

RULE ADOPTIONS

ENVIRONMENTAL PROTECTION

(a)

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan Minimum Standards for Land Use Distribution and Intensities; Water Quality; Pilot Program for Alternate Design Wastewater Treatment Systems Adopted Amendments: N.J.A.C. 7:50-5.22, 5.23, 5.24, 5.26, 5.27, 5.28, 6.84, 6.85, 10.21, 10.22, and 10.23

Proposed: July 20, 2020, at 52 N.J.R. 1367(a).

Adopted: November 13, 2020, by the New Jersey Pinelands

Commission, Nancy Wittenberg, Executive Director.

Filed: November 18, 2020, as R.2020 d.134, **without change**.

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

Effective Date: December 21, 2020.

Expiration Date: Exempt.

The New Jersey Pinelands Commission (Commission) is adopting amendments to Subchapters 5, Minimum Standards for Land Uses and Intensities, 6, Management Programs and Minimum Standards, and 10, Pilot Programs, of the Pinelands Comprehensive Management Plan (CMP). The adopted amendments relate to minimum lot sizes, water quality standards, and the Pilot Program for Alternate Design Wastewater Treatment Systems ("Pilot Program" or "Program"). The changes extend the Pilot Program, authorize a piloted technology for permanent use, remove two piloted technologies from the Program, revise and update reporting and certification requirements, clarify requirements, and eliminate inconsistencies among subchapters.

The Pinelands Commission transmitted the notice of 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 that subscribe to the Commission's public hearing registry;
- Sent notice of the public hearing and provided a copy of the notice of proposal to all Pinelands counties and municipalities, the health departments of all seven Pinelands counties, the alternate design wastewater treatment system vendors for technologies approved in the Pinelands Area, and other interested parties;
- 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-7.f;
- Distributed the proposed amendments to the news media maintaining a press office in the State House Complex; and
- Published a copy of the proposed amendments on its web page at www.nj.gov/pinelands.

Summary of Hearing Officer Recommendations and Agency

Response:

A formal public hearing was held in live video format (Zoom) before the Commission staff on September 2, 2020. Instructions for how to participate in the video hearing were included in the public hearing notice, as well as on the Commission's website. The public hearing was recorded in video format and is on file in the Commission's digital records. No oral testimony was received on the notice of proposal.

Summary of Public Comment and Agency Response:

Written public comments were accepted through September 18, 2020.

The Commission received no written comments on the proposed amendments.

Federal Standards Analysis

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 that the plan must meet, including the protection, preservation, and enhancement of the land and water resources of the Pinelands. The adopted amendments are designed to meet those goals by providing an opportunity for water quality improvements through the use of advanced waste water treatment systems. The other amendments may be categorized as clarifications or largely procedural in nature.

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

Full text of the adoption follows:

SUBCHAPTER 5. MINIMUM STANDARDS FOR LAND USES AND INTENSITIES

7:50-5.22 Minimum standards governing the distribution and intensity of development and land use in the Preservation Area District

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

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained at N.J.A.C. 7:50-6.84(a)4, whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)4 above, provided, however, that no such structure shall be located on a parcel of less than one acre. The requirements of this section shall not apply to a nonresidential use to be served by an individual on-site septic waste water treatment system in accordance with N.J.A.C. 7:50-6.84(a)5iii(2).

7:50-5.23 Minimum standards governing the distribution and intensity of development and land use in Forest Areas

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

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained at N.J.A.C. 7:50-6.84(a)4, whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)12 above, provided, however, that no such structure shall be located on a parcel of less than one acre. The requirements of this section shall not apply to a nonresidential use to be served by an individual on-site septic waste water treatment system in accordance with N.J.A.C. 7:50-6.84(a)5iii(2).

7:50-5.24 Minimum standards governing the distribution and intensity of development and land use in Agricultural Production Areas

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

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained at N.J.A.C. 7:50-6.84(a)4, whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)9 above, provided, however, that no such structure shall be located on a parcel of less than one acre. The requirements of this section shall not apply to a nonresidential use to be served by an individual on-site septic waste water treatment system in accordance with N.J.A.C. 7:50-6.84(a)5iii(2).

7:50-5.26 Minimum standards governing the distribution and intensity of development and land use in Rural Development Areas

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

(d) Minimum lot areas for non-residential structures shall be determined by application of the standards contained at N.J.A.C. 7:50-6.84(a)4, whether or not the lot is to be served by a centralized waste water treatment or collection facility pursuant to (b)10 above, provided, however, that no such structure shall be located on a parcel of less than one acre. The requirements of this section shall not apply to a

nonresidential use to be served by an individual on-site septic waste water treatment system in accordance with N.J.A.C. 7:50-6.84(a)5iii(2).

7:50-5.27 Minimum standards governing the distribution and intensity of development and land use in Pinelands Villages and Towns

(a) (No change.)

(b) No residential dwelling unit or nonresidential use shall be located on a parcel of less than one acre unless served by either:

1. A centralized waste water treatment plant;

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

3. For nonresidential development, an individual on-site septic waste water treatment system that meets the standards at N.J.A.C. 7:50-6.84(a)5.

(c) (No change.)

7:50-5.28 Minimum standards governing the distribution and intensity of development and land use in Regional Growth Areas

(a) (No change.)

(b) No residential dwelling unit or nonresidential use shall be located on a parcel of less than one acre unless served by either:

1. A centralized waste water treatment plant;

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

3. For nonresidential development, an individual on-site septic waste water treatment system that meets the standards at N.J.A.C. 7:50-6.84(a)5.

SUBCHAPTER 6. MANAGEMENT PROGRAMS AND MINIMUM STANDARDS

7:50-6.84 Minimum standards for point and non-point source discharges

(a) The following point and non-point sources may be permitted in the Pinelands:

1. (No change.)

2. Development of new waste water treatment or collection facilities that are designed to improve the level of nitrate/nitrogen attenuation of more than one existing on-site waste water treatment system where a public health problem has been identified may be exempted from the standards at (a)1ii above provided that:

i. (No change.)

ii. The facility is designed only to accommodate waste water from existing development;

iii.-iv. (No change.)

3.-4. (No change.)

5. Individual on-site septic waste water treatment systems that are intended to reduce the level of nitrate/nitrogen in the waste water, provided that the following standards are met:

i.-iii. (No change.)

iv. The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located, will ensure that ground water exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts per million nitrate/nitrogen calculated pursuant to the Pinelands dilution model dated December 1993, as amended, (Appendix A) subject to the provisions of (a)5v below and based on the following assumptions and requirements. For purposes of this section, the entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to N.J.A.C. 7:50-5.30 or 5.47:

(1) (No change.)

(2) For Amphidrome, Bioclere, SeptiTech, and FAST systems:

(A) For residential development using the Amphidrome, Bioclere, or SeptiTech system, the system will be located on a parcel of at least one

acre for each individual single-family residential dwelling unit or the system or systems for multi-family developments will be located on a parcel with an overall density equal to or greater than one residential unit per acre of land;

(B)-(D) (No change.)

(E) Prior to the local board of health's issuance of a certificate of compliance, or similar authorization to occupy the development and utilize the treatment system, the technology manufacturer or its agent and a New Jersey licensed professional engineer shall provide written certification, in a form acceptable to the Commission and the local board of health, that installation of each system, and all components and appurtenances, including, but not limited to, pumps, switches, blowers, micro-processors, and local audio/visual and service provider notification alarms has been performed properly and the system and all of its components are operating properly. The manufacturer or its agent shall include in the certification the cost of the installation;

(F) The manufacturer or its agent shall provide to each owner an operation and maintenance manual;

(G) Each system shall be equipped with a functioning warning system which will activate audible and visual alarms that can be readily seen and heard by occupants of the building served and which also provide immediate remote alarm notification to the system service provider. Systems may be equipped with a telemetry control panel, attached to an Internet-based interface that provides continuous remote monitoring, information management, and control of the advanced wastewater pretreatment device. Systems that do not have a telemetry control panel shall use an active phone line equipped with an auto dialer to notify the authorized service provider of alarm conditions, including if power to any of the system equipment is disconnected. The alarm and its switch shall not be on the same electrical circuit as the system pump(s), blower(s), and system component control switches. The alarm system shall periodically communicate with the authorized service provider's remote monitoring system to ensure against unauthorized alarm system disconnections;

(H) The property owner shall record with the deed to the property a notice consistent with the sample deed notice approved pursuant to N.J.A.C. 7:50-10.22(a)2vi that identifies the technology, acknowledges the owner's responsibility to operate and maintain it and grants access, with reasonable notice, to the local board of health, the Commission and its agents for inspection and monitoring purposes. The recorded deed shall run with the property and shall ensure that the maintenance requirements are binding on any owner of the property during the life of the system and any replacement nitrogen reducing system, if applicable. Evidence that the deed notice was filed shall be provided to the local board of health and the Commission prior to the board of health's issuance of a certificate of compliance, or similar authorization to occupy the development and utilize the treatment system;

(I) The manufacturer, its agent, the system owner, or the duly authorized service provider shall make available for inspection by the Commission or its agents, upon reasonable notice, all records relating to each system installed in the Pinelands;

(J) For nonresidential development, no reduction in total nitrogen will be assumed. Since insufficient data is available to determine a particular efficiency of these technologies for nonresidential development, due to the high degree of variability in wastewater from nonresidential development, the use of these systems for such development will be evaluated on a case by case basis pursuant to (a)1 above if any such system is proposed to reduce total nitrogen in nonresidential effluent; and

(K) Each system shall be covered by an initial five-year warranty and a renewable, minimum five-year maintenance contract that cannot be arbitrarily cancelled and that includes a provision requiring that the manufacturer, or its agent, inspect the system at least once a year and undertake any maintenance or repairs determined to be necessary during any such inspection or as a result of observations made at any other time, including during effluent monitoring. The warranty and maintenance contract shall be consistent with the sample warranty and maintenance contract approved pursuant to N.J.A.C. 7:50-10.22(a)2v.

(3) (No change.)

v.-ix. (No change.)

6. (No change.)

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

(a) (No change.)

(b) All Pinelands alternate design wastewater treatment systems in active use shall be equipped with a functioning alarm system that conforms to the requirements at N.J.A.C. 7:50-6.84(a)5iv(2)(G) and shall be covered under a renewable operation and maintenance contract that conforms to the requirements at N.J.A.C. 7:50-6.84(a)5iv(2)(K), for as long as the system is in active use.

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

SUBCHAPTER 10. PILOT PROGRAMS

7:50-10.21 Purpose

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

(c) In 2000, the Commission formed a special committee to investigate alternate septic system technologies that would better meet the water quality requirements at N.J.A.C. 7:50-6, Part VIII, for residential development on lots smaller than 3.2 acres, where such lots are currently authorized by N.J.A.C. 7:50-5. After conducting extensive research, the Committee identified five technologies that could be expected to meet these water quality requirements for residential development. The Committee recommended that an interim program be developed for the approval, installation, and monitoring of the five technologies for use under certain conditions and safeguards. Residential development using any of the authorized systems would still have to conform to the lot size and density requirements contained in the municipal land use ordinances that have been certified by the Commission pursuant to N.J.A.C. 7:50-3.

(d) (No change.)

(e) Upon adoption of the Alternate Design Treatment Systems Pilot Program in 2002, the Commission authorized five technologies to be tested for residential use in the Pinelands Area: Amphidrome, Ashco RFS III, Bioclere, Cromaglass, and FAST. In 2006, the Commission removed the Ashco RFS III technology from the pilot program due to the manufacturer's failure to make systems commercially available in the Pinelands Area during the initial five-year period of the pilot program or to otherwise demonstrate the ability or intention for future participation in the program. In 2013, the Commission removed the Cromaglass technology from the pilot program due to its inability to meet the water quality standards at N.J.A.C. 7:50-6, Part VIII. The remaining three technologies successfully demonstrated their ability to meet the water quality standards of this Plan and were released from the pilot program and authorized for permanent use in the Pinelands Area in accordance with N.J.A.C. 7:50-6.84(a)5iv. The Amphidrome and Bioclere technologies were released in 2010 and authorized for residential development on parcels of at least one acre. The FAST technology was released in 2016 and authorized for residential development on parcels of at least 1.4 acres.

(f) In 2010, amendments to this subchapter authorized the Commission to expand the pilot program and add more residential nutrient reducing onsite waste water treatment technologies that have attained verification and/or certification through the United States Environmental Protection Agency Environmental Technology Verification (USEPA ETV) Program or the National Sanitation Foundation/American National Standards Institute (NSF/ANSI) Standard 245 testing program. Information regarding the USEPA ETV Program is available from the United States Environmental Protection Agency website at: <http://www.epa.gov/etv/vt-wqp.html#dwtt> and <http://www.epa.gov/etv/pubs/600s07004.pdf>. Information regarding the NSF/ANSI Standard 245 testing program is available from the National Sanitation Foundation website at: http://www.nsf.org/business/wastewater_certification/standards.asp?program=WastewaterCer#245. Four technologies were evaluated pursuant to N.J.A.C. 7:50-10.23(b) and accepted into the pilot program in 2011. In 2020, the Commission released one of those technologies, SeptiTech, from the pilot program in recognition of its ability to meet the water quality standards at N.J.A.C. 7:50-6, Part VIII, and authorized it for residential development on parcels of at least one acre in accordance with N.J.A.C. 7:50-6.84(a)5iv. The Commission also removed two technologies from the pilot program in 2020: BioBarrier, which failed to meet the water quality standards at N.J.A.C. 7:50-6, Part VIII; and Busse

GT, which could not be evaluated as the technology was never installed in the Pinelands Area after being accepted into the pilot program.

7:50-10.22 General standards

(a) Alternate design pilot program treatment systems shall be authorized for residential use in all municipalities provided that the following standards are met:

1. (No change.)

2. The manufacturer of the alternate design pilot program treatment system has submitted to the Executive Director and the Executive Director has approved:

i. (No change.)

ii. A description of the automatic dialing system required at (a)5ii below, and a description of how and when that system will function;

iii.-v. (No change.)

vi. A sample deed notice that is consistent with (a)5ix below.

3. Subject to being increased during the pilot program based on the results of a hearing conducted pursuant to (a)4 below, each USEPA ETV or NSF/ANSI Standard 245 technology approved by the Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) shall be located on a parcel containing sufficient land area to comply with the two parts per million nitrogen requirement and the water quality standards contained at N.J.A.C. 7:50-6, Part VIII, as calculated using the Pinelands Septic Dilution Model and the expected effluent total nitrogen value for the technology based upon the findings of the USEPA ETV and/or NSF/ANSI Standard 245 test data.

4. The Executive Director shall periodically report to the Commission on the installation, maintenance, and performance data for each technology. The Executive Director shall also report to the Commission if he or she determines there is a significant installation, maintenance, or performance issue with one or more technologies that needs to be addressed. Copies of any report issued by the Executive Director shall be provided to each manufacturer and agent of a technology that is discussed in that report. If the report determines either that a manufacturer, or its agent, is not adhering to any of the requirements of this pilot program or that any one of the technologies, based on maintenance or installation issues or on evaluation of all the monitoring results for that technology under this pilot program, is not meeting the minimum water quality standards at N.J.A.C. 7:50-6.83 or the two parts per million total nitrogen requirement at (a)5xii below on all lots smaller than 3.2 acres or on lots smaller than a particular size because the effluent exiting the system is higher than was anticipated in establishing the lot sizes at (a)3 above:

i.-ii. (No change.)

5. Conditions for use of alternate design pilot program treatment systems are as follows:

i. (No change.)

ii. Each system shall be equipped with a functioning alarm system that conforms to the requirements at N.J.A.C. 7:50-6.84(a)5iv(2)(G). The manufacturer or its agent shall report to the Executive Director each such malfunction within five days of its occurrence, describing the nature of the mechanical malfunction, the measures taken to correct the malfunction, and the success of those measures;

iii-iv. (No change.)

v. The manufacturer or its agent and a New Jersey licensed professional engineer shall certify to the Commission and the local board of health that installation of each system has been properly completed and that the system and all of its components are operating properly. The manufacturer, or its agent, shall include in the certification the cost of the installation;

vi.-vii. (No change.)

viii. Each system shall be covered by an initial five-year warranty and a renewable, minimum five-year maintenance contract that cannot be arbitrarily cancelled and which includes a provision requiring that the manufacturer or its agent inspect the system at least once a year and undertake any maintenance or repairs determined to be necessary during any such inspection or as a result of observations made at any other time, including during effluent monitoring. Said warranty and maintenance contract shall be consistent with the sample warranty and maintenance contract approved pursuant to (a)2v above;

ix. The property owner shall record, with the deed to the property, a notice consistent with the sample deed notice approved pursuant to (a)2vi above that identifies the technology, acknowledges the owner's responsibility to operate and maintain it in accordance with the manual required at (a)2vi above, and grants access, with reasonable notice, to the local board of health, the Commission, and its agents for inspection and monitoring purposes. The recorded deed shall run with the property and shall ensure that the maintenance requirements are binding on any owner of the property during the life of the system and that the monitoring requirements are binding on any owner of the property during the time period the monitoring requirements apply pursuant to this pilot program or any subsequent rules adopted by the Commission that apply to said system;

x. (No change.)

xi. By June 5 and December 5 of each calendar year, until the conclusion of the pilot program, each manufacturer or its agent shall submit to the Executive Director a report that includes the number of systems installed during the previous six months and since the beginning of the pilot program, a discussion of any installation problems and what has been done to address those problems, an analysis and evaluation of the monitoring results to date, and a discussion of any operational or maintenance issues, including the number of systems requiring maintenance or repairs and the nature and success of such maintenance and repairs, and the number of times the automatic dialing system was set off and the reasons for each such occurrence;

xii.-xiii. (No change.)

(b) (No change.)

(c) The technology manufacturer or its agent shall troubleshoot and attempt to remediate substandard performance of any system that fails to meet effluent concentration targets after two consecutive sampling events by implementing measures including, but not limited to, homeowner education, process adjustments, and equipment retrofits. The technology manufacturer or its agent shall report to the Executive Director and local board of health semi-annually on all remedial measures undertaken, pursuant to (a)5viii above.

7:50-10.23 Pinelands Commission approval and evaluation

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

(c) The Executive Director shall review this pilot program relative to any approved USEPA and NSF/ANSI Standard 245 treatment technologies no later than August 5, 2025, and shall report to the Commission within three months of that date on its implementation. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:

1. (No change.)

2. The maintenance required for each alternate design pilot program treatment system technology to meet the efficiency set forth at (c)1 above;

3.-6. (No change)

(d) If the Executive Director finds that the number of monitoring events for any approved USEPA and NSF/ANSI Standard 245 treatment technologies is not adequate to evaluate any of those technologies under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, 2027.

(e)-(g) (No change.)

LABOR AND WORKFORCE DEVELOPMENT

(a)

INCOME SECURITY

2021 Maximum Weekly Benefit Rates 2021 Taxable Wage Base Under the Unemployment Compensation Law

2021 Contribution Rate of Governmental Entities and Instrumentalities

2021 Base Week

2021 Alternative Earnings Test

Adopted Amendments: N.J.A.C. 12:15-1.2, 1.3, 1.4, 1.5, and 1.6

Proposed: September 8, 2020, at 52 N.J.R. 1659(b).

Adopted: November 23, 2020, by Robert Asaro-Angelo,
Commissioner, Department of Labor and Workforce
Development.

Filed: November 23, 2020, as R.2020 d.137, **without change.**

Authority: N.J.S.A. 34:1-5, 34:1-20, 34:1A-3(e), 43:21-3(c), 43:21-4(e), 43:21-7(b)(3), 43:21-7.3(e), 43:21-19(t), 43:21-27, 43:21-40, and 43:21-41.

Effective Date: December 21, 2020.

Expiration Date: March 14, 2025.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

The adopted amendments do not contain any standards or requirements that exceed standards or requirements imposed by Federal Law. The adopted amendments affect benefit and contribution levels under the Unemployment Compensation and Temporary Disability Benefits Laws. As a result, an explanation or analysis of the adopted amendments pursuant to N.J.S.A. 52:14B-23 is not required.

Full text of the adoption follows:

SUBCHAPTER 1. GENERAL PROVISIONS

12:15-1.2 Maximum weekly benefit rates

(a) For unemployment compensation claims commencing on or after January 1, 2021, the maximum weekly benefit rate under the Unemployment Compensation Law shall be \$731.00 per week.

(b) For periods of disability or family leave commencing on or after January 1, 2021, the maximum weekly benefit rate for State Plan temporary disability and family leave insurance benefits under the Temporary Disability Benefits Law shall be \$903.00 per week.

12:15-1.3 Taxable wage base under the Unemployment Compensation Law

(a) In accordance with the provisions of N.J.S.A. 43:21-7(b)(3), the "wages" of any individual with respect to any one employer for the purpose of contributions under the Unemployment Compensation Law shall include the first \$36,200 during the calendar year 2021.

(b) In accordance with the provisions of N.J.S.A. 43:21-7(b)(4), the "wages" of any individual with respect to any one employer for the purpose of contributions to the State Disability Benefits Fund, including the Family Temporary Disability Leave Account, shall include the first \$138,200 during the calendar year 2021.

12:15-1.4 Contribution rate of governmental entities and instrumentalities

(a) In accordance with the provisions of N.J.S.A. 43:21-7.3(e), the contribution rate for all governmental entities and instrumentalities electing to pay contributions under the Unemployment Compensation Law shall be six-tenths of one percent (0.6 percent) for the entire calendar year.