

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan Management Program for On-site Wastewater Treatment Systems

Adopted Amendments: N.J.A.C. 7:50-2.11, 3.39 and 6.85

Proposed: June 15, 2009 at 41 N.J.R. 2392(a)

Adopted: December 11, 2009 by the New Jersey Pinelands Commission,
John C. Stokes, Executive Director

Filed: May 13, 2010 **with technical changes** not requiring additional
public notice.

Authorized by: New Jersey Pinelands Commission

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

Effective Date: June 7, 2010

Expiration Date: Exempt.

The New Jersey Pinelands Commission (Commission) is adopting amendments to Subchapters 2, Interpretations and Definitions; 3, Certification of County, Municipal and Federal Installation Plans; and 6, Management Programs and Minimum Standards, of the Pinelands Comprehensive Management Plan (CMP). The amendments and new rule were proposed on June 15, 2009 at 41 N.J.R. 2392(a). The adopted amendments relate to the management of on-site wastewater treatment systems in the Pinelands.

In association with publication of the proposed amendments in the June 15, 2009 issue of the New Jersey Register, the Pinelands Commission transmitted the proposal to each Pinelands municipality and county, as well as to other interested parties, for review and comment. Additionally, the Pinelands Commission:

- Sent notice of the public hearing to all persons and organizations which subscribe to the Commission's public hearing registry;
- Placed advertisements of the public hearing in the four official newspapers of the Commission, as well as on the Commission's own web page;
- Submitted the proposed amendments to the Pinelands Municipal Council pursuant to N.J.S.A. 13:18A-7f;
- Distributed the proposed amendments to the news media maintaining a press office in the State House Complex;
- Published a copy of the proposed amendments on its web page at www.nj.gov/pinelands; and
- Distributed press releases concerning the proposed amendments to the news media

Summary of Hearing Officer Recommendations and Agency Response:

A formal public hearing was held before the Commission staff on July 15, 2009. Four people attended the hearing; oral testimony on the rule proposal was provided by one individual. The hearing officer's recommendations are in accordance with the public comment and agency responses below.

Oral comments were recorded on magnetic tape which is on file at the Commission's office at 15 Springfield Road, New Lisbon, New Jersey. The record of this rulemaking is available for inspection in accordance with applicable law by contacting:

Betsy Piner

Pinelands Commission

P.O. Box 7

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Summary of Public Comments and Agency Responses:

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

The following individuals and organizations submitted comments:

1. David A. Henry, Health Officer, Princeton Regional Health Department
2. Michael C. Gavio, Burlington County Health Department
3. Steven Flara
4. Jacqueline B. Justice, Municipal Clerk, Dennis Township, on behalf of the Dennis Township Committee
5. John E. Baker, Jr., Council President, City of Estell Manor
6. Douglas M. Tomson, Director of Legislative Affairs, New Jersey Association of Realtors
7. Shamong Township Committee
8. Manchester Township Council
9. Tiffany CuvIELlo, PP, on behalf of the Pinelands Municipal Council
10. Abigail Fair, Water Resources Education, Association of New Jersey Environmental Commissions
11. John J. Dowling
12. Richard G. Bizub, Pinelands Preservation Alliance, Heather Saffert, Clean Ocean Action, and William decamp, Jr., Save Barnegat Bay

13. Sheila Myers, Councilwoman, City of Estell Manor
14. Mullica Township Committee
15. Fred Akers, River Administrator, Great Egg Harbor Watershed Association & River Council
16. Joseph Venezia, Mayor, City of Estell Manor
17. Atlantic County Board of Chosen Freeholders
18. Joseph M. Maher, AICP/PP, Department Head, Atlantic County Department of Regional Planning & Development
19. Patrick Dillon, Environmental Health Coordinator, Atlantic County Division of Public Health
20. Lee Rosensen, Pinelands Preservation Alliance and New Jersey Audubon Society

As a result of the public comments received on the proposed amendments, the Commission has decided not to adopt at this time that portion of the proposal related to standard septic systems. The Commission is adopting only that portion of the rule related to the management of advanced treatment technologies. In light of the current economic conditions facing all units of government, the Commission intends to support municipalities and counties in complying with the new septic system management requirements adopted by the New Jersey Department of Environmental Protection (NJDEP). In addition, the Commission will continue to rely upon existing NJDEP septic system design and construction regulations, as supplemented by Pinelands nitrogen and depth to seasonal high

water standards, and will rely upon local boards of health to confirm site, design and construction suitability. Moreover, the existing requirements of the mortgage lending industry for septic systems to be inspected and certified for realty title transfer are expected to identify and repair/replace a number of septic systems that exhibit evidence of malfunction.

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

1. COMMENT: Support for the proposed amendments was expressed by five parties. (1, 10, 12, 15, 20)

RESPONSE: The Commission appreciates the support from these commenters. The Commission anticipates that progress toward the implementation of comprehensive septic system management programs will be made more gradually than initially proposed in consideration of economic challenges. The Commission is committed to working with each Pinelands Area municipality and county toward attaining compliance with NJDEP's septic system management requirements and will make all of the materials developed by the Commission for Pinelands Area septic system management available to the local entities for use as guidance documents.

2. COMMENT: One commenter stated that the proposed amendments are a step in the right direction as the protection of groundwater from the effects of residential and commercial development is extremely important. (1)

RESPONSE: The Commission agrees with the commenter.

3. COMMENT: One commenter suggested that the Commission should focus on enforcing its current regulations and preventing pristine wilderness in the Pinelands from being destroyed by development. Law abiding homeowners should be left alone. (3)

RESPONSE: The Commission remains committed to implementing all of the provisions of the Pinelands CMP, including those rules that relate to preservation of the Pinelands. In addition, the Commission will work with local units of government to ensure that existing CMP regulations that govern the periodic inspection and pumping of septic systems are met. Pursuant to these existing regulations, law abiding Pinelands homeowners are currently inspecting and pumping out their septic systems every three years and are reporting that activity to local health departments.

4. COMMENT: Several commenters asserted that the proposed amendments represent an unfunded mandate being forced upon Pinelands municipalities who are already facing budget constraints. (4, 5, 7, 8, 13, 14, 16)

RESPONSE: The Commission disagrees that requiring Pinelands Area municipalities or other local entities to manage septic system use and maintenance constitutes an unfunded mandate. The Commission proposed rules that specifically provided flexibility in how municipalities or other local entities could finance the institutional management of septic systems. The proposed rules enable management programs to be paid for through user fees, paid by program participants and service providers, as opposed to being funded through the municipality's general funds. The Commission conducted extensive research into

the cost of administering a basic septic system management program and concluded that a basic management program could be administered in a manner that would require very low user fees, on the order of \$15 to \$25 every three years. Municipalities could elect to finance the management program in this way without stressing existing budgets. These user fee revenues could be used to cover the cost to inventory existing systems as well as administration of a system to track system maintenance.

5. COMMENT: Three commenters pointed out that many municipalities are under split jurisdiction, with a portion of their land areas in the Pinelands and a portion outside the Pinelands. There are practical difficulties in adopting a mandatory maintenance program which is not required statewide (outside the Pinelands). All homeowners within a municipality would not be treated equally. (9, 17, 19)

RESPONSE: The rules proposed by the Commission could be administered township-wide in those Pinelands municipalities with land both inside and outside the Pinelands, if desired by the municipality. The Pinelands rules satisfy the new NJDEP septic system management requirements and their adoption township-wide would simplify administration. Alternatively, towns choosing to adopt different management programs in Pinelands and non-Pinelands areas could do so. Importantly, the Pinelands CMP affords special protection to the resources of the Pinelands, even if this means that different standards apply within different areas of a municipality.

6. COMMENT: One commenter indicated that NJDEP will not be mandating a septic maintenance program as it would place too much of a burden on municipalities in light of current economic conditions. Instead, the commenter asserted that NJDEP will only be requiring municipalities (or counties) to compile a basic inventory of septic systems and send notices to homeowners to pump out their tanks. The proposed amendments are therefore more stringent than what is being enforced by DEP. (9)

RESPONSE: The Commission disagrees with the commenter. NJDEP has recently reaffirmed that its existing Water Quality Management Planning Rules require municipalities to manage septic systems within their jurisdiction by requiring the periodic inspection and pumping of systems. The NJDEP rules require municipalities to develop an inventory of septic systems, to develop a program to track system maintenance, and to implement a mechanism (such as an ordinance) to enforce compliance with the inspection and pumping requirements. The Commission's proposed rules would provide municipalities with a basic septic system management approach that would meet the NJDEP requirements. Although the Commission has decided not to adopt the septic system management rules that relate to standard septic system at this time, the Commission will make all related documents available to Pinelands Area municipalities for their use in complying with the DEP rules.

7. COMMENT: One commenter stated that NJDEP is already addressing concerns with septic management. The Commission should not try to claim "bragging rights" and perpetuate an interagency rivalry with NJDEP. (11)

RESPONSE: The Commission has a long history of working cooperatively with NJDEP and intends to continue to do so by assisting Pinelands Area municipalities in implementing the new NJDEP septic system management rules, and by adopting the proposed CMP amendments related to the use of Pinelands Alternate Design Wastewater Treatment Systems. It is important to note that much of the work done by the Commission toward developing a septic system management program in the Pinelands Area was enabled through generous grant funding provided to the Commission by NJDEP.

8. COMMENT: One commenter noted that NJDEP is currently introducing septic system maintenance requirements as part of the local Water Quality Management Plans to require counties and municipalities to enforce more stringent pollution reductions from such systems. The proposed amendments are intended to be consistent with DEP's rules and goals. (15)

RESPONSE: The NJDEP septic system management rules were adopted as part of the Department's Water Quality Management Planning Rules, effective July 7, 2008. The Commission agrees that the proposed CMP amendments were developed to prevent pollution from septic systems and were developed in harmony with the NJDEP's rules and goals.

9. COMMENT: One commenter stated that public education has proven to be the most important element of establishing successful management systems. (10)

RESPONSE: The Commission agrees that a well educated public is essential to the proper operation and maintenance of septic systems. In the

Commission's view, knowledgeable septic system owners will not only engage in proper operation and maintenance of their own system but will generally be more supportive of management programs that ensure a similar level of maintenance is being performed on all systems in the community.

10. COMMENT: One individual noted that the Commission has recently mandated the clustering of residential development in the Forest and Rural Development Areas, which will result in dozens of septic systems being located close together in large clusters, concentrating the density of septic pollution. It is therefore critical and appropriate for the Commission to mandate that towns enforce a higher level of septic system performance and maintenance to reduce or prevent any pollution consequences of the mandatory clustering. (15)

RESPONSE: The Commission agrees that septic system maintenance and municipal enforcement are important. Also, the Commission continues to encourage the use of decentralized community wastewater treatment systems in clustered development applications. Decentralized community treatment systems provide treatment, management and cost advantages over multiple individual systems.

11. COMMENT: One commenter stated that the proposed amendments are consistent with the water quality management goals of NJDEP, EPA and the Wild and Scenic Rivers (Great Egg Harbor, 17 of its tributaries, and two tributaries of the Maurice River). (15)

RESPONSE: The Commission agrees with the commenter. Water quality protection is the principal goal of septic system management programs, a goal that is embraced by these and many other environmental organizations.

12. COMMENT: One commenter stated that effective and efficient protection of surface and groundwater quality is supported; however, a method which does not break the bank is needed. The Commission's goals are proper; however, more time, thought and dialogue is needed. Assistance in this endeavor was offered by the commenter (Atlantic County). (18)

RESPONSE: The Commission agrees that the current economic circumstances facing all unit of government dictate that progress toward mandatory septic system management take a more gradual path. The Commission remains committed to the goal and will work with each of the Pinelands Area municipalities and counties toward meeting the NJDEP septic system management requirements, recommending that Pinelands management proposals guide progress toward enhanced long term management. The Commission is moving forward with the adoption of the proposed management provisions related to advanced treatment technologies in recognition that these technologies require a higher degree of maintenance than a standard septic system to meet water quality standards.

13. COMMENT: One commenter questioned the Commission's legal authority to impose requirements on septic systems which predate the CMP. It was suggested that while the owners of Pinelands alternate design systems were aware of the long-term management requirements associated with these systems

when they received approval, owners of existing systems were not. The proposed amendments may therefore not be constitutional. (19)

RESPONSE: The Commission disagrees with the commenter. The State and Federal Pinelands Protection Acts empower the Commission to implement the rules as proposed. The Commission does agree that many septic system owners are not familiar with the operation and maintenance practices that are required to keep septic systems functioning properly. Unfortunately, many health departments throughout the Pinelands have not adhered to the requirements of N.J.A.C. 7:9A which require the health departments to provide written notifications to system owners on proper operation and maintenance practices.

14. COMMENT: One commenter stated that the Commission should publish a list of those communities who feel they have a diminished quality of life and have suffered harmful impacts from not having a septic maintenance program. (19)

RESPONSE: The Commission has not compiled a list of areas in which septic system failures are common but is aware, as are most local health officials, of areas that are more prone than others to septic system problems. Septic problems in these areas are often related to the age of the housing stock, the depth to the seasonal high water table or poor soil permeability. The Commission would hope that local and county health departments have identified such problem prone areas through the issuance of septic system repair and alteration permits, and have redoubled their homeowner education efforts, required at N.J.A.C 7:9A, to minimize septic system malfunctions in these areas.

15. COMMENT: One commenter suggested that if the Commission and NJDEP decide septic maintenance is a government function and responsibility, the program at this time should be voluntary for municipalities. (19)

RESPONSE: Existing NJDEP regulations require municipal and/or other units of local government to oversee and enforce septic system maintenance requirements. The Commission intends to assist Pinelands Area municipalities and counties in meeting the requirements for the implementation of septic system management programs. The Commission does not agree that a voluntary municipal program would be sufficient or successful.

16. COMMENT: Three commenters stated that the definition of “Acceptable Septic System Inspector” is vague; the necessary credentials need to be specified. It should not be left up to the municipality to determine who qualifies. No septic maintenance program should be developed until the companies and individuals providing septic services are licensed by a State program. (11, 16, 19)

RESPONSE: The definition of “acceptable septic system inspector” is being deleted from the adopted amendment, along with the proposed requirements for traditional septic systems.

However, for guidance purposes, the definition of “acceptable septic system inspector” was broadly defined to provide municipalities with flexibility in establishing a management program. Only a very basic level of knowledge would be required to perform inspections required in the proposed rule. Septage

pumpers routinely evaluate septic systems during servicing and frequently provide similar inspection reports upon request. Licensed professional engineers, health officers and registered environmental health specialists are authorized to certify septic systems pursuant to N.J.A.C 7:9A. Licensed wastewater treatment plant operators typically possess the knowledge needed to perform the basic inspection. Regional trade associations offer septic system training programs and certify septic system inspectors. Numerous firms in New Jersey provide septic system inspections services for realty transfers. Municipalities could elect to accept inspection reports from any these qualified individuals or could elect to adopt an alternate standard. The Commission has offered to develop training materials if requested to so by a Pinelands Area municipality.

17. COMMENT: One commenter stated that the definition of “traditional onsite subsurface sewage disposal system” includes pressure dosing systems; however, these systems were permitted because they were supposed to reduce nitrate-nitrogen load. If they do not do so, have owners of these systems been notified? Is there a concern with nitrate well contamination? (19)

RESPONSE: Owners of pressure dosing septic systems have neither been directly notified of the Commission’s published findings nor, in the Commission’s view, do they need to be any more concerned over nitrate contamination of potable water wells than the owner of any individual potable water well. Pressure dosing septic systems continue to be installed in the Pinelands Area and throughout the State of New Jersey. In many instances these systems are used to overcome limitations related to the depth to season high water

table, depth to hydraulically restrictive soils or bedrock, grade or elevation limitations, or to take advantage of the smaller disposal field sizing requirements applicable to pressure dosed systems vs. gravity dispersal methods. Pressure dosing systems were authorized for use on parcels of less than 3.2 acres (down to a minimum of one acre) in the Pinelands pursuant to an earlier alternate permitting program. The Commission subsequently determined that pressure dosing systems do not reduce nitrogen in domestic wastewater any more effectively than traditional gravity dosed septic systems. Pressure dosing systems may continue to be used to meet the wastewater needs of residences that would otherwise not have been permitted on “undersized” lots, provided there is no increase in wastewater volume or system alteration. There is no need for owners or neighbors of pressure dosing systems to be concerned with nitrate levels in well water due to pressure dosing septic systems. The Pinelands Commission standard of 2 mg/l is an ecological standard, not the public health based standard of 10 mg/l nitrate in drinking water. The Commission does concur that all users of individual water wells have those wells tested periodically pursuant to NJDEP and New Jersey Department of Health and Human Services guidelines.

18. COMMENT: One commenter noted that the definition of “traditional onsite subsurface sewage disposal system” includes existing privies and cesspools which are determined to be functioning properly. If they fail inspection, does this imply they are no longer defined as traditional systems and cannot be replaced or converted into seepage pits? (19)

RESPONSE: The proposed rules do not address repairs or alterations to existing systems. Repairs and alterations to malfunctioning systems must comply with NJDEP requirements. N.J.A.C 7:9A-3.4 provides that the owner of a malfunctioning system take immediate steps to correct the malfunction. Alterations made to correct a malfunctioning system must meet the requirements of N.J.A.C 7:9A-3.39(c).

Triennial inspections and pumping for traditional systems (7:50-6.85(a))

19. COMMENT: A number of commenters stated that the majority of septic systems are properly maintained by homeowners; failure and pollution is very minimal. These commenters suggested that the proposed requirement for inspection of private septic systems is unnecessary and represents over-regulation by the Commission. (3, 5, 7, 8, 9, 11, 14, 16)

RESPONSE: The Commission disagrees. During more than 15 public information sessions conducted throughout the Pinelands Area, Commission staff were met by a majority of people who possessed little knowledge of septic system maintenance requirements, in fact, some expressed the misconception that pumping was only needed should the system overflow. Others, including licensed public health professionals have expressed the belief that all septic systems eventually fail. Most were not aware of the location of their septic tank and expressed concern with the cost that would be incurred to locate the tank, clearly demonstrating that it had never been pumped. The proposed rule would have relaxed an existing CMP requirement for septic tanks to be pumped every three years and would have required that they only be inspected every three years and

pumped only when necessary. Inspecting and pumping a septic tank is the number one item identified by NJDEP of the four most important things a homeowner can do to prolong the life of their septic system.

20. COMMENT: One individual stated that real costs for residents to acquire a certified inspection of their systems are unknown but likely to be much more stringent/expensive in the future than the “loose wording” in the proposed amendment. This commenter further stated that the requirement for certification is discriminatory; residents of “medium” income will bear the burden. (5)

RESPONSE: The Commission engaged a qualified septic system design engineer to determine the cost to homeowners to obtain septic system inspection and pumping services. In addition, Commission staff confirmed projected costs with local service providers. While exact costs could vary from municipality to municipality, based largely on the locally adopted management approach, inspection and pumping costs are far and away significantly less of a burden than the cost associated with repairing or replacing a septic system which has failed due to neglect. Homeowners that fail to maintain their system run the risk of incurring a catastrophic financial burden if forced to finance repair or replacement costs.

21. COMMENT: One commenter stated that requiring triennial inspections, rather than triennial pumping, will be beneficial to homeowners with septic systems. It will save money as those with smaller properties may not need their septic systems pumped every three years (as the current rule requires). (6)

RESPONSE: The Commission agrees with the commenter.

22. COMMENT: One commenter stated that the choice to maintain and clean septic systems should be left to the property owners, just as it is a car owner's choice to change the oil in his or her car. If significant funds are required for future expensive repair of the septic system, that is a risk which the homeowner chooses to take on. (19)

RESPONSE: The commenter uses an analogy between automobile maintenance and septic system maintenance. While such comparisons are common, the comment fails to recognize the difference between the potential harm (in this case only financial) incurred by an the auto owner as a result of a poor automobile maintenance as opposed to the potential for harm (human health and environmental quality) brought to the residents of a community resulting from one individual's failure to maintain a septic system. A valid analogy does exist between mandatory automobile and septic system inspections. Automobile owners have a responsibility to maintain their vehicles in a manner that does not pose a risk to others motorists or pedestrians. Similarly, septic system owners have a similar responsibility to maintain their septic systems in a manner that does not pose a risk to the residents of the community or the environment.

23. COMMENT: In lieu of inspections and fees, several commenters suggested that proper education of property owners on the maintenance of their septic systems should be the focus. (7, 8, 9, 11, 14, 17)

RESPONSE: The goal of the septic system management rule proposal was to both educate system owners to the need for proper operation and maintenance and to ensure that adequate maintenance is actually performed. The only accurate

way to determine if a system is in need of pumping is to open the septic tank and inspect its contents. Education alone is not sufficient to ensure maintenance is performed. Moreover, significant advertising for septic tank additives of unproven effectiveness works at cross purposes to reputable sources of maintenance information such as USEPA, NJDEP and University Extension Offices. Engaging in education efforts is worthwhile but insufficient to achieve the desired outcome.

24. COMMENT: Two commenters suggested that Commission staff should create an education program that would notify all property owners as to the proper way to maintain a septic system. This is a better use of resources than inspections and permits; it will not tax municipalities and property owners. (9, 17)

RESPONSE: The Commission agrees that homeowner education is an essential component of a septic system management program. However, education alone is sometimes not enough to change behavior. During one of the Commission's public education sessions, Commission staff was challenged regarding the need to periodically pump out septic tanks by one elected municipal official who professed that pumping is unnecessary when septic tank additives are used.

The Commission, NJDEP, Rutgers University, USEPA and other institutions post septic system maintenance information on the internet and local/county health departments are required under existing regulations to provide written information to septic system owners. The wide spread availability of such

information has not proven to be effective in achieving periodic preventive maintenance of septic systems.

25. COMMENT: One commenter submitted that property owners will incur a cost of \$350 every three years to comply with the inspection and pumping requirements. The commenter further stated that households do not generally plan for costs that are three years away; therefore, this is a considerable financial imposition in a given year. (9)

RESPONSE: The Commission agrees that inspecting and pumping a septic system would cost approximately \$300 to \$350 every three years. If pumping were not needed at the three year interval, costs would be substantially less. Failure to inspect a septic system or to perform preventive maintenance in the form of periodic pumping, places the homeowner at peril of encountering a much larger septic system repair / replacement bill, in some instances as high as \$35,000. Certainly, typical household budgets would be devastated by unanticipated septic system repair costs even if only costing several thousand dollars.

26. COMMENT: One commenter stated that the proposed requirement for triennial inspections will assist in identifying septic system failures of various types and minimize problems from occurring in the future. This will allow a record to be established and corrective actions can be taken or even mandated, thereby protecting water quality. (12)

RESPONSE: The Commission agrees with the commenter. The Commission will work with municipalities and other local entities in complying with the existing NJDEP septic system maintenance requirements and will recommend that the components of the Pinelands rule proposal be used to guide the development of local management programs.

27. COMMENT: One commenter stated that it is possible meaningful nutrient reductions could be achieved within the Pinelands as a result of the proposed triennial inspection and cleaning requirements. (12)

RESPONSE: Periodic inspections and pumping of septic tanks do have the potential to reduce nutrient loading on Pinelands water resources, both by removing nutrients from the Pinelands (for treatment at centralized facilities) and by preventing the overland flow of nutrients from malfunctioning systems.

28. COMMENT: One individual stated that the proposed inspection requirements are nothing more than a “money making mandate” for the Commission. Municipalities, on the other hand, will be forced to hire employees, purchase vehicles and pay for insurance and education. (13)

RESPONSE: The Commission disagrees with the commenter. The Commission would in no way participate in the collection of revenues associated with any septic system management program. The Commission proposed rules with inherent flexibility to enable municipalities to implement management programs in a manner that would not require added staff, vehicles, insurance or education of staff.

29. COMMENT: Two individuals stated that checks and balances are needed to protect tax payers from the fraud, deception, falsified records, etc. which will be generated by the proposed municipal inspection program. Unqualified companies may be hired to do some of the work (inspections; cleaning) and this may cause property owners to fix something that isn't broken. (13, 19)

RESPONSE: The Commission agrees that management programs should be developed and implemented in a fair and transparent fashion. The Commission proposed rules that would enable municipalities to ensure that only reputable and qualified service providers engage in work. Local licensing of service providers, and revoking such licenses if needed could be used to ensure competency among service providers.

30. COMMENT: One commenter cautioned that requiring existing septic systems to be inspected and maintained is likely to result in the identification of numerous residential installations which predate the CMP that cannot be effectively maintained, repaired or replaced. Such systems may be located in unsuitable locations (in wetlands or wetlands buffers). This may motivate increased demand for installation of sanitary sewer connections. (15)

RESPONSE: The Commission agrees that inspection programs are likely to identify a number of currently undetected septic system failures. NJDEP septic systems regulations (N.J.A.C 7:9A) related to the repair or alteration of these systems would govern how soil and site limitations would be addressed. The CMP dictates where centralized sewerage infrastructure would be permissible

(Regional Growth Areas, Pinelands Villages and Pinelands Towns). The CMP also permits the extension of centralized sewerage infrastructure in the case of a public health hazard, in all Pinelands management areas, but such extension would likely be infrequent and in any case limited to serving existing development.

31. COMMENT: One commenter questioned the relationship between septic system failure and adverse affects on groundwater quality, particularly for a home which complies with all CMP environmental standards (lot size, seasonal high water table, wetlands buffers). (19)

RESPONSE: The Commission agrees that septic system failures resulting in overland flow of raw sewage pose a greater threat to the surface water resource of the Pinelands, as opposed to threatening groundwater resources. The discharge of septic tank effluent below the ground surface and into a drain field capitalizes on the soils ability to act as a treatment medium and assimilate wastewater pollutants. Effluent pollutant load is diminished in the soil as a result of filtration, adsorption, ion exchange, and soil microbial action. These natural treatment processes do not occur at all, or do so much less effectively, when effluent flows upon the land surface. For this reason, as well as the desire to isolate sewage borne pathogens from human contact, clogged drain fields or overflowing septic tanks which permit sewage to flow upon the land surface constitute a violation of environmental and public health regulations. In such instances, these conditions increase pollutant load to surface water bodies, in some cases at great distance through overland flow of storm water runoff.

32. COMMENT: One commenter stated that the Commission has not demonstrated that lack of maintenance and pumping every three years leads to failures and causes groundwater pollution. Specific information should be provided re: number of potable wells contaminated, number of residents who became ill, number of fish killed in ponds, streams and lakes, all due to septic system failure. The commenter states that existing CMP standards have not been enforced and the Commission should have alerted applicants to the pumping requirement currently in the CMP, perhaps in the Certificates of Filing it issues on development applications. It should not have taken the Commission and DEP so long to figure out that every system does not need to be pumped triennially. (19)

RESPONSE: The commenter's statement suggests a lack of understanding of the rule proposal and of the basic principles of primary treatment achieved through the use of a septic tank. The proposed rule does not require septic tanks to be pumped every three years, as is the case with existing CMP requirements. Instead the proposed rule requires tanks to be pumped only as needed but requires tanks to be inspected every three years to determine if pumping is needed. A septic tank provides for the primary treatment of wastewater, that is the separation of sewage solids from sewage liquids. Solids separated from liquids are retained in the tank and undergo anaerobic digestion. Anaerobic digestion reduces the volume of solids over time but causes solids to accumulate at a rate which is faster than they are digested. The capacity of a septic tank to store solids is finite, and if solids are not periodically removed through pumping, they will fill the tank and subsequently escape the tank with septic tank liquid effluent. These sewage

solids are then discharged to the soil absorption field where they clog soil and lead to hydraulic failure of the field. Soil absorption field failure results in the discharge of wastewater pollutants, including pathogenic organisms, to the surface of the ground, where they threaten both human health and Pinelands surface water resources. The Pinelands Commission has not suggested that the basis for septic system management is related to potable well contamination (although education related to improper disposal of pharmaceuticals and other household chemicals can reduce the threat of well contamination) and therefore cannot provide the requested well contamination information. Information concerning well contamination may be available through the local/county health departments. Failing septic systems pose a risk to Pinelands surface water resources through overland flow of wastewater pathogens. Illnesses associated with failing septic systems, beach closing due to excessive fecal bacteria and fish kills related to the release of pollutants are not reported to the Pinelands Commission and therefore the Commission cannot provide this data, however, knowledgeable public health officials recognize the potential for infectious disease transmission where sewage borne pathogens are present in swimming waters or are accessible to insect vectors.

County health departments are obligated through N.J.A.C. 7:9A to provide periodic written information to septic system owners on proper care and maintenance practices for septic systems, although many have reportedly not done so. The Commission's application process and related documents does not

provide a suitable means to provide such general septic system information; however the Commission does post this type of information on its web site.

The Commission agrees that the local ordinances in effect in every certified Pinelands Area municipality which require that septic systems be inspected and pumped every three years have not been adequately enforced by the local boards of health or the county health departments.

The Commission and NJDEP have long recognized that septic tank pumping might not be needed every three years for all systems. Some systems could require pumping more frequently while others less frequently. The three year interval represents the average required duration between system servicing and continues to be the industry rule of thumb nation-wide.

33. COMMENT: One commenter suggested that the Commission should address the issue of well contamination due to increased levels of nitrates attributed to agricultural activities. (19)

RESPONSE: The Commission is not aware of any instance involving nitrate contamination of potable wells in which nitrate levels exceed USEPA maximum contaminant levels resulting from agricultural activity. The commenter's suggestion is, in any case, outside the scope of this rulemaking activity.

34. COMMENT: One commenter stated that if the Commission is going to require inspection and maintenance of septic systems, the sampling of wells should also be required and another agency should ensure that maintenance of other items in homes (heaters, roofs, etc.) is required. (19)

RESPONSE: Septic systems throughout the Pinelands Area discharge more than 10,000,000 (ten million) gallons of sewage to Pinelands ground water resources daily. Maintenance of these systems is required to protect the resource as well as public health. Sampling of wells is required by the Private Well Testing Act. When a private well fails to meet drinking water standards, only those individuals that consume that well water are at risk. When a septic system malfunctions, all residents of the community are put at risk. The commenter's comparison of septic system inspection and maintenance to that of heaters, roofs, etc. demonstrates a lack of understanding of the public health significance of systems that have the potential to release infectious sewage borne pathogens to the Pinelands environment. These infectious organisms can cause: gastroenteritis which is typically characterized by diarrhea and/or, non-enteric illness including febrile respiratory illness and ear ailments have been linked to swimming in water contaminated by sewage borne fecal coliform and fecal streptococci, respectively. Infectious organisms potentially present in untreated domestic wastewater include Bacteria (*Campylobacter jejuni*, *Escherichia coli*, *Leptospirea* spp., *Samonella* (~ 2100 serotypes), *Shigella* spp.) Protozoa (*Cryptosporidium parvum*, *Entamoeba histolytica*, *Giardia lamblia*), Helminthes (*Ascaris lumbricoides*, *Enterobius vemicularis*), and Viruses (Adenovirus, Enteroviruses, Hepatitis A virus, Norwalk agent, Parvovirus, and Rotavirus). The commenter's statement appears to minimize the public health consequences of contracting sewage borne pathogens from malfunctioning septic systems.

35. COMMENT: One commenter stated that NJDEP rules do not require or indicate that inspections must be done by municipalities. The commenter then questioned who the licensed agents are that are referred to in the proposed amendments, and who licenses them? (19)

RESPONSE: The NJDEP Water Quality Management Planning Rules requires that all septic systems be subject to a mandatory maintenance program which ensures that all individual subsurface sewage disposal systems are functioning properly. To determine that a system is functioning properly one must make a direct observation of the system, or to put it another way, inspect the system inspection.

The Pinelands rule proposal does not require municipalities to hire additional staff to perform inspections. The rule proposal provides flexibility to municipalities to select a management program that is best suited to local circumstances. For example, municipalities could elect to perform inspections using new or existing staff, enter into an inter-local agreement with another entity, such as a utility authority, or health department, or could contract-out the work to a third party such as a municipal engineering firm. Another option would be for a municipality to authorize industry professional to perform inspection and other services, and to license those industry professional if the municipality so choose.

The licensing of inspection personal is therefore an option, not a requirement. It is noteworthy that many New Jersey municipalities currently license contractors that perform work in their jurisdiction, including some that license septic system installation contractors and septage pumpers. Municipalities

could also, if they chose, rely upon individuals that are licensed at the state level, including professional engineers, registered environmental health specialists or licensed wastewater treatment operators.

While the Commission has decided not to adopt the portions of the rule proposal that relate to the inspection of standard septic systems, the Commission believes that such a management program would meet the requirements of the NJDEP WQMP rule and suggests that municipalities use the rule proposal to guide the development and implementation of management programs as required by NJDEP.

Permits and permit renewals for traditional systems (7:50-6.85(c))

36. COMMENT: One commenter stated that municipalities must plan ahead for the issuance of septic permits and renewals, including determining the cost of user fees and permits. The commenter suggested that municipalities be encouraged to partner with the State/County colleges for such preparation and cost analysis. (1)

RESPONSE: The Commission agrees that municipalities will need to carefully plan the development and implementation of their septic system management plan, and such planning will need to determine the cost to administer the program and identify a way to cover those costs. The Commission's rule proposal enabled municipalities to charge reasonable fees to users of the management program. The Commission recommends that municipalities use the Commission's proposed rule and supporting documents in the development of the programs required by NJDEP. The Commission agrees that state colleges, state

universities and county colleges are an excellent resource which might be consulted during the development of detailed cost analysis.

37. COMMENT: One individual stated that permit requirements (tracking, bookkeeping, collection; issuance of licenses) will be costly for municipalities; they will not want to adopt ordinances which cost them money to implement. Non-compliance will be the result. (2)

RESPONSE: The Commission disagrees that the cost and administrative requirements associated with a basic septic system management program will impose an excessive burden on municipalities. The Commission does recognize that these requirements are currently perceived by many municipalities to be too burdensome to accomplish in the short term and as a result, the Commission has decided to not pursue the rule proposal as it related to conventional septic systems at this time. The Commission intends to continue to work with municipalities toward their compliance with the new NJDEP WQMP septic system management rule requirements as municipal compliance with those rules is not optional. The Commission intends to offer municipalities an opportunity to contract with the Commission, at no cost, to attain management of advanced wastewater treatment systems authorized through the Pinelands alternate design wastewater treatment systems pilot program.

38. COMMENT: One commenter noted that even if just 10% of property owners fail to comply with the proposed permitting requirements, this will result in time and tax dollars spent on enforcement and court costs. Non-compliance will be costly. (19)

RESPONSE: The Commission proposed to incentivize compliance in the development of the Pinelands septic system management model ordinance. The Commission recognizes that even where compliance incentives are offered, some small percentage of system owners may resist complying with the rule. In such cases, enforcement action will be necessary. This is also true for the small number of homeowners who willing resist compliance with municipal regulations of all sorts, including those who knowingly permit their septic systems to malfunction. Penalties and court costs are typically imposed to recover the cost of enforcement action.

39. COMMENT: One commenter stated that the proposed requirement to obtain a permit will add to the cost of living for homeowners in the Pinelands because municipalities will likely implement a fee. (6)

RESPONSE: The Commission disagrees that permit fees, if imposed by a municipality would be excessive. The Commission has estimated that the permit fee, if imposed would be on the order of that charged to license a pet, being less than \$15 per year.

40. COMMENT: One commenter suggested that municipal permits should be required to be of a 3-year duration. Municipalities should not be allowed to require annual permits. (6)

RESPONSE: The Commission disagrees with the commenter. While a three year permit duration was proposed by the Commission, municipalities should have discretion to issue permits of a shorter duration, especially in areas

that are known to have aging or undersized septic systems, difficult soils, or other factors that lead to frequent septic system problems.

41. COMMENT: Two commenters stated that the Commission should clarify its offer to provide funding to municipalities for the establishment of permitting programs. Municipalities need to know the amount of funding available and the level of funding necessary to implement these programs. The Commission should also indicate where the funding is coming from and if it is being diverted from other programs. (9, 16)

RESPONSE: Although the Commission is currently not in a position to offer specific information related to the amount of any potential financial assistance to be offered to Pinelands Area municipalities, the Commission plans to explore the possibility of offering municipalities the opportunity to contract, at no charge, with the Commission for oversight of the management of Pinelands alternate design systems. Municipalities will not be required by Pinelands regulations to establish permitting programs for conventional/traditional septic systems. Those requirements will flow from NJDEP's rules.

42. COMMENT: One commenter indicated opposition to the requirements for the establishment of permitting systems on the basis that it is unreasonable and cost-prohibitive to hold municipalities responsible for establishing and implementing such systems. (16)

RESPONSE: The Commission disagrees that septic system user permits are either unreasonable or cost-prohibitive. However, as noted previously, the Commission has decided to adopt only that portion of the rule proposal that is

related to the management of advanced treatment systems such as those authorized for use through the Pinelands alternate design wastewater treatment systems pilot program. The Commission intends to assist municipalities in complying with the NJDEP WQMP septic system management rule requirements.

43. COMMENT: One individual stated that municipalities or other responsible management entities should issue permit renewal notices to avoid problems caused by changes in ownership, rather than requiring permittees to apply for permits every three years. (10)

RESPONSE: The Commission agrees that it would be best if municipalities issued permit renewal notices as opposed to relying on homeowners to remember on their own to renew permits. The Commission will encourage municipalities to do so when developing and implementing septic system management programs pursuant to the NJDEP WQMP septic management rule requirement.

44. COMMENT: One commenter stated that once established by municipalities, septic management programs offer an excellent institutional framework to educate those with septic systems on how to extend the life of their systems and minimize failures. (12)

RESPONSE: The Commission agrees with the commenter. The Commission intends to continue to assist the Pinelands Area municipalities and health departments in providing this system owner education.

45. COMMENT: Three commenters stated that the proposed amendments should more clearly define what constitutes “certification” of a

septic system. The amendments should clarify what the responsibilities of the qualified service technician are – to inspect, certify that a system is denitrifying and interpret monitoring results? (11, 16, 19)

RESPONSE: The language in the rule proposal is clear as to what constitutes certification of a septic system. It includes submission of written documentation attesting that the system was inspected in the year preceding permit renewal, that the tank was either pumped or determined to not need pumping based upon specific sludge and scum dimensions relative to tank baffles, that the tank was found to have intact baffles, to be water tight, to be structurally sound, and not made of steel. In addition, observation of the system and resulting certification needs to confirm that the system is not causing sewage to back-up into the building served, is not seeping into below ground portions of the building, is not directly discharging to a surface water body or ponding on the ground surface.

Qualified service technicians are individuals that perform operation and maintenance service on advanced wastewater treatment systems. These individuals would need to be authorized by a treatment system manufacturer or hold a New Jersey wastewater treatment plant operators license at level S2 or higher. Licensed wastewater treatment system operators and authorized service providers possess a level of training and experience that enables them to monitor advanced treatment system performance and interpret wastewater data.

46. COMMENT: Two commenters stated that requiring the establishment of municipal permitting systems, in addition to the existing requirements of the CMP

for inspections and pumping of septic systems, imposes another layer of governmental oversight, costs to the property owner, costs for governmental administration and costs for ordinance adoption. (17, 19)

RESPONSE: The proposed rule would have replaced existing CMP requirements related to inspection and pumping of septic systems. That requirement will now remain in effect. Municipalities are required, under NJDEP WQMP septic system management rules, to inventory septic systems, track maintenance and enforce non-compliance. The Pinelands rule proposal provided municipalities with a means to meet this NJDEP requirement while providing significant flexibility in terms of the program implementation and financing. The management cost to the property owner, expressed as a permit fee is quite low. Pumping costs are significant but are necessary to prevent system malfunction and expensive repairs.

47. COMMENT: Two commenters stated that the costs cited in the rule proposal are misleading. Charging an additional fee to cover the cost of existing personnel will not be sufficient; a new mechanism for administration, inventorying, tracking and delivery of services will be required of local governments. (18, 19)

RESPONSE: The Commission disagrees. Cost estimates were developed in consultation with septic system management experts and confirmed by local septic system service providers.

48. COMMENT: One commenter suggested that administration should be considered at the Commission level (not municipal) when the septic management program is ready to move forward. (18)

RESPONSE: The Commission has decided to adopt only that portion of the rule proposal that relates to advanced treatment technologies, those authorized for use through the Pinelands pilot program. The Commission will explore the possibility of offering municipalities the opportunity to contract, at no charge, with the Commission for oversight of the management of these advanced systems. Municipalities will nevertheless be required to administer, or arrange for the administration of septic system management programs as a result of the existing NJDEP WQMP septic system management requirements.

49. COMMENT: One commenter stated that the proposed requirements for permits will result in a cost for non-profit organizations and public agencies, if septic systems are located on municipal, county, state and federally owned properties. There will be a cost associated with locating such systems and overseeing their maintenance, as well as a cost for any fees which must be paid to municipalities. (19)

RESPONSE: The Commission agrees with the commenter that septic systems are located on a wide range of land uses. However, the Commission does not see the basis to exempt such facilities from either the NJDEP WQMP septic management rules or the Commission's proposed rules related to management of advanced treatment technologies. Wastewater generated from non-profit organizations and public agencies poses the same risk to human health and the

environment as that from other uses. The assessment of fees is not a requirement of the proposed rule, but merely an option that municipalities may wish to exercise.

50. COMMENT: One commenter stated that proposed 7:50-6.85(c)iii refers to tanks that are not watertight and questioned how is this to be determined (by a pressure test or some other method). If a tank is not in need of pumping, how can an inspector report on the integrity of the tank? (19)

RESPONSE: Tank integrity may be performed by visual examination, pressure test, or by any other means deemed acceptable to the responsible management entity. A determination related to tank materials (steel vs. concrete, plastic, etc) may be made by examining the tank lid, cover and sidewalls above the water line. Tanks that are filled to the outlet elevation and show no visible sign of leakage may be considered to be water tight. Tanks that are not filled to the outlet elevation need to be closely evaluated to determine if leakage is occurring at the current water level. All septic tanks will eventually need to be pumped out and an examination of the entire tank may be made visually at that time.

Summary of Agency-Initiated Changes:

The Commission is making changes to the proposed amendments at what will now be N.J.A.C. 7:50-6.85(c)2iii for purposes of clarification. The original rule proposal required certification from a qualified service technician that during inspection, no evidence of a discharge of sewage or effluent to a surface water body was observed. The Commission has amended the rule language to clarify

that the qualified service technician confirm that no direct discharge of sewage or effluent to a surface water body was observed to recognize that even properly functioning septic systems discharge to groundwater and that groundwater in-turn, discharges to surface water. Such an indirect discharge, in the absence of other criteria, is not indicative of a system malfunction.

Federal Standards Statement

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. §471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals which the plan must meet, including the protection, preservation and enhancement of the land and water resources of the Pinelands. The proposed amendments seek to ensure that the water quality standards of the CMP are met by requiring the proper long-term maintenance of septic systems. Thus, the proposed amendments are in keeping with the goals of the Federal legislation.

There are no other Federal requirements which apply to the subject matter of these amendments.

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

7:50-2.11 Definitions

...

[“Acceptable Septic System Inspector” means a person, firm, corporation, representative of a governmental unit, or other entity acceptable to the responsible management entity which performs inspections of traditional individual and non-individual onsite subsurface sewage disposal systems to determine if such systems are in need of pumping and if such systems are functioning properly. Acceptable septic system inspectors may include but are not limited to septic tank pumpers, government officials, employees of wastewater utilities, and employees of septic system service provider firms. An acceptable septic system inspector shall not include the owner or operator of the realty improvement serviced by the traditional individual or non-individual onsite subsurface sewage disposal systems subject of the inspection.]

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

“Non-individual onsite subsurface sewage disposal system” means an onsite subsurface sewage disposal system designed to treat and dispose of sanitary, sewage as defined at N.J.A.C. 7:9A-2.1 serving a property other than a single family dwelling with an engineering design flow no greater than 2,000

gallons per day. Such systems include but are not limited to those systems defined in N.J.A.C. 7:9A-1.8(a)2. Typical examples include but are not limited to systems serving: commercial buildings, restaurants, food establishments, commercial/residential mixed uses, and systems servicing multiple commercial or dwelling units. The term includes both Traditional Onsite Wastewater Subsurface Sewage Disposal Systems and Pinelands Alternate Design Wastewater Treatment Systems.

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

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

“Traditional onsite subsurface sewage disposal system” means an individual or non-individual subsurface sewage disposal system which functions to treat and dispose of sanitary sewage in a manner that is not intended to reduce the total nitrogen concentration in the effluent but is intended to retain most of the settleable solids in a septic tank and to discharge the liquid effluent to a

subsurface disposal field. Traditional Onsite Subsurface Sewage Disposal Systems include gravity flow, gravity dosing and pressure dosing septic systems and may utilize septic tanks, dosing tanks, distribution boxes, disposal beds, disposal trenches and seepage pits. Existing privies and cesspools which are determined to be functioning properly shall also be considered to be traditional onsite subsurface sewage disposal systems.

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

- (a) Municipal master plans and land use ordinances, any parts thereof, shall be certified only if:
1. (No change.)
 2. They include provisions which:
 - i.-vii. (No change.)
 - viii.-ix. (No change from proposal.)
 - x. Establish a program for the long-term maintenance of *[onsite subsurface sewage disposal]* ***Pinelands alternate design wastewater treatment*** systems which, at minimum, complies with and implements the provisions of N.J.A.C. 7:50-6.85*[(a) through (d)]* ***(b) and (c)***, and N.J.A.C. 7:15-5.25(e)3. Said program may include the municipal collection of reasonable fees for the issuance of any required permits or other authorizations. The

Commission may certify municipal ordinances that contain additional and/or different standards or procedures than those set forth in N.J.A.C. 7:50-6.85*[(a) through (d)]* ***(b) and (c)***, provided those standards and procedures are based upon local conditions or circumstances that warrant such changes and will ensure the protection of surface and ground water quality consistent with N.J.A.C. 7:50-6, Part VIII.

3.-13. (No change.)

(b) (No change.)

7:50-6.85 Individual and non-individual onsite subsurface sewage disposal systems and petroleum tank maintenance

(a) ***[All]* *The owner of every*** traditional individual and non-individual onsite subsurface sewage disposal system*[s in active use with]*in the Pinelands ***[Area]*** shall ***[be inspected at least once every three years and pumped in accordance with the requirements of 3.39(a)2x above and (c)2ii below.]*** ***as soon as suitable septage disposal facility capacity is available, in accordance with the provisions of Chapter 326 of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and Section 201 of the Clean Water Act:**

1. Have the system inspected by a technician at least once every three years;

2. **Have the system cleaned at least once every three years; and**
3. **Once every three years submit to the board of health serving the municipality in which the system is located a sworn statement that the system has been inspected, cleaned and is functional, setting forth the name of the person who performed the inspection and cleaning and the date of such inspection.***

(b) All Pinelands Alternate Design Wastewater Treatment Systems in active use shall be equipped with functioning alarm dialing capability and shall be covered under a renewable Operation and Maintenance Agreement for as long as the system is in active use. The Operation and Maintenance Agreement shall, at minimum, provide for at least once annual service calls by a qualified service technician. The Operation and Maintenance Agreement shall also provide for periodic onsite inspection and maintenance service visits which meet the minimum operation and maintenance requirements of the Pinelands Alternate Design Wastewater Treatment System manufacturer or vendor.

*(c) Every owner or operator of a traditional individual onsite subsurface sewage disposal system or non-individual onsite subsurface sewage disposal system in the Pinelands Area shall:

1. Obtain from the municipality in which the system is located or from another responsible management entity designated by said municipality an initial permit or other authorization to operate said

system. Said initial permit or authorization shall be valid for no more than three years;

2. Prior to the expiration of the initial permit or authorization required in (c)1 above, apply to the municipality in which the system is located or another responsible management entity designated by said municipality to renew said permit or authorization. The following information shall accompany any such application for permit renewal:

- i. Certification by an acceptable septic tank inspector that the system has been inspected in the year preceding the application for permit renewal;
- ii. Certification by an acceptable septic tank inspector that the system was either pumped or determined not to be in need of pumping based upon observed and recorded sludge and scum accumulations. Septic tanks within which the top of the sludge layer is less than twelve (12) inches below the bottom of the septic tank outlet baffle or the scum layer is less than six (6) inches above the bottom of the septic tank baffle shall be determined to be in need of pumping;
- iii. Certification by an acceptable septic tank inspector that the system does not employ defective septic or dosing tanks, meaning tanks which are not equipped with effective inlet

- or outlet baffles, tanks which are not water tight or structurally sound, or tanks of steel construction; and
- iv. Certification by an acceptable septic tank inspector that the system is functioning properly, meaning that the system does not show evidence of ponding or breakout of sewage or effluent onto the surface of the ground, sewage or effluent is not seeping into below ground portions of the building served, there is no back-up of sewage into the building and there is no evidence of a discharge of sewage or effluent to a surface water body.]*

[(d)] *(c)* Every owner or operator of a Pinelands Alternate Design

Wastewater Treatment System in the Pinelands Area shall:

1. Obtain from the municipality in which the system is located or from another responsible management entity designated by said municipality an initial permit or other authorization to operate said system. Said initial permit or authorization shall be valid for no more than three years; and
2. Prior to the expiration of the initial permit or authorization required in (d)1 above, apply to the municipality in which said system is located or to another responsible management entity designated by said municipality to renew said permit or authorization. The following information shall accompany any such application for permit renewal:

- i. Certification by a qualified service technician that the system is covered under a renewable operation and maintenance agreement which meets the requirements of the Pinelands Alternate Design Wastewater Treatment System manufacturer or vendor;
- ii. Certification by a qualified service technician that all of the components of the Pinelands Alternate Design Wastewater Treatment System are in good repair; and
- iii. Certification by a qualified service technician that that the Pinelands Alternate Design Wastewater Treatment System is operating in conformance with the manufacturer's specifications and is functioning properly, meaning that the system is denitrifying, does not show evidence of ponding or breakout of sewage or effluent onto the surface of the ground, sewage or effluent is not seeping into below ground portions of the building served, there is no back-up of sewage into the building and there is no evidence of a ***direct*** discharge of sewage or effluent to a surface water body.

[(e)]* *(d) The owners of commercial petroleum storage tanks shall comply with the requirements of P.L. 1986, c. 102 (N.J.S.A. 58:10A-29).