



ACT 537 - AN OVERVIEW OF THE SEWAGE FACILITIES PROGRAM

History of the Act 537 Program

Domestic sewage is treated and disposed of by various methods, ranging from large municipally-owned sewage treatment plants to community or individual onlot disposal systems (OLDS), also called "septic systems." Malfunctioning sewage disposal systems, regardless of type, pose a serious threat to public health and the environment. They can pollute public and private drinking water sources, often by discharging directly to the groundwater, and they can expose humans and animals to various bacteria, viruses and parasites. Repairs to these systems often can lead to financial hardships for affected municipalities or homeowners.

On January 24, 1966, the Pennsylvania Sewage Facilities Act (Act 537) was enacted to address existing sewage disposal problems and prevent future problems. To meet these objectives, the act requires proper planning of all types of sewage facilities, permitting of individual and community OLDS, as well as uniform standards for designing OLDS.

The sewage facilities program, often referred to as simply the "Act 537 program," is largely administered by individual municipalities, groups of municipalities, local agencies including county health departments and groups of local agencies (known as joint local agencies). These agencies receive technical and financial assistance and oversight from the Department of Environmental Protection (DEP).

The Major Provisions of Act 537

- All municipalities must develop and implement a comprehensive official sewage management plan that addresses their present and future sewage disposal needs. These plans are modified when new land development projects are proposed or whenever a municipality's sewage disposal needs change. DEP reviews and approves the official plans and any subsequent revisions.
- Local agencies are required to employ both primary and alternate Sewage Enforcement Officers (SEO). After successfully completing pre-certification training and being certified by the State Board for Certification of Sewage Enforcement Officers (the Board), an SEO can work for a local agency. The SEO is responsible for implementing the operation of that agency's OLDS permitting program. SEOs are not DEP employees.
- Local agencies, through their SEO, approve or deny permits for construction of onlot sewage disposal systems prior to system installation.
- DEP provides grants and reimbursements (funded to the extent of annual legislative appropriations) to municipalities and local agencies for costs associated with the Act 537 planning and permitting programs.
- The Environmental Quality Board (EQB) must adopt regulations establishing standards for sewage disposal facilities. These regulations then apply throughout the state.
- The Sewage Advisory Committee (SAC) reviews existing and proposed rules, regulations, standards and procedures and advises the Secretary of DEP. This advisory committee is comprised of members representing many sectors of the regulated community.

The Planning Process

Municipalities are required to develop and implement comprehensive official sewage plans that: address existing sewage disposal needs or problems; account for future land development; and provide for future sewage disposal needs of the entire municipality. This document is called an "Official Plan" or sometimes a "base plan."

Official Plans contain comprehensive information, including:

- Population figures and projections
- Drinking water supplies
- Waterways, soil types and geologic features
- Sanitary survey results
- Location, type and operational status of existing sewage facilities

- Local zoning and land use designations
- Estimates of the future sewage disposal needs
- Identification of potential problem-solving alternatives
- Cost estimates necessary to carry out those alternatives
- The selection of appropriate problem solving alternatives

Municipalities are required to revise (unless they are exempt from revising) the Official Plan if a new land development project is proposed or if unanticipated conditions or circumstances arise that make the base plan inadequate. There are two basic types of plan changes. "Official Plan Revisions" that result from new land development are completed using "planning modules" that are specific to individual projects. "Update Revisions" are used by municipalities to make broad changes to their Official Plan.

The OLDS Permitting Program

Act 537 requires local or joint-local agencies, through their SEO, to manage the permitting program for individual onlot disposal systems and community onlot systems with design flows of 10,000 gallons-per-day or less. An individual OLDS is a system that serves a single lot, while a community OLDS serves two or more lots.

SEOs are trained to DEP standards and certified by the Board. The SEO is responsible for conducting soil profile testing, percolation testing, OLDS design review and approving or denying OLDS permit applications. The SEO and the individual installing an OLDS must follow the standards established in Chapter 73 of DEP's regulations.

DEP's primary role in the onlot permit program is to provide oversight to local agencies and SEOs. Wherever possible, DEP will assist local agencies in carrying out their permitting responsibilities. However, other than to promote technical information, DEP does not interfere in onlot system permitting disputes between local agencies and homeowners, other than to provide technical information.

Financial Assistance Programs

There are two financial assistance programs administered by DEP to assist municipalities and local agencies for administering their Act 537 program responsibilities. DEP provides a "reimbursement type" grant to offset municipal costs associated with developing or revising an Official Plan. In the second program, DEP reimburses local agencies and joint-local agencies on an annual basis for costs incurred during the year while administering the onlot permitting program and for enforcing the Act 537 program. Please note that funding for these two financial assistance programs is available to the extent of the appropriations made by the General Assembly for this purpose. In recent years, funding for both programs has been limited.

A third program to financially assist municipalities and local agencies is administered by the Pennsylvania Infrastructure Investment Authority (PENNVEST). Low interest loans are available to qualified private landowners to assist in the repair of malfunctioning onlot sewage disposal systems. PENNVEST information is available at www.pennvest.state.pa.us.

Recently, a fourth financial assistance program became available through funding from the Act 13 Marcellus Legacy Fund. This is an annual grant program administered by the Department of Community and Economic Development (DCED) through the Commonwealth Financing Authority (CFA). This grant program assists many programs including Act 537 and the costs associated with the planning work required thereunder. For more information on this grant program, visit www.dced.state.pa.us or call 717-787-6245.

Act 537 Sewage Facilities Program Regulations

DEP regulations that address the administration of the Act 537 planning process are located in Title 25, *Pa. Code*, Chapter 71. Rules for the OLDS permitting process are located in Chapter 72 and technical standards addressing the design of OLDS in Pennsylvania are located in Chapter 73. All three chapters are available at www.pacode.com.

For more information, visit www.dep.state.pa.us, keyword: Sewage or click on "Regional Resources."



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DEPARTMENT OF ENVIRONMENTAL
PROTECTION

ACT 537: EXEMPTIONS FROM SEWAGE PLANNING REQUIREMENTS ("Exemptions")

The Pennsylvania Sewage Facilities Act (Act 537), requires each municipality in the state to have an Official Sewage Facilities Plan (Official Plan) that addresses the existing and future sewage disposal needs of the municipality. In most cases, the Department of Environmental Protection (DEP) requires completion of sewage facilities planning for new land development (planning module) to update or revise the municipal official plan before a subdivision is created. However, amendments to the Sewage Facilities Act created a process by which certain subdivisions or new land developments may be exempt from the planning module process. Questions about these projects and the exemption process are discussed below. Additional information may be found in 25 Pa. Code §71.51(b). This section of DEP's regulations, as well as others, is available online at www.pacode.com.

Who determines if a subdivision is exempt from planning?

Depending on the location of the proposed subdivision, DEP or a delegated agency will make this determination using information provided by the developer on the "Sewage Facilities Planning Module Application Mailer (3800-CD-BPNPSM0359)" (Mailer) available electronically in DEP's eLibrary online at www.dep.state.pa.us. Upon request, DEP will assist delegated agencies by providing them with information necessary for making exemption determinations.

If a delegated agency makes the determination that a subdivision is exempt, must they inform DEP?

Yes. Delegated agencies are required to submit quarterly reports to DEP. The reports should include the names and locations of subdivisions determined to be eligible for the planning exemption, the number of lots and the projected sewage flow for each subdivision.

What information is necessary to make the determination?

The information contained in the Mailer may be sufficient to make the determination. If not, additional information may be requested to support the request for determination. Mailers should be sent to DEP or the delegated local agency for evaluation.

What types of subdivisions are eligible for the planning exemption?

Subdivisions served by either onlot sewage disposal systems or public sewers may be eligible, if they fit the requirements outlined in Act 537. These requirements are discussed below.

What are the requirements for subdivisions served by onlot sewage disposal systems?

To be eligible for an exemption from the sewage facilities planning requirements, the proposed subdivision must fulfill the following conditions:

1. The official plan must show that the area planned for the development is to be served by onlot sewage disposal facilities, as confirmed by the appropriate municipal official(s).
2. The area proposed for the use of the onlot systems must not be underlain by carbonate geology (determined by DEP) nor be located within one-quarter mile of water supplies having documented nitrate-nitrogen concentrations exceeding five parts per million (determined by DEP).
3. The area proposed for development is outside of high quality or exceptional value watersheds established under the Clean Streams Law (as confirmed by DEP).
4. All subdivided lots and the remaining portion of the original tract after subdivision (if any) will be one acre or larger in size.
5. Soils testing and site evaluation have established that separate sites are available for both a permitted primary onlot sewage disposal system and a replacement onlot sewage disposal system on each lot of the subdivision, including the residual tract (if any), as confirmed by the Sewage Enforcement Officer serving the municipality in which the development is proposed.

What are the requirements for subdivisions proposed to be served by public sewers?

Sewage facilities planning is not required for subdivisions proposing service by public sewers when the following conditions are met:

1. DEP or a delegated agency has determined that the existing collection, conveyance and treatment facilities are in compliance with the Clean Streams Law and related rules and regulations.
2. DEP or a delegated agency has determined that the permittees of the receiving sewerage facilities have submitted information under 25 Pa. Code Chapter 94, that documents that the existing collection, conveyance and treatment system does not have either an existing hydraulic or organic overload or a five-year projected overload.
3. The applicant has provided written certification from the permittees of the receiving collection, conveyance and treatment facilities to the municipality where the subdivision is located that there is capacity to receive and treat the sewage flows from the applicant's proposed new land development and that the additional wasteload will not create a hydraulic or organic overload within the next five years.
4. The municipality where the project is located has a current, approved sewage facilities plan that is being implemented. The official plan must show that the area planned for the development is to be served by public sewers. The official plan of the municipality may not be under an order from DEP to submit an update revision or special study for the proposed subdivision area.

Note: Proposals intended to be served by sewage facilities that require a new or modified permit from DEP under the Clean Streams Law are ineligible for a planning exemption.

What happens if the subdivision is found to be ineligible for the planning exemption?

If the proposed subdivision is found to be ineligible for the planning exemption, sewage facilities planning must be completed and approved before the subdivision may be developed. Should this occur, the approving agency will provide the applicant with the proper forms and instructions necessary to complete sewage facilities planning for the development.

For more information, visit www.dep.state.pa.us, keyword: Sewage or click on "Regional Resources."



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DEPARTMENT OF ENVIRONMENTAL
PROTECTION

ACT 537: EXCEPTIONS TO THE REQUIREMENT TO REVISE THE OFFICIAL PLAN ("EXCEPTIONS")

The Pennsylvania Sewage Facilities Act (Act 537), requires each municipality in the state to have an Official Sewage Facilities Plan that addresses the existing and future sewage disposal needs of the municipality. In most cases, completion of formal sewage facilities planning for new land development is required to update or revise the municipal official plan before a subdivision is created, thus ensuring an adequate means of sewage disposal exists for the subdivision. However, there are certain categories of subdivisions that do not require formal adoption of the plan by the municipality as a revision to the official plan. This fact sheet answers questions that are often asked regarding sewage planning for "exceptions" as described in 25 Pa. Code §71.55. This section of the Department of Environmental Protection's (DEP's) regulations, as well as others, is available online at www.pacode.com.

What is an "exception?"

To qualify as an "exception," a subdivision must fit the following criteria:

- Planning would normally be required for the subdivision under Act 537 (to determine if planning is required for the project, request information on subdivisions exempt from planning from your DEP regional office or refer to the DEP fact sheet on the subject that is available on the DEP website at www.dep.state.pa.us, keyword: Sewage);
- The entire subdivision (proposed lots, previous lots and residual land) must consist of no more than 10 lots created since May 15, 1972;
- The lots must be proposed as sites for construction of detached single family homes;
- The proposed homes must be intended to be served by individual onlot sewage disposal systems; and
- "Exceptions" are not prohibited by local public health or environmental conditions.

If all of these conditions are met, the proposed subdivision should qualify as an "exception."

How is an "exception" planned?

DEP has produced a series of forms, called "planning module components," that are used to gather information about a project. When an exception is proposed, the developer should request a "*Component 1 – Exception to the Requirements to Revise the Official Plan (3800-FM-BPNPSM0350)*" form from the municipality where the proposed subdivision is located, from the DEP regional office serving that municipality, or electronically in DEP's eLibrary online at www.dep.state.pa.us.

Who should complete the Component 1 planning module form?

An individual, such as a consulting engineer or surveyor, who is familiar with the municipality's official plan and with DEP's regulations and procedures, should complete the Component 1. The municipality's certified Sewage Enforcement Officer (SEO) also should be consulted to confirm site and soil testing information.

What information must be provided in the Component 1 form?

The Component 1 form contains instructions that describe the planning process and the information required in detail. The developer is required to provide information about the proposed subdivision, including:

- The location of the subdivision;
- The number of lots proposed;
- The planned layout of the subdivision, in the form of a surveyor's drawing or "plot plan";
- The planned source of drinking water (wells or a public supplier); and
- The site conditions, such as soil testing results and ground slope measurements.

When the Component 1 form is complete and all of the associated information required has been attached, the complete plan is called a "planning module for land development" or simply a "planning module."

When the Component 1 planning module is complete, what's the next step?

The municipality where the proposed subdivision is located reviews the completed planning module.

What is the municipality's role in review of "exceptions"?

Each municipality has the primary responsibility to review and, if appropriate, approve "exceptions." DEP provides oversight and assistance to local governments to help them effectively carry out their duties.

How long does it take to get municipal approval?

If the planning module is complete, the municipality has 60 days to review and act on the plan unless both the developer and municipality agree to a time extension in writing. The municipality must either approve or disapprove the plan within the 60 days, or the agreed-to time extension. If the municipality approves the planning module, the municipality then sends the planning module to DEP for final review. If the municipality fails to act within the allotted time, the planning module is "deemed approved" and can be sent to DEP for final review. If the planning module is not complete, the municipality will request the missing information before taking action.

How long does it take to get DEP approval for an exception?

DEP has 10 working days to determine if the Component 1 is a complete submission and then 30 calendar days to act on the complete Component 1 planning module. If DEP does not act within the 30 day period, the "exception" planning module is deemed to be applicable.

Is there a fee for DEP processing of an exception?

Yes. Act 537 requires DEP to charge a per-lot fee for processing of planning modules. The amount is set by law and varies with the type of project. The fee for exceptions planned using a Component 1 is \$35 per lot. The developer calculates the appropriate fee and submits it to DEP with the planning modules. DEP does not include residual tracts in this fee calculation.

What happens if DEP or the municipality finds that the applicant's proposed subdivision is not an exception?

If the municipality or DEP discover that the proposed subdivision does not meet one or more of the conditions required to qualify as an exception, the applicant will be informed and provided with the appropriate DEP forms. While some of these forms may require more information than the Component 1 form, much of the information, such as soil test results and plot plan, can be reused.

When can property owners apply for onlot system permits for their lots?

The developer may apply for individual onlot sewage disposal system permits after receiving final DEP action on the Component 1 Planning Module.

For more information, visit www.dep.state.pa.us, keyword: Sewage or click on "Regional Resources."