

PINELANDS COMMISSION

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

Proposed Amendments: 7:50-2.11, 3.39 and 6.85

Authorized By:

_____/____/____
New Jersey Pinelands Commission,
John C. Stokes, Executive Director

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

Proposal Number:

A **public hearing** concerning this proposal will be held on:

Wednesday, July 15, 2009 at 7:00 p.m.
Richard J. Sullivan Center
15C Springfield Road
New Lisbon, New Jersey

Submit written comments by regular mail, facsimile or e-mail by August 14, 2009 to:

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The name and mailing address of the commenter must be submitted with all public comments.

The agency proposal follows:

Summary

The New Jersey Pinelands Commission proposes to amend 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 Pinelands CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. Since that time, the CMP has been amended a number of times, most recently through a set of revisions related to on-site clustering of residential development in Forest and Rural Development Areas, development transfer programs (so called off-site clustering) in the Forest and Rural Development Areas and stormwater management for public development.

Water resources in the Pinelands are protected by a combination of land use and water quality programs established in subchapters 5 and 6 the CMP. The land use program in N.J.A.C. 7:50-5 discourages development in important ecological and agricultural areas while directing growth towards more suitable areas. Some of the designated development areas are served by central sanitary sewer systems, but others are not and are not planned for sewer service in the future. In those areas not served by sanitary sewers, the CMP currently allows municipalities to zone for both residential and commercial development on lots using individual onsite subsurface sewage disposal systems, commonly referred to as septic

systems. These onsite septic systems constitute a significant portion of the region's wastewater infrastructure and represent a significant investment by the region's inhabitants. Proper management is essential to protect the investment in both centralized (sewer) and decentralized (septic) wastewater infrastructure.

The CMP's water quality program, set forth at N.J.A.C. 7:50-6.81 et seq., includes provisions aimed at controlling the discharge of all pollutants from onsite subsurface sewage disposal systems. Particular emphasis is directed at controlling the amount of nitrogen that enters the environment both because nitrogen in itself is a significant pollutant, and also because it often serves as an indicator of changes in overall water quality. Discharges from wastewater systems serving new development cannot exceed a concentration of nitrogen of two parts per million at the property line or when entering any surface water body. For new development, conformance with this standard is met either through the application of a septic dilution model or a through the combination of advanced treatment and dilution modeling. The CMP authorizes the use of specific advanced on-site wastewater treatment systems which are currently being evaluated through the Pinelands Alternate Design Treatment Systems Pilot Program, N.J.A.C. 7:50-10.21. The pilot program ensures the proper operation and maintenance of alternate design treatment systems through a requirement that such systems be covered under a renewable operation and maintenance contract that satisfies the requirements of the CMP and the treatment technology manufacturer or vendor.

The CMP provides additional protection of ground and surface water resources by requiring that new on-site wastewater treatment systems be limited to areas where the depth to the seasonal high water table is at least five (5) feet. (N.J.A.C. 7:50-6.84(a)4.iv) Additionally, the CMP requires long-term management of all onsite wastewater treatment systems by specifying that the owner of every individual on-site wastewater treatment system have the system inspected and pumped at least once every three years, and report the results of such inspection and maintenance to the board of health serving the municipality. (N.J.A.C 7:50-6.85).

As evidenced by the current and long-standing requirement for ongoing maintenance of both traditional onsite septic systems and the more complex Pinelands Alternate Design Treatment Systems, the Commission believes that water quality protections can only be assured through proper management of onsite treatment systems. This view is shared by the New Jersey Department of Environmental Protection (DEP) and is reflected in the DEP's recent adoption of state-wide septic system management requirements. (N.J.A.C 7:15-5.25(e)3).

As noted above, the Commission has been conducting a long term study of advanced onsite wastewater treatment technologies, know as the Alternate Design Treatment Systems Pilot Program, to test if these systems can be maintained and operated in a manner that achieves compliance with the Pinelands water quality standards. The pilot program rule language includes a provision requiring that the Executive Director identify in a report to the Commission the institutional and

governmental arrangements necessary to ensure adequate maintenance and monitoring of such technologies.

The Commission is now ready to specify the minimum requirements of such institutional and governmental arrangements to ensure proper operation of traditional and alternate design treatment systems. The Commission employed a two-phase approach in evaluating both the capability of advanced technologies to attain compliance with water quality standards and in evaluating the institutional and governmental arrangements necessary to ensure adequate long term performance of such systems. This approach has enabled the Commission to apply the lessons learned during the pilot program to the current rule making process. Moreover, the Commission has been able to coordinate its efforts with the above noted DEP State-wide septic system management requirements contained in the recently adopted Water Quality Management Planning Rules.

A key component of the Alternate Design Treatment Systems Pilot Program involved the Pinelands Commission's contracting with Stone Environmental Inc. to assist local entities throughout the Pinelands Area (towns, counties, etc.) in the development and implementation of long term programs for the management of onsite wastewater treatment systems (OWTS). As noted above, OWTS are common throughout the Pinelands Area and are a vital component of the region's wastewater infrastructure. The goal of OWTS management is to keep septic systems functioning properly, to enhance the value

of properties served by OWTS and to protect ground and surface water from harmful impacts that result when septic systems fail. Stone Environmental developed detailed septic system management recommendations for implementation throughout the Pinelands Area in a report entitled Onsite Wastewater Systems Management Manual for the New Jersey Pinelands. These recommendations are intended to provide a road map which municipalities may follow to implement their management program. The report explores several management models and municipalities are given the flexibility to select any single model or combination of model elements that is locally appropriate.

The Commission recognizes that the management of septic systems must be compatible with local needs and capabilities and that local participation in the development and implementation of management programs is essential. For support for septic system management programs to take hold, the Commission recognizes that the tangible benefits of management must be made clear to the regulated community. To advance grass roots support of such programs, Commission staff has conducted over fourteen public outreach meetings to date to emphasize the relationship between septic systems and clean water, property values, public health and quality of life. The Commission remains committed to these public outreach efforts and expects to continue to promote the benefits of septic systems management and to disseminate OWTS management documents developed as part of this project. Key documents developed which have been

widely distributed and which are posted on the Commission's web site at

www.nj.gov/pinelands/landuse/waste/septic.html include:

- Memorandum about Onsite Wastewater Treatment Systems Management in the New Jersey Pinelands
- Legal Basis and Regulatory Framework of Onsite Wastewater Management in the New Jersey Pinelands
- Onsite Wastewater Systems Management Manual for the New Jersey Pinelands
- Onsite Wastewater Systems Management in the New Jersey Pinelands

As a result of the Commission's experience with the Alternate Design Treatment Systems Pilot Program and the Commission's evaluation of the necessary institutional and governmental arrangements to ensure proper operation of traditional and alternate design treatment systems, the Commission has developed these amendments to assist municipalities in implementing both NJDEP's septic system management mandate and the Commission's water quality protection programs.

The proposed amendments include the addition of definitions for several key terms at N.J.A.C. 7:50- 2.11, including "Acceptable Septic System Inspector," "Individual Onsite Subsurface Sewage Disposal System," "Non-individual Onsite Subsurface Sewage Disposal System," "Pinelands Alternate Design Wastewater

Treatment System,” “Qualified Service Technician,” and “Traditional Onsite Subsurface Sewage Disposal System”. These definitions seek to distinguish between the various types of septic systems in use in the Pinelands and to identify the qualifications of those inspectors and technicians who will be responsible for carrying out various maintenance responsibilities under the new programs which municipalities will be required to establish.

Proposed N.J.A.C. 7:50-6.85(a) requires that all traditional individual and non-individual onsite subsurface sewage disposal systems in active use within the Pinelands Area be inspected at least once every three years. Such systems must also be pumped when necessary. Previous CMP requirements required cleaning or pumping of septic systems every three years. Rather than continue with that universal requirement, these proposed rules require inspections every three years but pumping only when needed, in recognition of the fact that some systems (e.g., those serving smaller households, etc.) may not require pumping as frequently as others.

Proposed N.J.A.C. 7:50-6.85(b) requires that all Pinelands alternate design systems be equipped with functioning alarm dialing capability. Such systems must also be covered under renewable operation and maintenance (O&M) agreements for as long as the systems are in active use. Such O&M agreements must provide for annual service calls and periodic onsite inspections and maintenance service visits as called for by the system manufacturer or vendor. It should be noted that the Commission’s current Pilot Program for Alternate Design Treatment Systems

requires that each pilot program system be covered by a five-year maintenance contract which requires annual onsite inspections and the performance of any necessary maintenance or repairs. Proposed N.J.A.C. 7:50-6.85(b) would extend this O&M agreement to cover the life of the system, not merely the initial five-year period of its operation, for those alternate design wastewater treatment systems which the Commission determines should be removed from the pilot program and permitted outright in the Pinelands. Such a determination, which may be made later this year, would require the adoption of additional amendments to the CMP.

Proposed N.J.A.C. 7:50-6.85(c) sets forth additional requirements which the owners or operators of traditional individual or non-individual onsite subsurface sewage disposal systems in the Pinelands Area must meet. Proposed N.J.A.C. 7:50-6.85(c)1 requires that owners and operators of such systems obtain initial operation permits or other forms of authorization from the municipality in which the system is located. Such permits are to be valid for no more than three years. Also recognized in proposed N.J.A.C. 7:50-6.85(a)1 is the fact that some Pinelands municipalities may choose to delegate permitting responsibilities to other responsible management entities. Proposed N.J.A.C. 7:50-6.85(c)2 requires that owners and operators of traditional systems obtain permit renewals or other authorizations as well. The information which must be submitted in order to obtain such a permit renewal is specified in proposed N.J.A.C. 7:50-6.85(c)2i through iv and includes certifications by an acceptable septic system inspector

(defined at N.J.A.C. 7:50-2.11) as to: triennial inspections (6.85(c)2i), evidence of pumping or a determination that such pumping is not yet necessary (6.85(c)2ii), employment of septic or dosing tanks which are not defective (6.85(c)2iii) and proper functioning of the system (6.85(c)2iv). Proposed N.J.A.C. 7:50-6.85(c)2ii sets forth the circumstances under which a system must be determined to be in need of pumping. Proposed N.J.A.C. 7:50-6.85(c)2iv does likewise relative to determinations that systems are functioning properly.

Proposed N.J.A.C. 7:50-6.85(d) sets forth additional requirements which the owners or operators of Pinelands Alternate Design Wastewater Treatment Systems must meet. Proposed N.J.A.C. 7:50-6.85(d)1 requires that owners and operators of such systems obtain initial operation permits or other forms of authorization from the municipality in which the system is located. Such permits are to be valid for no more than three years. As is the case with traditional systems covered by proposed N.J.A.C. 7:50-6.85(a)1, proposed N.J.A.C. 7:50-6.85(d)1 also recognizes that some Pinelands municipalities may choose to delegate permitting responsibilities to other responsible management entities.

Proposed N.J.A.C. 7:50-6.85(d)2 requires that owners and operators of Pinelands Alternate Design Wastewater Treatment Systems obtain permit renewals or other authorizations. The information which must be submitted in order to obtain such a permit renewal is specified in proposed N.J.A.C. 7:50-6.85(d)2i through iii. These sections require that a qualified service technician (defined at N.J.A.C. 7:50-2.11) certify that: the system is covered under a

renewable O&M agreement (N.J.A.C. 7:50-6.85(d)2i); is in good repair (N.J.A.C. 7:50-6.85(d)2ii); and is operating in conformance with the manufacturer's specifications and is functioning properly (N.J.A.C. 7:50-6.85(d)2iii).

In addition to the standards being added at N.J.A.C. 7:50-6.85(a) through (d), a new certification standard for municipal master plans and land use ordinances is also being proposed at N.J.A.C. 7:50-3.39(a)2x . This standard requires that all Pinelands municipalities adopt amendments to their land use ordinances in order to establish programs for the long-term maintenance of onsite subsurface sewage disposal systems. Such ordinance amendments would need to be consistent with NJDEP's Water Quality Management Planning Rules (N.J.A.C 7:15-5.25(e)3). They would also need to comply with and implement the minimum requirements being added at N.J.A.C. 7:50-6.85(a) through (d) in order to be certified by the Pinelands Commission pursuant to N.J.A.C. 7:50-3. Included in the proposed certification standard is the express recognition and authorization for Pinelands municipalities to charge reasonable fees for the issuance and renewal of any required septic system permits.

The proposed certification standard also makes clear that municipalities may propose and the Commission may approve septic maintenance programs that contain additional and/or different standards and procedures than those set forth at N.J.A.C. 7:50-6.85(a) through (d), provided those standards and procedures are based upon local conditions or circumstances which warrant such changes. The alternative standards and procedures must also ensure the protection of surface

and ground water quality consistent with N.J.A.C. 7:50-6, Part VIII. Pinelands municipalities have always had the general ability to refine the various standards and provisions of the CMP and tailor them to local conditions, provided CMP goals and objectives continue to be achieved. The language included in the new certification standard merely relates this important concept specifically to the long-term septic maintenance programs which Pinelands municipalities will now be required to adopt and implement.

As an example, although Pinelands municipalities will have a year from the effective date of these amendments to adopt implementing ordinances, a municipality might propose to provide for an additional transition period in its ordinance so that the owners and operators of existing systems would not need to immediately apply for their initial operating permits. A similar transition period could be applied to the triennial inspection requirement. Provided such provisions were of specific and limited duration, perhaps one or two years, and further provided that the municipality in question has the ability to administer such provisions, the Commission could consider approving this variation from CMP standards based on proposed N.J.A.C. 7:50-3.39(a)2x. It should be noted that there is nothing in these proposed amendments which would prevent landowners in such a municipality from proceeding with inspections and pumping of their systems before or during such transition periods. The Commission fully expects that many landowners will do so as part of their normal maintenance practices.

The adoption of land use ordinances which establish programs for the long-term maintenance of onsite subsurface sewage disposal systems will enable Pinelands municipalities to comply with DEP's new WQMP rules (N.J.A.C. 7:15-5.25(e)3) which require "areas to be individual subsurface sewage disposal systems" to be "subject to a mandatory maintenance program, such as an ordinance, which ensures that all individual subsurface sewage disposal systems are functioning properly. This shall include requirements for periodic pump out and maintenance as needed." To assist Pinelands municipalities in carrying out this responsibility, the Commission will be preparing and distributing a model ordinance. This model ordinance will implement the minimum standards and procedures established at N.J.A.C. 7:50-6.85(a) through (d) and provide details on such items as required inspection procedures and O&M agreement requirements. The model ordinance will also provide municipalities with a variety of procedural options from which to choose when considering the design of their maintenance programs, including the designation of responsible management entities, assessment of user fees, licensing of septic system service providers and the creation of incentives for compliance. Various forms for use by the municipalities (e.g., inspection forms) will also be included with the ordinance.

Because a number of municipalities contain lands within the Pinelands Area as well as outside the Pinelands Area, the model ordinance will be written in such a way that it could be expanded to cover those portions of a municipality located outside the Pinelands Area boundary.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments are expected to have a positive social impact. The management of onsite wastewater disposal systems is an essential component of the water quality protections of the Pinelands Comprehensive Management Plan. The amendments provide a streamlined mechanism for municipalities to implement mandatory septic system management programs required by both the Commission and NJDEP. They establish a process for municipalities to regulate the use of septic systems which discharge pollutants to Pinelands groundwater resources and do so in a manner that can be financed through user fees.

The implementation of this septic system management program will protect the significant investment in existing decentralized wastewater infrastructure (in the form of existing septic systems) and minimize the need to extend costly and environmentally disruptive centralized sewage collection systems to areas plagued by malfunctioning on-site systems. Owners of residential and commercial properties which rely upon onsite systems gain protection from the potential loss of use of their property resulting from onsite system failures. Educating septic system users on the proper care and maintenance of their septic system is critical in obtaining the maximum service life from the system as well as protecting

ground and surface waters from chemical contamination. The proposed rule requires that septic system management programs provide system owners with periodic notification of proper operation and maintenance practices, such as those required in the NJDEP Standards for Individual Subsurface Sewage Disposal Systems.

Communities in which proper septic system maintenance occurs will experience an enhanced quality of life as the nuisances and public health hazards associated with failing onsite systems will be significantly reduced. The proposed amendments will have a positive impact on the real and perceived value of properties as a result of reduced concerns related to the potential for septic system failures. The amendment is also likely to result in less contentious real estate transactions as disputes related to septic certification required to obtain mortgage financing will be greatly reduced.

The amendments also provide a positive social impact through the identification of defective septic tanks, those whose structural instability or vulnerability to corrosion could lead to collapse and personal injury.

Economic Impact

It is unlikely that the proposed amendments will result in significant adverse economic impacts. For owners of systems, most of the costs associated with mandatory inspections and pump-outs would have been incurred with proper maintenance in any case. Typical septic tank pumping and inspection costs for

traditional systems are estimated to range from \$225 to \$300 triennially or approximately \$75 to \$100 per year. Additional administrative costs for record keeping are estimated to add an additional \$30 to \$50 per system triennially. Even at the upper range of approximately \$115 per year, these costs are well below those incurred by users of public wastewater infrastructure. The September 2008, Onsite Wastewater Systems Management Manual for the New Jersey Pinelands, prepared for the Commission by Stone Environmental, contains further details on the projected costs of the basic program requirements reflected in the proposed amendment as well as those associated with more comprehensive programs which Pinelands municipalities may choose to implement. A positive economic impact will likely result for those system owners that, absent a mandatory management program, would have otherwise failed to perform preventive maintenance. Such a lack of maintenance often results in very costly system repair or replacement costs.

The implementation of management programs is likely to lead to increased pumping of septic systems beyond that which is currently occurring. Firms that offer septic system inspections and pump-out services are likely to see an increase in business.

The amendments do require that the all systems be monitored and inspected and, for alternative systems, the owners to be party to renewable operation and maintenance (O&M) service agreements for such systems. Owners of alternative systems will have the ability to enter into O&M service agreements with the

system manufacturer or with an individual licensed by NJDEP to operate wastewater treatment systems. It is believed that this ability for system owners to choose between service providers will result in price competition and result in reduced service agreement costs. Service providers will need to determine the price for service in a competitive environment. Some or all of the costs for these requirements will be borne by the system owner. These requirements are necessary to protect the water resources of the Pinelands. However, regular inspection and maintenance will lengthen the life of the on-site wastewater treatment systems, thus reducing the annualized cost to operate them.

With respect to municipalities, the proposed amendments are expected to have little to no significant economic impact. The initial cost to inventory existing systems (as required by DEP) and issue permits could be recouped through permit or user fees. As was stated above, inspection and other costs will be borne by the system owners and service providers. To the extent such inspections were carried out in the past (admittedly very few), they were borne by the tax payers while this new system could be entirely funded by user fees.

Municipalities will also need to revise their land use ordinances to incorporate the minimum maintenance program requirements. The costs of these revisions will be borne by those local governments, although the Commission will be providing a model ordinance for the municipalities to consider.

Environmental Impact

The proposed amendments are expected to have a demonstrably positive environmental impact as they ensure compliance with state law that systems “function properly”, i.e., that they continue to work hydraulically and continue to dilute or diminish pollutants. Inspections and regular pumping will be mandatory. The continued effectiveness of alternate design technologies will be ensured through inspection requirements and operation and maintenance agreements. All inspections will be done by municipalities or their licensed agents, thereby increasing accountability. In addition, enforcement will be handled through normal municipal channels, much more effective than direct Pinelands Commission action.

It is important to note that the continued use of alternate design treatment systems in no way relieves any applicant from having to comply with all of the minimum environmental standards of N.J.A.C. 7:50-6 and the standards for land uses and intensity of development set forth in N.J.A.C. 7:50-5.

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.

Jobs Impact

The proposed amendments are not expected to have a material effect on the generation or loss of jobs. Inspections and maintenance of septic systems will be done by municipalities and existing firms doing similar activities now. No change in the number of homes that are constructed or permitted in the Pinelands Area is anticipated.

Agriculture Industry Impact

The proposed amendments are not expected to have any impact on the agriculture industry.

Regulatory Flexibility Analysis

Most businesses in the Pinelands Area may be characterized as small in size and number of employees in comparison to the remainder of New Jersey. Any such businesses which utilize septic systems for their wastewater needs will incur costs as a result of the proposed amendments. These relatively modest costs are estimated to range from \$75 to \$100 per year for the pumping and inspection of a typical septic tank. In all likelihood, these are costs which would have been incurred by small businesses even without the proposed amendments, as part of proper and routine septic system maintenance. The proposed amendments may also result in the need for small businesses to pay a fee to the municipality in which they are located in order to obtain a permit to operate the septic system. This permit fee is likely to vary from municipality to municipality, depending on the specific standards and procedures which are adopted to implement the required long-term maintenance program, and is expected to be modest.

The amendments also impose reporting, recordkeeping and compliance requirements on municipalities and their agents (through licensure) which inspect and pump septic systems. It is believed that at least some of the agents will be small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. If such businesses participate in the management program, they will know in advance what its reporting, record keeping and compliance obligations are and will have similar experience in administering their own businesses.

Smart Growth Impact

Executive Order No. 4 (2002) requires State agencies which adopt, amend or repeal any rule adopted pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-4(a)) to describe the impact of the proposed rule on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Commission has evaluated the proposed amendments to determine the nature and extent of their impact on smart growth and implementation of the State Plan. There will be no direct effect on smart growth objectives. The proposed amendments do not affect the amount of new development that is permitted to occur in the Pinelands Area, nor the location of such development. Rather, the amendments merely establish standards for the long-term maintenance of septic systems, wherever they are located in the Pinelands Area.

Housing Affordability Impact

The proposed amendments apply to septic systems associated with all types of existing or proposed housing units in the Pinelands Area, regardless of their size, cost or ownership. Although the amendments do impose requirements for the periodic inspection and pumping of these septic systems, it is unlikely these maintenance requirements will have any significant effect on the affordability of housing. Most of the costs associated with mandatory inspections

and pump-outs would have been incurred with proper septic system maintenance in any case. It is worth noting, also, that the proposed amendments are unlikely to affect housing units in those portions of the Pinelands Area within which most affordable housing is targeted or anticipated as such units are typically expected to be served by public sanitary sewer.

Smart Growth Development Impact

The proposed amendments apply to septic systems associated with all types of existing or proposed housing units in the Pinelands Area, regardless of their size, cost or ownership.

The proposed amendments will not affect new construction in Planning Areas 1 and 2 as designated by the State Development and Redevelopment Plan. These State Planning Areas do not exist in the Pinelands Area. In terms of new construction in designated centers, all Pinelands Regional Growth Areas, Pinelands Villages and Pinelands Towns are accorded such status by virtue of the 1999 Memorandum of Agreement between the Pinelands Commission and the State Planning Commission and the recently adopted amendments to the State Planning Rules on plan endorsement by the State Planning Commission. The proposed amendments require that existing and proposed septic systems within these areas be properly maintained through periodic inspections and pump-outs. The amendments do not affect the location or amount of new development permitted in these areas, and impacts on the cost of housing or business

development in these areas will be limited to that necessary to ensure proper long-term maintenance of septic systems. No impact upon smart growth development is anticipated.

Full text of the proposal follows (additions indicated with underlines thus; deletions indicated in brackets [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. Establish and implement a mitigation plan as part of any municipal stormwater management plan and ordinance adopted in accordance with N.J.A.C. 7:8-4.2(c)11 which:
 - (1)-(4) (No change.)
 - (5) Requires that the municipality expend any contributions collected pursuant to (a)2ix(4) above within five years of their receipt; [and]
 - ix. Are designed to implement a clear and straightforward process for the review of applications for residential cluster development in the Forest and Rural Development Areas, in accordance with the requirements for cluster development set forth in N.J.A.C. 7:50-5.19(c) and (d). The Commission may certify municipal clustering ordinances that contain different clustering standards than those set forth in N.J.A.C. 7:50-5.19(c) and (d) provided that those standards are supported through the application of sound land use planning principles, are based upon local conditions or circumstances that warrant such changes and do not undermine the overall goals and objectives of the

Forest and Rural Development Area clustering program set forth at N.J.A.C. 7:50-5.19(c) and (d); and

- x. Establish a program for the long-term maintenance of onsite subsurface sewage disposal systems which, at minimum, complies with and implements the provisions of N.J.A.C. 7:50-6.85(a) through (d), 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), 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.

7:50-6.85 Individual [wastewater treatment facility] and non-individual onsite subsurface sewage disposal systems and petroleum tank maintenance

- (a) All traditional individual and non-individual onsite subsurface sewage disposal systems in active use within 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.

- (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) 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 discharge of sewage or effluent to a surface water body.

[(a) The owner of every on-site septic wastewater treatment facility in the Pinelands shall, as soon as suitable septage disposal facility capacity is available, in accordance with the provisions of Chapter 326 of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and Section 201 of the Clean Water Act:

1. Have the facility inspected by a technician at least once every three years;
2. Have the facility cleaned at least once every three years; and

3. Once every three years submit to the board of health serving the municipality in which the facility is located a sworn statement that the facility has been inspected, cleaned and is functional, setting forth the name of the person who performed the inspection and cleaning and the date of such inspection.]

[(b)] (e) 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).