



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building

P.O. Box 8466

Harrisburg, PA 17105-8466

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717-787-3481

**Bureau of Water Quality Management**

**ATTENTION: ALL CERTIFIED SEWAGE ENFORCEMENT OFFICERS**

As you know, the Department of Environmental Protection recently proposed amendments to Chapters 71-73, which were published in the *Pennsylvania Bulletin* on March 30, 1996. Based on the comments received, there is some confusion over the conflict of interest provisions of Sections 8(b)(1) and 8(e) of the Sewage Facilities Act, as amended. This confusion is over the permitting, design and consultation roles of sewage enforcement officers, particularly those who are employed by firms which provide sewage enforcement officer services to a local agency through a contractual arrangement, and whether this firm may perform design and consultation services relating to a sewage system so long as the permit review is done by another employee of the firm.

Section 8(b)(1) of the Act provides that "No person shall be employed or contracted as a sewage enforcement officer to administer the provisions of Section 7 of this Act with respect to a community or an individual sewage system for which he was or is the contractor. In such a case, the local agency shall employ or contract with a certified sewage enforcement officer from an adjoining local agency to administer the provisions of Section 7 of this Act with respect to the particular individual or community system."

Similarly, Section 8(e) of the Act provides that "No sewage enforcement officer shall perform any consulting or design work or related services required or regulated under this Act within the municipality or local agency by which he is employed or with which he has a contractual relationship unless such services are set in the fee schedule of the local agency, the fees are paid directly to the local agency and the records and products relating to such consultation or design work are reviewed by, and any subsequent permit is issued by, another sewage enforcement officer employed by or under contract with the local agency. A sewage enforcement officer may not conduct a test, issue a permit or participate in the official processing of an application or official review of a planning module for an individual or community on-lot sewage system in which the sewage enforcement officer, a relative of the sewage enforcement officer, a business associate of the sewage enforcement officer, or an employer of the sewage enforcement officer, other than the local agency, has a financial interest."



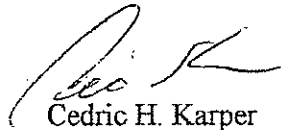
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Sections 72.41(i) and 72.41(j) of the proposed regulations incorporate the provisions of Section 8(e) of the Act into the regulations. The firm, as the employer of the sewage enforcement officer, has a financial interest in the design or consultation related to the sewage system. Accordingly, employees of a firm may not engage in design and/or consultation activities related to individual or community sewage systems where another employee of the same firm participates in the official planning or permitting review of these systems. The official review must be conducted by another sewage enforcement officer who has no affiliation with the firm providing the design or consultation service.

If the firm is the sole provider of sewage enforcement officer services within the local agency, the local agency should arrange for the services of an alternate sewage enforcement officer or firm in accordance with the requirements of Section 8(b)(1.1) of the Act.

If you have any questions on this matter, please contact Milt Lauch, Chief of the Planning and Evaluation Section, Division of Municipal Planning and Finance, at 717-787-3481.

Sincerely,



Cedric H. Karper

Chief

Division of Municipal Planning and Finance