pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Act 34 of 2020

Frequently Asked Questions (FAQ)

Revision Date May 17, 2021

This *Frequently Asked Questions* (FAQ) document was created to address questions surrounding the implementation of the Pennsylvania Sewage Facilities Act, Act 537 of 1965, (SFA) as amended by Act 34 of 2020 (Act 34). Act 34 impacts the planning and permitting process for on-lot sewage systems in Pennsylvania. Notably, there are significant changes regarding the use of shallow limiting zone (SLZ) on-lot alternate technology (OAT) systems. This FAQ document contains information, along with hypothetical questions and answers, regarding planning and permitting of conventional and alternate on-lot sewage systems in Pennsylvania since the SFA was amended by Act 34. This FAQ document may be updated to include new questions and answers that arise during implementation of the SFA as amended by Act 34. The Pennsylvania Department of Environmental Protection (DEP) will only notify Sewage Enforcement Officers (SEOs) if a major update is made to this document. DEP recommends that SEOs refer to this FAQ document as needed by means of the Pennsylvania Clean Water Academy (https://pacleanwateracademy.remote-learner.net) or the SEO page on DEP's website (www.dep.pa.gov/Business/Water/CleanWater/WastewaterMgmt/Act537/Pages/SewageEnforcementOfficers.aspx). Specific questions about projects can be directed to the regional DEP office covering the county in which the project is located.

The planning provisions of the SFA aim to ensure that adequate sewage disposal methods are available for each lot prior to the development of those lands and that long-term sewage disposal is provided by the proposed sewage facilities. Section 5 of the SFA requires each municipality submit to DEP an officially adopted plan for sewage services for areas within the municipality's jurisdiction. Section 5 of the SFA also establishes the framework for review and approval of these official plans by both the municipality and DEP. These official plans are revised and updated as each sewage planning proposal for subdivision is approved. Sewage planning approval is required for subdivisions with few exceptions. Act 34 amended sections of the SFA that were previously amended by Act 26 of 2017 (Act 26), specifically sections 5(c.1) and 5(c.2). Amendments to Section 5(c.1) seek to provide for the use of alternate (or conventional) systems in planning for new land development (NLD).

When on-lot sewage disposal is being considered, an integral part of the sewage planning process is to demonstrate that the land proposed for development meets general site suitability (GSS) criteria. GSS requires the evaluation of multiple site conditions including soils, hydrology, and topography. Although the SFA as amended by Act 34 provides that alternate sewage systems may be used in planning NLD, existing regulations only provide site suitability criteria requirements for conventional systems, which include soil absorption areas and spray irrigation systems.

DEP understands the desired outcome of Act 34 is to expand the use of alternate systems in sewage facilities planning to allow for development of lots that are currently unavailable for NLD. More specifically, DEP understands that land developers and others want to be able to develop lots with soil depths less than 20 inches to a limiting zone where a spray field may currently be the only

option for sewage disposal, or develop lots that are too small for a spray field to be sited. Sand mounds and other conventional absorption areas cannot be used on sites with less than 20 inches to a limiting zone since these conventional systems require soils depths greater than 20 inches to a limiting zone to provide sufficient treatment. In order to provide additional opportunities for NLD in a manner that provides safe, effective long-term sewage disposal while implementing the desired outcome of Act 34 to expand the use of alternate systems in planning NLD, a rulemaking (a change to the regulations) is needed to add site suitability provisions for the use of alternate systems on sites that do not meet the current GSS requirements. DEP has begun work on a rulemaking to address this and other issues.

General Site Suitability (GSS)

Act 34 amended sections of the SFA that provide for the use of alternate (or conventional) systems in planning for NLD. The language of Section 5(c.1) of the SFA, as amended by Act 34, is provided for reference (with emphasis added):

> *Section 5.(c.1) – When proposing a new land development, the applicant may submit and the department shall accept, for the purpose of satisfying general site suitability requirements, any conventional sewage system or alternate sewage system* ***that meets site conditions present at the proposed new land development****.*

Section 5(c.1) of the SFA allows for the use of conventional and alternate on-lot systems on sites that meet GSS. It is DEP's understanding that some parties interpret the phrase *"... any conventional sewage system or alternate sewage system that meets site conditions present at the proposed new land development"* to mean that, if an alternate system can physically be sited on a proposed lot based on the requirements in DEP's listing for the alternate system, then the lot meets GSS requirements. That interpretation is not consistent with the plain language of the amendment. The language provides that site condition requirements (i.e., suitability criteria) exist, and that those criteria should be used to make the determination that a site can or cannot provide adequate, long-term sewage treatment/disposal using an alternate on-lot system. While the term "general site suitability requirements" is not defined in the SFA, it is used in the regulations implementing the SFA, particularly 25 Pa. Code § 71.62, which requires sewage facilities plans and plan revisions proposing on-lot sewage systems evaluate the site conditions – including soils, hydrology, and topography – of the proposed site to establish that on-lot sewage systems can provide adequate long-term sewage disposal on the proposed lot. Although the existing listings for on-lot alternate technologies do provide various requirements for each technology (e.g., design requirements, minimum maintenance standards), the listings do not include sewage facilities planning requirements/criteria. As such, for purposes of sewage facilities planning, the only site suitability criteria that currently exist are the GSS criteria described in the regulations. If you can site a conventional system (i.e., a system described in 25 Pa. Code Chapter 73), you meet the required GSS criteria in the regulations. For more information or for DEP's alternate listings, please visit www.dep.pa.gov and search "Onlot Alternate Technology Listings".

Some of DEP's currently approved alternate on-lot systems provide for use of these alternate systems on sites with soils depth less than 20 inches. These alternate on-lot system listings were never intended to be used to determine if a site can or cannot provide adequate, long-term sewage treatment. The alternate systems were approved to provide solutions for: (1) existing

malfunctioning on-lot systems on sites where there are no other options; (2) existing lots where the lot lines were established prior to the current sewage planning requirements (i.e., GSS criteria); or (3) as a substitute on sites that meet regulatory standards for installing a conventional on-lot system. In the case of a malfunction, the use of the alternate system often provides a solution to address pollution where there are no other options. The threat to public health and safety is already occurring so the solution is better than the current situation. Ensuring that lots created using on-lot sewage treatment and disposal provide sufficient, long-term treatment and disposal of sewage waste requires much more robust criteria and evaluation than addressing an existing threat to public health and safety. The requirements must provide prevention and elimination of pollution by the proposed sewage that will be generated on these lots in accordance with the SFA and its implementing regulations.

GSS criteria are the minimum requirements a proposal must meet to create a new lot. GSS criteria are in the following locations in the regulations 25 Pa. Code § 71.62., § 73.12., § 73.13, § 73.14, §73.15 and §73.17. Additional testing or documentation may be necessary to determine GSS such as, but not limited to, permeability testing, hydrogeologic testing, soil morphology evaluation and/or additional soil profiles. A specific proposal may necessitate additional testing.

1. **Q:** Why does a proposal have to demonstrate that it meets GSS if there is no definition of GSS in the SFA and Act 34 added *"... that meets site conditions present at the proposed new land development"*?

   A: Section 5(c.1) of the SFA allows for the use of conventional and alternate on-lot systems on sites that meet GSS. It is DEP's understanding that some parties interpret the phrase *"... any conventional sewage system or alternate sewage system that meets site conditions present at the proposed new land development"* to mean that, if an alternate system can physically be sited on a proposed lot based on the requirements in DEP's listing for the alternate system, then the lot meets GSS requirements. That interpretation is not consistent with the plain language of the amendment. The language provides that site condition requirements (i.e., suitability criteria) exist, and that those criteria should be used to make the determination that a site can or cannot provide adequate, long-term sewage treatment/disposal using an alternate on-lot system. While the term "general site suitability requirements" is not defined in the SFA, it is used in the regulations implementing the SFA, particularly 25 Pa. Code § 71.62, which requires sewage facilities plans and plan revisions proposing on-lot sewage systems evaluate the site conditions – including soils, hydrology, and topography – of the proposed site to establish that on-lot sewage systems can provide adequate long-term sewage disposal on the proposed lot. Although the existing listings for on-lot alternate technologies do provide various requirements for each technology (e.g., design requirements, minimum maintenance standards), the listings do not include sewage facilities planning requirements/criteria. As such, for purposes of sewage facilities planning, the only site suitability criteria that currently exist are the GSS criteria described in the regulations. For more information or for DEP's alternate listings, please visit www.dep.pa.gov and search "Onlot Alternate Technology Listings".

2. **Q:** Do the OAT Listings provide site suitability criteria for OATs?

   A: No. Although the existing alternate on-lot systems approvals provide various requirements for each approved technology, the approvals do not include sewage facilities planning requirements or criteria. As such, for purposes of sewage facilities planning, the only site suitability criteria that currently exist are the GSS criteria described in the regulations.

   Some of DEP's approved alternate systems are approved for use on sites with shallow soils. However, these alternate on-lot system approvals were never intended to be used for sewage facilities planning purposes to determine if a site can or cannot provide adequate, long-term sewage treatment. The alternate system approvals were designed so that these alternate on-lot systems can be used to provide solutions for: (1) malfunctioning on-lot systems on sites where there are no other options; (2) existing lots where the lots were created prior to the current sewage planning requirements; or (3) as a substitute on sites that meet regulatory standards for installing a conventional on-lot system.

   In situations where an alternate system is used to replace an existing malfunctioning on-lot system, the alternate system addresses an existing pollution and public health issue where there are no other options. In these situations, the threat is already occurring, so using an alternate on-lot system to address the threat, while not ideal, is better than the current situation. The use of alternate on-lot systems in these limited, urgent circumstances is very different from the use of alternate on-lot systems in sewage facility planning for NLD.

   Sewage facilities planning must ensure that proposed lots utilizing on-lot sewage treatment and disposal provide sufficient long-term disposal of sewage. Establishment of new lots requires a more robust set of criteria and evaluation than the use of alternate on-lot systems to address an existing threat to public health, the environment, and property values. In fact, if alternate on-lot systems were approved for use in sewage facilities planning for NLD without such criteria in place, that would likely create more threats to public health, the environment, and property values where alternate on-lot systems are installed on unsuitable lots. Any requirements allowing the use of alternate on-lot systems in sewage facilities planning for NLD must provide for the prevention and elimination of pollution caused by sewage generated on these lots in accordance with the SFA and its implementing regulations.

3. **Q:** If I can site a conventional on-lot sewage system (a soil absorption area or spray field meeting standards provided in 25 Pa. Code Chapter 73) on a proposed lot, does that mean the proposed lot meets GSS as per 25 Pa. Code § 71.62?

   A: Yes. A simple way to determine if the proposed lot meets GSS as per 25 Pa. Code § 71.62 is to verify that the proposed lot can support a conventional on-lot sewage system (a soil absorption area or spray field meeting standards provided in 25 Pa. Code Chapter 73).

4. **Q:** For a proposed subdivision, can one use an OAT sewage system if the site evaluation reveals conditions that do not meet GSS for a soil absorption area due to one or more of the following reasons?
    - Depth to limiting zone (LZ) is < 20"
    - A percolation test was not performed
    - Percolation results are outside of the acceptable range in 25 Pa. Code Chapter 73, <3 mpi or >180 mpi

    A: In the context of the existing regulations and guidance, an OAT sewage system can be used only if one can demonstrate that the proposed lot meets the GSS requirements for a spray field and any additional requirements in the OAT Listing. One may then substitute an OAT sewage system for a spray field. However, at a minimum, the lot needs to be sized for the use of a spray field to meet GSS. To reiterate, DEP will be updating the regulations to provide for GSS requirements to include site with shallow soils where only an alternate can provide treatment and disposal.

5. **Q:** On a site where the depth to the LZ is more than 20 inches, the developer can site a conventional elevated sand mound or an at-grade alternate absorption area but would rather use a drip distribution OAT system with primary effluent. The developer decides not to complete a percolation test since a soil morphological evaluation is used to size the drip distribution system. Is this acceptable?

    A: No. Without the percolation test results, GSS for a soil absorption area cannot be demonstrated. Percolation testing is required regardless of the type of soil absorption area technology selected. The drip system can be designed using soil morphology and substituted for the conventional system only after meeting the percolation criteria for GSS.

6. **Q:** On a site where the depth to the LZ is more than 20 inches and all other GSS requirements are met, the developer can site a conventional elevated sand mound but plans on substituting an OAT system for the sand mound during permitting. Is it acceptable to submit the subdivision proposal with only one soil probe performed?

    A: Yes. However, if the plan is to substitute an OAT system for the conventional system at permitting, DEP recommends the land developer conduct sufficient site testing in accordance with the OAT listing at the planning stage to guarantee the site is able to support the planned for OAT, otherwise the OAT system proposed at the planning stage may not be possible at the permitting stage.

Planning approval based on Act 26 of 2017

The following contains important deadlines for a NLD Plan Revision or Supplement proposal already received by a municipality that was submitted based on the draft *Pennsylvania Sewage Facilities Act Program Guidance; Site Suitability and Alternatives Analysis Guidelines for New Land Development Proposing On-lot Sewage Disposal* (385-2207-001) (draft Act 26 Planning Guidance) developed by DEP in response to Act 26:

- If a municipality has received or receives a sewage planning proposal for a subdivision, single or multi-residential, commercial, institutional, or industrial, siting on-lot sewage disposal by **June 1, 2021 (postmarked or emailed)** and the proposal is consistent with the draft Act 26 Planning Guidance and the site investigation work was completed and attested to by the local agency SEO between September 18, 2017 (effective date of Act 26 of 2017) and February 23, 2021 (Sewage Advisory Committee meeting), the municipality may base their approval on whether the proposal is consistent with the sewage planning requirements in the draft Act 26 Planning Guidance.

- Any new plan revision for a single or multi-residential, commercial, institutional, or industrial following the draft Act 26 Planning guidance and using site investigation work completed between September 18, 2017 and February 23, 2021, must be submitted to the municipality by **June 1, 2021**. Any new plan revision received after June 1, 2021 should be consistent with the SFA as amended by Act 34 regardless of when the site investigation work was completed. If any plan revision received prior to June 1, 2021 is withdrawn or denied, and the applicant can resubmit the plan revision to the municipality before June 1, 2021, the municipality may act upon it. If the plan revision is withdrawn or denied after June 1, 2021, any subsequent submittal should follow Act 34 guidance as explained in this FAQ.

- Any sewage planning proposal with site investigation completed and attested to by the local agency SEO after **February 23, 2021**, should be consistent with the SFA as amended by Act 34.

7. **Q:** I completed **local agency SEO-verified** site investigation work for my NLD **prior to February 23, 2021** on a site with SLZ soils and I am proposing a SLZ OAT system for a primary or a replacement soil absorption area. Would I be able to submit my plan revision to the municipality if they will receive it **prior to June 1, 2021**?

   A: Yes. Because the site investigation work was completed and verified by the local agency SEO prior to February 23, 2021, a SLZ OAT may be proposed in your plan revision as long as it follows the draft Act 26 Planning Guidance and the OAT Listing requirements for the proposed OAT.

Planning based on Act 34 of 2020

When proposing an on-lot sewage system for NLD using a planning exemption, an Exception to the Requirement to Revise the Official Plan for New Land Development (exception), a plan revision, a plan supplement, or any other planning vehicle, GSS must be established or the submittal will be denied (25 Pa. Code § 71.62).

If a NLD proposes to address marginal conditions through the use of a replacement on-lot sewage system or if a municipal ordinance requires that a proposal for NLD establishes a replacement area, GSS must be established for the replacement soil absorption area or spray field, or the submittal will be denied (25 Pa. Code § 71.62).

Planning proposals for a soil absorption area proposing the use of a SLZ OAT may not be substituted on lots that do not meet the GSS criteria for a spray field (25 Pa. Code § 71.62, § 73.14(b), and § 73.16(e)).

As per 25 Pa. Code § 73.72(a)(2), an OAT may be proposed as a substitute for systems described in 25 Pa. Code Chapter 73 on suitable soils. A sewage planning proposal must demonstrate the site meets GSS requirements for a conventional soil absorption area or a spray field, for the site to be considered suitable.

Currently, the only conventional system that can be placed on sites with soil depth less then 20-inch is an individual spray irrigation system (IRSIS). The IRSIS standard only provides treatment and disposal for a single residential lot. Proposal for Multi residential (community on-lot), commercial, institutional, or industrial proposals using a soil absorption area must establish GSS for an absorption area in order to substitute an OAT at the time of permitting. The regulations do not provide a conventional system that can be placed on shallow soils for a community onlot or similar proposal. These proposals must consider and provide for treatment and disposal of sewage in a manner other than onlot sewage disposal. Options may be, spray irrigation or treatment and disposal other than on-lot disposal permitted by DEP. The on-lot sewage planning and permitting regulatory requirements are applicable to systems permitted by SEOs and DEP.

A SLZ OAT replacement soil absorption area may be proposed to address marginal conditions or as required by municipal ordinance for a residual lot that has a building or buildings that are generating sewage that is being treated by a properly functioning on-lot system. If the residual lot has not been developed, and does not contain a sewage generating structure, a SLZ OAT replacement soil absorption area may only be proposed as a substitute for a GSS (25 Pa. Code § 71.62, § 73.14(b), and § 73.16(e)) spray field. In this situation, the residual lot must be sized based on a replacement spray field that meets the GSS requirements. SLZ OAT replacement soil absorption area may be proposed at the time of permitting. If the residual lot is a Multi residential (community on-lot), commercial, institutional, or industrial proposal and the soil depths are less than 20 inches then on-lot disposal is not an option for replacement on the residual tract so another method of sewage disposal will need to be evaluated.

If the undeveloped residual lot, does not contain a sewage generating structure, is being developed as a multi-residential, commercial, institutional, or industrial lot, GSS must be established for a conventional soil absorption area before the lot can be developed; a SLZ OAT cannot be substituted with a conventional soil absorption area, therefore SLZ OATs are prohibited from use on these type of lots.

8. **Q:** Can a single residential development be proposed for lot(s) with SLZ soils proposing the use of a SLZ OAT with an exemption?

   A: Yes, if demonstration can be made that the site meets GSS for a primary and replacement spray field and any additional requirements in the OAT Listing for the proposed OAT. The regulations (25 Pa. Code § 71.51(b)) provide the planning exemption eligibility criteria. One of the exemption requirements is that GSS be established for the site to be eligible.

9. **Q:** Can a single residential development be proposed for lot(s) with SLZ soils proposing the use of a SLZ OAT with an "exception to the requirement to revise" proposal?

   A: Yes, if demonstration can be made that the site meets GSS for a spray field and any additional requirements in the OAT Listing for the proposed OAT. The regulations (25 Pa. Code § 71.55(a)) provide the "exception to the requirement to revise" eligibility criteria. One of the exception requirements is that GSS requirements of 25 Pa. Code § 71.62 be established for the proposal to be eligible for an exception.

10. **Q:** Can a single residential development be proposed for lot(s) with SLZ soils proposing the use of a SLZ OAT with an a "plan revision" or "supplement"?

    A: Yes, if demonstration can be made that the site meets GSS for a spray field and any additional requirements in the OAT Listing for the proposed OAT. The regulations (25 Pa. Code § 71.62(b)) provide the eligibility criteria for spray fields.

11. **Q:** Can a multi residential, commercial, institutional, or industrial development be proposed for lot(s) with SLZ soils proposing a SLZ OAT using an exemption, exception, a "plan revision" or "supplement"?

    A: No, SLZ OATs may only be proposed as a substitute for a spray field on sites that meets GSS. Spray fields (IRSIS) can only be used for lots proposing single residential development.

12. **Q:** Can an on-lot sewage system be proposed for lot(s) with SLZ soils proposing a SLZ OAT under a Department permit?

    A: No, SLZ OATs may only be proposed as a substitute for a spray field on sites that meets GSS. Spray fields (IRSIS) can only be used for lots proposing single residential development.

13. **Q:** Can I size my single residential lot based on siting primary and replacement SLZ OAT systems if I plan on substituting the SLZ OAT systems for the spray field at permitting?

    A: No. In the context of the existing regulations and guidance, the lot size must be based on the use of the spray field. One of the requirements for GSS for a spray field is to have sufficient area to construct the spray field on suitable soil; the size of the spray field is calculated as per 25 Pa. Code § 73.16(e).

14. **Q:** I am seeking an exemption for my single residential subdivision and after site investigation it was determined that the site only meets GSS for a spray field. Do I need to be able to site two (2) spray fields to proceed with the exemption?

    A: Yes. An exemption from planning provides a simpler way to plan for a subdivision when specific criteria are met. These types of proposal are generally associated with projects of lesser environmental risk. GSS is required for

exemptions for both the primary and replacement spray field. If the site can only support a spray field, then both the primary and replacement areas must be spray fields. You must maintain GSS for both spray fields when sizing the lot.

15. **Q:** I am seeking an exception for my single residential subdivision and, after site investigation, it was determined that the site only meets GSS for a spray field. Do I need to be able to site a replacement spray field due to marginal conditions?

    A: No. An exception to the requirement to revise allows a simpler way to plan for a subdivision when specific criteria are met. These types of proposal are generally associated with projects of lesser environmental risk. If the site meets GSS for a spray field, the site is not considered marginal. You may substitute a SLZ OAT for the spray field at the time of permitting, but you must maintain GSS for the spray field when sizing the lot.

16. **Q:** I am seeking a plan revision or a supplement for my single residential subdivision and, after site investigation, it was determined that the site only meets GSS for a spray field. Do I need to be able to site a replacement spray field due to marginal conditions?

    A: No. If the site meets GSS for a spray field, the site is not considered marginal. You may substitute a SLZ OAT for the spray field at the time of permitting, but you must maintain GSS for the spray field when sizing the lot.

17. **Q:** I am subdividing my property and I am required to test for a replacement soil absorption area on the residual lot that currently has a building and sewage flow, but I only have SLZ soils and/or slopes that do not meet GSS for a soil absorption area. Can I site a SLZ OAT as my replacement area on the residual lot?

    A: Yes, if the design and soil requirements in the OAT Listing for the proposed SLZ OAT can be met.

18. **Q:** I am subdividing my property which does not have a building producing sewage waste. Site testing for a soil absorption area on a residual lot uncovers that soil depth is less than 20-inches to a limiting zone.. Can I site a SLZ OAT on the residual lot if the residual lot will be developed as single residential?

    A: Yes, if demonstration can be made that the residual lot meets GSS for a spray field and any additional requirements in the OAT Listing for the proposed OAT. The regulations (25 Pa. Code § 71.62(b)) provide the eligibility criteria for spray fields.

19. **Q:** I am subdividing my property that does not have a building producing sewage. The residual lot will be developed as a single residence. I can site a spray field on a residual lot . I am substituting a SLZ OAT for the spray field. Can I size my residual lot based on the replacement SLZ OAT soil absorption area?

A: No, the residual lot size must be based on the use of the spray field. One of the requirements for GSS for a spray field is to have sufficient area to construct the spray field on suitable soil; the size of the spray field is calculated as per 25 Pa. Code § 73.16(e).

20. **Q:** I am subdividing my property into single residential lots, using an exception, plan revision, or a supplement, and marginal conditions were found on the new lot(s) during testing. The only way I can satisfy the marginal condition requirement is to test for a replacement soil absorption area. Testing has confirmed that only SLZ soils are available for the replacement soil absorption area. Can I site a SLZ OAT as the replacement soil absorption area?

    A: Yes, if demonstration can be made that the site meets GSS for a spray field and any additional requirements in the OAT Listing for the proposed OAT. The regulations (25 Pa. Code § 71.62(b)) provide the eligibility criteria for spray fields.

Permitting on building lots created after June 10, 1989

The SEO may permit a SLZ OAT for new construction at the time of permitting if the property owner received planning approval under the draft Act 26 Planning Guidance for a primary and replacement SLZ OAT (see the *Planning approval based on Act 26 of 2017* section above), or when substituting a SLZ OAT on a single residential site that meets the GSS criteria for a spray field (25 Pa. Code § 71.62, § 73.14(b), and § 73.16(e)).

For new construction, a permittee may substitute an OAT for a conventional system if the site meets the GSS criteria and all the additional requirements in the OAT Listing for the proposed OAT. SLZ OAT systems may only be sited on lots that either had planning approval to do so under the Act 26 draft Planning Guidance, or on single residential lots when a spray field is able to be sited. In addition, the site needs to meet any additional requirements stated in the OAT Listing for the proposed OAT.

A SLZ OAT system may be proposed to repair a malfunctioning on-lot sewage system. Best Technical Guidance (BTG) of horizontal isolation distances may be allowed during repairs when necessary. BTG is established under 25 Pa. Code § 73.3 and provides flexibility in siting a system when the SEO or DEP determines an existing system is malfunctioning.

21. **Q:** Can I permit and install a primary SLZ OAT system for new construction if I received planning approval to do so under the Act 26 draft Planning Guidance?

    A: Yes, providing that you meet the soil and design requirements in the OAT Listing for the proposed OAT and a replacement soil absorption area or spray field is sited and protected. See the *Planning approval based on Act 26 of 2017* section of this document for additional information.

22. **Q:** Can I use a SLZ OAT system for repair of a malfunctioning system?

    A: Yes, providing that you meet the soil and design requirements in the OAT Listing for the proposed OAT.

23. **Q:** My single residential NLD was approved with a conventional primary on-lot sewage system and a SLZ (not GSS) replacement soil absorption area. Can I permit and install the SLZ OAT system as my primary system?

    A: Yes, if demonstration can be made that the site meets GSS for a spray field and any additional requirements in the OAT Listing for the proposed OAT. The regulations (25 Pa. Code § 71.62(b)) provide the eligibility criteria for spray fields.

24. **Q:** My NLD was approved with soils meeting GSS for a conventional soil absorption area. Now, at permitting, I want to install an OAT system that provides secondary or advanced secondary treatment so that I can reduce the size of the absorption area. Can I permit and install the OAT system?

    A: Yes, providing that the system can be designed in accordance with any additional requirements in the OAT Listing for the proposed OAT. Note, a reduction in the size of the absorption area can only occur when percolation rates are between 3 and 60 minutes per inch (mpi).

25. **Q:** I have an approved single residential NLD siting a primary spray field. Now, at permitting, I want to install a SLZ OAT system. Can I permit and install the SLZ system?

    A: Yes, providing that the system can be designed in accordance with any additional requirements in the OAT Listing for the proposed OAT.

26. **Q:** I have an approved multi residential, commercial, institutional, or industrial NLD siting a conventional soil absorption area. For convenience, I wish to install my system on a different part of my lot that does not meet GSS for a soil absorption area but can support a SLZ OAT system. Can I permit and install the SLZ system?

    A: No, SLZ OAT's may only be substituted at permitting on a site that meets GSS for a spray field. Spray fields (IRSIS) may only be used for single residences.

Permitting on Existing Lots

Existing lots are lots created prior to May 15, 1972 (predate sewage planning requirements for subdivision) or lots created prior to June 10, 1989 (before current planning requirements were in effect).

If the *existing lot* cannot support a soil absorption area or spray field which meets the conventional absorption area or spray field requirements in Chapter 73, respectively, a permittee may propose any classified OAT if a system can be designed and installed in accordance with the soil and design requirements of the OAT Listing. Please note: *existing lots* that were created between May 15, 1972 and June 10, 1989 may require planning prior to allowing permitting of a system. For those cases, planning must be completed prior to permitting. If planning is required, the *existing lot* must meet current regulatory planning requirements, including but not limited to, GSS for on-lot sewage proposals. See the *Planning based on Act 34 of 2020* section of this document for more information.

If part of an *existing lot* meets GSS for use of a soil absorption area, that part of the existing lot must be used with a conventional soil absorption area, or a classified OAT soil absorption area can be substituted for a conventional soil absorption area on the part of the lot that meets GSS for a soil absorption area.

If the *existing lot* contains an area that meets GSS for use of a spray field (IRSIS), a permittee may propose any classified OAT if a system can be designed and installed in accordance with the soil and design requirements of the OAT Listing.

27. **Q:** My *existing lot* is unable to support a conventional or alternate soil absorption area or spray field (IRSIS) without violating horizontal isolation distances described in 25 Pa. Code § 73.13. Can I permit a system using BTG for my new construction on my existing lot?

    A: No. BTG cannot be used for new construction. BTG is only available to address malfunctioning on-lot systems as provided in 25 Pa. Code § 73.3.

28. **Q:** My *existing lot* was created after May 15, 1972 but before June 10, 1989 and did not go through the sewage planning process or has inadequate planning. The municipality is not requiring reconstructive planning and has provided a letter to DEP with this decision. The site cannot support a spray field or a conventional soil absorption area. Can a SLZ OAT system be permitted?

    A: Yes, you may permit a SLZ OAT system providing a system can be designed and installed in accordance with the soil and design requirements of the OAT Listing.

29. **Q:** My *existing lot* demonstrates that it meets GSS for a conventional soil absorption area. For convenience, I wish to install my system on a different part of my lot that does not meet GSS but is able to support an OAT based on the OAT Listing. Can the OAT be permitted at this location?

    A: No. When available, you must use a GSS site for your soil absorption area on an *existing lot*. You may substitute an OAT on GSS soils providing a system can be designed and installed in accordance with the soil and design requirements of the OAT Listing.

30. **Q:** I have an *existing lot* and the municipality and/or DEP has determined that the lot needs reconstructive planning. Can I plan for and permit a SLZ OAT?

    A: Yes, if the proposal is for an individual residential new land development and if demonstration can be made that the site meets GSS for a spray field (IRSIS), a SLZ OAT may be proposed as a substitute for the spray field providing a system can be designed and installed in accordance with the soil and design requirements in the SLZ OAT Listing.

31. **Q:** I have an *existing lot*, created before May 15, 1972, and sewage facilities planning is not required. The site cannot support a spray field or a conventional soil absorption area. Can a SLZ OAT system be permitted?

    A: Yes, you may permit a SLZ OAT system providing a system can be designed and installed in accordance with the soil and design requirements of the OAT Listing.

32. **Q:** I have an *existing lot* and the lot has a site that meets GSS. Can I permit an OAT on the GSS site?

    A: Yes, you may substitute an OAT on suitable soils, providing a system can be designed and installed in accordance with the soil and design requirements of the OAT Listing.

33. **Q:** My lot was created as a non-building lot and now I want to develop it as a sewage generating lot. Can I go through sewage facilities planning and permit a SLZ OAT system?

    A: Yes, if you go through the sewage facilities planning process and the site can support a spray field (IRSIS), you may substitute a SLZ OAT system providing that a system can be designed and installed in accordance with the soil and design requirements in the OAT Listing. Non-building lots do not meet the definition for a lot in the SFA and are not considered an *existing lot*. Any "lot or lots" created using a non-building waiver need to go through sewage facilities planning when proposing a sewage generating building.

34. **Q:** My lot was created as a non-building lot and now I want to develop it as a multi residential, commercial, institutional, or an industrial sewage generating lot. Can I go through sewage facilities planning and permit a SLZ OAT system?

    A: No, SLZ OAT's may only be substituted at permitting on a site that meets GSS for a spray field (IRSIS). Spray fields may only be used for single residences. Non-building lots do not meet the definition for a lot in the SFA and are not considered an *existing lot*. Any "lot or lots" created using a non-building waiver need to go through sewage facilities planning when proposing a sewage generating building.