

Adopted February 28, 2020

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

**Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
January 24, 2020 - 9:30 a.m.**

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Sean Earlen, Jerome H. Irick, Ed Lloyd, and Mark Lohbauer

MEMBERS ABSENT: Candace Ashmun and Jordan Howell

STAFF PRESENT: Nancy Wittenberg, Stacey P. Roth, Susan R. Grogan, D. Brad Lanute, Ed Wengrowski, Paul Leakan, and Betsy Piner. Also present was Craig Ambrose, with the Governor's Authorities Unit.

1. Call to Order

Chairman Prickett called the meeting of the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee to order at 9:30 a.m.

2. Pledge Allegiance to the Flag

All present pledged allegiance to the Flag.

3. Adoption of minutes from the November 22, 2019 CMP Policy & Implementation Committee Meeting

Commissioner Lohbauer moved the adoption of the November 22, 2019 meeting minutes. Commissioner Irick seconded the motion. The minutes were adopted, with all Committee members voting in the affirmative with the exception of Commissioner Earlen who arrived after the vote was taken.

4. Executive Director's Report

Folsom Borough's 2018 Master Plan Reexamination Report and Ordinance 07-2019, amending Chapters 170 (Subdivision and Land Development) and 200 (Zoning) of the Borough's Code by adopting revised cluster development standards, revising permitted uses in the RD (Rural Development) and FC (Forest Commercial) Districts, creating a new RD-C (Rural Development Commercial) District and

adopting a revised zoning map that reflects the rezoning of lands between the Forest and Rural Development Areas

Mr. Lanute said in 2017 Folsom Borough contracted with the Department of Community Affairs (DCA) to facilitate its master plan reexamination process. He said Folsom, Commission, and DCA staff had met on multiple occasions to discuss the recommendations and that the process culminated with the adoption of the November 2018 Master Plan Reexamination Report and Ordinance 07-2019 that is before the Committee today.

Throughout his presentation, Mr. Lanute referred to the various exhibits attached to the Executive Director's Report and projected on the Smart Board.

Mr. Lanute said the 2018 Reexamination Report adopts new objectives and goals and also adds housing and recreation elements, not included in the existing 2007 Master Plan. He said a major goal of the Borough is to expand commercial development along the Black Horse Pike, one of three arterial roads in the Borough and the primary commercial corridor. He said development is constrained due to the extensive wetlands systems.

Mr. Lanute said, over the years, Commission staff has provided assistance in developing zoning approaches in this area that balance the protection of these wetland systems, while providing limited opportunities for development in appropriate areas. He said the Borough, DCA, and Commission staff evaluated various zoning scenarios along the Black Horse Pike. It was first determined that the Forest Commercial (FC) district could not be expanded any further while still meeting the CMP standards. Alternatively, a recommendation was developed to expand the Borough's Rural Development Area (RDA) at the eastern end of the Black Horse Pike and create a new Rural Development Commercial District (RDC).

Ordinance 07-2019 implements this recommendation by adopting a revised zoning map that creates a new RDC district along with other zoning changes effectuating necessary offsets to the Pinelands Management Area change. The new RDC district permits a variety of non-residential uses including: community commercial, agricultural products sales establishments, agricultural processing facilities and other light industrial uses, as well as recreational facilities. It also conditionally permits nursery schools and day-care centers, institutional uses, and public service infrastructure.

Mr. Lanute said the RDC district contains 13 lots totaling 62 acres. Three lots totaling about 49 acres are being rezoned from the Forest Area (FA) to RDA. The remaining lots, about 12.5 acres, are being rezoned from the Rural Development district to the RDC district as they are existing commercial uses that make sense for inclusion in the Commercial zone.

Mr. Lanute said the three lots rezoned from FA have frontage on the Black Horse Pike, are undeveloped, and have some upland areas with development potential while meeting CMP

standards. He identified, on the SmartBoard, the areas with wetlands constraints on these lots and said any development must meet all CMP requirements, including wetlands buffer requirements.

Mr. Lanute said, to balance the redesignation of lands from the FA to RDA, Ordinance 7-2019 rezones 69 lots, totaling 76 acres, from the RD district to the F-30 district. He said the rezoned lots are undeveloped, include significant wetlands, and, with the exception of three undersized lots, are owned by the State or the Borough. Redesignation to the FA is therefore an appropriate reflection of their extremely limited development potential.

Ms. Grogan said the wetlands present a challenge as they parallel the road. Staff recognizes that the Borough wants some additional commercial development along the highway and is comfortable with the three large lots that will be included in this new zone. She said this area hasn't been examined in many years, probably since the time of Folsom's original certification.

Mr. Lanute said the Borough has eliminated residential development as a permitted use in the existing FC Zone in order to target new commercial development along the Black Horse Pike. Also, he said, the Borough's provisions for conservation subdivision will be replaced with the CMP clustering standards to eliminate any potential future conflicts.

Mr. Ambrose arrived at 9:42 a.m.

Mr. Lanute said no public comment was received and staff finds these documents to be consistent with the CMP.

Commissioner Lohbauer asked about the lots along the Black Horse Pike and if the Borough were planning to limit the type of commercial development due to the proximity to wetlands perhaps to prohibit gas stations and oil changing facilities.

Ms. Grogan said the Borough has used the list of permitted uses in the RDA from the CMP and they are not that specific. The CMP merely says "community commercial uses" are permitted. Any development will have to meet the environmental standards.

Commissioner Earlen arrived at 9:45 a.m.

In response to Commissioner Irick's concern that a daycare center would be an intense use on a non-sewered lot, Ms. Grogan said the RDC lots are each roughly 20 acres and the septic standards will apply.

Commissioner Irick said the area targeted for commercial development is all forested so carbon sequestration will be lost.

Mr. Lanute said all the small lots are undeveloped although he was unsure of the land cover type.

Commissioner Irick said it seems that the rezoning will protect wetlands that already cannot be developed while eliminating trees that should be protected.

Ms. Grogan said on balance, staff is trying to identify for the Borough any development potential. The clearing will be limited to only what is needed; a developer will not be allowed to clear the entire site. She said because these lands cannot be sewerred, development is limited.

Chairman Prickett noted he had visited the site and that the portion of land closest to Monroe Township appears to be blighted by southern pine bark beetles. He said one needed to look at the balance and the quality of the forest being lost.

In response to Commissioner Lloyd's question regarding how much commercial development could occur, Ms. Grogan said the general estimate is 800 to 1,000 square-feet per acre for development served by a conventional septic system, which this would be.

Commissioner Lloyd said he supported the rezoning but Commissioner Irick has a good point when he suggests that one needs to consider carbon sequestration.

Ms. Grogan said there is better technology today than when Folsom was first certified. She said staff tries to make sure that undevelopable lands are not put into management categories where people will have unrealistic expectations.

In response to Commissioner Lloyd's question as to how often DCA becomes involved at this level, Ms. Grogan said this was a relatively new effort. She noted that DCA had been contracted by Pemberton for the Browns Mills Redevelopment Plan (*certified by the Commission 10/12/2018*). She said when the New Jersey Council on Affordable Housing (COAH) ceased to operate, their staff was assigned to the LPS to provide assistance to the municipalities for Master Plans and Redevelopment Plans. She said the municipalities must apply for the services and must meet certain criteria as it is a program directed toward needier communities. She said LPS had worked with Woodbine and its recently adopted master plan will be before the Commission soon. Also, she said, she believed Egg Harbor Township was using their services. She said the program has gone well and Commission staff works with DCA and the municipalities to make it an easier process. She said the Committee would be seeing more such Plans.

Mr. Lanute added that LPS can assist a finite number of towns.

Ms. Grogan said the municipality must establish a local group to work with LPS with a broad section of community representation, including members of the governing body, the planning and zoning boards, the school board, etc. She said it is a very thorough and intensive process and LPS generates much supporting data and mapping.

Chairman Prickett said planning is about balance. The Commission's clustering rules promote the preservation of trees. He said the southern pine bark beetle is an example of the need for better forest management. He said the LUCIS Committee could evaluate ordinances to be sure there are opportunities for the siting of solar facilities. He noted that Folsom has a lot of rooftops that seem appropriate for solar panels, including the State Department of Transportation complex

and the State Police barracks. He added that even South Jersey Gas has solar panels to power its facility and that all the Medford Township public schools are covered with solar panels.

Commissioner Earlen said the Solar Renewable Energy Credits (SRECs) have less value than in the past and the community solar program has become more popular. .

Ms. Wittenberg said there is an office at the Board of Public Utilities (BPU) that deals with assessing needs and promoting solar.

In response to Chairman Prickett's question if solar will help with economic development, Ms. Roth said now that the SREC program is in flux, BPU is currently in the stakeholder phase as it determines how to support solar programs in New Jersey in the future.

Commissioner Lloyd said New Jersey is not a good market for solar because there are too many uncertainties. He asked if NJDEP were involved with the Folsom planning efforts.

Ms. Grogan said typically NJDEP is not at the table unless issues are raised, then DCA will go to other agencies to coordinate if needed. She said she did not recall that being the case with Folsom.

Commissioner Lloyd moved advancing the Folsom documents to the full Commission. Commissioner Lohbauer seconded he motion.

Commissioner Lloyd revised his motion to recommend the Commission certify Folsom Borough's 2019 Master Plan Report and Ordinance 07-2019. Commissioner Earlen seconded the motion and all voted in favor.

5. Pilot Program for Alternate Design Wastewater Treatment Systems

Mr. Wengrowski provided an update on the Pilot Program for Alternate Design Wastewater Treatment Systems, (*Attachment A to these minutes and posted on the Commission's website at: [https://www.nj.gov/pinelands/home/presentations/Implementation%20Report%20Presentation%20Jan%2024%202020%20\(Nov\).pdf](https://www.nj.gov/pinelands/home/presentations/Implementation%20Report%20Presentation%20Jan%2024%202020%20(Nov).pdf)*).

He provided a brief history of the program noting that in the 1960's – 1970's the concentration of nitrogen in household wastewater was determined to be on the order of 40 mg/L whereas today, due to low flow toilets and other water saving devices, the concentration has likely increased up to 60 to 70 mg/L. He said for homes on one acre lots, the CMP requires that the effluent total nitrogen concentration be reduced to ≤ 14 mg/L in order to meet the 2 mg/L standard at the property line. It is the purpose of this program to identify wastewater treatment systems that meet that requirement. He said at any one time, only six technologies may participate in the pilot program. He said the Commission does not rely solely on third party test centers to identify and qualify systems as being capable of meeting Pinelands standards, having

found that systems that might be successful elsewhere might not work under Pinelands conditions. For this reason, systems are actively tested in the Pinelands Area.

Mr. Wengrowski said the pilot program is now 18 years old and staff is recommending the following changes: 1.) “graduate” the Septi-Tech system out of the pilot program to allow its installation to serve residential development on one acre lots without further monitoring; 2.) remove the Bio-Barrier system from the pilot program due to its inability to meet the water quality standards; 3.) remove the Busse GT and Hoot ANR technologies due to lack of any installations since receiving acceptance into the program in 2011; 4.) introduce up to six new piloted technologies; and 5.) amend the CMP to eliminate the annual reporting requirements by staff; defer any reporting on the new technologies until 2025 and consider measures to streamline the processing of system approvals.

Mr. Wengrowski said staff didn’t believe the current intense level of reporting was necessary and that there is a desire to streamline measures to make the program less onerous for the designers and installers.

Commissioner Lohbauer asked whether increased competition has led to a reduction in price. Mr. Wengrowski said the cost has remained fairly stable. He said one new system that hopes to gain admission into the pilot program, the Fuji Clean system, believes that its lower cost will severely undercut the other technologies.

In response to Commissioner Lloyd’s question as to why the limit of only six technologies at a time, Mr. Wengrowski said in order to have sufficient sample results to evaluate for any particular technology, there needed to be a limited pool. He said as technologies are certified and graduate from the program, this progression opens up the opportunity for new technologies to be introduced.

Commissioner Lloyd asked how many lots have septic systems that don’t meet the 2 mg/L nitrogen standard at the property line. Ms. Grogan said there are many and an estimate may have been made when the pilot program was first established in 2002. She said the Commission doesn’t have good data on the number of existing houses and the types of systems. But, one might estimate the number of 1-acre lots in the Regional Growth Area and Pinelands Village and try to make a projection she said.

Commissioner Lloyd said he was interested but didn’t want to create a lot of work.

In response to a comment from Chairman Prickett regarding methane, Mr. Wengrowski said these systems release methane to the atmosphere and also nitrogen gas. He said the large sewer treatment plants capture the methane that is released from their digesters and use it to power the plant.

6. Update on an amendment to the 1998 Memorandum of Agreement between the Pinelands Commission and Atlantic County concerning Atlantic County Park at Lake Lenape

Ms. Roth asked the Committee to recall Atlantic County's August 23, 2019 presentation regarding amending the 1998 Memorandum of Agreement (MOA) with the Commission concerning the facilities at Atlantic County Park at Lake Lenape (see <https://www.nj.gov/pinelands/home/presentations/Atlantic%20County%20Lake%20Lenape%20PI%20Presentation.pdf>).

She said NJDEP is supportive and amendable to creating a "box" in which to reconfigure the docks and boat launch area in exchange for the creating of a second "box" to serve as an offset. She said NJDEP and the Commission will conduct a single public hearing to both amend the MOA and lift a portion of the existing deed restriction. She said a draft amendment cannot be provided until Atlantic County provides the metes and bounds identifying the "boxes".

In response to Chairman Prickett's question if the area to be reconfigured at the boat dock is less than an acre, Ms. Roth said yes, but the County must define the area to accommodate their future plans.

In response to Commissioner Lohbauer's question, Ms. Roth said yes, it was likely the County would meet its goal of having the new docks in place for the summer.

7. Discussion of Commission rulemaking priorities

Ms. Wittenberg provided a PowerPoint presentation on upcoming rulemaking activities (*Attachment B to these minutes and posted on the Commissioner's website at:* <https://www.nj.gov/pinelands/home/presentations/Rulemaking%20Update%20January%202020.pdf>).

Ms. Wittenberg said that a number of items need immediate attention including the septic pilot program (as Mr. Wengrowski had just reviewed), stormwater management (to be consistent with recent NJDEP changes), coordinated permitting (to address a litigation issue), changes to the FA and RDA cluster rules (to address impacts on some small projects) and simplified density and PDC amendments (to clarify the rules related to municipal flexibility).

She said a Deputy Attorney General will be hired to assist with rulemaking and she anticipated these rules will be ready within the next three months.

Ms. Grogan said although the changes needed to the stormwater rules are small, it is urgent that they be done promptly so that the municipalities are not caught between the NJDEP and the Commission.

In response to Commissioner Lloyd's question if there were sufficient staff to do all these rules quickly, Ms. Grogan said she had already written the rules for the septic pilot program and

coordinated permitting. She said the front explanatory information and impact statements are yet to be done and of course the Committee will see the draft proposals before they are forwarded to the full Commission.

Commissioner Irick said he had concerns with the density in the RGA.

Ms. Grogan said the current CMP assigns a specific density for each RGA. She said it needs to be clarified that municipalities can adjust densities as long as they address infrastructure, environmental standards and PDC use. She said typically, an interest in increased density occurs when a municipality has a redevelopment area, or wants mixed use development or needs to accommodate affordable housing in an existing RGA. She said the PDC program is an important component.

Commissioner Irick said density impacts the environment and he believed the standards should be tightened. He added that he was not sure redevelopment is appropriate anywhere in the Pinelands.

Ms. Wittenberg said the second set of rules includes the Kirkwood/Cohansey water supply and conservation measures. She said there is an initial draft, and a stakeholders meeting at the end of the month will allow additional input. This second set also includes updates to the solar energy rules. She said there are issues related to encouraging and requiring solar facilities. She said this second set of rules will be a bigger lift for the new hire but should be ready within the next six months.

In response to Commissioner Lohbauer's question if staff would be looking at community solar, Ms. Wittenberg said they were only just starting to look at it.

In response to Commissioner Irick's comment regarding water supply and conservation and if the Commission could address impervious pavement due to the negative effects of blacktop/paving, Ms. Wittenberg said yes, but not at this time.

In response to Chairman Prickett's question about requiring tree replacement, Ms. Wittenberg said solar projects are conflicted on landfills, noting currently there are three landfill solar projects in the Pinelands. She said the sites are heavily treed since they haven't been used for years, so perhaps the Commission should require "no net loss of trees" by requiring the planting of trees elsewhere when trees are cleared for a solar project.

Commissioner Irick said if one loses trees, one loses carbon sequestration. He said a number of municipalities require the replacement of, or payment *in lieu of*, for loss of trees.

Ms. Wittenberg said the final packet of rules includes a number that had been proposed previously but were rejected by the prior governor's office (the protection of the Black Run watershed, expiration of pre-1986 waiver and additional fees for violations), the use of herbicides in the right-of-way pilot program, the recommendations of the Land Use, Climate

Impacts and Sustainability (LUCIS) Committee and the remaining Plan Review recommendations.

In response to Commissioner Irick's question if the herbicides would be applied by professionals in the right-of-way program, Ms. Wittenberg said discussions are under way as to whether and how herbicides might be allowed.

Chairman Prickett said farmers rely on pesticides but there is no control over their use.

Ms. Wittenberg said if a LUCIS Committee meeting can be scheduled within the next month, then staff can start on this last package of rules. She added that she hoped to involve NJDEP staff.

Commissioner Irick said topics of interest to him were clear-cutting and controlled burning as well as fees for off road vehicle (ORV) events. He said he felt inspections were needed at the conclusion of ORV events.

Ms. Wittenberg said the ORV issue was part of the Plan Review items.

Ms. Roth said one recommendation is to impose increased penalties and forfeiture for ORV misuse.

8. Public Comment

Ms. Rhyan Grech, with the Pinelands Preservation Alliance (PPA), said she was pleased to see the summary of the rulemaking process, that Commissioner Irick had made a good suggestion that carbon sequestration should be considered when an application is under review and that she looked forward to the LUCIS Committee becoming active in 2020.

Chairman Prickett said he thought the Commission should ask what it can do to enhance carbon sequestration and he suggested it is an issue that could be addressed by the Pinelands Municipal Council (PMC).

Chairman Prickett noted that staff had been working on issues for the LUCIS Committee, that Mr. Liggett had developed a useful memo and that routine discussions should be established. Noting that Commissioner Avery is the only Commissioner on the LUCIS Committee who is not a member of the P&I Committee, he asked how this Committee felt it should proceed.

Commissioner Irick said he was concerned about the southern pine bark beetle and asked if the Department of Agriculture couldn't give a presentation on how to enhance our forests. He noted that there wasn't enough money state-wide to handle the issue.

Commissioner Prickett said such a presentation would benefit the PMC.

Commissioner Lohbauer said with all the upcoming rule changes, there is no CMP requirement for carbon sequestration but it is an issue the Commission should address, including how the operation of the Commission's own office can be used to set an example of how to minimize climate change. He said he agreed with Ms. Wittenberg that something should be done on a broad and comprehensive basis.

In response to Commissioner Lloyd's statement that he'd like to hear from staff what it would like to address, Ms. Wittenberg said staff has been considering many issues including the following:

- Flood hazard maps, both now and in the future - should there be bigger buffers? no development? limit on impervious surfaces?
- Solar facilities - there is a concern with the net loss of trees; should rooftop solar be mandatory on certain projects?
- Water conservation - how will the Kirkwood-Cohansey rules be implemented?

Commissioner Lloyd said that electric vehicle charging stations should be promoted and one must examine heating and cooling systems to reduce carbon emissions.

Ms. Wittenberg said she was hoping that energy efficiency standards would be issued from other agencies. She noted that she had met this week with Ms. Olivia Glenn (Director, NJDEP Division of Parks and Forestry) and asked what they were doing on these issues but felt less than satisfied with the discussion.

In response to Commissioner Irick's question if applicants were required to provide environmental impact statements, Ms. Grogan said generally that is a municipal requirement.

Commissioner Lohbauer asked if a LUCIS meeting could be scheduled now.

Ms. Wittenberg said if the P&I agenda is light, then LUCIS items can be added to the agenda. She said Commissioner Avery needed to be consulted as to his schedule but perhaps a LUCIS meeting could be scheduled soon to provide updates and focus the discussion followed by updates at three successive P&I Committee meetings.

Members of the Committee supported that approach and Chairman Prickett closed by saying he was glad the public was so interested in the matter.

There being no further business, Commissioner Lohbauer moved the adjournment of the meeting at 11:10 a.m. Commissioner Irick seconded the motion and all voted unanimously to adjourn.

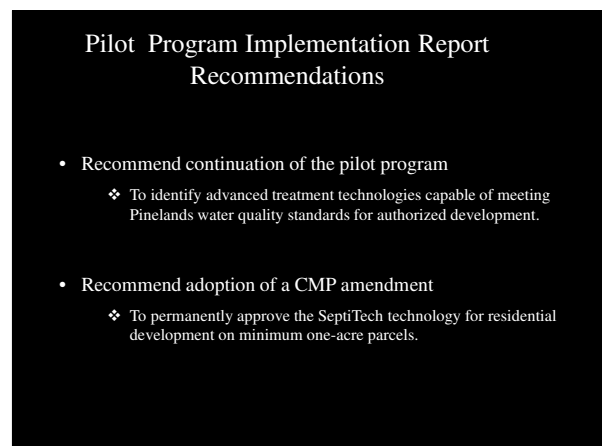
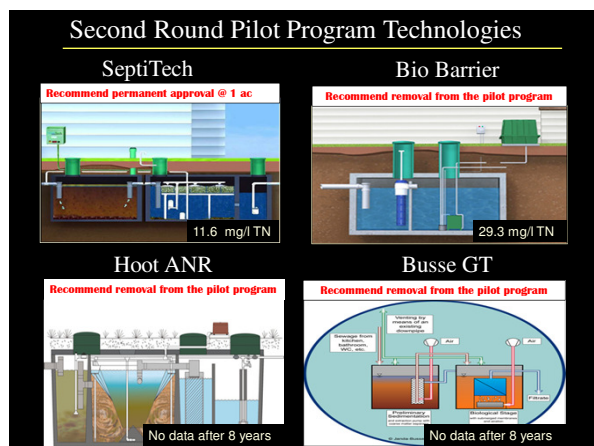
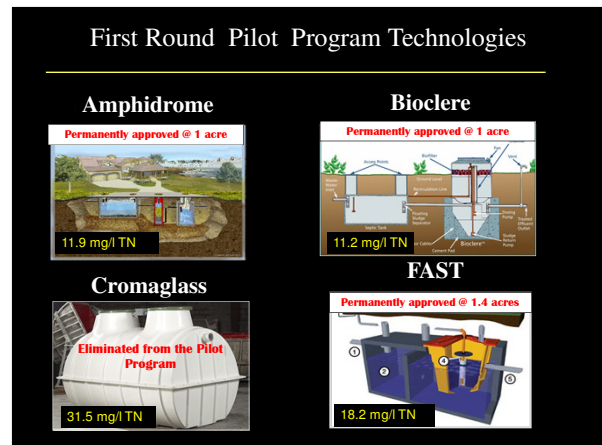
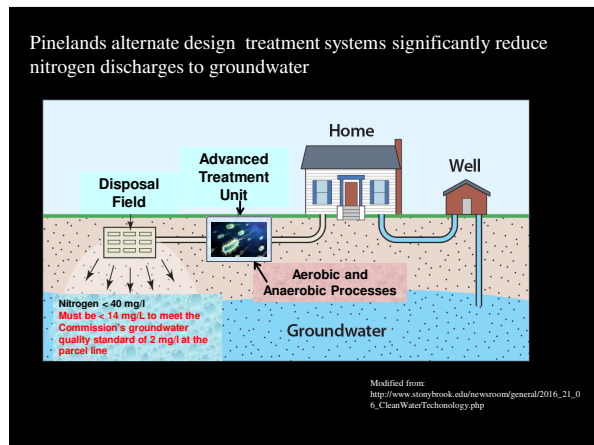
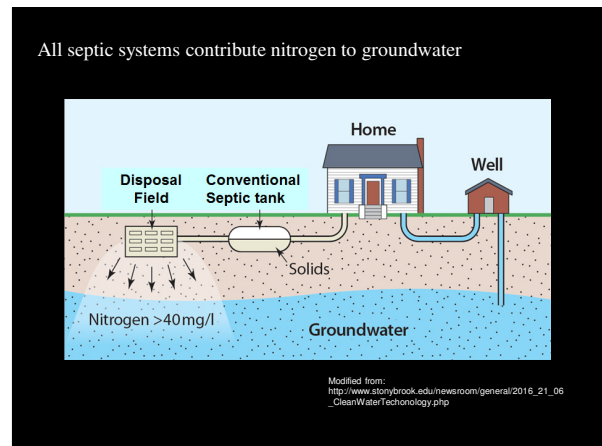
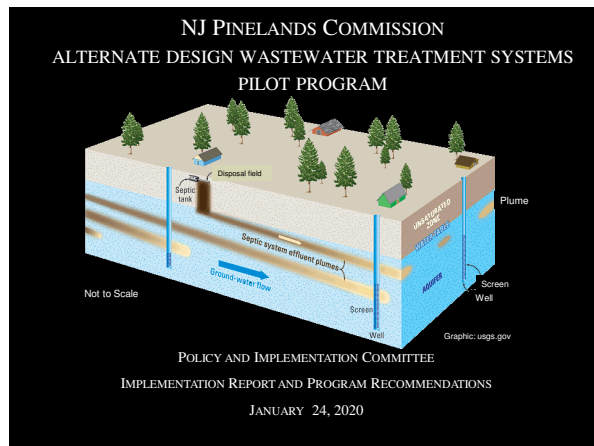
Certified as true and correct:



Betsy Finer, Principal Planning Assistant

Date: February 10, 2020

CMP P&I Committee
January 24, 2020
Attachment A

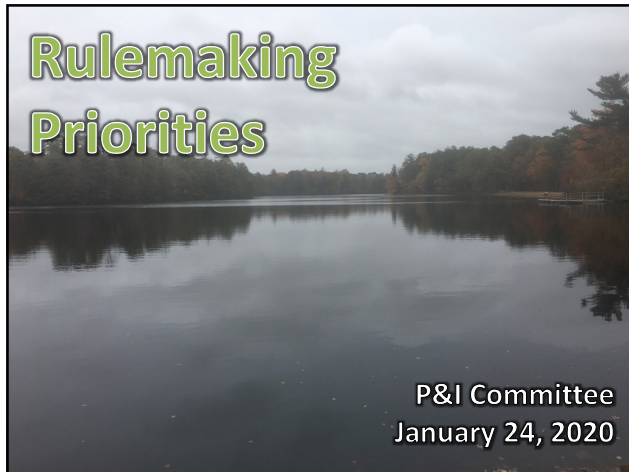


Pilot Program Implementation Report Recommendations

- Recommend removal of the BioBarrier technology
 - ❖ Inability to meet Pinelands water quality standards.
- Recommend removal of the Busse GT and Hoot ANR technologies
 - ❖ No Busse or Hoot systems installed since receiving Commission approval in October 2011.

Pilot Program Implementation Report Recommendations

- Introduce up to six new NSF Standard 245 / US EPA ETV certified technologies
 - ❖ CMP permits up to six piloted technologies at one time.
- Amend the CMP
 - ❖ Eliminate annual reporting on the pilot program
 - ❖ Next report on any new pilot program technologies due in 2025, with a possible extension to 2027 if necessary.
 - ❖ Consider additional measures to streamline the program



CMP Amendments Package #1

- Septic Pilot Program
- Stormwater Management
- Coordinated permitting process
- Forest and Rural Development Area cluster development
- Simplified density and PDC amendments

CMP Amendments Package #2

- Kirkwood/Cohansey water supply and conservation measures
- Solar energy facilities
 - Rooftop installations
 - Tree replacement standards

Additional CMP Amendments

- Black Run Watershed protection (Southern Medford/Evesham)
- Previously proposed amendments (expiration of pre-1986 waivers; additional fees for violations)
- ROW Pilot Program and herbicide use
- Recommendations from LUCIS Committee
- Remaining Plan Review recommendations