

13:47A-11.2 Uniform Application for Investment Adviser Registration (Form ADV)

The Uniform Application for Investment Adviser Registration (Form ADV) is promulgated by the SEC and is available on-line at <http://www.sec.gov/about/forms/formadv.pdf>.

13:47A-11.4 Uniform Consent to Service of Process (Form U2)

The Uniform Consent to Service of Process which is to be used to designate the Chief of the Bureau of Securities as agent for service of process is authored by the North American Securities Administrators Association (NASAA) and is available on-line at <http://www.nasaa.org/industry-resources/uniform-forms/>.

13:47A-11.5 Uniform Surety Bond Form (Form U-SB)

The Uniform Surety Bond Form (Form U-SB) is authored by the NASAA and is available on-line at www.nasaa.org/industry-resources/uniform-forms/.

13:47A-11.6 Uniform Request for Broker-Dealer Withdrawal (Form BDW)

The Uniform Request for Broker-Dealer Withdrawal is promulgated by the SEC and is available on-line at www.sec.gov/about/forms/formbdw.pdf.

13:47A-11.7 Non-FINRA Broker-Dealer Renewal Application (Form BDR)

The Non-FINRA Broker-Dealer Renewal Application (Form BDR) is authored by the Bureau and is available on-line at <http://www.njconsumeraffairs.gov/bos/njbos-21.pdf>.

13:47A-11.8 (Reserved)

13:47A-11.9 Notice of Withdrawal from Registration as Investment Adviser (Form ADV-W)

The Notice of Withdrawal from Registration as Investment Adviser (Form ADV-W) is promulgated by the SEC and is available on-line at www.sec.gov/pdf/fadvwo.pdf.

SUBCHAPTER 12. EXEMPTIONS FOR SECURITIES TRANSACTIONS AND SECURITIES OFFERINGS; EMPLOYEE BENEFIT PLANS; ACCREDITED INVESTORS

13:47A-12.2 Employee benefit plans

(a)-(d) (No change.)

(e) The employee benefit plan exemption includes employees, directors, and consultants who provide services to the issuer, so long as the plan qualifies under Rule 701 of the Securities Act of 1933 or is otherwise in compliance with N.J.S.A. 49:3-50(a)(11) and this section.

(a)

**DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF SOCIAL WORK EXAMINERS
Notice of Readoption
Rules of the State Board of Social Work Examiners
Readoption: N.J.A.C. 13:44G**

Authority: N.J.S.A. 45:15BB-11.

Authorized By: State Board of Social Work Examiners, Dawn Apgar, Chair.

Effective Date: July 16, 2015.

New Expiration Date: July 16, 2022.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:44G will expire on September 18, 2015. The rules establish standards for the licensing and regulation of social workers.

The Board of Social Work Examiners has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 45:15BB-11, and in

accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(b)

**DIVISION OF CONSUMER AFFAIRS
BUREAU OF SECURITIES
Notice of Readoption
Rules of the Bureau of Securities
Readoption: N.J.A.C. 13:47A**

Authority: N.J.S.A. 49:3-47 et seq., specifically 49:3-67(a).

Authorized By: Laura Posner, Bureau Chief, Bureau of Securities.

Effective Date: July 17, 2015.

New Expiration Date: July 17, 2022.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:47A will expire on September 12, 2015. The Bureau of Securities administers and enforces New Jersey's Uniform Securities Law, N.J.S.A. 49:3-47 et seq., which governs the registration of securities, broker-dealers, investment advisers, agents for broker-dealers, investment adviser representatives, and investment advisers doing business in or from the State. The Bureau provides protection to New Jersey's investing public from fraudulent stock sales which includes investigative efforts such as on-site examinations of registrants and monitoring the Internet for fraudulent securities activity.

The Bureau of Securities has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 49:3-47 et seq., specifically 49:3-67(a), and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

PUBLIC UTILITIES

(c)

BOARD OF PUBLIC UTILITIES

Electric Service

Readoption with Amendments: N.J.A.C. 14:5

Adopted New Rules: N.J.A.C. 14:5-8.7, 9.5, and 9.8

Adopted Repeal: N.J.A.C. 14:5-9.2

Proposed: March 16, 2015, at 47 N.J.R. 631(a).

Adopted: July 22, 2015, by the Board of Public Utilities, Richard S. Mroz, President, Joseph L. Fiordaliso, Mary-Anna Holden, and Dianne Solomon, Commissioners.

Filed: July 22, 2015, as R.2015 d.138, with non-substantial changes not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 48:2-12, 48:2-13, 48:2-16, 48:2-25, and 48:3-96.

BPU Docket Number: EX15010033.

Effective Dates: July 22, 2015, Readoption;

August 17, 2015, Amendments, Repeals, and New Rules.

Expiration Date: July 22, 2022.

Summary of Public Comments and Agency Responses:

The following commenters submitted timely comments on the notice of proposal:

Stephanie A. Brand, Director, Division of Rate Counsel (RC);
Michael Connolly, Esq, for Jersey Central Power and Light Company, which submitted a joint comment letter on its own behalf and on behalf of Atlantic City Electric, Public Service Electric and Gas, and Rockland Electric Company (EDCs);

William G. Dressel, Jr., Executive Director, New Jersey State League of Municipalities (NJSLOM); and

Pamela J. Scott, Assistant General Counsel, Atlantic City Electric (ACE); and

Steven D. Urgo (Urgo).

N.J.A.C. 14:5-1.2 Definitions

1. COMMENT: It is unclear why the rule refers to American National Standards Institute (ANSI) standards. In addition, to the extent that the rules refer to ANSI standards, the year of the standard needs to be noted. (Urgo)

RESPONSE: ANSI standards are referenced as they represent the industry standard for the proper pruning and maintenance of trees that will remain near the electric system. These standards encourage maintaining vegetation that is compatible with its surroundings, especially within the right of way (ROW). Where appropriate, the standards are noted with year.

2. COMMENT: The proposed definition of border zone is too vague. It should be clarified that the zone begins where the plane of the perpendicular transmission wire intersects the land beneath the wire and terminated at the legal boundary of the right of way. (Urgo)

RESPONSE: The transmission line wire zone is defined as the land located directly under the widest portion of a transmission line. For a horizontal transmission line, the wire zone is bounded on each side by a location on the ground that is directly under the outermost transmission wire or the transmission tower, whichever is wider. For a vertical transmission array, the width of the wire zone shall be determined using the minimum safe distance specified in the North American Electric Reliability Corporation (NERC) FAC-003, which is incorporated by reference and available at www.nerc.com. The border zone means the space from the edge of the wire zone to the outer boundary of the right of way. The definition is not too vague given these references including the NERC portion of the definition that takes into account wire movement as a result of sway and sag.

3. COMMENT: The definition of danger tree is too vague. There is no standard employed. The tree should be located wholly within the legal boundary of the right of way, and must be limited to trees that could “reasonably” contact supply lines under a defined set of circumstances, for example, dead or dying tree – or should reflect a definition of the condition of the tree as defined by organizations such as ANSI. (Urgo)

RESPONSE: This definition is included as a supplement to the hazard tree definition. Damage to the electric system comes from trees located in and outside of the right of way. Limiting the definition to trees wholly inside the right of way is not consistent with the intent of this chapter. The definition, as proposed, is consistent with ANSI A300 Part 7.

4. COMMENT: The definition of hazard tree is too vague and should be limited to trees wholly within the right of way. It also should refer to definition/standards used by organizations such as ANSI. (Urgo)

RESPONSE: Damage to the electric system comes from trees located in and outside of the right of way. Limiting the definition to trees wholly inside the right of way is not consistent with the intent of this chapter. The definition, as proposed, is consistent with ANSI A300 Part 7.

5. COMMENT: The definition of integrated vegetation management (IVM) is too vague. The Board of Public Utilities (BPU) needs to set forth more particular criteria as to what is the “environmental impact and anticipated effectiveness, along with site characteristics, security, economics, current land use, and other factors.” What are these “other factors”? In practice, EDCs do not undertake this analysis. They clear cut all trees in the right of way. In addition, what weight is to be given these factors? The BPU should develop a matrix that defines these factors, the weight each factor should be given and define what the weighted range of factors should have on whether an EDC can remove a tree within a right of way, especially with regard to residential properties. (Urgo)

RESPONSE: The intent of IVM is to select the most appropriate control methods based on the methods’ environmental impact and anticipated effectiveness, along with site characteristics, security, economics, current land use, and other factors. Its intent is also to promote vegetation that is compatible with its surroundings, especially in the ROW. A rulemaking is not the appropriate proceeding to deal with allegations that the EDCs do not properly apply the adopted rules.

6. COMMENT: Use of chemical methods must be limited – chemicals cannot be used in the Pinelands and in other environmentally sensitive areas. This portion of the definition of “vegetation management” is contrary to rules issued by the New Jersey Department of Environmental Protection (NJDEP). (Urgo)

RESPONSE: The use of chemical methods is limited by pertinent environmental rules, which are not the subject of this rulemaking.

7. COMMENT: The definition of wire zone is too vague. The wire zone should be bounded by where the perpendicular plane of the wire intersects the land. (Urgo)

RESPONSE: With the exception of updating the NERC reference, the Board notes that this definition has been carried over from the previous version of the vegetation management rules unchanged. The definition of wire zone, as proposed, has been successfully implemented historically. NERC standards are referenced within. Utilizing the language proposed by the commenter would only serve to cause confusion as it does not take into account the factors that can cause the wire zone to shift. NERC FAC-003-3 does take these factors into account.

8. COMMENT: While the reorganization of Chapter 5 in this manner appears logical and otherwise consistent with other chapters of Title 14, the EDCs also recognize that, in addressing vegetation management matters, Subchapter 9 has heretofore often served as a stand-alone guide and reference tool for the wide-spectrum of stakeholders affected by, or using, these regulations. Separating the definitions from the rest of the subchapter will render the subchapter less useful as a stand-alone resource. (EDCs)

RESPONSE: The reorganization of the definitions contained in this chapter to include all relevant definitions in N.J.A.C. 14:5-1.2 is consistent with the organization of other chapters of Title 14. Subchapter 9 is not a standalone document and must be read in the context of all of Chapter 5.

9. COMMENT: In the proposed definition of “electric overhead transmission corridor,” the EDCs suggest that the addition of the concept of a leasehold interest is a minor, but important, change that serves to complete the definition appropriately. There is also a typographical error in the definition that should be corrected. The EDCs suggest that the proposed definition be revised to read, in its entirety, as follows (additions in bold; deletions in brackets):

“Electric overhead transmission corridor” refers to the expanse of land over which electric transmission lines are located. The corridor may be compr[om]ised of multiple electric utility rights-of-way and/or circuits. The EDC may own the land in fee, **have a leasehold interest**, own an easement, or have certain franchise, prescription, or license rights to construct and maintain the lines with respect to such land. (EDCs)

RESPONSE: In recognition of the various types of land rights and the typographical error contained herein, the Board agrees that the changes recommended in this comment should be adopted as clarifications, noting that the language seeks to more fully explain the ways an EDC may occupy a right-of-way, and to correct a typographical error in the notice of proposal.

10. COMMENT: With respect to the definition of “wire zone,” the EDCs continue to recommend that the proposed rules better recognize the “wire zone-border zone” concept in the same manner as ANSI A300 (the applicable industry standard) does. In Annex A to ANSI A300, this concept is referred to as:

a proven [integrated vegetation management] method that ensures the reliability of electric supply lines while promoting stable, compatible plant communities and improved wildlife habitat on suitable electric utility rights-of-way.
ANSI-A300- Part 7 American National Standard for Tree Care Operations- Tree, Shrub and Other Woody Plant Maintenance - Standard Practice - (Integrated Vegetation Management a. Electric Utility Rights-of-Way), Annex A.

According to Annex A:

Wire zone: Portion of electric utility right-of-way directly beneath electric supply lines and extending outward to a utility-specified distance, managed to promote only low-growing, primarily herbaceous vegetation.

ANSI-A300 - Part 7 American National Standard for Tree Care Operations- Tree, Shrub and Other Woody Plant Maintenance - Standard Practice - (Integrated Vegetation Management a. Electric Utility Rights-of-Way) Annex A.

The ANSI A300 Annex A and the Best Management Practices approach to the “wire zone” allows for, or recognizes, real conductor movement, both sag and sway, so that the height of the brush in the wire zone is lower, allowing for the achievement of appropriate clearance under all rated conditions.

The EDCs recommend the following modification to the definition of “wire zone”:

“Wire zone” means the land located directly under the widest portion of a transmission line. For a horizontal transmission line, the wire zone is bounded on each side by a location on the ground that is directly under the outermost transmission wire or the transmission tower, whichever is wider. For a vertical transmission array, the width of the wire zone shall be determined using the minimum safe distance specified in the North American Electric Reliability Corporation (NERC) FAC-003, version three, which is incorporated herein by reference, as amended and supplemented, and available at www.nerc.com. **Notwithstanding the foregoing, if the EDC has adopted the use of the ANSI A300 Annex A wire zone-border zone concept, the meaning of “wire zone” shall be as set forth in ANSI A300 Annex A.** (EDCs)

RESPONSE: With the exception of updating the NERC reference, the Board notes that this definition has been carried over from the previous version of Subchapter 9, Vegetation Management, unchanged. Historically, this definition has been successfully implemented in practice and, the Board concludes, does not require modification. The NERC minimum vegetation clearance distance does take into account conductor sag and sway. Utilizing the definition of wire zone presented by the commenter leaves too much discretion as to the location of the wire zone.

N.J.A.C. 14:5-3.2 Adequacy of service

11. COMMENT: The EDCs recommend the following modifications to the proposed version of N.J.A.C. 14:5-3.2(a) (additions in bold; deletions in brackets):

(a) EDCs supplying electrical energy on a constant potential system shall adopt and maintain a standard [average value of] **nominal** voltage as measured at the point of attachment to the customer’s wiring; and the normal variations, as measured by a standardized voltmeter, shall not vary for periods exceeding five minutes for service supplied at [150] **600** volts or less to ground more than five percent above, nor more than five percent below said standard [average] **nominal** voltage for said location, which is in force at the time; provided, however, the variations in voltage caused by the operation of apparatus in the customer’s premises in violation of the utility’s rules, the action of the elements, or other causes beyond the EDC’s control shall not be considered a violation of this provision. (EDCs)

12. COMMENT: ACE suggests the following additional amendments as set forth below:

N.J.A.C. 14:5-3.2(a): EDCs supplying electric energy on a constant potential system shall adopt and maintain a standard average value of voltage as measured at the point of attachment to the customer’s wiring; and the normal variations, as measured by a standardized voltmeter, shall not vary for periods exceeding five minutes for service supplied at [150] **600** volts or less, [to ground] more than five percent above, nor more than five percent below said [standard average] **nominal** voltage for said location, which is in force at the time; provided, however, the variations in voltage caused by the operation of apparatus in the customer’s premises in violation of the utility’s rules, the action of the elements, or other causes beyond the EDC’s control shall not be considered a violation of this provision. (ACE)

RESPONSE TO COMMENTS 11 AND 12: The Board rejects the proposed substitution of 600 for 150 volts. The Board believes that adding the phrase “for all secondary voltages” in place of defining a nominal voltage serves to provide consistency with ANSI C84.1.

However, the Board also agrees to the substitution of “nominal” for “average,” noting that “average” implies the use of a statistical analysis where none actually exists. This language is more consistent with how the voltage value is determined in current practice and does not alter how it is determined.

N.J.A.C. 14:5-8.1 Purpose and scope

13. COMMENT: As a matter of drafting consistency with subsections (a) and (d) of this section, the EDCs recommend that the introduction to subsection (b) should read in pertinent part as follows (additions in bold; deletion in brackets):

“**The rules in [T]**this subchapter, which include ... , establishes standards to ... under all operating conditions except major events.” (EDCs)

RESPONSE: The Board agrees with this change, noting that it has no substantive impact on the rules, but does serve to provide consistency with subsections (a) and (d).

N.J.A.C. 14:5-8.2 Reliability performance levels

14. COMMENT: This section has been proposed for readoption without modification. Rate Counsel submits that the Board should assert, in this section, its authority to, among other penalties, authorize a lower return on equity to utilities repeatedly failing to meet the minimum reliability standards set out in this subchapter. (RC)

RESPONSE: The Board has clear authority to penalize an EDC for a violation of its rules and to authorize a lower return on equity within a base rate case for EDCs repeatedly failing to meet the minimum reliability standards. Thus, including the assertion here is unnecessary.

N.J.A.C. 14:5-8.3 Service reliability

15. COMMENT: The EDCs note that in subsection (c), it is proposed that the word “unduly” be removed in the phrase “unduly characterizing.” The existing rules recognize that after review and analysis, on some, perhaps, rare occasions, what, at first, appeared to be a sustained interruption may be found to be a series of proximate but independent momentary event interruptions. The existing rule properly prohibits the undue (and, therefore, inappropriate) utilization of the discretion to recharacterize to avoid improperly accounting for a sustained interruption. (EDCs)

RESPONSE: All characterizations of sustained interruptions as a series of momentary interruptions are inappropriate. As defined in N.J.A.C. 14:5-1.2, a sustained interruption is an interruption in service that is not classified as a momentary event interruption and which is longer than five minutes. If, upon further review and analysis, what appeared to be a sustained interruption is, in fact, a series of proximate but independent momentary event interruptions, the wording of the rule does not preclude this characterization.

N.J.A.C. 14:5-8.5 Individual circuit reliability performance (and N.J.A.C. 14:5-8.2 Reliability performance levels)

16. COMMENT: In connection with N.J.A.C. 14:5-8.5(c) of the proposed rules, the EDCs have no objection to the initial capitalization of the term Annual Report, but note that this usage is not consistent throughout Subchapter 8. See, for example, N.J.A.C. 14:5-8.5(c) and (d), and 8.8(c) and (g). (EDCs)

RESPONSE: The Board agrees with the commenter and has standardized the use of Annual Report throughout the readopted rules.

17. COMMENT: The EDCs suggest that the use of consistent terminology in N.J.A.C. 14:5-8.2 and 8.5 would add clarity to the proposed rules. The EDCs recommend that the terminology from N.J.A.C. 14:5-8.2(b), that is, [p]erformance that falls below “the “minimum reliability level” is most likely the most suited to conveying the intention of these rules. In this regard, the EDCs also note that the defined term “minimum reliability level” should be used in place of “minimum performance level” which is not defined. Accordingly, the EDCs propose the following modifications (additions in bold; deletions in brackets):

N.J.A.C. 14:5-8.2 Reliability performance levels

(a) Each EDC shall take reasonable measures to perform better (i.e., to have lower numerical values) than the minimum reliability levels for CAIDI and SAIFI in N.J.A.C. 14:5-8.5.

(b) Performance that [falls below] is worse (i.e., that has higher numerical values) than the minimum reliability levels for CAIDI and SAIFI in this subchapter is a violation of this chapter and may be subject to penalty.

N.J.A.C. 14:5-8.5 Individual circuit reliability performance

(c) An EDC that files an Annual Report under N.J.A.C. 14:5-8.8, which identifies one or more operating areas with performance that is worse (i.e., that has higher numerical values) than [that have values above] the minimum reliability [performance] level for CAIDI and SAIFI, shall review its previous two [a]Annual [r]Reports for purposes of addressing operating area reliability performance.

(d) If an EDC identifies one or more operating areas with performance that is worse (i.e., that has higher numerical values) than [has values higher than] the minimum reliability performance level for CAIDI and SAIFI in two of the past three [a]Annual [r]Reports, the EDC shall further examine its equipment and circuits for causes of systemic outages, shall implement corrective measures as required under (b) above, and shall report on these circuits and corrective measures as required under N.J.A.C. 14:5-8.8(g). (EDCs)

RESPONSE: The suggested edits serve to provide additional information to clarify when an EDC is in compliance with the minimum reliability levels, especially to a person who may not be familiar with the concepts of CAIDI and SAIFI, and are accepted. The Board notes that this language serves to clarify when an EDC is in compliance with the minimum reliability levels and does not change how the levels are specified or how an EDC remains in compliance with them.

N.J.A.C. 14:5-8.6 Inspection and maintenance programs

18. COMMENT: In paragraph (d)2, the EDCs suggest that the words “existing easement or” can be eliminated as unnecessary because they are included within the definition of “Right of way” or “ROW.” Therefore, the EDCs recommend that such words be deleted from the Board’s final adopted version of the proposed rules as follows:

2. Each EDC shall specifically identify hazard trees deemed a potential threat to the distribution system by the EDC’s vegetation management professionals, both within and outside of the [existing easement or] ROW for the infrastructure, that the EDC cannot mitigate due to either municipal or property owner resistance. (EDCs)

RESPONSE: The Board agrees with the comment that the definition for ROW includes property rights that are easements, and this modification is accepted, noting that the intent and meaning of this language is unchanged.

N.J.A.C. 14:5-8.7 Quarterly reporting

19. COMMENT: The BPU should consider standardizing the definition of outage causes across the EDCs to enable cross-utility comparisons. It may be helpful if a working group made up of EDC representatives was tasked with developing a common set of outage cause definitions to use as a guide for each EDC to apply when defining its outage causes. Compilation of each year’s Quarterly Reports should be re-reported in each utility’s Annual Report. (RC)

RESPONSE: The Board may, in the future, choose to convene a working group tasked with developing a common set of outage cause definitions. At this time, the Board does not wish to change the way the EDCs operate with respect to allowing each EDC to use its own outage definitions, as long as each type of outage is clearly described as mandated by the rule. The current reporting framework provides enough data to enable a meaningful analysis and comparison. The Board also does not feel that imposing the burden of re-reporting the Quarterly Report data in the Annual Report is worthwhile. The Annual Report details overall reliability initiatives and levels, whereas the Quarterly Reports provide more granular outage information. Reporting the information once is sufficient.

20. COMMENT: The EDCs recommend that the reference in paragraph (a) (requiring the reporting of the “number of customers on a circuit”) should be removed. This information was not required by the Board’s Order dated February 20, 2013, in BPU Docket No. E012070650, which reflects the discussions between Board staff and the EDCs, which, in part, resulted in Board staff recommendations that were adopted in the Board Order (Reporting Requirements Order). The focus of these discussions and the Reporting Requirements Order was on an increased level of reporting for outages that does not require such extraneous and changeable statistical data for an appropriate understanding; especially in light of the additional increased focus on poor performing circuits. The EDCs, therefore, recommend the deletion of subparagraph (a)iv and the recodification of subparagraphs (a)lv through ix, as (a)lv through viii. (EDCs)

RESPONSE: Given the incremental nature of reporting the number of customers on a circuit, and the fact that no meaningful statistical analysis of the dataset can occur without it, the Board rejects this modification. The Reporting Requirements Order in no way limits the authority of the Board to require such additional information in this rule.

21. COMMENT: At N.J.A.C. 14:5-8.7(a)3, an explanatory summary of unique circumstances would be required for the quarterly circuit outage report and for the quarterly substation outage report in N.J.A.C. 14:5-8.7(b)2. As contemplated by the Board’s Reporting Requirements Order, the explanatory summary with respect to circuit outages and substation outages was optional. The EDCs respectfully request that the Board modify the rule accordingly to reflect conformity with the Board’s Reporting Requirements Order and the subsequent discussions between the EDCs and Board staff. The EDCs agree that the glossary of terms should be a required part of the quarterly circuit report submission. Therefore, the EDCs recommend that N.J.A.C. 14:5-8.7(a)3 be modified as follows (additions in bold; deletions in brackets):

N.J.A.C. 14:5-8.7(a)

3. The EDC shall **include a glossary of terms and may** provide an explanatory summary of any unique circumstances or potential problems identified [and include a glossary of terms]. (EDCs)

RESPONSE: The Board recognizes that a large volume of data is collected with respect to circuits. To that end, an explanatory summary is only required when an EDC identifies a unique circumstance or potential systemic problem. Furthermore, a summary analysis of a large dataset is desired.

22. COMMENT: The EDCs share the perspective that N.J.A.C. 14:5-8.7(b)1 should also be revised as follows (additions in bold; deletions in brackets):

1. The report shall include the substation ID, **the total** number of outages experienced at each substation due to substation specific equipment, **the sum of the duration of the outages (in minutes), and the sum of the** number of customers affected by each outage.

These changes clarify the reporting requirements consistent with how this information is currently reported by the EDCs at Board staff’s direction. (EDCs)

RESPONSE: The Board disagrees that the proposed changes conform to the currently reported information, as required by the Reporting Requirements Order. Instead, upon further review, the Board finds emphasizing the reporting of outages is more consistent with the current reporting framework, noting that restating this language does not serve to change what is reported but clarifies that it is reported for each outage.

23. COMMENT: Consistent with the recommendation made in Comment 20 with respect to N.J.A.C. 14:5-8.7(a)lv, the EDCs recommend that the reference to “number of customers on a circuit” should also be removed from N.J.A.C. 14:5-8.7(c) as follows (deletion in brackets):

(c) The quarterly reports shall be submitted in an electronic form, both in redacted and unredacted versions, in accordance with the Board’s rules on confidential information at N.J.A.C. 14:1-12, to protect security sensitive and other confidential information, such as circuit ID, substation information, circuit type and circuit location other than municipality[, and number of customers on the circuit]. (EDCs)

RESPONSE: Given the incremental nature of reporting the number of customers on a circuit, and the fact that no meaningful statistical analysis of the dataset can occur without it, the Board rejects this requested modification. The Reporting Requirements Order in no way limits the authority of the Board to require such information.

Recodified N.J.A.C. 14:5-8.8 Annual System Performance Report

24. COMMENT: Subsection (b) details the reliability information that must be provided to the Board in the Annual Report. Currently, the utilities exclude major events from these reported metrics. Rate Counsel believes that the Board should expand this reporting requirement to include CAIDI and SAIFI numbers that include major storm event data. (RC)

RESPONSE: The Board declines to require the EDCs to submit CAIDI and SAIFI numbers including major storm event data. Comparing CAIDI and SAIFI numbers with storm data does not provide meaningful insight into the day-to-day reliability of the system or of the EDC's performance during a major storm event. Instead, major storm event data is captured in the Major Event Reports and may be supplemented by additional discovery.

25. COMMENT: Rate Counsel notes that while the priority circuit program addresses, to some extent, the interests of customers on poorly performing distribution circuits, it does nothing to address pockets of poor reliability that may exist on the distribution system, that are smaller than an entire distribution circuit. As an initial step in considering remedies for the reliability of smaller groups of customers than entire distributions circuits, the Board should consider including in the Annual Report a metric called "customers experiencing multiple interruptions" or "CEMI." (RC)

RESPONSE: The Board is not persuaded that by requiring the EDCs to submit CEMI data, pockets of poor reliability smaller than a distribution circuit will be better addressed. This is due to the fact that CEMI is a summary statistic, measuring the percent of overall customers that have experienced more than a specific number of interruptions. The priority circuit program addresses these pockets because pockets of poor reliability on a portion of a circuit will cause the whole circuit to be identified for mitigation.

26. COMMENT: In subsection (g), the amended language has changed the worst performing circuit requirement from the worst five to the worst eight percent. For Rockland Electric Company (RECO), the smallest in the number of customers of the EDCs, this requirement would only increase the number of circuits from five to six, since RECO has 78 circuits. (RC)

RESPONSE: Given that RECO's customer base is significantly smaller than the three other New Jersey EDCs and that it has fewer circuits serving those customers, it is not surprising that the number of circuits included in the requirement only increases by one. The Board does not believe that requiring RECO (or any EDC) to report on and remedy more than eight percent is necessary at this time. The Board will continue to review whether additional changes are necessary in the future.

27. COMMENT: Rate Counsel believes that increasing the number of poor performing circuits that must be reported provides a more cost efficient means for reliability improvement than more stringent general reliability indices. Increasing the focus on poor performing circuits will have the benefit of possibly lowering implementation costs and will provide a positive contribution to system-wide reliability performance metrics. In addition, a focus on poor performing circuits will engage the EDC workforce more directly in its efforts to improve reliability performance for their customers. We suggest BPU consider increasing the required number of reported worst performing circuits to the higher of either 20 circuits or 15 percent of the total number of circuits. (RC)

RESPONSE: Any time an EDC undertakes a capital improvement project with the intent of increasing reliability, whether spurred by increasing the number of worst-performing circuits reported or making the general reliability criteria more stringent, costs will be incurred. At this time, the Board feels that the additional circuits identified and mitigated as a result of the revisions to N.J.A.C. 14:5-8.8(g) is sufficient.

28. COMMENT: Rate Counsel recommends that the BPU should standardize the definition of worst performing circuits, or at a minimum, the BPU should require that EDCs include both SAIFI and CAIDI in their

metric used to prioritize circuit performance. EDCs should also be required to provide a clear definition of the metrics used for determining worst performing circuits. The EDCs should be able to share such calculations under confidentiality agreements. (RC)

RESPONSE: The EDCs are given discretion to utilize a method that best suits each company's standard operating practices and principles. Each EDC summarizes the methodology used to identify the worst-performing circuits in the Annual Report. Given this, the Board declines to establish a standard method for identifying the worst-performing circuits.

Recodified N.J.A.C. 14:5-8.10 Establishment of reliability service performance level

29. COMMENT: Rate Counsel does not know how the BPU staff determined the proposed minimum reliability requirements for three of the four EDCs. (RC)

30. COMMENT: The EDCs have significant concerns regarding the manner in which the proposed rules have restated this important section of the existing rules. As proposed, this section clouds the transparency of the existing rules and undermines the relevance of operating areas in the context of reliability performance measurement. The EDCs believe that this was an unintended consequence of the Board's objective to simplify and clarify the appropriate and refined focus of the rules on minimum reliability levels by eliminating the concept of benchmark reliability levels contained in the existing rules. In the process of refining that focus, it appears to the EDCs that the manner in which the minimum reliability levels was to be calculated and the relevance to EDC operating areas, and not just to the EDC as a whole, was inadvertently lost. The Board should take the opportunity of the comment process to clarify and correct this important section of Subchapter 8. In this regard, the EDCs respectfully recommend that this section consistently specify that the minimum reliability level for each operating area and for each EDC is attained when its annual CAIDI and SAIFI are not worse (that is, do not have higher numerical values) than the CAIDI and SAIFI five-year average performance for each operating area and for each EDC for the years 2010-2014 plus 1.5 standard deviations; provided, however, that if an EDC has agreed to, and/or has been ordered by the Board to meet a different minimum reliability level target, the EDC shall be bound by its agreement and/or the Board's order as applicable. Therefore, the EDCs suggest the following revisions to N.J.A.C. 14:5-8.10 addition in bold; deletion in brackets]:

N.J.A.C. 14:5-8.10 Establishment of reliability service performance level

(a) For each of an EDC's operating areas, **and for each EDC**, the CAIDI and SAIFI **minimum** reliability [performance] level[s] **is established** [shall be] as follows:

1. The minimum reliability level for CAIDI and SAIFI for each EDC operating area, and for each EDC, is attained when its annual CAIDI and SAIFI performance is at or better (i.e., has lower numerical values) than its CAIDI and SAIFI five-year average performance for the years 2010-2014 plus 1.5 standard deviations. However, in the event that an EDC has agreed to, and/or has been ordered by the Board to attain a different minimum reliability level, the EDC shall be bound by its agreement and/or the Board's order as applicable.

2. For purposes of this section, CAIDI and SAIFI five-year average performance for the years 2010-2014 plus 1.5 standard deviations shall be calculated separately for each operating area and for each EDC, and the standard deviations shall be calculated based upon a sampling of the total data (i.e., STDEV.s), such that the standard deviation for CAIDI and SAIFI by operating area and by EDC shall be calculated

$$= \sqrt{\frac{\sum (X_{year} - X_{avg})^2}{n - 1}}$$

based upon the formula: s = where Xyear represents CAIDI and SAIFI actual performance for each year, Xavg represents the five-year historical average performance for CAIDI and SAIFI, and n

represents the number of years available for analysis (*i.e.*, five years).

(b)-(c) (No change.) (EDCs)

RESPONSE TO COMMENTS 29 AND 30: Upon review of the comment, the possibility that the reliability levels are incorrectly applied exists. Therefore, the Board has determined not to adopt the proposed language (other than the recodification of the section) and will retain the existing rule and the definition of “benchmark” in N.J.A.C. 14:5-1.2. These must be considered together as the definition is referenced in the existing rule. Additionally, the Board declines to adopt the language presented by the EDCs. The adopted rule properly designates the manner in which CAIDI and SAIFI are calculated; the EDCs proposed language only serves to restate that. The only clarification required is to update the period for which CAIDI and SAIFI are calculated to the latest five years of available data. Thus, the period 2002-2006 in the definition of “benchmark” and in N.J.A.C. 14:5-8.10(a)1 and 2 will be replaced by 2010-2014, noting that this change does not affect the way CAIDI and SAIFI are calculated but serves to provide the latest available data for its calculation.

Recodified N.J.A.C. 14:5-8.11 Prompt restoration standards

31. COMMENT: Rate Counsel notes that the proposed amendment to this section is not substantive, merely correcting the reference to the outage management system. Rate Counsel recommends that the restoration process should start within one hour of notification by two or more customers. The proposed CAIDI numbers for the four EDCs are all under two hours. It is hard to see how this CAIDI standard is in accord with a two-hour restoration start time. With the sophisticated technology available to the utilities to manage outages, one hour to analyze an outage and dispatch a crew should be sufficient. (emphasis in original) (RC)

RESPONSE: The Board notes that this rulemaking modifies the previously proposed minimum reliability calculations. However, if the proposed calculation does result in a CAIDI of less than two hours, it must still be thought of as a summary average statistic. It is not meant to convey that all outages last less than two hours. Historically, the two-hour restoration standard has proved feasible and will not be modified at this time.

N.J.A.C. 14:5-9 Vegetation Management

32. COMMENT: This proposed subchapter is the product of a lot of hard work on the part of BPU staff and of a working group, which consisted of the State’s EDCs, the NJSLOM, and other interested stakeholders.

Vegetative Management (VM) is a cost effective means of preventing long-term outages. The inclusion of “danger trees” and “hazard trees” to the EDC’s system of VM may further help prevent outages. The NJSLOM looks forward to monitoring how these regulations are implemented and the practical effect they have on municipalities. (NJSLOM)

RESPONSE: The Board appreciates NJSLOM’s support of the readopted rules and proposed amendments.

N.J.A.C. 14:5-9.3 General provisions

33. COMMENT: Rate Counsel notes that the proposed language gives the EDC’s vegetation manager sole discretion to perform additional vegetation management at the request of municipalities and/or private property owners. We suggest that EDCs be required to include documentation of and justification for additional work performed at the request of municipalities or private property owners in their annual reports. (RC)

RESPONSE: The Board declines to place an additional reporting burden on the EDCs for this information. The EDCs report the vegetation management that is a direct result of the Subchapter 9 vegetation management rules, which are designed to enhance the electric transmission and distribution system reliability. The additional vegetation management requested by a municipality or private property owner is for aesthetics. This may not enhance reliability and is, therefore, not relevant to the implementation of these rules but is an issue that can be raised in a ratemaking proceeding.

34. COMMENT: In the final sentence of N.J.A.C. 14:5-9.3(f), the word “work” does not fully or completely convey the intention that this provision, which provides a mechanism for addressing requests for additional vegetation management work, does not apply to transmission vegetation management. This can be simply rectified by replacing the word “work” with the words “subsection,” so that the sentence would read: “This subsection shall not apply to transmission line vegetation management required under N.J.A.C. 14:5-9.7.” (EDCs)

RESPONSE: This proposed edit clarifies that the mechanism for requesting additional work does not apply to transmission line vegetation management and the Board agrees that the change should be adopted as clarification.

35. COMMENT: The EDCs recommend that a more immediate cost-recovery mechanism (outside of a base rate proceeding) be made available with respect to additional costs for vegetation management incurred as a result of the proposed rules. These costs, which are associated with changes in the mechanical and operational vegetation management approach to the canopy in the lock out zone, including use of different equipment to reach new clearance height requirements, the resulting increased growth rates associated with trimming the canopy, and resulting increases in the number of hazard trees to be addressed, among other things, can be expected to be on-going. (EDCs)

RESPONSE: Since these costs can be expected to be on-going, the base rate proceeding is the proper venue for cost-recovery issues to be addressed.

N.J.A.C. 14:5-9.4 Maintenance cycle

36. COMMENT: With respect to the changes contained in the proposed rules to N.J.A.C. 14:5-9.4(c), the EDCs recommend the following clarifying modifications (additions in bold; deletions in brackets):

(c) In addition to the maintenance required in (b) above, if an EDC becomes aware of any vegetation, **including hazard trees**, close enough to its energized conductors to affect reliability or safety prior to the next required vegetation management activity [or the presence of hazard trees], the electric utility shall ensure that necessary vegetation management is promptly performed as required under N.J.A.C. 14:5-9.6 and 9.7 **or 9.8, as applicable.** (EDCs)

RESPONSE: The Board recognizes that the proposed edits serve to clarify the intent of the rules and accepts this suggestion, noting that the presence of hazard trees remains a trigger to initiate vegetation management outside of the defined maintenance cycle. The addition of “or 9.8, as applicable” clarifies that this also applies to distribution line vegetation management, as this is consistent with the intent of the phrase “close enough to its energized conductors.”

N.J.A.C. 14:5-9.5 Hazard trees

37. COMMENT: This provision provides too much discretion to the EDC’s VM in easements affecting residential property. The VM should determine – in consultation with the residential property owner – if a particular tree meets the hazard tree definition. If there is a dispute, the rules should provide a dispute mechanism whereby BPU will be the initial umpire as to disputes, with a direct right of appeal to the New Jersey Superior Court. (Urgo)

RESPONSE: There is no discretion provided in this provision. If a hazard tree is identified by the EDC’s VM and the EDC is legally allowed to remove or mitigate the tree, it must do so. If the EDC is not legally allowed to do so, it must attempt to obtain permission. A residential property owner may not have the expertise to offer relevant consultation as to whether a particular tree meets the hazard tree definition, whereas the EDC VM must be formally educated. Chapter 14 already provides that an aggrieved party may file a formal or informal complaint to address practices of the EDCs, including vegetation management concerns. Also, N.J.A.C. 14:5-9.3(g) provides that an EDC, upon written request from a municipality, may suspend the requirements of Subchapter 9 when certain conditions are met.

N.J.A.C. 14:5-9.6 Technical standards for vegetation management

38. COMMENT: The EDCs provide the following grammatical and/or stylistic comments for the Board's consideration in connection with this section:

- In the introductory provision of N.J.A.C. 14:5-9.6(a), the word "thereto" at the end of the paragraph is unnecessary; and
- In N.J.A.C. 14:5-9.6(a)1 through 3 and 5, the Board should consider using the defined acronym "ANSI" for each reference to the American National Standards Institute.

Also, the EDCs recommend the inclusion of the following resource in the list provided in subsection (a), insofar as this resource contains applicable standards and accepted procedures:

Best Management Practices, Integrated Vegetation Second Edition 2014. This title is published by the International Society of Arboriculture and may be obtained at <http://www.isaarbor.com/store/product.aspx?ProductID=101> (EDCs)

RESPONSE: The stylistic changes suggested here do not add to the substance of the rules or clarify their intent and are not accepted, except that the Board will delete "thereto" as suggested. The Board declines adding the additional reference, noting that the list of references currently included is deemed sufficient guidance for EDC vegetation management.

N.J.A.C. 14:5-9.7 Transmission line vegetation management

39. COMMENT: Again, in practice, the EDCs clear cut every tree lying within the right of way. So reference to standards is not applicable to IVM as practiced. Also, the cited standards are no longer available or are outdated versions. (Urgo)

RESPONSE: The cited references are the result of extensive stakeholder input, which considered the appropriate version of the standard. IVM encourages compatible species in the border zone.

40. COMMENT: An EDC must comply with sediment soil and erosion control regulations prior to clearing any soil area in excess of one acre. The rule should reflect that. Also, the EDC should be required to post all permits and soil and erosion control plans on line or in their required reports. (Urgo)

RESPONSE: The Board agrees that an EDC must comply with soil erosion and control rules and this chapter does not relieve them of that obligation. The Board declines to require the addition burden of reporting and posting of all permits.

41. COMMENT: N.J.A.C. 14:5-9.7(f)1 provides too much discretion to the EDC. Trees and other woody vegetation should be removed in the border zone of residential properties only if the document, easement, indenture, deed, or other written land rights expressly permits the EDC to remove trees. The burden needs to be shifted in residential settings. Also, the Board's response to comments in prior rulemakings on impact of value to residential property advised that by compensating residential property owners for the loss of trees due to IVM would provide those owners with a windfall, subsidized by other rate payers. Are not the affected property owners subsidizing all other rate payers by shouldering the costs of the IVM due to the lost value of their property? The Board needs to balance these costs in some fashion, either by permitting property owners to have more discretion into the input of the "other factors" in the IVM definition, or set up an ombudsman to deal with valuation issues on a case-by-case basis. (Urgo)

42. COMMENT: BPU's allowance of the denuding of residential areas by clear cutting does not take into consideration the loss in value of trees to residential property. (Urgo)

RESPONSE TO COMMENTS 41 AND 42: Given the magnitude of tree damage that resulted from Hurricane Irene and Superstorm Sandy, a balance must be struck where trees are located near the electric system. An EDC's right to conduct vegetation management is permitted or restricted by the right-of-way document, easement, indenture, deed, or other land rights held by the EDC. This paragraph recognizes that under certain circumstances, the EDC is allowed to leave trees within the transmission ROW. Compensation for obtaining the rights an EDC holds relative to real property were addressed at the time of acquisition of the right.

43. COMMENT: BPU did not take into account the impact on residential properties from increased storm damage due to removal of trees. Please see "Wind and Tree—Lesson Learned From Hurricanes,"

University of Florida (which the commenter supplied to the Board). (Urgo)

RESPONSE: The cited work specifically states, "A healthy urban forest is composed of trees that maximize ecosystem benefits while being able to withstand natural and anthropogenic stresses and disturbances, such as wind from hurricanes and tropical storms, flooding, pollution, etc." This is aligned with the intent of the IVM procedures outlined in Subchapter 9, whereby vegetation appropriate to its surroundings is encouraged. This is reflected in the Subchapter 9 rule proposal.

44. COMMENT: The rulemaking amends N.J.A.C. 14:5-9.7(f)3 by removing any restriction or qualification regarding trees located within an inactive transmission corridor. The EDCs note that they did not object to this proposed modification during the stakeholder process. However, after further consideration, the EDCs believe that the change set forth in the rulemaking is unnecessary and, possibly, short-sighted, relative to potential future transmission needs, and in terms of prudent planning for the prospect of future transmission development insofar as:

(1) Paragraph (f)3 tracks the standard set forth in paragraph (f)2 for topography sloped in excess of 30 degrees, thus maintaining the coordination of a minimum standard applicable to both types of corridors; and

(2) A currently inactive transmission corridor may not remain inactive and the conversion of such corridor from inactive to active in order to serve the public should not be made more difficult as a result of changes to existing Board policy. (EDCs)

RESPONSE: Upon further consideration of the proposed amendment, the Board agrees that standards for inactive transmission corridors are necessary to prevent overgrowth where future transmission lines may be sited. The Board has determined not to adopt the proposed amendments to N.J.A.C. 14:5-9.7(f)3.

N.J.A.C. 14:5-9.8 Distribution line vegetation management

45. COMMENT: Rate Counsel recommends that the Board establish a working group among the EDCs to define what constitutes the "first: protective device, and for the EDCs to provide a quantified estimate of the linear distance that would be encompassed by this proposed language." (RC)

RESPONSE: The language in the proposed revision is the result of an extensive stakeholder process involving the Board, Rate Counsel, the EDCs, the New Jersey Department of Environmental Protection, and other interested parties. The Board feels that sufficient attention has been given to this matter at this time, but recognizes that it has the authority to establish a working group in the future if the need arises.

46. COMMENT: The EDCs recommend that N.J.A.C. 14:5-9.8(b)1 be revised to use the defined term "lock out zone" in the text of the paragraph without repeating the substance of the definition within the same provision.

Reference to the EDC's engineering department simply designates the appropriate division of responsibility for determining the parameters of a lock out zone for any particular circuit without a protective device. This is a technical judgment, which is the province of the EDC's engineering department and not the EDC's vegetation management function.

The EDCs propose the following modifications to this paragraph (additions in bold; deletions in brackets):

1. Starting on January 1, 2016, vegetation management practices shall include removal of all overhanging vegetation from [distribution line segment from the substation/switching station to] the [first protective device () lock out zone]] on the distribution [line] **circuit**. For circuits that do not have a protective device, the EDC's **engineering department** [VM], will designate the area referred to as the lock out zone, **if applicable**. (EDCs)

RESPONSE: Substituting the defined term "lock out zone" in place of the definition within this paragraph does not modify the meaning of the paragraph. The substitution of circuit for line is stylistic and serves to provide consistency with the next sentence. Therefore, these two suggestions will be made. With respect to who designates the lock out zone on a circuit that does not have a protective device, the EDCs make a valid point that the engineering department is involved in this process. However, there must be an emphasis on the location of trees in proximity

to the electric distribution system when defining the lock out zone. Adding the term “engineering department and” VM clarifies that both departments are involved in the determination of the lock out zone. The Board also notes that the addition of “if applicable” is unnecessary. There must always be a designated lock out zone.

N.J.A.C. 14:5-9.12 Penalties

47. COMMENT: The proposed penalty is too lenient and will not deter violations. BPU should employ a penalty matrix like NJDEP that takes into consideration the gravity of the violator’s conduct and other relevant circumstances. (Urgo)

RESPONSE: The proposed penalty language states that the EDC may be subject to monetary penalties up to the maximum permitted by law. The Board asserts that this language is not too lenient. Violations of this chapter will be subject to review by the Board and will be subject to penalties appropriate with the infraction as determined by the Board.

48. COMMENT: The version of this section appears to broaden beyond the Board’s statutory authority by introducing the concepts of “maximum penalty” and “as permitted by law.”

The EDCs believe that the rulemaking introduces an unwarranted degree of uncertainty as to the nature, the potential imposition, and the range or extent, of the penalties that the Board may contemplate as being “permitted by law” for an EDC’s failure to comply with the vegetation management rules. Therefore, in the interest of avoiding such risk, the EDCs propose that N.J.A.C. 14:5-9.12(b) be modified as follows:

(b) An EDC that violates this subchapter may be subject to monetary penalties for each day the violation occurs. The Board shall notify the EDC of the violation(s) in writing. Upon receipt of the written notice of violation, the EDC shall have five business days to correct the violation(s). Any failure to correct the violation shall subject the EDC to penalties as determined by the Board per day for each violation, calculated from the day such written notice was received by the EDC, **consistent with the Board’s statutory authority** [and up to the maximum penalty permitted by law].

(EDCs)

RESPONSE: The proposed change is stylistic in nature without adding any further clarity to the rule. As such, the Board declines to adopt it.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq., require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The National Electric Reliability Corporation (NERC) standard FAC-003, Transmission Vegetation Management, applies only to transmission lines (69 kilovolts and above) that are classified as an element of an Interconnection Reliability Operating Limit (IROL). While New Jersey EDCs operate a number of transmission lines that are not so classified, the loss of any of these lines may cause wide spread outage to customers in New Jersey. Therefore, Chapter 5 requires all transmission lines in New Jersey to meet the NERC Minimum Vegetation Clearance Distances, a spark over distance, and also require the EDCs to remove all vegetation within the relevant EDC’s rights of way, such that no vegetation will fall into the line (N.J.A.C. 14:5-9.7(e)1). The Board’s rules and adopted amendments also set forth vegetation management requirements for distribution lines that are not subject to the NERC FAC-003.

N.J.A.C. 14:5-6.1 contains the adoption by reference of the Uniform System of Accounts for Classes A and B Electric Utilities that have been promulgated by the Federal Energy Regulatory Commission (FERC), as well as any subsequent amendments, revisions, deletions, and corrections, which FERC may make thereto. The remainder of the subject matter of the rules readopted with amendments is not the subject of any Federal law, rule, or regulation.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 14:5.

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

SUBCHAPTER 1. SCOPE AND APPLICABILITY

14:5-1.2 Definitions

For the purposes of this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1.

“Agricultural crop” means a plant that is grown in significant quantities to be harvested as food, livestock fodder, or for another economic purpose. This term includes, but is not limited to, landscape nursery stock and Christmas tree plantation stock.

“Annual System Performance Report” or “Annual Report” means an annual report containing the information requested in N.J.A.C. 14:5-8.8. This report is to be submitted to the Board by May 31 of each year.

“ANSI” means the American National Standards Institute. ANSI codes and documents may be obtained at www.ansi.org.

“Arboriculture” means the cultivation of trees, shrubs, and other woody plants.

****“Benchmark” means the five-year average (2010-2014) of CAIDI and SAIFI or a value determined by the Board.***

...

“Border zone” means the space from the edge of the transmission line wire zone to the outer boundary of the right of way.

“Contractor” means a person or entity, other than the Board, with which a utility contracts to perform work, furnish information, or provide material. This term includes all subcontractors engaged by a contractor to perform any of the obligations required by a contract.

...

“Danger tree” is any tree on or off the right of way that could contact electric supply lines if it were to fall.

...

“Distribution line” means a primary electric voltage line, wire, or cable operating at greater than 600 volts, including supporting structures and appurtenant facilities that would not be considered a transmission line.

...

“Electric overhead transmission corridor” refers to the expanse of land over which electric transmission lines are located. The corridor may be ***[compromised] *comprised*** of multiple electric utility rights-of-way and/or circuits. The EDC may own the land in fee, ***have a leasehold interest,*** own an easement, or have certain franchise, prescription, or license rights to construct and maintain the lines with respect to such land.

“Electric utility arborist” means a person engaged in the profession of electric utility vegetation management who, through appropriate certifications, experience, education, and related training, possesses the competence to provide for or supervise, an EDCs integrated vegetation management program. The person, at a minimum, must be certified as a Utility Specialist by the International Society of Arboriculture and also as a Certified Arborist by the International Society of Arboriculture.

“Energized conductor” means an electric circuit or piece of equipment through which electricity is flowing or usually flows. This term includes both distribution and transmission circuits and equipment.

“Grass” means a type of plant with jointed stems, slender flat leaves, and spike-like flowers.

“Hazard tree” is a structurally unsound tree on or off the right of way that could strike electric supply lines when it fails. Structural unsoundness distinguishes a hazard tree from a danger tree, such that while all hazard trees are danger trees, not all danger trees are hazard trees.

“IEEE” means a professional association for the advancement of technology, which was originally named the Institute of Electrical and Electronic Engineers. The IEEE is located at 445 Hoes Lane, Piscataway, NJ 08854. Further information can be obtained on the IEEE website at <http://www.ieee.org>.

“Inactive transmission line corridor” means that unused segment of the right of way that does not have transmission towers or transmission lines overhead.

“Integrated vegetation management” or “IVM” means a system of managing plant communities whereby vegetation managers set

objectives, identify compatible and incompatible vegetation, consider action thresholds, and evaluate, select, and implement the most appropriate vegetation control method(s) to achieve those objectives, based on the methods' environmental impact and anticipated effectiveness, along with site characteristics, security, economics, current land use, and other factors.

...

"Interruption, unscheduled" means any interruption of electric service that is not an "interruption, scheduled."

"Lock out zone" refers to the portion of the EDC's distribution circuit, which begins at the substation or switching station and continues to the first protective device.

"Major event" means any of the following:

1.-4. (No change.)

Interruptions occurring during a major event in one or more operating areas shall not be included in the EDC's CAIDI and SAIFI calculations of those affected operating area(s). However, interruption data for major events shall be collected, according to the reporting requirements outlined in N.J.A.C. 14:5-8.9 and 8.10.

"Minimum reliability level" means the minimum acceptable reliability as measured by CAIDI and SAIFI data as specified in N.J.A.C. 14:5-8.10. Performance equal to or better than the minimum reliability level is acceptable. Performance that is worse than the minimum reliability level is unacceptable and may be subject to penalty.

"Mitigate" means the process of diminishing risk associated with hazard trees through application of prudent IVM techniques, which include tree removal or pruning, and practical engineering solutions used in the judgment of the vegetation manager to make safe and eliminate or adequately reduce the risks of the hazard tree to the distribution system.

"NERC" means the North American Electric Reliability Corporation.

...

"Right of way" or "ROW" means less than fee interest in property, which gives a public utility a limited right to use land owned by another person or entity for the purpose of transmitting or distributing electricity. This right is typically memorialized in an easement. This term also includes the parcel of land for which a public utility holds a right of way or easement.

...

"Transmission line" means an electrical line, wire, or cable, (including the supporting structures) and appurtenant facilities that transmits electricity from a generating plant to electric substations or switching stations. An electric transmission line usually has a rating exceeding 69 kilovolts.

"Tree" means a tall perennial woody plant with a main trunk and branches forming a distinct elevated crown.

"Vegetation" means trees and other plants.

"Vegetation management" means the removal of vegetation or the prevention of vegetative growth, to maintain safe conditions around energized conductor(s) and ensure reliable electric service. Vegetation management consists of biological, chemical, cultural, manual, and mechanical methods to control vegetation in order to prevent hazards caused by the encroachment of vegetation on energized conductor(s), and to provide utility access to the conductor.

"Vegetation manager" or "VM" means an electric utility arborist, who is employed by an EDC to supervise and ensure the EDC's compliance with this chapter.

"Wire zone" means the land located directly under the widest portion of a transmission line. For a horizontal transmission line, the wire zone is bounded on each side by a location on the ground that is directly under the outermost transmission wire or the transmission tower, whichever is wider. For a vertical transmission array, the width of the wire zone shall be determined using the minimum safe distance specified in the North American Electric Reliability Corporation (NERC) FAC-003, version three, which is incorporated herein by reference, as amended and supplemented, and available at www.nerc.com.

"Woody plant" means any vascular plant that has a perennial woody stem and supports continued vegetative growth above ground from year to year and includes trees.

SUBCHAPTER 2. PLANT

14:5-2.1 Plant construction

(a) The construction and installation of plant and facilities of EDCs must be in accordance with all of the following, as they applied at the time of construction:

1.-2. (No change.)

3. The 2012 National Electrical Safety Code, which is available at <http://standards.ieee.org/nesc/>.

(b) (No change.)

SUBCHAPTER 3. SERVICE

14:5-3.2 Adequacy of service

(a) EDCs supplying electrical energy on a constant potential system shall adopt and maintain a standard *[average value of]* ***nominal*** voltage as measured at the point of attachment to the customer's wiring; and the normal variations, as measured by a standardized voltmeter, shall not vary for periods exceeding five minutes for *[service supplied at 150 volts or less to ground]* ***all secondary voltages*** more than five percent above, nor more than five percent below said standard *[average]* ***nominal*** voltage for said location, which is in force at the time; provided, however, the variations in voltage caused by the operation of apparatus in the customer's premises in violation of the utility's rules, the action of the elements, or other causes beyond the EDC's control shall not be considered a violation of this provision.

(b) (No change.)

SUBCHAPTER 7. ELECTRIC TRANSMISSION LINES

14:5-7.1 Requirements for electric transmission lines

(a) (No change.)

(b) An entity that conducts vegetation management under an overhead transmission line shall comply with the standards for vegetation management set forth in N.J.A.C. 14:5-9.

SUBCHAPTER 8. ELECTRIC DISTRIBUTION SERVICE RELIABILITY AND QUALITY STANDARDS

14:5-8.1 Purpose and scope

(a) (No change.)

(b) *[This]* ***The rules in this*** subchapter, which include requirements for data maintenance, records retention, and service interruption information, establish*[es]* standards to measure the reliability of service on an annual, quarterly, and as needed basis under all operating conditions except major events. Major events shall be examined on a case-by-case basis to determine whether or not the EDC's preparation and response were adequate. It is the general obligation of a regulated EDC to provide sufficient resources in order to provide safe, adequate, and proper service to its customers. The Board may also consider other factors in determining whether or not an EDC has provided adequate service.

(c)-(d) (No change.)

14:5-8.2 Reliability performance levels

(a) Each EDC shall take reasonable measures to perform better ***(that is, to have lower numerical values)*** than the minimum reliability levels ***for CAIDI and SAIFI*** in N.J.A.C. 14:5-8.5.

(b) Performance that ***[falls below]* *is worse (that is, that has higher numerical values) than*** the minimum reliability levels ***for CAIDI and SAIFI*** in this subchapter is a violation of this chapter and may be subject to penalty.

14:5-8.3 Service reliability

(a)-(b) (No change.)

(c) Interruptions shall not be reduced by characterizing a sustained interruption as a series of momentary event interruptions. Electric service interruptions shall be reported in accordance with N.J.A.C. 14:3-3.7.

14:5-8.5 Individual circuit reliability performance

(a)-(b) (No change.)

(c) An EDC that files an Annual Report under N.J.A.C. 14:5-8.8, which identifies one or more operating areas ***[that have values above]***

with performance that is worse (that is, that has higher numerical values) than the minimum ***[performance]* *reliability*** level for CAIDI and SAIFI, shall review its previous two ***[annual reports]* *Annual Reports*** for purposes of addressing operating area reliability performance.

(d) If ***an EDC identifies*** one or more operating areas ***[has values higher than]* *with performance that is worse (that is, that has higher numerical values) than*** the minimum ***reliability*** performance level for CAIDI and SAIFI in two of the past three ***[annual reports]* *Annual Reports***, the EDC shall further examine its equipment and circuits for causes of systemic outages, shall implement corrective measures as required under (b) above, and shall report on these circuits and corrective measures as required under N.J.A.C. 14:5-8.8(g).

14:5-8.6 Inspection and maintenance programs

(a) (No change.)

(b) Each EDC shall submit to the Board, in the Annual System Performance Report, compliance plans for the inspections, maintenance, and recordkeeping required in this subchapter, including those related to vegetation management as required under N.J.A.C. 14:5-8.8(c)9. These compliance plans shall include individual programs aimed at reducing specific outage causes.

(c) (No change.)

(d) Each EDC shall track and report hazard trees on the distribution system that cannot be mitigated by the EDC.

1. The EDC will conduct a visual Level 1 identification (as per ANSI A300, Part 9) and recording of hazard trees. This process will only be performed by appropriately trained professionals designated by the VM as part of the EDC's planned vegetation management work for each cycle year of the four-year cycle. Data for the preceding performance year regarding hazard trees that cannot be mitigated by the EDC should be provided to the Board on an annual basis.

2. Each EDC shall specifically identify hazard trees deemed a potential threat to the distribution system by the EDC's vegetation management professionals, both within and outside of the ***[existing easement or]*** ROW for the infrastructure, that the EDC cannot mitigate due to either municipal or property owner resistance.

3. The EDCs shall provide the information required by N.J.A.C. 14:5-9.9(d)2 in the Annual System Performance Report for trees identified in (d)1 above. The EDCs shall not provide specific location or customer or property owner data as part of the information contained in the Annual System Performance Report.

14:5-8.7 Quarterly reporting

(a) On a quarterly basis, each EDC shall prepare and submit a report to the Board's Energy Division providing the following information regarding all outages experienced and recorded during each quarter (other than momentary outages as defined by IEEE 1366 and major events, which shall be excluded). Each quarterly report shall be due within 60 days of the end of the quarter.

1. The quarterly outage reports shall provide the following information:

- i. Outage type (primary, secondary, or service line, specific equipment);
- ii. Circuit ID and type;
- iii. Source substation;
- iv. Number of customers on the circuit;
- v. The municipality where the outage occurred;
- vi. Number of customers affected by this outage;
- vii. Start date/time of the outage;
- viii. Total duration of outage in minutes; and
- ix. The cause of outage (for example, vegetation, equipment failure, outside influence).

2. Each EDC may use its own method for identifying the type of outage, provided that each type of outage is clearly described.

3. The EDC shall provide an explanatory summary of any unique circumstances or potential problems identified and include a glossary of terms.

4. All outage data shall be submitted in a Microsoft Office Excel spreadsheet file. The explanatory summary may be submitted in another

electronic document format compatible with Microsoft Office or Adobe Acrobat.

(b) The EDCs shall provide an additional Microsoft Office Excel spreadsheet detailing substation outage information.

1. ***[The]* *For each outage due to substation specific equipment, the*** report shall include the substation ID, ***[number of outages experienced at each substation due to substation specific equipment,]*** duration of ***the*** outage***[s]***, and the number of customers affected by each outage.

2. The EDCs shall provide an explanatory summary of any unique circumstances or potential problems identified. The summary analysis should highlight areas that the EDCs determine need to be addressed, such as reliability problems (local or systemic), equipment issues, mitigation plans, and plans to address high-outage areas.

3. The substation outage data shall be submitted in a Microsoft Office Excel spreadsheet file. The explanatory summary may be submitted in another electronic document format compatible with Microsoft Office or Adobe Acrobat.

(c) The quarterly reports shall be submitted in an electronic form, both in redacted and unredacted versions, in accordance with the Board's rules on confidential information at N.J.A.C. 14:1-12, to protect security sensitive and other confidential information, such as circuit ID, substation information, circuit type and circuit location other than municipality, and number of customers on the circuit.

14:5-8.8 Annual System Performance Report

(a) Each EDC shall submit to the Board an Annual System Performance Report by May 31 of each year. The EDC shall also submit a copy of the report to Rate Counsel at the same time, which may be submitted electronically, at the discretion of the EDC.

(b) (No change.)

(c) The ***[annual report]* *Annual Report*** shall also include a summary of:

1.-7. (No change.)

8. The number of personnel (broken down by bargaining and non-bargaining unit) in each EDC's operating area(s) and a summary statement referencing each EDC's training program;

9. The vegetation management work and planned activities as required in N.J.A.C. 14:5-9.7; and

10. Hazard tree information as required in N.J.A.C. 14:5-8.6(d)3.

(d)-(f) (No change.)

(g) Each EDC shall include in its ***[annual report]* *Annual Report*** eight percent of its worst-performing circuits identified in each of its operating areas in N.J.A.C. 14:5-8.5(b) based on the reliability performance parameters in N.J.A.C. 14:5-8.5(a) and the corrective actions taken or to be taken.

1. The EDCs will list the circuits that were:

i. Addressed and the work completed to address them during the applicable performance year; and

ii. Identified at the end of the applicable performance year to be addressed in the next performance year.

2. The EDCs will implement mitigation for these circuits as soon as possible but not later than one year from submission of the annual report with the goal of improving the circuit's reliability performance metrics.

3. If an EDC contends that the mitigation work cannot be implemented within that timeframe, the EDC must provide a detailed explanation to the Board of the reasons.

(h) The Board may require EDCs to submit alternative reports covering a time period other than that covered by the ***[annual report]* *Annual Report***.

14:5-8.9 (No change in text.)

14:5-8.10 Establishment of reliability service performance level

(a) For each of an EDC's operating areas, the ***[CAIDI and SAIFI]*** reliability performance level***[s shall be]* *is established*** as follows:

***[1. For Public Service Electric & Gas Company, the CAIDI minimum reliability level shall be 66.35 customer interruption minutes. The SAIFI minimum reliability level shall be 0.80 customer interruptions;**

2. For Jersey Central Power & Light Company, the CAIDI minimum reliability level shall be 122.25 customer interruption minutes. The SAIFI minimum reliability level shall be 1.19 customer interruptions;

3. For Rockland Electric Company, the CAIDI minimum reliability level shall be 128.45 customer interruption minutes. The SAIFI minimum reliability level shall be 1.23 customer interruptions; and

4. For Atlantic City Electric Company, the CAIDI minimum reliability level shall be 107 customer interruption minutes, reduced to 96 customer interruption minutes by 2016. The SAIFI minimum reliability level shall be 1.45 customer interruptions, reduced to 1.30 customer interruptions by 2016.*

***1. The operating area's CAIDI benchmark standard is set at the five-year average CAIDI for the years 2010-2014;**

2. The operating area's SAIFI benchmark standard is set at the five-year average SAIFI for the years 2010-2014;

3. The minimum reliability level for each operating area is attained when its annual CAIDI and SAIFI are no higher than the CAIDI and SAIFI five-year benchmark standard plus 1.5 standard deviations.*

(b)-(c) (No change.)

14:5-8.11 Prompt restoration standards

(a) EDCs shall begin the restoration of service to an affected service area within two hours of notification by two or more customers or identification by their outage management system of any loss of electric service affecting those customers served electrically by the same affected circuit protective device within the system. Beginning restoration of service shall be defined as the essential or required analysis of the interruption and dispatching an individual or crew to an affected area to begin the restoration process.

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

14:5-8.12 (No change in text.)

14:5-8.13 Penalties

(a) Civil administrative penalties for violations of the reporting and planning and program submission requirements set out in N.J.A.C. 14:5-8.3 through 8.9 and 8.11 shall be assessed as follows:

1.-2. (No change.)

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

SUBCHAPTER 9. ELECTRIC UTILITY LINE VEGETATION MANAGEMENT

14:5-9.1 Purpose and scope

This subchapter sets forth requirements that EDCs shall follow in managing vegetation in proximity to an energized conductor in order to ensure public safety and the efficient and reliable supply of electric power using integrated vegetation management and sound arboricultural practices.

14:5-9.2 (Reserved)

14:5-9.3 General provisions

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

(d) Each EDC shall employ a vegetation manager, who is an electric utility arborist. The VM shall be a utility employee, not a contractor. The electric public utility shall provide the VM with the authority and the resources to administer all aspects of the utility's vegetation management program, and the VM shall ensure that the electric public utility complies with this subchapter. The VM's name and contact information shall be posted on the electric utility's website and shall be included on all notifications provided pursuant to the notice requirements of N.J.A.C. 14:5-9.10.

(e) (No change.)

(f) In addition to the vegetation management work required under this subchapter, an EDC, at the sole discretion of the EDC's VM, may perform additional vegetation management work, on the EDC's distribution system, which is requested to meet the aesthetic desires of a municipality or a private property owner and which is brought to the attention of the EDC's VM before the EDC's vegetation management commences in a municipality or on a private property owner's property,

provided that the additional work requested will not impair the EDC's ability to meet the reliability and safety objectives of this subchapter, negatively impact the EDC's schedule of vegetation management work, or require incremental costs. An EDC that performs vegetation management on the EDC's distribution system at the request of a municipality, government agency, or private property owner, other than the vegetation management work required under this subchapter, may require the requesting party to pay any incremental cost above the EDC's cost to perform the vegetation management required by this subchapter. This *[work]* ***subsection*** shall not apply to transmission line vegetation management required under N.J.A.C. 14:5-9.7.

(g) Upon a written request from a municipality, an EDC may, but is not required to, temporarily suspend compliance with one or more of the vegetation management requirements of this subchapter, within the following limits:

1. The suspension of compliance shall apply only to the distribution system, and shall not apply to transmission line vegetation management required under N.J.A.C. 14:5-9.7;

2.-3. (No change.)

4. If the suspension results in additional costs to the EDC due to lack of tree trimming or other vegetation management, the municipality shall reimburse the EDC for additional costs.

(h) (No change.)

(i) Each EDC shall perform vegetation management on a pro rata basis over the four-year cycle identified in N.J.A.C. 14:5-9.4(b).

14:5-9.4 Maintenance cycle

(a)-(b) (No change.)

(c) In addition to the maintenance required in (b) above, if an EDC becomes aware of any vegetation*, **including hazard trees***, close enough to its energized conductors to affect reliability or safety prior to the next required vegetation management activity *[or the presence of hazard trees,]* the electric utility shall ensure that necessary vegetation management is promptly performed as required under N.J.A.C. 14:5-9.6 and 9.7 ***or 9.8, as applicable***.

(d) If the EDC determines that vegetation described under (c) above poses an immediate safety hazard, the EDC shall not be subject to the notice requirements at N.J.A.C. 14:5-9.10. However, the EDC shall, to the extent practicable, make a reasonable effort to notify the customers and property owners described at N.J.A.C. 14:5-9.10(b)1 and 2 prior to performing the vegetation management.

14:5-9.5 Hazard trees

(a) If the EDC's VM determines that a tree meets the definition of a hazard tree, the EDC shall determine if it is permitted (for example, by easement, tariff, or law) to remove or mitigate the hazard tree. If the EDC determines that it is not permitted to remove or mitigate the hazard tree, the EDC shall attempt to obtain permission to remove or mitigate the hazard tree.

(b) If permission is granted or it is determined that permission is not necessary under (a) above, the EDC shall arrange to remove or mitigate the hazard tree as part of the scheduled vegetation management work to be performed during the current year, unless the VM determines that the condition of the hazard tree poses an imminent risk of failure, in which case, the EDC shall remove or mitigate the hazard tree as soon as practicable.

(c) The EDC is required to comply with the recording and reporting requirements of this subchapter as set forth at N.J.A.C. 14:5-9.9(d)2.

14:5-9.6 Technical standards for vegetation management

(a) Each EDC shall ensure that vegetation management conducted on its energized conductors is performed in accordance with the standards and accepted procedures set forth in the following publications, which are incorporated herein by reference, as amended and supplemented *[thereto]*:

1. Part 1 of the document entitled Tree, Shrub, and Other Woody Plant Maintenance-Standard Practices (Pruning). This document, also known as ANSI A300, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

2. Part 7 of the document entitled for Tree Care Operations-Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices

(Integrated Vegetation Management A. Utility Rights-Of-Way). This document, also known as ANSI A300, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

3. Part 9 of the document entitled for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Tree Risk Assessment). This document, also known as ANSI A300, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

4. Best Management Practices, Utility Pruning of Trees, 2004. This title is published by the International Society of Arboriculture and may be obtained at <http://www.isaarbor.com/store/product.aspx?ProductID=65>;

5. Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements, 2012. This document, also known as ANSI Z133.1, is published by the American National Standards Institute, and may be obtained at www.ansi.org;

6. Native Trees, Shrubs And Vines For Urban And Rural America: A Planting Design Manual for Environmental Designers, by Hightshoe, G.L., 1987, is published by John Wiley and Sons and may be obtained from various resellers;

7. Manual of woody landscape plants 5th Ed., by Michael A. Dirr. Stipes Publishing, LLC; 5th edition (August, 1998), and may be obtained from various resellers;

8. Hortus Third: A concise dictionary of plants cultivated in the United States and Canada, by L.H. Bailey Hortorium, 1976, and may be obtained from various resellers; and

9. National Electric Safety Code C2-2012. ISBN: 9780738165882 is published by the Institute of Electrical and Electronics Engineers, Inc., and may be purchased at www.ieee.org.

(b) Where multiple standards or methods listed at (a) above would apply or conflict, the VM or his or her designee shall select the most appropriate standard or method under the circumstances.

(c) Each EDC shall develop its own vegetation management standards and guidelines, which shall be consistent with this subchapter. In developing these standards and guidelines, an EDC shall prioritize work based upon:

1. (No change.)

2. The voltage of the affected energized conductor;

3. The relative importance of the affected energized conductor in maintaining safety and reliability; and

4. The presence and condition of any hazard trees.

(d) (No change.)

(e) Each EDC's vegetation management standards and guidelines shall cover, at a minimum, all of the following activities:

1. (No change.)

2. The procedures for handling the removal of hazard trees;

3. Vegetation control around poles, substations, and other energized conductors;

Recodify existing 3.-6. as 4.-7. (No change in text.)

(f)-(g) (No change.)

14:5-9.7 Transmission line vegetation management

(a) In addition to the other requirements of this subchapter, transmission lines, as defined at N.J.A.C. 14:5-1.2, are subject to the requirements in this section.

(b) At a minimum, each EDC shall meet the requirements for minimum clearances between any transmission line and the closest vegetation, which are set forth in the North American Electric Reliability Corporation (NERC) FAC-003-3, which is incorporated herein by reference, as amended and supplemented and available at www.nerc.com.

(c)-(d) (No change.)

(e) In addition to meeting the other requirements in this section, each EDC shall ensure that the following requirements for transmission lines are met, except for those instances set forth in (f) below:

1. (No change.)

2. Only grass vegetation shall be permitted to grow within three feet of any structure;

3.-5. (No change.)

(f) Notwithstanding (d) and (e) above, an EDC may leave trees and other woody vegetation within the transmission right of way under any of the following conditions:

1.-2. (No change.)

3. Trees ***are*** located within an inactive transmission corridor ***and at mature height will allow a space of more than 150 percent of the clearance requirements for an electrical path to ground set forth in the National Electric Safety Code, § 232 to § 235***.

(g) For the purposes of this section, the mature height of all vegetation, including agricultural crops, shall be determined in accordance with the publications listed in N.J.A.C. 14:5-9.6(a), or equivalent publications. Each EDC shall provide lists of acceptable species on its website or in a publication provided free of charge upon request by a ratepayer.

(h) Each year, by May 31, the EDC shall develop a schedule for transmission line vegetation management, which shall be included in the EDC's annual system performance report as required by N.J.A.C. 14:5-8.8. The schedule shall:

1.-3. (No change.)

(i) The EDC shall post the transmission line vegetation management schedule required under (h) above on its website and distribute it to affected municipalities and public authorities in accordance with N.J.A.C. 14:5-9.10.

14:5-9.8 Distribution line vegetation management

(a) In addition to the other requirements of this subchapter, distribution lines are subject to the requirements in this section.

(b) Distribution lines shall be inspected and trimmed to maintain the horizontal clearance distance appropriate for the operating voltage and other factors as specified by the EDC's vegetation management standards as required by N.J.A.C. 14:5-9.6.

1. Starting on January 1, 2016, vegetation management practices shall include removal of all overhanging vegetation from ***[distribution line segment from the substation/switching station to]*** the ***[first protective device (]*lock out zone*[*])]*** on the distribution ***[line]* *circuit***. For circuits that do not have a protective device, the EDC's ***engineering department and*** VM will designate the area referred to as the lock out zone.

2. Mature trees may be exempt from the above requirements at the reasonable discretion of the EDC's VM as it pertains to the lock out zone.

14:5-9.9 Training, recordkeeping, and reporting

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

(d) Each EDC shall include a summary of the information required in (c) above about its vegetation management work during the past year, and planned activities for the following year in the Annual System Performance Report to be filed with the Board by May 31 of each year. The information provided under this requirement shall include:

1. At a minimum, the name of each municipality in which the EDC conducted vegetation management during the reporting year, and all circuits subject to such vegetation management; and

2. A listing of distribution circuits by municipality indicating the number of hazard trees for which permission to remove was denied.

(e) To track the completion of each vegetation management cycle for inspection and trimming required by this subchapter, each EDC shall include the following tables in the Annual System Performance Report to be filed with the Board by May 31 of each year:

1. A table that includes the following columns:

i. Percentage of electric overhead transmission corridor mileage inspected (and trimmed as necessary) for each of the three years prior to the reporting year of the Annual System Performance Report (three columns);

ii. Percentage of electric overhead transmission corridor mileage inspected for the reporting year of the Annual System Performance Report (one column); and

iii. Projected percentage of electric overhead transmission corridor mileage to be inspected for each of the three years following the reporting year of the Annual System Performance Report (three columns); and

2. A table that includes the following columns:

i. Percentage of distribution circuit length inspected (and trimmed as necessary) for each of the three years prior to the reporting year of the Annual System Performance Report (three columns);

ii. Percentage of distribution circuit length inspected (and trimmed as necessary) for the reporting year of the Annual System Performance Report (one column); and

iii. Projected percentage of distribution circuit length to be inspected (and trimmed as necessary) for each of the three years following the reporting year of the Annual System Performance Report (three columns).

14:5-9.10 Public notice of planned vegetation management activity

(a)-(e) (No change.)

(f) For municipal governments, each EDC shall provide written notice of any pending vegetation management activities to a primary contact. For a municipality, the mayor, municipal clerk, or other person or position mutually agreed upon shall be the primary contact. For other government entities and for public authorities, the primary contact shall be selected by mutual agreement between the EDC and the entity or authority.

(g)-(h) (No change.)

14:5-9.11 (No change in text.)

14:5-9.12 Penalties

(a) (No change.)

(b) An EDC that violates this subchapter may be subject to monetary penalties for each day the violation occurs. The Board shall notify the EDC of the violation(s) in writing. Upon receipt of the written notice of violation, the EDC shall have five business days to correct the violation(s). Any failure to correct the violation shall subject the EDC to penalties as determined by the Board per day for each violation, calculated from the day such written notice was received by the EDC and up to the maximum penalty permitted by law.

(c)-(d) (No change.)

STATE

(a)

STATE PLANNING COMMISSION

Plan Endorsement Period of Endorsement

Adopted Amendment: N.J.A.C. 5:85-7.21

Proposed: October 20, 2014, at 46 N.J.R. 2105(a).

Adopted: July 15, 2015, by State Planning Commission, Gerald Scharfenberger, Secretary and Director of the Office for Planning Advocacy.

Filed: July 16, 2015, as R.2015 d.129, **without change**.

Authority: N.J.S.A. 52:18A-203.

Effective Date: August 17, 2015.

Expiration Date: August 21, 2015.

Summary of Public Comments and Agency Responses:

The Department received written comments from the following representatives of organizations:

1. Tim Dillingham, Executive Director, American Littoral Society (ALS);
2. Walter Lane, Director of Planning, Somerset County Planning Board;
3. Christine Marion, Planning Director, Morris County Planning Board;
4. Carol Ann Short, Chief Executive Officer, New Jersey Builders Association (NJBA);
5. Chris Sturm, Senior Director of State Policy, New Jersey Future (NJF);
6. Louis Joyce, President, New Jersey County Planners Association (NJCPA); and
7. Jean Public

COMMENT: The Somerset and Morris County Planning Boards, the NJBA, and NJCPA expressed support for the proposed amendments. All agree that given the time, effort, and expense expended on plan endorsements and center designations, as well as the lingering impacts of

the recession, the plan endorsements and center designations should be extended to prevent additional costs and economic damage.

RESPONSE: The State Planning Commission ("the Commission") is grateful for the commenters' support.

COMMENT: Jean Public expressed opposition for all permit extensions premised on the belief that interested parties should reapply when they desire to take action.

RESPONSE: Since February 2010, the recessionary low point for private sector employment in New Jersey, the State has created a significant number of jobs and has seen unemployment drop. Nevertheless, due to, among other things, the recession and its lingering impacts, the reality for many municipalities is that development and redevelopment projects have been delayed. Accordingly, development and redevelopment previously contemplated has not come to fruition at the pace once anticipated. Indeed, in December 2014, the Legislature passed and Governor Christie signed P.L. 2014, c. 84, which again extended the Permit Extension Act to December 31, 2015. That legislative action further underscores – but does not obviate – the need and appropriateness of these amendments.

Those economic realities must be viewed in light of other circumstances impacting municipalities relevant to plan endorsement and center designation. For example, for many municipalities the expense of re-establishing plan endorsements or center designations - costs that often times can equal hundreds of thousands of dollars - may be untenable. Given limited municipal resources, some towns are refocusing their limited resources to only the most essential services. In view of that reality, many municipalities would suffer a significant financial hardship in the near-term if required to re-establish a plan endorsement or center designation.

Those expenses must be juxtaposed with the impact of failing to re-establish plan endorsement or center designation. In short, failure to re-establish plan endorsement or center designations may only compound the problem for municipalities as these designations facilitate smart growth in myriad ways including eligibility for economic incentives and triggering of land use standards. Failure to maintain plan endorsement and center designation status would thus frustrate economic development and re-development, thereby perpetuating the economic circumstances that delayed economic growth in some areas.

Accordingly, these amendments will not only delay the incursion of significant costs by impacted municipalities (thereby allowing limited resources to be focused on other essential services), but will also ensure certainty for businesses in the near-term that are considering economic development and re-development projects.

COMMENT: The ALS expressed concern that, as evidenced by the aftermath of Superstorm Sandy, current development patterns resulting from the State's land use policies and municipal land use decisions are putting people and property in harm's way. ALS requested that the Commission work with municipalities to amend the boundaries of center designations to reflect current community needs, critical habitat preservation, water supply threats, water quality issues such as water recharge and storm water management, and coastal hazard risk, instead of instituting a blanket extension of center designations. Additionally, ALS requested that the Commission rely on updated information available in the Water Supply Master Plan, Water Quality Management Rules and County Plans, State and County Hazard Mitigation Plans, and other Statewide planning documents when planning sustainable and resilient communities.

RESPONSE: Much of the work suggested by ALS occurred when the centers were originally designated. Centers contain areas designated as protected or preserved in addition to areas for development, thereby eliminating the need to remove them from a given planning area for preservation's sake. Furthermore, center boundaries are not fixed. If a municipality voluntarily brings new information to the Commission – an ability currently possessed by municipalities and one unaffected by these amendments – that alters the bases underlying the adopted map, the Commission can make the needed alterations. N.J.A.C. 5:85-8.3. Finally, DEP still has significant jurisdiction over environmentally sensitive areas regardless of whether they are included in a designated center.

COMMENT: As an alternative to the current proposed amendment, NJF recommends that the Commission extend center designations in