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# CHAPTER 71. ADMINISTRATION OF SEWAGE FACILITIES PLANNING PROGRAM

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## Authority

The provisions of this Chapter 71 issued under section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20); sections 5 and 402 of The Clean Streams Law (35 P.S. § § 691.5 and 691.402); and section 9 of the Pennsylvania Sewage Facilities Act (35 P.S. § 750.9), unless otherwise noted.

## Source

The provisions of this Chapter 71 adopted August 2, 1971, effective August 3, 1971, 1 Pa.B. 1649; amended through May 30, 1975, effective May 31, 1975, 5 Pa.B. 1402, unless otherwise noted.

## Notes of Decisions

### *Applications*

Although in matters involving subsurface sewage discharge, this chapter's planning and permit requirements normally apply, in situations involving sewage systems discharging to the surface, the planning requirements of this chapter and the permit requirements of Chapter 91 apply. *Haycock Township v. Department of Environmental Resources*, 530 A.2d 514 (Pa. Cmwlth. 1987); appeal denied 544 A.2d 1343 (Pa. 1988).

The Court found reasonable the Environmental Hearing Board's interpretation that this chapter's permit requirements alone, apply to all community and individual sewage systems. *Haycock Township v. Department of Environmental Resources*, 530 A.2d 514 (Pa. Cmwlth. 1987).

### *Consistency With County Comprehensive Plans*

The regulations of this chapter do not require absolute consistency between county comprehensive plans and new sewage facility developments. *County of Adams v. Department of Environmental Protection*, 687 A.2d 1222 (Pa. Cmwlth. 1997).

### **Cross References**

This chapter cited in 7 Pa. Code § 49.45 (relating to sewage); 7 Pa. Code § 82.10 (relating to sewage disposal); 25 Pa. Code § 72.2 (relating to scope); 25 Pa. Code § 73.1 (relating to definitions); 25 Pa. Code § 73.61 (relating to general); 25 Pa. Code § 93.4c (relating to implementation of antidegradation requirements); 25 Pa. Code § 94.1 (relating to definitions); 25 Pa. Code § 94.12 (relating to annual report); 25 Pa. Code § 94.14 (relating to approval of official plans and revisions); 25 Pa. Code § 94.21 (relating to existing overload); 25 Pa. Code § 94.22 (relating to projected overload); 25 Pa. Code § 961.8 (relating to ineligible costs); 25 Pa. Code § 963.7 (relating to application procedure); 25 Pa. Code § 963.12 (relating to ineligible costs); 25 Pa. Code § 965.1 (relating to definitions); and 25 Pa. Code § 965.6 (relating to application procedures).

## **Subchapter A. GENERAL**

Sec.

[71.1.](#) Definitions.

[71.2.](#) Scope and time periods.

[71.3.](#) Purpose.

### **Cross References**

This subchapter cited in 25 Pa. Code § 71.3 (relating to purposes).

## **GENERAL**

### **§ 71.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Pennsylvania Sewage Facilities Act (35 P.S. §§ 750.1—750.20).

*Clean Streams Law*—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

*Clean Water Act*—The Clean Water Act (33 U.S.C.A. §§ 1251—1387).

*Delegated agency*—A municipality, local agency, multimunicipal local agency or county or

joint county department of health to which the Department was delegated the authority to review and approve subdivisions for new land developments as supplements to the official plan of a municipality in which the subdivision is located.

*Equivalent dwelling unit*—For the purpose of determining the number of lots in a subdivision only as it relates to the determination of planning exemptions and fees for planning module reviews under this chapter, that part of a multiple family dwelling or commercial or industrial establishment with flows equal to 400 gpd. These flow figures are not intended to be used for the calculation of flows for the design of community sewerage systems or for the allocation of flows related to community sewerage systems. Community sewerage system flows for design and permitting purposes shall be calculated using the procedures established in the Department's *Domestic Wastewater Facilities Manual* (DEP-1357).

*Individual residential spray irrigation system*—An individual sewage system which serves a single dwelling and which treats and disposes of sewage using a system of piping, treatment tanks and soil renovation through spray irrigation.

*Large volume onlot sewage system*—An individual or community onlot sewage system with a design capacity to discharge subsurface sewage flows which are in excess of 10,000 gpd.

*Limiting zone*—A soil horizon or condition in the soil profile or underlying strata which includes one of the following:

- (i) A seasonal high water table, whether perched or regional, determined by direct observation of the water table or indicated by soil mottling.
- (ii) A rock with open joints, fracture or solution channels, or masses of loose rock fragments, including gravel, with insufficient fine soil to fill the voids between the fragments.
- (iii) A rock formation, other stratum or soil condition which is so slowly permeable that it effectively limits downward passage of effluent.

*Local agency*—A municipality (or any combination of municipalities acting cooperatively or jointly under the laws of the Commonwealth), county, county department of health or joint county department of health.

*Lot*—A part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided. Whenever a lot is used for a multiple family dwelling or for commercial, institutional or industrial purposes, the lot shall be deemed to have been subdivided into an equivalent number of single family residential lots as determined by estimated sewage flows.

*Municipality*—A city, town, township, borough or home rule municipality other than a county.

*Official plan*—A comprehensive plan for the provision of adequate sewage systems, adopted by a municipality or municipalities possessing authority or jurisdiction over the provision of the systems, and submitted to, and approved by, the Department as provided by the act, and this part.

*Official plan revision*—A change in the municipality's official plan to provide for additional, newly identified future or existing sewage facilities needs, which may include one or more of the following:

(i) *Update revision*—A comprehensive revision to an existing official plan required when the Department or municipality determines the official plan or one or more of its parts is inadequate for the existing or future sewage facilities needs of a municipality or its residents or landowners.

(ii) *Revision for new land development*—A revision to a municipality's official plan resulting from a proposed subdivision as defined in the act.

(iii) *Special study*—A study, survey, investigation, inquiry, research report or analysis which is directly related to an update revision. The studies provide documentation or other support necessary to solve specific problems identified in the update revision.

(iv) *Supplement*—A sewage facilities planning module for a subdivision for new land development which will not be served by sewage facilities requiring a new or modified permit from the Department under The Clean Streams Law, and which is reviewed and approved by a delegated agency.

(v) *Exception to the requirement to revise*—A process established in § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) which describes the criteria under which a revision for new land development is not required.

*Person*—An individual, association, public or private corporation for profit or not-for-profit, partnership, firm, trust, estate, department, board, bureau or agency of the United States, Commonwealth, political subdivision, municipality, district, authority or another legal entity which is recognized by law as the subject of rights and duties. The term includes the members of an association, partnership or firm and the officers of a local agency or municipal, public or private corporation for profit or not for profit.

*Residential subdivision plan*—A subdivision in which at least two-thirds of the proposed daily sewage flows will be generated by residential uses.

*Retaining tank*—A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The term includes:

(i) *Chemical toilet*—A permanent or portable nonflushing toilet using chemical treatment in the retaining tank for odor control.

(ii)  *Holding tank*—A tank, whether permanent or temporary, to which sewage is conveyed by a water carrying system.

(iii) *Privy*—A tank designed to receive sewage where water under pressure is not available.

(iv) *Incinerating toilet*—A device capable of reducing waste materials to ashes.

(v) *Composting toilet*—A device for holding and processing human and organic kitchen waste employing the process of biological degradation through the action of microorganisms to produce a stable, humus-like material.

(vi) *Recycling toilet*—A device in which the flushing medium is restored to a condition suitable for reuse in flushing.

*Sewage*—A substance that contains the waste products or excrement or other discharge from

the bodies of human beings or animals and noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation. The term includes any substance which constitutes pollution under The Clean Streams Law.

*Sewage enforcement officer*—An official of the local agency who reviews permit applications and sewage facilities planning modules, issues permits as authorized by the act and conducts investigations and inspections that are necessary to implement the act and the regulations thereunder.

*Sewage facilities*—A system of sewage collection, conveyance, treatment and disposal which will prevent the discharge of untreated or inadequately treated sewage or other waste into waters of this Commonwealth or otherwise provide for the safe and sanitary treatment and disposal of sewage or other waste. The term includes:

(i) *Individual sewage system*—A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance to another site for final disposal. The term includes:

(A) *Individual onlot sewage system*—An individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a soil absorption area or spray field or by retention in a retaining tank.

(B) *Individual sewerage system*—An individual sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

(ii) *Community sewage system*—A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

(A) *Community onlot sewage system*—A system of piping, tanks or other facilities serving two or more lots and collecting, treating and disposing of sewage into a soil absorption area or retaining tank located on one or more of the lots or at another site.

(B) *Community sewerage system*—A publicly or privately-owned community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

*Sewage management program*—A program authorized by the official action of a municipality for the administration, management and regulation of the disposal of sewage.

*Sewer authority*—A municipal authority, established under the Municipality Authorities Act of 1945 (53 P. S. § § 301—401), which provides, maintains, owns or operates sewage facilities.

*Small flow treatment facilities*—An individual or community sewerage system designed to adequately treat sewage flows not greater than 2,000 gpd for final disposal using a stream discharge or other disposal methods approved by the Department.

*Soil horizon*—A layer of soil approximately parallel to the soil surface, the chemical and physical characteristics of which are distinguishable by observation or other method of analysis, from the chemical and physical characteristics in adjacent layers of soil.

*Soil profile*—The collection of soil horizons, including the natural organic layers on the surface.

*Subdivision*—The division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.

*Waters of this Commonwealth*—Rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and other bodies or channels of conveyance of surface and underground water, or of their parts, whether natural or artificial, within or on the boundaries of this Commonwealth.

*Working day*—Calendar days as specified in 1 Pa.C.S. § 1908 (relating to computation of time) excluding Saturdays and Sundays, or a day made a legal holiday by the statutes of the Commonwealth or of the United States. The period shall be calculated to exclude the first and include the last day of the period.

### Authority

The provisions of this § 71.1 amended under sections 7.2 and 9 of the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.7b and 750.9); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.1 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 1, 1996, effective November 2, 1996, 26 Pa.B. 5347; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (221861) to (221864).

### Notes of Decisions

#### *Sewage Facilities*

Preliminary subdivision approval may be granted prior to approval of a private Act 537 Sewage Facilities Plan request by the Department of Environmental Resources. *Baker v. Board of Supvrs.*, 668 A.2d 635 (Pa. Cmwlth. 1995).

It was appropriate for the Department of Environmental Resources to grant a system permit for a proposed sewer system and label it “experimental” in order to determine whether the particular system would work and such a label did not cause the Department of Environmental Resources to incur liability when the system failed. *Londonderry Township v. Geyer*, 537 A.2d 377 (Pa. Cmwlth. 1988).

### § 71.2. Scope and time periods.

(a) This chapter is adopted in accordance with the duties imposed upon the Department under

the act and The Clean Streams Law and applies to municipalities, local agencies and delegated agencies administering the planning provisions of the act and to persons subdividing land or planning, designing or installing sewage facilities.

(b) This chapter governs the sewage planning requirements for sewage facilities being proposed by municipalities to resolve existing sewage disposal problems, to provide for the sewage disposal needs of new land development and otherwise to provide for future sewage disposal needs of a resident or landowner in a municipality.

(c) Time periods referred to in this chapter will be computed under 1 Pa.C.S. § 1908 (relating to computation of time).

### **Authority**

The provisions of this § 71.2 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### **Source**

The provisions of this § 71.2 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (221865) and (206557).

### **§ 71.3. Purposes.**

This chapter is separated into six subchapters:

- (1) Subchapter A (relating to general) provides general background information.
- (2) Subchapter B (relating to official plan requirements) provides a comprehensive sewage planning mechanism to identify and resolve existing sewage disposal problems, to avoid potential sewage problems resulting from new land development and to provide for the future sewage disposal needs of a municipality.
- (3) Subchapter C (relating to new land development plan revisions) provides a mechanism for revising sewage facilities plans to provide for new land development.
- (4) Subchapter D (relating to official plan requirements for alternative evaluations) provides the planning requirements for evaluating alternatives for sewage facilities.
- (5) Subchapter E (relating to sewage management programs) provides the requirements for establishing sewage management programs.
- (6) Subchapter F (relating to fees) provides for fees for the review of new land development sewage facilities planning modules.

### **Authority**

The provisions of this § 71.3 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.3 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial page (206557).

## Subchapter B. OFFICIAL PLAN REQUIREMENTS

### GENERAL

Sec.

- [71.11.](#) General requirement.
- [71.12.](#) Municipal responsibility to revise plans.
- [71.13.](#) Department responsibility to require official plan revisions.
- [71.14.](#) Private request to revise official plans.
- [71.15.](#) [Reserved].
- [71.16.](#) [Reserved].
- [71.17.](#) [Reserved].
- [71.18.](#) [Reserved].

### OFFICIAL PLAN PREPARATION

- [71.21.](#) Content of official plans.
- [71.22.](#) Coordination of official plans with Federally funded sewage facilities planning.
- [71.23.](#) [Reserved].
- [71.24.](#) [Reserved].
- [71.25.](#) [Reserved].
- [71.26.](#) [Reserved].

### OFFICIAL PLAN APPROVAL

- [71.31.](#) Municipal responsibility to review, adopt and implement official plans.
- [71.32.](#) Department responsibility to review and act upon official plans.
- [71.33.](#) [Reserved].
- [71.34.](#) [Reserved].

[71.35.](#) [Reserved].

[71.36.](#) [Reserved].

## PLANNING GRANTS

[71.41.](#) Grants for the preparation of official plans.

[71.42.](#) Application for grants.

[71.43.](#) Approval of grants.

[71.44.](#) Duplicate planning.

[71.45.](#) [Reserved].

[71.46.](#) [Reserved].

[71.47.](#) [Reserved].

[71.48.](#) [Reserved].

### Cross References

This subchapter cited in 25 Pa. Code § 71.3 (relating to purposes); 25 Pa. Code § 71.63 (relating to retaining tanks); 25 Pa. Code § 71.64 (relating to small flow treatment facilities); 25 Pa. Code § 71.65 (relating to individual and community sewage systems); and 25 Pa. Code § 71.71 (relating to general requirements).

## GENERAL

### § 71.11. General requirement.

Municipalities are required to develop and implement comprehensive official plans which provide for the resolution of existing sewage disposal problems, provide for the future sewage disposal needs of new land development and provide for the future sewage disposal needs of the municipality. Official plans shall be developed, submitted to the Department for approval and implemented by municipalities under the act and §§ 71.12—71.14, 71.21, 71.22, 71.31, 71.41—71.44 and Subchapters C—F.

### Authority

The provisions of this § 71.11 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.11 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (206558) and (228181).

### § 71.12. Municipal responsibility to revise plans.

- (a) Municipalities shall review and revise their official plans whenever the municipality or the Department determines that the plan is inadequate to meet the existing or future sewage disposal needs of the municipality or portion thereof.
- (b) Two or more municipalities may jointly submit a single official plan. The plan may be prepared by one of the municipalities and submitted on behalf of participating municipalities if the plan is adopted by resolution of the governing body of each municipality to which it relates.
- (c) The existence, absence or content of a municipal or county subdivision ordinance or regulation will not relieve the municipality of its duty to revise its official plan as required by the act and this chapter.
- (d) The proposed plan content shall be consistent with the requirements of the act.
- (e) The completed plan shall be submitted within the time limits established by the Department under § 71.13(a) (relating to Department responsibility to require official plan revisions).
- (f) In a civil or administrative action taken under this chapter, the municipality shall have the burden to establish that its official plan or proposed revision complies with the requirements of this chapter.

#### Source

The provisions of this § 71.12 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (129916).

#### Cross References

This section cited in 25 Pa. Code § 71.11 (relating to general requirement); and 25 Pa. Code § 71.43 (relating to approval of grants).

### § 71.13. Department responsibility to require official plan revisions.

- (a) The Department will require a municipality to revise its official plan when it determines that the plan does not meet the requirements of Subchapter D (relating to official plan requirements for alternative evaluations) or the plan, or its parts, is inadequate to meet the sewage needs of the municipality, its residents or property owners or because of newly discovered facts, conditions or circumstances which make the plan inadequate. Official plan revisions shall be submitted within 120 days of the Department's determination under this section, unless the Department finds that additional time is necessary to complete the planning consistent with this chapter.
- (b) The Department will notify the municipality in writing of:
  - (1) The reasons for requiring a plan revision.
  - (2) Minimum plan content requirements as contained in § 71.21 (relating to content of official plans) and Subchapter D.
  - (3) Time limitations for plan completion, including interim deadlines and compliance schedules the Department deems necessary.

(4) The status of the existing official plan.

(c) The Department may require two or more municipalities to develop and submit jointly a single official plan. The Department will allow the preparation of a joint municipal plan if the plan is adopted by each participating municipality.

### Source

The provisions of this § 71.13 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (114763).

### Cross References

This section cited in 25 Pa. Code § 71.11 (relating to general requirement); 25 Pa. Code § 71.12 (relating to municipal responsibility to revise plans); and 25 Pa. Code § 71.14 (relating to private request to revise official plans).

### § 71.14. Private request to revise official plans.

(a) A person who is a resident or legal or equitable property owner in a municipality may file a private request with the Department requesting that the Department order the municipality to revise or implement its official plan if the resident or property owner can show that the official plan is not being implemented or is inadequate to meet the resident's or property owner's sewage disposal needs. This request may be made only after a prior written demand upon and written refusal by the municipality to so implement or revise its official plan or failure of the municipality to reply in either the affirmative or negative within 60 days or, failure of the municipality to implement its official plan within the time limits established in the plan's implementation schedule or failure to revise its official plan within the time limits established in this chapter. The request to the Department shall contain a description of the area of the municipality in question and a list of reasons that the plan is believed to be inadequate. The person shall notify the municipality, official planning agency within the municipality and planning commission with areawide jurisdiction in writing of the filing of the request with the Department at the same time notice is sent to the Department. This notification shall include a copy of the documentation supporting the private request which was submitted to the Department.

(b) Private requests to revise an official plan shall contain evidence that the municipality has refused in writing to revise its plan, is not implementing its plan or has failed to act within the time limits established in § 71.13(a) (relating to Department responsibility to require official plan revisions) for plan updates or § 71.53(b) (relating to municipal administration of new land development planning requirements for revisions) for new land developments.

(c) Upon receipt of a private request for revision, the Department will notify the municipality and appropriate official planning agencies within the municipality, including a planning agency with areawide jurisdiction if one exists, under the Pennsylvania Municipalities Planning Code (53 P. S. § § 10101—11202) and the existing county or joint county department of health of receipt of the private request and will inform them that written comments shall be submitted to the Department within 45 days after the Department's receipt of the private request for revision.

(d) In arriving at its decision, the Department will consider the following:

- (1) The reasons advanced by the requesting person.
- (2) The reasons for denial advanced by the municipality.
- (3) Comments submitted under this section.
- (4) Whether the proposed sewage facilities and documentation supporting the proposed sewage facilities are consistent with this part.
- (5) The existing official plan developed under this chapter.

(e) The Department will render its decision, and inform the person requesting the revision and the appropriate municipality, in writing, within 120 days after either receipt of the comments permitted by this section or 120 days after the expiration of the 45-day comment period when no comments have been received or within an extended period if agreed to in writing by the person making the request.

(1) The Department's decision will specify the nature of the revision to the municipality's official plan that the municipality will be required to implement or the reasons for refusal. If the Department orders a requested revision, the order will specify time limits for plan completion, including interim deadlines and compliance schedules the Department deems necessary.

(2) If the Department refuses to order a revision requested under subsection (a), it will notify the person who filed the request, in writing, of the reasons for the refusal.

(3) The Department may not refuse to order a requested revision because of inconsistencies with any applicable zoning, subdivision or land development ordinances, but will make its order subject to any limitations properly placed on the development of the property by the municipality under its zoning, subdivision or land development ordinances or by court orders.

### **Authority**

The provisions of this § 71.14 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### **Source**

The provisions of this § 71.14 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended February 28, 1975, effective March 17, 1975, 5 Pa.B. 374; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (234443) to (234444).

### **Cross References**

This section cited in 25 Pa. Code § 71.11 (relating to general requirement); and 25 Pa. Code § 71.75 (relating to private request to require a sewage management program).

**§ 71.15. [Reserved].****Source**

The provisions of this § 71.15 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended September 24, 1976, effective October 11, 1976, 6 Pa.B. 2392; reserved June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial pages (114766) to (114767).

**Notes of Decisions***Supplement*

The decision whether to use “revision” or “supplement” procedures is an administrative one to be made by the Department; if the provisions of 25 Pa. Code § 71.15, 25 Pa. Code § 71.14 (relating to contents of plan), and 25 Pa. Code § 71.16 (relating to approval of plans and revisions) have been complied with, Department approval of a supplement is proper despite failure to require involvement of local planning agencies in site selection, and failure to consider the fact that proposed buildings will be located in open space areas. *Swartwood v. Department of Environmental Resources*, 424 A.2d 993 (Pa. Cmwlth. 1981).

**§ 71.16. [Reserved].****Source**

The provisions of this § 71.16 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended October 3, 1980, effective October 4, 1980, 10 Pa.B. 3917; reserved June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial pages (114768) to (114769).

**Notes of Decisions**

Provisions of 25 Pa. Code § 71.16 (relating to approval of plans and revisions) cited in *Department of Environmental Resources v. Trautner*, 338 A.2d 718, 720 (Pa. Cmwlth. 1975).

**§ 71.17. [Reserved].****Source**

The provisions of this § 71.17 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28,

1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial pages (114769) to (114770).

### Notes of Decisions

It is proper for DER to order a municipality to provide sewage facilities services for a subdivision under this section request while the subdivision plan is in litigation but the order is subject to subsequent judicial decision. *Solebury Township Supervisors v. Department of Environmental Resources*, 18 Pa. D. & C.3d 696 (1981).

The Environmental Hearing Board has jurisdiction over an appeal from a DER order issued under this section as to sewage related problems which are concurrently in litigation with nonsewage related issues in a subdivision dispute in the common pleas court. *Solebury Township Supervisors v. Department of Environmental Resources*, 18 Pa. D. & C.3d 696 (1981).

While subsection (c)(3) requires that applicable zoning be considered, DER and the Environmental Hearing Board must be guided by a decision of the appropriate common pleas court regarding zoning rights. *Borough of Sayre v. Department of Environmental Resources*, 9 Pa. D. & C.3d 407 (1979).

When a property owner can be effectively denied the right to use his property until such time as the municipality has satisfied DER that sewage disposal on the property is in conformity with a comprehensive program of water quality management, there is an unreasonable restriction on the use of private land and a confiscation of property without due process. *Department of Environmental Resources v. Trautner*, 338 A.2d 718 (Pa. Cmwlth. 1975).

This section does not provide an exclusive remedy to landowner for municipal inaction which delays or prevents issuance of a sewage permit under 25 Pa. Code § 91.32. Landowners must also seek direct review by the Commonwealth Court. *Department of Environmental Resources v. Trautner*, 338 A.2d 718 (Pa. Cmwlth. 1975).

### § 71.18. [Reserved].

### Source

The provisions of this § 71.18 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; reserved September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176. Immediately preceding text appears at serial page (11243).

## OFFICIAL PLAN PREPARATION

### § 71.21. Content of official plans.

(a) A municipality shall submit a Task/Activity Report or other appropriate form prior to preparation of an official plan to determine which of the planning elements listed in this section

are necessary to meet the specific needs of that municipality. It is recommended that the municipality meet with the Department prior to submitting the Task/Activity Report to the Department. A determination does not constitute a final Department action until the completed plan is submitted by the municipality and acted upon by the Department. If applicable to the specific planning needs of the municipality, as determined by the Department, the completed plan submitted to the Department shall:

(1) Describe and analyze the physical and demographic characteristics of the planning area through the following:

(i) An identification and mapping of the planning area boundaries and political subdivision boundaries.

(ii) An identification and mapping of the physical characteristics of the planning area, including streams, lakes, impoundments, natural conveyance channels and drainage basins.

(iii) A survey and a map and analysis of soils and geological features.

(iv) A listing of current population information and historical population data.

(v) An identification of wetlands as defined in Chapter 105 (relating to dam safety and waterway management).

(vi) Identification of the source of the potable water supply including the available capacity of public supplies and aquifer yield for groundwater supplies.

(2) Evaluate existing sewage facilities in the planning area through the following:

(i) An identification, mapping and description of municipal and nonmunicipal, individual and community sewerage systems in the planning area including:

(A) The location of treatment plants, main intercepting lines, pumping stations and force mains, including their size, capacity, point of discharge and drainage basin served.

(B) A description of problems with the existing facilities, including existing or projected overload under Chapter 94 (relating to municipal wasteload management) or violations of a National Pollutant Discharge Elimination System permit, a Clean Streams Law permit or other permit, rule or regulation of the Department.

(C) A description of operation and maintenance requirements and the status of compliance with these requirements and the requirements of Subchapter E (relating to sewage management programs).

(ii) An identification, mapping and description of areas that use individual and community onlot sewage systems in the planning area, including:

(A) The types of systems in use.

(B) A description of problems with the systems, including violations of local ordinances, the act, the Clean Streams Law or a rule or regulation promulgated thereunder.

(C) A comparison of the types of onlot sewage systems installed in an area with the types of systems which are appropriate for the area according to soil, geologic conditions and Chapter

73 (relating to standards for onlot sewage treatment facilities).

(3) Delineate and describe through a text, map and analysis:

(i) Areas with existing development or platted subdivisions.

(ii) Land use designations established under the Pennsylvania Municipalities Planning Code (53 P. S. § § 10101—11202), including residential, commercial and industrial areas.

(iii) Future growth areas and population projections.

(iv) Zoning; subdivision regulations; local county or regional comprehensive plans; and existing plans of a Commonwealth agency relating to the development, use and protection of land and water resources.

(v) Areas where community sewage systems are planned to be available within a 5-year and a 10-year period.

(4) Identify alternatives which are available to provide for new or improved sewage facilities for each area of need including, but not limited to:

(i) The potential for extension of existing municipal or nonmunicipal sewage facilities to areas in need of new or improved sewage facilities.

(ii) The potential for the continued use of existing municipal or nonmunicipal sewage facilities through one or more of the following:

(A) Repair.

(B) Upgrading.

(C) Improved operation and maintenance.

(D) Other applicable actions that will resolve or abate the identified problems.

(iii) The need for new community sewage systems.

(iv) The need for a sewage management program to assure the future operation and maintenance of existing and proposed sewage facilities.

(5) Evaluate each alternative listed in response to paragraph (4), including, but not limited to:

(i) Consistency between the proposed alternative and the objectives and policies of:

(A) Applicable plans developed and approved under sections 4 and 5 of the Clean Streams Law (35 P. S. § § 691.4 and 691.5) or section 208 of the Clean Water Act (33 U.S.C.A. § 1288).

(B) Municipal wasteload management under Chapter 94.

(C) Plans developed under Title II of The Clean Water Act (33 U.S.C.A. § § 1281—1299) or Titles II and VI of the Water Quality Act of 1987 (33 U.S.C.A. § § 1251—1376).

(D) Comprehensive plans developed under the Pennsylvania Municipalities Planning Code.

(E) Antidegradation requirements as contained in Chapters 93, 95 and 102 (relating to water quality standards; waste water treatment requirements; and erosion and sediment control) and the Clean Water Act.

(F) State water plans developed under the Water Resources Planning Act (42 U.S.C.A. § § 1962—1962d-18).

(G) Title 4 of the *Pennsylvania Code*, Chapter 7, Subchapter W (relating to agricultural land preservation policy).

(H) Plans adopted by the county and approved by the Department under the Storm Water Management Act (32 P. S. § § 680.1—680.17).

(I) Wetland protection under Chapter 105 (relating to dam safety and waterway management).

(J) Protection of rare, endangered or threatened plant and animal species as identified by the Pennsylvania Natural Diversity Inventory.

(K) Section 507 of Title 37 of *Pennsylvania Consolidated Statutes* (relating to cooperation by public officials with the Commission).

(ii) The resolution of inconsistencies identified in this section.

(iii) Applicable water quality standards, effluent limitations or other technical requirements contained in Subchapter D (relating to official plan requirements for alternative evaluations) and this part.

(iv) Cost estimates for construction, financing, ongoing administration, operation and maintenance.

(v) Subject to the limitations of subsections (b) and (c), funding methods available to finance all aspects of each of the proposed alternatives, establishment of the financial alternative of choice and a contingency financial plan to be used if the preferred method of financing is not able to be implemented.

(vi) Ability to implement, including:

(A) Activities necessary to abate critical public health hazards pending completion of sewage facilities or sewage management programs.

(B) Phased development of the facilities or sewage management program.

(C) Time schedules for implementing each phase.

(D) Administrative organization and legal authority necessary for plan implementation.

(6) Select one alternative to solve the need for sewage facilities in each area studied and support this choice with documentation that shows that the alternative is technically, environmentally and administratively acceptable.

(7) Include a summary of the plan which identifies:

(i) Major problems evaluated in the plan.

- (ii) Alternatives chosen to solve these problems.
- (iii) Municipal commitments necessary to implement the plan.
- (iv) A schedule for implementation.

(8) When the information required as part of an official plan or revision has been developed separately, incorporate the information by reference.

(b) Feasibility evaluations required by subsection (a)(5)(iv) and (v) shall be limited to areas identified in the plan as needing improved sewage facilities within a 5-year period from the date of plan submission and which are scheduled for completion of sewage facilities within 5 years or less.

(c) Dates for the future initiation of feasibility evaluations required by subsection (a)(5)(iv) and (v) shall be included in the implementation schedule for areas proposing completion of sewage facilities for periods in excess of 5 years.

#### **Authority**

The provisions of this § 71.21 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### **Source**

The provisions of this § 71.21 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (228186) to (228188) and (234445) to (234446).

#### **Cross References**

This section cited in 25 Pa. Code § 71.11 (relating to general requirement); 25 Pa. Code § 71.13 (relating to Department responsibility to require official plan revisions); 25 Pa. Code § 71.31 (relating to municipal responsibility to review, adopt and implement official plans); 25 Pa. Code § 71.52 (relating to content requirements—new land development revisions); 25 Pa. Code § 71.53 (relating to municipal administration of new land development planning requirements for revisions); 25 Pa. Code § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development); and 25 Pa. Code § 71.61 (relating to general).

### **§ 71.22. Coordination of official plans with Federally funded sewagefacilities planning.**

Planning for Federally funded sewage facilities under Subchapter II of the Clean Water Act (33 U.S.C.A. § § 1281—1299) or State Revolving Funding under Title VI of the Water Quality Act of 1987 (33 U.S.C.A. § § 1382—1387) shall meet the requirements of § 71.31 (relating to municipal responsibility to review, adopt and implement official plans) and be approved by the Department as a revision to the municipal official plan.

### Authority

The provisions of this § 71.22 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.22 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (234447) and (228191).

### Cross References

This section cited in 25 Pa. Code § 71.11 (relating to general requirement).

### § 71.23. [Reserved].

### Source

The provisions of this § 71.23 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (114771).

### § 71.24. [Reserved].

### Source

The provisions of this § 71.24 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (114771).

### § 71.25. [Reserved].

### Source

The provisions of this § 71.25 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28,

1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (114771).

## § 71.26. [Reserved].

### Source

The provisions of this § 71.26 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial pages (114771) to (114772).

## OFFICIAL PLAN APPROVAL

### § 71.31. Municipal responsibility to review, adopt and implement official plans.

(a) A municipality shall develop and evaluate alternatives in official plans and official plan revisions and shall determine, prior to adopting the plan, which technical and administrative alternatives are proposed to be implemented.

(b) A municipality shall request, review and consider comments by appropriate official planning agencies of a municipality, including a planning agency with areawide jurisdiction if one exists, under the Pennsylvania Municipalities Planning Code (53 P. S. § § 10101—11202) and the existing county or joint county department of health. Evidence that the official plan has been before these agencies for 60 days without comment is sufficient to satisfy the requirements of this subsection.

(c) A municipality shall submit evidence that documents the publication of the proposed plan adoption action at least once in a newspaper of general circulation in the municipality. The notice shall contain a summary description of the nature, scope and location of the planning area including the antidegradation classification of the receiving water where a discharge to a body of water designated as high quality or exceptional value is proposed and the plan's major recommendations, including a list of the sewage facilities alternatives considered. A 30-day public comment period shall be provided. A copy of written comments received and the municipal response to each comment, shall be submitted to the Department with the plan.

(d) An implementation schedule shall be submitted as part of the official plan. This schedule shall designate the time periods within which the specific phases of the facilities or program will be completed and the methods and sources of financing each phase.

(e) When an official plan or official plan revision identifies a conflict between a proposed alternative and the consistency requirements contained in § 71.21(a)(5)(i)—(iii) (relating to content of official plans), the municipality shall submit written documentation that the appropriate agency has received, reviewed and concurred with the method proposed to resolve identified inconsistencies.

(f) The municipality shall adopt the official plan by resolution, with specific reference to the alternatives of choice and a commitment to implement the plan within the time limits established in an implementation schedule.

### Authority

The provisions of this § 71.31 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.31 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (228191) to (228193).

### Cross References

This section cited in 25 Pa. Code § 71.11 (relating to general requirement); 25 Pa. Code § 71.22 (relating to coordination of official plans with Federally funded sewage facilities planning); 25 Pa. Code § 71.32 (relating to Department responsibility to review and act upon official plans); 25 Pa. Code § 71.52 (relating to content requirements—new land development revisions); and 25 Pa. Code § 71.53 (relating to municipal administration of new land development planning requirements for revisions).

## § 71.32. Department responsibility to review and act upon official plans.

(a) No official plan or official plan revision will be considered complete by the Department unless it contains the information and supporting documentation required by the Department, including those items required by § 71.31 (relating to municipal responsibility to review, adopt and implement official plans). If a special study is submitted in support of an existing official plan, existing official plan revision or existing update revision, the Department may waive inapplicable requirements of § 71.31.

(b) Within 120 days after submission of a complete official plan or official plan revision, with supporting documentation, the Department will either approve or disapprove the plan or revision, except as provided in § 71.54(d) (relating to Department administration of new land development planning requirements for revisions) for a plan revision for a residential subdivision plan.

(c) Upon the Department's failure to act on a complete official plan or revision within 120 days of its submission, the official plan or official plan revision will be considered approved, unless the Department informs the municipality prior to the end of 120 days that additional time is necessary to complete its review. The additional time may not exceed 60 days.

(d) In approving or disapproving an official plan or official plan revision, the Department will consider:

- (1) Whether the plan or revision meets the requirements of the act, The Clean Streams Law and this part.
  - (2) Whether the municipality has adequately considered questions raised in comments, if any, of the appropriate areawide planning agency, the county or joint county department of health, and the general public.
  - (3) Whether the plan or revision furthers the policies established under section 3 of the act (35 P. S. § 750.3) and sections 4 and 5 of The Clean Streams Law (35 P. S. § 691.4 and 691.5).
  - (4) Whether the official plan or official plan revision is able to be implemented.
  - (5) Whether the official plan or official plan revision adequately provides for continued operation and maintenance of the proposed sewage facilities.
  - (6) Whether the official plan or official plan revision contains documentation that inconsistencies identified in § 71.21(a)(5)(i)—(iii) (relating to content of official plans) have been resolved under § 71.31(e).
  - (7) If the official plan or official plan revision includes proposed sewage facilities connected to or otherwise affecting sewage facilities of other municipalities, whether the other municipalities have submitted necessary revisions to their plans for approval by the Department.
- (e) If the official plan or official plan revision is disapproved by the Department, written notice will be given to each municipality included in the plan, together with a statement of reasons for the disapproval.
- (f) In a municipality that does not have an official plan, or fails to revise or implement its official plan as required by an order of the Department or this part the following apply:
- (1) The limitations on the issuance of permits under § 72.23(a) and (b) (relating to limitation on onlot system permit issuance) are in effect.
  - (2) The Department will not issue a permit under section 5 of The Clean Streams Law (35 P. S. § 691.5) for projects in those areas of the municipality for which an official plan, official plan revision or implementation of an official plan is required.
  - (3) A supplement or a revision for new land development will not be denied nor will an exception to the requirement to revise be found inadequate solely because the municipality in which the new land development is being proposed has failed to do one of the following:
    - (i) Submit an update revision or special study.
    - (ii) Implement its plan as required by an order of the Department or this part.
  - (4) A supplement or revision for new land development will not be denied, nor will an exception to the requirement to revise be found inadequate, solely because an update revision or special study is under review by the Department.
  - (5) Every contract for the sale of a lot which is located within an area in which permit limitations are in effect and which is subject to permit limitations under this chapter shall contain a statement in the sales contract that clearly indicates to the buyer that sewage facilities are not available for that lot and that sewage facilities will not be available. This statement shall also

clearly state that construction of any structure on the lot may not begin until the Department has approved a major planning requirement, including, but not limited to, a plan update revision or a special study.

(g) The limitations on permit issuance contained in § 72.23(a) and (b) do not apply when the provisions of § 72.23(d) have been met.

### **Authority**

The provisions of this § 71.32 amended under sections 7.2 and 9 of the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.7b and 750.9); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### **Source**

The provisions of this § 71.32 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 1, 1996, effective November 2, 1996, 26 Pa.B. 5347; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (228193) to (228195).

### **Notes of Decisions**

### **Waiver**

The facts were insufficient to establish a casual connection between the township's request to review the Department of Environmental Resources' data and the Department's failure to comply with the provisions of former 25 Pa. Code § 71.16 (now this regulation). Thus, the waiver of the deemed approval provisions expressly set forth in the mandatory language of that regulation will occur only where the words or conduct of the party seeking this remedy has caused or substantially contributed to the Department's delay. As the township's request did not impair the Department's ability to respond in a timely fashion, the Environmental Hearing Board erred in concluding that the township's request constituted a waiver of deemed approval. *Board of Supervisors of Middle Paxton Township v. Department of Environmental Resources*, 669 A.2d 418 (Pa. Cmwlth. 1995).

### **Cross References**

This section cited in 25 Pa. Code § 71.43 (relating to approval of grants); 25 Pa. Code § 71.54 (relating to Department administration of new land development planning requirements for revisions); and 25 Pa. Code § 93.4c (relating to implementation of antidegradation requirements).

**§ 71.33. [Reserved].**

### **Source**

The provisions of this § 71.33 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172. Immediately preceding text appears at serial page (78903).

**§ 71.34. [Reserved].**

**Source**

The provisions of this § 71.34 adopted September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended February 28, 1975, effective March 17, 1975, 5 Pa.B. 374; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172. Immediately preceding text appears at serial pages (78903) to (78904).

**§ 71.35. [Reserved].**

**Source**

The provisions of this § 71.35 adopted August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172. Immediately preceding text appears at serial pages (78905) and (17824).

**§ 71.36. [Reserved].**

**Source**

The provisions of this § 71.36 adopted August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172. Immediately preceding text appears at serial page (17824).

## **PLANNING GRANTS**

**§ 71.41. Grants for the preparation of official plans.**

Under section 6 of the act (35 P. S. § 750.6) and § § 71.42 and 71.43 (relating to application for grants; and approval of grants), the Department will administer grants to municipalities, counties and authorities for preparing update revisions and special studies to the extent of the appropriations made by the General Assembly for that purpose. Municipalities, counties and authorities intending to apply for the grants shall submit to the Department an outline of the proposed plan content, time schedule for plan completion and estimated cost by planning task on

a form provided by the Department or other form acceptable to the Department prior to beginning the plan. Costs for completion of planning activities outside the scope of the proposed plan content are not eligible for a grant unless proposals for inclusion of additional activities and increased costs associated with these activities have been submitted to and approved by the Department and are within the scope of the act.

### Authority

The provisions of this § 71.41 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.41 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial page (228196).

### Notes of Decisions

#### *Injunction*

Where landowner installed a sewage holding tank without a permit, the Township was entitled to an injunction from the moment that the system was first installed despite township's delay in processing landowner's request for an application. *Millstone Enterprises, Inc. v. Department of Environmental Resources*, 516 A.2d 814 (Pa. Cmwlth. 1986).

Property owners' challenge to a denial of a sewer permit by the township sewer enforcement officer, based on the requirements of this section, was properly appealable to the local court of common pleas. *Consumer Investment Fund v. Supervisors of Smithfield Township*, 532 A.2d 543 (Pa. Cmwlth. 1987).

### Cross References

This section cited in 25 Pa. Code § 71.11 (relating to general requirement).

### § 71.42. Application for grants.

- (a) Grant application forms and instructions will be supplied by the Department upon written request.
- (b) Applications shall be accompanied by detailed invoices or other proof of payment for each activity included in the preparation of the update revision or special study.
- (c) When the applicant for a planning grant is not a municipality, written proof that the municipality has authorized the applicant to receive the grant shall be submitted with the application.

## Source

The provisions of this § 71.42 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended May 30, 1975, effective May 31, 1975, 5 Pa.B. 1402; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (125966).

## Cross References

This section cited in 25 Pa. Code § 71.11 (relating to general requirement); and 25 Pa. Code § 71.41 (relating to grants for the preparation of official plans).

### § 71.43. Approval of grants.

(a) The Department will not authorize payment of a planning grant to an applicant until the Department has approved the official plan or revision which has been adopted by the municipality.

(b) When the Department has determined that the application is complete, the Department will pay grants to applicants in the order in which the applications were received.

(c) The Department will determine the amount of the grant by evaluating:

- (1) The application for planning grants.
- (2) The extent and nature of the activities included in the official plan or revision to the official plan and the eligibility of the costs of these activities for grant payments under the act.
- (3) The cost of performing each activity included in the official plan or revision to the official plan.
- (4) The contents of existing plans and studies.
- (5) The conditions imposed upon the municipality by an order or notice of the Department.
- (6) The final contents of the adopted official plan.

(d) The Department may pay planning grants for joint municipal plans submitted under § 71.12(b) (relating to municipal responsibility to revise plans) without official adoption of the plan from participating municipalities when:

(1) The Department has determined that enough municipalities have adopted the plan consistent with § 71.32(d)(7) (relating to Department responsibility to review and act upon official plans) to assure substantial plan implementation.

(2) Costs for the planning activities done for the nonparticipating municipalities are deducted from the application for the grant payment.

(3) The Department has notified the municipality not adopting the joint-municipal plan that its official plan is in a disapproved status; or has determined that the municipality's official plan adequately addresses the existing and future sewage disposal needs of the municipality.

(e) The Department will not withhold planning grants for eligible costs from a municipality, its designated authority or county when the following occur:

- (1) Sufficient appropriations have been made by the General Assembly.
- (2) The official plan has been adopted by the municipality and approved by the Department.
- (3) The official plan complies with the terms of the act and this part.

### Authority

The provisions of this § 71.43 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.43 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (206575) to (206576).

### Notes of Decisions

#### *Additional Evidence*

Sewage Enforcement Officer erred in denying application without first affording applicant opportunity to supply additional information, and lower court's conclusion that procedure regarding incomplete applications applied only to cases where application is facially incomplete is not supported by Sewage Facility Act (35 P. S. § § 750.1—750.16) or this section. *D'Amico v. Board of Supervisors, Alsace Township*, 526 A.2d 479 (Pa. Cmwlth. 1987).

Applicant for individual sewage disposal permit could not claim that Township Board of Supervisor's request for topographical survey, second probe test, soil survey and revised plan was an unauthorized or unreasonable request, where testimony showed that information was necessary and reasonable. *D'Amico v. Board of Supervisors, Alsace Township*, 526 A.2d 479 (Pa. Cmwlth. 1987).

### Cross References

This section cited in 25 Pa. Code § 71.11 (relating to general requirement); and 25 Pa. Code § 71.41 (relating to grants for the preparation of official plans).

### **§ 71.44. Duplicate planning.**

The Department will not pay grants under the act for information which has been completed previously under local, State or Federal funding programs. The plan shall incorporate this information by reference.

### Authority

The provisions of this § 71.44 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### Source

The provisions of this § 71.44 adopted August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (206576) to (206577).

#### Notes of Decisions

##### *Denial of Permit*

Neither Sewage Facility Act (35 P. S. § 750.1—750.16) nor this section authorized denial of permit without first allowing applicant a reasonable opportunity to supply additional information requested and applicant need not have supplied information between time of denial of application and time of Board of Supervisor's hearing; applicant acted properly in filing appeal under Local Agency Law (repealed). *D'Amico v. Board of Supervisors, Alsace Township*, 526 A.2d 479 (Pa. Cmwlth. 1987).

#### Cross References

This section cited in 25 Pa. Code § 71.11 (relating to general requirement).

#### § 71.45. [Reserved].

#### Source

The provisions of this § 71.45 adopted August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172. Immediately preceding text appears at serial pages (21625) and (30792).

#### Notes of Decisions

##### *Discretion*

In view of broad responsibility indicated by this section, local agencies must be given broad discretion in requiring sufficient information to support grant of sewage permit. *D'Amico v. Board of Supervisors, Alsace Township*, 526 A.2d 479 (Pa. Cmwlth. 1987).

#### § 71.46. [Reserved].

#### Source

The provisions of this § 71.46 adopted August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended September 24, 1976, effective October 11, 1976, 6 Pa.B. 2392; reserved January

9, 1987, effective January 10, 1987, 17 Pa.B. 172. Immediately preceding text appears at serial pages (30792) to (30793).

**§ 71.47. [Reserved].**

**Source**

The provisions of this § 71.47 adopted August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended September 24, 1976, effective October 11, 1976, 6 Pa.B. 2392; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172. Immediately preceding text appears at serial page (30793).

**§ 71.48. [Reserved].**

**Source**

The provisions of this § 71.48 adopted August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172. Immediately preceding text appears at serial pages (30793) and (78907).

## **Subchapter C. NEW LAND DEVELOPMENT PLAN REVISIONS**

Sec.

- [71.51.](#) General.
- [71.52.](#) Content requirements—new land development revisions.
- [71.53.](#) Municipal administration of new land development planning requirements for revisions.
- [71.54.](#) Department administration of new land development planning requirements for revisions.
- [71.55.](#) Exceptions to the requirement to revise the official plan for new land development.
- [71.56.](#) [Reserved].
- [71.57.](#) [Reserved].
- [71.58.](#) Delegation of new land development planning.
- [71.59.](#) Delegated agency administration of new land development planning requirements.

**Cross References**

This section cited in 25 Pa. Code § 71.3 (relating to purposes); 25 Pa. Code § 71.11 (relating to general requirement); 25 Pa. Code § 71.63 (relating to retaining tanks); 25 Pa. Code § 71.64

(relating to small flow treatment facilities); 25 Pa. Code § 71.65 (relating to individual and community sewerage systems); and 25 Pa. Code § 71.71 (relating to general requirements).

### § 71.51. General.

(a) A municipality shall revise its official plan when:

(1) A new subdivision is proposed, except as provided by § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) or subsection (b).

(2) The official plan, or its parts, is inadequate to meet the sewage needs of the new land development.

(3) Newly discovered or changed facts, conditions or circumstances make the plan inadequate to meet the sewage needs of new land developments.

(4) A permit is required from the Department under section 5 of The Clean Streams Law (35 P. S. § 691.5).

(b) Except for new land developments proposing the use of retaining tanks, exemptions from sewage facilities planning for new land development will be processed as follows:

(1) Revisions for new land development, exceptions to the requirement to revise and supplements are not required, and permits for onlot systems using a soil absorption area or a spray field may be issued without this planning, when the Department or, in the case of supplements, a delegated agency determines that the following have been met:

(i) The official plan shows that those areas of the municipality are to be served by onlot sewage disposal facilities using a soil absorption area or a spray field as confirmed by signature of the municipal officials.

(ii) The area proposed for the use of individual or community sewage systems is not underlain by carbonate geology nor is this area within 1/4 mile of water supplies documented to exceed 5 PPM nitrate-nitrogen as confirmed by the Department from a USGS geology map or sampling data.

(iii) The area proposed for development is outside of high quality or exceptional value watersheds established under the regulations and policies promulgated under The Clean Streams Law as confirmed by the Department from the location of the new land development on a USGS topographic quadrangle map.

(iv) Subdivided lots and the remaining portion of the original tract after subdivision are 1 acre or larger as confirmed by signature of the applicant.

(v) Complete soils testing and site evaluation establish that separate sites are available for both a permissible primary soil absorption area or spray field and a replacement soil absorption area or spray field on each lot of the subdivision as confirmed by a signed report of the sewage enforcement officer serving the municipality in which the new land development is proposed. The local agency or municipality may require deed restrictions or take other actions it deems necessary to protect the replacement soil absorption area or spray field from damage which would make it unsuitable for future use.

(2) Revisions for new land development and supplements are not required for subdivisions proposing a connection to or an extension of public sewers when all of the following have been met:

(i) The Department or delegated agency determines that existing collection, conveyance and treatment facilities are in compliance with The Clean Streams Law and the rules and regulations thereunder.

(ii) The Department or delegated agency determines that the permittees of the receiving sewerage facilities have submitted information under Chapter 94 (relating to municipal wasteload management) which documents that the existing collection, conveyance and treatment system does not have an existing hydraulic or organic overload or 5-year projected overload.

(iii) The applicant has provided written certification from the permittees of the collection, conveyance and treatment facilities to the municipality in which the subdivision is located and the Department or delegated agency with jurisdiction over the municipality in which 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 from the proposed new land development will not create a hydraulic or organic overload or 5-year projected overload.

(iv) The municipality has a current approved sewage facilities plan update revision which is being implemented. For the purposes of exempting a subdivision from completing sewage facilities planning under this section, the phrase "a current approved sewage facilities plan update revision which is being implemented" shall include official plans of municipalities which are not under an order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.

(3) The Department will provide delegated agencies sufficient information to make the required determinations under paragraphs (1)(ii) and (iii), (2)(i), (ii) and (iv). When the determination under paragraph (1) or (2) is made by a delegated agency, that agency shall submit to the Department quarterly reports which include the names of the subdivisions, location of the subdivisions, number of lots and projected sewage flows for each subdivision exempted from the planning provisions under this subsection.

(4) Information in support of a request for a sewage facilities planning exemption under this section shall be submitted on a form provided by the Department.

(5) This subsection does not apply to new land development proposals intended to be served by sewage facilities which require or which must apply for a new or modified permit from the Department under The Clean Streams Law.

### **Authority**

The provisions of this § 71.51 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### **Source**

The provisions of this § 71.51 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September

16, 1974, 4 Pa.B. 1805; amended February 28, 1975, effective March 17, 1975, 5 Pa.B. 374; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (206578) to (206579).

### Notes of Decisions

#### *Cease and Desist*

The issuance of a cease and desist order to restrain violation of this section is unauthorized when it was not proved that an addition to a mobile home park and the installation of an on-lot sewage disposal system created an unsanitary condition or nuisance. *Commonwealth v. Trask*, 71 Pa. D. & C.2d 203 (1974).

#### *Holding Tank*

When a permit for a septic tank system was revoked while the service station was under construction and the applicant was informed that a holding tank was the only available system, the requirement that there be an official plan providing for holding tanks at the site of the applicant and an ordinance providing for maintenance unreasonably deprives the applicant of the use of his property. *Shell Oil Co. v. Bucks County Department of Health*, 73 Pa. D. & C.2d 91 (1975).

Although there is no authority in the Sewage Facilities Act to condition the granting of an individual sewage system upon compliance with the provisions of 25 Pa. Code § 71.51 (relating to restrictions on use). The Clean Streams Law authorizes the adoption of reasonable restrictions on the use of holding tanks for sewage. *Shell Oil Co. v. Bucks County Department of Health*, 73 Pa. D. & C.2d 91 (1975).

Since a privy is a type of holding tank which cannot be distinguished on the basis that it does not receive waste water and does not require the kind of authorization or servicing necessary for holding tanks, a permit for a privy should be denied where water pressure is available and there is no official municipal sewerage facilities plan that would allow a privy on the property of the applicant. *Brooks v. Upper Frederick Township*, 68 Pa. D. & C.2d 509 (Pa. Environ. H. Bd. 1975).

### Cross References

This section cited in 25 Pa. Code § 71.83 (relating to Department fees); and 25 Pa. Code § 72.23 (relating to limitation on onlot system permit issuance).

### § 71.52. Content requirements—new land development revisions.

(a) An official plan revision for new land development shall be submitted to the Department in the form of a completed sewage facilities planning module provided by the Department and shall include, but not be limited to, the following information:

(1) The nature of the proposal, including:

(i) Type of facilities to be served, density of proposed development and whether the development is residential, commercial or industrial.

(ii) Number of lots including equivalent dwelling units.

(iii) Anticipated sewage flow from the proposed development. For individual or community sewerage systems, the flows shall be based on gauged flows or the flows contained in the Department's Sewerage Manual. A copy of the manual may be obtained from the Department's Bureau of Water Supply and Wastewater Management. For individual or community onlot sewerage systems, the flows shall be consistent with § § 73.16 and 73.17 (relating to absorption area requirements; and sewage flows).

(iv) Anticipated raw waste characteristics of the sewage.

(v) Type of sewage facilities proposed, including collection, treatment and disposal methods.

(vi) Description of required operation and maintenance activities required by Subchapter E (relating to sewage management programs).

(vii) Designation of the person responsible for operation and maintenance activities and the legal and financial arrangements necessary for assumption of this responsibility.

(2) The relationship of the proposed development to existing sewage needs, proposed sewage facilities and sewage management programs in an area delineated by the municipality, including identification of:

(i) The areas included in, and adjacent to, the project which are in need of improved sewage facilities.

(ii) Existing and proposed sewage facilities for remaining acreage or delineated lots not included in the project.

(iii) Existing sewage facilities and sewage management programs in the area.

(iv) Other proposed sewage facilities and sewage management programs—public and private—in the area.

(v) The method for integrating the proposal into the comprehensive sewage program in the area as reflected in the approved official plan.

(3) An analysis of technically available sewage facilities alternatives identified by the municipality and additional alternatives identified by the Department, including whether each alternative:

(i) Meets the technical requirements of this part.

(ii) Is consistent with local and areawide comprehensive water quality management plans for the area.

(iii) Is consistent with sewage planning policies and decisions of the municipality.

(iv) Is consistent with the municipalities' comprehensive land use plan for the area.

(v) Incorporates and is consistent with the requirements of § § 71.21 and 71.31 (relating to content of official plans; and municipal responsibility to review, adopt and implement official plans).

(4) Selection of an alternative which adequately addresses both the present and future sewage needs of the proposal, through identification and evaluation of:

- (i) Interim facilities.
- (ii) Replacement facilities.
- (iii) Ultimate facilities.
- (iv) Operation and maintenance activities and requirements.

(5) Selection of an alternative which assures the continued operation and maintenance of the selected sewage facilities through evaluation and identification of the following:

- (i) Sewage management program requirements.
- (ii) Administrative capability for continued operation and maintenance.

(6) Documentation of whether or not it may be implemented including:

(i) Agreements with sewer authorities, water authorities or other persons to provide services necessary for implementation of the plan.

(ii) Designation of the institutional arrangements necessary for implementation of the plan.

(b) The Department may require additional information which is necessary for adequate review of the proposal.

### Source

The provisions of this § 71.52 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (125969).

### Notes of Decisions

#### *Cease and Desist*

The issuance of a cease and desist order to restrain violation of this section is unauthorized where it was not proved that an addition to a mobile home park and the installation of an onlot sewage disposal system created an unsanitary condition or nuisance. *Commonwealth v. Trask*, 71 Pa. D. & C.2d 203 (1974).

### Cross References

This section in 25 Pa. Code § 71.53 (relating to municipal administration of new land development planning requirements for revisions); and 25 Pa. Code § 71.61 (relating to general).

**§ 71.53. Municipal administration of new land development planning requirements for revisions.**

(a) It is the responsibility of the municipality to act upon revisions for new land development. If the new land development is requested by a private developer, the developer or his agent may complete the Department's sewage facilities planning module and submit it to the municipality for action.

(b) The municipality shall review sewage facilities planning modules upon receipt and, if appropriate comments or documents have not been received under subsections (d)(2), (3) and (5), shall forward a copy of the sewage facilities planning modules to the sewage enforcement officer, owner of receiving sewerage facilities and appropriate planning or zoning agencies within 10 days of receipt. The municipality shall determine if the submittal of the sewage facilities planning module is complete within 10 working days of the receipt of comments from the sewage enforcement officer and appropriate planning or zoning agencies. The municipality shall review and act upon a complete sewage facilities planning module proposing a revision for new land development within 60 days of receipt or additional time as the applicant and municipality may agree to in writing. Failure of the municipality to act within the 60-day period or an agreed-to extension will cause the revision for new land development to be deemed approved by the municipality and the complete sewage facilities planning module shall be submitted to the Department by the municipality or applicant. Documentation of the period of time the revision was in possession of the municipality shall be in the form of a completeness checklist signed by an official of the municipality confirming that the requirements of subsection (d) have been met.

(c) Municipal action shall take the form of adopting, adopting with modifications or refusing to adopt the proposal as a revision to the municipality's official plan.

(d) For the purposes of this section, no plan revision for new land development will be considered complete unless it includes the following:

(1) The information contained in § 71.52 (relating to content requirements—new land development revisions) and the Department's sewage facilities planning module.

(2) Comments by appropriate official planning agencies of a municipality, including a planning agency with areawide jurisdiction if one exists, under the Pennsylvania Municipalities Planning Code (53 P. S. § § 10101—11202) and the existing county or joint county department of health. Evidence that the sewage facilities planning module has been before these agencies for 60 days without comment shall be sufficient to satisfy this paragraph.

(3) A written commitment from the owner of the receiving community sewerage facilities to provide service to the proposed new land development and the conditions for providing the services.

(4) Documentation that the proposal is consistent with the requirements of § 71.21(a)(5)(i)(A), (B), (E) and (I) (relating to content of official plans) or that inconsistencies have been resolved under § 71.31(e) (relating to municipal responsibility to review, adopt and implement official plans).

(5) A statement from the sewage enforcement officer for the local agency having jurisdiction for individual or community onlot sewage systems in the area where onlot systems are proposed commenting on:

(i) General site suitability for system usage.

(ii) The sewage enforcement officer shall have 20 days from receipt of a sewage facilities planning module from the municipality to provide these comments, which shall be based upon onsite verification of soil tests, general site conditions and other generally available soils information. Evidence that the sewage enforcement officer has been in receipt of the sewage facilities planning module for 20 days without commenting is sufficient to satisfy this subsection.

(6) Evidence documenting newspaper publication. The newspaper publication may be provided by the applicant or the applicant's agent, the municipality or the local agency by publication in a newspaper of general circulation within the municipality affected. When an applicant or an applicant's agent provides the required notice for publication, the applicant or applicant's agent shall notify the municipality or local agency and the municipality and local agency will be relieved of the obligation to publish. The newspaper notice shall notify the public where the plan is available for review and indicate that all comments regarding the proposal shall be sent to the municipality within which the new land development is proposed. The newspaper publication shall meet the requirement of § 71.31(c) and provide notice of the proposed plan adoption action when the proposal involves one of the following:

- (i) Construction of a sewage treatment facility.
- (ii) A change in the flow at a sewage treatment facility of greater than 50,000 gpd.
- (iii) Will result in a public expenditure in excess of \$100,000 for the sewage facilities portion of a project.
- (iv) Will lead to a major modification of the existing municipal administrative organization or the establishment of new administrative organizations within the municipal government.
- (v) A subdivision of 50 lots or more.
- (vi) A major change in established growth projections.
- (vii) A different land use pattern than that established in the official sewage plan.
- (viii) The use of large volume onlot sewage systems.
- (ix) Resolution of a conflict between the proposed alternative and the consistency requirements contained in § 71.21(a)(5)(i)—(iii).
- (x) The sewage facilities are proposed to discharge into high quality or exceptional value waters.

(e) Since it is the responsibility of the municipality to implement the provisions of official plan revisions, when reviewing a proposed plan revision the municipality shall consider the information requested in subsection (d) and whether the proposed plan revision is consistent with established municipal goals and capabilities.

**(f) A municipality may refuse to adopt a proposed revision to its official plan for new land development for the following reasons, including, but not limited to:**

- (1) The plan is not technically or administratively able to be implemented.
- (2) Present and future sewage disposal needs of the area, remaining acreage or delineated lots are not adequately addressed.

(3) The plan is not consistent with municipal land use plans and ordinances, subdivision ordinances or other ordinances or plans for controlling land use or development.

(4) The plan is not consistent with the comprehensive sewage program of the municipality as contained in the official plan.

(5) The plan does not meet the consistency requirements of § 71.21(a)(5)(i)—(iii).

(g) Whenever a municipality refuses to adopt a proposed revision to the official plan, it shall state the reasons for the refusal and forward a copy of this statement to the person making the submission, and to the Department.

(h) Upon adoption of the proposed revision to the official plan, the municipality shall forward the proposed revision to the Department with the information required in § 71.52 and subsection (d) for review. Adoption of the proposed revision to the official plan shall be by resolution of the municipality.

### Authority

The provisions of this § 71.53 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.53 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; reserved August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (206581) to (206582) and (228197).

### Cross References

This section cited in 25 Pa. Code § 71.14 (relating to private request to revise official plans); 25 Pa. Code § 71.54 (relating to Department administration of new land development requirements for revisions); and 25 Pa. Code § 93.4c (relating to implementation of antidegradation requirements).

### **§ 71.54. Department administration of new land development planning requirements for revisions.**

(a) A proposed plan revision for new land development will not be approved by the Department unless it contains the information and supporting documentation required by the act, The Clean Streams Law and regulations promulgated thereunder.

(b) A proposed plan revision for new land development will not be considered for approval unless accompanied by the information required in § 71.53(d) (relating to municipal administration of new land development planning requirements for revisions). For the purpose of this section, the Department will determine whether a submission for a residential subdivision plan is complete in accordance with § 71.53(d) within 10 working days of its receipt by the Department.

(c) When a municipality does not have an approved official plan, or fails to revise or implement an official plan when required, § § 71.32(f) and 72.23(a) and (b) (relating to Department responsibility to review and act upon official plans; and limitations on onlot systems permit issuance) apply.

(d) Within 120 days after the Department has determined that a proposed plan revision and documentation is complete, the Department will approve or disapprove the proposed plan revision, except that the Department will approve or disapprove revisions for residential subdivision plans within 60 days from the date the Department determines a submission is complete.

(e) Upon the Department's failure to act upon a proposed plan revision within 120 days of its submission, the proposed plan revision shall be deemed to have been approved, unless the Department informs the municipality prior to the end of the 120-day period that an extension of time is necessary to complete review. The additional time will not exceed 60 days.

(f) In approving or disapproving an official plan or revision, the Department will consider the requirements of § 71.32(d).

(g) When an official plan revision for new land development is disapproved by the Department, written notice will be given to each municipality included in the plan revision, with a statement of reasons for the disapproval.

#### **Authority**

The provisions of this § 71.54 amended under sections 7.2 and 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § § 750.7b and 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### **Source**

The provisions of this § 71.54 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; reserved August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 1, 1996, effective November 2, 1996, 26 Pa.B. 5347; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (228198) to (228199).

#### **Cross References**

This section cited in 25 Pa. Code § 71.32 (relating to Department responsibility to review and act upon official plans); and 25 Pa. Code § 71.59 (relating to delegated agency administration of new land development planning requirements).

### **§ 71.55. Exceptions to the requirement to revise the official plan for new land development.**

(a) A municipality does not have to revise its official plan when the Department determines that the proposal is for the use of individual onlot sewage systems serving detached single family dwelling units in a subdivision of ten lots or less and the following apply:

(1) The proposal, in addition to the existing or proposed subdivision of which it is a part, will not exceed ten lots.

(2) The subdivision has been determined to have soils and site conditions which are generally suitable for onlot sewage disposal systems under § 71.62 (relating to individual and community onlot sewage systems).

(3) For the purposes of determining whether a proposal qualifies for an exception under this section, the enumeration of lots shall include only lots created after May 15, 1972.

(4) The proposal is consistent with the requirements of § 71.21(a)(5)(iii) (relating to content of official plans).

(b) Documentation supporting a request for exception under this section shall be submitted to the Department using the Department's sewage facilities planning module and shall include:

(1) A statement by the governing body of the municipality acknowledging that they and an existing municipal planning or zoning agency, or both, have reviewed the proposal and found it to be consistent with the municipality's official plan.

(2) Evidence of review by the municipality's sewage enforcement officer.

(c) The municipality shall review sewage facilities planning modules upon receipt. If appropriate documentation and comments required by subsection (b) were not included in the planning module, the municipality shall forward a copy of the sewage facilities planning module to the sewage enforcement officer and appropriate planning or zoning agency within 10 days of receipt. The municipality shall review and act upon an application for an exception to the requirement to revise an official plan within 60 days of receipt of a complete sewage facilities planning module or additional time that the applicant and municipality may agree to in writing. Failure of the municipality to act within the 60-day period or an agreed-to time extension shall cause the application for the exception to the requirement to revise to be deemed approved by the municipality and the complete application shall then be submitted to the Department by the municipality or the applicant. Documentation of the period of time the application for the exception to the requirement to revise was in possession of the municipality shall be in the form of a completeness checklist signed by a municipal official confirming that the requirements of subsections (a) and (b) have been met.

(d) The Department may act on requests for exceptions to the requirement to revise official plans within 30 days of the Department's receipt of the properly completed and submitted components of the Department's sewage facilities planning module, and proper written documentation. If the Department fails to act within the 30-day period, the exception to the requirement to revise the official plan shall be deemed to be applicable.

### **Authority**

The provisions of this § 71.55 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### **Source**

The provisions of this § 71.55 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28,

1973, effective October 15, 1973, 3 Pa.B. 2176; reserved August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 28, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (228199) to (228200).

### **Cross References**

This section cited in 25 Pa. Code § 71.1 (relating to definitions); 25 Pa. Code § 71.51 (relating to general); 25 Pa. Code § 71.59 (relating to delegated agency administration of new land development planning requirements); 25 Pa. Code § 71.83 (relating to Department fees); and 25 Pa. Code § 72.1 (relating to definitions).

### **§ 71.56. [Reserved].**

#### **Source**

The provisions of this § 71.56 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; reserved August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805. Immediately preceding text appears at serial page (12833).

### **§ 71.57. [Reserved].**

#### **Source**

The provisions of this § 71.23 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; reserved August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805. Immediately preceding text appears at serial page (12835).

### **§ 71.58. Delegation of new land development planning.**

(a) The Department may, by agreement, delegate to a local agency, multimunicipal local agency or county or joint county department of health the power and duty to require the submittal of and review, and to approve or disapprove sewage facilities planning modules for new land development which are submitted on planning module forms and other documents provided by the Department. Additionally, the following apply:

(1) Sewage facilities planning modules approved by a delegated agency under this section do not constitute a revision or exception to the requirement to revise under this chapter but shall be a supplement to the official sewage facilities plan.

(2) Delegated agencies may assess fees for the review of supplements under this section. Fees received under this section shall be used solely for the purpose of administering the delegated powers and duties related to the new land development planning provisions of this section.

(3) The Department may limit the review of supplements in the delegation agreements to

specific classifications of sewage facilities or new land developments.

(4) When delegation is requested, § 72.44(c) and (d) (relating to reimbursement) shall be met as a prerequisite to the delegation.

(5) Delegation of the review and approval of supplements for new land development may be granted by the Department if the local agency or county or joint county department of health has adequately documented the following to the Department:

(i) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect under the Pennsylvania Municipalities Planning Code (53 P. S. § § 10101—11202).

(ii) The municipalities to be included in the delegation agreement have a current official sewage facilities plan which is being implemented in accordance with the content of the plan's implementation schedule and the provisions of the act, The Clean Streams Law and this part. For the purposes of determining qualifications for delegation under this section, the phrase "current official sewage facilities plan which is being implemented" shall include official plans of municipalities which are not under an order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.

(iii) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect which require one of the following:

(A) Sewage facilities planning approval as a condition attached to final plat approval under the Pennsylvania Municipalities Planning Code.

(B) Documentation that sewage facilities planning is not required under this part.

(iv) When delegation is requested for the review of new land developments proposing the use of public sewerage facilities which do not require a new or modified permit under The Clean Streams Law, the delegation agreement includes coordination procedures to be used with the Department to assure continued compliance with the municipal wasteload management provisions of The Clean Streams Law.

(v) The local agency and any sewage enforcement officer employed by the local agency serving the municipalities to be included in the delegation agreement have not been issued a notice of violation or order by the Department for a violation of the act or the rules and regulations thereunder for the prior 3 years as determined by the Department.

(vi) A workload analysis is completed by the entity requesting delegation which analyzes the volume of work anticipated and the staffing and support resources needed to administer the program and documents that the fees proposed to be charged by the delegated agency to administer the sewage facilities planning reviews are sufficient to allow the delegated agency to act upon supplements within the time limits established by this chapter.

(vii) The administrative procedures, rules, regulations, fee schedules and contracts for services and applicable municipal ordinances, rules and regulations proposed for use by the delegated agency in the administration of the delegated provisions of this chapter have been reviewed by the Department. Delegated agencies shall use forms provided by the Department for the submittal and review of all supplements.

(6) Supplements to an official plan shall be prepared by the person proposing the new land development and shall be reviewed and acted upon by the delegated agency.

(7) The failure of or refusal of a municipality, local agency, multimunicipal local agency or county or joint county department of health to enter into a delegation agreement may not influence the eligibility of the local agency serving that municipality or the local agency itself to receive 85% reimbursement under Chapter 72 (relating to administration of sewage facilities permitting program).

(b) The Department will review the delegated agencies' performance of the duties established by delegation agreements under this section and may revoke the agreements for cause.

#### **Authority**

The provisions of this § 71.58 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### **Source**

The provisions of this § 71.58 adopted November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877.

### **§ 71.59. Delegated agency administration of new land development planning requirements.**

(a) When the Department has delegated the authority to review and approve subdivisions for new land developments to a delegated agency, the regulatory provisions of the Department in §§ 71.54 and 71.55 (relating to Department administration of new land development planning requirements for revisions; and exceptions to the requirement to revise the official plan for new land development) shall be administered by the delegated agency except that the time limits for review shall be in accordance with subsection (c).

(b) A new land development proposal submitted as a revision or an exception to the requirement to revise may be approved by the delegated agency as a supplement to the official plan of the municipality.

(c) The delegated agency shall determine if a submission is complete within 10 working days of its receipt. Delegated agencies shall approve or disapprove supplements within 60 days of the date of a complete submission or additional time that the applicant and delegated agency may agree to in writing.

(d) If planning modules for new land development propose service by sewerage facilities requiring a new or modified permit from the Department under The Clean Streams Law, the new land development planning module shall be forwarded to the Department for final action.

#### **Authority**

The provisions of this § 71.59 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### **Source**

The provisions of this § 71.59 adopted November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877.

## Subchapter D. OFFICIAL PLAN REQUIREMENTS FOR ALTERNATIVE EVALUATIONS

Sec.

- [71.61.](#) General.
- [71.62.](#) Individual and community onlot sewage systems.
- [71.63.](#) Retaining tanks.
- [71.64.](#) Small flow treatment facilities.
- [71.65.](#) Individual and community sewerage systems.

### Cross References

This subchapter cited in 25 Pa. Code § 71.3 (relating to purposes); 25 Pa. Code § 71.11 (relating to general requirement); 25 Pa. Code § 71.13 (relating to Department responsibility to require official plan revisions); and 25 Pa. Code § 71.21 (relating to content of official plans).

### § 71.61. General.

(a) Official plans and revisions to official plans shall evaluate alternatives available to provide for adequate sewage facilities as required in § 71.21 and 71.52(a)(3) (relating to contents of official plans; and content requirements—new land development revisions). The Department may require evaluation of additional technically available alternatives.

(b) Each alternative for the provision of adequate sewage facilities shall be evaluated for compliance with the technical and administrative planning requirements of the act and regulations promulgated thereunder.

(c) The official plan or revision shall select one alternative which is supported by documentation as described in § 71.21(a)(4)—(6) which assures the long term sanitary collection, treatment and disposal of sewage.

(d) Approval of official plans and revisions shall be based on:

(1) The technical feasibility of the selected alternative in relation to applicable regulations and standards.

(2) The feasibility for implementation of the selected alternative in relation to applicable administrative and institutional requirements.

### Source

The provisions of this § 71.61 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (125969).

### Cross References

This section cited in 25 Pa. Code § 73.11 (relating to general).

## § 71.62. Individual and community onlot sewage systems.

(a) Official plans and official plan revisions proposing individual and community onlot sewage systems shall evaluate general site suitability to establish their use as a feasible alternative, as specified in subsection (b).

(b) When an official plan or revision proposes the renovation of sewage effluent by means of a subsurface absorption area or a spray irrigation system, the following shall be provided:

(1) Anticipated raw waste characteristics of the sewage. Where industrial wastes as defined in the Clean Streams Law are expected to be present in the raw sewage, § 72.25(g)(2) (relating to issuance of permits) applies.

(2) Documentation that the soils and geology of the proposed site are generally suitable for the installation of the systems including:

(i) Soils mapping as per the United States Soil Conservation Service mapping or the equivalent.

(ii) Contour lines as per the United States Geologic Survey Topographic mapping or site determined contour lines.

(iii) Soil profiles as described in Chapter 73 (relating to standards for onlot sewage treatment facilities) shall be performed to insure that an adequate area with suitable soils is available in the area of the proposed system. These profiles shall be approximately equally distributed among the various soils mapped in the area. For the purpose of this section, each change of slope or change in erosion characteristic specified as part of the soil classification system of the United States Department of Agriculture, Natural Resources Conservation Service will be equivalent to a change in soil type.

(iv) A sufficient number of percolation tests to confirm that the general percolation rate for each soil type in the area where systems are to be installed is within acceptable limits as described in Chapter 73. For the purpose of this section, each change of slope or change in erosion characteristic specified as part of the soil classification system of the United States Soil Conservation Service will be equivalent to a change in soil type.

(c) This chapter does not preclude the use of individual and community onlot sewage systems using subsurface soil absorption areas on lots less than 1 acre in size or the use of large volume onlot sewage systems. Because of the potential for the creation of a public health hazard or pollution of the waters of this Commonwealth from high density use, improper system siting or inadequate maintenance of individual and community onlot systems, particular attention shall be

given in official plans and revisions to the technical and institutional feasibility of using the systems.

(1) Additional permeability testing is required when an official plan or revision proposes the use of a large volume onlot sewage system or a community onlot system with a sewage flow in excess of 10,000 gpd, and may be required for other onlot system proposals where the total absorption area is greater than 5,000 square feet or where soil profiles or geology reveal slowly permeable conditions below the depth at which the percolation test was performed. Sufficient testing shall be conducted to:

(i) Determine the permeability of an identified restrictive soil, geologic or hydraulic layer.

(ii) Determine the vertical rate and the horizontal rate of flow in or above the restrictive layers in inches per hour.

(iii) Determine the application rate required as derived from the information contained in subparagraphs (i) and (ii). When this application rate is more stringent than that derived from percolation testing, as contained in Chapter 73, the more stringent rate shall be used to size the system.

(iv) Determine the impact of the system on groundwater mounding.

(2) A preliminary hydrogeologic evaluation is required when the use of subsurface soil absorption areas is proposed and one of the following exists:

(i) A large volume onlot sewage system will be used.

(ii) A subdivision of more than 50 equivalent dwelling units with a density of more than one equivalent dwelling unit per acre is proposed.

(iii) The Department has documented that the quality of water supplies within 1/4 mile of the proposed site exceed five parts per million (ppm) nitrate-nitrogen.

(iv) The Department has determined that known geological conditions for the proposed site may contribute to the potential for groundwater pollution from the systems.

(3) A preliminary hydrogeologic evaluation shall include as a minimum, in map and narrative report form:

(i) The topographic location of the proposed systems in relation to groundwater or surface water flow, or both.

(ii) Estimated wastewater dispersion plume using an average daily flow of 262.5 gallons per equivalent dwelling unit per day or other flow supported by documentation.

(iii) Identification and location of existing and potential groundwater uses in the estimated area of impacted groundwater.

(4) Detailed hydrogeologic studies may be required by the Department when the preliminary hydrogeologic evaluation identifies a potential for a conflict between the proposal and existing or potential future uses of groundwater in the area. Detailed hydrogeologic studies shall identify constituents of the sewage which may pollute groundwater and shall evaluate methods for preventing the pollution of the waters of this Commonwealth. A detailed hydrogeologic study

shall be submitted using the Department's sewage facilities planning module.

(d) Municipalities shall evaluate and implement options for establishing an institutional framework to assure the proper operation and maintenance of these systems under the act and this part.

### Authority

The provisions of this § 71.62 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.62 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended February 28, 1975, effective March 17, 1975, 5 Pa.B. 374; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (228202) to (228203) and (206589) to (206590).

### Notes of Decisions

#### *Dispersion Plume Information*

The Environmental Hearing Board correctly held that the Department of Environmental Protection (DEP) did not violate its regulations by failing to require a dispersion plume for the individual property owner's subdivision, where the DEP did not interpret its regulation to require maps for every system, and it accepted dispersion plume information in narrative form for systems which generate less than 400 gpd sewage. *Oley Township v. Department of Environmental Protection*, 710 A.2d 1228 (Pa. Cmwlth. 1998).

### Cross References

This section cited in 25 Pa. Code § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development).

### § 71.63. Retaining tanks.

(a) Retaining tanks are designed and constructed to facilitate ultimate disposal of the sewage at another site. This requires the control of retaining tanks through specific restrictions on their use.

(b) General requirements for retaining tank use are as follows:

(1) The official plan or revision shall meet the requirements of Subchapters B and C (relating to official plan requirements; and new land development plan revisions).

(2) Proposed disposal sites, the method of disposal and the retaining tank cleaner for retaining tank waste shall be approved by the Department in a manner consistent with the Solid Waste Management Act (35 P. S. § § 6018.101—6018.1003) prior to approval of the official plan or

revision allowing the use of retaining tanks.

(3) A municipality, sewer authority or sewage management agency may delegate or contract for the collection and disposal of the contents of the retaining tanks except that the ultimate responsibility for the proper collection and disposal of the contents shall remain with the municipality, authority or agency.

(4) Whenever the local agency issues permits for retaining tanks, the municipality or local agency may impose other conditions it deems necessary for operation and maintenance of the tanks to prevent a nuisance or a public health hazard.

(c) Holding tanks require regular service and maintenance to prevent their malfunction and overflow and shall be used in lieu of other methods of sewage disposal only when the following additional conditions are met:

(1) The applicable official plan or revision thereto indicates the use of holding tanks for that lot and provides for replacement by adequate sewerage services in accordance with a schedule approved by the Department.

(2) The applicable official plan or revision includes municipal financial assurances of the replacement project's implementation, such as public financing, bonding or other security of sufficient present value to assure completion or other assurances either singularly or in combination that the Department deems necessary.

(3) The municipality, sewer authority or other Department approved entity with jurisdiction or responsibility over the site has by suitable ordinance, regulation or restriction assumed full responsibility for maintaining existing and new holding tanks. The ordinances, regulations or restrictions shall, as a minimum, include:

(i) Identification of the administrative entity to receive, review and retain pumping receipts from permitted holding tanks.

(ii) An annual inspection of holding tanks within the municipality with completion and retention of a written inspection report.

(iii) Procedures and penalties for correction of malfunctions or public health hazards from holding tanks.

(d) The restrictions in subsection (c)(1)—(3) do not apply to holding tanks when the local agency, municipality or the Department determines that the use is necessary to abate a nuisance or public health hazard.

(e) The restrictions in subsection (c)(1) and (2) do not apply to holding tanks when the use is for institutions, recreational vehicle dump stations or commercial establishments with a sewage flow of less than 800 gpd.

(f) A privy or chemical toilet is designed to receive sewage where there is no water under pressure and no piped wastewater. Privies shall be used in lieu of other methods of sewage disposal only when the following conditions are met:

(1) The applicable official plan or the revision thereto indicates the use of privies for that lot and documents that soil and site suitability testing of that lot under § § 73.11—73.16 has been conducted, and the site meets the requirements for the ultimate sewage disposal by one of the

systems described under § § 73.51—73.55 and 73.167 (relating to construction of absorption areas; and spray fields) to assure that adequate sewage facilities will be available to that lot in the future.

(2) The municipality, sewer authority or other Department approved entity with jurisdiction or responsibility over the site has by suitable ordinance, regulation or restriction assumed responsibility for assuring the removal of a privy and the installation of an approved onlot sewage disposal system when water under pressure or piped water is available to the lot or when the property owner installs water under pressure or piped water or plumbing to move wastewater from the structure to the privy vault or to an unpermitted disposal system on that lot.

(g) The restrictions in subsection (f) do not apply:

(1) To a privy or chemical toilet when proposed for use on a lot of record in existence prior to May 15, 1972, which is 1 acre or larger and is not served now and will not be served in the future by water under pressure, piped water or plumbing to move wastewater from the structure to the privy vault or to an unpermitted disposal system on that lot.

(2) To temporary use of portable retention tanks or portable chemical toilets when their use is proposed at construction sites or at the site of public gathering and entertainments.

### Authority

The provisions of this § 71.63 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.63 adopted August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended February 28, 1975, effective March 17, 1975, 5 Pa.B. 374; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (206590) to (206591).

### Cross References

This section cited in 25 Pa. Code § 73.11 (relating to general).

## § 71.64. Small flow treatment facilities.

(a) Small flow treatment facilities require adequate operation and maintenance to prevent the creation of environmental problems or public health hazards associated with improperly treated sewage. This requires the control of small flow treatment facilities through specific restrictions on their use.

(b) Small flow treatment facilities are restricted to use as a replacement or repair system which the Department determines is necessary to abate an existing nuisance or public health hazard or as a system to serve residential dwellings or commercial facilities which generate domestic wastewater not containing industrial waste.

(c) When an official plan or update revision proposes the use of small flow treatment facilities,

the official plan or revision shall, as a minimum, contain the following, in addition to the requirements of Subchapters B and C (relating to official plan requirements; and new land development plan revisions):

(1) Documentation that soils are not suitable for the installation of individual or community onlot sewage disposal systems, excluding individual residential spray irrigation systems proposed for use in areas outside the watershed of waters classified as high quality or exceptional value under § § 93.6 and 93.9 (relating to general water quality criteria; and designated water uses and water quality criteria).

(2) A preliminary hydrogeologic evaluation when the small flow treatment facility will use land disposal or a dry stream channel discharge for final disposal. This evaluation shall include:

(i) The most recent 7 1/2' United States Geologic Survey Topographic map with the discharge accurately plotted.

(ii) The discharge rate and quality, including seasonal variations.

(iii) An identification on the topographic map of existing groundwater uses for 200 feet in width on each side of the channel downstream from the discharge from the system until perennial stream conditions are reached.

(3) Documentation, using the information developed in paragraph (2), which confirms that existing or proposed drinking water uses will be protected and that effluent will not create a public health hazard or a nuisance.

(4) Documentation that the proposed use of these small flow treatment facilities does not conflict with comprehensive sewage planning for the area.

(5) An evaluation that establishes specific responsibilities for operation and maintenance of the proposed system which shall include documentation that one or a combination of the following operation and maintenance requirements have been established or approved in writing by the municipality:

(i) A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(ii) A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.

(iii) A municipal ordinance which requires that the small flow treatment facilities be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(iv) Municipal ownership of the system.

(v) Inclusion of the system under a sewage management agency developed in accordance with § 71.73 (relating to sewage management programs for sewage facilities permitted by local agencies) operated by the municipality.

(vi) A properly chartered association, trust or other private entity which is structured to

manage the system.

(vii) Establishment of bonding, escrow or other security prior to planning approval. The bonding, escrow or other security shall be forfeited to the municipality upon notice of continuing noncompliance of the system with the operation, maintenance and monitoring standards contained in the permit or noncompliance with the municipal assurances for management of the operation and maintenance requirements established through this section. The municipality shall use the forfeited security to cover the costs of repair or future operation and maintenance of the system over its design life. The bonding, escrow or other security shall be for an amount up to a maximum of 50% for each of the first 2 years of operation. After 2 years of operation, the bond agreement must provide for a refund of a portion of the original bond so that only 10% of the cost of the equipment and installation is retained by the bond-holder. The remaining bond totaling 10% of the cost of the equipment and installation shall be maintained for the life of the system.

(6) An evaluation of the density of development and the number and density of other similar systems in the watershed. As a result of that evaluation, the Department may impose additional conditions or limit the construction or operation of small flow treatment facilities.

(7) An evaluation of the alternatives available to provide sewage facilities which documents that the use of small flow treatment facilities is a technically, environmentally and administratively acceptable alternative.

(d) Small flow treatment facilities and their appurtenances shall meet applicable design, installation, operation and other standards established for small flow treatment facilities by the Department under sections 202 and 207 of The Clean Streams Law (35 P. S. § § 691.202 and 691.207) and shall obtain a Clean Streams Law permit and if there is a discharge to surface water, a National Pollutant Discharge Elimination System permit, prior to construction and operation.

(e) Plans and specifications shall be prepared by a licensed professional engineer in compliance with Chapter 91 (relating to general provisions).

(f) The Department may require independent oversight of the system installation.

### **Authority**

The provisions of this § 71.64 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### **Source**

The provisions of this § 71.64 adopted June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (206592) and (228205).

### **Cross References**

This section cited in 25 Pa. Code § 71.65 (relating to individual and community sewage systems); and 25 Pa. Code § 71.72 (relating to sewage management programs for Department permitted sewage facilities and community onlot sewage systems).

## § 71.65. Individual and community sewerage systems.

(a) When an official plan or revision proposes the use of publicly or privately owned individual or community sewerage system, the official plan or revision shall contain the following, in addition to the requirements of Subchapters B and C (relating to the official plan requirements; and new land development plan revisions):

(1) An evaluation of alternatives available to provide sewage facilities and proof that the proposed sewage facilities are the best short- and long-term, environmentally acceptable alternative.

(2) An evaluation that establishes specific responsibilities for operation and maintenance of the proposed system under Subchapter E (relating to sewage management programs).

(b) When the proposed discharge from the individual or community sewerage system is to a dry stream channel or land disposal site, the information as required in § 71.64(c)(2) and (3) (relating to small flow treatment facilities) and appropriate Department guidance manuals shall be included with the official plan or revision.

(c) Individual and community sewerage systems and their appurtenances shall meet applicable design and other standards established by the Department under sections 202 and 207 of The Clean Streams Law (35 P. S. § § 691.202 and 691.207) and shall obtain a Clean Streams Law permit and if there is a discharge to surface water, a National Pollutant Discharge Elimination System permit, prior to construction and operation.

### Authority

The provisions of this § 71.65 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.65 adopted June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial page (228206).

## Subchapter E. SEWAGE MANAGEMENT PROGRAMS

Sec.

[71.71.](#) General requirements.

[71.72.](#) Sewage management programs for Department permitted sewage facilities and community onlot sewage systems.

[71.73.](#) Sewage management programs for sewage facilities permitted by local agencies.

[71.74.](#) Department responsibilities to require sewage management programs.

[71.75.](#) Private request to require a sewage management program.

[71.76.](#) [Reserved].

### Cross References

This subchapter cited in 25 Pa. Code § 71.3 (relating to purposes); 25 Pa. Code § 71.11 (relating to general requirement); 25 Pa. Code § 71.21 (relating to content of official plans); 25 Pa. Code § 71.52 (relating to content requirements—new land development revisions); 25 Pa. Code § 71.65 (relating to individual and community sewage systems); 25 Pa. Code § 72.1 (relating to definitions); and 25 Pa. Code § 72.44 (relating to reimbursement).

### § 71.71. General requirements.

Municipalities are required to assure the proper operation and maintenance of sewage facilities within their borders. Proper operation and maintenance of sewage facilities is essential to the provision of adequate sewage treatment and disposal over the functional life of a sewage treatment system. Municipalities shall, therefore, address long-term operation and maintenance in official plans and revisions to official plans. Subchapters B and C (relating to official plan requirements; and new land development plan revisions) and this subchapter provide the planning requirements to identify, evaluate and implement the operation and maintenance needs of existing and proposed sewage facilities within a municipality. The establishment of a sewage management program as part of an official plan or revision to an official plan provides a method of assuring proper operation and maintenance of sewage facilities. The evaluation and implementation of operation and maintenance needs through a sewage management program shall be consistent with the provisions of this subchapter.

### Source

The provisions of this § 71.71 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended September 28, 1973, effective October 15, 1973, 3 Pa.B. 2176; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; amended February 28, 1975, effective March 17, 1975, 5 Pa.B. 374; amended September 24, 1976, effective October 11, 1976, 6 Pa.B. 2392; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (125969).

### § 71.72. Sewage management programs for Department permitted sewage facilities and community onlot sewage systems.

(a) When an official plan or revision to an official plan for existing needs areas or new land development proposes the construction of Department permitted nonmunicipal sewage facilities, or a community onlot sewage system permitted by a local agency (except for small flow treatment facilities which shall comply with the management provisions of § 71.64(c)(5)) (relating to small flow treatment facilities)) the official plan or revision shall evaluate the options available to assure the long-term proper operation and maintenance of the proposed sewage facilities. The municipality, prior to adoption of that official plan or revision, shall require one or more of the following:

(1) A bond or escrow account sufficient to cover the costs of future operation and maintenance of the sewage facilities under local ordinances. Bonding, escrow or other security shall be forfeited to the municipality upon notice by the Department of continuing noncompliance of the

system with the operation and maintenance standards established through a condition in the permit issued by the Department or local agency. The municipality shall use the forfeited security to cover the costs of repair or future operation and maintenance of the system over its design life or until the system is in compliance and being properly operated and maintained. The bonding, escrow or other security shall be for an amount up to a maximum of 50% for each of the first 2 years of operation. After 2 years of operation, the bond agreement shall provide for a refund of a portion of the original bond so that only 10% of the cost of the equipment and installation is retained by the bondholder. The remaining bond totaling 10% of the cost of the equipment and installation shall be maintained for the life of the system.

(2) A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(3) A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.

(4) A municipal ordinance which requires the system to be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.

(5) Establishment of a properly chartered association, trust or other private legal entity to assure long-term administration of an operation and maintenance program.

(6) Municipal ownership of the sewage facilities upon completion.

(7) Establishment of, or inclusion of, the sewage facilities under a management agency through existing municipal codes, including but not limited to, municipal authorities, sanitary boards and boards of health.

(8) Establishment of, or inclusion of, the sewage facilities under a management agency through the adoption of local ordinances under municipal codes.

(9) One or a combination of the requirements in paragraphs (1)—(8) or other actions permitted by and consistent with the act and The Clean Streams Law found necessary by the municipality to insure proper installation, maintenance and operation of the proposed sewage facilities.

### **Authority**

The provisions of this § 71.72 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### **Source**

The provisions of this § 71.72 adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended February 28, 1975, effective March 17, 1975, 5 Pa.B. 374; amended May 30, 1975, effective May 31, 1975, 5 Pa.B. 1402; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (206595) to (206596).

**§ 71.73. Sewage management programs for sewage facilities permitted by local agencies.**

(a) When sewage facilities are permitted by local agencies, the municipality is responsible for taking actions necessary to assure continued compliance of these sewage facilities with the act, The Clean Streams Law and regulations promulgated thereunder.

(b) When an official plan or official plan revision shows, or the Department determines, that existing sewage facilities permitted by the local agency need periodic inspection, operation or maintenance to provide long-term proper operation, or are not properly functioning because of inadequate operation and maintenance, the municipality shall revise its official plan to establish a sewage management program for these types of facilities. The update revision shall include the following as a minimum:

(1) Identification of the specific legal authority to be used by municipal officials and their designated employees to enter lands and make inspections of onlot sewage facilities. The policy concerning a schedule of inspections and methods of notification of landowners of this policy shall be included.

(2) Standards consistent with section 8(b)(9) of the act (35 P. S. § 750.8(b)(9)) for operation, maintenance, repair or replacement of sewage facilities which include:

(i) Removal of septage or other solids from treatment tanks once every 3 years or whenever an inspection program reveals that the treatment tanks are filled with solids in excess of 1/3 of the liquid depth of the tank or with scum in excess of 1/3 of the liquid depth of the tank.

(ii) Maintenance of surface contouring and other measures, consistent with Chapter 73 (relating to standards for onlot sewage treatment facilities) to divert stormwater away from the treatment facilities and absorption areas and protection of the absorption areas from physical damage.

(iii) Requirements for the use of water conservation devices to reduce hydraulic loading to the sewage system.

(iv) Requirements for the operation and maintenance of electrical, mechanical and chemical components of the sewage facilities; collection and conveyance piping, pressure lines and manholes; alarm and flow recorder devices; pumps; disinfection equipment and related safety items.

(v) Requirements for septage pumpers/haulers which are consistent with the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

(vi) Requirements for holding tank maintenance.

(3) A discussion of the specific requirements of the sewage management program and administrative or legal functions needed to carry out the program.

(4) Establishment of a fee schedule for the cost of municipal services related to implementing the provision of the sewage management program.

(5) Identification of the authority to be used to enforce the requirements of the sewage management program or restrain violations of the program.

(6) Identification of penalty provisions for violations of the program requirements.

(7) Draft ordinances, regulations or policies which relate to the sewage management program.

(8) Other requirements consistent with the act and The Clean Streams Law.

(c) When the official plan update identifies a local agency as the entity responsible for administering a municipal sewage management program and when the local agency identified in the official plan update agrees to administer the program, the local agency is eligible for reimbursement of eligible costs for administrative and personnel expenditures to implement sewage management programs under § 72.44 (relating to reimbursement).

(d) When the official plan identifies the municipality as the entity responsible for administering a municipal sewage management program and when that municipality's onlot system permitting program is administered by a multimunicipal local agency or a county or joint county department of health, the municipality is eligible for reimbursement of eligible costs for the administrative and personnel expenditures to implement a sewage management program. Application for eligible costs shall be submitted by the municipality in accordance with the provisions of § 72.44.

### Authority

The provisions of this § 71.73 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

### Source

The provisions of this § 71.73 adopted August 2, 1971, effective August 3, 1971, 1 Pa.B. 1649; amended April 28, 1972, effective May 15, 1972, 2 Pa.B. 753; amended February 28, 1975, effective March 17, 1975, 5 Pa.B. 374; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial pages (206596) to (206597).

### Cross References

This section cited in 25 Pa. Code § 71.64 (relating to small flow treatment facilities); and 25 Pa. Code § 72.25 (relating to issuance of permits).

## **§ 71.74. Department responsibilities to require sewage management programs.**

(a) The Department will require municipalities to revise their official plan to evaluate the feasibility of establishing a sewage management program or the inclusion of sewage facilities in an existing sewage management program whenever the Department determines that one of the following exists:

(1) Existing sewage facilities within the municipality are not being properly operated and maintained under this part.

(2) A revision for new land development is submitted which does not adequately address the administrative, technical or legal functions needed to carry out operation and maintenance of the proposed facilities.

(3) The official plan or revision shows that existing or new sewage facilities need periodic inspection, operation or maintenance to provide long-term proper operation.

(b) The Department may provide technical and administrative guidance to local municipalities to assist them in the development of sewage management programs for existing needs areas and new land development proposals.

#### **Source**

The provisions of this § 71.74 adopted August 2, 1971, effective August 3, 1971, 1 Pa.B. 1649; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429. Immediately preceding text appears at serial page (125970).

#### **§ 71.75. Private request to require a sewage management program.**

A person who is a resident or a legal or equitable property owner in a municipality may file a private request with the Department requesting that the Department order the municipality to revise its official sewage plan under § 71.14 (relating to private request to revise official plans) when the resident or property owner can show one of the following:

(1) That existing sewage facilities within the municipality are not being properly operated and maintained under this part.

(2) That a revision for new land development does not adequately address the administrative, technical or legal functions needed to carry out operation and maintenance of the proposed facilities.

#### **Authority**

The provisions of this § 71.75 amended under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### **Source**

The provisions of this § 71.75 adopted August 2, 1971, effective August 3, 1971, 1 Pa.B. 1649; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172; amended June 9, 1989, effective June 10, 1989, 19 Pa.B. 2429; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877. Immediately preceding text appears at serial page (206598).

#### **§ 71.76. [Reserved].**

#### **Source**

The provisions of this § 71.76 adopted August 2, 1971, effective August 3, 1971, 1 Pa.B. 1649; amended August 30, 1974, effective September 16, 1974, 4 Pa.B. 1805; reserved January 9, 1987, effective January 10, 1987, 17 Pa.B. 172. Immediately preceding text appears at serial page (78913).

# Subchapter F. FEES

Sec.

- [71.81.](#) General requirements
- [71.82.](#) Delegated agency fees.
- [71.83.](#) Department fees.

## Authority

The provisions of this Subchapter F issued under section 9 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.9); The Clean Streams Law (35 P. S. § § 691.1—691.1001); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), unless otherwise noted.

## Source

The provisions of this Subchapter F adopted November 7, 1997, effective November 8, 1997, 27 Pa.B. 5877, unless otherwise noted.

## Cross References

This subchapter cited in 25 Pa. Code § 71.3 (relating to purposes); and 25 Pa. Code § 71.11 (relating to general requirement).

### § 71.81. General requirements.

Delegated agencies and the Department may charge fees for the review of sewage facilities planning modules for new land development.

### § 71.82. Delegated agency fees.

Delegated agencies shall establish fees for the review of sewage facilities planning modules for new land development in fee schedules formally adopted by the delegated agency and available to the public. Fees may be charged for each review of a planning module.

### § 71.83. Department fees.

(a) Fees charged by the Department for the review of sewage facilities planning modules for new land development shall be as follows and will be shown on and be specific to each type of planning module component:

(1) For onlot proposals not qualifying under § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) as an exception to the requirement to revise, the fee is \$30 per equivalent dwelling unit or lot.

(2) For surface discharge proposals with flows greater than 2,000 gpd or onlot proposals requiring a permit under The Clean Streams Law, the fee is \$1,500. For proposals submitted by

and proposing discharges by political subdivisions, the fee is \$500.

(3) For public sewerage proposals, the fee is \$50 per equivalent dwelling unit or lot, whichever is greater.

(4) For all other proposals, the fee is \$35 per equivalent dwelling unit or lot, whichever is greater.

(5) For proposals consisting of one lot subdivided from a parent tract existing as of December 14, 1995, there is no fee. The subdivision of a second lot from that tract shall disqualify the applicant from the fee exemption.

(b) A subsequent submission which proposes substantial changes to the original submittal following a planning module denial shall be considered a new submission for the purpose of fee assessment. Denial of a planning module does not include the planning module completeness review procedure.

(c) Fees may not be charged for activities relating to determinations by the Department under § 71.51(b) (relating to general).

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