service, other public service infrastructure or capital improvements will be necessary during the six-year duration of the reserve area, a Capital Improvements Program shall be prepared and adopted by the municipality in accordance with N.J.S.A. 40:55D-29 and 30 and submitted to the Commission for its review.

7:50-5.63 Development in Municipal Reserve Areas

(a) A municipal master plan or land use ordinance that designates areas in a Rural Development Area as a Municipal Reserve Area shall include provisions ensuring that development of the reserve area at Regional Growth Area densities will occur only when all of the following conditions are met:

1. Adjacent developable land in the Regional Growth Area has been substantially developed in accordance with the land use and management programs provided in this Plan;
2. All essential public services are available; and
3. The amount of vacant developable land in all Regional Growth Areas in the municipality is insufficient to meet the growth needs of the county and the municipality projected for the next five years as determined or approved by the county in which the reserve area is located, as well as by the Pinelands Commission.

(b) A municipal master plan and land use ordinance that designate areas in a Regional Growth Area as Municipal Reserve Areas shall include provisions ensuring that:

1. Residential development within the reserve area is permitted at a maximum gross density of one unit per 10 acres and:
   i. Is clustered on lots of one acre in size, with the remainder of the parcel not assigned to individual residential lots reserved through recordation of a restriction on the deed to the parcel to accommodate future development at Regional Growth Area densities following expiration of the Municipal Reserve Area designation;
   ii. Utilizes those alternate design wastewater treatment systems authorized pursuant to N.J.A.C. 7:50-6.84(a)5 or 7:50-10, Part IV; and
   iii. Is designed so as to facilitate access to other parts of the parcel that may be developed in the future at Regional Growth Area densities following expiration of the Municipal Reserve Area designation.
2. One-quarter of a Pinelands Development Credit is purchased and redeemed for each residential unit developed in the reserve area;
3. Any development transfer program established for the reserve area pursuant to N.J.A.C. 7:50-5.30 provides only for the development of existing undersized lots. Any parcel whose acreage is to be utilized to meet the density requirement established in (b)1 above but which will not be developed shall be located within the reserve area and shall be reserved through recordation of a restriction on the deed to the parcel to accommodate future development at Regional Growth Area densities following expiration of the Municipal Reserve Area designation. Development on the existing undersized lot shall be designed in accordance with the requirements of (b)1iii above; and
4. Development of each reserve area at Regional Growth Area densities will automatically be permitted within a period of six years. A municipality may demonstrate that such development should be further delayed because the reserve area continues to meet all of the criteria for designation set forth in 7:50-5.62(b) and capital improvements within the reserve area are not needed pursuant to 7:50-5.62(c).

Current through 12/21/2020

SUBCHAPTER 6. MANAGEMENT PROGRAMS AND MINIMUM STANDARDS

INTRODUCTION

This subchapter establishes management programs and minimum standards governing development and land use in the Pinelands. In addition, guidelines for county and municipality preparation of management programs for scenic resources and recreation are provided. All the programs are intended to be implemented by the administration of municipal and county master plans and land use ordinances and by State and Federal agencies through the development review procedures established in N.J.A.C. 7:50-4. Prior to certification of county or municipal master plans and land use ordinances, the standards of this subchapter except for those guidelines or optional programs, will be implemented and enforced by the Pinelands Commission. The standards set forth in this subchapter are minimum requirements and a municipality, county, State, or Federal agency may adopt more restrictive regulations, provided that such regulations are compatible with the goals and objectives of this Plan. In such cases, all development must adhere to the more restrictive regulations. In addition to the models specified herein, the Pinelands Commission may utilize other scientifically based models, on a case by case basis, in determining compliance with the standards contained in this subchapter.

PART I-WETLANDS

7:50-6.1 Purpose

Coastal and inland wetlands constitute a vital element of the ecological character of the Pinelands. They are critical habitats for many threatened and endangered plant and animal species and play many other important roles including the maintenance of surface and ground water quality. This program is deemed to be the minimum standards necessary to protect the long-term integrity of wetlands.

7:50-6.2 Wetlands management program

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

7:50-6.3 Wetlands

Wetlands are those lands which are inundated or saturated by water at a magnitude, duration and frequency sufficient to support the growth of hydrophytes. Wetlands include lands with poorly drained or very poorly drained soils as designated by the National Cooperative Soils Survey of the Soil Conservation Service of the United States Department of Agriculture. Wetlands include coastal wetlands and inland wetlands, including submerged lands. The "New Jersey Pinelands Commission Manual for Identifying and Delineating Pinelands Area Wetlands - a Pinelands Supplement to the Federal Manual for Identifying and Delineating Jurisdictional Wetlands," dated January, 1991, as amended, may be utilized in delineating the extent of wetlands based on the definitions of wetlands and wetlands soils contained in this section, N.J.A.C. 7:50-2.11, 6.4 and 6.5.

7:50-6.4 Coastal wetlands

(a) Coastal wetlands are banks, low-lying marshes, swamps, meadows, flats, and other lowlands subject to tidal inundation which support or are capable of supporting one or more of the following plants:

1. Salt meadow grass (Spartina patens);
2. Spike grass (Distichlis spicata);
3. Black grass (Juncus gerardi);
4. Saltmarsh grass (Spartina alterniflora);
5. Saltworts (Salicornia europaea and Salicornia bigelovii);
6. Sea lavender (Limonium carolinianum);
7. Saltmarsh bulrushes (Scirpus robustus and Scirpus paludosus var, atlanticus);
8. Sand spurrey (Spergularia marina);
9. Switch grass (Panicum virgatum);
10. Tall cordgrass (Spartina pectinata);
11. Hightide bush (Iva frutescens var, oraria);
12. Cattails (Typha angustifolia and Typha Iatifolia);
13. Spike rush (Eleocharis rostellata);
14. Chairmaker's rush (Scirpus americanus);
15. Bent grass (Argostis palustris);
16. Sweet grass (Hierochloe odorata);
17. Wild rice (Zizania aquatica);
18. Olney's threesquare (Scirpus olneyi);
19. Marsh mallow (Hibiscus palustris);
20. Salt reed grass (Spartina cynosuroides);
21. Common reed grass (Phragmites communis);
22. Pickerel grass (Pontederia cordata);
23. Arrowheads (Sagittaria spp.);
24. Spatterdock (Nuphar variegatum);
25. Red maple (Acer rubrum); and
26. Atlantic white cedar (Chamaecyparis thyoides).

(b) Coastal wetlands include those lands which are delineated by the New Jersey Department of Environmental Protection on official maps at a scale of 1:2, 400 listed in N.J.A.C. 7:7A-1.13.

(c)

7:50-6.5 Inland wetlands

(a) Inland wetlands include, but are not limited to:

1. Atlantic white cedar swamps which are areas dominated by Atlantic white cedars (Chamaecyparis thyoides) and supporting one or more of the following hydrophytic plants:
   - i. Red maple (Acer rubrum);
   - ii. Sweetbay (Magnolia virginiana);
   - iii. Blackgum (Nyssa sylvatica);
   - iv. Dangleberry (Gaylussacia frondosa);
   - v. Highbush blueberry (Vaccinium corymbosum);
   - vi. Swamp azalea (Rhododendron viscosum);
   - vii. Fetterbush (Leucothoe racemosa);
   - viii. Sweet pepperbush (Clethra alnifolia);
   - ix. Inkberry (Ilex glabra);
   - x. Pitcher plant (Sarracenia purpurea);
   - xi. Sundew (Drosera spp.);
   - xii. Cinnamon fern (Osmunda cinnamomea);
   - xiii. Royal fern (Osmunda regalis); and
   - xiv. Sphagnum moss (Sphagnum spp.).
2. Hardwood swamps which are areas dominated by red maple (Acer rubrum), blackgum (Nyssa sylvatica) and/or sweetbay (Magnolia virginiana) and supporting one or more of the following hydrophytic plants:
   - i. Gray birch (Betula populifolia);
   - ii. Pitch pine (Pinus rigida);
   - iii. Atlantic white cedar (Chamaecyparis thyoides);
   - iv. Sweet gum (Liquidambar styraciflua);
   - v. Sweet pepperbush (Clethra alnifolia);
   - vi. Highbush blueberry (Vaccinium corymbosum);
   - vii. Swamp azalea (Rhododendron viscosum);
   - viii. Fetterbush (Leucothoe racemosa);
   - ix. Leatherleaf (Chamaedaphne calyculata);
   - x. Dangleberry (Gaylussacia frondosa);
   - xi. Cinnamon fern (Osmunda cinnamomea);
   - xii. Chain fern (Woodwardia spp.); and
   - xiii. Rushes (Juncus spp.);
   - xiv. Or other lowland forests dominated by one or more of the following plants:
     - (1) Sweetgum (Liquidambar styraciflua);
     - (2) Pin oak (Quercus palustris); and
     - (3) Willow oak (Quercus phellos).
3. Pitch pine lowlands which are areas dominated by pitch pine (Pinus rigida) and supporting one or more of the following hydrophytic plants:
   - i. Red maple (Acer rubrum);
   - ii. Blackgum (Nyssa sylvatica);
   - iii. Gray birch (Betula populifolia);
   - iv. Leatherleaf (Chamaedaphne calyculata);

v. Dangleberry (Gaylussacia frondosa);
vi. Sheep laurel (Kalmia angustifolia);
vii. Highbush blueberry (Vaccinium corymbosum);
viii. Sweet pepperbush (Clethra alnifolia); and
ix. Wintergreen (Gaultheria procumbens).

4. Bogs which are areas dominated by hydrophytic, shrubby vegetation including:
   i. Cranberry (Vaccinium macrocarpon);
   ii. Leatherleaf (Chamaedaphne calyculata);
   iii. Sheep laurel (Kalmia angustifolia);
   iv. Highbush blueberry (Vaccinium corymbosum);
   v. Swamp azalea (Rhododendron viscosum);
   vi. Sweet pepperbush (Clethra ainifolia);
   vii. Dangleberry (Gaylussacia frondosa);
   vii. Staggerbush (Lyonia mariana); or
   ix. Sphagnum moss (Sphagnum spp.), pitcher plant (Sarracenia purpurea), sundew (Drosera spp.), and sedges (Carex spp.) are among the herbaceous plants which are found in bogs. Active cranberry bogs and shrub thickets dominated by leatherleaf (Chamaedaphne calyculata) are included in this category.
5. Inland marshes which are areas dominated by hydrophytic grasses (Graminaea) and sedges (Carex spp.) and which include one or more of the following plants: pickerelweed (Pontederia cordata), arrow arum (Peltandra virginica), cattail (Typhus spp.), and rushes (Juncus spp.).
6. Lakes and ponds which are seasonal or permanent standing bodies of water.
7. Rivers and streams which are bodies of water which periodically or continuously contain moving water or which form a link between two bodies of standing water.

7:50-6.6 Development prohibited

Development shall be prohibited in all wetlands and wetlands transition areas established pursuant to N.J.A.C. 7:50-6.14 in the Pinelands except as specifically authorized in this Part. Only activities permitted in wetlands pursuant to this Part shall be permitted in wetlands transition areas pursuant to N.J.A.C. 7:50-6.14.

7:50-6.7 Significant adverse impact

(a) A significant adverse impact shall be deemed to exist where it is determined that one or more of the following modifications of a wetland will have an irreversible effect on the ecological integrity of the wetland and its biotic components including, but not limited to, threatened or endangered species of plants or animals:
   1. An increase in surface water runoff discharging into a wetland;
   2. A change in the normal seasonal flow patterns in the wetland;
   3. An alteration of the water table in the wetland;
   4. An increase in erosion resulting in increased sedimentation in the wetland;
   5. A change in the natural chemistry of the ground or surface water in the wetland;
   6. A loss of wetland habitat;

7. A reduction in wetland habitat diversity;
8. A change in wetlands species composition; or
9. A significant disturbance of areas used by indigenous and migratory wildlife for breeding, nesting, or feeding.

(b) Determinations under (a) above shall consider the cumulative modifications of the wetland due to the development being proposed and any other existing or potential development which may affect the wetland.

(c) The "Buffer Delineation Model for New Jersey Pinelands Wetlands" dated May, 1985, as amended, (Division of Pinelands Research, Center for Coastal and Environmental Studies, Rutgers - the State University of New Jersey, New Brunswick, New Jersey 08903) may be utilized as a guide in determining the extent of the wetlands transition area necessary so that no significant adverse impact will be deemed to exist pursuant to (a) above.

7:50-6.8 Agriculture and horticulture

Horticulture of native Pinelands species and berry agriculture shall be permitted in all wetlands subject to the requirements of Part V of this subchapter. Beekeeping shall be permitted in all wetlands.

7:50-6.9 Forestry

Forestry shall be permitted in all wetlands subject to the requirements of Part IV of this subchapter.

7:50-6.10 Wetlands management

(a) Notwithstanding the other standards of this subchapter, the establishment of a characteristic wetland, as defined in N.J.A.C. 7:50-6.4 and 6.5, on inactive farmland or the removal of exotic plant species or Phragmites from a wetland shall be permitted provided that:

1. The proposed activities, including any grading and herbicide use, are required to establish the wetland or to remove the exotic plant species or Phragmites;
2. Activities undertaken to establish a characteristic wetland or remove exotic plants or Phragmites from a wetland will not impair the long term integrity of the wetland;
3. The proposed activities will not result in an irreversible adverse impact on the long term survival of any local populations of those plant species designated pursuant to N.J.A.C. 7:50-6.27(a) and 7:5C-5.1;
4. The proposed activities will not result in an irreversible adverse impact on the long term survival of any local populations of those animal species designated pursuant to N.J.S.A. 23:2A-1 et seq.;
5. All plant stock used in the project will be obtained from areas proximate to the site or, if that is not practical, from locally native naturally occurring sources;
6. The applicant analyzes and certifies that appropriate measures will be taken to assure that no adverse off-site impacts, including material changes in stream flows, shall occur; and
7. A monitoring protocol is prepared, submitted and implemented by the applicant to ensure that actual outcomes are appropriately documented and reported.

(b) Notwithstanding the other standards of this subchapter, the establishment of a characteristic wetland, as defined in N.J.A.C. 7:50-6.4 and 6.5, that adversely affects another type of characteristic wetland may be permitted only if:

1. The proposed activities are intended to create or expand a non-forested wetland community as listed in N.J.A.C. 7.50-6.5, to establish a local population of a plant species designated pursuant to N.J.A.C. 7:50-6.27(a) or 7:5C-5.1, or to create habitat conditions conducive for an animal species designated pursuant to N.J.S.A. 23:2A-1 et seq.;
2. The wetland that will be adversely affected commonly occurs throughout the Pinelands and is identified as a forested wetlands community in N.J.A.C. 7.50-6.5;
3. The proposed activities, including any grading and herbicide use, are required to accomplish the project;
4. The proposed activities will not result in an irreversible adverse impact on the long term survival of any local populations of those plant species designated pursuant to N.J.A.C. 7:50-6.27(a) and 7:5C-5.1;
5. The proposed activities will not result in an irreversible adverse impact on the long term survival of any local populations of those animal species designated pursuant to N.J.S.A. 23:2A-1 et seq.;
6. All plant stock used in the project will be obtained from areas proximate to the site or, if that is not practical, from locally native naturally occurring sources;
7. The applicant analyzes and certifies that appropriate measures will be taken to assure that no adverse off-site impacts, including material changes in stream flows, shall occur;
8. The proposal is based upon documented results achieved under similar conditions or is proposed as part of a research project to confirm a sound hypothesis;
9. If the proposal is part of a research project to confirm a sound hypothesis, an appropriate research design has been prepared and submitted which justifies the size, location, and protocols of the study; and
10. A monitoring protocol is prepared, submitted and implemented by the applicant to ensure that actual outcomes are appropriately documented and reported.

(c) Fish and wildlife management activities and wetlands management activities other than those expressly authorized in (a) and (b) above shall be permitted in wetlands only if:

1. The minimum standards of all other parts of this subchapter are met;
2. The proposed activities will not have a significant adverse impact, as set forth in N.J.A.C. 7:50-6.7, on the wetlands in which the activities are carried out; and
3. The standards set forth in (b)10 and either (b)8 or 9 above are met.

7:50-6.11 Low intensity uses

Hunting, fishing, trapping, hiking, boating, and swimming shall be permitted in all wetlands provided that such uses do not involve any structure other than those authorized in N.J.A.C. 7:50-6.12. Other similar low intensity recreational uses shall be permitted provided that any associated development does not have a significant adverse impact, as set forth in N.J.A.C. 7:50-6.7, on the wetland in which the use is carried out.

7:50-6.12 Water-dependent recreational facilities

a) Docks, piers, moorings, and boat launches for the use of a landowner shall be permitted in all wetlands, provided that the use will not result in a significant adverse impact, as set forth in N.J.A.C. 7:50-6.7, and conforms to all State and Federal regulations.
b) Commercial or public docks, piers, moorings, and boat launches shall be permitted provided that:
   1. There is a demonstrated need for the facility that cannot be met by existing facilities;
   2. The development conforms with all state and federal regulations; and
   3. The development will not result in a significant adverse impact, as set forth in N.J.A.C. 7:50-6.7.

7:50-6.13 Linear improvements

(a) Bridges, roads, trails and utility transmission and distribution facilities and other similar linear facilities shall be permitted in wetlands provided that:
   1. There is no feasible alternative route for the facility that does not involve development in a wetland or, if none, that another feasible route which results in less significant adverse impacts on wetlands does not exist;
   2. The need for the proposed linear improvement cannot be met by existing facilities or modification thereof;
   3. The use represents a need which overrides the importance of protecting the wetland;
   4. Development of the facility will include all practical measures to mitigate the adverse impact on the wetland; and
   5. The resources of the Pinelands will not be substantially impaired as a result of the facility and its development as determined exclusively based on the existence of special and unusual circumstances.

7:50-6.14 Wetland transition areas

No development, except for those uses which are specifically authorized in this subchapter, shall be carried out within 300 feet of any wetland, unless the applicant has demonstrated that the proposed development will not result in a significant adverse impact on the wetland, as set forth in N.J.A.C. 7:50-6.7.

7:50-6.15 through 7:50-6.20 (Reserved)

PART II-VEGETATION

7:50-6.21 Purpose

Vegetation represents the most visible element of the essential character of the Pinelands and constitutes the fundamental structure of wildlife habitats, including the habitats of several species which are designated as threatened or endangered. The Pinelands landscape is comprised of a mosaic of plant associations which reflects the interaction of water, soil,

topography, fire and human influence. The continued integrity of the Pinelands vegetation is essential to the preservation and maintenance of the essential character of the Pinelands. Therefore, vegetation clearing should be limited to authorized forestry activities, fire hazard mitigation, preparation of agricultural fields, and the minimum clearing necessary to permit construction of development or land use authorized by this Plan. In addition, landscaping materials employed in the Pinelands must be compatible with native vegetation in order to preserve the visual and ecological character of the Pinelands.

7:50-6.22 Vegetation Management Program

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

7:50-6.23 Clearing and soil disturbance

(a) All clearing and soil disturbance activities, whether or not an application for development is required pursuant to N.J.A.C. 7:50-4, shall be limited to that which is necessary to accommodate an activity, use or structure which is permitted by this Plan.

(b) Where practical, all clearing and soil disturbance activities associated with an activity, use or structure other than agriculture, forestry and resource extraction, shall:

1. Avoid wooded areas, including New Jersey's Record Trees as published by the New Jersey Department of Environmental Protection in 1991 and periodically updated; and
2. Revegetate or landscape areas temporarily cleared or disturbed during development activities.

7:50-6.24 Revegetation and landscaping plans

(a) Except for forestry and resource extraction, each application for public development which requires Pinelands Commission approval pursuant to N.J.A.C. 7:50-4.51 through 4.58 shall reflect revegetation and landscaping measures to meet the standards of (c) below.

(b) Except for forestry and resource extraction, each application for major development and any other application where a municipality otherwise requires a landscaping plan shall contain a landscaping or revegetation plan in accordance with the standards of (c) below.

(c) In order to conserve water, conserve natural features and reduce pollution from the use of fertilizers, pesticides and other soil supplements, the following elements shall be incorporated into all revegetation or landscaping plans prepared pursuant to (a) and (b) above:

1. The limits of clearing shall be identified;
2. Existing vegetation, including New Jersey's Record Trees as published by the New Jersey Department of Environmental Protection in 1991 and periodically updated, shall be incorporated into the landscape design where practical;

3. Permanent lawn or turf areas shall be limited to those specifically intended for active human use such as play fields, golf courses and lawns associated with a residence or other principal non-residential use. Existing wooded areas shall not be cleared and converted to lawns except when directly associated with and adjacent to a proposed structure; and
4. Shrubs and trees authorized by N.J.A.C. 7:50-6.25 shall be used for revegetation or landscaping purposes. Other shrubs and trees may be used in the following circumstances:
   i. When the parcel to be developed or its environs contain a predominance of shrubs and tree species not authorized by N.J.A.C. 7:50-6.25;
   ii. For limited ornamental purposes around buildings and other structures; or
   iii. When limited use of other shrubs or tree species is required for proper screening or buffering.

7:50-6.25 Native shrubs and trees

(a) Native shrubs and trees include but are not necessarily limited to:
1. Pitch pine;
2. Short-leaf pine;
3. Black oak;
4. Southern red oak;
5. White oak;
6. Blackjack oak;
7. Scrub oak;
8. Post oak;
9. Chestnut oak;
10. Scarlet oak;
11. Black huckleberry;
12. Dangleberry;
13. Sheep laurel;
14. American holly;
15. Lowbush blueberry;
16. Mountain laurel;
17. Virginia pine;
18. Atlantic white cedar;
19. Red cedar;
20. Grey birch;
21. Sweetbay magnolia;
22. Sassafras;
23. Trident red maple;
24. Blackgum;
25. Red chokeberry;
26. Black chokeberry;
27. Shadbush;
28. Bayberry;

29. Sweetfern;
30. Inkberry;
31. Winterberry;
32. Sweet pepperbush;
33. Arrowwood;
34. Swamp azalea;
35. Sand myrtle;
36. Swamp leucothoe;
37. Staggerbush;
38. Teaberry;
39. Trailing arbutus;
40. Bearberry;
41. Dwarf huckleberry;
42. Highbush blueberry;
43. Black highbush blueberry;
44. Cranberry; and
45. Rhododendron maximum.

7:50-6.26 Landscaping and revegetation guidelines

(a) Municipalities may wish to consider the following measures when formulating landscaping or revegetation requirements:

1. Requiring vegetation removal permits as a means to further ensure that unnecessary disturbance of existing vegetation is avoided and that proper revegetation is undertaken, when necessary. These permits can be required only when a construction permit or other municipal approval is required or can be independently required as a prerequisite to the removal of a specified amount of vegetation.
2. Requiring landscaping permits as a prerequisite to any substantial landscaping activities. These can be required only when a construction permit or other municipal approval is required or can be independently required even if no other municipal permit or approval is required.
3. Listing the types of other shrubs and trees which may be used when the conditions of N.J.A.C. 7:50-6.24(c)3 are met. These other shrubs and trees may be listed on the basis of their adaptation to droughty, nutrient poor conditions.
4. Identifying preferred types of grasses that are tolerant of droughty, nutrient poor conditions. Appropriate types include:
   i. Fescue species;
   ii. Smooth bromegrass;
   iii. Reed canary grass;
   iv. Little bluestem;
   v. Deertongue;
   vi. Red top; and
   vii. Switch grass.
5. Establishing precise standards for lawn areas, such as:

i. Limiting their size to a certain percentage of the total area to be landscaped or a specified square footage; and
ii. Prohibiting small, isolated grass areas and lawn strips.

6. Requiring that planting beds be covered with at least two inches of mulch.
7. Requiring additional shade trees to reduce evaporation rates.
8. Encouraging water conserving irrigation methods in one or more of the following ways:
   i. Use of non-potable (for example, retained stormwater) water for irrigation purposes;
   ii. Use of moisture sensing devices to regulate automatic irrigation systems;
   iii. Use of manually operated irrigation systems;
   iv. Use of drip irrigation systems; or
   v. Discourage the use of permanently installed irrigation systems except when necessary to maintain heavily used recreation areas.

7:50-6.27 Development prohibited in the vicinity of threatened or endangered plants

(a) No development shall be carried out by any person unless it is designed to avoid irreversible adverse impacts on the survival of any local populations of those plants designated by the Department of Environmental Protection as endangered plant species pursuant to N.J.A.C 7:5C-5.1 as well as the following plants, which are hereby found and declared to be threatened or endangered plants of the Pinelands:

1. Sensitive-joint vetch (Aeschynomene virginica).
2. Red milkweed (Asclepias rubra).
3. Silvery aster (Symphyotrichum concolor, formerly Aster concolor).
4. Pickering's morning glory (Stylisma pickeringii var. pickeringii, formerly Breweria pickeringii).
5. Pine Barrens reedgrass (Calamovilfa brevipilis).
6. Barratt's sedge (Carex barrattii).
7. Sickle-leaved golden aster (Pityopsis falcata, formerly Chrysopsis falcata).
8. Spreading pogonia (Cleistes divaricata).
9. Broom crowberry (Corema conradii).
10. Rose-colored tickseed (Coreopsis rosea).
11. Rushfoil (Croton willdenowii, formerly Crotonopsis elliptica).
12. Stiff tick trefoil (Desmodium strictum).
13. Knotted spike rush (Eleocharis equisetoides).
14. Resinous boneset (Eupatorium resinosum).
15. Pine Barrens gentian (Gentiana autumnalis).
16. Yellow-fringed orchid (Platanthera ciliaris, formerly Habenaria ciliaris).
17. Crested yellow orchid (Platanthera cristata, formerly Habenaria cristata).
18. Southern yellow orchid (Platanthera integra, formerly Habenaria integra).
19. Swamp pink (Helonias bullata).
20. New Jersey rush (Juncus caesariensis).
21. Lily-leaved twayblade (Liparis loeselii).
22. Loesel's twayblade (Liparis loeselii).
23. Southern twayblade (Listera australis).
24. Boykin's lobelia (Lobelia boykinii).

25. Canby's lobelia (Lobelia canbyi).
26. Hairy ludwigia (Ludwigia hirtella).
27. Linear-leaved ludwigia (Ludwigia linearis).
28. Climbing fern (Lygodium palmatum).
29. Torrey's muhly (Muhlenbergia torreyana).
30. Yellow asphodel (Narthecium americanum).
31. Floating heart (Nymphoides cordata).
32. Narrow panic grass (Panicum hemitomon).
33. Hirst's panic grass (Dichanthelium hirstii, formerly Panicum hirstii).
34. American mistletoe (Phoradendron leucarpum, formerly P. flavescens).
35. Maryland milkwort (Polygala mariana).
36. Slender rattlesnake root (Prenanthes autumnalis).
37. Awned meadow beauty (Rhexia aristosa).
38. Capitate beakrush (Rhynchospora cephalantha).
39. Slender beaked rush (Rhynchospora inundate).
40. Knieskern's beaked rush (Rhynchospora knieskernii).
41. Curly grass fern (Schizaea pusilla).
42. Chaffseed (Schwalbea americana).
43. Long's bulrush (Scirpus longii).
44. Slender nut rush (Scleria minor).
45. Reticulated nut rush (Scleria reticularis).
46. Sclerolepis (Sclerolepis uniflora).
47. Wand-like goldenrod (Solidago stricta).
48. Little ladies tresses (Spiranthes tuberosa).
49. False asphodel (Tofieldia racemosa).
50. Humped bladderwort (Utricularia gibba).
51. White-flowered bladderwort (Utricularia olivacea).
52. Purple bladderwort (Utricularia purpurea).
53. Reclined bladderwort (Utricularia resupinata).
54. Yellow-eyed grass (Xyris caroliniana, formerly X. flexuosa).

7:50-6.25 through 7:50-6.30 (Reserved)

PART III-FISH AND WILDLIFE

7:50-6.31 Purpose

The Pinelands environment supports a rich diversity of fish and wildlife species. Many threatened and endangered species are found in the Pinelands and they, together with the other fauna of the area, constitute an important part of the essential ecological character of the Pinelands that requires careful management and protection.

7:50-6.32 Fish and wildlife management program

In order to be certified under the provisions of N.J.A.C. 7:50-3, a municipal master plan or land use ordinance must include the standard for the protection of Pinelands fish and wildlife contained in this Part.

7:50-6.33 Protection of threatened or endangered wildlife required

No development shall be carried out unless it is designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of those threatened or endangered animal species designated by the Department of Environmental Protection pursuant to N.J.S.A. 23:2A-1 et seq.

7:50-6.34 Protection of wildlife habitat

All development or other authorized activity shall be carried out in a manner which avoids disturbance of fish and wildlife habitats that are essential to the continued nesting, resting, breeding and feeding of significant populations of fish and wildlife in the Pinelands.

7:50-6.35 through 7:50-6.40 (Reserved)

PART IV-FORESTRY

7:50-6.41 Purpose

Forest vegetation represents a unique and potentially financially valuable part of the essential character of the Pinelands. If they are properly managed, Pinelands forests represent significant economic opportunities to their owners while perpetuating the overall ecological value of the Pinelands. This Part encourages forestry for both economic and conservation purposes on public and private lands and also establishes standards for commercial forestry that seek to maximize forest land values and provide for the long-term economic and environmental integrity of the Pinelands.

7:50-6.42 Forestry management program

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

7:50-6.43 Pinelands Native Forest Types

(a) For purposes of this Part, the following constitute Pinelands Native Forest Types:

1. Upland Native Forest Types:

i. Oak-dominated Native Forest Type. This forest type is found throughout the Pinelands in areas where fires were naturally infrequent, such as broad uplands with loamy soil, mesic coastal sites, the Pinelands periphery, or in the lee of wetlands firebreaks. This forest type has the following characteristics:

(1) Tree-oak cover is 50 to100 percent. Oak species can include various combinations of white oak, scarlet oak, black oak, chestnut oak, and post oak throughout the Pinelands, plus southern red oak, willow oak and swamp chestnut oak in peripheral or southern parts of the Pinelands, especially mesic sites;

(2) Pine cover (pitch pine, shortleaf pine and rarely Virginia pine) is typically under 50 percent and often under five percent;

(3) Hickory, mesophytic hardwoods (red maple sweet gum, beech, tulip poplar, flowering dogwood) and holly can be present in small amounts in peripheral or southern parts of the Pinelands, especially mesic sites;

(4) Total canopy cover is typically between 75 and 100 percent, but less canopy cover can occur;

(5) Shrub oak cover (blackjack oak, scrub oak) is absent or under five percent; and

(6) Shrub cover is dominated by black huckleberry and lowbush blueberry, as well as dangleberry, mountain laurel, sweet pepperbush or inkberry in more mesic sites.

ii. Pine-Dominated Native Forest Type. This forest type is found in the central Pinelands where fires were infrequent or moderately frequent, or where a cutting or clearing history favored regeneration of pine over tree-oak. This forest type has the following characteristics:

(1) Pine cover (pitch pine, shortleaf pine and rarely Virginia pine) is typically over 50 percent. Pine cover can be as low as 25 percent in some open canopy forms of pine upland;

(2) Tree-oak cover ranges from 25 to 50 percent in pine-oak forest, five to 25 percent in pine-oak upland and under five percent in pine upland, depending on forest stand history. Oak species can include black oak, post oak, scarlet oak, chestnut oak, white oak and southern red oak;

(3) Total canopy cover is typically between 75 and 100 percent, but less canopy cover can occur;

(4) Shrub oak cover is absent or under five percent;

(5) Low shrub cover is dominated by black huckleberry and lowbush blueberry in most types; and

(6) One pine upland type, pine-sedge upland, is often associated with old clearings and has a more open pine canopy, minimal shrub cover and a ground cover dominated by Pennsylvania sedge or grasses.

iii. Pine-Shrub Oak Native Forest Type. This forest type is found in the large, frequently burned firesheds of the central Pinelands, or on low sandy terraces adjacent to pitch pine lowlands or other wetlands or the central Pinelands. This forest type has the following characteristics:

(1) Pine cover (pitch pine, shortleaf pine) is over 25 percent and typically 50 to 75 percent;

(2) Tree-oak cover is absent or under five percent in most pine-shrub oak "barrens" types, and five to 25 percent in pine-oak-shrub oak "woodland" types. If present, tree-oak species often include black oak, post oak, arborescent blackjack oak, and scarlet oak, and rarely chestnut oak, white oak and southern red oak;

(3) Shrub oak cover (blackjack oak, scrub oak) is over five percent and is typically between 25 and 100 percent;

(4) Low shrub cover is dominated by black huckleberry and lowbush blueberry; and

(5) Ground cover often includes early successional species such as bearberry, pyxie moss, pine barrens hudsonia, sandwort, Pennsylvania sedge, little bluestem, and lichens, especially where an open pine canopy is maintained.

iv. Pine Plains Native Forest Type. This forest type is found only in the central Pinelands and is characterized by a dense sprout-growth of dwarf serotinous pitch pine often less than six feet tall. This forest type has the following characteristics:

(1) Dwarf pitch pine cover dominates this shrubland canopy and is typically over 50 percent, but may drop below 50 percent for a few years after top killing fire. Heights are typically between three to 12 feet but can reach 15 to 18 feet at ecotones. Serotiny is near 100 percent;

(2) Shrub oak cover (blackjack oak, scrub oak) is over five percent, and usually between 25 and 50 percent;

(3) Arborescent pine cover over six meters tall and tree-oak cover are absent or rare;

(4) Low shrub cover is dominated by black huckleberry and lowbush blueberry; and

(5) Ground cover includes early successional species such as bearberry, pyxie moss, pine barrens hudsonia, Pennsylvania sedge, little bluestem, and lichens; also broom crowberry locally in sandy openings.

v. Upland Savannas and Grassland Native Forest Type. This forest type is largely the product of succession after severe man-made disturbance such as agriculture. This forest type has the following characteristics:

(1) Ground cover is dominated by native grasses, especially little bluestem, switchgrass, panic grasses, broomsedge, wiregrass and/or Pennsylvania sedge;

(2) Shrub cover is less than 25 percent and can include sweetfern, black huckleberry and lowbush blueberry;

(3) An open tree stratum of pine or oak exists with between five and 25 percent cover, although greater cover may be possible; and Wetland Native Forest Types, as described at N.J.A.C. 7:50-6.4 and 6.5.

7:50-6.44 Application requirements

(a) The filing of an application with the Pinelands Commission pursuant to N.J.A.C. 7:50-4.13 or 4.33 for forestry operations on those parcels of land enrolled in the New Jersey Forest Stewardship Program shall not be required. Such forestry operations shall continue to be subject to the standards of this Part, the local permitting procedures required by N.J.A.C. 7:50-3.39(a)5 and the review procedures of N.J.A.C. 7:50-4.19 and 4.22 or 4.37 and 4.40.

(b) Unless the submission requirements are modified or waived pursuant to N.J.A.C. 7:50-4.2(b)3, all other forestry applications shall include at least the following information:

1. The applicant's name and address and his interest in the subject parcel;

2. The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application;

3. The description, including block and lot designation and street address, if any, of the subject parcel;

4. A description of all existing uses of the subject parcel;

5. A brief written statement generally describing the proposed forestry operation;

6. A USGS Quadrangle map, or copy thereof, and a copy of the municipal tax map sheet on which the boundaries of the subject parcel and the Pinelands management area designation and the municipal zoning designation in a certified municipality are shown;

7. A forestry management plan that includes, as appropriate:

i. A cover page for the plan containing:

(1) The name, mailing address and telephone number of the owner of the subject parcel;

(2) The municipality and county in which the subject parcel is located;

(3) The block and lot designation and street address, if any, of the subject parcel;

(4) The name and address of the forester who prepared the plan, if not prepared by the owner of the subject parcel; and

(5) The date the plan was prepared, subsequent revision dates and the period of time the plan is intended to cover;

ii. A clear and concise statement of the owner's objectives for undertaking the proposed forestry activities, including a description of the short- (five years) and long-term (20 years) objectives for all proposed silvicultural techniques that will be used to manage the parcel;

iii. A description of the existing conditions of the subject parcel and of each forest stand in which a proposed activity, prescription or practice will occur. These stand descriptions shall include photographs of each stand taken at eye level showing the location of all Pinelands Native Forest Types, as identified at N.J.A.C. 7:50-6.43, and shall be keyed to an activity map that shall include, as appropriate, the following information:

(1) The number of acres;

(2) The general condition and quality of each stand;

(3) The overall site quality, relative to the management goals and objectives identified in (b)7ii above;

(4) An inventory and map of Pinelands Native Forest Types with Native Forest Types broken into "stands," including information on type, size and volume by species;

(5) The age of representative trees;

(6) The species composition, including overstory, understory, ground layer structure and composition;

(7) The stand cohort composition;

(8) The percent cover;

(9) The basal area;

(10) The structure, including age classes, diameter breast height (DBH) classes and crown classes;

(11) The condition and species composition of advanced regeneration when applicable;

(12) A stocking table showing the stocking levels, growth rates and volume;

(13) Projections of intended future stand characteristics at 10-, 20-, and 40-year intervals;

(14) A description of the forestry activities, silvicultural prescriptions, management activities and practices proposed during the permit period and the acreage proposed for each activity. These may include, but are not necessarily limited to, a description of:

(A) Stand improvement practices;

(B) Site preparation practices;

(C) Harvesting practices;

(D) Regeneration and reforestation practices;

(E) Improvements, including road construction, stream crossings, landings, loading areas and skid trails;

(F) Herbicide treatments;

(G) Silvicultural treatment alternatives;

(H) If planting will occur to accomplish reforestation, the application shall include seed sources records, if such records are available;

(I) Implementation instructions; and

(J) Measures that will be taken to prevent the potential spread of exotic plant species or Phragmites into wetlands; and

(15) A description, if appropriate, of the forest products to be harvested, including volume expressed in cords and board feet; diameter breast height (DBH) classes and average diameter; age; heights; and number of trees per acre; and

iv. A map of the entire parcel which includes the following:

(1) The owner's name, address and the date the map was prepared;

(2) An arrow designating the north direction;

(3) A scale which is not smaller than one inch equals 2,000 feet or larger than one inch equals 400 feet;

(4) The location of all property lines;

(5) A delineation of the physical features such as roads, streams and structures;

(6) The identification of soil types (a separate map may be used for this purpose);

(7) A map inset showing the location of the parcel in relation to the local area;

(8) Clear location of the area and acreage in which each proposed activity, prescription or practice will occur. If shown on other than the property map, the map or maps shall note the scale, which shall not be smaller than one inch equals 2,000 feet or larger than one inch equals 400 feet, and shall be appropriately keyed to the property map; and

(9) A legend defining the symbols appearing on the map.

8. A letter from the Office of Natural Lands Management identifying any threatened or endangered plants or animals reported on or in the immediate vicinity of the parcel and a detailed description by the applicant of the measures proposed to meet the standards set forth in N.J.A.C. 7:50-6.27 and this Part;

9. A cultural resource survey documenting cultural resources on those portions of the parcel where ground disturbance due to site preparation or road construction

will occur and a detailed description of the measures proposed by the applicant to treat those cultural resources in accordance with N.J.A.C. 7:50-6.156;

10. A statement identifying the type, location and frequency of any proposed herbicide treatments and how such treatments will comply with the standards set forth in N.J.A.C. 7:50-6.46(a)9ii;

11. A statement identifying the specific steps to be taken to ensure that trees or areas to be harvested are properly identified so as to ensure that only those trees intended for harvesting are harvested; and

12. Written comments from the New Jersey State Forester concerning the extent to which the proposed forestry activities are consistent with the guidelines provided in the New Jersey Forestry and Wetlands Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated October 1995, as amended. Any such comments which indicate that the proposed activities are not consistent with said Manual must be addressed by the applicant in terms of their potential impact on the standards set forth in N.J.A.C. 7:50-6.46.

(c) Upon receiving a written request from the applicant, the Pinelands Commission shall assume the responsibilities set forth in (b)9 above.

7:50-6.45 Time limit on forestry permits and approvals

Permits and approvals authorizing forestry operations shall be valid for a period of 10 years or, where applicable, for the remaining duration of any forestry plan approved for enrollment in the New Jersey Forest Stewardship Program. Nothing in this section shall be construed to prohibit any person from securing additional permits or approvals provided that the requirements of this Plan are met.

7:50-6.46 Forestry standards

(a) Notwithstanding the other standards of this subchapter, forestry operations shall be approved only if the applicant can demonstrate that the standards set forth in this Part are met.

1. All forestry activities shall serve to maintain Pinelands native forest types, including those which are locally characteristic, except in those stands where other forest types exist;

2. Any newly developed access to lands proposed for harvesting shall avoid wetland areas except as absolutely necessary to harvest wetlands species or to otherwise gain access to a harvesting site;

3. The following actions shall be required to encourage the establishment, restoration or regeneration of Atlantic White Cedar in cedar and hardwood swamps:

   i. Clearcutting cedar and managing slash

ii. Controlling competition by other plant species;

iii. Utilizing fencing and other retardants, where necessary, to protect cedar from overbrowsing;

iv. Utilizing existing streams as cutting boundaries, where practical;

v. Harvesting during dry periods or when the ground is frozen; and

vi. Utilizing the least intrusive harvesting techniques, including the use of winches, corduroy roads and helicopters, where practical.

4. All forestry activities and practices shall be designed and carried out so as to comply with the standards set forth in N.J.A.C. 7:50-6.27 and 6.33. The species accounts provided in the "Recommended Forestry Management Practices Report," Appendix I - Endangered Animals, dated March 2006, as amended and supplemented and available at the principal office of the Commission or at www.nj.gov/pinelands, may be utilized as a guide for meeting these standards;

5. All forestry activities and practices shall be designed and carried out so as to comply with the standards set forth in N.J.A.C. 7:50-6.79, except as expressly authorized in this Part;

6. All forestry activities and practices shall be designed and carried out so as to comply with the standards set forth in N.J.A.C. 7:50-6.151 through 6.158;

7. A vegetated streamside management zone shall be maintained or established adjacent to streams, ponds, lakes and marshes, except that no streamside management zone shall be required when Atlantic White Cedar is proposed to be harvested, established, restored or regenerated. The streamside management zone shall be at least 25 feet in width. Where soils are severely erodible, slopes exceed 10 percent or streamside vegetation is not vigorous, the streamside management zone shall be increased up to a maximum of 70 feet to buffer the water body from adjacent forestry activities;

8. Stream crossings, access roads, timber harvesting, skid trails, log decks, portable sawmill sites, site preparation, and reforestation shall be designed and carried out so as to:

   i. Minimize changes to surface and ground water hydrology;

   ii. Minimize changes to temperature and other existing surface water quality and conditions;

   iii. Prevent unnecessary soil erosion, siltation and sedimentation; and

   iv. Minimize unnecessary disturbances to aquatic and forest habitats.

9. The following standards shall apply to silvicultural practices for site preparation, either before or after harvesting:

   i. In areas with slopes of greater than 10 percent, an undisturbed buffer strip of at least 25 feet in width shall be maintained along roads during site preparation to catch soil particles;

   ii. Herbicide treatments shall be permitted, provided that:

(1) The proposed treatment is identified in the forestry application submitted to the Commission pursuant to N.J.A.C. 7:50-6.44(b)10;

(2) Control of competitive plant species is clearly necessary;

(3) Control of competitive plant species by other, non-chemical means is not practical;

(4) All chemicals shall be expressly labeled for forestry use and shall be used and mixed in a manner that is consistent with relevant State and Federal requirements; and

(5) In Pine-Shrub Oak Native Forest Types, herbicide treatments shall only be permitted as a method to temporarily suppress shrub-oak understory in order to facilitate pine regeneration. All such herbicide treatments shall be applied in a targeted manner so that there will be no significant reduction in tree or shrub-oak re-sprouting outside those areas subject to the herbicide treatment;

iii Broadcast scarification and mechanical weeding shall be permitted in all Pinelands Native Forest Types;

iv. Disking shall be permitted, provided that:

(1) It shall not be permitted in Pine Plains Native Forest Types;

(2) Disking shall only be permitted in Pine-Shrub Oak Native Forest Types as a method to temporarily suppress shrub-oak understory in order to facilitate pine regeneration, and shall be limited as follows:

(A) Disking may occur one time during the first year of the establishment of a stand to assure the successful growth of pine seedlings and may be repeated one time during the second year of the growth of the stand only in areas where pine seedling establishment has not successfully occurred; and

(B) Only single-pass disking, which penetrates the soil no deeper than 6 inches, shall be permitted;

(3) It shall not occur in wetlands, except as may be necessary to establish, restore or regenerate Atlantic White Cedar. When so used, disking shall be limited to shrub-dominated parcels and recently abandoned agricultural lands; and

(4) It shall follow land contours when slopes are discernible;

v. Root raking shall be permitted, provided that:

(1) It shall not be permitted in Pine-Shrub Oak Native Forest Types or Pine Plains Native Forest Types;

(2) When used to establish, restore or regenerate Atlantic White Cedar, root raking shall be limited to shrub-dominated parcels and recently abandoned agricultural lands; and

(3) Root raking debris shall not be piled in wetlands;

vi. Bedding shall be permitted only in recently abandoned, cultivated wetlands where there are no established Pinelands Native Forest Types; and

vii. Drum chopping shall be permitted, provided that:

(1) It shall not be permitted in Pine Plains Native Forest Types except to create road shoulder fuelbreaks, which shall be limited to 25 feet in width, or to create scattered early successional habitats under two acres in size;

(2) It shall not be permitted in wetlands, except as may be necessary to establish, restore or regenerate Atlantic White Cedar. When so used, drum chopping shall be limited to shrub-dominated parcels and recently abandoned agricultural lands; and

(3) It shall adhere to the following procedures:

(a) No more than two passes shall be permitted except to create scattered early successional habitats under two acres in size;

(b) Drums shall remain unfilled when used during the dormant season;

(c) Chop up and down the slope on a parcel so the depressions made by the cleats and chopper blades run parallel to the contour of the land to help reduce the occurrence of channeled surface erosion;

(d) Chop so the depressions made by the cleats and chopper blades run parallel to a wetland or water body; and

(e) Avoid short-radius, 180-degree turns at the end of each straight pass.

10. The following standards shall apply to silvicultural practices for harvesting:

i. Clearcutting shall be permitted, provided that:

(1) It shall not be permitted in Pine Plains Native Forest Types;

(2) It shall be limited to 300 acres or five percent of a parcel, whichever is greater, during any permit period;

(3) A 50-foot-wide buffer strip, in which only periodic pruning and thinning may occur, shall be maintained between any clearcut and the parcel boundaries;

(4) A buffer strip, in which only periodic pruning and thinning may occur, shall also be maintained to separate each 25-acre or larger clearcut from other 25-acre or larger clearcuts, coppice cuts and seed tree cuts that occur within a 15-year period. The buffer strip separating two 25-acre harvests shall be 50 feet in width and, for a larger harvest, shall increase in width by one foot for each acre of that harvest above 25, to a maximum of 300 feet in width;

(5) Where present on a parcel, a minimum of 18 dead snags per acre of at least 10 inches diameter breast height (DBH) and six feet in height shall be left on the parcel for a minimum of five years; and

(6) The area of the parcel subject to the clearcut shall have contoured edges unless the boundary of the clearcut serves as a firebreak in which case straight edges may be used;

ii. Coppicing shall be permitted in all Pinelands Native Forest Types, provided that:

(1) It shall be limited to 500 acres in size or 10 percent of a parcel, whichever is greater, during any permit period;

(2) A 50-foot-wide buffer strip, in which only periodic pruning and thinning may occur, shall be maintained between any coppice cut and the parcel boundaries;

(3) A buffer strip, in which only periodic pruning and thinning may occur, shall also be maintained to separate each 25-acre or larger coppice cut from other 25-acre or larger clearcuts, coppice cuts and seed tree cuts that occur within a 15-year period. The buffer strip separating two 25-acre harvests shall be 50 feet in width and, for a larger harvest, shall increase in width by one foot for each acre of that harvest above 25, to a maximum of 300 feet in width;

(4) Where present on a parcel, a minimum of 18 dead snags per acre of at least 10 inches DBH and six feet in height shall be left on the parcel for a minimum of five years; and

(5) The area of the parcel subject to the coppice cut shall have contoured edges unless the boundary of the coppice cut serves as a firebreak in which case straight edges may be used;

iii. Seed tree cutting shall be permitted in all Pinelands Native Forest Types, provided that:

(1) It shall be limited to 500 acres in size or 10 percent of a parcel, whichever is greater, during any permit period;

(2) A 50-foot-wide buffer strip, in which only periodic pruning and thinning may occur, shall be maintained between any seed tree cut and the parcel boundaries;

(3) A buffer strip, in which only periodic pruning and thinning may occur, shall also be maintained to separate each 25-acre or larger seed tree cut from other 25-acre or larger clearcuts, coppice cuts and seed tree cuts that occur within a 15-year period. The buffer strip separating two 25-acre harvests shall be 50 feet in width and, for a larger harvest, shall increase in width by one foot for each acre of that harvest above 25, to a maximum of 300 feet in width;

(4) Where present on a parcel, a minimum of 18 dead snags per acre of at least 10 inches DBH and six feet in height shall be left on the parcel for a minimum of five years;

(5) The area of the parcel subject to the seed tree cut shall have contoured edges unless the boundary of the seed tree cut serves as a firebreak in which case straight edges may be used;

(6) Dominant residual seed trees shall be retained at a distribution of at least seven trees per acre; and

(7) Residual seed trees shall be distributed evenly throughout the parcel; and

iv. Shelterwood cutting, group selection and individual selection shall be permitted in all Pinelands Native Forest Types.

11. The following standards shall apply to silvicultural practices for forest regeneration:

i. Natural regeneration shall be permitted in all Pinelands Native Forest Types and shall be required in the Pine Plains Native Forest Type, except as provided in (a)11ii below; and

ii. Artificial regeneration shall be permitted in all Pinelands Native Forest Types provided that:

(1) The use of non-native cuttings, seedlings or seeds shall not be permitted;

(2) The use of hybrid cuttings, seedlings or seeds shall be permitted if it can be demonstrated that the cutting is from a locally native, naturally occurring hybrid which will be planted within its natural range and habitat;

(3) Cuttings, seedlings or seeds shall be collected and utilized so as to ensure genetic diversity; and

(4) When used in Pine Plains Native Forest Types, artificial regeneration shall only be permitted to restore drastically disturbed sites if seeds or seedlings from the immediate vicinity have been collected from local, genetically similar sources.

12. Following site preparation and harvesting activities, slash shall either be retained in piles on the parcel, distributed throughout the parcel, removed from the parcel or burned.

13. Thinning shall be permitted in all Pinelands Native Forest Types, including that which serves to maintain an understory of native plants and/or manage stand composition, density, growth and spatial heterogeneity.

14. A copy of the approved municipal forestry permit shall be conspicuously posted on the parcel which is the site of the forestry activity.

(b) The New Jersey Forestry and Wetlands Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated October 1995, as amended, may be used as a guide in determining the extent to which the proposed forestry activity meets the standards of (a) above.

7:50-6.47 Additional standards for State forestry practices

(a) In addition to the standards in N.J.A.C. 7:50-6.46, forestry activities undertaken by or on behalf of any State agency shall meet the following additional standards:

1. Individual forestry practices on State conservation lands shall seek to maintain biological diversity and landscape integrity characteristic of the Pinelands by:
   i. Conserving existing Atlantic White Cedar stands unless there is demonstrable evidence of destruction by fire, flooding or other natural disaster or where succession to a hardwood or other swamp is irreversible and impending; and
   ii. Conserving exemplary forest stands, with emphasis on older and more mature stands, of the following types:
      (1) Mixed Hardwood Swamp;
      (2) Chestnut Oak;
      (3) Black Oak;
      (4) Scarlet Oak;
      (5) White Oak;
      (6) Pitch Pine;
      (7) Shortleaf Pine;
      (8) Virginia Pine; and
      (9) Southern Red Oak.

(b) The standards of N.J.A.C. 7:50-6.46 and the requirements of (a)1 above may be modified through the Commission's approval of management plans for State conservation lands pursuant to N.J.A.C. 7:50-4.51 through 4.58, provided that such modifications are necessary to: facilitate specific research efforts designed to regenerate Atlantic White Cedar; create habitat patches for threatened and endangered plant and animal species; or evaluate the ecological impacts of silvicultural techniques. Short-term and long-term monitoring that documents the outcomes of such Atlantic White Cedar regeneration research, habit patch creation or silvicultural techniques evaluation shall be performed and reported to the Commission. The protocols provided in the "Recommended Forestry Management Practices Report," Appendix III – Research and Monitoring, dated March 2006, as amended and supplemented and available at the principal office of the Commission or at www.nj.gov/pinelands, may be used as a guide in the development of research and monitoring techniques.

7:50-6.48 Guidelines and requirements for financial sureties

(a) Municipalities may require the posting of financial sureties for harvesting activities, provided that:

1. The surety shall be for the sole purpose of ensuring proper performance during the harvesting operation and shall not be intended to serve as a long-term maintenance guarantee;
2. The surety shall not exceed $500.00 or 10 percent of the stumpage value of the wood to be harvested during the duration of any approval which is granted, whichever is greater; and
3. The surety shall not be required to be posted for a period exceeding two years. Nothing in this section shall be construed to prohibit a municipality from requiring the posting of sureties for succeeding two year periods, provided the requirements of this section are met..

7:50-6.49 through 7:50-6.50 (Reserved)

PART V-AGRICULTURE

7:50-6.51 Purpose

Agricultural activity is an important element of the Pinelands economy and plays a significant role in the conservation of the essential ecological character of the Pinelands. In particular, the dependency of berry agriculture on pristine water has contributed greatly to the ecological stability of the Pinelands. However, the long-term vitality of agricultural activity depends upon protection from competing land uses and continued use of agricultural practices that conserve the soil and water resources of the Pinelands.

7:50-6.52 Agricultural management program

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

7:50-6.53 General agricultural standards

(a) All agricultural activities and fish and wildlife management activities, including the preparation of land and the planting, nurturing and harvesting of crops, shall be carried out in accordance with recommended management practices established for the particular agricultural activity by the New Jersey Department of Agriculture, the Soil Conservation Service, and the New Jersey Agricultural Experimental Station at Rutgers University.

(b) In Agricultural Production Areas and Special Agricultural Production Areas, a Resource Conservation Plan shall be prepared by the operator of every agricultural use, or the appropriate Soil Conservation District, located in an area which has been designated by

any agency of federal, state, or local government as having substandard surface or groundwater. If prepared by the operator, such plan shall be submitted to the Soil Conservation District for review. The Resource Conservation Plan shall be reviewed, updated and revised as necessary and shall provide for the use of recommended management practices as found in, but not limited to, the following publications:

1. Erosion and runoff: Soil Conservation Service Technical Guide;
2. Animal waste: Soil Conservation Service Animal Waste Management Field Manual; and
3. Fertilizers and Pesticides: Rutgers University, Cook College, Cooperative Extension Service Annual Recommendations.

(c) Subject to the minimum standards set forth in N.J.A.C. 7:50-5 and 6, the following agriculturally-related land uses that involve the management of waste may be permitted by the State, a county or a municipality:

1. Vegetative waste landfills and vegetative waste composting facilities that are ancillary to an agricultural operation; and
2. The land application at accepted agronomic rates of liquid or dewatered sludge, sludge derived products, composted vegetative waste, vegetative waste and animal manure as part of an agricultural operation.

7:50-6.54 Exemption from nuisance ordinances ("Right-to-Farm")

As an element of its agricultural program each municipality shall exempt agricultural operations in any Agricultural Production or Special Agricultural Production Area from all municipal ordinances and regulations which inhibit efficient crop production, including but not limited to ordinances and regulations imposing time limits on operations, dust limits and odor restrictions, except those ordinances and regulations which are strictly necessary for the maintenance of public health.

7:50-6.55 Application requirements and standards for agricultural resource extraction

(a) Unless the application requirements are modified or waived in accordance with N.J.A.C. 7:50-4.2(b)3, an application filed pursuant to N.J.A.C. 7:50-4.13 or 4.33 for agricultural resource extraction shall include at least the following information:

1. All information specified in N.J.A.C. 7:50-4.2(b)4i through vi and viii through x;
2. A Farm Conservation Plan, designed in accordance with the United States Department of Agriculture, Natural Resources Conservation Service New Jersey Field Office Technical Guide, section 4, dated May 2001, incorporated herein by reference, as amended and supplemented, that has been approved by the Soil Conservation District. A copy of the approved Plan must be submitted to the Pinelands Commission by the owner of the parcel. The Farm Conservation Plan shall specifically indicate that the proposed agricultural resource extraction is necessary for the proposed agricultural or horticultural use and that offsite soil removal is consistent with generally accepted agricultural practices;
3. For aquaculture, a written determination from the New Jersey Department of Agriculture, Division of Rural Resources, that the proposed aquaculture activity is consistent with

Agricultural Management Practices for Aquaculture Facilities prepared by the New Jersey Department of Agriculture and other generally accepted aquaculture practices;

4. For the offsite removal of overlying soils to access underlying sand for cranberry management practices, a demonstration that the quantity of overlying soil removed offsite does not exceed the quantity of underlying sand to be used for the management practices listed below and that the quantity of overlying soil removed offsite does not exceed that reasonably necessary to provide access to underlying sand to be utilized within a three year period:
    i. Sanding of existing bogs at a rate of one inch of sand at three year intervals (135 cubic yards of sand per acre of bog);
    ii. Sanding of new bogs at a rate of one half inch of sand one year after planting (65 cubic yards of sand per acre of bog);
    iii. Sanding of bogs with heavy vine overgrowth at a rate of two to five inches of sand (270 to 675 cubic yards of sand per acre of bog);
    iv. Bog renovation or new bog construction in areas of muck soils at a rate of up to 12 inches of sand (1,600 cubic yards of sand per acre of bog) except where additional fill would be required to establish a planting surface 24 inches above the water table; and
    v. Bog renovation or new bog construction at a rate of two to five inches of sand (270 to 675 cubic yards of sand per acre of bog) in areas of appropriate water table with optimum to moderately excessive organic matter applied prior to planting.
5. A schedule which demonstrates that the proposed agricultural use will be developed in phases ensuring that portions of the agricultural use are instituted prior to completion of all agricultural resource extraction activities or a written explanation as to why such a phased institution of the agricultural use is not practical or feasible; and
6. Any additional information which the Executive Director determines is reasonably necessary to facilitate review of the application.

(b) The requirements of N.J.A.C. 7:50-6.61 through 6.70 shall apply to all resource extraction activities which do not meet the standards contained in (a) above.

7:50-6.56 through 6.60 (Reserved)

PART VI-RESOURCE EXTRACTION

7:50-6.61 Purpose

Sand, gravel, clay, and ilmenite are important Pinelands resources that have been commercially utilized in the past. Such activity can provide a substantial economic benefit to landowners; however, it is critical that such activities do not conflict with other values of the Pinelands. This Part is intended to ensure that extraction activities do not adversely affect long-term ecological values in the Pinelands, and that abandoned extraction sites will be restored so that they will be a functional part of the Pinelands ecosystem.

7:50-6.62 Resource extraction management program

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

7:50-6.63 General limitations

(a) Except as expressly authorized in this Plan, the extraction or mining of mineral resources other than sand, gravel, clay and ilmenite is prohibited.

(b) Nothing in this Part shall be construed to authorize resource extraction activities without receiving permits pursuant to this Plan or from complying with the standards of this subchapter.

7:50-6.64 Time limit and scope of resource extraction permits

(a) No permit authorizing resource extraction shall be issued for any period exceeding two years unless a program extending the duration of such permits has been established and certified by the Commission pursuant to N.J.A.C. 7:50-3.39. Such a program may allow permits authorizing resource extraction to be issued for periods exceeding two years, provided that:

1. No permit authorizing resource extraction shall be issued for any period exceeding five years;
2. Every such permit shall be issued subject to the following conditions to ensure conformance with the approved permit:
   - i. Operators shall be required to certify, in writing and on an annual basis, to the satisfaction of the local permitting agency and the Commission that all mining, restoration and other activities have been and continue to be conducted in accordance with the approved permit;
   - ii. If the local permitting agency or the Executive Director determines that any activity deviates from an approved permit, the operator shall be immediately notified of the deviation;
   - iii. The notice shall state the nature of the deviation, order the action necessary to correct it, and set forth the date, time and location of a meeting to be held within 10 days of the notice at which the operator shall present all relevant information concerning the deviation and the action taken or to be taken to correct it;
   - iv. The order to take corrective action shall specify any activity which must be immediately ceased to prevent direct or indirect aggravation of the deviation or to avoid a danger to the public health, safety or welfare. Such cessation shall continue until the deviation has been resolved to the satisfaction of the local permitting agency and the Executive Director or until an agreement to resolve the deviation has been reached;

v. Any interested person who is aggrieved by any determination of the Executive Director pursuant to (a)2iii or iv above may, within 15 days, appeal the Executive Director's determination to the Pinelands Commission as provided in N.J.A.C. 7:50-4.91(a). The Executive Director shall thereafter conduct a hearing pursuant to N.J.A.C. 7:50-4.3, unless the applicant requests a hearing before an Administrative Law Judge in which case the matter shall be referred to the Office of Administrative Law pursuant to N.J.A.C. 7:50-4.91(b), and submit a hearing report to the Pinelands Commission for a final determination;

vi. Failure to resolve a deviation or to adhere to the terms and conditions of any agreement to resolve a deviation shall constitute sufficient cause for revocation of the permit. Either the local permitting agency or the Executive Director may institute such proceedings. The local permitting agency shall institute such proceedings in accordance with its procedures relative to resource extraction permit approvals. The Executive Director shall institute revocation proceedings in accordance with the procedures of N.J.A.C. 7:50-4.41 and 4.42.

vii. Notwithstanding (a)2i through vi above, permit provisions may also be enforced either by the Pinelands Commission pursuant to the provisions of N.J.A.C. 7:50-8 or by the local permitting agency instituting appropriate enforcement proceedings.

(b) Nothing in (a) above shall be construed to prohibit any person from securing additional permits provided that the requirements of this Part are otherwise met.

(c) Municipalities may approve otherwise permitted structures and uses that are clearly accessory to a resource extraction operation and necessary for on-going operations without the need for a certificate of filing issued pursuant to N.J.A.C. 7:50-4.34, provided that all such structures or uses will be located in a discrete, disturbed area that is encompassed within or in close proximity to the processing area that supports the resource extraction operation. The area must be delineated as part of a resource extraction application that has been submitted to and approved by the local permitting agency and reviewed pursuant to N.J.A.C. 7:50-4.37 or 4.40. Any such local approval shall be subject to review by the Pinelands Commission pursuant to N.J.A.C. 7:50-4.37 and 4.40.

7:50-6.65 Specific limitations in the Preservation Area

(a) No resource extraction operations shall be permitted in the Preservation Area District or Special Agricultural Production Areas other than those operations which were registered with the Pinelands Commission on or before January 21, 1981 and received all necessary development permits for resource extraction on or before December 31, 1985.

(b) In no case shall the area of extraction exceed the value given under the category "acreage to be mined" on the mine registration application submitted to the Department of Labor and Industry as of February 7, 1979, or that area approved by a valid municipal permit as of February 7, 1979 in the case of an operation exempted from registration with the Department of Labor and Industry.

(c) Resource extraction operations shall be considered nonconforming uses in the Preservation Area District and Special Agricultural Production Area and, as such, shall be subject to the requirements of N.J.A.C. 7:50-5.2(a).

7:50-6.66 Specific limitations in the Forest Area

(a) No development permit or other approval for resource extraction in the Forest Area shall be approved or issued after December 5, 1994 except as expressly authorized in (b) and (c) below.

(b) An operation which received a valid development approval pursuant to the provisions of this Plan for resource extraction on or after January 14, 1981 but prior to January 1, 1993 may continue to operate, subject to the terms and conditions of the approval. Upon expiration of the approval, extraction operations may be authorized to continue within the limits of the parcel or parcels which were identified in the resource extraction application which was approved pursuant to this Plan.

(c) Any land for which a valid development approval pursuant to the provisions of this Plan for resource extraction was not issued between January 14, 1981 and December 31, 1992 may be authorized to undertake extraction operations only if a development permit was approved prior to December 5, 1994. In such cases, extraction operations may operate subject to the terms and conditions of the approval. Upon expiration of the approval, extraction operations may continue only within the areas mined and not restored as of the expiration date of the approval.

(d) Resource extraction operations shall be considered nonconforming uses in the Forest Area and, as such, shall be subject to the requirements of N.J.A.C. 7:50-5.2(a).

7:50-6.67 Specific limitations in the Agricultural Production Area

(a) No development permit or other approval for resource extraction in the Agricultural Production Area shall be approved or issued after November 2, 1987.

7:50-6.68 Resource extraction standards

(a) Resource extraction operations shall be approved only if the applicant can demonstrate that the proposed resource extraction operation:

1. Will not result in a substantial adverse impact upon those significant resources depicted on the Special Areas Map, Figure 7.1;
2. Is designed so that no area of excavation, sedimentation pond, storage area, equipment, or machinery or other structure or facility is closer than 200 feet to any property line; unless it can be demonstrated that a distance between 100 and 200 feet will not result in greater off-site environmental impacts;
3. Is to be located on a parcel of land of at least 20 acres;
4. Provides that all topsoil that is necessary for restoration will be stored on the site but not within 200 feet of any property line unless the area proposed for storage is unforested and will be restored; and that the topsoil will be protected from wind and water erosion;
5. Is fenced or blocked so as to prevent unauthorized entry into the resource extraction operation through access roads;
6. Provides ingress and egress to the resource extraction operation from public roads by way of gravel or porous paved roadways;

7. Is designed so that surface run-off will be maintained on the parcel in a manner that will provide for on-site recharge to ground water;
8. Will not involve excavation exceeding 65 feet below the natural surface of the ground existing prior to excavation unless it can be demonstrated that a depth greater than 65 feet will result in no significant adverse impact relative to the proposed final use or on off-site areas;
9. Will be carried out in accordance with an extraction schedule which depicts the anticipated sequence, as well as anticipated length of time that each of the 20 acre units of the parcel proposed for extraction will be worked. This shall not preclude more than one 20 acre unit from being worked at any one time, provided that there is a demonstrated need for additional units, restoration is proceeding on previously mined units and the area of clearing does not exceed that specified in (a)11 below;
10. Will involve restoration of disturbed areas at the completion of the resource extraction operation in accordance with the requirements of N.J.A.C. 7:50-6.69, and the implementation of the restoration plan is secured by a letter of credit, surety bond or other guarantee of performance; and
11. Will not involve clearing adjacent to ponds in excess of 20 acres or an area necessary to complete scheduled operations; or will not involve unreclaimed clearing exceeding 100 acres or 50 percent of the area to be mined, whichever is less, for surface excavation at any time.

7:50-6.69 Restoration standards

(a) All parcels of land which are used for resource extraction operations shall be restored as follows:
1. Restoration shall be a continuous process, and each portion of the parcel shall be restored such that ground cover be established within two years and tree cover established within three years after resource extraction is completed for each portion of the site mined;
2. Restoration shall proceed in the same sequence and time frame set out in the extraction schedule required in N.J.A.C. 7:50-6.66(a)9;
3. All restored areas shall be graded so as to conform to the natural contours of the parcel to he maximum extent practical. Grading techniques that help to control erosion and foster re-vegetation shall be utilized. The slope of surface of restored surfaces shall not exceed one foot vertical to three feet horizontal except as provided in (a)6 below;
4. Topsoil shall be restored in approximately the same quality and quantity as existed at the time the resource extraction operation was initiated. All topsoil removed shall be stockpiled and used for the next area to be restored unless it is immediately reused for reclamation that is currently underway;
5. Drainage flows, including direction and volume, shall be restored to the maximum extent practical to those flows existing at the time the resource extraction operation was initiated;
6. Any body of water created by the resource extraction operation shall have a shoreline not less than three feet above and three feet below the projected average water table

elevation. The shoreline both above and below the surface water elevation shall have a slope of not less than five feet horizontal to one foot vertical. This requirement shall apply to any water body or portion of a water body created after December 5, 1994. For any water body or portion of a water body created prior to December 5, 1994, this requirement shall apply to the extent that it does not require grading of areas which have not been disturbed by mining activities. Where grading would require such disturbance, a reduction in the distance of the graded shoreline above and below the average water table elevation shall be permitted;

7. Slopes beyond a water body's shoreline shall be permitted at the natural angle of repose to the bottom of the pond;
8. All equipment, machinery and structures, except for structures that are useable for recreational purposes or any other use authorized in the area, shall be removed within six months after the resource extraction operation is terminated and restoration is completed;
9. Reclamation shall to the maximum extent practical result in the re-establishment of the vegetation association which existed prior to the extraction activity and shall include:
   i. Stabilization of exposed areas by establishing ground cover vegetation; and
   ii. Re-establishment of the composition of the natural forest and shrub types that existed prior to the extraction activity through one of the following:
      (1) The planting of a minimum of 1,000 one-year-old pitch pine seedlings or other native Pinelands tree species per acre in a random pattern;
      (2) Cluster planting of characteristic Pinelands oak species, such as blackjack oak, bear oak, chestnut oak and black oak, and shrubs such as black huckleberry, sheep laurel and mountain laurel, at a spacing sufficient to ensure establishment of these species;
      (3) A combination of the planting techniques set forth in (a)9ii(1) and (2) above; or
      (4) The use of other planting techniques or native Pinelands species as may be necessary to restore the vegetation association which existed prior to the extraction activity.
10. The letter of credit, surety bond, or other guarantee of performance which secures restoration for each section shall be released after the requirements of (a)1 through 8 above are determined by a certified municipality or the Commission, as appropriate, as being met and is replaced with a maintenance guarantee for a period of two years thereafter.

7:50-6.68 through 7:50-6.70 (Reserved)

PART VII-WASTE MANAGEMENT

7:50-6.71 Purpose

Federal and State efforts to manage the use of hazardous and toxic substances and the disposition of wastes are recognized but the water and other natural resources of the Pinelands are particularly vulnerable to impacts from these substances and wastes. It is the purpose of this Part to protect the Pinelands from degredation by supplementing Federal and State requirements relative to the use and management of these substances and wastes.

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 limitation:

1. Recyclable materials;
2. Suitable sewage sludge and sludge products derived from suitable sewage sludge;
3. Regulated medical waste, in accordance with the limitations prescribed in N.J.A.C. 7:50-6.78; and
4. Cathode ray tubes and consumer electronics, in accordance with the limitations prescribed in N.J.A.C. 7:50-6.76(e).

(d) Except for the waste importation limitations prescribed in (c) above, nothing in this Part 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.

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 twelve months, except that cathode ray tubes and consumer electronics accepted at the Fort Dix consumer electronic recycling center shall abide by the requirements of N.J.A.C. 7:50-6.76(e)5; 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.

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 that ceased operation on or after September 23, 1980 if located in the Preservation Area or 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;
3. No leachate plume associated with the landfill exists and the landfill is not generating leachate; or
4. A leachate plume associated with the landfill exists, but poses no significant ecological risk to wetlands.

(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; vegetative waste; 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.S.A. 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 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 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 five years from May 1, 2006 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.
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 acquisitions 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.

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) The consumer electronics recycling center located within the boundaries of Fort Dix may recycle cathode ray tubes and consumer electronics and accept these materials from outside the Pinelands, provided that:
1. Only those materials which are solid components of cathode ray tubes or consumer electronics shall be accepted for repair and/or recycling. 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 total amount of consumer electronic materials accepted for recycling shall not exceed 50 tons per day;
5. 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 shall not exceed 500 tons;
6. 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 by N.J.A.C. 7:50-4, has been approved by the Commission; and
7. 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.

(f) 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.

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.

7:50-6.78 Regulated medical waste management facilities

(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.

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 other 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 operations, provided that all relevant criteria and standards developed by the New Jersey Department of Agriculture are met.

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), 6.79(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 of liquid or dewatered sludge and other sludge derived products, provided that the Commission determines that:

1. The sludge or sludge derived products will 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.

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.

7:50-6.82 Water quality management program required

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

7:50-6.83 Minimum standards necessary to protect and preserve water quality

(a) All development permitted under this Plan, or under a certified county or municipal master plan or land use ordinance, shall be designed and carried out so that the quality of surface and ground water will be protected and maintained. For the purpose of this Part, agricultural use shall not be considered development.

(b) Except as specifically authorized in this Part, no development which degrades surface or ground water quality or which establishes new point sources of pollution shall be permitted.

(c) No development shall be permitted which does not meet the minimum water quality and potable water standards of the State of New Jersey or the United States.

7:50-6.84 Minimum standards for point and non-point source discharges

(a) The following point and non-point sources may be permitted in the Pinelands:

1. Development of new or the expansion of existing commercial, industrial, and waste water treatment facilities, or the development of new or the expansion of existing non-point sources otherwise permitted in N.J.A.C. 7:50-5, except those specifically regulated in (a)2 through 6 below, provided that:

   i. There will be no direct discharge into any surface water body;

ii. All discharges from the facility or use are of a quality and quantity such that ground water exiting from the parcel of land or entering a surface body of water will not exceed two parts per million nitrate/nitrogen;
iii. All public waste water treatment facilities are designed to accept and treat septage; and
iv. All storage facilities, including ponds or lagoons, are lined to prevent leakage into ground water.

2. Development of new waste water treatment or collection facilities that are designed to improve the level of nitrate/nitrogen attenuation of more than one existing on-site waste water treatment system where a public health problem has been identified may be exempted from the standards at (a)1ii above provided that:
   i. There will be no direct discharge into any surface water body;
   ii. The facility is designed only to accommodate waste water from existing development;
   iii. Adherence to (a)1ii above cannot be achieved due to limiting site conditions or that the costs to comply with the standard will result in excessive user fees; and
   iv. The design level of nitrate/nitrogen attenuation is the maximum possible within the cost limitations imposed by such user fee guidelines but in no case shall ground water exiting from the parcel or entering a surface body of water exceed five parts per million nitrate/nitrogen.
3. Improvements to existing commercial, industrial, and waste water treatment facilities which discharge directly into surface waters provided that:
   i. There is no practical alternative available that would adhere to the standards of N.J.A.C. 7:50-6.84(a)1i.
   ii. There is no increase in the existing approved capacity of the facility; and
   iii. All discharges from the facility into surface waters are such that the nitrate/nitrogen levels of the surface waters at the discharge point do not exceed two parts per million. In the event that nitrate/nitrogen levels in the surface waters immediately upstream of the discharge point exceed two parts per million, the discharge shall not exceed two parts per million nitrate/nitrogen.
4. Individual on-site septic waste water treatment systems which are not intended to reduce the level of nitrate/nitrogen in the waste water, provided that the following standards are met:
   i. The proposed development to be served by the system is otherwise permitted pursuant to N.J.A.C. 7:50-4 and 5:
   ii. The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located will ensure that ground water exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts per million nitrate/nitrogen calculated pursuant to the Pinelands dilution model dated December, 1993, as amended, incorporated herein by reference as subchapter Appendix A, subject to the provisions of (a)4iii below. For purposes of this section, the entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to N.J.A.C. 7:50-5.30 or 5.47;

iii. Only contiguous land located within the same municipal zoning district and Pinelands management area as the proposed septic waste water treatment system or systems may be utilized for septic dilution purposes, except for the development of an individual single family dwelling on a lot existing as of January 14, 1981, non-residential development on a lot of five acres or less existing as of January 14, 1981, or cluster development as permitted by N.J.A.C. 7:50-5.19;
iv. The depth to seasonal high water table is at least five feet;
v. Any potable water well will be drilled and cased to a depth of at least 100 feet, unless the well penetrates an impermeable clay aquiclude, in which case the well shall be cased to at least 50 feet;
vi. The system will be maintained and inspected in accordance with the requirements of N.J.A.C. 7:50-6.85;

vii. The technology has been approved for use by the New Jersey Department of Environmental Protection; and

viii. Flow values for non-residential development shall be determined based on the values contained in N.J.A.C. 7:9A-7.4, as amended, except that number of employees may not be utilized in calculating flow values for office uses. In the event that N.J.A.C. 7:9A-7.4 does not provide flow values for a specific use, but a flow value is assigned for that use in 7:14A-23.3(a), the flow value specified in N.J.A.C. 7:14A-23.3 shall be used in calculating flow.

5. Individual on-site septic waste water treatment systems which are intended to reduce the level of nitrate/nitrogen in the waste water, provided that the following standards are met:

i. The technology has been approved for use by the New Jersey Department of Environmental Protection;

ii. The proposed development to be served by the system is otherwise permitted pursuant to N.J.A.C. 7:50-4 and 5;

iii. The proposed development is either residential or, if non-residential, is located in:

(1) A Regional Growth Area, a Pinelands Village, a Pinelands Town or a Military or Federal Installation Area; or

(2) A Rural Development Area, a Forest Area, an Agricultural Production Area, or in an area within the Preservation Area District designated pursuant to N.J.A.C. 7:50-5.22(b)7, subject to the following conditions:

(A) The proposed nonresidential development constitutes expansion of a nonresidential use existing on January 14, 1981, or the change of a nonresidential use existing on January 14, 1981 to another nonresidential use that is a permitted use pursuant to the certified municipal land use ordinance;

(B) The existing nonresidential use relies on an existing on-site waste water disposal system that is not designed to reduce the level of nitrate/nitrogen in the waste water;

(C) The existing nonresidential use is of such a size and scale that it does not comply with N.J.A.C. 7:50-6.84(a)4ii; and

(D) The proposed nonresidential development will not exceed 50 percent of the floor area, the area of the use or the capacity of the use, whichever is applicable, on January 14, 1981;

iv. The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located, will ensure that ground water exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts per million nitrate/nitrogen calculated pursuant to the Pinelands dilution model dated December, 1993, as amended, (Appendix A) subject to the provisions of (a)5v below and based on the following assumptions and requirements. For purposes of this section, the entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous

lands that have been deed restricted pursuant to N.J.A.C. 7:50-5.30 or 5.47:

(1) For pressure dosed septic systems:

(A) A complete application for the proposed residential development was received by the Commission pursuant to N.J.A.C. 7:50-4.2 or by a municipality pursuant to an alternate permitting program certified by the Commission in accordance with N.J.A.C. 7:50-3.81 through 3.85 prior to August 5, 2002, the proposed lot size and density are consistent with the provisions of this Plan and the municipal land use ordinances that have been certified by the Commission pursuant to the provisions of N.J.A.C. 7:50-3, the proposed pressure dosed septic system receives approval from a local board of health within one year of August 5, 2002 and the system is installed within one year of the issuance of its approval by the local board of health; and

(B) For residential development, either the system will be located on a lot of at least one acre for each individual single family residential dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall density equal to or greater than one residential dwelling unit per acre of land.

(2) For Amphidrome, Bioclere, SeptiTech and FAST systems:

(A) For residential development using the Amphidrome, Bioclere or SeptiTech system, the system will be located on a parcel of at least one acre for each individual single-family residential dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall density equal to or greater than one residential unit per acre of land;

(B) For residential development using the FAST system, the system will be located on a parcel of at least 1.4 acres for each individual single-family residential dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall density equal to or greater than one residential unit per 1.4 acres of land.

(C) Each system shall be designed and constructed so that samples of effluent leaving the system can be readily taken. A scaled as-built drawing which clearly identifies the location of the effluent sampling port shall be filed with the local board of health and the Commission prior to the board of health's issuance of a certificate of compliance, or

similar authorization to occupy the development and utilize the treatment system;

(D) Each system shall be consistent with the plans and specifications approved by the Executive Director for participation of the technology in the Pinelands Alternate Design Treatment Systems Pilot Program pursuant to N.J.A.C. 7:50-10.22(a)2i. Manufacturers may submit modified specifications or engineering designs for the system which may then be utilized if the Executive Director determines the modifications are consistent with the originally approved specifications and engineering design and the modified system will be at least as effective as the originally approved system;

(E) Prior to the local board of health's issuance of a certificate of compliance, or similar authorization to occupy the development and utilize the treatment system, the technology manufacturer or its agent and a New Jersey licensed professional engineer shall provide written certification, in a form acceptable to the Commission and the local board of health, that installation of each system, and all components and appurtenances, including, but not limited to, pumps, switches, blowers, micro-processors, and local audio/visual and service provider notification alarms has been performed properly and the system and all of its components are operating properly. The manufacturer or its agent shall include in the certification the cost of the installation;

(F) The manufacturer or its agent shall provide to each owner an operation and maintenance manual;

(G) Each system shall be equipped with a functioning warning system which will activate audible and visual alarms that can be readily seen and heard by occupants of the building served and which also provide immediate remote alarm notification to the system service provider. Systems may be equipped with a telemetry control panel, attached to an Internet-based interface that provides continuous remote monitoring, information management, and control of the advanced wastewater pretreatment device. Systems that do not have a telemetry control panel shall use an active phone line equipped with an auto dialer to notify the authorized service provider of alarm conditions, including if power to any of the system equipment is disconnected. The alarm and its switch shall not be on the same

electrical circuit as the system pump(s), blower(s), and system component control switches. The alarm system shall periodically communicate with the authorized service provider's remote monitoring system to ensure against unauthorized alarm system disconnections;

(H) The property owner shall record with the deed to the property a notice consistent with the sample deed notice approved pursuant to N.J.A.C. 7:50-10.22(a)2vi that identifies the technology, acknowledges the owner's responsibility to operate and maintain it and grants access, with reasonable notice, to the local board of health, the Commission and its agents for inspection and monitoring purposes. The recorded deed shall run with the property and shall ensure that the maintenance requirements are binding on any owner of the property during the life of the system and any replacement nitrogen reducing system, if applicable. Evidence that the deed notice was filed shall be provided to the local board of health and the Commission prior to the board of health's issuance of a certificate of compliance, or similar authorization to occupy the development and utilize the treatment system;

(I) The manufacturer, its agent, the system owner, or the duly authorized service provider shall make available for inspection by the Commission or its agents, upon reasonable notice, all records relating to each system installed in the Pinelands;

(J) For nonresidential development, no reduction in total nitrogen will be assumed. Since insufficient data is available to determine a particular efficiency of these technologies for nonresidential development, due to the high degree of variability in wastewater from nonresidential development, the use of these systems for such development will be evaluated on a case by case basis pursuant to (a)1 above if any such system is proposed to reduce total nitrogen in nonresidential effluent; and

(K) Each system shall be covered by an initial five-year warranty and a renewable, minimum five-year maintenance contract that cannot be arbitrarily cancelled and that includes a provision requiring that the manufacturer, or its agent, inspect the system at least once a year and undertake any maintenance or repairs determined to be necessary during any such inspection or as a result of

observations made at any other time, including during effluent monitoring. The warranty and maintenance contract shall be consistent with the sample warranty and maintenance contract approved pursuant to N.J.A.C. 7:50-10.22(a)2v.

(3) Other on-site septic waste water treatment systems shall only be credited with reducing total nitrogen concentration to the extent authorized by an experimental monitoring program approved by the Pinelands Commission. Such an experimental monitoring program shall only be approved if:

(A) The specific theoretical basis for the nitrogen removal process to be utilized is sound and has been satisfactorily documented in the scientific literature;

(B) The nitrogen removal efficiency of operating systems using the design concept to service one or more types of development has been satisfactorily demonstrated and adequately documented in the scientific literature;

(C) The proposed application of the treatment process could be expected to meet the two parts per million nitrate/nitrogen ground water quality standard in the Pinelands Area and the ability to meet this requirement can be continuously achieved on a long-term basis;

(D) Systems utilizing the design concept can be expected not to require any maintenance beyond that required of conventional septic systems or, if additional maintenance is required, sufficient measures can feasibly be taken to insure that the system will be properly maintained and operated;

(E) A comprehensive monitoring program is feasible to fully evaluate the nitrogen removal efficiency of the application of the proposed design concept;

(F) The system meets all the requirements in N.J.A.C. 7:50-10.22(a)5i through x; and

(G) The design concept can be expected to meet those requirements of the New Jersey Department of Environmental Protection necessary to receive a Treatment Works Approval.

v. Only contiguous land located within the same municipal zoning district and Pinelands management area as the proposed septic waste water treatment system or systems may be utilized for septic dilution purposes, except for the development of an individual single family dwelling on a lot existing as of January 14, 1981, non-residential development on a lot of five acres or less existing as of January 14, 1981, or cluster development as permitted by N.J.A.C. 7:50-5.19;

vi. The depth to seasonal high water table is at least five feet;

vii. Any potable water well will be drilled and cased to a depth of at least 100 feet, unless the well penetrates an impermeable clay aquiclude, in which case the well shall be cased to at least 50 feet;

viii. The system will be maintained and inspected in accordance with the requirements of N.J.A.C. 7:50-6.85;

ix. Flow values for non-residential development shall be determined based on the values contained in N.J.A.C. 7:9A-7.4, as amended, except that number of employees may not be utilized in calculating flow values for office uses. In the event that N.J.A.C. 7:9A-7.4 does not provide flow values for a specific use, but a flow value is assigned for that use in 7:14A-23.3(a), the flow value specified in N.J.A.C. 7:14A-23.3 shall be used in calculating flow.

6. Surface water runoff, in accordance with N.J.A.C. 7:8, subchapters 5 and 6, as amended, except as modified and supplemented pursuant to the following:

   i. Runoff rate and volume, runoff quality and groundwater recharge methodologies:

      (1) Runoff rates and volumes shall be calculated in accordance with the USDA Natural Resources Conservation Service (NRCS) Runoff Equation, Runoff Curve Numbers, and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Part 630 ■ Hydrology and Title 210 – Engineering, 210-3-1 Small Watershed Hydrology (WINTR-55) Version 1.0, incorporated herein by reference, as amended and supplemented. Information regarding these methodologies is available from the Natural Resources Conservation Service website at http://www.wcc.wsi.nrcs.usda.gov/products/W2Q/H&H/Tools_Models/WinTr55.html or at Natural Resources Conservation Service, 220 Davidson Avenue, Somerset, New Jersey 08873; (732)537-6040. Alternative methods of calculation may be utilized, provided such alternative methods are at least as protective as the NRCS methodology when considered on a regional stormwater management area basis;

      (2) Stormwater runoff shall be calculated using NRCS methodology by separately calculating and then combining the runoff volumes from pervious and directly connected impervious surfaces within each drainage area within the parcel;

      (3) Calculations of stormwater runoff from unconnected impervious surfaces shall be based, as applicable, upon the Two-Step Method described in the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, incorporated herein by reference, as amended and supplemented and available at http://www.njstormwater.org/bmp_manual2.htm, or the NRCS methodology; and

      (4) In calculating stormwater runoff using the NRCS methodology, the appropriate 24-hour rainfall depths as developed for the parcel by the National Oceanic and Atmospheric Administration shall be

utilized. Information regarding these rainfall data is available from the National Oceanic and Atmospheric Administration (NOAA) at http://www.hdsc.nws.noaa.gov/hdsc/pfds/index.html or DOC/NOAA/National Weather Service, Office of Hydrologic Development, Hydrometeorological Design Studies Center, Bldg. SSMC2 W/OHD13, 1325 East-West Highway, Silver Spring, Maryland 20910-3283; (301)713-1669 extension 154.

ii. Runoff shall meet the requirements in (4) and (5) below and one of (1), (2) or (3) below:

(1) The post-development stormwater runoff hydrographs generated from the parcel by a two year, 10 year and 100 year storm, each of a 24 hour duration, shall not exceed, at any point in time, the parcel's pre-development runoff hydrographs for the same storms; or

(2) Under post-development site conditions:

(A)There shall be no increase in pre-development stormwater runoff rates from the parcel for the two year, 10 year and 100 year storm; and

(B)Any increased stormwater runoff volume or change in stormwater runoff timing for the two year, 10 year and 100 year storms shall not increase flood damage at or downstream of the parcel. When performing this analysis for the pre-development site conditions, all off-site development levels shall reflect existing conditions. When performing this analysis for post-development site conditions, all off-site development levels shall reflect full development potential in accordance with those municipal land use ordinances certified by the Commission pursuant to N.J.A.C. 7:50-3; or

(3) The peak post-development stormwater runoff rates for the parcel for the two year, 10 year and 100 year storms shall be 50, 75 and 80 percent, respectively, of the parcel's peak pre-development stormwater rates for the same storms. Peak outflow rates from onsite stormwater measures for these storms shall be adjusted where necessary to account for the discharge of increased stormwater runoff rates and/or volumes from areas of the parcel not controlled by onsite measures. These percentages need not be applied to those portions of the parcel that are not proposed for development at the time an application is submitted to the Commission pursuant to N.J.A.C. 7:50-4, provided that:

(A) Such areas have been permanently protected from future development by conservation easement, deed restriction, or other acceptable legal measures; or

(B) A deed notice has been filed stating that such areas will be subject to the standards of this section at the point in time they are proposed for development in the future; and

(4) There shall be no direct discharge of stormwater runoff from any point or nonpoint source to any wetland, wetlands transition area

or surface waterbody. In addition, stormwater runoff shall not be directed in such a way as to increase the volume and rate of discharge into any surface water body from that which existed prior to development of the parcel; and

(5) To the maximum extent practical, there shall be no direct discharge of stormwater runoff onto farm fields so as to protect farm crops from damage due to flooding, erosion, and long term saturation of cultivated crops and cropland.

iii. Recharge standards:

(1) For all major developments, the total runoff volume generated from the net increase in impervious surfaces by a ten (10) year, twenty-four (24) hour storm shall be retained and infiltrated onsite;

(2) In high pollutant loading areas (HPLA) and areas where stormwater runoff is exposed to source material, as defined at N.J.A.C. 7:8-5.4(a)2iii(1) and (2), the following additional water quality standards shall apply:

(A) The areal extent and amount of precipitation falling directly on or flowing over HPLAs and areas where stormwater is exposed to source material shall be minimized through the use of roof covers, canopies, curbing or other physical means to the maximum extent practical in order to minimize the quantity of stormwater generated from HPLA areas;

(B) The stormwater runoff originating from HPLAs and areas where stormwater runoff is exposed to source material shall be segregated and prohibited from co-mingling with stormwater runoff originating from the remainder of the parcel;

(C) The stormwater runoff from HPLAs and areas where stormwater runoff is exposed to source material shall be subject to pretreatment to achieve 90 percent removal of total suspended solids from the water quality design storm established in N.J.A.C. 7:8-5.5(a) prior to infiltration, using one or more of the following measures, designed in accordance with the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, as amended:

(I) Bioretention system;

(II) Sand filter;

(III) Wet ponds, which shall be hydraulically disconnected by a minimum of two feet of vertical separation from the seasonal high water table and shall be designed to achieve a minimum 80 percent removal of total suspended solids;

(IV) Constructed stormwater wetland; and

(V) Other measures certified by the Deparment of Environmental Protection, including a Media Filtration System manufactured treatment device with a minimum

80 percent removal of total suspended solids as verified by the New Jersey Corporation for Advanced Technology.

(D) If the potential for contamination of stormwater runoff by petroleum products exists onsite, prior to being conveyed to the pretreatment facility required in (a)6iii(2)(C) above, the stormwater runoff from the HPLAs and areas where stormwater runoff is exposed to source material shall be conveyed through an oil/grease separator or other equivalent manufactured filtering device providing for the removal of petroleum hydrocarbons.

iv. Infiltration basin design, siting and construction standards:

(1) Stormwater infiltration facilities shall be designed, constructed and maintained to provide a minimum separation of at least two feet between the elevation of the lowest point of the bottom of the infiltration facility and the seasonal high water table;

(2) Stormwater infiltration facilities shall be sited in suitable soils verified by field testing to have permeability rates between one and 20 inches per hour. A factor of safety of two shall be applied to the soil's field-tested permeability rate in determining the infiltration facility's design permeability rate. If such soils do not exist on the parcel proposed for development or if it is demonstrated that it is not practical for engineering, environmental or safety reasons to site the stormwater infiltration basin(s) in such soils, the stormwater infiltration basin(s) may be sited in soils verified by field testing to have permeability rates in excess of 20 inches per hour, provided that stormwater is routed through a bioretention system prior to infiltration. Said bioretention system shall be designed, installed and maintained in accordance with the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, as amended;

(3) Groundwater mounding analysis shall be required for purposes of assessing the hydraulic impacts of mounding of the water table resulting from infiltration of stormwater runoff from the maximum storm designed for infiltration. The mounding analysis shall provide details and supporting documentation on the methodology used. Groundwater mounds shall not cause stormwater or groundwater to breakout to the land surface or cause adverse impacts to adjacent water bodies, wetlands or subsurface structures, including, but not limited to basements and septic systems. Where the mounding analysis identifies adverse impacts, the infiltration facility shall be redesigned or relocated, as appropriate;

(4) To the maximum extent practical, stormwater management measures on a parcel shall be designed to limit site disturbance, maximize stormwater management efficiencies, maintain or improve aesthetic conditions and incorporate pretreatment as a means of extending the functional life and increasing the pollutant removal capability of structural stormwater management facilities. The use of stormwater management measures that are smaller in size and distributed spatially throughout a parcel, rather than the use of a single larger structural stormwater management measure, shall be required to the maximum extent practical;

(5) To avoid sedimentation that may result in clogging and reduction of infiltration capability and to maintain maximum soil infiltration capacity, the construction of stormwater infiltration basins shall be managed in accordance with the following standards:

(A) No stormwater infiltration basin shall be placed into operation until its drainage area has been completely stabilized. Instead, upstream runoff shall be diverted around the basin and into separate, temporary stormwater management facilities and sediment basins. Such temporary facilities and basins shall be installed and utilized for stormwater management and sediment control until stabilization is achieved in accordance with N.J.A.C. 2:90, Standards for Soil Erosion and Sediment Control in New Jersey;

(B) If, for engineering, environmental or safety reasons, temporary stormwater management facilities and sediment basins cannot be constructed on the parcel in accordance with (a)6iv(5)(A) above, the stormwater infiltration basin may be placed into operation prior to the complete stabilization of its drainage area provided that the basin's bottom during this period is constructed at a depth at least two feet higher than its final design elevation. When the drainage area has been completely stabilized, all accumulated sediment shall be removed from the infiltration basin, which shall then be excavated to its final design elevation; and

(C) To avoid compacting an infiltration basin's subgrade soils, no heavy equipment such as backhoes, dump trucks or bulldozers shall be permitted to operate within the footprint of the stormwater infiltration basin. All excavation required to construct a stormwater infiltration basin shall be performed by equipment placed outside the basin. If this is not possible, the soils within the excavated area shall be renovated and tilled after construction is completed. Earthwork associated with stormwater infiltration basin construction, including excavation, grading, cutting or filling, shall not be performed when soil moisture content is above the lower plastic limit.

v. As-built requirements:

(1) After all construction activities have been completed on the parcel and finished grade has been established in the infiltration basin, replicate post-development field permeability tests shall be conducted to determine if as-built soil permeability rates are consistent with design permeability rates. The results of such tests

shall be submitted to the municipal engineer. If the results of the post-development field permeability tests fail to achieve the minimum required design permeability rate, utilizing a factor of safety of two, the infiltration basin shall be renovated and re-tested until such minimum required permeability rates are achieved; and

(2) After all construction activities and required field testing have been completed on the parcel, as-built plans, including as-built elevations of all stormwater management measures shall be submitted to the municipal engineer. Based upon the municipal engineer's review of the as-built plans, all corrections or remedial actions deemed by the municipal engineer to be necessary due to the failure to comply with design standards and/or for any reason concerning public health or safety, shall be completed by the applicant. In lieu of review by the municipal engineer, the municipality may engage a licensed professional engineer to review the as-built plans and charge the applicant for all costs associated with such review.

vi. Exceptions:

(1) The standards set forth in (a)6i through v above shall not apply to minor residential development, provided such development does not involve the construction of any new roads, or to minor non-residential development, provided such development does not involve the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five year period;

(2) The use of nonstructural strategies in accordance with N.J.A.C. 7:8-5.3 shall not be required for development which would create less than one acre of disturbance;

(3) Provided an applicant for major development pursuant to N.J.A.C. 7:50-4.31 through 4.50 is able to demonstrate that the standards set forth in (a)6i through v above cannot be met on the parcel proposed for development or that stormwater management would more effectively be achieved through alternative measures, strict compliance with said standards may be waived at the discretion of the municipality in which the proposed development is located, provided the municipal stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 specifies the circumstances under which such alternative measures would be appropriate and identifies those parcels or projects elsewhere in the Pinelands Area where any off-site mitigation would be permitted to occur;

(4) Provided an applicant for major public development pursuant to N.J.A.C. 7:50-4.51 through 4.60 is able to demonstrate that the standards set forth in (a)6i through v above cannot be met on the parcel proposed for development or that stormwater management would more effectively be achieved through alternative measures, an exception may be granted at the discretion of the Commission, provided any such measures occur within the Pinelands Area and within the same drainage area as the parcel proposed for development and are sufficient to offset the granting of the exception. The proposed alternative measures must be consistent

with the stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 for the municipality in which the proposed development is located, unless said stormwater plan does not provide for appropriate mitigation for the particular exception being granted or identify appropriate parcels or projects where off-site mitigation may occur; and

(5) Unless specifically included in (a)6vii(1) through (3) above, the exemptions, exceptions, applicability standards and waivers of strict compliance for stormwater management described in N.J.A.C. 7:8 shall not apply.

vii. Maintenance standards:

(1) Maintenance plans required pursuant to N.J.A.C. 7:8-5.8(a) shall be supplemented so as to include reporting of inspection and repair activities. Said plans shall include accurate and comprehensive drawings of all stormwater management measures on a parcel, including the specific latitude and longitude and block/lot number of each stormwater management measure. Maintenance plans shall specify that an inspection, maintenance and repair report will be updated and submitted annually to the municipality;

(2) Stormwater management measure easements shall be provided by the property owner as necessary for facility inspections and maintenance and preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities. The purpose of the easement shall be specified in the maintenance agreement; and

(3) An adequate means of ensuring permanent financing of the inspection, maintenance, repair and replacement plan shall be implemented and shall be detailed in the maintenance plan. Financing methods shall include but not be limited to:

(A) The assumption of the inspection and maintenance program by a municipality, county, public utility or homeowners association; or

(B) The required payment of fees to a municipal stormwater fund in an amount equivalent to the cost of both ongoing maintenance activities and necessary structural replacements.

viii. Unless specifically mandated pursuant to (a)6i through viii above, the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, as amended, may be utilized as a guide in determining the extent to which stormwater management activities and measures meet the standards of (a)6i through viii above.

7:50-6.85 Individual wastewater treatment facility and petroleum tank maintenance

(a) The owner of every traditional individual and non-individual onsite subsurface sewage disposal system in the Pinelands shall, as soon as suitable septage disposal facility capacity is available, in accordance with the provisions of Chapter 326 of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and Section 201 of the Clean Water Act:

1. Have the facility inspected by a technician at least once every three years;
2. Have the facility cleaned at least once every three years; and

3. Once every three years submit to the board of health serving the municipality in which the facility is located a sworn statement that the facility has been inspected, cleaned and is functional, setting forth the name of the person who performed the inspection and cleaning and the date of such inspection.

(b) All Pinelands alternate design wastewater treatment systems in active use shall be equipped with functioning alarm system that conforms to the requirements at N.J.A.C. 7:50-6.84(a)5iv(2)(G) and shall be covered under a renewable operation and maintenance contract that conforms to the requirements at N.J.A.C. 7:50-6.84(a)5iv(2)(K**),** for as long as the system is in active use.

(c) Every owner or operator of a Pinelands alternate design wastewater treatment system in the Pinelands Area shall comply with the maintenance and monitoring requirements of N.J.A.C. 7:9A-8.3 and 12.3.

(d) The owners of commercial petroleum storage tanks shall comply with the requirements of P.L. 1986, c.102 (N.J.S.A. 58:10A-29).

7:50-6.86 Water management

(a) Interbasin transfer of water between watersheds in the Pinelands should be avoided to the maximum extent practical. In areas served by central sewers, water-saving devices such as water-saving toilets, showers and sink faucets shall be installed in all new development.

(b) Water shall not be exported from the Pinelands except as otherwise provided in N.J.S.A. 58:1A-7.1.

(c) All wells and all increases in diversion from existing wells which require water allocation permits from the New Jersey Department of Environmental Protection shall be designed and located so as to minimize impacts on wetlands and surface waters. Hydrologic analyses shall be conducted in accordance with the New Jersey Department of Environmental Protection and Energy Guidelines for Water Allocation Permits, with an Appendix on Aquifer-Test Analysis Procedures, New Jersey Geological Survey Report GSR 29, 1992, incorporated herein by reference, as contained in pages 53 through 91 of the Technical Manual for Water Supply Element, Bureau of Water Allocation, Water Allocation Permits dated May 19, 1993, as amended.

(d) All applications for the development of water supply wells or the expansion of existing water distribution systems shall address measures in place or to be taken to increase water conservation in all areas to be served by the proposed well or system. This shall include efforts by water purveyors and local governments to reduce water demands by users and to reduce losses in the supply and distribution system.

(e) Except for agricultural uses, all new potable and non-potable water supply diversions of more than 100,000 gallons per day that utilize the Kirkwood-Cohansey aquifer as a source of water supply and new increases in existing potable and non-potable water supply diversions of over 100,000 gallons per day that utilize the Kirkwood-Cohansey aquifer may be permitted only if it is demonstrated that:

1. No viable alternative water supply sources are available; or
2. The proposed use of the Kirkwood-Cohansey aquifer will not result in any adverse ecological impact on the Pinelands Area.

7:50-6.87 Prohibited chemicals and materials

(a) Use of the following substances is prohibited in the Pinelands to the extent that such use will result in direct or indirect introduction of such substances to any surface or ground water or any land:
   1. Septic tank cleaners; and
   2. Waste oil.

(b) All storage facilities for deicing chemicals shall be lined to prevent leaking into the soil, and shall be covered with an impermeable surface which shields the facility from precipitation.

(c) No person shall apply any herbicide to any road or public utility right-of-way within the Pinelands unless necessary to protect an adjacent agricultural activity.

7:50-6.88 through 7:50-6.90 (Reserved)

PART IX-AIR QUALITY

7:50-6.91 Purpose

Air quality in the Pinelands is important to the character and ecology of the Pinelands. It is the purpose of this Part to ensure that the quality of the air in the Pinelands region is protected and enhanced.

7:50-6.92 Air quality program

In order to obtain certification under the provisions of N.J.A.C. 7:50-3, the municipal master plan and land use ordinances must contain a program for air quality. It is not necessary that the program incorporate the literal terms of the program set out in this Part; rather, it 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.

7:50-6.93 General standard

All development shall adhere to the relevant air quality standards of N.J.A.C. 7:27 et seq. Adherence to the standards of this Part shall be determined by means of an air quality simulation model approved by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:27-18.3.

7:50-6.94 Standards for specified development

(a) Applications for the following developments shall ensure that all state ambient air quality standards in N.J.A.C. 7:27 et seq. for carbon monoxide shall not be exceeded at places of maximum concentration and at sensitive receptors:

1. Residential development of 50 or more units and any other development involving more than 100 parking spaces located in a Regional Growth Area or Pinelands Town; and
2. Residential development of 100 or more units and any other development involving more than 300 parking spaces located in any other Pinelands management area.

7:50-6.95 through 7:50-6.100 (Reserved)

PART X-SCENIC

7:50-6.101 Purpose

The Pinelands is a complex of environmental values that presents a definable visual character to residents and visitors. This character contributes substantially to the attractiveness of the area and therefore is an important element to the area's economy. This Part is intended to ensure that development will take advantage of and enhance the visual character of the Pinelands.

7:50-6.102 Scenic management program

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

7:50-6.103 Scenic corridors

(a) Except for those roads which provide for internal circulation within residentially developed areas, all public, paved roads in the Preservation Area District, the Rural Development and Forest Areas shall be considered scenic corridors.
(b) Those rivers designated in N.J.A.C. 7:50-6.105 shall be considered as special scenic corridors in any part of the Pinelands.

7:50-6.104 Requirements for scenic corridors

(a) Except as provided in this section, no permit shall be issued for development other than for agricultural commercial establishments unless the applicant demonstrates that all buildings are set back at least 200 feet from the center line of the scenic corridor.
(b) If compliance with the 200-foot setback is constrained by environmental or other physical considerations, such as wetland, or active agricultural operation, the building shall be set back as close to 200 feet as practical and the site shall be

landscaped in accordance with the provisions of Part II of this subchapter so as to provide screening from the corridor.

(c) If an applicant for development approval demonstrates that existing development patterns of the corridor are such that buildings are setback less than 200 feet within 1,000 feet of the site proposed for development, then a setback shall be set for the proposed development which is consistent with the established development pattern, provided that the site is landscaped in accordance with the provisions of Part II of this subchapter so as to provide screening between the building and the corridor.

(d) The requirements of this section shall not apply to cluster developments within the Forest and Rural Development Areas which comply with the standards of N.J.A.C. 7:50-5.19(c) and (d).

7:50-6.105 Requirements for special scenic corridors

(a) The following rivers are hereby designated to be wild and scenic rivers and scenic corridors of special significance to the Pinelands. All structures within 1,000 feet of the center line of these rivers shall be designed to avoid visual impacts as viewed from the river:

1. Great Egg Harbor River-Great Egg Bay (Garden State Parkway) to Route 536.
2. Tuckahoe River-Great Egg Bay to the Route 552 crossing in Milmay.
3. Middle River-Great Egg Bay to Schoolhouse Lane crossing north of Corbin City.
4. Mullica River-Garden State Parkway to Medford Road crossing at the Medford, Waterford, and Shamong Township boundaries.
5. Wading River-Confluence with the Mullica River to Route 563 crossing at Speedwell.
6. Oswego River-Confluence with the Wading River to Sim Place reservoir dam.
7. Batsto River-Confluence with Mullica River to Carranza Memorial Road crossing at Shamong and Tabernacle Township boundaries.
8. Bass River-Confluence with the Mullica River to Stage Road crossing in Bass River State Forest.
9. Nescochague Creek-Confluence with the Mullica River to confluence with Great Swamp Branch and Albertson Branch.
10. Great Swamp Branch-Confluence with Nescochague Creek to Route 206 bridge in Hammonton.
11. Rancocas Creek-Route 530 crossing in Browns Mills to the Pinelands boundary.
12. Cedar Creek-Route 9 crossing to the dam at Bamber Lake.
13. West Creek-Confluence with Delaware Bay to Pickle Factory Pond above Route 550.
14. Dennis Creek-Confluence with Delaware Bay to the headwaters of the mainstem in the Great Cedar Swamp west on Route 9.
15. North Branch of the Forked River-Garden State Parkway to the confluence with Cave Cabin Branch east of Howardsville.

16. Toms River-From the Central Railroad of New Jersey bridge to the Route 528 crossing east of Cassville.
17. Maurice River-Delaware Bay to Manumuskin River.
18. Manumuskin River-Confluence with the Maurice River to the Route 49 crossing near Cumberland Road.
19. Mount Misery Branch-Route 70 crossing to the Greenwood Branch continuing to the North Branch of the Rancocas Creek.

7:50-6.106 Signs

Each municipality shall adopt provisions governing signs in its municipal master planand ordinances. On-site signs are generally permitted in the Pinelands pursuant to N.J.A.C. 7:50-6.107. Off-site signs are permitted only in accordance with N.J.A.C. 7:50-6.108. Mandatory provisions for off-site signs are provided in N.J.A.C. 7:50-6.109. Each municipality may adopt additional provisions governing signs including, but not limited to, the establishment of sign types and associated regulations governing the appropriate location and manner of such signs provided that such provisions do not conflict with N.J.A.C. 7:50-6.107 through 6.109.

7:50-6.107 On-site signs

(a) On-site signs may be permitted in any management area.
(b) Municipalities are encouraged to adopt the standards for electronic message displays and lighting in N.J.A.C. 7:50-6.109(a)3 and 4 in formulating municipal ordinance standards for on-site signs.

7:50-6.108 Off-site signs

(a) Off-site signs are permitted only as follows:
    1. Off-site directional signs may be permitted in any management area;
    2. Off-site temporary signs may be permitted in any management area;
    3. Off-site signs advertising an agricultural commercial establishment shall be permitted in Agricultural Production Areas and Special Agricultural Production Areas and may be permitted in any other management area;
    4. Off-site signs lawfully in existence as of January 14, 1981, shall be permitted in:
        i. Regional Growth Areas;
        ii. Pinelands Towns; and
        iii. Certified municipal non-residential zones in Rural Development Areas and Pinelands Villages in existence as of December 5, 1994 if the sign is located within 1,000 feet of a Regional Growth Area or Pinelands Town and is located on a United States highway.
    5. New off-site signs may be permitted by certified municipalities in Regional Growth Areas and Pinelands Towns, provided that the applicant can demonstrate that, for each new sign, a non-conforming off-site sign pursuant to (b) below has been removed.
(b) Any off-site sign in existence prior to January 14, 1981, that does not conform to (a)1, 3, or 4 above shall be deemed a non-conforming sign and shall be removed

no later than December 5, 1996. Any off-site sign erected on or after January 14, 1981, that does not conform to (a) above shall be deemed unlawful and shall be removed immediately.

7:50-6.109 Provisions for permitted signs

(a) Permitted signs shall comply with the following provisions:

1. Off-site directional signs shall comply with the following standards:
   i. They shall contain no advertising and shall be limited to the name of the public or private use and any necessary directions;
   ii. The quantity of signs per use shall be limited to the minimum necessary to give adequate directions; and
   iii. The size of such signs shall be limited to that necessary to convey directions;
2. Off-site signs advertising agricultural commercial establishments shall comply with the following standards:
   i. A maximum of two signs may be placed in any one direction along each road directly approaching the stand; and
   ii. Each sign along four lane State or United States highways shall be limited to a maximum of 50 square feet in area; each sign along all other roads shall be limited to a maximum of 32 square feet in area;
3. Off-site signs permitted pursuant to N.J.A.C. 7:50-6.108(a)4 and 5 may have electronic message displays provided that:
   i. The electronic message display is programmed to freeze in one position if a malfunction occurs;
   ii. The transition of one displayed message to another displayed message is accomplished within one second or less;
   iii. The duration of the interval between the end of any transition and the start of its subsequent transition is at least eight seconds; and
   iv. The municipality has adopted provisions governing the permitted brightness of the display at varying ambient light conditions and the brightness of the display is automatically adjusted based on ambient light conditions through the use of an integrated light sensing device; and
4. Except as provided in (a)3 above, off-site signs shall not contain, include, or be illuminated by any flashing, intermittent, scrolling, or moving light or lights. All sources of illumination shall be shielded or directed such that light is not directed towards the sky.

(b) Off-site signs that are required to be removed pursuant to N.J.A.C. 7:50-6.108(b) shall not have electronic message displays.

(c) Noncommercial copy shall be permitted to replace the message on any permitted sign.

7:50-6.110 Motor vehicle screening and storage

In order to obtain certification, municipalities shall adopt local ordinances which provide that no more than 10 automobiles, trucks or other motor vehicles, whether or not they are in operating condition, shall be stored on any lot unless such motor vehicles are adequately screened from adjacent residential uses and scenic corridors. All vehicles not in

operating condition shall be stored only if the gasoline tanks of such vehicles are drained. This section shall not apply to vehicles which are in operating condition and which are maintained for agricultural purposes.

7:50-6.111 Location of utilities

(a) New utility distribution lines to locations not presently served by utilities shall be placed underground, except for those lines which are located on or adjacent to active agricultural operations.

(b) All electric transmission lines shall be located on existing towers or underground to the maximum extent practical.

(c) Above-ground generating facilities, switching complexes, pumping stations, and substations shall be screened with vegetation from adjacent uses in accordance with N.J.A.C. 7:50-6, Part II.

PART XI-RESERVED

7:50-6.112 through 7:50-6.120 (Reserved)

PART XII-FIRE MANAGEMENT

7:50-6.121 Purpose

Forest vegetation represents a significant wildfire threat to structures developed within the Pinelands. Therefore all development in the Pinelands shall conform to the requirements of this Part in order to protect life and property from catastrophic forest fires and to ensure the maintenance of the Pinelands forest ecosystems.

7:50-6.122 Fire management program

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

7:50-6.123 Fire hazard classification

The following vegetation classifications shall be used in determining the fire hazard of a parcel of land:

Fire Hazard Classification

Hazard	Vegetation Type
Low	Atlantic white cedar. Hardwood swamps.
Moderate	Non-Pine Barrens forest and prescribed burned areas.

High	Pine Barrens forest including mature forms of pine, pine-oak, and oak-pine.
Extreme	Immature or dwarf forms of pine-oak or oak-pine, all classes of pine-scrub oak and pine-lowland.

7:50-6.124 Fire hazard mitigation standards

(a) No application for development approval shall be granted in moderate, high and extreme hazard areas unless the applicant demonstrates that:

1. All proposed developments, or units or sections thereof, of 25 dwelling units or more will have two accessways of a width and surface composition sufficient to accommodate and support fire fighting equipment;
2. All dead-end roads will terminate in a manner which provides safe and effective entry and exit for fire fighting equipment;
3. The rights-of-way of all roads will be maintained so that they provide an effective fire break;
4. Except as provided in (a)5 below, a fire hazard fuel break is provided around structures proposed for human use by the selective removal or thinning of trees, bushes, shrubs and ground cover as follows:
   i. In moderate fire hazard areas a fuel break of 30 feet measured outward from the structure in which:
      (1) Shrubs, understory trees and bushes and ground cover are to be selectively removed, mowed or pruned on an annual basis; and
      (2) All dead plant material is removed.
   ii. In high fire hazard areas a fuel break of 75 feet measured outward from the structure in which:
      (1) Shrubs, understory trees and bushes and ground cover are to be selectively removed, mowed or pruned and maintained on an annual basis;
      (2) All dead plant material is removed.
   iii. In extreme high hazard areas a fuel break of 100 feet measured outward from the structure in which:
      (1) Shrubs, understory trees and bushes and ground cover are to be selectively removed, mowed or pruned and maintained on an annual basis;
      (2) No pine tree (Pinus spp.) is closer than 25 feet to another pine tree; and
      (3) All dead plant material is removed.
5. All residential development of 100 dwelling units or more in high or extreme high hazard areas will have a 200-foot perimeter fuel break between all structures and the forest in which:
   i. Shrubs, understory trees and bushes and ground cover are selectively removed, mowed or pruned and maintained on an annual basis;
   ii. All dead plant material is removed;
   iii. Roads, rights-of-way, wetlands and waste disposal sites shall be used as fire breaks to the maximum extent practical; and

iv. There is a specific program for maintenance.

7:50-6.125 Guidelines for construction

(a) Municipalities may use the following construction guidelines in formulating municipal ordinance standards:

1. Roofs and exteriors will be constructed of fire resistant materials such as asphalt rag felt roofing, tile, slate, asbestos cement shingles, sheet iron, aluminum or brick. Fire retardant-treated wood shingles or shake type roofs are prohibited in high or extreme fire hazard areas.
2. All projections such as balconies, decks and roof gables shall be constructed of fire resistant material or materials treated with fire retardant chemicals.
3. Any openings in the roof, attic and the floor shall be screened.
4. Chimneys and stovepipes which are designed to burn solid or liquid fuels shall be equipped with screens over the outlets.
5. Flat roofs are prohibited in areas where vegetation is higher than the roof.

7:50-6.126 through 7:50-6.130 (Reserved)

PART XIII-HOUSING

7:50-6.131 (Reserved)

7:50-6.132 (Reserved)

7:50-6.133 (Reserved)

7:50-6.134 through 7:50-6.140 (Reserved)

PART XIV-RECREATION

7:50-6.141 Purpose

The Pinelands are an important recreational resource. It is the purpose of this Part to protect those natural resources necessary for compatible recreational uses, promote diverse recreational opportunities in a manner that minimizes land use conflicts, promote the location of low intensity recreational uses in undeveloped areas, and promote intensive recreational uses in developed areas.

7:50-6.142 Recreational management plan

In order to be certified under the provisions of N.J.A.C. 7:50-3, a municipal master plan and land use ordinance must contain a program to protect and enhance recreational resources. It is not necessary that the municipal program be precisely the program set out in this Part: rather, a municipality may adopt alternative and additional techniques to protect recreational resources. In reviewing the municipal plan, the Commission shall consider the extent to which the plan and ordinances implement the standards and objectives of this Part.

7:50-6.143 General requirements

(a) All recreational facilities in the Pinelands shall comply with the following requirements:

1. No power vessel in excess of 10 horsepower shall operate on waters of the State within the Pinelands Area except on:
   i. That portion of the Mullica River downstream from Burlington County Route 542; and
   ii. That portion of the Wading River downstream from its confluence with the Oswego River; and
   iii. That portion of the Great Egg Harbor River downstream from its confluence with Mare Run.
2. No motor vehicle other than fire, police or emergency vehicles or those vehicles used for the administration or maintenance of any public land shall be operated upon publicly owned land within the Pinelands. Other motor vehicles may operate on public lands for recreational purposes on public highways and areas on land designated prior to August 8, 1980 for such use by state and local governmental entities until designated as inappropriate for such use under (a)3 below.
3. The Commission shall from time to time designate areas which are inappropriate for use of motor vehicles. Such designation shall be based upon the following considerations and upon consultation with the New Jersey Department of Environmental Protection and other interested persons:
   i. A need to protect a scientific study area;
   ii. A need to protect the location of threatened or endangered plant or animal species;
   iii. A need to provide a wilderness recreational area;
   iv. A need to prevent conflicts with adjoining intensively used recreational areas;
   v. A need to protect historic or archaeological sites;
   vi. A need to protect critical wildlife habitats;
   vii. A need to address a situation of public health and safety;
   viii. A need to protect extensively disturbed areas from further impact; and
   ix. The extent to which such road closure would substantially impair recreation access to and uses of surrounding resources.
4. Route maps for organized off-road vehicle events shall be filed with and approved by the Executive Director.
5. All recreation areas and facilities shall be designed in accordance with the New Jersey Department of Environmental Protection publication

"Administration Guidelines: Barrier-Free Design Standards for Parks and Recreational Facilities."

6. Improved bicycling facilities are provided only in conjunction with paved roads within the Preservation Area District and Forest Area.

7:50-6.144 Guidelines for recreational land and facilities

(a) In preparing the recreational program element of its master plan and ordinances, each municipality may consider the following requirements. In municipalities that have not received certification of their master plans and land use ordinances, all development shall meet the standards of (a)3i below as long as the densities established pursuant to N.J.A.C. 7:50-5 can be met.

1. Lawn areas shall be permitted in association with commercial and industrial development provided that such lawns are designed and used for public recreational purposes, meet an identified public recreational need, and are dedicated to public recreation use.
2. Lawn areas developed in association with recreational development shall be limited to those which support recreation activities and shall, to the extent practical, be of a variety of grass which requires minimal fertilization.
3. Each municipality shall have ordinances which provide for open space and recreational facilities in association with residential developments. The following guidelines may be utilized to develop these ordinances:
   i. All residential development of 25 units or more shall provide:
      (1) Eight acres of land to be used for recreational purposes for every 1,000 projected residents of the development, or a prorated acreage if less than 1,000 projected residents; provided, however, that such acreage shall not be required to exceed 10 percent of the total acreage of the proposed development;
      (2) Land provided in accordance with (a)3i(1) above shall be provided in a single area or in individual parcels at least one acre in size;
      (3) All residential units for which the recreational land is provided in accordance with (a)3i(1) above shall be located within 1/4 mile of such recreational land; and
      (4) At least 50 percent of the recreational land provided in accordance with (a)3i(1) above shall be turfed or landscaped with otherwise suitable materials to permit informal recreational activities.
   ii. All residential development of 50 units or more should provide recreational land in accordance with (a)3i above. Recreational facilities in accordance with the following schedule shall also be provided to the extent recreational needs are generated by the proposed development. An analysis of the recreational needs of a proposed development within a specified service area around the development shall be conducted by comparing the following schedule of facility standards with existing recreational facilities within the service area and the projected population of the service area:

Recreational Facility Guidelines

	Population	Minimum Facility Space Standards	Recreational Service Area Radius
Basketball courts	1 per 1,000	Court dimensions range 60 feet x 80 feet x 70 feet x 104 feet	1 mile
Tennis courts	1 per 2,000	Court dimensions range	½ mile
Multi-purpose	1 per 2,000	.50 acre (including basketball and tennis courts)	½ mile
Passive area (sitting)	1 per 2,000	.50 acre	¼ mile
Senior citizen (bocce, shuffle board, horseshoe)	1 per 1,000	.50 acre	¼ mile
Pre-school playground	1 per 2,000	.25 acre	½ mile
Advanced playground	1 per 2,000	.25 acre	1 mile
Multi-purpose turf area	1 per 2,000	.50 acre	1 mile
Football/soccer Fields	1 per 10,0000	Field dimensions 140 feet x 280 feet-youth190 feet x 420 feet-adult	1 mile
Baseball- regulation 90-foot diamond	1 per 6,000	2.8 acres 325-foot outfield	1 mile
Baseball-youth Softball 60-foot diamond	1 per 6,000	1.0 acre 200-foot outfield	1 mile
Picnic area	1 per 6,000	8-foot tables	1 mile

7:50-6.145 through 7:50-6.150 (Reserved)

PART XV-HISTORIC, ARCHAEOLOGICAL, AND CULTURAL PRESERVATION

7:50-6.151 Purpose

(a) Historically distinctive resources, including buildings, structures, sites and districts of historic, archaeological, architectural, or cultural importance help to define the Pinelands environment and must be properly managed in furtherance of the following public purposes:

1. To effect and accomplish the protection, enhancement, perpetuation and use of improvements and areas of special historic and archaeological interest or value which represent or reflect significant elements of the Pinelands' cultural, social, economic, political and architectural history and prehistory;
2. To safeguard the Pinelands' prehistoric, historic and cultural heritage as embodied and reflected in such improvements and areas;
3. To stabilize and improve property values in such areas;
4. To prevent neglect and vandalism of historic, archaeological and cultural sites;

5. To foster pride in the beauty and noble accomplishments of the past; and
6. To preserve opportunities for traditional life styles related to and compatible with the ecological values of the Pinelands.

7:50-6.152 Historic resource management program

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

7:50-6.153 Authorities of municipal officials and agencies

(a) The Planning Board of each municipality shall have the following powers and duties:
   1. To initiate, hear, review and make recommendations to the Pinelands Commission regarding designation of historic resources and districts of local Pinelands, national or state significance in accordance with the provisions of N.J.A.C. 7:50-6.154;
   2. To initiate, hear, review and identify historic resources and districts of local Pinelands, national or state significance and recommend same to the governing body for designation in the zoning ordinance, in accordance with the provisions of N.J.A.C. 7:50-6.154 and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.;
   3. To review and issue certificates of appropriateness in accordance with the provisions of N.J.A.C. 7:50-6.155 and 6.156 for any application for development which it is otherwise empowered to review;
   4. To review and report on any matter related to this Part referred to it by the Pinelands Commission;
   5. To make its general knowledge and expertise available upon reasonable written request to the Pinelands Commission or any agency of the municipality, county, state or federal government;
   6. To consult with any county, state or national agency with special expertise in the area of historic resources;
   7. To prepare and adopt plans implementing measures to preserve the cultural heritage of traditional Pinelands Villages;
   8. To develop and maintain a manual of recommended rehabilitation techniques and the relationship of new construction to natural areas for the guidance of the public; and
   9. To adopt rules of procedure which are not in conflict with the provisions of this Part and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

(b) The Board of Adjustment shall review and issue certificates of appropriateness, in accordance with the provisions of N.J.A.C. 7:50-6.155 and 6.156 for any application for development which it is otherwise empowered to review.

(c) The governing body may by ordinance provide for an Historic Preservation Commission in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-1

et seq. The Historic Preservation Commission shall have those duties and responsibilities set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and shall:

1. Advise the Planning Board and Board of Adjustment on the issuance of certificates of appropriateness for all applications for development which otherwise require approval of the Boards; and
2. Unless the governing body expressly authorizes the Planning Board to do so, issue certificates of appropriateness, pursuant to N.J.A.C. 7:50-6.155 and 6.156, for all zoning, construction or other permits which are not issued pursuant to a valid site plan, conditional use, or variance approval granted by the Planning Board or Board of Adjustment.

(d) Where the governing body has not provided for an Historic Preservation Commission, the local permitting agency responsible for ruling on the application for development shall exercise the duties set forth in (c)2 above.

7:50-6.154 Designation of historic resources and districts

(a) Those historic resources within the Pinelands which are from time to time listed in the State or National Registers of Historic Places, pursuant to N.J.S.A. 13:1B-15.128 et seq. and P.L. 89-665; 80 Stat. 915; 16 U.S.C. 470, respectively, are hereby designated by the Pinelands Commission as historic resources of significance to the Pinelands.

(b) Standards for designation of additional resources are as follows:

1. The Pinelands Commission may designate additional historic resources and districts if it determines that the resource or district possesses integrity of location, design, setting, materials, workmanship, feeling, and association which reflects its significance in American history, architecture, archaeology or culture under one or more of the following criteria:
   i. The presence of structures, sites or areas associated with events of significance to the cultural, political, economic or social history of the nation, state, local community or the Pinelands; or
   ii. The presence of structures, sites or areas associated with the lives of persons or institutions of significance to the cultural, political, economic or social history of the nation, state, local community or the Pinelands; or
   iii. The presence of structures that represent the work of a master, or that possess high artistic values, or that embody the distinctive characteristics of a type, period or method of construction, or that represent a distinguishable entity of significance to the architectural, cultural, political, economic or social history of the nation, state, local community or the Pinelands; or
   iv. The presence of a site or area which has yielded or is likely to yield significant information regarding the history or archaeological history of the Pinelands; and
2. The Planning Board shall utilize these standards in identifying areas, sites, structures or districts as resources of significance in accordance with the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and

recommending that the governing body designate same in the zoning ordinance.

(c) Initiation of Designation: The designation of historic resources or districts of Pinelands significance may be initiated by the Pinelands Commission, the Executive Director, a Historic Preservation Commission, a Planning Board, or any other person.

(d) Designation Application:

1. If designation by the Pinelands Commission is proposed by an Historic Preservation Commission, a Planning Board or other person, the application shall be submitted on a National Register of Historic Places Inventory-Nomination Form with the accompanying information listed in the State and National Register Manual as published by the New Jersey Department of Environmental Protection. The application shall contain the following information:
   - i. A statement setting forth the basis for designation with specific reference to the standards set forth in (b) above;
   - ii. Comments from the local Planning Board if the designation is proposed by a person who is not a member of the Planning Board; and
   - iii. Such additional information as may be required from time to time by the Pinelands Commission to facilitate adequate review of the application.
2. If local designation is proposed, the application shall include the information required in (d)l above and any other information as may be required by the Planning Board.

(e) Pinelands Commission Review: All proposed designations by the Pinelands Commission shall be reviewed and a public hearing held in the manner provided in N.J.A.C. 7:50-4.

(f) Effect of Designation: All resources and districts designated pursuant to this section will be governed by the standards of N.J.A.C. 7:50-6.156.

(g) Removing Designation: Any resource designated by the Pinelands Commission or by a municipality may be removed from designation if the designating agency determines that the resource no longer meets the standards of (b) above. In the event the Pinelands Commission considers removal of any designation, a public hearing shall be held in the manner provided in N.J.A.C. 7:50-4. All resources and districts designated pursuant to this section will be governed by the standards of N.J.A.C. 7:50-6.156.

7:50-6.155 Evaluation of development proposals

(a) Identification of Resources:

1. A cultural resource survey shall accompany all applications for development in a Pinelands Village or Town and applications for major development in other Pinelands Management Areas in order to determine whether any significant historic resources exist on the property. Guidelines for this survey are contained in Appendix B of the "Cultural Resource Management Plan," dated April 1991, as amended. In general, the survey shall include: a statement as to the presence of any properties listed on the National and State Registers of Historic Places on the site or within the area of the project's

potential environmental impacts; a thorough search of state, local and any other pertinent inventories to identify sites of potential significance; a review of the literature and consultation with professional and a vocational archaeologists knowledgeable about the area; thorough pedestrian and natural resource surveys; archaeological testing as necessary to provide reasonable evidence of the presence or absence of historic resources of significance; adequate recording of the information gained and methodologies and sources used; and a list of personnel involved and qualifications of the person(s) performing the survey.

2. The Pinelands Commission shall assume the responsibility for completing a cultural resource survey when a request to do so is submitted pursuant to N.J.A.C. 7:50-6.43(b) in conjunction with an application for a forestry operation.

(b) Survey Exemptions:

1. Notwithstanding (a) above, the need for a cultural resource survey may be:
   i. Eliminated by a municipality, as part of its certified land use ordinance, in portions of a Pinelands Village or Town if there is insufficient evidence of significant cultural activity within the area or, in the case of archaeological resources, within the vicinity; and
   ii. Waived by the Pinelands Commission or by an approval agency for individual applications for development if it is determined that:
      (1) There is insufficient evidence of cultural activity on the project site or, in the case of archaeological resources, within the vicinity;
      (2) The evidence of cultural activity on the site lacks the potential for importance because further recording of the available data will not contribute to a more comprehensive understanding of Pinelands culture; or
      (3) The evidence of cultural activity lacks any potential for significance pursuant to the standards of N.J.A.C. 7:50-6.154(b).

(c) Evaluation of Resources:

1. The "Cultural Resource Management Plan," dated April 1991, as amended, may be utilized as a guide in the evaluation and treatment of cultural resources.
2. Except for those resources designated pursuant to N.J.A.C. 7:50-6.154, each historic resource identified through the survey shall be evaluated to determine its significance according to the individual criteria set forth in N.J.A.C. 7:50-6.154(b). The evaluation questions contained within the "Cultural Resource Management Plan," dated April 1991, as amended, may be utilized as a guide to assist in this determination of significance.
3. Should a resource be determined not to be significant, the evaluation must determine whether the resource constitutes a site with sufficient remains pursuant to N.J.A.C. 7:50-6.157(a).

7:50-6.156 Treatment of resources

(a) A Certificate of Appropriateness is required and issued as follows:

1. No construction, or encroachment upon nor alteration, remodeling, removal, disturbance, or demolition of any resource, structure or area designated pursuant to N.J.A.C. 7:50-6.154 nor any action which shall render such a site inaccessible, shall be permitted without first obtaining a certificate of appropriateness. A certificate of appropriateness shall not be required for routine repair or maintenance, nor interior renovations unless the interior has been expressly found to possess significance according to the designation criteria of N.J.A.C. 7:50-6.154.
2. No application for development which involves a resource, structure or area found significant pursuant to N.J.A.C. 7:50-6.155 shall be approved without first obtaining a certificate of appropriateness unless the cultural resource survey accomplishes the recording in accordance with (c) below, in which case no certificate of appropriateness shall be required. A certificate of appropriateness shall not be required for routine repair and maintenance, nor interior renovations unless the interior has been expressly found to possess significance according to the designation criteria of N.J.A.C. 7:50-6.154.
3. The issuance of certificates of appropriateness by a certified municipality shall be subject to the Pinelands Commission notice and review procedures of N.J.A.C. 7:50-4 unless the proposed developments are exempted pursuant to N.J.A.C. 7:50-4.1(a). The exemptions of N.J.A.C. 7:50-4.1(a) shall not apply to activities set forth in (a)1 above which affect a resource listed in the State or National Registers of Historic Places or which is specifically designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154. In uncertified municipalities, certificates of appropriateness shall be issued by the Pinelands Commission except as provided above. The Commission's review of a certificate of appropriateness for locally designated sites or areas shall accept the determination for treatment of the local permitting agency, unless the Commission finds the resource meets the standards of N.J.A.C. 7:50-6.154(b), in which case the certificate of appropriateness must meet the standards of N.J.A.C. 7:50-6.156(c).
4. Notwithstanding (a)1, 2 and 3 above, development proposed by a county, State or Federal agency shall require that a certificate of appropriateness be issued by the Pinelands Commission only if the site is listed in the State or National Registers of Historic Places, has been specifically designated by the Commission, or determined by the Commission to be significant pursuant to N.J.A.C. 7:50-6.155.

(b) The application requirements for a Certificate of Appropriateness are as follows:
1. An application for a certificate of appropriateness shall contain the following information:
   i. Detailed plans depicting the exact work to be performed, including detailed renderings of the exterior of any proposed new structure or any exterior alterations to existing structures. A delineation of the relationship of the renderings of the proposal in relation to adjacent structures or surrounding lands may be requested.
   ii. A statement of the relationship of the proposed work to the standards for designation in N.J.A.C. 7:50-6.154(b) and the standards for approval of certificates of appropriateness set forth in (c) below.

iii. Such other information as may be required from time to time by the Executive Director or the appropriate municipal reviewing agency or official.

(c) The standards for Certificates of Appropriateness are as follows:

1. Certificates of appropriateness shall be issued which require one of the following treatments:
   i. Preservation of the resource in place if possible;
   ii. Preservation of the resource at another location if in place preservation is not possible; or
   iii. Recordation of the resource if neither preservation of the resource in place or at another location is possible.
2. In determining the type of treatment required pursuant to (c)1 above, the "Cultural Resource Management Plan," dated April 1991, as amended, may be utilized as a guide. In general, the criteria shall include, but not be limited to, consideration of the following:
   i. Preservation in place;
      (1) Whether the resource represents the last or best remaining example of its kind in the Pinelands that possesses research potential or public educational values;
      (2) Whether the resource can be preserved by protecting its location from disturbance;
      (3) Whether affirmative measures, such as stabilization, rehabilitation, or reuse can result in preservation;
      (4) Whether redesign of the development proposal to avoid impacts can result in preservation;
      (5) Whether the steps necessary to preserve the resource are both technically and economically feasible and practical; and
      (6) Whether protective measures will result in long term preservation of the resource.
   ii. Preservation at another location;
      (1) Whether the resource can be moved and still retain its historic significance;
      (2) Whether the resource is sufficiently well preserved to permit relocation;
      (3) Whether alternative locations which are compatible with the resource are available;
      (4) Whether it is both technically and economically feasible and practical to relocate the resource; and
      (5) Whether the relocation will result in long term preservation of the resource.
   iii. Recordation;
      (1) Whether the resource possesses significance other than its association with an important person;
      (2) Whether recording the qualities that make the resource significant can increase information beyond that already known; and

(3) Whether the recorded information will help to address important research questions concerning this type of resource.

3. The following requirements shall apply to the treatments specified in (c)1 above:
   i. Preservation in Place:
      (1) Buildings, architectural features, and engineering features:
         (A) Deed covenants, easements, or other appropriate mechanisms must be developed to provide that: any rehabilitation, including additions, of the building or feature must be performed in accordance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (Federal Register/Vol. 48, No. 190/Thursday, September 29, 1983, as amended), incorporated herein by reference; and the structure or feature must be protected sufficiently to preserve those qualities that make it significant.
         (B) Before beginning rehabilitation, the original condition of the building or other architectural or engineering feature must be documented photographically in accordance with the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation.
      (2) Archaeological sites:
         (A) A deed covenant, easement, or other appropriate mechanism must be developed to provide for protection, through restricted access if necessary, to preserve those qualities that make the resource important. Any on-site activities must have no detrimental effect on the preservation of the resource. The covenant or other appropriate mechanism must further direct that any stabilization of the resource will be carried out in conformance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.
         (B) The archaeological resource shall be incorporated into open space whenever project designs or land use activities permit.
         (C) Land allocated for resource preservation may need to be set aside for that single use if the preservation of the resource is not compatible with other activities.
   ii. Preservation at Another Location
         (1) Deed covenants, easements, or other appropriate mechanisms must be developed to provide that: any new construction or rehabilitation, including additions, of a building or feature must be performed in accordance with the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation (Federal Register/Vol. 48, No. 190/Thursday, September 29, 1983, as amended), incorporated herein by reference; and the

structure or feature must be protected and maintained sufficiently to preserve those qualities that make it significant.

(2) The relocation of the resource must be designed to minimize the damage to the resource and to preserve those qualities that make it significant. The relocation shall be undertaken in accordance with the Secretary of the Interior's publication "Moving Historic Buildings".

(3) The resource shall be recorded to the requirements of the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation prior to removal from its original location. Minimally this will include the preparation of a site plan, appropriate photographs and/or drawings, and a narrative description of any historical functions or processes carried out at the site.

iii. Recordation: The Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (Federal Register/Vol. 48, No. 190/Thursday, September 29, 1983, as amended) shall be utilized when recording resources. In addition, the "Pinelands Cultural Resource Management Plan," dated April 1991, as amended, may be utilized as a further guide for recording resources.

(d) Effect of Issuance of Certificate of Appropriateness:

1. The issuance of a certificate of appropriateness authorizes the applicant to apply for any additional approvals which may be required by the municipality or any other jurisdiction prior to the commencement of work. All subsequent development approvals shall be issued or denied in a manner consistent with the certificate of appropriateness except as provided in (d)2 below.
2. Notwithstanding (d)1 above, a certificate of appropriateness issued for a resource determined to be significant pursuant to N.J.A.C. 7:50-6.155 but not presently designated pursuant to N.J.A.C. 7:50-6.154 shall be valid for two years. If the resource is not designated by the Pinelands Commission or by the municipal governing body in the zoning ordinance within two years, the standards of this Part shall not apply to the cultural resource in question until such time as the Pinelands Commission designates the resource pursuant to N.J.A.C. 7:50-6.154.

7:50-6.157 Documentation required for sites with sufficient remains

(a) Sites with sufficient remains are those sites which present graphic evidence of a cultural activity (that is, human alteration of the natural landscape for purposes of occupation or extended use) but which are not found to be significant.

(b) If additional documentation of sites determined to have sufficient remains will provide information beyond that provided in the application for development or the cultural resource survey, these sites shall be documented to include:

1. A narrative description of the resource and its cultural environment;
2. Photographic documentation to record the exterior appearance of buildings, structures, and engineering resources;

3. A site plan depicting in correct scale the location of all buildings, structures, and engineering resources; and
4. A New Jersey State inventory form as published by the New Jersey Department of Environmental Protection for buildings and a narrative description of any process or technology if necessary to elaborate upon the photographic record.

7:50-6.158 Emergency provisions

(a) Notwithstanding any other provisions of this Part, in any case where the Executive Director determines that alteration, remodeling or demolition of a designated structure is necessary to remedy a condition that is dangerous to life, health or safety, a certificate of appropriateness which is required under the provisions of this Part may be issued under the signature of the Executive Director. The Executive Director shall inform the Commission of any action taken pursuant to this provision at its next regularly scheduled meeting.

(b) If at any time after construction has been commenced, archaeological data is discovered on a site, the developer shall immediately cease construction, notify the Commission and the local permitting agency; and take all reasonable steps to protect the archaeological data in accordance with the Guidelines for Recovery of Scientific, Prehistoric, Historic, and Archaeological Data: Procedures for Notification, Reporting, and Data Recovery (36 C.F.R. Part 66).

Appendix A

Pinelands Septic Dilution Model
December 1993

The water quality standards of the Pinelands Comprehensive Management Plan allow the use of individual on-site septic systems provided that the design of the system and the size of the parcel on which the system is located will ensure that the concentrations of the nitrate-nitrogen in the ground water exiting the parcel or entering a surface water body will not exceed 2 ppm (N.J.A.C. 7:50-6.84(a)4iii). The model used to calculate the minimum land area necessary to dilute nitrogen from septic systems to concentrations that will comply with the water quality standards was developed by K.W. Brown (An Assessment of the Impact of Septic Leach Fields, Home Lawn Fertilization and Agricultural Activities on Groundwater Quality, 1980). The following formula is used:

$$At = Af + \frac{\left(\frac{FLf}{C} - Df\right)Af}{Do}$$

Where:

At = total parcel area
Af = area of disposal field
F = unit conversion factor of 10
Lf = flux of nitrate-nitrogen below disposal field (kg/ha/yr)
C= concentration of nitrate-nitrogen (ppm)
Df = equivalent depth of percolate below disposal field (cm/yr)
Do = equivalent depth of percolate below open acres (cm/yr)

In using this model, it is necessary to assume values for factors such as wastewater flow into the system, the concentration of the nitrogen in the wastewater and the amount of rainfall diluting the nitrogen. The standard assumptions required for use in the Pinelands Dilution Model are contained in Table 1.

The assumed wastewater flow for non-residential uses must be consistent with the values contained in N.J.A.C. 7:9A-7.4, as amended, except that the number of employees may not be utilized in calculating wastewater flow for office uses. Absent actual monitoring of nitrogen concentration in the wastewater, the residential nitrogen concentration of 39.45 ppm will be utilized. If the applicant establishes wastewater flow based on monitoring of flows pursuant to N.J.A.C. 7:9A-7.4, then water quality monitoring must also be done to establish actual nitrogen concentration in wastewater. All structures are assumed to contribute to the generation of wastewater unless it is demonstrated that the nature of the building construction precludes human occupancy.

Table 1

	Parameter	**Assumption**
1.	Number of persons/dwelling	3.5
2.	Number of persons/age restricted dwelling	2.0
3.	Residential wastewater flow (gallons/capita/day)	75
4.	Plant uptake of nitrogen	4.5% (A soils) 9.0% (B soils)
5.	Infiltrating rainfall	20 inches/year (50.8 cm/year)
6.	Nitrogen production (grams/capita/day)	11.2 gms
7.	Distribution of nitrogen in wastewater	83% blackwater 17% greywater
8.	Nitrogen concentration in wastewater for residential uses	39.45 ppm

SUBCHAPTER 7. AMENDMENTS TO THE COMPREHENSIVE MANAGEMENT PLAN

7:50-7.1 Purpose

This subchapter establishes a means for making changes in the text of this Plan and in the Land Capability Map. It is intended to be used as a tool to adjust the provisions of this Plan and the Land Capability Map in a manner consistent with the Pinelands Protection Act and the Federal Act in light of changing, newly discovered or newly important conditions, situations or knowledge. It is not intended to be used as an alternative to the procedures set forth in N.J.A.C. 7:50-4, Part V which are designed to provide relief of particular hardships and to satisfy compelling public needs, unless doing so would be of benefit to the Pinelands by furthering the intent of the Pinelands Protection Act and the Federal Act. Neither is it intended to be used to confer special privileges or rights as a means of solving the economic, competitive or other interests of particular individuals or as means of providing a specific benefit to a particular use or class of uses, except in cases where such changes would be of benefit to the Pinelands by furthering the intent of the Pinelands Protection Act and the Federal Act. The procedures established by this subchapter are designed to maximize public participation in the amendment process.

7:50-7.2 Authority for amendments

The Commission may amend the text, maps, charts and illustrations of this Plan and the Land Capability Map after a public hearing and pursuant to the procedures set out in this Part and in the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Amendments may be proposed by any member of the Commission or the Executive Director in accordance with N.J.A.C. 7:50-7.3(a). Petitions for amendment may be submitted to the Commission in accordance with N.J.A.C. 7:50-7.3(b) by any public agency, and, except in municipalities or counties with certified plans, any resident of the Pinelands Area or the owner of, or any person having a contractual interest in, any property in the Pinelands Area.

7:50-7.3 Proposed amendments; petitions for amendment

(a) Any member of the Commission or the Executive Director may, at any time, propose that the Commission consider an amendment to this Plan. Prior to any formal Commission action on such a proposed amendment pursuant to N.J.A.C. 7:50-7.4, the following information shall be made available to the Commission for its review and consideration, unless the amendment is being proposed as part of the comprehensive review required pursuant to N.J.A.C. 7:50-7.11:

1. The wording of any proposed amendment of the text of this Plan and a map depicting any proposed change to the Pinelands Land Capability Map;
2. A statement of the need and justification for the proposed amendment, including the reason(s) why the goals which the proposed amendment is intended to achieve cannot be accomplished through adherence to the standards of this Plan or compliance with the procedures set forth in N.J.A.C. 7:50-4, Part V;
3. A statement as to the conformity of the proposed amendment to the goals and objectives of this Plan and the intent of the Pinelands Protection Act and the Federal Act;
4. If the proposed amendment would change the minimum standards for land use and intensities contained in N.J.A.C. 7:50-5 or the management programs and minimum standards contained in N.J.A.C. 7:50-6, an evaluation of the environmental consequences of the proposed change;
5. If the proposed amendment involves the redesignation of Pinelands management areas for a particular parcel, documentation as to how the affected parcel meets the criteria established in this Plan for the management area to which it is proposed to be redesignated. Unless the Commission determines that it is unnecessary, any such amendment shall include a proposal for an offsetting management area change and documentation as to how all of the lands affected by the offset proposal meet the criteria established in this Plan for the management area to which they are proposed to be redesignated; and
6. Any other information necessary or appropriate for full and proper consideration of the proposed amendment.

(b) Any other person desiring to petition the Commission for an amendment to this Plan shall file a petition with the Executive Director in such form and number as the Executive Director shall from time to time establish and containing at least the following information:
1. The petitioner's name and address;
2. The precise wording of any proposed amendment of the text of this Plan and a map or plat delineating any proposed change to the Pinelands Land Capability Map;
3. A statement of the need and justification for the proposed amendment, including the reason(s) why the objectives of the petitioner cannot be accomplished through adherence to the standards of this Plan or compliance with the procedures set forth in N.J.A.C. 7:50-4, Part V;
4. A statement as to the conformity of any proposed amendment to the goals and objectives of this Plan and the intent of the Pinelands Protection Act and the Federal Act;
5. If the proposed amendment would change the minimum standards for land use and intensities contained in N.J.A.C. 7:50-5 or the management programs and minimum standards contained in N.J.A.C. 7:50-6, an evaluation of the environmental consequences of the proposed change;
6. In the event that the proposed amendment would change the classification of any parcel as shown on the Land Capability Map:

i. The street address and legal description of the parcel proposed to be reclassified;
ii. The petitioner's interest in the subject parcel;
iii. The owner's name and address, if different from the petitioner's, and the owner's signed consent to the filing of the petition;
iv. The names and addresses of all owners of property required to be notified pursuant to (c)1 below;
v. The present classification and existing uses of the parcel proposed to be reclassified;
vi. The area of the parcel proposed to be reclassified stated in square feet or acres, or fraction thereof; and
vii. Documentation as to how the affected parcel meets the criteria established in this Plan for the management area to which it is proposed to be redesignated. Any such amendment shall include a proposal for an offsetting management area change and documentation as to how all of the lands affected by the offset proposal meet the criteria established in this Plan for the management area to which they are proposed to be redesignated. If the petitioner believes such an offset is not warranted, the submission shall include written justification as to why an offset is unnecessary; and

7. In the event that the proposed amendment would affect zoning districts, permitted uses or the intensity of permitted uses within one or more municipalities whose master plans and land use ordinances have been certified by the Pinelands Commission, duly adopted resolutions of the planning board and governing body of each municipality setting forth their position on the proposed amendment, including an indication of whether or not they would support changes to the municipality's master plan and land use ordinances to effectuate the proposed amendment if approved by the Pinelands Commission.

(c) For petitions filed pursuant to (b) above, the petitioner shall be required to provide notice of the filing of the petition within 20 days after receiving notification from the Executive Director pursuant to N.J.A.C. 7:50-7.5(b) that a complete petition has been filed with the Commission as follows:

1. If the petition proposes to change the classification of any parcel as shown on the Land Capability Map or is intended to affect a specific parcel or an area less than 100 acres in size:
   i. Notice shall be given by mailing a copy of the petition to the secretary of the county and municipal planning board and environmental commission, if any, with jurisdiction over any parcel or area that would be directly affected by the proposed amendment;
   ii. Notice shall be given to owners of all real property within 200 feet of any parcel or area that would be directly affected by the proposed amendment as provided for in N.J.S.A. 40:55D-12(b). The administrative officer of the municipality in which the subject parcel or area is located shall provide a certified list of said property owners as provided for in N.J.S.A. 40:55D-12(c). The petitioner shall be entitled to rely upon the

information contained in said certified list as provided in N.J.S.A. 40:55D-12(c); and

iii. Notice shall be given by publication in the official newspaper of the municipality in which the subject parcel or area is located, if there is one, or in a newspaper of general circulation in the municipality as provided for in N.J.S.A. 40:55D-12.

2. For all other petitions, notice shall be given by publication in all the official newspapers of the Pinelands Commission.
3. The petitioner shall file with the Executive Director, no less than 25 days after receiving notification from the Executive Director that a complete petition has been filed with the Commission, an affidavit that the requirements of (c)1 or 2 above, whichever may be applicable, have been satisfied.

7:50-7.4 Action on proposed amendments

(a) Upon the proposal of an amendment pursuant to N.J.A.C. 7:50-7.3(a), the Commission shall determine whether it is desirous of amending this Plan so as to implement the proposed amendment. If so, the Executive Director shall submit the proposed amendment and any required supporting documentation to the Office of Administrative Law for publication in the New Jersey Register as a notice of proposal in accordance with N.J.A.C. 1:30-5. The notice of proposal or a statement of substance of the proposed rulemaking shall thereafter be:

1. Posted and made available electronically on the Commission's web site;
2. Distributed to the news media maintaining a press office in the State House Complex;
3. Distributed to those persons who have made timely request to the Commission for notice of its proposed rulemaking activities; and
4. Made available to the public by an additional manner reasonably calculated to inform those persons most likely to be affected by or interested in the proposed rulemaking. The additional method of publicity shall include information on the time, place and manner in which interested persons may submit comments and shall consist of:
   i. Mailing to a distribution list of those known individuals and organizations that are the subject of or significantly related to or affected by the proposed rulemaking;
   ii. Distribution of a press release to the news media; or
   iii. Publication of a notice in those official newspapers of the Commission having general circulation in the area(s) that may be affected by the proposed rulemaking.

(b) A minimum period of 30 days from the date of publication of the proposed amendment in the New Jersey Register shall be provided for receipt of public comment. During the 30 day period, a public hearing shall be held for purposes of considering the proposed amendment. The Commission shall conduct the hearing pursuant to the provisions of N.J.A.C. 7:50-4 and the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

c) The Commission may extend the time for submission of public comments on a proposed amendment to this Plan, at its discretion, without the need for a specific request or the demonstration of sufficient public interest.

(d) The Commission shall extend the time for submission of public comments on a proposed amendment to this Plan for an additional 30-day period if, within 30 days of the publication of a notice of proposal, sufficient public interest is demonstrated in an extension of time to submit comments. No such extension shall be required in those instances where the Commission has provided for an initial comment period of at least 60 days in length. Sufficient public interest shall be deemed to exist when, based on written request(s) for an extension or on the comments received within the initial public comment period:

1. The Commission determines that:
   i. The proposed amendment is complex and/or involves a significant change to this Plan; or
   ii. The request(s) to extend the comment period encompass a broad range of interests; and
2. The Commission determines that extension of the comment period is likely to result in the receipt of comments relevant to the proposed amendment that raise issues or provide new information, data or findings that were not previously raised or provided during the development of the proposed amendment or during the initial comment period.

(e) Upon the conclusion of the public comment period, the Commission may enter a final order on the proposed amendment. The Executive Director shall prepare and file notice of any action taken by the Commission with the Office of Administrative Law for publication in the New Jersey Register in accordance with N.J.A.C. 1:30-6.

7:50-7.5 Action on petitions for amendment

(a) Within 30 days following receipt of a petition for amendment filed pursuant to N.J.A.C. 7:50 7.3(b), the Executive Director shall determine whether said petition is complete. Should the Executive Director determine that the petition is not complete, he or she shall mail a written statement to the petitioner specifying the information necessary to complete the submission. No further action on the petition shall be taken until the necessary information is received.

(b) Upon determining that a petition for amendment is complete, the Executive Director shall so notify the petitioner and shall, within 15 days, prepare and file a notice of petition for rulemaking with the Office of Administrative Law in accordance with N.J.A.C. 1:30-3.6(a). The Executive Director shall thereafter publish the notice of petition on the Commission's website.

(c) Review: Within 30 days of determining that a petition for amendment is complete, the Executive Director shall review the petition and determine whether it raises substantial issues with respect to whether the amendment proposed by the petitioner should be adopted. If the Executive Director determines that such substantial issues are raised, he or she shall notify the Commission and the petitioner of his or her determination and that the petition is under consideration

by the staff. If the Executive Director determines that no substantial issues are raised and that further review of the petition is not warranted, he or she shall so notify the Commission and the petitioner and thereafter recommend that the Commission deny the petition. The Executive Director shall file a notice of his or her determination, and that the petition has been referred to the Commission for a final decision in accordance with (d) below, with the Office of Administrative Law for publication in the New Jersey Register.

(d) Final Decision by Commission: Within 90 days of receipt of a complete petition for amendment, the Commission shall enter a final order on the petition. In accordance with N.J.A.C. 1:30-3.6(b), the Commission's action on a petition may include:
   1. Denial of the petition;
   2. Approval of the petition and the filing of a notice of proposed rule in accordance with N.J.A.C. 7:50-7.4(a) with the Office of Administrative Law; or
   3. Referral of the matter to the Executive Director for further review, the nature of which shall be specified and which shall conclude within 60 days of the referral on a specified date.

(e) The Executive Director shall notify the petitioner of the Commission's action and shall prepare and file a notice with the Office of Administrative Law for publication in the New Jersey Register in accordance with N.J.A.C. 1:30-3.6(b).

7:50-7.6 Submission to Pinelands Municipal Council

All proposed amendments shall, at least 60 days prior to any meeting at which the Commission will consider such amendment, be submitted by the Executive Director to the Pinelands Municipal Council, by mailing such amendments to each municipality in the Pinelands, for its review and recommendation.

7:50-7.7 Submission to Governor and Legislature

All amendments adopted by the Commission pursuant to N.J.A.C. 7:50- 7.4(c) shall be submitted to the Governor and the Legislature within seven days of adoption.

7:50-7.8 Filing with Secretary of State

Any amendment adopted by the Commission shall be filed with the Secretary of State as required by N.J.S.A. 52:14B-5.

7:50-7.9 Submission to Secretary of the United States Department of the Interior

(a) Any amendment to this Plan shall, within five days following adoption by the Commission, be submitted to the Secretary of the United States Department of the Interior.
(b) Any intergovernmental memorandum of agreement approved by the Commission pursuant to N.J.A.C. 7:50-4.52(c)2 or 6.80(a), (c) or (d) shall, within five days following such approval, be submitted to the Secretary of the United States Department of the Interior.

7:50-7.10 Effective date of amendments

Amendments to this Plan shall be effective as provided in the Pinelands Protection Act, the Federal Act, and the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

7:50-7.11 Comprehensive review of plan by Commission

At least every five years after the adoption of this Plan, the Executive Director shall comprehensively review this Plan and all actions taken by the Commission or the Executive Director pursuant to N.J.A.C. 7:50-4 and shall submit a report to the Commission detailing any recommended amendments to the Plan. Such report shall be submitted by January 15 of every fifth year after adoption of this Plan and shall include an explanation of the reasons for any recommended amendment.

SUBCHAPTER 8. ENFORCEMENT

7:50-8.1 Civil enforcement

(a) Civil enforcement: In the event that any building or structure is erected, constructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Plan, or in the event that construction is commenced on any building or structure in violation of this Plan, the Commission may, in addition to other remedies, institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent completion of construction of said building or structure, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

(b) Emergency enforcement: If the Executive Director determines that any action provided for in (a) above hereof need be initiated immediately in order to protect the Pinelands Area or the jurisdiction or authority of the Commission, he may initiate such action on behalf of the Commission and he shall notify the Commission of any action taken pursuant to this subsection.

SUBCHAPTER 9. ACQUISITION OF PROPERTIES WITH LIMITED PRACTICAL USE

7:50-9.1 Purpose

Federal legislation has been enacted to authorize the acquisition of lands considered as having a limited practical use as set forth in section 502(k)(2)(c) of the National Parks and Recreation Act of 1978, Pub.L. 95-265 (16 U.S.C. Section 471i(k)(2)(c). The Federal legislation required that the Federal funds appropriated for this purpose be matched by an equal state appropriation. The State of New Jersey has made matching funds available for this program. The purpose of this subchapter is to implement the program of purchasing parcels that have limited practical use, to the extent that Federal funds and matching state funds allow.

7:50-9.2 General standards

(a) The Department of Environmental Protection may acquire parcels of land which are located in the Pinelands Area and are found to be of limited practical use in accordance with the following:
   1. The Commission has either denied a Waiver of Strict Compliance for the parcel in question pursuant to N.J.A.C. 7:50-4, Part V or has approved a Waiver of Strict Compliance for the parcel in question and granted a transferable residential development right to other lands in the Protection Area, in accordance with former N.J.A.C. 7:50-4.66(b)3 and 5.30(a), repealed effective March 2, 1992;
   2. The parcel in question is less than 50 acres in size; and
   3. The standards set forth in N.J.A.C. 7:50-9.3 relative to the ownership and the present and potential uses of the parcel in question have been met.

7:50-9.3 Standards for present and potential uses and ownership

(a) In order to be eligible for acquisition under the provisions of this subchapter, the owner of the parcel shall demonstrate and the Commission shall verify that all of the following conditions exist:
   1. Present and potential uses, as follows:
      i. The parcel, including all contiguous lands in common ownership on or after January 14, 1981, contains no residential dwelling unit;
      ii. The parcel, including all contiguous lands in common ownership on or after January 14, 1981, contains no substantial principal non-residential structure that has an economically viable use, except for structures that are used exclusively for agricultural purposes;
      iii. The parcel, including all contiguous lands in common ownership on or after January 14, 1981, has not been approved for resource extraction pursuant to the provisions of this Plan;

iv. If the parcel, including all contiguous lands in common ownership on or after January 14, 1981, is entitled to at least 0.25 Pinelands Development Credits pursuant to N.J.A.C. 7:50-5.43, those Credits have been severed from the parcel pursuant to N.J.A.C. 7:50-5.47;

v. No approval for development of a residential dwelling or substantial principal non-residential structure on the parcel, including all contiguous lands in common ownership on or after January 14, 1981, has been granted pursuant to this Plan provided that approval is still valid; and

vi. The parcel, including all contiguous lands in common ownership on or after January 14, 1981, cannot be determined to meet all standards for the development of either a residential dwelling or a substantial principal non-residential structure in accordance with the provisions of this Plan absent a Waiver of Strict Compliance, taking into consideration the following factors:

(1) The availability of centralized waste water treatment and collection service;

(2) The certification of any municipal land use ordinance pursuant to N.J.A.C. 7:50-3.35 or 3.45; and

(3) The information used by the Commission in its review and action on the Waiver of Strict Compliance relative to the parcel in question.

2. Ownership, as follows:

i. The parcel has been in the same ownership since the date of the Commission's action on the Waiver of Strict Compliance, except that transfer in ownership solely through gift or inheritance shall not render the parcel ineligible for acquisition;

ii. The owner can transfer good title to the parcel which is currently owned in fee simple absolute; and

iii. The owner owns less than 50 acres of land in the Pinelands, including the parcel in question, as of July 17, 1995. For purposes of determining whether this requirement is met, all lands in the Pinelands in which the owner has an ownership interest either directly or through a legal entity in which the owner has an ownership interest shall be included in the total acreage based upon the pro-rata share of the total acreage of such land owned by the owner of the parcel in question. Said land shall only be included if the owner owns at least a 10 percent share of said land or said land is owned by a corporation, partnership or other legal entity in which the owner has at least a 10 percent ownership interest.

7:50-9.4 Submission of questionnaires

(a) In order to have a parcel of land considered for acquisition, the owner of the parcel must complete and submit to the Commission the responses to the questionnaire developed by the Executive Director pursuant to N.J.A.C. 7:50-1.21. The questionnaire shall be designed to determine the eligibility of the parcel for acquisition based on the criteria set forth in N.J.A.C. 7:50-9.2 and 9.3. Copies of the questionnaire shall be available from the Commission and shall

include any information necessary to enable landowners to contact the Commission for assistance in completing the questionnaire.

(b) If the owner of the parcel fails to submit the questionnaire required pursuant to (a) above or otherwise declines to participate or withdraws from the acquisition process at any time, the parcel shall not be considered for acquisition during the then current round of acquisitions. In order for the parcel to be considered eligible for a later acquisition round, the parcel owner must submit a new completed questionnaire pursuant to (a) above.

7:50-9.5 Notice of intent to acquire lands

The Commission shall publish notice of the intent to purchase parcels of land of limited practical use in all the official newspapers of the Commission. The notice shall include the date by which questionnaires must be submitted for consideration by the Commission during the then current round of acquisitions.

7:50-9.6 Determination and record of eligible parcels

(a) The Executive Director shall periodically establish a date by which completed questionnaires must be received by the Commission in order to be eligible for the then current round of acquisitions. The Executive Director may extend the deadline pursuant to N.J.A.C. 7:50-4.4(a).

(b) The Executive Director shall review each completed questionnaire and inform the owner if any other information is necessary in order to determine the parcel's eligibility for acquisition. If so, the owner shall have 30 days within which to provide the necessary information.

(c) Within 60 days after the deadline established for the receipt of questionnaires for each round of acquisitions or any extension thereto, the Executive Director shall review each completed questionnaire, all other information submitted on behalf of the parcel owner and all other information available to the Pinelands Commission concerning each parcel for which a questionnaire was completed and determine those parcels which qualify for acquisition. No parcel may be recommended for acquisition unless it meets the standards contained in N.J.A.C. 7:50-9.2 and 9.3. The Executive Director shall give written notification of his or her findings and conclusion to the owner of the parcel, the Commission, all persons who have requested a copy of said determination and any person, organization or agency which has registered under N.J.A.C. 7:50-4.3(b)2i(2).

(d) The Executive Director shall retain a record of all questionnaires received, the determination as to their eligibility for acquisition and the acquisition round in which the determination was made.

7:50-9.7 Rights of appeal

Any interested person who is aggrieved by any determination made by the Executive Director pursuant to this subchapter may, within 15 days, appeal the Executive Director's determination to the Commission as provided by N.J.A.C. 7:50-4.91. Additional

information not included in the Executive Director's determination may be presented to the Pinelands Commission only by requesting a hearing pursuant to N.J.A.C. 7:50-4.91.

7:50-9.8 Priorities for acquisition

(a) At the conclusion of the appeal period set forth in N.J.A.C. 7:50-9.7, the Executive Director shall recommend to the Pinelands Commission which parcels qualify for acquisition. The parcels shall be prioritized for acquisition chronologically according to the date of the Commission's action on the Waiver of Strict Compliance, as set forth in N.J.A.C. 7:50-9.2(a)1. The earlier the date of the Commission's action, the higher the priority that will be assigned to the subject parcel. The priority list shall be comprised of:
    1. Parcels determined to be eligible during the current round of acquisition;
    2. Parcels found to be eligible during a previous round of acquisition that were not acquired due to lack of funding; and
    3. Parcels found to be eligible during a previous round of acquisition that the Department of Environmental Protection declined to acquire for any reason other than those specified in N.J.A.C. 7:50-9.11(b)1 and 2.

(b) At the next Commission meeting after receiving the Executive Director's recommendations, the Commission shall consider the Executive Director's recommendation for each parcel and may either approve the recommendation or refer that recommendation to the Office of Administrative Law for a hearing.

(c) The Executive Director shall transmit the chronological list of parcels approved for acquisition to the Department of Environmental Protection within 10 days of the Commission approving those parcels.

(d) The Executive Director shall also inform the Department of Environmental Protection of any parcels which have been referred to the Office of Administrative Law for a hearing pursuant to N.J.A.C. 7:50-9.7 or 9.8(b) and where each such parcel would be on the chronological list if the parcel is subsequently approved for acquisition. Within 10 days of the Commission's action on any parcel referred to the Office of Administrative Law for a hearing, the Executive Director shall inform the Department of Environmental Protection of such action. No owner of a parcel determined to be eligible for acquisition by the Commission following referral to the Office of Administrative Law shall in any way be prejudiced by the fact that the matter was referred to the Office of Administrative Law.

7:50-9.9 Access

By submission of the questionnaire to determine eligibility, the owner agrees to allow access to the parcel during reasonable hours to Commission and Department of Environmental Protection personnel in order to determine the eligibility of the parcel for acquisition and to aid in assessing its value.

7:50-9.10 Acquisition funding

The acquisition of eligible parcels may be funded by moneys expressly appropriated for this purpose by the State of New Jersey and the United States. No acquisitions for this purpose may occur if funding is unavailable for any reason.

7:50-9.11 Purchase and conditions

(a) To the extent that funding permits, the Department of Environmental Protection shall pursue the acquisition of eligible parcels in the order established in N.J.A.C. 7:50-9.8.
(b) The Department of Environmental Protection may decline to acquire any parcel at any time prior to the transfer of title for the following reasons:
    1. The parcel does not meet the standards set forth in N.J.A.C. 7:50-9.2 and 9.3;
    2. Failure of the owner of the parcel to respond to a purchase offer within a reasonable time period or to accept the offer made by the Department of Environmental Protection; or
    3. Conditions exist either on the parcel or on contiguous lands which either would require remediation in order to alleviate a hazard to the public or would otherwise incur additional costs to resolve.

7:50-9.12 Landowner right of refusal

The public acquisition of lands considered to possess limited practical use is a voluntary program on the part of the owner of the parcel. Nothing contained in this subchapter shall be construed to require the owner to relinquish title to a parcel of land.

SUBCHAPTER 10. PILOT PROGRAMS

PART I - PURPOSE

7:50-10.1 Purpose

(a) N.J.A.C. 7:50-5 and 6 establish requirements which govern the type, intensity and location of land uses permitted throughout the Pinelands and establish standards to protect the region's natural and cultural resources. These requirements and standards provide a sound framework for the management of the Pinelands and afford local governments with flexibility to refine them. Nevertheless, new techniques or innovative applications of techniques already in use in the Pinelands may present opportunities to afford the same or better protection to the resources of the Pinelands.

(b) In order to test alternative methods to achieve the goals and objectives of this chapter and the Pinelands Protection Act, including those set forth in N.J.S.A. 13:18A-9 which the requirements and standards in N.J.A.C. 7:50-5 and 6 represent, the Pinelands Commission may periodically authorize pilot programs. These pilot programs shall be implemented only when authorized through a duly adopted amendment to this subchapter and shall be limited in their scope and applicability so that their implementation may be evaluated before the Pinelands Commission decides whether and under what circumstances they should or should not have broader applicability. Commission certification of any necessary municipal implementing ordinances shall also be required pursuant to N.J.A.C. 7:50-3. The pilot programs in this subchapter confer only the special privileges or rights set forth herein. Each specific pilot program established in this subchapter is expressly limited in accordance with this subchapter until such time as the Executive Director evaluates that program's results and an amendment to this chapter is promulgated to broaden that program's scope and applicability.

7:50-10.2 through 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

(a) Clustering of development, normally accomplished on-site, may serve similar land conservation goals if off-site lands will be provided with permanent protection and used as a means of transferring development to areas targeted for more intensive development. To this end, the Township of Galloway and City of Egg Harbor City pilot off-site clustering program is authorized as a means to test whether a corridor which includes a long standing and substantial use in close proximity to a designated sewer service area can be developed

more intensively than currently permitted through the permanent conservation of off-site lands, which also furthers the land conservation and protection goals of this chapter.

(b) The Township of Galloway and City of Egg Harbor City pilot off-site clustering program shall be accomplished through the municipal adoption of ordinances which redesignate Forest Area and Agricultural Production Area to a Restricted Pinelands Town and Agricultural Production Area to a Restricted Rural Development Area in accordance with the requirements of N.J.A.C. 7:50-10.11 through 10.13.

(c) The redesignated area shall extend from the existing Pinelands Town boundary along the Bremen Avenue corridor to include all substantial, existing uses and shall not exceed a total of 425 acres in size. That portion of the redesignated area to be located in a Restricted Pinelands Town shall not exceed 290 acres in size.

7:50-10.12 Zoning provisions for redesignated area

(a) In Egg Harbor City, all uses which are permitted as a matter of right shall be consistent in intensity to those which were permitted in the City's R-20F Zone prior to the redesignation. In Galloway Township, all uses which are permitted as a matter of right shall be consistent in intensity to those which were permitted in the Township's AG Zone prior to the redesignation.

(b) Development in the redesignated area shall be primarily non-residential in nature, although an incidental amount of residential development may also be permitted.

(c) Planned development or conditional uses shall be permitted in the redesignated area subject to the following conditions:

1. Development within the Restricted Pinelands Town shall be served by a central sewer system;
2. Higher residential densities, floor area ratios or other development intensities than permitted as a matter of right shall be authorized only when agricultural or vacant lots in the surrounding Forest Area and Agricultural Production Area are permanently conserved; and
3. The amount of land to be permanently conserved in the surrounding Forest Area and Agricultural Production Area shall be based upon the following formulae which effectively cluster floor area and other development intensity from the surrounding areas to the newly designated Restricted Pinelands Town and Restricted Rural Development Area:
   i. Twenty-four one hundredths (.24) of an acre shall be permanently conserved for each 100 square feet, or portion thereof, of existing and proposed floor area to be devoted to a planned development or conditional use; and
   ii. One and nine-tenths (1.9) acres of land shall be permanently conserved for each acre of land, or portion thereof, devoted to playground, golf course or other outdoor intensive recreation use.

7:50-10.13 Pinelands Commission approval and evaluation

(a) If otherwise appropriate under N.J.A.C. 7:50-3, the Pinelands Commission shall approve the management area changes and zoning provisions if it finds that the standards of N.J.A.C. 7:50-10.11 and 10.12 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. Each municipality is applying its ordinance in a manner consistent with the standards of N.J.A.C. 7:50-10.11 and 10.12;
   2. Each municipality is accurately informing applicants with proposed development projects within the redesignated area of the requirements of its ordinances which implement the standards of N.J.A.C. 7:50-10.11 and 10.12;
   3. The majority of the amount of development approved within the redesignated area during this period qualifies as planned development or a conditional use in accordance with the provisions of N.J.A.C. 7:50-10.12(c)1 and 2;
   4. Lands have been permanently conserved in accordance with N.J.A.C. 7:50-10.12(c)3; and
   5. 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 the level of development activity is not adequate to evaluate the pilot program in accordance with (b) above, the Executive Director shall so inform the Pinelands Commission and, upon receiving the Commission's approval, initiate a second review to be completed within six years of the Commission's approval of the pilot program.

(d) If the Executive Director finds that this pilot program is not being implemented in accordance with (b) above, the Executive Director shall initiate the revocation, suspension or modification procedures set forth in N.J.A.C. 7:50-3.61 through 3.65 and, if necessary, propose an amendment to this subchapter, in accordance with N.J.A.C. 7:50-7, to repeal the pilot program. If the Pinelands Commission revokes, suspends or modifies its certification of this program, such action shall not affect the certification status of the remaining provisions of the municipal land use ordinance unless the municipality ignores or refuses to implement such revocation, suspension or modification order.

(e) If the Executive Director finds that this pilot program is being implemented in accordance with (b) above, the Executive Director may propose an amendment to this chapter in accordance with N.J.A.C. 7:50-7 to broaden its applicability in the Pinelands.

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

7:50-10.14 Authorized Pinelands Management Area adjustments

(a) On July 9, 1999, in accordance with N.J.A.C. 7:50-7, the Commission adopted a set of amendments to this Plan relating to Pinelands management area redesignations which involve public educational facilities. These amendments, codified at N.J.A.C. 7:50-5.33, became effective on September 7, 1999 following approval by the United States Secretary of the Interior. In his letter of approval, the Secretary expressed both substantive and

procedural concerns with the amendments and asked the Commission to consider making a number of additional revisions. In response to these concerns, the Commission determined that it would be appropriate to limit the applicability of the amendments until such time as their potential impacts on the resources of the Pinelands could be measured and evaluated. To this end, the standards previously set forth at N.J.A.C. 7:50-5.33 have been deleted and the Township of Tabernacle and Township of Pemberton Public Educational Facilities Pilot Program is hereby authorized as a means to test whether the redesignation of management areas, proposed cooperatively by two Pinelands municipalities for purposes of facilitating the development of a public educational facility, can be accomplished in a manner which furthers the land conservation and protection goals of this chapter.

(b) The Township of Tabernacle and Township of Pemberton Public Educational Facilities Pilot Program shall be considered to have been implemented through the municipalities' adoption and the Commission's certification of Tabernacle Township Ordinance 1999-1 which redesignated Agricultural Production Area and Rural Development Area to a Regional Growth Area and Pemberton Township Ordinance 17-1999 which redesignated Regional Growth Area to an Agricultural Production Area in accordance with the requirements of the now repealed N.J.A.C. 7:50-5.33. These ordinances were certified by the Commission on September 10, 1999 in accordance with N.J.A.C. 7:50-3. Nothing herein shall be construed as in any way altering the Commission's certification of those ordinances or to require either Pemberton Township or Tabernacle Township to in any way adopt any amendment, modification or other change to those ordinances. In the event that as a result of any legal challenge to Tabernacle Township Ordinance 1999-1 or Pemberton Township Ordinance 17-1999 either municipality is required to readopt those ordinances and those readopted ordinances require certification by the Commission, those ordinances shall be reviewed by the Commission for consistency with the provisions contained in this subchapter.

(c) In Tabernacle Township, the redesignated area:

1. Was located within an existing Rural Development Area or Agricultural Production Area prior to the redesignation;
2. Was located adjacent to an existing Regional Growth Area and represented a logical extension of that management area;
3. Includes the site on which the public educational facility is to be located and such other land as is minimally necessary to meet the remaining criteria of this subsection;
4. Contains no more than 200 acres of land, of which no more than 100 acres were redesignated for the educational facility; and
5. Is suitable for the uses permitted pursuant to N.J.A.C. 7:50-10.15, taking into consideration the relevant standards of N.J.A.C. 7:50-6.

(d) In Pemberton Township, the redesignated area:

1. Was located within an existing Regional Growth Area prior to the redesignation;
2. Was located adjacent to an existing Agricultural Production Area and represented a logical extension of that management area;
3. Is of a size at least equal to that of the area which was redesignated pursuant to (c) above;
4. Is of comparable character as that of the area which was redesignated pursuant to (c) above, taking into consideration existing uses, natural features and physical characteristics; and

5. Is suitable for the uses permitted pursuant to N.J.A.C. 7:50-10.15, taking into consideration the relevant standards of N.J.A.C. 7:50-6.

7:50-10.15 Zoning provisions for redesignated areas

(a) In Pemberton Township, the redesignated lands are included in the Township's AR Zone. In Tabernacle Township, the redesignated lands are included in the Township's Regional Growth - Residential - Regional High School Zone. Both of these zoning districts permit uses which the Commission found to be appropriate for the redesignated areas, taking into consideration the overall land use plans of the municipalities and the relevant standards of N.J.A.C. 7:50-5.

(b) Public educational facilities are permitted in the redesignated area in Tabernacle Township subject to the following conditions:

1. Pinelands Development Credits must be purchased and redeemed to offset the cumulative effect of the redesignations accomplished pursuant to N.J.A.C. 7:50-10.14 on the redemption and allocation of Pinelands Development Credits.

i. The effect on Pinelands Development Credit redemption opportunities is to be calculated as follows:

(1) The number of Pinelands Development Credit redemption opportunities formerly afforded to any area being redesignated from a Regional Growth Area is to be calculated in accordance with the zoning provisions contained in the certified land use ordinances of Pemberton Township;

(2) Subtract from (b)1i(1) above the number of Pinelands Development Credit redemption opportunities to be realistically afforded by the zoning provisions contained in Tabernacle Township's certified land use ordinances for any area being redesignated to a Regional Growth Area; and

(3) Multiply the remainder by two-thirds to calculate the number of Pinelands Development Credit redemption opportunities likely to be lost as a result of the redesignations.

ii. The effect on Pinelands Development Credit allocations is to be calculated as follows:

(1) The number of Pinelands Development Credits eligible for allocation to any area being redesignated to an Agricultural Production Area is to be estimated in accordance with N.J.A.C. 7:50-5, Part IV; and

(2) Subtract from (b)1ii(1) above the estimated number of Pinelands Development Credits extinguished as a result of any redesignation of land from an Agricultural Production Area classification to another management area.

iii. The total number of Pinelands Development Credits to be purchased and redeemed equals the sum of (b)1i and 1ii above.

7:50-10.16 Pinelands Commission approval and evaluation

(a) In accordance with N.J.A.C. 7:50-3, the Commission approved management area changes and zoning provisions in Tabernacle Township and Pemberton Township through its certification of Tabernacle Township Ordinance 1999-1 and Pemberton Township Ordinance 17-1999 on September 10, 1999. This pilot program will be evaluated based on

the management area changes and zoning provisions implemented by those ordinances and any subsequent amendments or corrections which may be made to them in the future.

(b) The Executive Director shall review this pilot program and report to the Commission on its implementation three years following completion of construction of the public educational facility in Tabernacle Township. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:

1. The purchase and redemption of Pinelands Development Credits in accordance with N.J.A.C. 7:50-10.15(b) has resulted in the permanent protection of approximately 1,000 acres of land in the Preservation Area District, Special Agricultural Production Area and/or Agricultural Production Area;
2. Development of the public educational facility has had no significant adverse impact on adjacent agricultural lands within Tabernacle Township's Agricultural Production Area;
3. Development of the public educational facility has not resulted in unanticipated or unintended development on adjacent and surrounding lands in Tabernacle Township's Rural Development Area or Regional Growth Area and has otherwise proven to be compatible with the existing character of the adjacent Pinelands Village;
4. Any lands included in the redesignated area in Tabernacle Township which were not utilized for the public educational facility continue to be put to those uses which existed prior to the redesignation, or, if not, have been converted to uses which are compatible with those of the surrounding area;
5. The redesignated lands in Pemberton Township have been permanently protected through the purchase of easements under the Farmland Preservation Program or other means;
6. Redesignation of the lands in Pemberton Township has contributed to the continued long-term viability of that municipality's Agricultural Production Area and land use conflicts with the remaining Regional Growth Area have not materialized; and
7. 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 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, if appropriate, initiate the procedures set forth in N.J.A.C. 7:50-3.61 through 3.65 and, if necessary, propose an amendment to this subchapter, in accordance with N.J.A.C. 7:50-7, to repeal the pilot program. If the Pinelands Commission revokes, suspends or modifies the certification of this program, such action shall not affect the certification status of the remaining provisions of the municipal land use ordinances unless the municipalities ignore or refuse to implement such revocation, suspension or modification order.

(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 to broaden its applicability in the Pinelands; provided, however, that no such proposal shall be made until the Executive Director has submitted a report to the Commission which evaluates the potential for use of intermunicipal transfers for specified uses in defined situations throughout the Pinelands, as well as whether or not alternative techniques and processes exist or could be developed which might provide for the development of public educational facilities in a manner which better addresses the goals and objectives of this chapter and the Pinelands Protection Act. The Executive Director's report shall specifically address the applicability of the changes required by the

Secretary of the Interior to the now repealed N.J.A.C. 7:50-5.33 to any proposed amendment to this Plan that is recommended in the report.

PART IV -ALTERNATE DESIGN TREATMENT SYSTEMS PILOT PROGRAM

7:50-10.21 Purpose

(a) The high quality of surface and ground water resources in the Pinelands is one of the defining characteristics of the region. Both the Federal Act and the Pinelands Protection Act call for the preservation, protection and enhancement of the significant values of the land and water resources of the Pinelands and its unique ecosystem. Water resources in the Pinelands are protected by a combination of land use and water quality programs established in N.J.A.C. 7:50-5 and 6.

(b) The water quality requirements of N.J.A.C. 7:50-6, Part VIII, include provisions which are aimed at controlling the amount of nitrogen that enters the environment both because nitrogen in itself is a significant pollutant, but also because it often serves as an indicator of changes in overall water quality. To that end, N.J.A.C. 7:50-6.84(a) limits the concentration of nitrogen in wastewater to two parts per million at the property line. Based on the Pinelands Septic Dilution Model (found in N.J.A.C. 7:50-6, Appendix A), a standard septic system, to which no nitrogen removal is attributed, requires at least 3.2 acres to dilute the concentration of nitrogen to two parts per million at the property line for a single family dwelling. N.J.A.C. 7:50-5 authorizes residential development utilizing an on-site wastewater system on lots between one and 3.2 acres in certain circumstances. In those circumstances prior to August 5, 2002, pressure dosed septic systems were allowed to be utilized on lots between one and 3.2 acres in size. Studies undertaken by the Commission have found that the pressure dosed septic system being installed in the Pinelands Area has not been effective on lots smaller than 3.2 acres in meeting the water quality standards of N.J.A.C. 7:50-6, Part VIII.

(c) In 2000, the Commission formed a special committee to investigate alternate septic system technologies that would better meet the water quality requirements at N.J.A.C. 7:50-6, Part VIII, for residential development on lots smaller than 3.2 acres where such lots are currently authorized by N.J.A.C. 7:50-5. After conducting extensive research, the Committee identified five technologies that could be expected to meet these water quality requirements for residential development. The Committee recommended that an interim program be developed for the approval, installation and monitoring of the five technologies for use under certain conditions and safeguards. Residential development using any of the authorized systems would still have to conform to the lot size and density requirements contained in the municipal land use ordinances that have been certified by the Commission pursuant to N.J.A.C. 7:50-3.

(d) The Alternate Design Waste Water Treatment Systems Pilot Program is authorized as a means to test whether specifically authorized systems can be maintained and operated so as to meet the water quality standards contained in N.J.A.C. 7:50-6, Part VIII with maintenance requirements that a homeowner can be reasonably expected to follow. Since these systems do require maintenance beyond that which would be required for a standard septic system in

order to optimize treatment efficiencies, municipalities were originally encouraged, but not required, to adopt ordinances incorporating the requirements of N.J.A.C. 7:50-10.22 into their own land use ordinances. The use of the pilot program systems was then allowed only in those municipalities which had adopted such ordinances. Although most municipalities did adopt ordinances, several did not. This led to situations where owners of unsewered parcels under 3.2 acres in size were denied the ability to develop those parcels in a manner consistent with all other municipal land use and environmental standards, due simply to a municipality's failure to adopt an ordinance allowing for the installation of the pilot program systems. This resulted in considerable hardship to landowners, an outcome which was never the intent of the pilot program. The program has therefore been revised to authorize use of the pilot program systems in all municipalities for the duration of the program, whether or not the specific terms of the program are reflected in a municipal ordinance. Municipalities will continue to be encouraged to allow community systems to be installed in larger residential developments where densities between one and 3.2 acres are currently authorized. Since insufficient data is available to determine a particular efficiency of these alternate design pilot program treatment systems for non-residential development, the use of these systems for non-residential development will be evaluated on a case by case basis pursuant to N.J.A.C. 7:50-6.84(a)5 if any such system is proposed to reduce total nitrogen in the effluent for non-residential development.

(e) Upon adoption of the Alternate Design Treatment Systems Pilot Program in 2002, the Commission authorized five technologies to be tested for residential use in the Pinelands Area: Amphidrome, Ashco RFS III, Bioclere, Cromaglass, and FAST. In 2006, the Commission removed the Ashco RFS III technology from the pilot program due to the manufacturer's failure to make systems commercially available in the Pinelands Area during the initial five-year period of the pilot program or to otherwise demonstrate the ability or intention for future participation in the program. In 2013, the Commission removed the Cromaglass technology from the pilot program due to its inability to meet the water quality standards at N.J.A.C. 7:50-6, Part VIII. The remaining three technologies successfully demonstrated their ability to meet the water quality standards of this Plan and were released from the pilot program and authorized for permanent use in the Pinelands Area in accordance with N.J.A.C. 7:50-6.84(a)5iv. The Amphidrome and Bioclere technologies were released in 2010 and authorized for residential development on parcels of at least one acre. The FAST technology was released in 2016 and authorized for residential development on parcels of at least 1.4 acres.

(f) In 2010, amendments to this subchapter authorized the Commission to expand the pilot program and add more residential nutrient reducing onsite waste water treatment technologies that have attained verification and/or certification through the United States Environmental Protection Agency Environmental Technology Verification (USEPA ETV) Program or the National Sanitation Foundation/American National Standards Institute (NSF/ANSI) Standard 245 testing program. Information regarding the USEPA ETV Program is available from the United States Environmental Protection Agency website at: http://www.epa.gov/etv/vt-wqp.html#dwtt and http://www.epa.gov/etv/pubs/600s07004.pdf. Information regarding the NSF/ANSI Standard 245 testing program is available from the National Sanitation Foundation website at:

http://www.nsf.org/business/wastewater_certification/standards.asp?program=WastewaterCer#245. Four technologies were evaluated pursuant to N.J.A.C. 7:50-10.23(b) and accepted into the pilot program in 2011. In 2020, the Commission released one of those technologies, SeptiTech, from the pilot program in recognition of its ability to meet the water quality standards at N.J.A.C. 7:50-6, Part VIII, and authorized it for residential development on parcels of at least one acre in accordance with N.J.A.C. 7:50-6.84(a)5iv. The Commission also removed two technologies from the pilot program in 2020: BioBarrier, which failed to meet the water quality standards at N.J.A.C. 7:50-6, Part VIII; and Busse GT, which could not be evaluated as the technology was never installed in the Pinelands Area after being accepted into the pilot program.

7:50-10.22 General standards

(a) Alternate design pilot program treatment systems shall be authorized for residential use in all municipalities, provided that the following standards are met:

1. The proposed lot size and density is consistent with the provisions of N.J.A.C. 7:50-5 and the applicable municipal land use ordinance that has been certified by the Commission pursuant to N.J.A.C. 7:50-3;
2. The manufacturer of the alternate design pilot program treatment system has submitted to the Executive Director and the Executive Director has approved:
   i. Detailed specifications and an engineering design for the system. Separate specifications and designs may be submitted for systems serving an individual dwelling and for community on-site systems. These specifications and designs may only be approved by the Executive Director if they are determined to be consistent with the description of the relevant technology contained in the report prepared by Anish R. Jantrania, Ph.D., P.E., M.B.A. entitled "Performance Expectations for Selected On-site Wastewater Treatment Systems," dated December, 2000, incorporated herein by reference and available at the principal office of the Commission or are determined to be consistent with record documents submitted for USEPA ETV and/or NSF/ANSI Standard 245 testing. Subsequent to that approval, manufacturers may submit modified specifications or engineering designs for the system which may then be utilized if the Executive Director determines the modifications are consistent with the originally approved specifications and engineering design and the modified system will be at least as effective as the originally approved system;
   ii. A description of the automatic dialing system required at (a)5ii below, and a description of how and when that system will function;
   iii. A monitoring protocol that ensures that sufficient data will be obtained to enable a determination of whether the technology complies with the two ppm nitrogen requirement and the water quality standards contained in N.J.A.C. 7:50-6, Part VIII. For each system being monitored, the protocol will provide at a minimum that the effluent will be sampled at least quarterly for a period of at least three years and that at least the following parameters will be analyzed: total nitrogen, nitrate-nitrogen, nitrite-nitrogen, ammonia-nitrogen and total kjeldahl nitrogen. Total nitrogen shall be reported as the sum of nitrate-nitrogen, nitrite-nitrogen,

plus total kjeldahl nitrogen from samples collected during a common sampling date. Where laboratory results indicate ammonia-nitrogen concentration to be greater than total kjeldahl nitrogen concentrations, the results will not be accepted by the Commission and re-sampling for all required parameters shall be required;

iv. An operation and maintenance manual;

v. A sample warranty and maintenance contract; and

vi. A sample deed notice that is consistent with (a)5ix below.

3. Subject to being increased during the pilot program based on the results of a hearing conducted pursuant to (a)4 below, each USEPA ETV or NSF/ANSI Standard 245 technology approved by the Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) shall be located on a parcel containing sufficient land area to comply with the two parts per million nitrogen requirement and the water quality standards contained at N.J.A.C. 7:50-6, Part VIII, as calculated using the Pinelands Septic Dilution Model and the expected effluent total nitrogen value for the technology based upon the findings of the USEPA ETV and /or NSF/ANSI Standard 245 test data.
4. The Executive Director shall periodically report to the Commission on the installation, maintenance and performance data for each technology. The Executive Director shall also report to the Commission if he or she determines there is a significant installation, maintenance or performance issue with one or more technologies that needs to be addressed. Copies of any report issued by the Executive Director shall be provided to each manufacturer and agent of a technology that is discussed in that report. If the report determines either that a manufacturer or its agent is not adhering to any of the requirements of this pilot program or that any one of the technologies, based on maintenance or installation issues or on an evaluation of all the monitoring results for that technology under this pilot program, is not meeting the minimum water quality standards at N.J.A.C. 7:50-6.83 or the two parts per million total nitrogen requirement in (a)5xii below on all lots smaller than 3.2 acres or on lots smaller than a particular size because the effluent exiting the system is higher than was anticipated in establishing the lot sizes at (a)3 above:
   i. Any subsequent local approvals for a development that is proposing use of said technology shall be determined to raise a substantial issue and shall be reviewed by the Commission pursuant to the provisions set forth in N.J.A.C. 7:50-4.31 through 4.42. Notice of any hearing scheduled pursuant to this paragraph and any subsequent determination on the application made by the Executive Director or the Commission pursuant to N.J.A.C. 7:50-4.31 through 4.42 shall be provided to the manufacturers of said system and any agent designated by said manufacturer. The annual or interim report issued by the Executive Director shall be part of the hearing record in any hearing conducted pursuant to this paragraph; and
   ii. The Executive Director may impose an immediate suspension on all new installations of said technology until such time as the manufacturer or its agent remedies substandard performance and any other identified compliance issues. The Executive Director shall publish notice of such action in the New Jersey Register and on the Commission's website within 60 days of imposing such suspension.
5. Conditions for use of alternate design pilot program treatment systems are as follows:

i. No more than 10 alternate design pilot program septic systems utilizing the same technology shall be installed in the development of any parcel if those systems are each serving one single family dwelling, except where the Executive Director determines that the use of additional pilot program systems on the parcel would not substantially alter the character of the certified zoning plan of the municipality in which the parcel is located, taking into account existing and planned infrastructure and the role of the parcel in the Pinelands Development Credit program. Should such a determination be made, the additional lots may be serviced, proportionately, by those alternate design pilot program technologies which have been certified by the Executive Director pursuant to N.J.A.C. 7:50-10.22(a)2 and are commercially available for use in the Pinelands; and
ii. Each system shall be equipped with a functioning alarm system that conforms to the requirements at N.J.A.C. 7:50-6.84(a)5iv(2)(G). The manufacturer or its agent shall report to the Executive Director each such malfunction within five days of its occurrence, describing the nature of the mechanical malfunction, the measures taken to correct the malfunction and the success of those measures;
iii. Each system shall be designed and constructed so that samples of effluent leaving the alternate design pilot program septic system can be readily taken to confirm the performance of the technology;
iv. The manufacturer or its agent shall be responsible for providing resources for the collection and analysis of effluent samples in accordance with the protocol approved pursuant to (a)2iii above. The samples shall be taken from each system that is installed unless the manufacturer or agent of a particular technology demonstrates, and the Executive Director concurs, that samples from a specified representative number of systems of that technology will provide sufficient information to enable an evaluation of that technology. Each sample shall be analyzed by a New Jersey certified laboratory and the results of each analysis shall be reported to the Executive Director by the manufacturer or its agent within five days of receipt from the certified laboratory. The manufacturer or its agent shall also submit to the Executive Director a quarterly evaluation of all monitoring conducted prior to that evaluation;
v. The manufacturer or its agent and a New Jersey licensed professional engineer shall certify to the Commission and the local board of health that installation of each system has been properly completed and that the system and all of its component parts are operating properly. The manufacturer or its agent shall include in the certification the cost of the installation;
vi. The local board of health shall not issue a certificate of compliance or similar authorization to permit occupancy of the building served or use of the alternative design wastewater treatment system until such time as the Pinelands Commission provides written authorization to the local board of health that such system may be authorized for use by the board of health;
vii. The manufacturer or its agent shall provide to each owner an operation and maintenance manual approved pursuant to (a)2iv above;

viii. Each system shall be covered by an initial five-year warranty and a renewable, minimum five-year maintenance contract that cannot be arbitrarily cancelled and which includes a provision requiring that the manufacturer or its agent inspect the system at least once a year and undertake any maintenance or repairs determined to be necessary during any such inspection or as a result of observations made at any other time, including during effluent monitoring. Said warranty and maintenance contract shall be consistent with the sample warranty and maintenance contract approved pursuant to (a)2v above;

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

x. The manufacturer or its agent shall make available for inspection by the Commission or its agents, upon reasonable notice, all records relating to each system installed in the Pinelands pursuant to this pilot program;

xi. By June 5 and December 5 of each calendar year, until the conclusion of the pilot program, each manufacturer or its agent shall submit to the Executive Director a report that includes the number of systems installed during the previous six months and since the beginning of the pilot program, a discussion of any installation problems and what has been done to address those problems, an analysis and evaluation of the monitoring results to date and a discussion of any operational or maintenance issues, including the number of systems requiring maintenance or repairs and the nature and success of such maintenance and repairs, and the number of times the automatic dialing system was set off and the reasons for each such occurrence;

xii. The system complies with the requirements of N.J.A.C. 7:50-6.84(a)4i through v; and

xiii. No more than six alternate design treatment technologies shall be approved for use in the Alternate Design Waste Water Treatment Systems Pilot Program at any one time.

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

(c) The technology manufacturer or its agent shall troubleshoot and attempt to remediate substandard performance of any system that fails to meet effluent concentration targets after two consecutive sampling events by implementing measures including, but not limited to, homeowner education, process adjustments, and equipment retrofits. The technology manufacturer or its agent shall report to the Executive Director and local

board of health semi-annually on all remedial measures undertaken, pursuant to (a)5viii above.

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) New technologies shall be approved pursuant to this subsection as follows:

1. In order to be considered for participation in this pilot program, the manufacturer or agent of an alternate design treatment system that has attained verification and/or certification status through the USEPA ETV Verification Program or NSF/ANSI Standard 245 testing program must apply to the Commission. Any such application shall be accompanied by the following:
   i. All laboratory test data and reports associated with the technology's participation in the USEPA ETV Verification Program or NSF/ANSI Standard 245 testing program;
   ii. A description of the distribution and technical support system that the technology vendor will utilize to supply and support the treatment system in the Pinelands Area;
   iii. An estimate of the cost of the technology including but not limited to equipment, shipping, warranty, operation and maintenance services, and effluent monitoring;
   iv. The expected total nitrogen concentration to be achieved by the technology when serving residential development in the Pinelands Area; and
   v. An escrow in the amount of $2,500 pursuant to N.J.A.C. 7:50-1.7 to cover the cost of review for entry into the pilot program.
2. The Executive Director shall periodically establish a date by which completed applications in accordance with (b)1 above must be received by the Commission in order to be considered for participation in this pilot program. Notification of the dates associated with any such round of applications shall be published in the New Jersey Register and posted and made available electronically on the Commission's website. The Executive Director may extend the deadline pursuant to N.J.A.C. 7:50-4.4(a).
3. Upon the conclusion of the application period established in (b)2 above, the Executive Director shall review the submitted documents for each technology seeking participation in the program. The Executive Director shall determine the eligibility of each technology to participate in the pilot program, based upon a comprehensive assessment of those items required for submission in (b)1 above. The Executive Director shall also determine the minimum lot size on which the technology could be authorized for residential use, subject to future modification, pursuant to N.J.A.C. 7:50-10.22(a)3.

4. Within 90 days after the deadline established for the receipt of complete applications or any extension thereto, the Executive Director shall submit a report to the Commission setting forth proposed findings and a recommendation as to whether each technology should be permitted to participate in this pilot program. The Executive Director shall evaluate the eligibility of each technology to participate in the pilot program based upon expected effluent quality, estimated costs and system availability. Any such recommendation shall specify the minimum lot size necessary for compliance with the water quality standards of N.J.A.C. 7:50-6, Part VIII.
5. Upon receipt of the Executive Director's report, the Commission shall review the findings, conclusion and recommendation of the Executive Director and shall, within 120 days of the deadline for receipt of complete applications, or any extension thereto, determine whether each technology should be approved for participation in this pilot program. All determinations of the Commission shall be published in the New Jersey Register and posted and made available electronically on the Commission's website.

(c) The Executive Director shall review this pilot program relative to any approved USEPA and NSF/ANSI Standard 245 treatment technologies no later than August 5, 2025 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 at (c)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.

(d) If the Executive Director finds that the number of monitoring events for any approved USEPA and NSF/ANSI Standard 245 treatment technologies is not adequate to evaluate any of those technologies under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, 2027;

(e) 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 (c) above, the Executive Director shall propose, within three months of the issuance of the report required in (c) 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.

(f) 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.

(g) 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 (c) above, the Executive Director shall propose, within three months of the issuance of the report required in (c) 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 (c) 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.

7:50-10.24 through 10.30 (Reserved)

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.

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.

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.

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.

7:50-10.35 Pilot program evaluation

(a) The Executive Director shall review this pilot program and report to the Pinelands Commission on its implementation by September 30, 2019. The report shall be provided to the utility companies and the Board of Public Utilities. The Executive Director shall determine whether the pilot program is successful in accordance with 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 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.

(b) If the Executive Director finds that this pilot program has been successful, he or she shall propose an amendment to the Comprehensive Management Plan to institute the New Jersey Pinelands Electric Transmission Right-of-Way Maintenance Plan on a permanent basis. In so doing, the Executive Director may propose changes to the ROW Plan or to the procedural requirements of this Part to improve the implementation of the program. The Commission shall thereafter determine whether or not to amend the Comprehensive Management Plan.

(c) If the Executive Director finds that additional time is needed to fully assess the results, he or she shall so inform the Commission and, upon Commission approval, this pilot program may be extended for up to two years. In such an event, all of the conditions of this pilot program, including the responsibilities set forth in N.J.A.C. 7:50-10.32(b), shall be extended and remain in full force and effect.

(d) If the Executive Director finds that this pilot program has not been successful, he or she shall propose such other measures, including other amendments to the Comprehensive Management Plan, to govern future electric transmission right-of-way maintenance and management in the Pinelands.