

occupancy of the building served or use of the alternative design wastewater treatment system until such time as the Pinelands Commission provides written authorization to the local board of health that such system may be authorized for use by the board of health;

vii. The manufacturer or its agent shall provide to each owner an operation and maintenance manual approved pursuant to (a)2iv above;

viii. Each system shall be covered by a five-year warranty and a minimum five-year maintenance contract that cannot be cancelled and is renewable 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 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<sup>III</sup> 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<sup>III</sup> Gravity Dosing Treatment System.

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

Public Notice: Approval of Aquapoint, Inc, Bioclere<sup>TM</sup> 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<sup>III</sup> 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).

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

See: 44 N.J.R. 2312(a).

Amended by R.2014 d.143, effective September 2, 2014.

See: 46 N.J.R. 319(a), 46 N.J.R. 1877(b).

In (a)3, deleted "or Cromaglass" following "FAST"; and in (a)4, deleted "Cromaglass and" preceding "FAST", substituted "system" for "systems" and "2018" for "2016", and deleted "are authorized to be installed until August 5, 2013" following "above".

### 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 recommendation 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 treatment technology and any approved USEPA and NSF/ANSI Standard 245 treatment technologies no later than August 5, 2017, 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;