

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."