

design standards and/or for any reason concerning public health or safety, shall be completed by the applicant. In lieu of review by the municipal engineer, the municipality may engage a licensed professional engineer to review the as-built plans and charge the applicant for all costs associated with such review.

vi. Exceptions:

(1) The standards set forth in (a)6i through v above shall not apply to minor residential development, provided such development does not involve the construction of any new roads, or to minor non-residential development, provided such development does not involve the grading, clearing or disturbance of an area in excess of 5,000 square feet within any five-year period;

(2) The use of nonstructural strategies in accordance with N.J.A.C. 7:8-5.3 shall not be required for development which would create less than one acre of disturbance;

(3) Provided an applicant for major development pursuant to N.J.A.C. 7:50-4.31 through 4.50 is able to demonstrate that the standards set forth in (a)6i through v above cannot be met on the parcel proposed for development or that stormwater management would more effectively be achieved through alternative measures, strict compliance with said standards may be waived at the discretion of the municipality in which the proposed development is located, provided the municipal stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 specifies the circumstances under which such alternative measures would be appropriate and identifies those parcels or projects elsewhere in the Pinelands Area where any off-site mitigation would be permitted to occur;

(4) Provided an applicant for major public development pursuant to N.J.A.C. 7:50-4.51 through 4.60 is able to demonstrate that the standards set forth in (a)6i through v above cannot be met on the parcel proposed for development or that stormwater management would more effectively be achieved through alternative measures, an exception may be granted at the discretion of the Commission, provided any such measures occur within the Pinelands Area and within the same drainage area as the parcel proposed for development and are sufficient to offset the granting of the exception. The proposed alternative measures must be consistent with the stormwater management plan certified by the Commission pursuant to N.J.A.C. 7:50-3 for the municipality in which the proposed development is located, unless said stormwater plan does not provide for appropriate mitigation for the particular exception being granted or identify appropriate parcels or projects where off-site mitigation may occur; and

(5) Unless specifically included in (a)6vi(1) through (4) above, the exemptions, exceptions, applicability standards and waivers of strict compliance for stormwater management described in N.J.A.C. 7:8 shall not apply.

vii. Maintenance standards:

(1) Maintenance plans required pursuant to N.J.A.C. 7:8-5.8(a) shall be supplemented so as to include reporting of inspection and repair activities. Said plans shall include accurate and comprehensive drawings of all stormwater management measures on a parcel, including the specific latitude and longitude and block/lot number of each stormwater management measure. Maintenance plans shall specify that an inspection, maintenance and repair report will be updated and submitted annually to the municipality;

(2) Stormwater management measure easements shall be provided by the property owner as necessary for facility inspections and maintenance and preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities. The purpose of the easement shall be specified in the maintenance agreement; and

(3) An adequate means of ensuring permanent financing of the inspection, maintenance, repair and replacement plan shall be implemented and shall be detailed in the maintenance plan. Financing methods shall include, but not be limited to.

(A) The assumption of the inspection and maintenance program by a municipality, county, public utility or homeowners association;

(B) The required payment of fees to a municipal stormwater fund in an amount equivalent to the cost of both ongoing maintenance activities and necessary structural replacements.

viii. Unless specifically mandated pursuant to (a)6i through vii above, the New Jersey Stormwater Best Management Practices Manual developed by the New Jersey Department of Environmental Protection, dated February 2004, as amended, may be utilized as a guide in determining the extent to which stormwater management activities and measures meet the standards of (a)6i through vii above.

Amended by R.1988 d.405, effective September 19, 1988.
See: 20 N.J.R. 716(a), 20 N.J.R. 2384(a).

In (a)2, added "or collection" and "where a public health problem has been identified", and in (a)4ii, deleted "District" and added "Rural Development Area".

Amended by R.1994 d.590, effective December 5, 1994.
See: 26 N.J.R. 165(a), 26 N.J.R. 4795(a).

Administrative Correction
See: 27 N.J.R. 1410(a).

Amended by R.1995 d.449, effective August 21, 1995.
See: 27 N.J.R. 1557(a), 27 N.J.R. 1927(a), 27 N.J.R. 3158(a).

Deleted (a)5.iv.(2)(A)(I) and (a)5.iv.(2)(A)(II).

Amended by R.1996 d.225, effective May 20, 1996.

See: 27 N.J.R. 3878(a), 28 N.J.R. 2596(a).

In (a)4viii and (a)5ix inserted the reference to 7:14A-23.3(a).

Amended by R.2002 d.247, effective August 5, 2002.

See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).

Rewrote (a)5iv.

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

Rewrote (a)6.

Amended by R.2009 d.108, effective April 6, 2009.

See: 40 N.J.R. 4874(a), 41 N.J.R. 1405(a).

In (a)6i(1), substituted "Title 210 - Engineering, 210-3-1 Small Watershed Hydrology (WINTR-55) Version 1.0" for "Technical Release 55 - Urban Hydrology for Small Watersheds", "http://www.wsi.nrcs.usda.gov/products/W2Q/H&H/Tools_Models/WinTr55.html" for "<http://www.wcc.nrcs.usda.gov/water/quality/common/neh630/4content.html>", and "Davidson" for "Davison"; in (a)6vi(3), inserted "pursuant to N.J.A.C. 7:50-4.31 through 4.50" and deleted "and" from the end; added new (a)6vi(4); recodified former (a)6vi(4) as (a)6vi(5); and in (a)6vi(5), substituted "(4)" for "(3)."

Amended by R.2010 d.235, effective October 18, 2010.

See: 42 N.J.R. 987(a), 42 N.J.R. 2422(a).

Deleted former (a)5iv(1); recodified former (a)5iv(2) as (a)5iv(1); and added new (a)5iv(2).

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See: 43 N.J.R. 1380(b).

Case Notes

Municipal sewage treatment facility may have waiver from strict compliance with water purity requirements where compliance with environmental and procedural laws is shown. Adamucci v. Pinelands Commission, 96 N.J.A.R.2d (EPC) 1.

No extraordinary hardship existed entitling property owner to waiver of strict compliance with seasonal high water table requirement. Pappas v. Pinelands Commission, 93 N.J.A.R.2d (EPC) 13.

Parcel not have beneficial use; extraordinary hardship existed entitling property owner to waiver of Pinelands Comprehensive Management Plan requirements; conditions imposed. Christensen v. New Jersey Pinelands Commission, 93 N.J.A.R.2d (EPC) 5.

Assumption that 3.5 people would inhabit each of proposed dwellings permissible; calculation as to whether proposed development violated nitrate-nitrogen ground water requirements. Schretzenmair v. Pinelands Commission, 93 N.J.A.R.2d (EPC) 1.

Sale of adjoining lot precluded existence of extraordinary hardship, even though property owner was elderly individual suffering from heart problems and diabetes and sought to sell or develop property in order to help support herself and two handicapped sons residing with her. Stark v. Pinelands Commission, 92 N.J.A.R.2d (EPC) 34.

Extraordinary hardship; waiver of lot size requirement, seasonal high water table requirement, and ground water nitrate-nitrogen requirement. Eni v. Pinelands Commission, 92 N.J.A.R.2d (EPC) 31.

Compelling health need; hardship waiver of nitrate-nitrogen discharge limitations; town permitted to build wastewater treatment facility. Adamucci, et al v. Pinelands Commission and Town of Hammonton, 92 N.J.A.R.2d (EPC) 21.

No extraordinary hardship existed entitling property owner to waiver of strict compliance with density requirements, seasonal high water table requirement, and wetlands protection requirements. Summonte v. Pinelands Commission, 92 N.J.A.R.2d (EPC) 9.

Residents living in former gun club were entitled to waiver of strict compliance from minimum lot size and water quality requirements. Swezeny v. Fulford, 92 N.J.A.R.2d (EPC) 1.

Waiver to subdivide a parcel of land denied by Pinelands Commission; petitioner failed to establish ownership of the land in compliance with N.J.A.C. 7:50-5.32(a)3i. Gerber v. Pinelands Commission, 11 N.J.A.R. 12 (1988).

Petitioner denied waiver of strict compliance with provisions of Comprehensive Management Plan for the Pinelands which establish minimum standards for septic wastewater treatment systems for failure to prove extraordinary hardship. Kruckner v. New Jersey Pinelands Commission, 10 N.J.A.R. 237 (1988).

Development application denied to petitioners for failure to meet minimum standards for seasonal high water table and wetlands buffer; waiver of strict compliance denied for failure to offer information to establish an extraordinary hardship citing N.J.A.C. 1:1-11.2 (recodified as N.J.A.C. 1:11-8.3)—(Final Decision by the Pinelands Commission). Lavecchia v. Pinelands Commission, 10 N.J.A.R. 63 (1987).

Application to resubdivide two existing lots denied for failure to meet minimum standards for seasonal high water table and wetlands buffer; waiver of strict compliance denied for failure to establish extraordinary hardship. (Final Decision by Pinelands Commission). Colon v. Pinelands Commission, 10 N.J.A.R. 14 (1987).

Effluent standard for waterless toilet (2 ppm) cited in determination that denial of waiver of strict compliance with toilet requirement reasonable. Riggins v. Pinelands Commission, 8 N.J.A.R. 441 (1985).

Property for which development approval sought, even if minimum lot size requirement met, does not meet minimum standards for wetlands buffer (N.J.A.C. 7:50-6.14) or seasonal high water table (N.J.A.C. 7:50-6.84); permit application denied. Pfeiffer v. Pinelands Commission, 8 N.J.A.R. 317 (1985).

Development application denied, in part, for failure to meet minimum standards for seasonal high water table. Pfeiffer v. Pinelands Commission, 8 N.J.A.R. 317 (1985).

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

(a) The owner of every traditional individual and non-individual onsite subsurface sewage disposal system in the Pinelands shall as soon as suitable septage disposal facility capacity is available, in accordance with the provisions of Chapter 326 of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and Section 201 of the Clean Water Act:

1. Have the 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

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 when effluent monitoring occurs or that is identified based on the results of any effluent monitoring. Said warranty and maintenance contract shall be consistent with the sample warranty and maintenance contract approved pursuant to (a)2v above. In addition to complying with the reporting requirements of N.J.A.C. 7:9A-3.4(b) concerning system malfunctions, the manufacturer or agent shall report to the Executive Director and local board of health on all necessary maintenance and repairs within 10 days and shall report to the Executive Director and local board of health semi-annually as to the inspections conducted during the preceding six months including a description of any maintenance and repairs that were undertaken and the success of those measures and their costs;

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 in (a)6vi 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 regulations adopted by the Commission that apply to said system;

x. The manufacturer or its agent shall make available for inspection by the Commission or its agents, upon reasonable notice, all records relating to each system installed in the Pinelands pursuant to this pilot program;

xi. 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 which includes the number of systems installed during the previous six months and since the beginning of the pilot program, a discussion of any installation problems and what has been done to address those problems, an analysis and evaluation of the monitoring results to date and a discussion of any operational or maintenance issues, including the number of systems requiring maintenance or repairs and the nature and success of such maintenance and repairs, and the number of times the automatic dialing system was set off and the reasons for each such occurrence;

xii. The system complies with the requirements of N.J.A.C. 7:50-6.84(a)4i through v; and

xiii. No more than six alternate design treatment technologies shall be approved for use in the Alternate

Design Waste Water Treatment Systems Pilot Program at any one time.

(b) The property owner shall not be held liable for poor system performance if the system has been properly operated and maintained.

(c) The technology manufacturer or its agent shall troubleshoot and attempt to remediate substandard performance of any system that fails to meet effluent concentration targets after two consecutive sampling events by implementing measures including, but not limited to, homeowner education, process adjustments, and equipment retrofits. The technology manufacturer or its agent shall report to the Executive Director and local board of health semi-annually on all remedial measures undertaken, pursuant to (a)6viii above.

New Rule, R.2002 d.247, effective August 5, 2002.

See: 34 N.J.R. 722(a), 34 N.J.R. 2804(b).

Public Notice: Ashco-A-Corporation, RFS^{III} Wastewater Treatment System.

See: 35 N.J.R. 2750(b).

Public Notice: Amphidrome® Treatment System.

See: 35 N.J.R. 4135(b).

Public Notice: Ascho-A-Corporation, RFS^{III} Gravity Dosing Treatment System.

See: 35 N.J.R. 4136(a).

Public Notice: Approval of Aquapoint, Inc, Bioclere™ Treatment System.

See: 36 N.J.R. 221(c).

Public Notice: Approval of Cromaglass® Treatment System.

See: 36 N.J.R. 1238(a).

Petition for Rulemaking.

See: 37 N.J.R. 1237(a), 2707(a), 3074(c).

Amended by R.2006 d.159, effective May 1, 2006.

See: 37 N.J.R. 4133(a), 38 N.J.R. 1829(b).

Rewrote (a)6i.

Amended by R.2007 d.372, effective December 3, 2007.

See: 39 N.J.R. 1970(a), 39 N.J.R. 5077(b).

In the introductory paragraph of (a), substituted "in all municipalities" for "where the proposed lot size and density is consistent with the provisions of N.J.A.C. 7:50-5 and the municipal land use ordinance that has been certified by the Commission pursuant to N.J.A.C. 7:50-3 and"; rewrote (a)1; in (a)3, deleted "each Ashco RFS III system shall be located on a parcel containing at least 1.5 acres for each dwelling unit that will be served by the system and" preceding "each FAST"; and in (a)4, substituted "eight" for "five".

Amended by R.2010 d.235, effective October 18, 2010.

See: 42 N.J.R. 987(a), 42 N.J.R. 2422(a).

In (a)2i, inserted "or are determined to be consistent with record documents submitted for USEPA ETV and/or NSF/ANSI Standard 245 testing"; in (a)2iii, inserted "and" preceding and deleted "and chlorides" following the first occurrence of "total kjeldahl" and added the last two sentences; rewrote (a)3 through (a)5; added new (a)6vi; recodified former (a)6vi through (a)6xi as (a)6vii through (a)6xii; in (a)6xi, substituted "June 5 and December 5 of each calendar year" for "By July 5, 2003 and every six months thereafter" and deleted "and" from the end; in (a)6xii, substituted "; and" for a period at the end; and added (a)6xiii; and (c).

Public Notice: Agency Action: Pilot Program for Alternate Design Wastewater Treatment Systems.

See: 43 N.J.R. 1380(b), 3200(b).

7:50-10.23 Pinelands Commission approval and evaluation

(a) If otherwise appropriate under N.J.A.C. 7:50-3, the Commission shall approve a municipal ordinance authorizing

use of alternate design pilot program treatment systems if it finds that the standards of N.J.A.C. 7:50-10.22 are met.

(b) New technologies shall be approved pursuant to this subsection.

1. In order to be considered for participation in this pilot program, the manufacturer or agent of an alternate design treatment system that has attained verification and/or certification status through the USEPA ETV Verification Program or NSF/ANSI Standard 245 testing program must apply to the Commission. Any such application shall be accompanied by the following:

i. All laboratory test data and reports associated with the technology's participation in the USEPA ETV Verification Program or NSF/ANSI Standard 245 testing program;

ii. A description of the distribution and technical support system that the technology vendor will utilize to supply and support the treatment system in the Pinelands Area;

iii. An estimate of the cost of the technology including but not limited to equipment, shipping, warranty, operation and maintenance services, and effluent monitoring;

iv. The expected total nitrogen concentration to be achieved by the technology when serving residential development in the Pinelands Area; and

v. An escrow in the amount of \$2,500 pursuant to N.J.A.C. 7:50-1.7 to cover the cost of review for entry into the pilot program.

2. The Executive Director shall periodically establish a date by which completed applications in accordance with (b)1 above must be received by the Commission in order to be considered for participation in this pilot program. Notification of the dates associated with any such round of applications shall be published in the New Jersey Register and posted and made available electronically on the Commission's website. The Executive Director may extend the deadline pursuant to N.J.A.C. 7:50-4.4(a).

3. Upon the conclusion of the application period established in (b)2 above, the Executive Director shall review the submitted documents for each technology seeking participation in the program. The Executive Director shall determine the eligibility of each technology to participate in the pilot program, based upon a comprehensive assessment of those items required for submission in (b)1 above. The Executive Director shall also determine the minimum lot size on which the technology could be authorized for residential use, subject to future modification, pursuant to N.J.A.C. 7:50-10.22(a)3.

4. Within 90 days after the deadline established for the receipt of complete applications or any extension thereto, the Executive Director shall submit a report to the Commission setting forth proposed findings and a recom-

mendation as to whether each technology should be permitted to participate in this pilot program. The Executive Director shall evaluate the eligibility of each technology to participate in the pilot program based upon expected effluent quality, estimated costs and system availability. Any such recommendation shall specify the minimum lot size necessary for compliance with the water quality standards of N.J.A.C. 7:50-6, Part VIII.

5. Upon receipt of the Executive Director's report, the Commission shall review the findings, conclusion and recommendation of the Executive Director and shall, within 120 days of the deadline for receipt of complete applications, or any extension thereto, determine whether each technology should be approved for participation in this pilot program. All determinations of the Commission shall be published in the New Jersey Register and posted and made available electronically on the Commission's website.

(c) The Executive Director shall review this pilot program relative to the FAST and Cromaglass treatment technologies no later than August 5, 2012 and shall report to the Commission within three months of that date on its implementation. 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, 2015 and shall report to the Commission within three months of that date on its implementation. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:

1. The level of nitrogen in the effluent in each alternate design pilot program treatment system technology based on an evaluation of all monitoring results for that technology under this pilot program;

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

3. The cost of installing and maintaining each alternate design pilot program treatment system technology;

4. The problems associated with the installation, operation and maintenance of each alternate design pilot program treatment system technology and the frequency with which each such problem occurs, the measures taken to eliminate any such problem and the success of those measures;

5. The number of systems of each technology that have been authorized under the pilot program; and

6. Whether the pilot program, when viewed in its entirety, has served to further the purposes and objectives of the Pinelands Protection Act, the Federal Act and this Plan.

(d) If the Executive Director finds that the number of monitoring events for the FAST and Cromaglass treatment technologies is not adequate to evaluate that technology under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon