Act 537

Pennsylvania Sewage Facilities Act With Index

pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Commonwealth of Pennsylvania

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This publication is an unofficial version of the Pennsylvania Sewage Facilities Act – Act 537, originally enacted in 1965 and amended several times since – that was prepared by the Department of Environmental Protection (DEP) to assist the public in learning about the Pennsylvania Sewage Facilities Act. To the best of DEP's knowledge, this publication contains a true representation of Act 537. The current official version of Act 537 can be accessed on the Pennsylvania General Assembly website. This publication has been prepared with an index not found in the original or official Act 537 and this publication is formatted to facilitate locating specific information in Act 537.

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Sewage Facilities Act

PENNSYLVANIA SEWAGE FACILITIES ACT

Act of Jan. 24, (1966) 1965, P.L. 1535, No. 537 Cl. 35

AN ACT

Providing for the planning and regulation of community sewage systems and individual sewage systems; requiring municipalities to submit plans for systems in their jurisdiction; authorizing grants; requiring permits for persons installing such systems; requiring disclosure statements in certain land sale contracts; authorizing the Department of Environmental Resources to adopt and administer rules, regulations, standards and procedures; creating an advisory committee; providing remedies and prescribing penalties. (Title amended Dec. 2, 1976, P.L.1264, No.280)

Compiler's Note: Section 1101 of Act 45 of 1999 provided that Act 45 shall not repeal or in any way affect Act 315.

Compiler's Note: Section 15 of Act 67 of 1990 provided that Act 537 is repealed insofar as it relates to fee payments.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title. This act shall be known and may be cited as the "Pennsylvania Sewage Facilities Act."

Section 2. Definitions. As used in this act:

"Advisory committee" means the special committee created by the provisions of the act.

"Alternate sewage system" means a method of demonstrated on-lot sewage treatment and disposal not described in the regulations.

"Certification board" means the administrative board within the department created by section 11 of this act.

"Community on-lot sewage system" means 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. (Def. added July 2, 2013, P.L.246, No.41)

"Community sewage system" means any system, whether publicly or privately owned, for the collection of sewage or industrial wastes of a liquid nature from two or more lots, and the treatment and/or disposal of the sewage or industrial waste on one or more of the lots or at any other site.

"Conventional sewage system" means a system employing the use of demonstrated on-lot sewage treatment and disposal technology in a manner specifically recognized by the regulations promulgated under this act. The term does not include alternate sewage systems or experimental sewage systems.

"Delegated agency" means a municipality, local agency, multimunicipal local agency or county or joint county department of health to which the Department of Environmental Resources has 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.

"Department" means the Department of Environmental Resources of the Commonwealth of Pennsylvania.

"Environmental Hearing Board" means the board established pursuant to section 1921-A of The Administrative Code of 1929 for the purposes set forth in that section.

"Environmental Quality Board" means the board established pursuant to section 1920-A of The Administrative Code of 1929 for the purposes set forth in that section.

"Experimental sewage system" means a method of on-lot sewage treatment and disposal not described in the regulations promulgated under this act which is proposed for the purpose of testing and observation.

"Individual on-lot sewage system" means 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. (Def. added July 2, 2013, P.L.246, No.41)

"Individual residential spray irrigation system" means an individual sewage system permitted under section 7 of this act 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.

"Individual sewage system" means 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 any waters of this Commonwealth or by means of conveyance to another site for final disposal.

"Local agency" means a municipality, or any combination thereof acting cooperatively or jointly under the laws of the Commonwealth, county, county department of health or joint county department of health.

"Lot" means 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 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" means a city, town, township, borough or home rule municipality other than a county.

"Official plan" means a comprehensive plan for the provision of adequate sewage systems adopted by a municipality or municipalities possessing authority or jurisdiction over the provision of such systems and submitted to and approved by the State Department of Environmental Resources as provided herein.

"Official plan revision" means a change in the municipality's official plan to provide for additional or newly identified or future sewage facilities needs, which may include, but not be limited to, any of the following:

(1) *"Update revision".* A comprehensive revision to an existing official plan required when the Department of Environmental Resources or municipality determines an official plan or any of its

parts is inadequate for the existing or future sewage facilities needs of a municipality or its residents or landowners.

(2) *"Revision for new land development".* A revision to a municipality's official plan resulting from a proposed subdivision.

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

(4) *"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 of Environmental Resources under the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," and which is reviewed and approved by a delegated agency under section 7(b)(4.3)(iv) of this act.

(5) *"Exception to the requirement to revise".* A process established by regulation promulgated under this act which provides the criteria under which a revision for new land development is not required.

"Person" shall include any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term "person" shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation for profit or not for profit.

"Qualified registered professional engineer" means a person registered to practice engineering in this Commonwealth who has experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of on-lot sewage disposal systems.

"Qualified registered professional geologist" means a person registered to practice geology in this Commonwealth who has experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of on-lot sewage disposal systems.

"Qualified soil scientist" means a person certified as a sewage enforcement officer and who has documented two years' experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of on-lot sewage disposal systems and either a bachelor of science degree in soils science from an accredited college or university or certification by the American Registry of Certified Professionals in Agronomy, Crops and Soils.

"Residential subdivision plan" means a subdivision in which at least two-thirds of the proposed daily sewage flows will be generated by residential uses.

"Secretary" means the Secretary of Environmental Resources of the Commonwealth of Pennsylvania.

"Sewage" means any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any 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, or which constitutes pollution under the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," as amended.

"Sewage enforcement officer" means the official of the local agency who issues and reviews permit applications and conducts such investigations and inspections as are necessary to implement the act and the rules and regulations thereunder.

"Soil mottling" means a soil color pattern consisting of patches of different color or shades of color interspersed with the dominant soil color which results from prolonged saturation of the soil.

"Subdivision" means 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.

(2 amended Dec. 14, 1994, P.L.1250, No.149)

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 2. The Secretary of

Environmental Resources, referred to in the def. of "secretary," was abolished by Act 18 of 1995. The functions of the secretary were transferred to the Secretary of Conservation and Natural Resources and the Secretary of Environmental Resources.

Compiler's Note: Section 11 of Act 149 of 1994, which amended the definition of "individual residential spray irrigation system," provided that, on the effective date of the amendment, permits shall be issued under Act 537. Before the effective date of the amendment, permits shall be issued under the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law. Section 12 of Act 149 provided that the amendment shall take effect in 550 days.

Section 3. Declaration of Policy. It is hereby declared to be the policy of the Commonwealth of Pennsylvania through this act:

(1) To protect the public health, safety and welfare of its citizens through the development and implementation of plans for the sanitary disposal of sewage waste.

(2) To promote intermunicipal cooperation in the implementation and administration of such plans by local government.

(3) To prevent and eliminate pollution of waters of the Commonwealth by coordinating planning for the sanitary disposal of sewage wastes with a comprehensive program of water quality management.

(4) To provide for the issuance of permits for on-lot sewage disposal systems by local government in accordance with uniform standards and to encourage intermunicipal cooperation to this end.

(5) To provide for and insure a high degree of technical competency within local government in the administration of this act.

(6) To encourage the use of the best available technology for on-site sewage disposal systems.

(7) To insure the rights of citizens on matters of sewage disposal as they may relate to this act and the Constitution of this Commonwealth.

(3 amended July 22, 1974, P.L.621, No.208)

Section 4. Advisory Committee. (a) An advisory committee shall be appointed within three months of the passage of this act and biennially thereafter, membership of which shall be composed of one representative from the following organizations, the name of said representative to be submitted to the secretary within ten days of receipt of request for same: Pennsylvania State Association of Township Supervisors, Pennsylvania State Association of Boroughs, Pennsylvania League of Cities, Pennsylvania State Association of Township Commissioners, Pennsylvania State Association of County Commissioners, Pennsylvania Association of Plumbing, Heating, Cooling, Contractors, Inc., Pennsylvania Society of Professional Engineers, Mortgage Bankers' Association, Pennsylvania Builders Association, Pennsylvania Association of Realtors, Pennsylvania Landowners Association, Pennsylvania Society of Architects, County Health Departments, Pennsylvania State University, Pennsylvania Municipal Authorities Association, Pennsylvania Section of the American Water Works Association, Water Pollution Association of Pennsylvania, American Society of Civil Engineers, Pennsylvania Environmental Health Association, Farmers Home Administration, Consulting Engineers Council of Pennsylvania, National Association of Water Companies, Pennsylvania Vacation Land Developers Association, United States Department of Housing and Urban Development, Pennsylvania Department of Commerce, Pennsylvania Department of Community Affairs, Office of State Planning and Development, Pennsylvania Bar Association, and such other organizations having a direct interest in the area of water and sewage as the secretary deems necessary.

(b) The advisory committee shall have the opportunity to review proposed rules, regulations, standards and procedures and shall review existing rules, regulations, standards and procedures of the department pursuant to this act.

(c) The recommendations of the advisory committee shall be submitted to the secretary who shall give due consideration to the same.

(4 amended July 1, 1989, P.L.124, No.26)

Compiler's Note: The Department of Commerce, referred to in subsec. (a), was renamed the Department of Community and Economic Development by Act 58 of 1996. The Department of Community Affairs, referred to in subsec. (a), was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

Section 5. Official Plans. (a) Each municipality shall submit to the department an officially adopted plan for sewage services for areas within its jurisdiction within such reasonable period as the department may prescribe, and shall from time to time submit revisions of such plan as may be required by rules and regulations adopted hereunder or by order of the department: Provided, however, That a municipality may at any time initiate and submit to the department revisions of the said plan. Revisions shall conform to the requirements of subsection (d) of this section and the rules and regulations of the department.

(a.1) The municipality shall review and act upon revisions for new land development and exceptions to the requirement to revise an official plan within sixty days of receipt of a complete application or such additional time as the applicant and municipality may agree to in writing. Failure of the municipality to act within the sixty-day period or any agreed-to time extension shall cause the revision for new land development or exception to the requirement to revise to be deemed approved by the municipality, and the complete application shall be submitted to the department by the municipality or applicant.

(b) Any 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 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 sixty 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 by regulation. The request to the department shall contain a description of the area of the municipality in question and a list of all reasons why the plan is believed to be inadequate. Such person shall give notice to the municipality of the request to the department.

(b.1) Upon receipt of a private request for revision, the department shall notify the municipality and appropriate planning agencies within the municipality, including a planning agency with areawide jurisdiction, if one exists under the act of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania Municipalities Planning Code," and the existing county or joint county department of health of receipt of the private request and inform them that written comments may be submitted to the department no later than forty-five days after the department's receipt of the private request for revision. In arriving at its decision, the department shall consider:

(1) The reasons advanced by the requesting person.

(2) The reasons for denial advanced by the municipality.

(3) The comments of the planning agencies and county or joint county departments of health.

(4) Whether the proposed sewage facilities and documentation supporting the proposed sewage facilities is consistent with the department's rules and regulations.

(5) The municipality's official plan.

(b.2) The department shall render a decision and inform the person requesting the revision and the appropriate municipality in writing within one hundred twenty days after either receipt of the comments permitted by this section or the expiration of the forty-five 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. The department's decision shall 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 shall specify time limits for plan completion, including interim deadlines and compliance schedules the department deems necessary. The department may not refuse to order a requested revision because of inconsistencies with any applicable zoning, subdivision or land development ordinances, but it may 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 court orders. If the department refuses to order a requested revision, it shall notify the person making the request in writing of the reasons for the refusal. In the event the department fails to act within the specified time limits and the applicant takes a mandamus action against the department, the court may award costs for counsel and court costs to the prevailing party.

(c) The required plan or any revision thereof may be submitted jointly by two or more municipalities.

(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.

((c) amended June 5, 2020, P.L., No. 34)

(c.2) ((c.2) deleted by amendment June 5, 2020, P.L. 257, No. 34)

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(3) (Deleted by amendment).

(4) (Deleted by amendment).

(d) Every official plan shall:

(1) Delineate areas in which community sewage systems are now in existence, areas experiencing problems with sewage disposal including a description of said problems, areas where community sewage systems are planned to be available within a ten year period, areas where community sewage systems are not planned to be available within a ten year period and all subdivisions existing or approved;

(2) Provide for the orderly extension of community interceptor sewers in a manner consistent with the comprehensive plans and needs of the whole area, provided that this section shall not be construed to limit the development of such community facilities at an accelerated rate different than that set forth in the official plan;

(3) Provide for adequate sewage treatment facilities which will prevent the discharge of untreated or inadequately treated sewage or other waste into any waters or otherwise provide for the safe and sanitary treatment of sewage or other waste;

(4) Take into consideration all aspects of planning, zoning, population estimates, engineering and economics so as to delineate with all practicable precision those portions of the area which community systems may reasonably be expected to serve within ten years, after ten years, and any areas in which the provision of such services is not reasonably foreseeable;

(5) Take into consideration any existing State plan affecting the development, use and protection of water and other natural resources;

(6) Establish procedures for delineating and acquiring, on a time schedule consistent with that established in clause (4) of this subsection, necessary rights-of-way or easements for community sewage systems;

(7) Set forth a time schedule and proposed methods of financing the construction and operation of the planned community sewage systems, together with the estimated cost thereof;

(8) Be reviewed by appropriate official planning agencies within a municipality, including a planning agency with areawide jurisdiction if one exists, in accordance with the "Pennsylvania Municipalities Planning Code," as amended, for consistency with programs of planning for the area, and all such reviews shall be transmitted to the department with the proposed plans; and

(9) Designate municipal responsibility for implementation of the plan.

(e) (1) The department is hereby authorized to approve or disapprove official plans, special studies and update revisions to official plans for sewage systems submitted in accordance with this act within one year of date of submission.

(2) The department is authorized to approve or disapprove revisions of official plans within such time as the regulations shall stipulate, except that the department shall approve or disapprove revisions constituting residential subdivision plans within sixty days of the date of a complete submission. The department may act on requests for exceptions to the requirement to revise official plans within thirty days of receipt of such documentation as may be required by regulation. If the department fails to act within such thirty-day period, it shall be deemed that the exception to the requirement to revise the official plan shall be applicable. The department shall determine if a submission is complete within ten working days of its receipt.

(3) Delegated agencies shall approve or disapprove supplements within sixty days of the date of a complete submission or such additional time as the applicant and delegated agency may agree to in writing. The delegated agency shall determine if a submission is complete within ten days of its receipt.

(4) For official plans and official plan revisions for individual on-lot sewage systems and community on-lot sewage systems, the use of such systems when designed and approved in accordance with the requirements of this act and the regulations promulgated under this act satisfies the antidegradation requirements of the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," and the regulations promulgated under that act.

((4) added July 2, 2013, P.L.246, No.41)

(f) The department is authorized to provide technical assistance to counties, municipalities and authorities in coordinating official plans for sewage systems required by this act, including revisions of such plans.

(g) For purposes of this act, the department is authorized to cooperate with appropriate private organizations.

(h) The department shall maintain and make available for public inspection a record of all official plans, update revisions and special studies submitted for department review, indicating the date received, type of submission and date of disposition.

(i) Any publication of proposed adoption of or revision to an official plan or notice of application for a permit for department approval required by this act or the regulations promulgated under this act may be provided by the applicant or the applicant's agent, municipality or the local agency by publication in a newspaper of general circulation as required by department regulation. Where an applicant or applicant's agent provides the required publication, the municipality and local agency shall be relieved of the obligation to publish.

(5 amended Dec. 14, 1994, P.L.1250, No.149)

Section 6. Grants and Reimbursements Authorized. (a) The department is authorized to administer grants to counties, municipalities and authorities to assist them in preparing official plans and revisions to official plans for sewage systems required by this act, and for carrying out related studies, surveys, investigations, inquiries, research and analyses. Such grants shall be made from funds appropriated by the General Assembly for this purpose and shall equal one-half the cost of preparing such plans. Such grants shall not be withheld from any municipality which is complying with the terms of this act. For the purposes of this section, costs shall be exclusive of those reimbursed or paid by grants from the Federal Government.

(b) (1) Except as provided in subsection (c), local agencies complying with the provisions of this act in a manner deemed satisfactory by the secretary shall be reimbursed annually by the department from funds specifically appropriated for such purpose equal to one-half of the cost of the expenses incurred by the local agency in enforcement of the provisions of this act. Such grants shall not be withheld from any local agency which is complying with the terms of this act. For the purposes of this section, costs shall be exclusive of those reimbursed or paid by grants from the Federal Government. Applications for reimbursement shall be received no later than March 1 of each year for expenses incurred during the prior calendar year. The March 1 deadline for the filing of applications for reimbursement may be extended by the secretary for a period of not more than sixty days upon cause shown.

(2) A local agency having submitted an application for reimbursement for calendar year 1993 which was received by the department prior to May 1, 1994, shall be eligible for reimbursement under this section for expenses incurred during calendar year 1993.

(c) A local agency complying with the provisions of this act in a manner deemed satisfactory by the department shall be reimbursed up to eighty-five percent of the cost of the expenses incurred in the administration and enforcement of this act from funds specifically appropriated by the General Assembly for this purpose if the local agency submits documentation which supports that it qualifies for such increased reimbursement. To qualify for up to eighty-five percent reimbursement, a local agency must:

(1) Document the acceptance, delegation or transfer of the administration of sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of this act from one or more municipalities.

(2) Employ or contract with at least one sewage enforcement officer actively engaged in activities related to the administration of this act at least one thousand two hundred hours per year, including leave and holidays.

(3) Employ or contract with adequate administrative support staff.

(4) Employ or contract with one alternate sewage enforcement officer.

(5) Employ or contract with a qualified soil scientist.

(6) Submit to the department for review and comment administrative procedures, permit procedures, ordinances of the member municipalities related to the administration of this act, rules, regulations, permit-related fee schedules and contracted services proposed for use in the local agency.

(7) Employ or have a contractual arrangement with sufficient technical staff to provide for local agency response to signed written requests for service within the time frames established by the administrative procedures and regulations of the local agency.

(6 amended Dec. 14, 1994, P.L.1250, No.149)

Section 7. Permits. (a) (1) No person shall install, construct, or award a contract for construction, or alter, repair or connect to an individual sewage system or community sewage system or construct, or request bid proposals for construction, or install or occupy any building or structure for which an individual sewage system or community sewage system is to be installed without first obtaining a permit indicating that the site and the plans and specifications of such system are in compliance with the provisions of this act and the standards adopted pursuant to

this act. A permit shall not be required by a person where a new dwelling is proposed to replace a previously existing dwelling where the size and anticipated use of the new dwelling is the same as the previously existing dwelling and the previously existing dwelling was in use within one year of the anticipated date of the completion of construction. This exception shall not apply when an active investigation of malfunction is under way by the local agency or the department. No permit may be issued by the local agency in those cases where a permit from the department is required pursuant to the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," as amended, or where the department pursuant to its rules and regulations, determines that such permit is not necessary for the protection of the public health.

Except where a local agency or municipality requires a permit by ordinance, no permit or plan revision shall be required for the installation of an individual on-lot sewage system for a residential structure occupied or intended to be occupied by the property owner or a member of his immediate family on a contiguous tract of land ten acres or more if the owner of the property was the owner of record as of January 10, 1987.

(2) The installation of such a permit-exempt system shall not be required to be approved by or meet the standards of the department or local agency pursuant to their rules and regulations for the siting, design or installation of on-lot sewage systems, except for the siting requirements of subsection (a.1), unless a permit is required by a regulation or ordinance of a local agency or municipality or the person qualifying for the permit exemption chooses to not use the permit exemption. A permit exemption may also be granted where a ten-acre parcel or lot is subdivided from a parent tract after January 10, 1987. When one permit exemption has been granted for a lot, tract or parcel under this section, any lot, tract or parcel remaining after subdivision of the lot or parcel which received the permit exemption or any lots or parcels subdivided therefrom in the future shall not be eligible for a ten-acre permit exemption and must meet the planning, permitting, siting and construction standards of the department for on-lot sewage systems. Persons otherwise qualified for a permit exemption who do not choose to use the permit exemption remain exempt from the planning requirements of this act.

(3) For the purposes of this section, the term "immediate family" shall mean brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the property owner.

(a.1) Owners of property qualifying for a permit exemption under this section shall install permit-exempt systems in accordance with the following siting requirements:

(1) The perimeter of the septic tanks and absorption area shall be located at least two hundred feet from the perimeter of any property line, nonutility right-of-way, one hundred-year flood plain or any river, stream, creek, impoundment, well, watercourse, storm sewer, lake, dammed water, pond, spring, ditch, wetland, water supply or any other body of surface water and ten feet from any utility right-of-way.

(2) Before a person who meets the requirements for a permit-exempt system installs the system, such person shall notify the local agency of the installation. The local agency may charge a fee, not to exceed twenty-five dollars ($25), to verify the system is located in accordance with the siting requirements of subsection (a.1)(1).

(a.2) A person installing a permit-exempt system shall indemnify and hold harmless the Commonwealth, the local agency, the sewage enforcement officer serving the municipality in which the system is located and the municipality where the system is located from and against damages to property or injuries to any persons and other losses, damages, expenses, claims, demands, suits and actions by any party against the Commonwealth, the local agency, sewage enforcement officer and the municipality in connection with the malfunctioning of the on-lot sewage system installed under the permit exemption provisions of this section. It is the sole responsibility of the property owner who installed or contracted for the installation of a sewage system under the permit exemption provisions of this section or the property owner who accepted responsibility for the system upon purchase of the property under the disclosure provisions of section 7.1(a.1) of this act to correct or have corrected any system malfunction which contaminates surface or groundwater or discharges to the surface of the ground. Malfunctions of systems installed under the provisions of this section which contaminate ground or surface water or discharge to the surface of the ground shall constitute a nuisance and shall be abatable in a manner provided by law.

(a.3) For permits for individual on-lot sewage systems and community on-lot sewage systems, the use of such systems when designed and approved in accordance with the requirements of this act and the regulations promulgated under this act satisfies the antidegradation requirements of the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," and the regulations promulgated under that act.

((a.3) added July 2, 2013, P.L.246, No.41)

(b) (1) Application for permit shall be in writing to the local agency in accordance with the provisions of section 8 of this act, and shall be made in such form and shall include such data as the department may prescribe.

The local agency shall maintain and make available for public inspection a record of all permit applications submitted, indicating the date received, type of submission and date of disposition.

(2) Permits for on-lot sewage disposal systems shall be issued or denied within the time limits prescribed in this section. Denial of any permit shall be supported by a statement in writing of the reasons for such action.

(2.1) Permits for conventional systems shall be issued or denied within seven days of receipt of a complete initial application. If the initial application is found to be incomplete, the time for acting thereon shall be extended fifteen days beyond the date of receipt of adequate supplementary or amendatory data.

(2.2) In municipalities or local agencies which are not delegated agencies, permits for alternate systems shall be reviewed for completeness, and, if found to be incomplete, the nature of the deficiency shall be communicated to the applicant in writing within fifteen days.

(i) Applications for alternate system permits found to be complete shall be submitted within five days of the determination of completeness to the department by the local agency or authorized representative for appropriate action.

(ii) Permits for alternate systems shall be issued or denied by the local agency within forty-five days of transmittal of a complete application to the department.

(2.3) In municipalities or local agencies which are delegated agencies, permit applications for alternate systems shall be reviewed for completeness, and, if found to be incomplete, the nature of the deficiency shall be communicated to the applicant in writing within fifteen days. Permits for alternate systems shall be issued or denied by the local agency within thirty days of receipt of a complete application.

(2.4) In those cases where a local agency has issued a permit under this section and the department disagrees with the basis for the issuance of the permit, the department shall not require the revocation of that permit unless the department has provided to the local agency justification for its decision based on the specific provisions of statute or regulation.

(3) No system or structure designed to provide individual or community sewage disposal shall be covered from view until approval to cover the same has been given by the body which issued the original permit or its authorized representative.

If seventy-two hours have elapsed, excepting Sundays and holidays, since the body issuing the permit received notification of completion of construction, the applicant may cover said system or structure unless permission has been refused by the issuing body.

(4) The local agency shall not issue permits for individual sewage systems or community sewage systems unless the system proposed is consistent with the official plan, a special study or an update revision to the official plan of the municipality in which said system is to be located and the municipality is adequately implementing the official plan, special study or update revision in those areas of the municipality covered by such plan, study or revision.

(4.1) In the event that the municipality has no plan or has not received department approval of an update revision or special study to the official plan or implemented its plan as required by the rules and regulations of the department or by order of the department, no permits may be issued under this section in only those areas of the municipality in which the department finds that there is a serious risk to the health, safety and welfare of persons within or adjacent to the municipality by reason of the municipality's failure to revise or implement its plan until the municipality has submitted the said official plan, update revision or special study to the official plan to, and received the approval of the department or has commenced implementation of its plan, update revision or special study in accordance with a schedule approved by the department.

(i) A supplement or a revision for new land development or interim repairs to or the replacement of existing malfunctioning on-lot sewage systems shall not be denied solely on the basis of the failure of the municipality in which the new land development or system in need of repair or replacement is proposed to submit an update revision or special study or implement its plan as required by an order of the department or the rules and regulations of the department or because the update revision or special study is under review by the department.

(ii) Every contract for the sale of a lot, as defined in section 2, which is within an area in which permit limitations are in effect and which is subject to permit limitations under this section shall contain a statement in the contract that clearly indicates to the buyer that sewage facilities are not available for that lot and that sewage facilities will not be available and 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 special study. Any contract for the sale of a lot which does not conform to the requirements of this section shall not be enforceable by

the seller against the buyer. Any term of such contract purporting to waive the rights of the buyer to the disclosures required in this section shall be void.

(4.2) The limitations on permit issuance contained in paragraph (4.1) shall not apply:

(i) to those sections of the municipality where the department or the local agency finds that a replacement system could be installed on the lot in the event that the original system failed;

(ii) to those areas of the municipality outside of the areas delineated in an order of the department as requiring an update revision. The filing of an appeal to a department order issued under this subsection shall not operate as an automatic supersedeas of the action of the department;

(iii) to existing subdivisions or sections thereof where the department or delegated agency finds that either lots or homes in the subdivision or sections thereof have been sold in good faith to a purchaser for value prior to May 15, 1972, and not for the purpose of avoiding the permit limitation provisions of paragraph (4.1). This clause shall not relieve the municipality of its planning responsibilities as specified in this act; or

(iv) where the department or the local agency finds it necessary to issue permits for the abatement of pollution and/or the correction of health hazards.

(4.3) The department may, by agreement, delegate to a local agency or county or joint county department of health which has been qualified by the department for receipt of eighty-five percent reimbursement under section 6(c) of this act the power and duty to require the submittal of and review and approve or disapprove sewage facilities planning for new land development using planning module forms provided by the department. Additionally, the following shall apply:

(i) Sewage facilities planning approved by a delegated agency under this subsection shall not constitute a revision or exception to the requirement to revise under this act and the rules and regulations promulgated hereunder but shall be a supplement to the official sewage facilities plan.

(ii) Delegated agencies may assess fees for the review of supplements under this section. Fees received pursuant to 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 act and the rules and regulations promulgated hereunder.

(iii) The department may limit the review of supplements in the delegation agreements to specific classifications of sewage facilities or new land developments.

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

(A) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect under the act of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania Municipalities Planning Code."

(B) 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 this act, the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," and regulations promulgated hereunder.

(C) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect which require sewage facilities planning approval as a condition attached to final plat approval under the "Pennsylvania Municipalities Planning Code."

(D) Where delegation is requested for the review of new land developments proposing the use of public sewerage facilities not requiring a new or modified permit under "The Clean Streams Law," the delegation agreement must include coordination procedures to be used with the department to assure continued compliance with the municipal wasteload management provisions of "The Clean Streams Law."

(E) 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 any violations of this act or the rules and regulations promulgated hereunder for the prior three years as determined by the department.

(F) 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 act.

(v) The department shall review and approve, prior to delegation, the administrative procedures, ordinances, rules, regulations, fee schedules and contracts for services proposed for use by the delegated agency in

the administration of the delegated provisions of this act. Delegated agencies shall use forms provided by the department for the submittal and review of all supplements.

(vi) Supplements to the official plan shall be prepared by the person proposing the new land development and shall be reviewed and acted upon by the delegated agency. Within ten days of the approval or disapproval of the supplement, a copy of the completed planning modules and the approval or disapproval letter of the delegated agency shall be submitted to the department by the delegated agency.

(vii) Lack of participation by a municipality, local agency or county or joint county department of health in this delegation shall not influence the eligibility of the local agency serving that municipality or the local agency itself to receive eighty-five percent reimbursement under section 6(c) of this act, if qualified.

(4.4) In those areas of the municipality where a revision for new land development or exception to the requirement to revise is required to be approved by the department or a supplement is required to be approved by a delegated agency:

(i) The local agency shall not issue permits for individual sewage systems or community sewage systems until the municipality has received approval of a revision for new land development or exception to the requirement to revise from the department or a supplement has been approved by a delegated agency.

(ii) A contract for the sale of a lot, as defined in this act, for which a required revision for new land development, exception to the requirement to revise or a required supplement has not been approved shall not be enforceable by the seller against the buyer unless it contains a statement that clearly indicates to the buyer that sewage facilities are not available for that lot and that sewage facilities will not be available nor may construction begin until sewage facilities planning has been approved. Any term of such contract purporting to waive the rights of the buyer to the disclosures required in this clause shall be void.

(5) Revisions for new land development, exceptions to the requirement to revise and supplements will not be required and permits for on-lot systems may be issued without such planning where either the department or delegated agency determines that:

(i) The official plan shows that those areas of the municipality are to be served by on-lot sewage disposal facilities.

(ii) The geology of the area proposed for the use of individual or community sewage systems is not conducive to nitrate-nitrogen groundwater contamination.

(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."

(iv) All subdivided lots and the remaining portion of the original tract after subdivision are one acre or larger.

(v) Soils testing and site evaluation establish that separate sites are available for both a permitted primary on-lot sewage system and a replacement on-lot sewage system on each lot of the subdivision.

(5.1) Revisions for new land development and supplements are not required for subdivisions proposing a connection to or an extension of public sewers where:

(i) The department determines that existing collection, conveyance and treatment facilities are in compliance with "The Clean Streams Law" and the rules and regulations promulgated thereunder.

(ii) The department determines that the permittees of the receiving sewerage facilities have submitted information under "The Clean Streams Law" which documents that the existing collection, conveyance and treatment system does not have an existing hydraulic or organic overload or five-year projected overload.

(iii) The applicant has provided certification from the permittees of the collection, conveyance and treatment receiving facilities to the municipality or delegated agency 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 five-year projected overload.

(iv) The municipality has a current approved sewage facilities plan update revision which is being implemented.

(5.2) Where the determination under paragraph (5) or (5.1) of this subsection 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 flow for each subdivision exempted from the planning provisions under this subsection and such other information as may be required under the rules and regulations of the department.

The provisions of this subsection shall not apply to new land development proposals intended to be served by sewage facilities requiring a new or modified permit from the department under "The Clean Streams Law."

(6) If the local agency determines that: (i) any change has occurred in the physical conditions of any lands which will materially affect the operation of the community sewage system or individual sewage system covered by any permit issued by the local agency under section 7 of this act, or (ii) one or more tests material to the issuance of the permit has not been properly conducted, or (iii) information material to the issuance of the permit has been falsified, or (iv) the original decision of the local agency otherwise failed to conform to the provisions of this act or the rules and regulations of the department, or (v) the permittee has violated the rules and regulations of the department under which the permit was issued, the permit shall be revoked. Such action shall be taken after notice and opportunity for hearing has been given to the permittee.

(7) If construction or installation of an individual sewage system or community sewage system and of any building or structure for which such system is to be installed has not commenced within three years after the issuance of a permit for such system, the said permit shall expire, and a new permit shall be obtained prior to the commencement of said construction or installation.

(8) Upon completion of inspection of deep soil test pits and percolation tests, the inspector shall immediately notify the property owner that the tests are complete. Within three days after receiving such notice, the property owner shall backfill the test pits and holes. Any person who fails to comply with the provisions of this subsection shall be subject to the remedies and penalties provided in sections 12, 13 and 13.1.
(7 amended Dec. 14, 1994, P.L.1250, No.149)

Compiler's Note: Section 7 of Act 26 of 1989 provided that subsection (a) shall not affect any right to a rural residence exemption from permit requirements imposed by a municipality which was legally established prior to the effective date of Act 26.

Section 7.1. Land Sale Contracts. (a) Every contract for the sale of a lot as defined in section 2 for which there is no currently existing community sewage system available shall contain a statement in the contract clearly indicating to the buyer that there is no community sewage system available and that a permit for an individual sewage system will have to be obtained pursuant to section 7. The contract shall also clearly state that the buyer should contact the local agency charged with administering this act before signing the contract to determine the procedure and requirements for obtaining a permit for an individual sewage system if one has not already been obtained. For purposes of this section the terms "community sewage system" and "individual sewage system" shall be construed to exclude any drainage system for the control of surface water or the control of storm runoff water.

(a.1) Every contract for the sale of a lot as defined in section 2 of this act which is served by an individual sewage system which was installed under the ten-acre permit exemption provisions of section 7 of this act shall contain a statement in the contract that clearly indicates to the buyer that soils and site testing were not conducted and that the owner of the property or properties served by the system, at the time of a malfunction, may be held liable for any contamination, pollution, public health hazard or nuisance which occurs as the result of the malfunction of a sewage system installed in accordance with the permit exemption provisions of section 7 of this act.

(a.2) Every contract for the sale of a lot served by a holding tank, whether permanent or temporary, to which sewage is conveyed by a water carrying system and which is designed and constructed to facilitate ultimate disposal of the sewage at another site shall contain a statement in the contract that clearly indicates that the property is served by such a tank and shall provide a history of the annual cost of maintaining the tank from the date of its installation or the effective date of this amendatory act, whichever is later.

(b) Any contract for the sale of a lot which does not conform to the requirements of this section shall not be enforceable by the seller against the buyer. Any term of such contract purporting to waive the rights of the buyer to the disclosures required in this section shall be void.

(7.1 amended Dec. 14, 1994, P.L.1250, No.149)

Section 7.2. Soil Mottling. (a) Within ninety days of the effective date of this section, the Environmental Quality Board shall promulgate proposed rules and regulations that govern the ability of local agencies to issue permits for the construction of individual residential on-lot sewage systems where soil mottling is present. The rules and regulations shall include, but not be limited to, the following:

(1) A requirement that a local agency perform a percolation test when one is requested in writing by the owner of the property, at the owner's expense, where the local agency determines soil mottling is present.

(2) Where the sole reason for a property not meeting the requirements for the installation of an individual residential on-lot sewage system is the presence of soil mottling, the local agency shall issue a permit for an individual residential on-lot sewage system designed to meet the department's standards where the property owner meets all of the following conditions:

(i) A qualified soil scientist or qualified registered professional geologist, a certified sewage enforcement officer or qualified registered professional engineer, not employed by the local agency with jurisdiction over the property in question, confirms in writing that the soil mottling observed in the test pits is not an indication of either a regional or perched seasonal high water table.

(ii) The property owner provides evidence of financial assurance to the local agency in an amount equal to the cost of replacement of the individual residential sewage system proposed and the reasonably anticipated cost of remedial measures to clean up contaminated groundwater, to replace any contaminated water supplies and to repair or replace a malfunction of the on-lot system. In no case shall the local agency approve financial assurance in an amount less than twenty thousand dollars ($20,000) or fifteen percent of the appraised value of the lot and proposed residential dwelling for each year up to three years. The local agency may require an additional two years' financial assurance. The local agency shall waive the financial assurance requirement after five years.

(iii) The property owner provides notification to the local agency seven working days prior to conducting soil evaluations under this section, and a representative of the local agency may observe the soil evaluations and may review resulting reports and correspondence.

(iv) The property owner produces evidence of a clause in the deed to the property that clearly indicates soil mottling is present on the property and that an individual residential on-lot sewage system meeting the requirements of this section was installed on the property.

(b) The Environmental Quality Board shall promulgate rules and regulations that are to establish the specific types of financial assurance that are acceptable under this section, the procedures local agencies are to follow in forfeiting the financial assurance and the type of additional financial assurance required if the system approved under this section is replaced. The financial assurances may include an option where the local agency may offer for a fee financial assurance for systems installed under this section up to the amount established in subsection (a)(2)(ii).

(c) The municipality, sewage enforcement officer and department shall not be held liable for the performance of an individual residential on-lot sewage system approved under this section. The local agency shall not be held liable for the performance of an individual residential on-lot sewage system approved under this section, except where financial assurance is provided by the local agency under subsection (b).

(7.2 added Dec. 14, 1994, P.L.1250, No.149)

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 7.2.

Section 7.3. Individual Residential Spray Irrigation Systems. Permits for the construction of individual residential spray irrigation systems may be issued by a local agency under this act when all of the following have been met:

(1) The local agency has employed or contracted the services of a certified sewage enforcement officer who has successfully completed department-sponsored mandatory training related to the siting, design, construction and inspection of individual residential spray irrigation systems.

(2) The site, soil conditions and system design meet the department's standards for these systems.

(3) The municipality and the department or delegated agency have approved any required supplement or revision for new land development for the proposed use of the system.

(4) The municipality has taken action to assure compliance of the system with regulations which establish standards for operation and maintenance of these systems. Such assurance shall be established through a maintenance agreement approved by the municipality until an ordinance is adopted requiring an approved maintenance agreement or bonding, escrow or other security sufficient to cover the costs of future operation and

maintenance of the system over its design life up to a maximum of fifty percent for each of the first two years of operation and no more than ten percent each year thereafter of the equipment and installation cost of the system, establishment of properly chartered associations, trusts or other private legal entities to manage the systems, municipal ownership of the systems, establishment of a sewage management agency to manage the systems or any combination of the above.

(5) The applicant has submitted documentation to the local agency that the proposed use of an individual residential spray irrigation system will not adversely impact existing and proposed drinking water supplies and will not create a nuisance or public health hazard.

(6) Aerobic tanks used in spray irrigation systems shall have a current National Sanitation Foundation certification or equivalent laboratory certification. The system owner shall annually test the discharge to the system for fecal coliforms, biological oxygen demand (BOD), suspended solids and chlorine residual. A copy of the test results shall be sent to the local agency by certified mail within thirty days after each annual anniversary of the permit date.

(7.3 added Dec. 14, 1994, P.L.1250, No.149)

Compiler's Note: Section 11 of Act 149 of 1994, which added section 7.3, provided that, on the effective date of section 7.3, permits shall be issued under Act 537. Before the effective date of section 7.3, permits shall be issued under the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law. Section 12 of Act 149 provided that section 7.3 shall take effect in 550 days.

Section 8. Powers and Duties of Local Agencies. (a) County or joint county departments of health shall administer sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of this act in the area subject to their jurisdiction. The county health department or joint county departments of health may administer the continuing maintenance provisions of section 9 and the enforcement provisions of section 12 if the local agency under the jurisdiction of the county health department or joint county departments of health has relinquished its authority by resolution to the county health department or joint county departments of health. In all other areas, sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of this act shall be administered by each municipality unless said municipality has transferred or delegated the administration of sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of this act to another local agency, or is cooperating in said administration, in conformance with the act of July 12, 1972 (P.L.762, No.180), and said other local agency has accepted administration of sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of this act. Municipalities are hereby encouraged jointly to administer sections 7, 8, 12, 13, 13.1, 14, 15 and 16 of this act on a county or joint county level. No local agency shall voluntarily surrender administration of the provisions of this act except to another local agency pursuant to this section.

(b) Each local agency in addition to the powers and duties conferred upon it by existing law shall have the power and the duty:

(1) To employ an adequate number of sewage enforcement officers or contract with individuals, firms or corporations to adequately perform the services of sewage enforcement officers to administer the provisions of section 7 of this act within the time periods set forth in this act and in accordance with the rules and regulations of the department. No person shall be employed or contracted as a sewage enforcement officer unless said person has been certified by the department pursuant to standards set by the Environmental Quality Board. 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 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 sewage system.

(1.1) To have at least one alternate sewage enforcement officer as authorized by the local agency to work in the municipality or municipalities of the local agency.

(2) To employ or contract with other technical and administrative personnel necessary to support the activities of the sewage enforcement officer and the local agency.

(2.1) To adopt by resolution a list of individuals who are sewage enforcement officers employed by companies or corporations under contract with the local agency to perform the services of sewage enforcement officers.

(3) To set rates of compensation, maintain offices, purchase necessary equipment and supplies.

(4) To set and collect application fees. The fee schedule may establish different charges for various types of individual sewage systems and community sewage systems consistent with the administrative costs of reviewing the application and supervising the installation of said system. When engineering or consulting services are required by the local agency to complete their review of a permit application, the application or review fees charged for such services shall be reasonable and in accordance with the ordinary and customary charges by the engineer or consultant for similar service in the community, and in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the local agency when fees are not reimbursed by or otherwise imposed on applicants.

(i) In the event the applicant disputes the amount of any such fees or charges, the applicant shall, within ten working days of the date of billing, notify the local agency that the fees or expenses are disputed as unreasonable or unnecessary, in which case the local agency shall not delay or disapprove an application for any approval or permit due to the applicant's dispute over fees or charges.

(ii) If, within twenty days from the date of billing, the local agency and the applicant cannot agree on the amount of fees or charges which are reasonable and necessary, the applicant and local agency shall jointly, by mutual agreement, appoint a qualified registered professional engineer or geologist licensed in this Commonwealth to review the fees and charges and make a determination as to the amount which is reasonable and necessary.

(iii) In the event that the local agency and applicant cannot agree upon the professional engineer or geologist to be appointed within twenty days of the billing date, then, upon application of either party, the president judge of the court of common pleas of the judicial district in which the municipality is located or, if at the time there is no president judge, then the senior active judge then sitting shall appoint such engineer or geologist. The engineer or geologist shall be neither the local agency's engineer or geologist nor any professional engineer or geologist nor consultant who has been retained by or performed services for the local agency or the applicant within the preceding five years.

(iv) The professional engineer or professional geologist so appointed shall hear such evidence and review such documentation as the engineer, in his sole discretion, deems necessary and render a decision within fifty days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.

(v) The fee of the appointed professional engineer or professional geologist for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of the payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by five hundred dollars ($500) or more, the local agency shall pay the fee of the professional engineer or professional geologist. Otherwise, the local agency and the applicant shall each pay one-half of the fee of the appointed professional engineer or professional geologist.

(4.1) To set and collect fees necessary to support the administrative and personnel costs of a maintenance inspection and enforcement program.

(5) To make or cause to be made, such inspections and tests as may be necessary to carry out the provisions of section 7 of this act, and its authorized representatives shall have the right to enter upon lands for said purpose.

(i) Within twenty working days of the local agency's receipt of a permit application or by such later date as the applicant may request in writing or by such later date as the sewage enforcement officer and applicant may agree, which is confirmed in writing by the sewage enforcement officer, site suitability review, soil probe testing and soil percolation testing shall be completed by the local agency and the results provided to the applicant in writing. A one-call system serial number must be obtained prior to soil testing by the permit applicant or the contractor retained by the applicant to perform the test excavation. This notification shall take place no less than three and no more than ten working days prior to the excavation. The permit review deadline in this paragraph shall not apply to applicants who fail to comply with the one-call system notification requirement.

(ii) It shall be the obligation of the applicant to have the site prepared in the manner required by written instructions provided to the applicant after receipt of at least forty-eight hours' notice from the local agency or sewage enforcement officer of the anticipated time such soils tests will be performed.

(iii) Failure of the local agency to comply with these time limits shall entitle the applicant, upon request, to a refund of fees paid for soil testing that was not performed by the local agency, and the applicant shall be entitled to submit results of soils tests, on forms provided by the department, conducted in a manner consistent with this act and the regulations hereunder by any certified sewage enforcement officer who need not be employed by or under contract with the local agency. Such test results shall be accepted by the local agency and its sewage enforcement officer who shall rely upon the results of such tests in acting on any application.

(iv) If an applicant after receiving the notice of testing fails to have the site prepared for soil testing in a manner required by this section, the applicant shall not have the right to submit the results of soils testing performed by a certified sewage enforcement officer not employed by or under contract with the local agency, nor shall the applicant be entitled to a refund of fees paid for soil testing as provided in this section.

(v) Neither the municipality, local agency, local agency's sewage enforcement officer nor the department shall be held liable on any cause of action arising out of soil tests performed pursuant to this section by a certified sewage enforcement officer not employed by or under contract with the local agency. In the event any such party is named as a defendant in such cause of action, any court of competent jurisdiction may, in its discretion, award such costs to the parties as it deems appropriate.

(6) To cease issuing permits in designated areas after notice and opportunity for departmental hearing except for the abatement of existing health hazards or public nuisance, notwithstanding the provisions of section 7, upon receipt of a department order pursuant to section 10(7) of this act.

(7) To proceed under section 12 of this act to restrain violations of this act and the rules and regulations adopted hereunder.

(8) To submit such reports and data to the department as the department may by its rules and regulations or by order require.

(9) To adopt and maintain standards and procedures for applications and permits identical to those of the department. Any other rules or regulations which the local agency deems necessary in order to administer and enforce section 7 may only be adopted if they are consistent with this act and the rules and regulations adopted hereunder.

(10) To make such inspections of and verify measurements made by applicants on public or private properties which are determined by the local agency's authorized representative to have natural or manmade features from which specific isolation distances are required prior to the approval of on-lot sewage disposal system usage in subdivisions or individual lots. The local agency's authorized representative shall have the right to enter upon lands for these purposes.

(c) Sewage enforcement officers employed or contracted by local agencies in accordance with this act, in performing their duties as required under this act, shall accept prior testing data and information obtained by a previous sewage enforcement officer, provided that the site and prior testing meets all of the criteria contained in the following paragraphs 1 through 10 of this subsection and the current sewage enforcement officer certifies the same to the local agency. There shall be a presumption that, unless the prior sewage enforcement officer's certification has been revoked or suspended by the department or the prior sewage enforcement officer's certification has been voluntarily surrendered, the testing data and information obtained by the prior sewage enforcement officer is valid unless the currently employed sewage enforcement officer finds that one or more of the criteria in the following paragraphs 1 through 10 of this subsection are not met:

(1) The soil testing performed on the property in question has not been cited in a revocation, suspension or other agreement to surrender certification which indicates violations of soil testing procedures by the previous sewage enforcement officer.

(2) The exact location of the test to be used for issuance of a permit must be verifiable by at least one of the following methods:

(i) Location of the test pit and percolation hole remnants on the lot by the current sewage enforcement officer.

(ii) The existence of recorded measurements from at least two permanent landmarks on the property in question establishing the original test location.

(iii) A scale drawing of the lot or property in question indicating the location of the tests by reference to at least two permanent landmarks.

(iv) Identification of the exact location of the tests by the prior sewage enforcement officer, provided that his or her certification has not been revoked, suspended or voluntarily surrendered to the department.

(3) Verification that the percolation test and soils evaluation was conducted in accordance with the applicable regulations.

(4) Soils description and percolation test data are available and recorded on the prescribed form, or its equivalent, in sufficient quantity and quality to be interpreted by others.

(5) The soil probes were conducted within ten feet of the proposed absorption area.

(6) The percolation test on the lot was performed on the site of the proposed absorption area.

(7) The person who originally observed or conducted the testing was certified under the current certification requirements of this act.

(8) No inaccuracies or falsifications of the test data are apparent or identifiable.

(9) No changes to the site have occurred since the time of the original testing which will materially affect the siting or operation of an individual or community on-lot sewage disposal system.

(10) Receipt of a notarized statement indemnifying and holding harmless the sewage enforcement officer, municipality and local agency for the actions of the new sewage enforcement officer.

(d) If a sewage enforcement officer rejects an application for a permit or previous tests performed within the immediately preceding six years and certified by a previous sewage enforcement officer, the retesting and reapplication fees shall be waived to the applicant. The local agency shall pay for any equipment and operators required for a retest and for any necessary redesign of the system. This subsection shall not apply if changes have occurred in the physical condition of lands which will materially affect the siting or operation of an individual or community on-lot sewage disposal system covered by a permit or for which soils testing has been performed by a local agency or the sewage enforcement officer's certification has been revoked, voluntarily surrendered to avoid prosecution or a revocation hearing or suspended by the department for cause related to the siting, design or installation inspection of on-lot systems.

(e) No municipality, local agency or sewage enforcement officer may, orally or in writing, suggest, recommend or require the use of any particular consultant, soil scientist or professional engineer or any individual or firm providing such services where such services may be required or are subject to review pursuant to this act or the regulations hereunder. 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.

(f) Any minimum distance requirement between a private well and a proposed absorption area specified in the regulations under this act shall not be applicable if the local agency finds, after reviewing appropriate ground water studies submitted by an applicant, that the installation of a proposed individual sewage system does not pose a threat of pollution to any well on the same lot within the distance specified by regulation. The minimum distance between a proposed individual sewage system on the applicant's lot and any wells on any other lot must be met as specified in the regulations under this act. A local agency, other than a delegated agency, shall act upon any application for an exception under this subsection no later than forty-five days after receipt of a request for an exception. A delegated agency shall act on any application for an exception under this subsection no later than thirty days after receipt of a request for exception. Reasonable costs incurred by the local agency in evaluating such application for exception may be charged to the applicant. The local agency, municipality, sewage enforcement officer and department shall incur no liability as a result of the granting of an exception under this subsection. Every contract for sale of a lot as defined in section 2 of this act which is served by an individual sewage system which was installed under this subsection with an isolation distance less than the distance specified by regulation shall contain a statement in the contract that clearly indicates to the buyer that the isolation distances required by regulation between the individual on-lot system components and the well on the property being sold were not met.

(g) Any contract for the sale of a lot which does not conform to the requirements of this section shall not be enforceable by the seller against the buyer. Any term of such contract purporting to waive the rights of the buyer to the disclosures required in this section shall be void.

(8 amended Dec. 14, 1994, P.L.1250, No.149)

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 8.

Section 9. Powers and Duties of the Environmental Quality Board. The Environmental Quality Board shall have the power and its duty shall be to adopt such rules and regulations of the department, applicable throughout the Commonwealth, as shall be necessary for the implementation of the provisions of this act. Such rules and regulations shall establish standards for the construction, installation, alteration, maintenance and operation of individual sewage systems and community sewage systems and of sewage treatment plants in such systems, take cognizance of latest technological developments in the field of individual sewage systems, including adoption of standards providing for use of alternate individual sewage systems, standards for enforcement programs of local agencies and for the certification of personnel employed by local agencies to administer the provisions of this act, standards for the preparation, review and acceptance of official plans, and requirements for the disbursement of State and Federal funds to municipalities and local agencies for planning, personnel and construction of sewage disposal systems. Such rules and regulations shall be adopted pursuant to the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law," upon such notice and after such public hearings as the board deems appropriate. The rules and regulations adopted by the board under this section shall supersede any ordinance, rules or regulations of local agencies which are not in conformity with the rules and regulations of the board.

(9 amended Dec. 14, 1994, P.L.1250, No.149)

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 9.

Section 10. Powers and Duties of the Department of Environmental Resources. The department shall have the power and its duty shall be:

(1) To order municipalities to submit official plans and revisions thereto within such time and under such conditions as the rules and regulations promulgated under this act may provide.

(2) To approve or disapprove official plans and, at its discretion, to approve or disapprove revisions thereto in accordance with regulations of the department. The department may review and act upon a revision for new land development or an exception to the requirement to revise or, at its discretion, accept the municipality's review and approval of the revision for new land development or exception to the requirement to revise by a municipality without further action. If the department disapproves, it shall provide a written explanation of the deficiencies to the municipality.

(3) To order the implementation of official plans and revisions thereto.

(4) To administer grants and reimbursements to local agencies as provided by section 6 of this act.

(5) To review the performance of local agencies in the administration of this act.

(6) To cooperate with local agencies, the advisory committee and industry in studying and evaluating new methods of sewage disposal. For the purpose of investigating innovative or alternative on-lot sewage systems, the department may enter into contracts with private entities.

(7) To order a local agency to undertake actions deemed by the department necessary to effectively administer this act in conformance with the rules and regulations of the department.

(7.1) To review the performance of delegated agencies in the performance of the duties established by delegation agreements authorized by sections 5 and 7 of this act and to revoke such agreements for cause.

(8) To enter upon lands and make inspections and to require the submission of papers, books and records by local agencies for the purposes set forth in this act.

(9) To train sewage enforcement officers and to require sewage enforcement officers to participate in training.

(10) To revoke or suspend the certification of sewage enforcement officers for cause, or to reinstate same, in accordance with the rules and regulations of the department. The department shall consider complaints filed by local agencies or the public relating to the performance of local sewage enforcement officers.

(10.1) To revoke or suspend the certification of a sewage enforcement officer for cause, including, but not limited to, negligence or providing false information related to the administration of this act and for violations of this act which are not related to the issuance of a permit.

(11) To develop a list of firms or agencies that provide testing services for evaluating gradation specifications of sand for use in elevated sand mound on-lot disposal systems. A permittee that is the sand supplier for an elevated sand mound shall certify in writing that sand used in these systems meets the requirements established by the department.

(12) To set and collect a processing fee from applicants for review of sewage facilities planning modules for new land development by the department. The fees shall be as follows:

(i) For any proposal to utilize on-lot sewage systems which proposal does not qualify as an exception to the requirement to revise an official plan in accordance with the rules and regulations of the department, the fee shall be thirty dollars ($30) per equivalent dwelling unit or per lot.

(ii) For any proposal which can reasonably be expected to result in a surface discharge to waters of the Commonwealth or the surface of the ground of greater than two thousand gallons per day or a discharge to a subsurface absorption area for which a permit is required under the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," the fee shall be one thousand five hundred dollars ($1,500); however, the fee for a proposal submitted by a political subdivision shall be five hundred dollars ($500).

(iii) For any proposal to utilize public sewerage services which utilization does not qualify as or is not designated as a module for a minor sewer project pursuant to the regulations of the department, the fee shall be fifty dollars ($50) per equivalent dwelling unit or per lot.

(iv) For proposals consisting of one lot subdivided from a parent tract existing as of the effective date of this act, there shall be no fee. The subdivision of a second lot from the tract shall disqualify the applicant from the fee exemption.

(v) For all other proposals not designated in subparagraphs (i), (ii), (iii) and (iv) of this paragraph, the fee shall be thirty-five dollars ($35) per equivalent dwelling unit or per lot.

(13) To establish minimum training requirements using any department curriculum of training as a prerequisite for applicants for certification as a sewage enforcement officer. Such curriculum may include a period of training under another certified sewage enforcement officer selected by the department as a prerequisite to certification for candidates who pass the certification test.

(14) To require, at the department's discretion, a certified sewage enforcement officer whose performance has been evaluated and found deficient by the department to complete a training course which may include a department curriculum of training or a period of training under the direction of another certified sewage enforcement officer selected by the department for a time period established by the department. This training may be used by the department as an alternative to suspension or as a requirement for reinstatement of a suspended certification. The local agency employing the training sewage enforcement officer must authorize that officer to provide such training services which will be offered within the jurisdiction of that local agency. The costs of department-required training incurred by the training sewage enforcement officer and the local agency employing the training sewage enforcement officer shall be paid by the department from funds made available under section 13.2 of this act.

(15) To delegate the review of certain alternate sewage systems as designated by the department to sewage enforcement officers, within the area of their jurisdiction, qualified by the department to review such systems.

(16) To require local agencies to take necessary action to provide timely service, including, but not limited to, utilizing the services of an alternate sewage enforcement officer, employing temporary sewage enforcement officers and entering contracts for service.

(17) To collect a fee of up to fifty dollars ($50) for the technical manual for sewage enforcement officers, except that certified sewage enforcement officers, local agencies and municipalities shall not be charged a fee.

(18) To establish a training course for on-lot sewage system installers, to issue certificates of completion, to publish a listing of those installers who successfully completed the course and to charge a fee for attendance at the course.

(19) To provide specific written reasons for its decision to any applicant whenever any plan or permit application required under the provisions of this act has been returned because the department has determined it to be incomplete because the department requests either additional information or verification of information submitted or because the department has issued a denial. Such information shall specify the defects found in the submission, plan or permit application and describe the requirements which have not been met.

(20) To require municipalities and municipal authorities to provide municipal waste load management information regarding sewage capacity and expansion plans to any individual upon request.

(10 amended Dec. 14, 1994, P.L.1250, No.149)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 11. Certification Board. (a) (1) There is hereby created within the department a State Board for Certification of Sewage Enforcement Officers. The board shall consist of five members to be appointed by the secretary. One member shall be a representative of local government; one member shall be a sewage enforcement officer certified under the provisions of this act; one member shall be a representative of the engineering profession; and two additional members shall be chosen from a list of nominees submitted to the secretary by the advisory committee. The advisory committee shall designate a minimum of three nominees for the latter two positions. The original appointed members of the board in the order listed above shall hold office for one, two, three, three and four years, respectively. Thereafter, each appointment shall be for a period of four years' duration. The secretary may reappoint board members for successive terms. Members of the board shall remain in office until a successor is appointed and qualified. If vacancies occur prior to completion of a term, the secretary shall appoint another member in accordance with this section to fill the unexpired term.

(2) The secretary, or his representative, shall call the first meeting of the board at which time a chairman of the board shall be elected. Thereafter, the chairman shall be elected annually. Three members of the board shall constitute a quorum. Meetings may be called by the chairman as needed to conduct the business of the board.

(3) The members of the board shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(b) The board shall have the power and its duty shall be, in accordance with the rules and regulations of the department, to:

(1) Review and pass upon applications for certification of sewage enforcement officers within thirty days of the receipt of the test results from the testing contractor. If the board does not meet within this time period, the applicants who have achieved the necessary passing score on the certification examination and who are not in violation or restrained by any department regulation from certification shall be deemed to be certified.

(2) Administer such examinations as prepared by the department, as may be deemed necessary to determine the fitness of candidates for certification. Such examinations shall be held no less than four times in each calendar year. The board shall determine and shall announce, in sufficient time, the location and time for such examinations, except that the board shall allow the department to schedule special "walk-in" examinations when a local agency demonstrates an immediate need to obtain a sewage enforcement officer. During the first year of this act, no fees will be charged for said examinations. During the second and subsequent years, the board is hereby authorized to collect a fee of ten dollars ($10) from each applicant.

(3) Hold hearings and issue adjudications under the provisions of the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law," on any revocation, suspension or reinstatement of certification by the department: Provided, That the filing of an appeal with the board shall not operate as an automatic supersedeas of the action of the department. The provisions of section 1921-A of The Administrative Code notwithstanding, such actions of the department shall not be appealable to the Environmental Hearing Board.

(4) Consider for renewal biennially certificates issued under this section, and collect a fee of fifty dollars ($50) or such reasonable fee as the department shall establish by regulation from each certificate holder for such renewal. Fees collected in excess of the actual administrative cost to the board to process certification renewals shall be dedicated to training sewage enforcement officers.

(5) Compile and keep current a register showing the names and addresses of certified sewage enforcement officers. Copies of this register shall be furnished on request for the department and for municipalities and upon payment of such reasonable fee for all others, as the department shall establish.

(11 amended Dec. 14, 1994, P.L.1250, No.149)

Section 12. Civil Remedies. (a) Any local agency or any municipality which is a member of a local agency shall have the power to institute suits in equity to restrain or prevent violations of section 7 of this act occurring within the jurisdiction or corporate limits of said local agency or municipality. Such suits may be instituted after notice has first been served upon the Attorney General of the intention to so proceed. ((a) repealed in part Apr. 28, 1978, P.L.202, No.53)

(b) The Attorney General at the request of the department shall have power to institute proceedings to restrain or prevent violations of the provisions of this act or of the rules and regulations promulgated hereunder or of

any order of the department issued hereunder or for the enforcement of any order of the department issued hereunder. ((b) repealed in part Apr. 28, 1978, P.L.202, No.53)

(c) ((c) repealed Apr. 28, 1978, P.L.202, No.53)

(d) In cases under this section where the department has ordered the local agency to revoke any permits deemed improperly issued under the provisions of section 7 of this act, or in other cases under this section where the circumstances require it or the public health may be endangered, a mandatory preliminary injunction may be issued upon the terms prescribed by the court, notice of the application therefor having been given to the defendant in accordance with the rules of equity practice. ((d) repealed in part Apr. 28, 1978, P.L.202, No.53)

(12 amended July 22, 1974, P.L.621, No.208)

Section 12.1. Appeals. (12.1 repealed July 22, 1974, P.L.621, No.208)

Section 13. Penalties. Any person who shall violate any provision of this act or the rules, regulations or standards promulgated pursuant to this act or who is the owner of a property on which a condition exists which constitutes a nuisance under this act or who resists or interferes with any officer, agent or employee of a local agency or the department, in accordance with the provisions of this act, in the performance of his duties, shall be guilty of a summary offense. Upon conviction thereof, such person shall be sentenced to pay a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), plus costs, or to imprisonment not to exceed ninety days, or both.

(13 amended Dec. 14, 1994, P.L.1250, No.149)

Section 13.1. Fines, Civil Penalties and Fees. (a) In addition to proceeding under any other remedy available at law or in equity for a violation of any provision of this act or any rule or regulation promulgated under this act or any order or permit issued by the department, municipality or local agency pursuant to this act, the department, municipality or local agency, after notice and hearing, may assess a civil penalty against any person for that violation. In addition, the department, municipality or local agency may assess the cost of damages caused by such violation and the cost of correcting such violation. Before assessing a civil penalty or such costs, the department, municipality or local agency shall provide a violator with a notice of proposed assessment which cites the violation of this act, regulation, permit or order issued thereunder and offer to conduct an assessment hearing to evaluate the violation and the amount of the penalty or cost. The notice of proposed assessment shall contain an explanation of the right to a hearing and appeal. The department, municipality or local agency shall assign a representative to hold the assessment hearing. The assessment hearing shall not be governed by requirements for formal adjudicatory hearings and may be held at any time at the convenience of the parties. The civil penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not be less than three hundred dollars ($300) and not more than two thousand five hundred dollars ($2,500) for each violation. In determining the amount of the penalty, the department, municipality or local agency shall consider:

(1) the willfulness of the violation;

(2) damage to water, land or other natural resources or their uses, cost of restoration and abatement;

(3) savings resulting to the person in consequence of the violation;

(4) deterrence of future violation; and

(5) other relevant factors.

(b) If a person against whom costs or a civil penalty has been assessed after notice and hearing pursuant to subsection (a) fails to pay the assessed costs or penalty in full or to perfect an appeal de novo under subsection (c) within thirty days following assessment of the civil penalty, such failure to pay or perfect an appeal shall constitute a separate violation for which an additional civil penalty may be assessed pursuant to subsection (a). Additional violations shall be deemed to occur and additional civil penalties may be assessed pursuant to subsection (a) each time a person fails to pay or perfect an appeal under subsection (c).

(c) When the department, municipality or local agency has assessed costs or a civil penalty pursuant to subsection (a) or (b), the person assessed with the costs or civil penalty shall then have thirty days to pay the costs or penalty in full. If the person wishes to contest the penalty or the fact of the violation, the person shall have a right to an appeal de novo pursuant to section 16 of this act. The person shall forward the amount of the civil penalty to the agency or entity assessing the civil penalty within the thirty-day period for placement in an escrow account with the State Treasurer or any bank in this Commonwealth, post an irrevocable letter of credit issued by a Federal or Commonwealth-chartered lending institution or post an appeal bond to the agency or entity assessing the civil

penalty within such thirty days in the amount of the assessed civil penalty or other such amount as may be approved by a court of competent jurisdiction or the Environmental Hearing Board. The bond must be executed by a surety licensed to do business in this Commonwealth and in a form satisfactory to the agency or entity assessing the civil penalty. If through administrative or final judicial review of the proposed assessed penalty it is determined that no violation occurred or that the amount of the penalty is reduced, the agency or entity which assessed the civil penalty shall, within thirty days, remit the appropriate amount to the person. Failure to make the required deposit in escrow or submit an irrevocable letter of credit or a surety bond as provided in this subsection shall result in a waiver of all legal rights to appeal the violation or the amount of the penalty.

(d) In any case where the department, municipality or local agency determines that damage resulting from the violation is of a continuing nature, the department, municipality or local agency may impose a weekly assessment of not more than two thousand five hundred dollars ($2,500) per week for each week the violation continues unabated by the violator. The weekly assessment shall accrue indefinitely after the date of notice of the assessment to the violator.

(e) Costs and civil penalties shall be payable to the agency or entity assessing the civil penalty and shall be collectable in any manner provided by law for the collection of debts. If any person liable to pay these costs or penalty neglects or refuses to pay the same after demand, the amount of the costs or civil penalty, together with interest and any costs that may accrue, shall constitute a judgment in favor of the agency or entity assessing the costs or civil penalty upon the real property of the person from the date it has been entered and docketed on record by the prothonotary of the county where such is situated. The agency or entity assessing the cost or civil penalty may, at any time, transmit to the prothonotaries of the respective counties certified copies of all these judgments, and it shall be the duty of each prothonotary to enter and docket them and to index the same as judgments are indexed without requiring the payment of costs as a condition precedent to the entry thereof.

(f) Any municipality which fails to submit any official plan, update revision or special study thereto or has not revised or implemented its official plan as required by any rule, regulation or order of the department shall be subject to a civil penalty. The civil penalty so assessed shall be a minimum of three hundred dollars ($300) per day. The penalty shall be assessed for each day of the failure commencing on the thirtieth day after a date specified for compliance in an order by the department and shall continue until that time as the municipality submits the required official plan, update revision or special study or has commenced implementation of its official plan in accordance with a schedule approved by the department. The penalty shall be paid on the fifteenth day of each succeeding month and shall be sent to the regional office for the region of the department in which the municipality is located.

(13.1 added Dec. 14, 1994, P.L.1250, No.149)

Section 13.2. Disposition of Fines, Civil Penalties and Fees. (a) There is hereby created a restricted nonlapsing account for the deposit of all fees, fines and civil penalties authorized by this act, except as provided under subsection (c), to be collected by the department. All moneys in this account are hereby appropriated to the department, upon the Governor's authorization, for the costs of administering the provisions of this act.

(b) Fines and civil penalties collected pursuant to this act by a municipality or local agency shall be placed in a restricted account and shall only be used for the repair of damage or mitigation of threats to the public health, for costs incurred to investigate and take enforcement action and for the administration of this act. Any fees collected by municipalities or local agencies pursuant to this act may only be used for the administration of this act.

(c) There is hereby created a restricted, nonlapsing account for the deposit of fines and penalties collected by the department under this act from municipalities in accordance with section 13.1(f) of this act. Municipalities being assessed pursuant to this act may apply to the department for funding from this account to abate nuisances or correct other violations of this act. Disbursement of moneys to these municipalities shall be in accordance with plans approved by the department and shall be allotted as the work to abate the nuisance or make the required improvements proceeds. The department shall allow municipalities to pay the fines or penalties incurred under this act in reasonable installment plans agreed to by both the department and respective municipality. All moneys in this account are hereby appropriated, with the authorization of the Governor, for implementing the provisions of this subsection.

(13.2 added Dec. 14, 1994, P.L.1250, No.149)

Section 14. Nuisances. A violation of section 7 of this act or the discharge of untreated or partially treated sewage to the surface of the ground or into the waters of this

Commonwealth, except as specifically approved by the department under sections 202 and 207 of the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," or permitted by the local agency pursuant to section 7.3 of this act shall constitute a nuisance and shall be abatable in the manner provided by law.

(14 amended Dec. 14, 1994, P.L.1250, No.149)

Section 15. Existing Rights and Remedies Preserved. Nothing in this act shall be construed as estopping the Commonwealth, or any district attorney or solicitor of a local agency from proceeding in courts of law or equity to abate nuisances forbidden under this act, or abate nuisances under existing law. It is hereby declared to be the purpose of this act to provide additional and cumulative remedies to abate public health hazards and pollution of the waters of this Commonwealth, and nothing in this act contained shall in any way abridge or alter rights of action or remedies now or hereafter existing in equity, or under the common law or statutory law, criminal or civil, nor shall any provision of this act, or the granting of any permit under this act, or any act done by virtue of this act, be construed as estopping the Commonwealth, persons or municipalities, in the exercise of their rights under the common law or decisional law or in equity, from proceeding in courts of law or equity to suppress nuisances or public health hazards or to abate any pollution now or hereafter existing, or enforce common law or statutory rights.

(15 added July 22, 1974, P.L.621, No.208)

Section 16. Hearings and Appeals. (a) Any person aggrieved by an action of a local agency or sewage enforcement officer in granting or denying a permit, issuing an order or other actions taken under this act shall have the right within thirty days after receipt of notice of the action to request a hearing before the local agency. Revocation of permits shall occur only after notice and opportunity for hearing has been given to the permittee. Hearings under this subsection shall be conducted pursuant to the act of December 2, 1968 (P.L.1133, No.353), known as the "Local Agency Law." Any subsequent appeal shall be to the court of common pleas of the county where the land to which the permit pertains is located. The Attorney General shall be notified in writing by the appellant of any appeal challenging the constitutionality of any provision of this act or the validity of any rule or regulation promulgated hereunder.

(b) Any order, permit, or decision of the department under this act, except as otherwise provided by section 10 (10) and section 11 of this act, shall be taken, subject to the right of notice and appeal to the Environmental Hearing Board, pursuant to section 1921-A of The Administrative Code of 1929, as amended, and the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law," as amended.

(16 amended Dec. 14, 1994, P.L.1250, No.149)

Section 17. Saving Clause. Nothing in this act shall be deemed to affect, modify, amend or repeal any provisions of the act of June 22, 1937 (P.L.1987, No.394), as amended.

(17 added July 22, 1974, P.L.621, No.208)

Section 18. Severability. The provisions of this act are severable and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this act.

(18 added July 22, 1974, P.L.621, No.208)

Section 19. Repealer. All acts or parts thereof inconsistent with the provisions of this act are repealed.

(19 added July 22, 1974, P.L.621, No.208)

Section 20. Appropriation for Training. There is hereby appropriated to the department for the 1974-75 fiscal year two hundred fifteen thousand dollars ($215,000) for the training and certification of sewage enforcement officers.

(20 added July 22, 1974, P.L.621, No.208)

Section 20.1. Sunset Provisions. (a) The State Board for Certification of Sewage Enforcement Officers, scheduled for termination under section 6 of the act of December 22, 1981 (P.L.508, No.142), known as the "Sunset Act," is hereby reestablished.

(b) The board is subject to evaluation, review and termination within the time and in the manner provided in the "Sunset Act."

(c) This section, with respect to the board, constitutes the legislation required to reestablish that board under the "Sunset Act."

(20.1 added July 1, 1989, P.L.124, No.26)

Section 21. Effective Date. This act shall take effect January 1, 1968: Provided, That any local agency which shall enforce this act in a manner deemed satisfactory to the secretary shall receive reimbursement as provided in section 6 for expenses incurred after July 1, 1967: And provided further, That after July 1, 1967 the department is authorized to administer grants to any county, municipality or authority pursuant to section 6.

(21 amended July 22, 1974, P.L.621, No.208)

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