

**CHAPTER 71. ADMINISTRATION OF SEWAGE FACILITIES  
PLANNING PROGRAM**

**Subchapter A. GENERAL**

**§ 71.1. Definitions.**

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

**Absorption area**—**A component of an individual or community onlot sewage system where effluent from a treatment tank seeps into the soil; it consists of soil or an aggregate-filled area containing subsurface piping or tubing for the distribution of effluent.**

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

**Blackwater**—**Liquid and solid sewage generated through toilet or urinal usage.**

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

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

*Delegated agency*—A municipality, local agency, multimunicipal local agency or county or joint county department of health to which the Department **[was]** **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.

**Dwelling**—**A structure or building, or any portion thereof which is used, intended, or designed to be occupied for temporary or permanent residence including, houses, mobile homes, hotels, motels, cabins, and apartments.**

**EDU**—**Equivalent dwelling unit**—**[For the purpose of determining the number of lots in a subdivision only as it relates to the determination of planning exemptions and fees for planning module reviews under this chapter, that part of a multiple family dwelling or commercial or industrial establishment with flows equal to 400 gpd. These flow figures are not intended to be used for the calculation of flows for the design of community sewerage systems or for the allocation of flows related to community sewerage systems. Community sewerage system flows for design and permitting purposes shall be calculated using the procedures established in the Department’s Domestic Wastewater Facilities Manual (DEP-1357).] A unit of measurement equivalent to sewage flow generated by a three-bedroom single-family residential dwelling, used in sewage facilities planning for all land use types (residential, commercial, industrial, recreational, seasonal or institutional establishment). An EDU for onlot sewage facilities planning is 400 gpd. An EDU for sewerage facilities planning is 262.5 gpd.**

**Exemption from the requirement to revise the official plan for new land development**—**A process described in § 71.56a (relating to exemptions from the requirement to revise the**

**Commented [A1]:** Key to changes:

**Green:** moved language

**[Red]:** reserved/deleted

**Black:** new language

**Commented [A2]:** Section 71.1 contains several new or revised definitions relating to administration of the sewage facilities program. The newly defined or revised terms are intended to achieve consistency with the Act, initiatives advanced by the US Environmental Protection Agency, and to recognize recent developments in the sewage disposal industry.

Revised definitions: Delegated agency, Equivalent dwelling unit, Local agency, Official plan revision, Retaining tank, Sewage, Sewage facilities, Sewage management program, Soil horizon, Soil profile, Waters of this Commonwealth and Working day.

New definitions: Absorption area, Asset management, Blackwater, Dwelling, Exemption, Gpd, Graywater, Industrial waste, Plat, Qualified soil scientist, Reclaimed water, Responsible municipal official, Redoximorphic features, Sewage facilities planning, Sewerage, Soil morphological evaluation, Soil mottling (redoximorphic features), Soil probe (test pit), Task/activity report, and USGS.

**Commented [A3]:** Removed Soil Absorption Area definition in 73, copied to Absorption Area definition; deleted 'soil absorption area' and replaced with 'absorption area' as typically referenced.

**Commented [A4]:** Added - matches Chapter 72 definition.

**official plan for new land development) which provides the criteria under which a revision for new land development or an exception to the requirement to revise is not required.**

**gpd—Gallons per day**

**Graywater—Sewage drained from sinks, tubs, showers, dishwashers, clothes washers and other nontoilet sources.**

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

**Industrial waste—Shall be construed to mean any liquid, gaseous, radioactive, solid or other substance, not sewage, resulting from any manufacturing or industry, or from any establishment, as defined in the Clean Streams Law, and mine drainage, refuse, silt, coal mine solids, rock, debris, dirt and clay from coal mines, coal collieries, breakers or other coal processing operations. “Industrial waste” shall include all such substances whether or not generally characterized as waste.**

Commented [A5]: CSL definition.

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

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

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

*Local agency*—A municipality [(1), or any combination of municipalities acting cooperatively or jointly under the laws of the Commonwealth)], county, county department of health or joint county department of health.

Commented [A6]: Changed to match Chapter 72 definition.

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

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

*Official plan*—A comprehensive plan for the provision of adequate sewage systems, adopted

by a municipality or municipalities possessing authority or jurisdiction over the provision of the systems, and submitted to, and approved by, the Department as provided by the act, and this part.

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

- (i) *Update revision*—A comprehensive revision to an existing official plan required when the Department or municipality determines the official plan or one or more of its parts is inadequate for the existing or future sewage facilities needs of a municipality or its residents or landowners.
- (ii) *Revision for new land development*—A revision to a municipality’s official plan resulting from a proposed subdivision as defined in the act.
- (iii) *Special study*—A study, survey, investigation, inquiry, research report or analysis which is directly related to an update revision. The studies provide documentation or other support necessary to solve specific problems identified in the update revision.
- (iv) *Supplement*—A sewage facilities planning module for a subdivision for new land development which will not be served by sewage facilities requiring a new or modified permit from the Department under **[The]the** Clean Streams Law, and which is reviewed and approved by a delegated agency.
- (v) *Exception to the requirement to revise*—A process established in § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) which describes the criteria under which a revision for new land development is not required.

**Commented [A7]:** Moved out from under official plan revision to stand on its own.

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

**Commented [A8]:** Changed to match Chapter 72.

**Plat**—A map drawn to scale, in metes and bounds, showing the divisions of a piece of land. It describes the piece of land, its boundaries, lots, roads, easements and rights of way.

**Commented [A9]:** Modified from USLegal website. [Plat Law and Legal Definition | USLegal, Inc.](#)

**Qualified soil scientist**—A person certified as a sewage enforcement officer and who has documented 2-years’ experience in the characterization, classification, mapping and interpretation of soils as they relate to the function of onlot sewage disposal systems and has either a Bachelor of Science Degree in soil science from an accredited college or university or is a Certified Professional Soil Scientist or Certified Professional Soil Classifier registered by the Soil Science Society of America.

**Commented [A10]:** Copied from definition in Chapter 72 and updated.

**Reclaimed water**—Treated wastewater used in accordance with applicable guidelines for a beneficial purpose as a substitute for water withdrawn from a surface or groundwater source.

**Redoximorphic features**—Concentrations and depletions of iron (Fe) and manganese (Mn) compounds in the soil resulting from periods of prolonged soil saturation. The presence of redoximorphic depletions in a soil horizon is indicative of a seasonal high water table limiting zone. Redoximorphic features are a form of soil mottling.

**Commented [A11]:** Added definition from PAPPS comments.

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

**Responsible municipal official**—A person who is a principal executive officer, ranking elected official or other authorized employee of the municipality or government body given the expressed authority to act in an official capacity on official matters.

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

**Commented [A12]:** Order of (i)-(vii) changed to be alphabetical and unchanged with the exception of “chemical toilet.”

- (i) **Chemical toilet**— [A permanent or portable nonflushing toilet using chemical treatment in the retaining tank for odor control.] A waterless toilet with a tank that contains a chemical to limit decomposition of non-water-carried human waste during storage prior to offsite treatment.
- (ii) **Composting toilet**—A device for holding and processing human and organic kitchen waste employing the process of biological degradation through the action of microorganisms to produce a stable, humus-like material.
- (iii) **Holding tank**—A tank, whether permanent or temporary, to which sewage is conveyed by a water carrying system.
- (iv) **Incinerating toilet**—A device capable of reducing waste materials to ashes.
- (v) **Portable restroom trailer**—A mobile unit with self-contained water and sewage storage used on a temporary basis for an event. They may be outfitted with complete facilities including running water, flushable toilets, showers, and sinks.
- (vi) **Privy**—A tank designed to receive sewage where water under pressure is not available.
- (vii) **Recycling toilet**—A device in which the flushing medium is restored to a condition suitable for reuse in flushing.

**Commented [A13]:** Updated to be consistent with the CIDWT Glossary 2007.

**Service provider**—An individual, company, or other entity who is trained to provide prescribed operation of, and maintenance to a sewage facility or individual components of the sewage facility.

Sewage—**[A] Any substance that contains [the ] 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[. The term includes any substance], or which constitutes pollution under [The] the Clean Streams Law.**

Commented [A14]: Made consistent with the SFA

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

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

- (i) Individual sewage system—A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into waters of this Commonwealth or by means of conveyance to another site for final disposal. The term includes:
  - (A) Individual onlot sewage system—An individual sewage system which uses a system of piping, tanks or other facilities for collecting, treating and disposing of sewage into a soil absorption area or spray field or by retention in a retaining tank.
  - (B) Individual sewerage system—**[A]An individual sewage** system which uses a method of sewage collection, conveyance, treatment, and disposal other than renovation in a soil absorption area, or retention in a retaining tank.
- (ii) Community sewage system—A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.
  - (A) Community onlot sewage system—A **community sewage** system **which uses a system** of piping, tanks or other facilities **[serving two or more lots and] for** collecting, treating and disposing of sewage into a soil absorption area or retaining tank located on one or more of the lots or at another site.
  - (B) Community sewerage system—A publicly or privately~~[-]~~owned community sewage system which uses a method of sewage collection, conveyance, treatment and disposal other than renovation in a soil absorption area, or retention in a retaining tank.

Sewage facilities planning—**The development and implementation of an official plan that addresses the present and future sewage disposal needs in a municipality.**

Commented [A15]: New definition to clarify what sewage facilities planning entails.

Sewage facility asset management—**The practice of managing sewage facility capital assets**

**to maximize the long-term value and useful life of those assets to a municipality.**

*Sewage management program*—A program **conforming to Subchapter E (relating to sewage management programs)**, authorized by the official action of a municipality for the administration, management and regulation of **[the disposal of] sewage treatment and disposal to assure the proper long-term operation and maintenance of sewage facilities.**

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

**Sewerage—Sewage that is collected, conveyed, treated and disposed other than renovated in an absorption area or retained in a retaining tank.**

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

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

Commented [A16]: Modified by combining with those in 72 and 73.

**Soil morphological evaluation—A soil probe and site investigation performed by a qualified soil scientist that interprets soil profile characteristics and the land surface features to determine site suitability for certain onlot sewage systems and is used to define appropriate infiltration and horizontal linear loading rates used for disposal system design.**

**Soil mottling—A soil color pattern consisting of patches of different colors or shades of color interspersed with the dominant soil color which results from prolonged saturation of the soil.**

**Soil probe (test pit)—A soil excavation, dug by mechanical means and large enough for safe personal entry, used to describe and record the soil profile, including identifying the depth and type of limiting zone if one exists, as part of the site evaluation.**

*Soil profile*—**[The collection of soil horizons, including the natural organic layers on the surface.] A vertical cross section of soil horizons at a given location.**

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

**USGS - United States Geological Survey**

*Waters of this Commonwealth*—Rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and other bodies or channels

of conveyance of surface and underground water, or **[of their]** parts **thereof**, whether natural or artificial, within or on the boundaries of this Commonwealth.

**Commented [A17]:** Changed to match Chapter 72 definition.

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

### § 71.2. Scope and time periods.

- (a) This chapter is adopted in accordance with the duties imposed upon the Department under the act and the Clean Streams Law and applies to municipalities, local agencies and delegated agencies administering the planning provisions of the act and to persons subdividing land or planning, designing or installing sewage facilities.
- (b) This chapter governs the sewage planning requirements for sewage facilities being proposed by municipalities to resolve existing sewage disposal problems, to provide for the sewage disposal needs of new land development and otherwise to provide for future sewage disposal needs of a resident or landowner in a municipality.

**(b.1) This chapter provides the sewage planning requirements for the safe and effective disposal of sewage in a manner protective of the environment, public health and safety by preventing and eliminating pollution of waters of this Commonwealth.**

**Commented [A18]:** Added to provide clarity in the purpose of sewage facilities planning. Language was partially taken from the SFA Policy Statements.

- (c) Time periods referred to in this chapter **[will be] and not otherwise defined are** computed under 1 Pa.C.S. § 1908 (relating to computation of time).

### § 71.3. **[Purposes.] {Reserved}.**

**[This chapter is separated into six subchapters:**

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

sewage facilities planning modules.]

## Subchapter B. OFFICIAL PLAN REQUIREMENTS

### GENERAL

#### § 71.11. General requirement.

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

- (a) **Municipalities are required to develop, maintain, implement and revise, as necessary, complete official plans that provide for the resolution of existing sewage disposal problems, provide for the future sewage disposal needs of new land development and provide for the future sewage disposal needs of the municipality.**
- (b) **Municipalities are required to establish a sewage management program that assures the proper operation and maintenance of sewage facilities within their borders. Proper operation and maintenance of sewage facilities is essential to the provision of adequate sewage treatment and disposal over the functional life of a sewage treatment system. Municipalities shall, therefore, address long-term operation and maintenance in official plans and update revisions through a sewage management program as specified in Subchapter E (relating to sewage management programs).**
- (c) **Municipalities shall develop and submit official plans and update revisions to the Department for approval under the act, §§ 71.12—71.14, 71.21 and 71.31, and Subchapters C—F.**
- (d) **Following the Department's approval, municipalities shall implement official plans and update revisions in accordance with the act, §§ 71.12—71.14, 71.21 and 71.31, and Subchapters C—F.**
- (e) **Each municipality shall review its official plan and provide written confirmation of the continued adequacy of the plan to the Department every 10 years, on each 10-year anniversary date of the original approval by the Department. If the Department concurs with the municipality's determination of the adequacy of the plan, the plan will be considered current. If the municipality or the Department determines the official plan is inadequate, the municipality shall revise their official plan as required in this subchapter.**
- (f) **Municipalities that do not have an approved official plan, or fail to revise, or fail to implement an official plan when required, shall be subject to limitations on the issuance of onlot sewage system permits or connection to public sewage facilities as specified in § 72.23 (relating to limitation on onlot sewage system permit issuance) and**

**Commented [A19]:** This section contains both new material and previously existing material that was consolidated from scattered locations in Chapter 71. The section is intended to clarify general municipal planning responsibilities and improve familiarity with individual municipal plan contents.

Subsections (a) and (d) were moved from § 71.11 (originally a general paragraph), subsections (b) and (c) were modified for clarity and moved from § 71.71 (first 3 sentences and (a), respectively), subsection (f) was moved from § 71.54(e) and modified to include connections to public sewers and subsection (g) was moved from § 71.12(f). New subsection (e) was included to clarify municipal responsibility under section 5 of the Act.

**Commented [A20]:** Moved to (a)

**Commented [A21]:** Moved to (d)

**Commented [A22]:** Moved from 71.11 first sentence and revised

**Commented [A23]:** Moved from 71.71 (first 3 sentences) and revised

**Commented [A24]:** Moved from 71.71 and revised

**Commented [A25]:** Moved from last sentence in the paragraph in original 71.11 and expanded.

**Commented [A26]:** Moved from 71.54(c) and revised.



**Chapter 94 (relating to municipal wasteload management).**

- (g) **If any civil or administrative action is taken under this chapter, the municipality shall have the burden of establishing that its official plan or proposed update revision complies with the requirements of this chapter.**

Commented [A27]: Moved from 71.12(f) and revised.

**§ 71.12. Municipal responsibility to revise official plans.**

- (a) **[Municipalities shall review and revise their official plans whenever the municipality or the Department determines that the plan is inadequate to meet the existing or future sewage disposal needs of the municipality or portion thereof.] A municipality shall review and revise its official plan or any of its parts when:**

Commented [A28]: Existing 71.12(a) is divided into two sections with minimal changes.

- (1) **The municipality or the Department determines that the official plan, or any of its parts, is inadequate to meet the existing or future sewage disposal needs of the municipality or portion thereof.**
- (2) **The official plan, or any of its parts, is inadequate to meet the sewage needs of new land development.**
- (3) **There is an increase in sewage flow on an existing sewage generating lot of one EDU or more and the total flow is two EDUs or more.**
- (4) **There is a new sewage flow of two EDUs or more.**
- (5) **There are new facts produced that would have resulted in the disapproval of an exemption from sewage facilities planning for new land development or an exception to revise the official plan for new land development if the facts had been known at the time of the project's approval.**
- (6) **There is a change from either a system permitted by the Department, or retaining tank permitted by either the Department or local agency, to an onlot sewage system permitted by a local agency.**
- (7) **There is a proposed disconnection of sewage from a sewage treatment facility.**
- (8) **There is a change in ownership of a sewage treatment plant, conveyance, or sewage collection system.**
- (9) **The implementation and administration of the municipality's official plan is affected by the official plan or update revision of another municipality.**
- (10) **There is a new subdivision where the proposed establishment on the lot is expected to produce sewage, except as provided by §§ 71.55 and 71.56a (relating to exceptions to the requirement to revise the official plan; and exemptions from the requirement to revise the official plan for new land development).**
- (11) **A permit is required from the Department for sewage facilities under section 5**

Commented [A29]: Moved from 71.51(a)(2) and revised.

Commented [A30]: Moved from 71.51(a)(1) and revised.

of the Clean Streams Law (35 P.S. § 691.5).

Commented [A31]: Moved from 71.51(a)(4) and revised.

- (12) **There is use of new retaining tanks and retaining tanks not accounted for in the official plan, except when abating a malfunctioning onlot sewage system under § 72.35 (relating to correction of malfunctioning onlot sewage systems).**
- (b) Two or more municipalities may jointly submit a single official plan **or update revision.** The plan may be prepared by one **[of the municipalities] municipality** and submitted on behalf of participating municipalities if the plan is adopted by resolution of the governing body of each municipality to which it relates.
- (c) The existence, absence or content of a municipal or county subdivision ordinance or regulation will not relieve the municipality of its duty to revise its official plan as required by the act and this chapter.
- (d) The proposed **official plan or update revision** content **[shall] must** be consistent with the requirements of the act.
- (e) The completed **official plan or update revision** shall be submitted **to the Department** within the time limits established **[by the Department]** under § 71.13(a) (relating to Department responsibility to require **revisions to official [plan revisions] plans**) **or such time limit that is mutually agreed upon by the Department and the municipality.**
- (f) **[In a civil or administrative action taken under this chapter, the municipality shall have the burden to establish that its official plan or proposed revision complies with the requirements of this chapter.] {Reserved}.**

**§ 71.13. Department responsibility to require revisions to official [plan revisions] plans.**

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

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

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

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

**Commented [A32]:** This sentence moved to (c.1)(1) and revised.

**Commented [A33]:** This sentence moved to (c.1)(2) and revised.

**Commented [A34]:** This sentence moved to (c.1)(3) and revised.

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

**Commented [A35]:** Moved to (c.1)(4) and revised.

(b.1) **A person who is a resident or a legal or equitable property owner in a municipality may file a private request with the Department requesting that the Department order the municipality to revise the municipality's official plan to address a sewage management program when the person can demonstrate one of the following:**

**Commented [A36]:** Moved from 71.75 and revised.

(1) **That existing sewage facilities within the municipality are not being properly operated and maintained in accordance with the act and the regulations promulgated thereunder.**

**Commented [A37]:** Moved from 71.75(1) and revised.

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

**Commented [A38]:** Moved from 71.75(2) – with no changes

(c) **Upon receipt of a private request for revision, the Department will notify the**

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

Commented [A39]: Moved to (c.1)(5) and revised.

(c.1) *Private request requirements.*

(1) A private request for the Department to order a municipality to revise the municipality’s official plan may be made only after a prior written demand upon and written refusal by the municipality to implement or revise its official plan, or failure of the municipality to reply in either the affirmative or negative within 60 days, or failure of the municipality to implement its official plan within the time limits established in the plan’s implementation schedule, or failure to revise its official plan within the time limits established in this chapter.

Commented [A40]: Moved from 71.14(a) second paragraph and revised.

(2) The private request to the Department must contain a description of the area of the municipality in question and a list of reasons why the official plan is believed to be inadequate or is not being implemented.

Commented [A41]: Moved from 71.14(a) third paragraph and revised.

(3) The person making the private request shall submit the request in writing to the Department, the municipality, official planning agencies (municipal and county), and health department (county or joint county) concurrently.

Commented [A42]: Moved from 71.14(a) fourth paragraph and revised.

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

Commented [A43]: Moved from 71.14 (b) and revised

(5) Upon receipt of a private request for revision the Department will notify the municipality, official planning agencies (municipal and county), and health department (county or joint county) of receipt of the private request and will inform them that written comments must be submitted to the Department within 45 days.

Commented [A44]: Moved from 71.14(c) and revised

(6) In arriving at its decision about private requests to order a municipality to revise the municipality’s official plan, the Department will consider the following:

Commented [A45]: Moved from 71.14(d) with technical edit.

- (i) The reasons advanced by the requesting person.
- (ii) The reasons for denial advanced by the municipality.
- (iii) Comments submitted under this section.

- (iv) Whether the proposed sewage facilities and documentation supporting the proposed sewage facilities are consistent with this chapter.
- (v) The existing official plan developed under this chapter. Commented [A46]: Language from SFA Section 5(b)(1)
- (7) The Department will render its decision, and inform the person requesting the revision and the appropriate municipality, in writing, within 120 days after either receipt of the comments permitted by this section or 120 days after the expiration of the 45-day comment period when no comments have been received or within an extended period if agreed to in writing by the person making the request. Commented [A47]: Moved from 71.14 (e) – no changes.
- (8) The Department's decision will specify whether a revision to the official plan is required and if not, provide the reasons for refusal of the private request. Commented [A48]: Moved from 71.14(e)(1) and revised.
  - (i) If the Department orders a requested revision, the order will specify time limits for plan completion, including interim deadlines and compliance schedules the Department deems necessary. Commented [A49]: Moved from 71.14(e)(1) second sentence – no changes.
  - (ii) If the Department refuses to order a revision requested under subsection (a), it will notify the person who filed the request, in writing, of the reasons for the refusal. Commented [A50]: Moved from 71.14 (e)(2) – no changes.
  - (iii) The Department may not refuse to order a requested revision because of inconsistencies with any applicable zoning, subdivision or land development ordinances, but 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 by court orders. Commented [A51]: Moved from 71.14(e)(3) with one technical edit.
- (d) **In arriving at its decision, the Department will consider the following:**
  - (1) **The reasons advanced by the requesting person.**
  - (2) **The reasons for denial advanced by the municipality.**
  - (3) **Comments submitted under this section.**
  - (4) **Whether the proposed sewage facilities and documentation supporting the proposed sewage facilities are consistent with this part.**
  - (5) **The existing official plan developed under this chapter. {Reserved}.** Commented [A52]: 71.14(d) moved without changes to (c.1)(6).
- (e) **The Department will render its decision, and inform the person requesting the revision and the appropriate municipality, in writing, within 120 days after either receipt of the comments permitted by this section or 120 days after the expiration of the 45-day comment period when no comments have been received or within an extended period if agreed to in writing by the person making the request.** Commented [A53]: 71.14(e) moved without changes to (c.1)(7)

- (1) **The Department's decision will specify the nature of the revision to the municipality's official plan that the municipality will be required to implement or the reasons for refusal. If the Department orders a requested revision, the order will specify time limits for plan completion, including interim deadlines and compliance schedules the Department deems necessary.**
- (2) **If the Department refuses to order a revision requested under subsection (a), it will notify the person who filed the request, in writing, of the reasons for the refusal.**
- (3) **The Department may not refuse to order a requested revision because of inconsistencies with any applicable zoning, subdivision or land development ordinances, but will make its order subject to any limitations properly placed on the development of the property by the municipality under its zoning, subdivision or land development ordinances or by court orders. {Reserved}.**

**Commented [A54]:** 71.14(e)(1) first sentence moved to (c.1)(8) with minor modification

**Commented [A55]:** 71.14(e)(1) second sentence moved without changes to (c.1)(8)(i).

**Commented [A56]:** 71.14(e)(2) moved without changes to (c.1)(8)(ii).

**Commented [A57]:** 71.14(e)(3) moved to (c.1)(8)(iii) with a minor change

#### OFFICIAL PLAN PREPARATION

#### § 71.21. **[Content of official] Official plans, update revisions and special studies.**

- (a) **[A municipality shall submit a Task/Activity Report or other appropriate form prior to preparation of an official plan to determine which of the planning elements listed in this section are necessary to meet the specific needs of that municipality. It is recommended that the municipality meet with the Department prior to submitting the Task/Activity Report to the Department. A determination does not constitute a final Department action until the completed plan is submitted by the municipality and acted upon by the Department. If applicable to the specific planning needs of the municipality, as determined by the Department, the completed plan submitted to the Department shall:**
  - (1) **Describe and analyze the physical and demographic characteristics of the planning area through the following:**
    - (i) **An identification and mapping of the planning area boundaries and political subdivision boundaries.**
    - (ii) **An identification and mapping of the physical characteristics of the planning area, including streams, lakes, impoundments, natural conveyance channels and drainage basins.**
    - (iii) **A survey and a map and analysis of soils and geological features.**
    - (iv) **A listing of current population information and historical population data.**
    - (v) **An identification of wetlands as defined in Chapter 105 (relating to dam safety and waterway management).**

- (vi) **Identification of the source of the potable water supply including the available capacity of public supplies and aquifer yield for groundwater supplies.**
- (2) **Evaluate existing sewage facilities in the planning area through the following:**
  - (i) **An identification, mapping and description of municipal and non-municipal, individual and community sewerage systems in the planning area including:**
    - (A) **The location of treatment plants, main intercepting lines, pumping stations and force mains, including their size, capacity, point of discharge and drainage basin served.**
    - (B) **A description of problems with the existing facilities, including existing or projected overload under Chapter 94 (relating to municipal wasteload management) or violations of a National Pollutant Discharge Elimination System permit, a Clean Streams Law permit or other permit, rule or regulation of the Department.**
    - (C) **A description of operation and maintenance requirements and the status of compliance with these requirements and the requirements of Subchapter E (relating to sewage management programs).**
  - (ii) **An identification, mapping and description of areas that use individual and community onlot sewage systems in the planning area, including:**
    - (A) **The types of systems in use.**
    - (B) **A description of problems with the systems, including violations of local ordinances, the act, the Clean Streams Law or a rule or regulation promulgated thereunder.**
    - (C) **A comparison of the types of onlot sewage systems installed in an area with the types of systems which are appropriate for the area according to soil, geologic conditions and Chapter 73 (relating to standards for onlot sewage treatment facilities).**
- (3) **Delineate and describe through a text, map and analysis:**
  - (i) **Areas with existing development or platted subdivisions.**
  - (ii) **Land use designations established under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202), including residential, commercial and industrial areas.**
  - (iii) **Future growth areas and population projections.**

- (iv) **Zoning; subdivision regulations; local county or regional comprehensive plans; and existing plans of a Commonwealth agency relating to the development, use and protection of land and water resources.**
  - (v) **Areas where community sewage systems are planned to be available within a 5-year and a 10-year period.**
- (4) **Identify alternatives which are available to provide for new or improved sewage facilities for each area of need including, but not limited to:**
- (i) **The potential for extension of existing municipal or nonmunicipal sewage facilities to areas in need of new or improved sewage facilities.**
  - (ii) **The potential for the continued use of existing municipal or nonmunicipal sewage facilities through one or more of the following:**
    - (A) **Repair.**
    - (B) **Upgrading.**
    - (C) **Improved operation and maintenance.**
    - (D) **Other applicable actions that will resolve or abate the identified problems.**
  - (iii) **The need for new community sewage systems.**
  - (iv) **The need for a sewage management program to assure the future operation and maintenance of existing and proposed sewage facilities.**
- (5) **Evaluate each alternative listed in response to paragraph (4), including, but not limited to:**
- (i) **Consistency between the proposed alternative and the objectives and policies of:**
    - (A) **Applicable plans developed and approved under sections 4 and 5 of the Clean Streams Law (35 P. S. §§ 691.4 and 691.5) or section 208 of the Clean Water Act (33 U.S.C.A. § 1288).**
    - (B) **Municipal wasteload management under Chapter 94.**
    - (C) **Plans developed under Title II of The Clean Water Act (33 U.S.C.A. §§ 1281—1299) or Titles II and VI of the Water Quality Act of 1987 (33 U.S.C.A. §§ 1251—1376).**
    - (D) **Comprehensive plans developed under the Pennsylvania Municipalities Planning Code.**



- (E) **Antidegradation requirements as contained in Chapters 93, 95 and 102 (relating to water quality standards; waste water treatment requirements; and erosion and sediment control) and the Clean Water Act.**
- (F) **State water plans developed under the Water Resources Planning Act (42 U.S.C.A. §§ 1962—1962d-18).**
- (G) **Title 4 of the *Pennsylvania Code*, Chapter 7, Subchapter W (relating to agricultural land preservation policy).**
- (H) **Plans adopted by the county and approved by the Department under the Storm Water Management Act (32 P. S. §§ 680.1—680.17).**
- (I) **Wetland protection under Chapter 105 (relating to dam safety and waterway management).**
- (J) **Protection of rare, endangered or threatened plant and animal species as identified by the Pennsylvania Natural Diversity Inventory.**
- (K) **Section 507 of Title 37 of *Pennsylvania Consolidated Statutes* (relating to cooperation by public officials with the Commission).**
- (ii) **The resolution of inconsistencies identified in this section.**
- (iii) **Applicable water quality standards, effluent limitations or other technical requirements contained in Subchapter D (relating to official plan requirements for alternative evaluations) and this part.**
- (iv) **Cost estimates for construction, financing, ongoing administration, operation and maintenance.**
- (v) **Subject to the limitations of subsections (b) and (c), funding methods available to finance all aspects of each of the proposed alternatives, establishment of the financial alternative of choice and a contingency financial plan to be used if the preferred method of financing is not able to be implemented.**
- (vi) **Ability to implement, including:**
  - (A) **Activities necessary to abate critical public health hazards pending completion of sewage facilities or sewage management programs.**
  - (B) **Phased development of the facilities or sewage management program.**
  - (C) **Time schedules for implementing each phase.**

- (D) **Administrative organization and legal authority necessary for plan implementation.**
- (6) **Select one alternative to solve the need for sewage facilities in each area studied and support this choice with documentation that shows that the alternative is technically, environmentally and administratively acceptable.**
- (7) **Include a summary of the plan which identifies:**
  - (i) **Major problems evaluated in the plan.**
  - (ii) **Alternatives chosen to solve these problems.**
  - (iii) **Municipal commitments necessary to implement the plan.**
  - (iv) **A schedule for implementation.**
- (8) **When the information required as part of an official plan or revision has been developed separately, incorporate the information by reference.] {Reserved}.**
- (a.1) **General requirements for official plans, update revisions or special studies.**
  - (1) **The municipality shall consult with the Department to establish the content, scope, and completion time for the official plan, update revision or special study.**
  - (2) **The Department may concur that the official plan, update revision or special study is to be limited in scope either to a geographic area or to a specific problem to be addressed and resolved.**
  - (3) **Municipal officials may authorize a local planning agency, county planning agency, council of government or a municipal authority to develop an official plan, update revision or special study. The municipality retains final responsibility for the content, adoption and implementation of the official plan, update revision or special study.**
  - (4) **Prior to initiation of work on an official plan, update revision or special study, a municipality shall submit to the Department a task/activity report. The task/activity report must be submitted on a form provided by the Department and must describe the proposed planning activities. The task/activity report must include the following:**
    - (i) **A list of the anticipated sewage facilities planning tasks and activities.**
    - (ii) **The estimated cost to complete each task or activity.**
    - (iii) **The estimated time to complete each task or activity.**
    - (iv) **The approach or methodology to be used to address the major planning**

**Commented [A58]:** Moved from 71.21(a) sentence one and revised

**Commented [A59]:** Moved from 71.21(a) sentence one and revised

**elements.**

(v) **A map of the planning area.**

(vi) **A narrative providing an overview of the planning project.**

(5) **If the planning scope or costs change during official plan, update revision or special study preparation, the Department may require the municipality to submit a revised task/activity report to the Department for additional approval.**

(6) **The task/activity report will be used by the Department to review the official plan, update revision or special study content and monitor the progress of the preparation of the plan, update revision or special study.**

(7) **A determination on the task/activity report does not constitute a final Department action until the completed plan, update revision or special study is submitted by the municipality and acted upon by the Department.**

(a.2) **If applicable to the specific planning needs of the municipality, as determined by the Department, the completed official plan, update revision or special study submitted to the Department must:**

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

(i) **Identification and mapping of the planning area boundaries and political subdivision boundaries.**

(ii) **Identification and mapping of the physical characteristics of the planning area including:**

(A) **Streams, rivers, lakes, impoundments, natural conveyance channels and drainage basins.**

(B) **Soils, geology, and geological features.**

(C) **Ground and surface water quality.**

(D) **Wetlands as defined in Chapter 105 (relating to dam safety and waterway management).**

(E) **Source of the potable water supply including the available capacity of public supplies and aquifer yield for groundwater supplies.**

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

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

(i) **An identification, mapping, and description of municipal and non-**

**Commented [A60]:** Moved from 71.21(a) third sentence and revised

**Commented [A61]:** 71.21(a) was split, and modified into multiple subsections and then added to with new subsections.

A determination does not constitute a final Department action until the completed plan is submitted by the municipality and acted upon by the Department. If applicable to the specific planning needs of the municipality, as determined by the Department, the completed plan submitted to the Department shall:

**Commented [A62]:** Moved from 71.21(a) last sentence and revised

**Commented [A63]:** Moved from 71.21(a)(1) – no changes.

**Commented [A64]:** Moved from 71.21(a)(1)(i)

**Commented [A65]:** Moved from 71.21(a)(1)(ii) and revised

**Commented [A66]:** Moved from 71.21(a)(1)(iii) and revised.

**Commented [A67]:** Moved from 71.21(a)(1)(v)

**Commented [A68]:** Moved from 71.21(a)(1)(vi)

**Commented [A69]:** Moved from 71.21(a)(1)(iv), no changes.

**Commented [A70]:** Moved from 71.21(a)(2) – no changes.

**municipal, individual and community sewerage systems in the planning area including:**

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

**Commented [A71]:** Moved from 71.21(a)(2)(i) with one technical change.

**Commented [A72]:** Moved from 71.21(a)(2)(i)(A) and revised

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

**Commented [A73]:** Moved from 71.21(a)(2)(i)(B) with no changes.

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

**Commented [A74]:** Moved from 71.21(a)(2)(i)(C) – no changes.

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

**Commented [A75]:** Moved from 71.21(a)(2)(ii), no changes.

(A) **The types of systems in use.**

**Commented [A76]:** Moved from 71.21(a)(2)(ii)(A) – no changes.

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

**Commented [A77]:** Moved from 71.21(a)(2)(ii)(B); no changes.

(C) **A sewage sanitary survey acceptable to the Department that identifies potential or existing malfunctioning sewage facilities within the municipality.**

(D) **When required by the Department, a well water survey that identifies groundwater contamination in drinking water supplies.**

(E) **A comparison of the types of onlot sewage systems installed in an area with the types of systems which are appropriate for the area according to soil, geologic conditions, and Chapter 73 (relating to standards for onlot sewage treatment facilities).**

**Commented [A78]:** Moved from 71.21(a)(2)(ii)(C) – no changes.

(F) **A description of operation and maintenance requirements and the status of compliance with these requirements and the requirements of Subchapter E.**

(3) **An identification, mapping, description, and analysis of areas that have developed since the last approved official plan and areas which are currently experiencing development or development pressure, including:**

**Commented [A79]:** Moved from 71.21(a)(3) and revised

(i) **Areas with existing development or platted subdivisions.**

**Commented [A80]:** Moved from 71.21(a)(3)(i) – No changes.

- (ii) Land use designations established under the Pennsylvania Municipalities Planning Code (53 P.S. §§ 10101—11202), including residential, commercial and industrial areas. Commented [A81]: Moved from 71.21(a)(3)(ii) – no changes.
- (iii) Future growth areas and population projections. Commented [A82]: Moved from 71.21(a)(3)(iii) – No changes.
- (iv) Zoning; subdivision regulations; local county or regional comprehensive plans; and existing plans from a Commonwealth agency relating to the development, use and protection of land and water resources. Commented [A83]: Moved from 71.21(a)(3)(iv) with one technical change.
- (v) Areas where community sewage systems are planned to be available within a 5-year and a 10-year period. Commented [A84]: Moved from 71.21(a)(3)(v) – No changes.
- (4) Identify technically available sewage facility alternatives identified by the municipality or by the Department to provide for new or improved sewage facilities for each area of need including, but not limited to: Commented [A85]: Moved from 71.21(a)(4) and revised
  - (i) The potential for regional wastewater treatment.
  - (ii) The potential for extension of existing municipal or non-municipal sewage facilities to areas in need of new or improved sewage facilities. Commented [A86]: Moved from 71.21(a)(4)(i)
  - (iii) The potential for the continued use of existing municipal or non-municipal sewage facilities through one or more of the following: Commented [A87]: Moved from 71.21(a)(4)(ii) and (C) added
    - (A) Repair.
    - (B) Upgrading.
    - (C) Reduction of hydraulic or organic loading to existing facilities.
    - (D) Improved operation and maintenance.
    - (E) Other applicable actions that will resolve or abate the identified problems.
  - (iv) The need for new community sewage facilities. Commented [A88]: Moved from 71.21(a)(4)(iii) and revised
  - (v) The need for implementation of, or a revision to, a sewage management program to assure operation and maintenance of existing and proposed sewage facilities according to the requirements of Subchapter E. Commented [A89]: Moved from 71.21(a)(4)(iv) and revised
- (5) Evaluate each alternative listed in response to paragraph (4), including, but not limited to: Commented [A90]: Moved from 71.21(a)(5) and revised
  - (i) Consistency between the proposed alternative and the following: Commented [A91]: Moved from 71.21(a)(5)(i) and revised
    - (A) Applicable plans developed and approved under sections 4 and 5 of

- the Clean Streams Law (35 P. S. §§ 691.4 and 691.5).
- (B) Municipal wasteload management under Chapter 94 (relating to municipal wasteload management).
- (I) Authorities using the provisions of 53 Pa.C.S. Chapter 56 (relating to Municipality Authorities Act) should notify both the Department and the municipal officials of any action to rescind reserved capacity. The municipality should keep a record of these actions to help determine if the planning exemption applies.
- (II) The notice from the authority must be attached to the planning proposal and will be considered part of that document.
- (C) Plans developed under Title II of the Clean Water Act (33 U.S.C.A. §§ 1281—1299), or Titles II and VI of the Water Quality Act of 1987 (33 U.S.C.A. §§ 1251—1376). Plans developed for Federally funded sewage facilities under Subchapter II of the Clean Water Act (33 U.S.C.A. §§ 1281—1299) or State Revolving Funding under Title VI of the Water Quality Act of 1987 (33 U.S.C.A. §§ 1382—1387) must meet the requirements of § 71.31 (relating to municipal responsibility to review, adopt and implement official plans, update revisions and special studies).
- (D) Municipal or multi-municipal comprehensive plans developed under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202).
- (E) County comprehensive plans developed under the Pennsylvania Municipalities Planning Code.
- (F) Applicable water quality standards, effluent limitations or other requirements in Chapters 91, 92a, 93, 95 and 96.
- (G) Antidegradation requirements as contained in Chapters 93, 95, 102 and 105, and the Clean Water Act.
- (H) State water plans developed under the Water Resources Planning Act (42 U.S.C.A. §§ 1962—1962d-18) or its successors.
- (I) 4 Pa. Code Chapter 7, Subchapter W (relating to agricultural land preservation policy).
- (J) Plans adopted by the county and approved by the Department under the Storm Water Management Act (32 P. S. §§ 680.1—680.17).
- (K) Wetland protection under Chapter 105t).

**Commented [A92]:** Moved from 71.21(a)(5)(i)(A) and revised

**Commented [A93]:** Moved from 71.21(a)(5)(i)(B) and (I) and (II) added

**Commented [A94]:** Moved from 71.21(a)(5)(i)(C) and 71.22

**Commented [A95]:** Moved from 71.21(a)(5)(i)(D) and revised

**Commented [A96]:** Moved from 71.21(a)(5)(i)(D) and (iii) and revised

**Commented [A97]:** Moved from 71.21(a)(5)(iii); Modified – from 71a.222(a)(7)

**Commented [A98]:** Moved from 71.21(a)(5)(i)(E) and revised

**Commented [A99]:** Moved from 71.21(a)(5)(i)(F) and revised

**Commented [A100]:** Moved from 71.21(a)(5)(i)(G)

**Commented [A101]:** Moved from 71.21(a)(5)(i)(H) and (I)

- (L) Protection of rare, endangered, or threatened plant and animal species as identified by the Pennsylvania Natural Diversity Inventory, or its successors. Commented [A102]: Moved from 71.21(a)(5)(i)(J) and revised
- (M) Historic Preservation, as provided in 37 Pa.C.S. § 507 (relating to cooperation by public officials with the Commission). Commented [A103]: Moved from 71.21(a)(5)(i)(K) and revised
- (ii) Evaluation and resolution of inconsistencies that are identified between the proposed alternative and the objectives and policies in subparagraph (i) prior to submission of the plan to the Department for review. Commented [A104]: Moved from 71.21(a)(5)(ii) and revised
- (iii) Subject to the requirements of subsections (b) and (c), current cost estimates for construction, financing, ongoing administration, and operation and maintenance covering the areas identified in the plan as needing improved sewage facilities within a 5-year period from the date of plan submission and that are scheduled for completion of sewage facilities within 5 years or less. Commented [A105]: Moved from 71.21(a)(5)(iv) and revised
- (iv) Subject to the requirements of subsections (b) and (c), funding methods available to finance all aspects of each of the proposed alternatives, establishment of the financial alternative of choice and a contingency financial plan to be used if the preferred method of financing cannot be implemented for the areas identified in the plan as needing improved sewage facilities within the 5-year period from the date of plan submission and that are scheduled for completion of sewage facilities within 5 years or less. Commented [A106]: Moved from 71.21(a)(5)(v) and revised
- (v) Ability to implement, including: Commented [A107]: Moved from 71.21(a)(5)(vi) – No changes.
  - (A) Activities necessary to abate critical public health hazards pending completion of sewage facilities or sewage management programs. Commented [A108]: Moved from 71.21(a)(5)(vi)(A) – No changes.
  - (B) Phased development of the sewage facilities or sewage management program. Commented [A109]: Moved from 71.21(a)(5)(vi)(B) and revised
  - (C) Time schedules for implementing each phase.
  - (D) Administrative organization and legal authority necessary for plan implementation. Commented [A110]: Moved from 71.21(a)(5)(vi)(C) and (D) – No changes.
  - (E) Agreements with municipal authorities, or other persons to provide services necessary for implementation.
  - (F) Agreements with utilities, state or federal departments or other persons to grant proposed rights-of-way, easements or land transfers. Proof of legal recording of rights-of-way or easements may be required if the right-of way or easement is necessary to implement the chosen sewage facilities alternative. Commented [A111]: Added 71.21(a)(5)(v)(F) and also added to 71.52(a)(6)(ii).

- (G) **Any documents that reflect institutional arrangements necessary for implementation, including but not limited to.**
  - (I) **Development of municipal ordinances.**
  - (II) **Development of municipal regulations.**
  - (III) **Development of municipal standards.**
  - (IV) **Development of intermunicipal agreements.**
  - (V) **Adoption of other municipal official plans or update revisions that are necessary for implementation.**
- (6) **Evaluate the development and implementation of a sewage facility asset management program that ensures the sewage facility needs of the municipality are met in perpetuity.**
- (7) **Select one alternative to address the sewage needs in each study area of the municipality. Justify that the selected alternative is technically, environmentally and administratively feasible using the documentation gathered in paragraph (5). Additional justification may be requested by the Department.**
- (8) **Include a summary of the plan which identifies:**
  - (i) **Major problems evaluated in the plan.**
  - (ii) **Alternatives chosen to solve these problems.**
  - (iii) **Municipal commitments necessary to implement the plan.**
  - (iv) **The costs, user rates, and preferred method of financing for the selected alternative to implement the plan.**
  - (v) **A schedule for implementation.**
- (9) **When the information required as part of an official plan or update revision has been developed separately, incorporate the information by reference.**
- (b) Feasibility evaluations required by subsection **[(a)(5)(iv) and (v) shall] (a.2)(5)(iii) and (iv) must** be limited to areas identified in the plan as needing improved sewage facilities within a 5-year period from the date of plan submission and which are scheduled for completion of sewage facilities within 5 years or less.
- (c) Dates for the future initiation of feasibility evaluations required by subsection **[(a)(5)(iv) and (v) shall] (a.2)(5)(iii) and (iv) must** be included in the implementation schedule for areas proposing completion of sewage facilities for periods in excess of 5 years.

Commented [A112]: Moved from 71.21(a)(6) and revised

Commented [A113]: Moved from 71.21(a)(7) – No changes

Commented [A114]: Moved from 71.21(a)(7)(i)—(iii) – No changes.

Commented [A115]: Moved from 71.21(a)(7)(iv) – No changes.

Commented [A116]: Moved from 71.21(a)(8) and revised



§ 71.22. **[Coordination of official plans with Federally funded sewage facilities planning.]**  
**{Reserved}.**

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

#### OFFICIAL PLAN APPROVAL

§ 71.31. **Municipal responsibility to review, adopt and implement official plans, update revisions and special studies.**

- (a) A municipality shall develop and evaluate alternatives in official plans **[and official plan]**, **update** revisions **and special studies** and shall determine, prior to adopting the plan, **update revision and special studies**, which technical and administrative alternatives are proposed to be implemented.
- (b) **The municipality shall provide copies of the official plan, update revision or special study for comment to the municipal and county planning agencies, and county or joint county health department. [A]The municipality shall request, review and consider the comments made by [appropriate official planning agencies of a municipality, including a planning agency with areawide jurisdiction if one exists, under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202) and the existing county or joint county department of health]these agencies.** Evidence that the official plan has been before these agencies for 60 days without comment is sufficient to satisfy **[the requirements of this subsection]this requirement. Comments received from these agencies, along with the municipality's responses to those comments, must be included in the official plan, update revision or special study and any modifications resulting from planning agency or health department comments, must be completed prior to the public comment period as specified in subsection (c).**
- (c) A municipality shall submit evidence that documents the **[publication]publishing of a legal notice** of the proposed plan adoption action at least once in a newspaper of general circulation in the municipality **and one or more of the following; a letter or electronic mail to those affected by the project, a newsletter, social media, website or other means of mass circulation. [The notice shall contain a summary description of the nature, scope and location of the planning area including the antidegradation classification of the receiving water where a discharge to a body of water designated as high quality or exceptional value is proposed and the plan's major recommendations, including a list of the sewage facilities alternatives considered. A 30-day public comment period shall be provided. A copy of written comments received and the municipal response to each comment, shall be submitted to the Department with the plan.] The requirement to submit evidence of publication of a legal notice applies to each municipality in a joint municipal plan. Public comments received and the municipal response to each comment, must be included in the official**

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**Commented [A120]:** This part moved to (c)(4) below.

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**plan, update revision or special study considered for adoption by the municipality and must be submitted to the Department. If no public comment is received, the municipality shall insert a statement stating this fact in the official plan, update revision or special study submitted to the Department. At a minimum, the notice must include:**

- (1) **Notice that an official plan, update revision or special study is being proposed as required by the act.**
- (2) **Title of the draft document and a summary description of the proposed changes and scope of the planning area.**
- (3) **Location of areas affected by this project.**
- (4) **Alternatives considered.**
- (5) **Plan recommendations.**
- (6) **If proposing a discharge to a surface water:**
  - (i) **The name of the receiving body of water to which a discharge is proposed.**
  - (ii) **The designated and existing use classification of the receiving water of the proposed discharge or discharges.**
  - (iii) **Any designated use impairment of the receiving water of the proposed discharge as listed on the Department's latest Integrated Water Quality Report, including the sources and causes of the impairment.**
- (7) **Proposed user fees.**
- (8) **The proposed municipal adoption action on the official plan, update revision or special study proposal.**
- (9) **Location and times where the official plan, update revision or special study is available for public review.**
- (10) **Request for written comments, which must include the beginning and end date of the comment period and the municipality's address where comments are to be submitted. The public comment period may not be less than 30 days in length.**

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(d) An implementation schedule **[shall]must** be submitted as part of the official plan, **update revision or special study**. This schedule **[shall]must** designate the time periods within which the specific phases of the facilities or program will be completed and the methods and sources of financing each phase.

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(e) **[When an official plan or official plan revision identifies a conflict between a proposed alternative and the consistency requirements contained in § 71.21(a)(5)(i)—(iii)**

**(relating to content of official plans), the] The official plan, update revision or special study must provide documentation that all selected alternatives are consistent with the objectives and policies of § 71.21 (a.2)(5)(i) (relating to official plans, update revisions and special studies) (A)—(M) and (ii). The municipality shall submit written documentation that the appropriate [agency has] agencies have received, reviewed and concurred with the method proposed to resolve identified inconsistencies.**

- (f) The municipality shall adopt the **final official plan, update revision or special study** by resolution, **[with] including the implementation schedule and any changes incorporated as a result of public comment. The resolution must contain** specific reference to the **[alternatives of choice] selected alternative** and a commitment to implement the plan within the time limits established in **[an]the** implementation schedule. **Where two or more municipalities have developed the official plan, update revision or special study, the plan, update revision or special study must be adopted by resolution of each municipality.**
- (g) **The municipality shall submit the adopted official plan, update revision or special study and supporting documentation to the Department for review and approval.**

**§ 71.32. Department responsibility to review and act upon official plans, update revisions and special studies.**

- (a) No official plan, **[or official plan revision]update revision or special study** will be considered **[complete]for review** by the Department unless it contains the information and supporting documentation required by the Department, including **[those]all of the** items required by § 71.31 (relating to municipal responsibility to review, adopt and implement official plans, **update revisions and special studies**). **The Department will make an administrative completeness determination within 30 days after submission of the municipality's adopted final official plan, update revision or special study. Administratively incomplete submittals will be returned to the municipality. The Department will notify the municipality in writing specifying why the official plan, update revision or special study is administratively incomplete.** If a special study is submitted in support of an existing official plan, existing official plan revision or existing update revision, the Department may waive inapplicable requirements of § 71.31.
- (b) **[Within 120 days after submission of a complete official plan or official plan revision, with supporting documentation, the Department will either approve or disapprove the plan or revision, except as provided in § 71.54(d) (relating to Department administration of new land development planning requirements for revisions) for a plan revision for a residential subdivision plan.] Within 120 days after submission of an administratively complete official plan, update revision or special study, the Department will either approve or disapprove the plan, updated revision or special study unless the Department informs the municipality prior to the end of 120 days that additional time is necessary to complete its review. The additional time may not exceed 60 days.**
- (c) **[Upon the Department's failure to act on a complete official plan or revision within**

**Commented [A128]:** Section in green partially moved from 71.32(c) with no changes.

**120 days of its submission, the official plan or official plan revision will be considered approved, unless the Department informs the municipality prior to the end of 120 days that additional time is necessary to complete its review. The additional time may not exceed 60 days. ~~Reserved.~~**

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- (d) In approving or disapproving an official plan **[or official plan revision]**, update revision or special study the Department will consider:
- (1) Whether the **[plan or revision]submission** meets the requirements of the act, **[The] the** Clean Streams Law and this part.
  - (2) Whether the municipality has adequately considered questions raised in comments, if any, of the **[appropriate areawide planning agency, the] municipal and county planning agencies**, county or joint county **[department of ] health department**, and the general public.
  - (3) Whether the **[plan or revision]submission** furthers the policies established under section 3 of the act (35 P. S. § 750.3) and sections 4 and 5 of **[The] the** Clean Streams Law (35 P. S. §§ 691.4 and 691.5).
  - (4) Whether the **[official plan or official plan revision is able to be implemented]submission is implementable**.
  - (5) Whether the **[official plan or official plan revision]submission** adequately provides for continued operation and maintenance of the proposed sewage facilities.
  - (6) Whether the **[official plan or official plan revision]submission** contains documentation that inconsistencies identified in **[§ 71.21(a)(5)(i)—(iii)] § 71.21(a.2)(5)(ii)** (relating to content of official plans) have been resolved under § 71.31(e).
  - (7) If the **[official plan or official plan revision]submission** includes proposed sewage facilities connected to or otherwise affecting sewage facilities of other municipalities, whether the other municipalities have submitted necessary revisions to their plans for approval by the Department.
- (e) If the **Department disapproves the** official plan **[or official plan revision is disapproved by the Department]**, update revision or special study, written notice will be given to each municipality included in the official plan, update revision or special study, together with a statement of reasons for the disapproval.
- (f) In a municipality that does not have **[an official plan, or]a current official plan under § 71.11 (relating to general requirement), or that** fails to revise or implement its official plan as required by an order of the Department or this part, the following apply:
- (1) The limitations on the issuance of permits under **[§ 72.23(a) and (b)] § 72.23(b.1) and (c.1)** (relating to limitation on onlot system permit issuance) are in effect.

- (2) The Department will not issue a sewage permit **authorized** under section 5 of **[The]** **the** Clean Streams Law (35 P. S. § 691.5) for **new land development** projects in those areas of the municipality for which an official plan, **[official plan revision]** **update revision, special study** or implementation of an official plan is required.
  - (3) A supplement or a revision for new land development will not be denied nor will an exception to the requirement to revise be found inadequate solely because the municipality in which the new land development is being proposed has failed to do one of the following:
    - (i) Submit an update revision or special study.
    - (ii) Implement its plan as required by an order of the Department or this part.
  - (4) A supplement or revision for new land development will not be denied, nor will an exception to the requirement to revise be found inadequate, solely because an update revision or special study is under review by the Department.
  - (5) Every contract for the sale of a lot which is located within an area in which permit limitations are in effect and which is subject to permit limitations under this chapter **[shall] must** contain a statement in the sales contract that clearly indicates to the buyer that sewage facilities are not available for that lot and that sewage facilities will not be available. This statement **[shall] must** also clearly state that construction of any structure on the lot may not begin until the Department has approved a major planning requirement **in accordance with this chapter**, including, but not limited to, **[a plan] an** update revision or a special study.
- (g) The limitations on permit issuance contained in **[§ 72.23(a) and (b)] § 72.23(b.1) and (c.1)** do not apply when the provisions of § 72.23(d) have been met.

## PLANNING GRANTS

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

Under section **[6] 6(a)** of the act (35 P. S. § **[750.6] 750.6(a)**) and §§ 71.42 and 71.43 (relating to application for grants; and approval of grants), the Department will administer grants to municipalities, counties and authorities for preparing **official plans**, update revisions and special studies to the extent of the appropriations made by the General Assembly for that purpose. Municipalities, counties and authorities intending to apply for the grants shall submit to the Department **[an outline of the proposed plan content, time schedule for plan completion and estimated cost by planning task on a form provided by the Department or other form acceptable to the Department ] a task/activity report as required under § 71.21(a.1)(4) (relating to official plans, update revisions and special studies) and receive Department approval as required under § 71.21(a.1)(5)** prior to beginning the plan. Costs for completion of planning activities outside the scope of the proposed plan content are not eligible for a grant unless proposals for inclusion of additional activities and increased costs associated with these activities have been submitted to and approved by the Department **prior to the commencement of the activity** and are within the scope of the act.

**§ 71.42. Application for grants.**

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

**§ 71.43. Approval of grants.**

- (a) The Department will not authorize payment of a planning grant to an applicant until the Department has approved the official plan **[or revision which]**, **update revision or special study that** has been adopted by the municipality.
- (b) When the Department has determined that the application is complete, the Department will pay grants to applicants in the order in which the applications were received.
- (c) The Department will determine the amount of the grant by evaluating:
  - (1) The application for planning grants.
  - (2) The extent and **[nature] description** of the activities included in the official plan **[or]**, **update revision [to the official plan] or special study** and the eligibility of the costs of these activities for grant payments under the act.
  - (3) The cost, **and proof of payment**, of performing each activity included in the official plan **[or revision to the official plan]**, **update revision or special study**.
  - (4) The contents of existing plans and studies.
  - (5) The conditions imposed upon the municipality by an order or notice of the Department.
  - (6) The final contents of the adopted official plan, **update revision or special study**.
- (d) The Department may pay planning grants for joint municipal plans submitted under § 71.12(b) (relating to municipal responsibility to revise plans) without official adoption of the plan from participating municipalities when:
  - (1) The Department has determined that enough municipalities have adopted the plan consistent with § 71.32(d)(7) (relating to Department responsibility to review and act upon official plans) to assure substantial plan implementation.
  - (2) Costs for the planning activities done for the nonparticipating municipalities are

deducted from the application for the grant payment.

- (3) The Department has notified the municipality not adopting the joint-municipal plan that its official plan is in a disapproved status; or has determined that the municipality's official plan adequately addresses the existing and future sewage disposal needs of the municipality.
- (e) The Department will not withhold planning grants for eligible costs from a municipality, its designated authority or county when the following occur:
  - (1) Sufficient appropriations have been made by the General Assembly.
  - (2) The official plan, **update revision or special study** has been adopted by the municipality and approved by the Department.
  - (3) The official plan, **update revision or special study** complies with the terms of the act and this part.
- (f) **The Department will not pay grants under the act for information that has been completed previously under local, State or Federal funding programs. The official plan, update revision or special study must incorporate this information by reference.**

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§ 71.44. **[Duplicate planning] {Reserved}.**

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

Subchapter C. **PLANNING FOR NEW LAND DEVELOPMENT [PLAN REVISIONS]**

§ 71.51. General.

- (a) **[A municipality shall revise its official plan when:**
  - (1) **A new subdivision is proposed, except as provided by § 71.55 (relating to exceptions to the requirement to revise the official plan for new land development) or subsection (b).**
  - (2) **The official plan, or its parts, is inadequate to meet the sewage needs of the new land development.**
  - (3) **Newly discovered or changed facts, conditions or circumstances make the plan inadequate to meet the sewage needs of new land developments.**
  - (4) **A permit is required from the Department under section 5 of The Clean Streams Law (35 P. S. § 691.5).** **{Reserved}.**
- (b) **[Except for new land developments proposing the use of retaining tanks, exemptions from sewage facilities planning for new land development will be processed as follows:**

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- (1) **Revisions for new land development, exceptions to the requirement to revise and supplements are not required, and permits for onlot systems using a soil absorption area or a spray field may be issued without this planning, when the Department or, in the case of supplements, a delegated agency determines that the following have been met:**
  - (i) **The official plan shows that those areas of the municipality are to be served by onlot sewage disposal facilities using a soil absorption area or a spray field as confirmed by signature of the municipal officials. rea proposed for the use of individual or community sewage systems is not underlain by carbonate geology nor is this area within 1/4 mile of water supplies documented to exceed 5 PPM nitrate-nitrogen as confirmed by the Department from a USGS geology map or sampling data.**
  - (ii) **The area proposed for the use of individual or community sewage systems is not underlain by carbonate geology nor is this area within ¼ mile of water supplies documented to exceed 5 PPM nitrate-nitrogen as confirmed by the Department from a USGS geology map or sampling data.**
  - (iii) **The area proposed for development is outside of high quality or exceptional value watersheds established under the regulations and policies promulgated under The Clean Streams Law as confirmed by the Department from the location of the new land development on a USGS topographic quadrangle map.**
  - (iv) **Subdivided lots and the remaining portion of the original tract after subdivision are 1 acre or larger as confirmed by signature of the applicant.**
  - (v) **Complete soils testing and site evaluation establish that separate sites are available for both a permissible primary soil absorption area or spray field and a replacement soil absorption area or spray field on each lot of the subdivision as confirmed by a signed report of the sewage enforcement officer serving the municipality in which the new land development is proposed. The local agency or municipality may require deed restrictions or take other actions it deems necessary to protect the replacement soil absorption area or spray field from damage which would make it unsuitable for future use.**
- (2) **Revisions for new land development and supplements are not required for subdivisions proposing a connection to or an extension of public sewers when all of the following have been met:**
  - (i) **The Department or delegated agency determines that existing collection, conveyance and treatment facilities are in compliance with The Clean Streams Law and the rules and regulations thereunder.**
  - (ii) **The Department or delegated agency determines that the permittees of the receiving sewerage facilities have submitted information under Chapter 94**



(relating to municipal wasteload management) which documents that the existing collection, conveyance and treatment system does not have an existing hydraulic or organic overload or 5-year projected overload.

- (iii) The applicant has provided written certification from the permittees of the collection, conveyance and treatment facilities to the municipality in which the subdivision is located and the Department or delegated agency with jurisdiction over the municipality in which the subdivision is located that there is capacity to receive and treat the sewage flows from the applicant's proposed new land development and that the additional wasteload from the proposed new land development will not create a hydraulic or organic overload or 5-year projected overload.
  - (iv) The municipality has a current, approved sewage facilities plan update revision which is being implemented. For the purposes of exempting a subdivision from completing sewage facilities planning under this section, the phrase "a current approved sewage facilities plan update revision which is being implemented" shall include official plans of municipalities which are not under an order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.
- (3) The Department will provide delegated agencies sufficient information to make the required determinations under paragraphs (1)(ii) and (iii), (2)(i),(ii) and (iv). When the determination under paragraph (1) or (2) is made by a delegated agency, that agency shall submit to the Department quarterly reports which include the names of the subdivisions, location of the subdivisions, number of lots and projected sewage flows for each subdivision exempted from the planning provisions under this subsection.
- (4) Information in support of a request for a sewage facilities planning exemption under this section shall be submitted on a form provided by the Department.
- (5) This subsection does not apply to new land development proposals intended to be served by sewage facilities which require or which must apply for a new or modified permit from the Department under The Clean Streams Law.]  
{Reserved}.

**(c) The official plan must be revised when new land development is proposed within the municipality unless the proposal meets the criteria in § 71.55 or § 71.56a (relating to exceptions to the requirement to revise the official plan; or exemptions from the requirement to revise the official plan for new land development).**

**§ 71.52. Content requirements—[new land development] revisions for new land development.**

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

**Documentation supporting a revision for new land development must be submitted by the municipality on a form provided by the Department and must include the following information:**

- (1) The nature of the proposal, including:
  - (i) Type of facilities to be served, density of proposed development and whether the development is residential, commercial~~[or]~~, industrial **or a combination thereof.**
  - (ii) Number of lots including **[equivalent dwelling units]EDUs.**
  - (iii) Anticipated sewage flow**[from the proposed development].**
    - (A) For individual or community sewerage systems, the flows **[shall] must** be based on gauged flows **[or the flows contained in the Department's Sewerage Manual]or equivalent standards acceptable to the Department. [A copy of the manual may be obtained from the Department's Bureau of Water Supply and Wastewater Management.]**
    - (B) For individual or community onlot sewage systems, the flows **[shall] must** be consistent with **[[§§ 73.16 and 73.17 (relating to absorption area requirements; and sewage flows)] §§ 73.17, 73.51 and 73.163 (relating to sewage flows; general; and spray fields).**
  - (iv) Anticipated raw waste characteristics of the sewage.
  - (v) Type of sewage facilities proposed, including collection, treatment, and disposal methods.
  - (vi) Description of **[required]operation and maintenance activities [required by Subchapter E (relating to sewage management programs)]and their relationship to sewage management programs.**
  - (vii) Designation of the person responsible for operation and maintenance activities and the legal and financial arrangements necessary for assumption of this responsibility.
  - (viii) **A detailed plot plan, signed and sealed by a licensed professional land surveyor illustrating all items listed as required in the revision application provided by the Department.**
- (2) The relationship of the proposed development to existing sewage needs, proposed sewage facilities and sewage management programs in an area delineated by the municipality, including identification of:
  - (i) The areas included in, and adjacent to, the project which are in need of

- improved sewage facilities.
- (ii) Existing and proposed sewage facilities for remaining acreage or delineated lots not included in the project.
  - (iii) Existing sewage facilities and sewage management programs in the area.
  - (iv) Other proposed sewage facilities and sewage management programs ~~(—)~~, **both** public and private, ~~(—)~~ in the area.
  - (v) The method for integrating the proposal into the comprehensive sewage program in the area as reflected in the approved official plan.
- (3) An analysis of technically available sewage facilities alternatives identified by the municipality and additional alternatives identified by the Department, including whether each alternative:
- (i) Meets the technical requirements of this part.
  - (ii) Is consistent with local and areawide comprehensive water quality management plans for the area.
  - (iii) Is consistent with sewage planning policies and decisions of the municipality.
  - (iv) Is consistent with the municipalities' comprehensive land use plan for the area.
  - (v) Incorporates and is consistent with the requirements of §§ 71.21 and 71.31 (relating to **content of** official plans, **update revisions and special studies**; and municipal responsibility to review, adopt and implement official plans, **update revisions and special studies**).
- (4) Selection of an alternative which adequately addresses both the present and future sewage needs of the proposal, through identification and evaluation of:
- (i) Interim facilities.
  - (ii) Replacement facilities.
  - (iii) Ultimate facilities.
  - (iv) Operation and maintenance activities and requirements.
- (5) Selection of an alternative which assures the continued operation and maintenance of the selected sewage facilities through evaluation and identification of the following:
- (i) Sewage management program requirements.
  - (ii) Administrative capability for continued operation and maintenance.

- (iii) **Sewage facility asset management.**
- (6) Documentation **[of whether or not it may be implemented] supporting the feasibility of implementing the chosen sewage facilities alternative** including:
  - (i) Agreements with **[sewer authorities, water authorities] municipal authorities** or other persons to provide services necessary for implementation **[of the plan]**.
  - (ii) Designation of the institutional arrangements necessary for implementation **[of the plan] under § 71.21(a.2)(5)(v)(G).**
  - (iii) **Agreements with utilities, State or Federal departments or other persons to grant proposed rights-of-way, easements or land transfers. Proof of legal recording of rights-of-way or easements may be required if the right-of way or easement is necessary for implementation.**
  - (iv) **Phased development of the sewage facilities.**
  - (v) **Time schedules for implementing each phase.**
  - (vi) **Administrative organization and legal authority necessary for implementation.**
- (b) The Department may require additional information **[which is necessary for adequate review of the proposal] needed to adequately review the revision for new land development.**

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

- (a) It is the responsibility of the municipality to **review and** act upon revisions for new land development. **Documentation supporting a revision for new land development must be submitted on a sewage facilities planning module provided by the Department. If a private developer requests** the new land development **[is requested by a private developer]**, the developer or **[his] the developer's** agent may complete the **[Department's]** sewage facilities planning module and submit it to the municipality for action.
- (b) **[The municipality shall review sewage facilities planning modules upon receipt and, if appropriate comments or documents have not been received under subsections (d)(2), (3) and (5), shall forward a copy of the sewage facilities planning modules to the sewage enforcement officer, owner of receiving sewerage facilities and appropriate planning or zoning agencies within 10 days of receipt. The municipality shall determine if the submittal of the sewage facilities planning module is complete within 10 working days of the receipt of comments from the sewage enforcement officer and appropriate planning or zoning agencies. The municipality shall review and act upon a complete sewage facilities planning module proposing a revision for new land**

development within 60 days of receipt or additional time as the applicant and municipality may agree to in writing. Failure of the municipality to act within the 60-day period or an agreed-to extension will cause the revision for new land development to be deemed approved by the municipality and the complete sewage facilities planning module shall be submitted to the Department by the municipality or applicant. Documentation of the period of time the revision was in possession of the municipality shall be in the form of a completeness checklist signed by an official of the municipality confirming that the requirements of subsection (d) have been met.] The municipality shall review sewage facilities planning modules submitted for revisions for new land development in accordance with the following requirements:

- (1) Within 10 working days of the receipt of comments from the sewage enforcement officer, the owner of the receiving sewerage facility and appropriate planning or zoning agencies, the municipality shall determine if the sewage facilities planning module submittal is complete.
  - (2) Within 60 days of receipt of a complete sewage facilities planning module, or at an additional time as the applicant and municipality may agree to in writing, the municipality shall act upon the module.
- (b.1) If the municipality fails to act upon a complete sewage facilities planning module submitted for a revision for new land development within the 60-day period or an agreed-to extension, the revision shall be deemed approved by the municipality and the municipality shall submit the following to the Department or delegated agency:
- (1) The deemed-approved revision for new land development.
  - (2) Documentation of the period of time the revision was in possession of the municipality. This documentation shall be on a form provided by the Department and signed by a municipal official confirming that the requirements of subsection (d) have been met.
- (c) [Municipal action shall take the form of adopting, adopting]When taking a final action on a revision for new land development, a municipality shall adopt, adopt with modifications or [refusing]refuse to adopt the [proposal as a ]revision to the municipality's official plan.
- (d) The municipality shall act only upon a complete revision for new land development. For the purposes of this section[, **no plan revision for new land development will be considered**] a municipality may not consider a revision to be complete unless it includes the following:
- (1) The information contained in § 71.52 (relating to content requirements—**[new land development]** revisions **for new land development**) and the Department's sewage facilities planning module.
  - (2) Comments by appropriate official **municipal and county** planning agencies **[of a municipality, including a planning agency with areawide jurisdiction if one**

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exists, under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202) and the existing] and county or joint county[department of]\_health\_ departments. Evidence that the [sewage facilities planning module]revision for new land development has been before these agencies for 60 days without comment [shall]will be sufficient to satisfy this paragraph.

- (3) A written commitment from the owner of the receiving community [sewerage] sewage facilities to provide service to the proposed new land development and the conditions for providing the services when the construction of new facilities or connection to existing facilities is proposed.
- (4) **[Documentation that the proposal is consistent with the requirements of § 71.21(a)(5)(i)(A), (B), (E) and (I) (relating to content of official plans) or that inconsistencies have been resolved under § 71.31(e) (relating to municipal responsibility to review, adopt and implement official plans).] Documentation that the proposal is consistent with the requirements of § 71.21(a.2)(5)(i)(A), (B), (G), (K), (L) and (M) (relating to official plans, update revisions and special studies) or where a conflict between a proposed alternative and the consistency requirements is identified, written documentation that the appropriate agency has received, reviewed and concurred with the method proposed to resolve identified inconsistencies.**
- (5) **[A statement from the sewage enforcement officer for the local agency having jurisdiction for individual or community onlot sewage systems in the area where onlot systems are proposed commenting on:] Where onlot sewage systems are proposed, verification from the sewage enforcement officer that the proposal is consistent with the requirements of § 71.62 (relating to individual and community onlot sewage systems). The proposal must include documentation of onsite soil tests, general site conditions and other generally available soils information. The sewage enforcement officer shall verify consistency with the requirements of this paragraph on a form provided by the Department.**
  - (i) **[General site suitability for system usage.] {Reserved}.**
  - (ii) **[The sewage enforcement officer shall have 20 days from receipt of a sewage facilities planning module from the municipality to provide these comments, which shall be based upon onsite verification of soil tests, general site conditions and other generally available soils information. Evidence that the sewage enforcement officer has been in receipt of the sewage facilities planning module for 20 days without commenting is sufficient to satisfy this subsection.] {Reserved}.**
- (6) Evidence **[documenting newspaper publication] that documents the publishing of a legal notice of the revision for new land development adoption action at least once in a newspaper of general circulation in the municipality, and one or more of the following: a letter or electronic mail to those affected by the project, a newsletter, social media, website or other means of mass circulation.** The

Commented [A139]: Added consistency with PNDI and PHMC

**[newspaper publication may be provided by the]**applicant or the applicant's agent, the municipality, or the local agency**[by publication in a newspaper of general circulation within the municipality affected], may provide the notice for publication.** When an applicant or an applicant's agent provides the required notice for publication, the applicant or applicant's agent shall **[notify]provide proof of publication to** the municipality or local agency and the municipality and local agency will be relieved of the obligation to publish. **[The newspaper notice shall notify the public where the plan is available for review and indicate that all comments regarding the proposal shall be sent to the municipality within which the new land development is proposed. The newspaper publication shall meet the requirement of § 71.31(c) and provide notice of the proposed plan adoption action]** **The publication must meet the requirements in paragraph (7)** when the proposal involves one of the following:

- (i) Construction of a sewage treatment facility.
  - (ii) A change in the flow at a sewage treatment facility of greater than **[50,000 gpd]10% of the existing design annual average daily flow.**
  - (iii) **[Will result in a]A** public expenditure in excess of \$100,000 for the sewage facilities portion of a project.
  - (iv) **[Will lead to a]A** major modification of the existing municipal administrative organization or the establishment of new administrative organizations within the municipal government.
  - (v) A subdivision of **[50]25** lots or more **proposing individual or community onlot sewage systems.**
  - (vi) A major change in established growth projections.
  - (vii) A different land use pattern than **[that]what is** established in the official sewage **facilities** plan.
  - (viii) The use of large-volume onlot sewage systems.
  - (ix) Resolution of a conflict between the proposed alternative and the consistency requirements contained in **[§ 71.21(a)(5)(i)—(iii)] § 71.21(a.2)(5)(i) and (ii).**
  - (x) The sewage facilities are proposed to discharge into **[high quality or exceptional value]special protection** waters.
- (7) **Documentation of public comments received by the municipality and the municipal response to each comment included in the revision for new land development considered for adoption by the municipality. Documentation must be submitted to the Department. If no public comment is received, the municipality shall insert a statement stating this fact in the revision for new land development submitted to the Department.**

(d.1) At a minimum, the notice required under subsection (d)(6) must contain:

Commented [A140]: Moved to (d)(7)(ix) and (x) below and revised

- (1) Notice that an official plan revision for new land development is being proposed as required by the act.
- (2) A summary description of the nature and scope of the new land development proposal.
- (3) Location of the proposal.
- (4) Alternatives considered.
- (5) Proposal recommendations.
- (6) If proposing a discharge to a surface water:
  - (i) The name of the receiving body of water to which a discharge is proposed.
  - (ii) The designated and existing use classification of the receiving water of the proposed discharge or discharges.
  - (iii) Any designated use impairment of the receiving water of the proposed discharge as listed on the Department's latest Integrated Water Quality Report, including the sources and causes of the impairment.
- (7) Proposed user fees.
- (8) The proposed municipal adoption action on the revision for new land development.
- (9) Location and times where the revision for new land development is available for public review.
- (10) Request for written comments, which must include the beginning and end date of the comment period and the municipality's address where comments are to be submitted. The public comment period must not be less than 30 days in length.

Commented [A141]: Moved from 71.53(d)(6) end of fifth sentence and revised

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

Commented [A142]: Moved from 71.53(d)(6) fourth sentence and revised

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

- (1) The **[plan] revision** is not technically, financially, or administratively able to be implemented.



- (2) Present and future sewage disposal needs of the area, remaining acreage or delineated lots are not adequately addressed.
  - (3) The **[plan] revision** is not consistent with **existing** municipal land use plans and ordinances, subdivision ordinances or other ordinances or plans for controlling land use or development.
  - (4) The **[plan] revision** is not consistent with the comprehensive sewage program of the municipality as contained in the official plan.
  - (5) The **[plan] revision** does not meet the consistency requirements of **§ 71.21(a)(5)(i)–(iii)] § 71.21(a.2)(5)(i) and (ii).**
  - (6) **The revision does not meet the alternatives evaluation requirements of § 71.52(a)(3)–(5).**
  - (7) **The revision does not meet the sewage management requirements of Subchapter E (relating to sewage management programs).**
- (g) Whenever a municipality refuses to adopt a **[proposed revision to the official plan] revision for new land development**, it shall state the reasons for the refusal and forward a copy of this statement to the person making the submission, **[and] and a copy of this statement and the proposal** to the Department **and delegated agency**. **Documentation of the refusal to adopt shall be recorded in the municipality’s public meeting minutes.**
- (h) Upon adoption of the **[proposed revision to the official plan] revision for new land development**, the municipality shall forward the **[proposed]** revision to the Department **or delegated agency** with the information required in § 71.52 and subsection (d) for review. Adoption of the **[proposed]** revision to the official plan **[shall]must** be by resolution of the municipality.

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

- (a) A **[proposed plan]**revision for new land development will not be approved by the Department unless it contains the information and supporting documentation required by the act, **[The] the** Clean Streams Law and regulations promulgated thereunder.
- (b) A **[proposed plan]**revision for new land development will not be considered for approval unless accompanied by the information required in § 71.53(d) (relating to municipal administration of **[new land development]** planning requirements for revisions **for new land development**). **[For the purpose of this section, the Department will determine whether a submission for a residential subdivision plan is complete in accordance with § 71.53(d) within 10 working days of its receipt by the Department.] Within 10 working days of receipt of a revision for new land development, the Department will determine whether the revision is administratively complete in accordance with § 71.53(d). An incomplete revision will be returned to the municipality to address incomplete items and resubmission will be required for the Department to consider**

**the revision for new land development.**

(c) When a municipality does not have an approved official plan or fails to revise or implement an official plan when required, §§ 71.32(f) and **[72.23(a) and (b)] 72.23(b.1) and (c.1)** (relating to Department responsibility to review and act upon official plans; and limitations on onlot systems permit issuance) apply.

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

**Commented [A143]:** Moved to (d.1) and (e.1) and revised

(d.1) **The Department will approve or disapprove a revision for new land development for a residential subdivision within 60 days of the date of a complete submission.**

**Commented [A144]:** Moved from 71.54(d) and revised

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

(e.1) **Within 120 days from the date the Department determines that a revision for new land development for a non-residential subdivision is administratively complete, the Department will approve or disapprove the revision. Additional time may be requested by the Department to complete the review of the revision, up to 60 additional days, not to exceed a total of 180 days, when the Department informs the municipality that an extension of time is necessary.**

**Commented [A145]:** Moved from 71.54(d) and revised

(f) **[In]When approving or disapproving [an official plan or revision]a revision for new land development, the Department will consider the requirements of § 71.32(d). A revision for new land development will not be denied solely because the municipality in which the new land development is being proposed does not have an approved official plan or fails to revise or implement an official plan as established in § 71.32(f)(3) and (4).**

**Commented [A146]:** Similar language to 71.55(d.1) for exceptions and in 71.59(d.1) for supplements

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

(h) **Review and actions taken by delegated agencies on revisions for new land development shall follow the requirements in § 71.59 (relating to delegated agency administration of new land development planning requirements).**

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

**Commented [A147]:** Adds additional "exception" criteria. The existence of a 'current official plan' and 'which is being implemented' is fundamental to the new criteria. The use of planning "exceptions" is restricted in areas with existing groundwater contamination. Subsection (b) requires that impacts on existing municipal planning goals, storm-water issues, agricultural land, wetland, and rare and endangered species protection must also be considered. In recognition of the existence of more complex and maintenance sensitive treatment technologies recently developed in the onlot sewage industry, subsection (c) requires that an approved method of assuring long-term sewage system operation and maintenance also be addressed. 5/18/2017

(a) **[A municipality does not have to revise its official plan when the Department**

determines that the proposal is for the use of individual onlot sewage systems serving detached single-family dwelling units in a subdivision of ten lots or less and the following apply:

- (1) The proposal, in addition to the existing or proposed subdivision of which it is a part, will not exceed ten lots.
- (2) The subdivision has been determined to have soils and site conditions which are generally suitable for onlot sewage disposal systems under § 71.62 (relating to individual and community onlot sewage systems).
- (3) For the purposes of determining whether a proposal qualifies for an exception under this section, the enumeration of lots shall include only lots created after May 15, 1972.
- (4) The proposal is consistent with the requirements of § 71.21(a)(5)(iii) (relating to content of official plans).] {Reserved}.

(a.1) A municipality is not required to revise its official plan and an exception may be considered applicable by the Department when the municipality has a current, approved official plan implemented under § 71.11 (relating to general requirement) and the proposal meets one of the following scenarios:

- (1) A subdivision proposing the use of individual onlot sewage systems serving detached single-family dwellings that meets the following requirements:
  - (i) The proposed subdivision is in an area designated to be served by onlot sewage systems within the municipality's official plan or update revision.
  - (ii) The proposal is consistent with the objectives and policies under § 71.21(a.2)(5)(i) (F), (K), (L) and (M) (relating to official plans, update revisions and special studies) and inconsistencies are resolved as required under § 71.21(a.2)(5)(ii).
  - (iii) Each subdivided lot and the remaining portion of the original tract after subdivision are a minimum of 1 acre per EDU as verified by plat and as confirmed by signature of the responsible municipal official.
  - (iv) Each lot in the subdivision has been determined to have soils and site conditions which are suitable for onlot sewage disposal systems under § 71.62 (relating to individual and community onlot sewage systems) as verified by the sewage enforcement officer and documented on a form provided by the Department.
  - (v) For each subdivided lot complete soils testing and site evaluation establish that separate sites are available for both a primary absorption area or spray field and a replacement absorption area or spray field as verified by the sewage enforcement officer and documented on a form provided by the

Commented [A148]: Moved from 71.55(a)(4) and revised

Commented [A149]: Moved from 71.55(a)(2) and revised

**Department.**

- (vi) **The area proposed for the use of an absorption area has a limiting zone of at least 20 inches from the mineral soil surface.**
- (vii) **The area proposed for the use of an individual onlot sewage system is not directly underlain by carbonate geology as confirmed by the USGS map, or other geology map acceptable to the Department.**
- (viii) **The area proposed for the use of individual onlot sewage systems is not within 1/4 mile of water supplies documented to exceed 5 parts per million of nitrate-nitrogen as confirmed from existing sampling data.**
- (2) **A subdivision for agriculture, silviculture, mineral lease, airport runway extensions, sewerage pumping stations, water booster stations, cell phone towers, water towers or another use that will not generate sewage now or in the future. Language must be recorded in the deed and on the plot plan stating no permit will be issued for the installation, construction, connection to or use of any sewage collection, treatment or disposal system, until such a time when sewage facilities planning has been completed. Additional sewage facilities planning is required for any further development of any lot excepted by this section.**
- (3) **A subdivision for the settlement of an estate that will not be developed at the time of the settlement. Future development of any lots created from this estate settlement will require sewage facilities planning. Language must be recorded in the deed and on the plot plan stating no permit will be issued for the installation, construction, connection to or use of any sewage collection, treatment or disposal system, until such a time when sewage facilities planning has been completed.**
- (4) **A subdivision for the addition of a side lot that meets the following requirements:**
  - (i) **A local ordinance exists that requires side lot additions to be legally merged into the tract to which they are being added.**
  - (ii) **A local ordinance exists that requires any future proposals to subdivide any portion of the merged tracts to be in accordance with the provision of the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202).**
  - (iii) **The side lot must not have sewage-generating structures.**
- (b) Documentation supporting a request for an exception under **[this section shall be submitted to the Department using the Department's sewage facilities planning module and shall]** **subsections (a.1) must be submitted on a sewage facilities planning module provided by the Department and must** include:
  - (1) A statement by the governing body of the municipality acknowledging that **[they]the governing body** and an existing municipal planning or zoning agency, or both **if**

applicable, have reviewed the proposal and found it to be consistent with the [municipality's] official plan.

- (2) **[Evidence of review by the municipality's sewage enforcement officer.]**  
**Verification from the sewage enforcement officer that the exception is consistent with § 71.62 (relating to individual and community onlot sewage systems). The exception must include documentation of onsite soil tests, general site conditions and other generally available soils information. A form provided by the Department shall be completed by the sewage enforcement officer verifying consistency with the requirements of this paragraph.**
- (3) **A detailed plot plan, signed and sealed by a licensed professional land surveyor illustrating all items listed as required in the exception application provided by the Department.**

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

**(c.1) The municipality shall process exceptions according to the following requirements:**

- (1) **Within 60 days of receipt, or additional time that the applicant and municipality may agree to in writing, of a complete exception, the municipality shall review and act upon the exception. The exception must then be submitted by the municipality to the Department for a determination that the request for an exception is applicable or not applicable.**
- (2) **If the municipality fails to act upon a complete exception within the 60-day period or an agreed-to extension, the exception shall be deemed approved by the municipality and the following apply:**
  - (i) **The complete exception shall be submitted to the Department by the municipality or applicant.**

Commented [A150]: Moved from 71.55(c) third sentence and revised

Commented [A151]: Moved from 71.55(c) fourth sentence and revised

(ii) Documentation of the period of time the exception was in possession of the municipality must be in the form of a completeness checklist provided by the Department and signed by a municipal official confirming that the requirements of subsections (a) and (b) have been met.

Commented [A152]: Moved from 71.55(c) fifth sentence and revised

(d) Within 10 working days of receipt of an exception, the Department will determine whether the submission is administratively complete. An incomplete exception will be returned to the municipality. If the exception request can be made complete, a resubmission of the exception may be made to the Department. The Department may act on requests for exceptions ~~[to the requirement to revise official plans]~~ within 30 days of the Department's receipt of the properly completed and submitted ~~[components of the Department's sewage facilities planning module]~~ exception, and proper written documentation. If the Department fails to act within the 30-day period, the exception ~~[to the requirement to revise the official plan]~~ shall be deemed to be applicable.

Commented [A153]: Moved from 71.54(b) second sentence and revised

(d.1) An exception to the requirement to revise will not be found inadequate solely because the municipality in which the new land development is being proposed does not have an approved official plan or fails to revise or implement an official plan as established in § 71.32(f)(3) and (4) (relating to Department responsibility to review and act upon official plans, update revisions and special studies).

(e) Review and actions taken by delegated agencies on requests for exceptions shall follow the requirements in § 71.59 (relating to delegated agency administration of new land development planning requirements).

§ 71.56a. Exemptions from the requirement to revise the official plan for new land development.

(a) A revision for new land development, an exception or a supplement is not required and an exemption may be considered for approval by the Department or a delegated local agency, on a form provided by the Department, under the following scenarios:

(1) Exemption requests proposing subdivisions that will be served by an onlot sewage system using an absorption area or a spray field and meet the following criteria:

Commented [A154]: Moved from 71.51(b)(1) and revised

Commented [A155]: Moved from 71.51(b)(1) and revised

(i) The official plan depicts that the area of the municipality where the new land development is located, is to be served by onlot sewage systems using an absorption area or a spray field as verified by the municipality, confirmed by signature of the responsible municipal official, and by providing the date of official plan approval.

(ii) The area proposed for the use of individual or community sewage systems is not directly underlain by carbonate geology as confirmed by the USGS map or other geology map acceptable to the Department.

(iii) The area proposed for the use of individual or community sewage systems is not within 1/4 mile of water supplies documented to exceed 5 parts per

**million of nitrate-nitrogen as confirmed from sampling data.**

**Commented [A156]:** Moved from 71.51(b)(1)(ii) and revised

(iv) **The area proposed for development does not drain to a special protection surface water, designated or existing, established under Chapter 93 (relating to water quality standards) and as confirmed by the location of the new land development on a USGS 7.5-minute topographic map or other map acceptable to the Department.**

**Commented [A157]:** Moved from 71.51(b)(1)(iii) and revised

(v) **Subdivided lots and the remaining portion of the original tract after subdivision are a minimum of 1 acre per EDU as verified by plat and as confirmed by signature of the responsible municipal official.**

**Commented [A158]:** Moved from 71.51(b)(1)(iv) and revised

(vi) **Establish that separate sites are available for both a primary and replacement absorption area, or spray field, on each lot of the subdivision. The municipality shall require deed restrictions necessary to protect the replacement absorption area or spray field from damage that would make it unsuitable for future onlot sewage system use.**

**Commented [A159]:** Moved from 71.51(b)(1)(v) and revised

(vii) **The municipality has a current, approved official plan that is being implemented. The official plan is considered current and being implemented when it meets the requirements in § 71.11 (relating to general requirement) and:**

(A) **The proposed subdivision is in an area within the municipality that has been designated in the official plan as an area to be served by onlot sewage systems.**

(B) **The municipality is not under an existing order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.**

**Commented [A160]:** Moved from 71.51(b)(2)(iv) and revised

(2) **Exemption requests proposing an individual onlot sewage system for a residential structure on a lot that is a contiguous tract of land 10 acres or more and meets the following conditions:**

(i) **The structure is occupied or intended to be occupied by the property owner or a member of the property owner's immediate family, as defined in section 7(a)(3) of the act (35 P.S. § 750.7(a)(3)), if the owner of the property was the owner of record as of January 10, 1987.**

**Commented [A161]:** Moved from 72.22(e) and revised

(ii) **The local agency or municipality does not require a preemption of the 10-acre permit exemption through an ordinance.**

(iii) **The onlot sewage system does not require a Department permit.**

(iv) **The requirements in § 72.31 (relating to conditions related to the installation of permit exempt systems) are being met.**

(3) **Exemption requests proposing subdivisions that will be served by public facilities, or a public utility as defined in 66 Pa.C.S. § 102 (relating to definitions), proposing a connection to or an extension of a sewerage collection system, and meeting the following requirements:**

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

Commented [A162]: Moved from 71.51(b)(2)(i) and revised

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

(A) **Authorities using the provisions of 53 Pa.C.S. Chapter 56 (relating to Municipality Authorities Act) shall notify both the Department and the municipal officials of any action to rescind reserved capacity. The municipality shall keep a record of these actions to help them determine if the planning exemption applies.**

(B) **The notice from the authority must be attached to the exemption request.**

Commented [A163]: Moved from 71.51(b)(2)(ii) and revised

(iii) **The applicant has provided written certification from the permittees of the receiving collection, conveyance and treatment facilities to the municipality in which the subdivision is located and the Department or delegated agency 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 result in a hydraulic or organic overload or cause a 5-year projected hydraulic or organic overload or cause an exceedance or violation of a permit condition.**

Commented [A164]: Moved from 71.51(b)(2)(iii) and revised

(iv) **The municipality has a current, approved official plan that is being implemented. The official plan is considered current and being implemented when it meets the requirements in § 71.11 and the following:**

Commented [A165]: Moved from 71.51(b)(2)(iv) and revised

(A) **The proposed subdivision is in an area within the municipality that has been designated in the official plan as an area to be served by a public sewerage system.**

(B) **The municipality is not under an existing order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.**

(b) **Exemption requests must evaluate consistency between the proposal and the**



objectives and policies under § 71.21(a.2)(5)(i)(L) and (M) (relating to official plans, update revisions and special studies) and resolve any inconsistencies as required under § 71.21(a.2)(5)(ii).

- (c) **Documentation supporting an exemption request must be submitted on a form provided by the Department and must include:**
- (1) A statement by the governing body of the municipality acknowledging that the governing body and an existing municipal planning or zoning agency, or both if applicable, have reviewed the proposal and found it to be consistent with the official plan.
  - (2) When proposing an onlot sewage system, verification from the sewage enforcement officer that the proposal is consistent with the requirements of § 71.62 (relating to individual and community onlot sewage systems). The proposal must include documentation of onsite soil tests, general site conditions and other generally available soils information. A form provided by the Department shall be completed by the sewage enforcement officer verifying consistency with the requirements of this paragraph.
  - (3) A detailed plot plan, signed and sealed by a licensed professional land surveyor illustrating all items listed as required in the exemption application provided by the Department.
- (d) The municipality shall review and act upon an exemption request within 30 days of receipt of a complete exemption application or additional time that the applicant and municipality may agree to in writing. A request for an exemption must be submitted to the Department or delegated agency for a determination that the exemption request is applicable or not applicable. In the event the municipality fails to act, in accordance with this subsection, on the completed exemption application and has failed to submit the appropriate documentation to the Department or delegated agency, the applicant shall provide a copy of the completed exemption application to the Department or delegated agency and an additional copy to the municipality. Documentation of the period of time the application for an exemption was in possession of the municipality must be in the form of a completeness checklist provided by the Department and signed by a municipal official.
- (e) Within 60 days after submission of an administratively complete application for an exemption, the Department will either approve or disapprove the exemption request, unless the Department informs the municipality prior to the end of the 60-day period that an extension of time is necessary to complete the review. The Department will determine if a submission is administratively complete within 10 working days of its receipt.
- (f) **The Department will provide delegated agencies sufficient information to make the required determinations under this section. The delegated agency shall submit to the Department quarterly reports that include the names of the subdivisions, location of**

Commented [A166]: Moved from 71.51(b)(4) and revised

the subdivisions, number of lots and projected sewage flows for each subdivision exempted from the planning provisions under this subsection.

Commented [A167]: Moved from 71.51(b)(3) and revised

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

Commented [A168]: Moved from 71.51(b)(5) with technical edits

§ 71.58. Delegation of new land development planning.

Commented [A169]: Minor changes to this section. Subsection (a) includes a five-year term for delegation agreements and provides for renewing such agreements. Subsection (b) provides for performance review of delegated agencies by the Department, and for specific Department authority to refuse to renew an expired delegation agreement.

- (a) The Department may, by agreement, delegate to a local agency, multimunicipal local agency, or **county or joint county department of** health **department, county or joint county**, the power and duty to require the submittal of and review, and to approve or disapprove sewage facilities planning modules for new land development **[which]that** are submitted on **[planning module forms and other documents] forms** provided by the Department. **Delegation agreements may be for no more than 5-year terms and may be renewed upon request of the delegated agency and concurrence of the Department.**

Additionally, the following apply:

- (1) Sewage facilities planning modules approved by a delegated agency under this section do not constitute a revision **for new land development** or exception to the requirement to revise **the official plan** under this chapter but **[shall]must** be a supplement to the official **[sewage facilities]plan**.
- (2) Delegated agencies may assess fees for the review of supplements under this section. Fees received under this section shall be used solely for the purpose of administering the delegated powers and duties related to the new land development planning provisions of this section.
- (3) The Department may limit the review of supplements in the delegation agreements to specific classifications of sewage facilities or new land developments.
- (4) When delegation is requested, **the qualification criteria under** § 72.44(c) and (d) **[(relating to reimbursement) shall]must** be met as a prerequisite to the delegation.
- (5) Delegation of the review and approval of supplements for new land development may be granted by the Department if the local agency or **county or joint county department of** health department, **county or joint county**, has adequately documented the following to the Department:
  - (i) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect under the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11202).
  - (ii) The municipalities to be included in the delegation agreement have a current official **[sewage facilities]plan** which is being implemented in accordance with the content of the plan's implementation schedule and the provisions of the act, **[The]the** Clean Streams Law and this **[part]chapter**. For the purposes of

determining qualifications for delegation under this section, **[the phrase “current official sewage facilities plan which is being implemented” shall include official plans of municipalities which are not] an official plan is not considered as being implemented if it is from a municipality that is** under an order from the Department to submit an update revision or special study for the area in which the subdivision is proposed.

- (iii) The municipalities or counties to be included in the delegation agreement have municipal or countywide subdivision and land development ordinances in effect **[which]that** require one of the following:
    - (A) Sewage facilities planning approval as a condition attached to **the** final plat approval under the Pennsylvania Municipalities Planning Code **(53 P. S. §§ 10101—11202)**.
    - (B) Documentation that sewage facilities planning is not required under this part.
  - (iv) When delegation is requested for the review of new land developments proposing the use of public sewerage facilities which do not require a new or modified permit under **[The]the** Clean Streams Law, **or the Clean Water Act**, the delegation agreement includes coordination procedures to be used with the Department to assure continued compliance with the municipal wasteload management provisions of **[The]the** Clean Streams Law.
  - (v) The local agency and any sewage enforcement officer employed by the local agency serving the municipalities to be included in the delegation agreement have not been issued a notice of violation or order by the Department for a violation of the act or the rules and regulations thereunder for the prior 3 years as determined by the Department.
  - (vi) A workload analysis is completed by the entity requesting delegation which analyzes the volume of work anticipated and the staffing and support resources needed to administer the program and documents that the fees proposed to be charged by the delegated agency to administer the sewage facilities planning reviews are sufficient to allow the delegated agency to act upon supplements within the time limits established by this chapter.
  - (vii) The administrative procedures, rules, regulations, fee schedules and contracts for services and applicable municipal ordinances, rules and regulations proposed for use by the delegated agency in the administration of the delegated provisions of this chapter have been reviewed by the Department. Delegated agencies shall use forms provided by the Department for the submittal and review of all supplements.
- (6) Supplements to an official plan shall be prepared by the person proposing the new land development and shall be reviewed and acted upon by the delegated agency.

- (7) The failure of or refusal of a municipality, local agency, multimunicipal local agency or **[county or joint county department of]health department, county or joint county,** to enter into a delegation agreement may not influence the eligibility of the local agency serving that municipality or the local agency itself to receive 85% reimbursement under Chapter 72 (relating to administration of sewage facilities permitting program).
- (b) The Department **[will]may** review the delegated agencies' performance of the duties established by delegation agreements under this section **at any time and will review the delegated agencies' performance prior to renewal. The Department may refuse to renew delegation agreements upon expiration** and may revoke the agreements for cause.
- (c) **The delegation agreement between the Department and the delegated agency may be used to establish information transfer procedures between the Department and the delegated agency. Municipal wasteload management and effluent limits will be made available to the delegated agency by the Department in a timely manner.**

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

- (a) When the Department has delegated the authority to review and approve subdivisions for new land developments to a delegated agency, **[the regulatory provisions of the Department in] §§ 71.54 [and], 71.55 and 71.56a** (relating to Department administration of **[new land development]planning requirements for revisions for new land development; [and]exceptions to the requirement to revise the official plan [for new land development], and exemptions from the requirement to revise the official plan for new land development**) shall be administered by the delegated agency except that the time limits for review shall be in accordance with subsection (c).
- (b) A new **[land development] planning** proposal submitted as a revision **for new land development** or an exception to the requirement to revise **the official plan for new land development** may be approved by the delegated agency as a supplement to the official plan of the municipality.
- (c) The delegated agency shall determine if a submission is complete within 10 working days of its receipt. Delegated agencies shall approve or disapprove supplements within 60 days of the date of **[a]an administratively** complete submission **[or additional time that the applicant and delegated agency may agree to in writing]and shall approve or disapprove exemptions from the requirement to revise the official plan for new land development within 30 days of the date of an administratively complete submission, unless the delegated agency informs the municipality and applicant in writing prior to the end of the 30-day period that an extension of time is necessary to complete the review. The extension of time may not exceed 30 days.**
- (d) **[If planning modules for new land development propose service by sewerage facilities requiring a new or modified permit from the Department under The Clean Streams Law, the new land development planning module shall be forwarded to the Department for final action.] {Reserved}.**

- (d.1) A supplement for new land development may not be denied solely because the municipality in which the new land development is being proposed does not have an approved official plan or fails to revise or implement an official plan as established in § 71.32(f)(3) and (4) (relating to Department responsibility to review and act upon official plans, update revisions and special studies).
- (e) The delegated agency shall submit to the Department quarterly reports which include the names of the subdivisions, location of the subdivisions, number of lots and projected sewage flows for each subdivision for which sewage facilities planning was approved or accepted as an exception to the requirement to revise the official plan or exempted from the planning provisions under this part.
- (f) Denial of a planning proposal by the delegated agency may be appealed in accordance with section 16 of the act (35 P.S. § 750.16).

**Commented [A170]:** Moved from 71.51(b)(3) second sentence and revised

Subchapter D. OFFICIAL PLAN REQUIREMENTS FOR ALTERNATIVE EVALUATIONS

§ 71.61. General.

- (a) [Official plans and revisions to official plans shall evaluate alternatives available to provide for adequate sewage facilities as required in §§ 71.21 and 71.52(a)(3) (relating to contents of official plans; and content requirements—new land development revisions). The Department may require evaluation of additional technically available alternatives.] {Reserved}.
- (a.1) It is the responsibility of a municipality adopting official plans and official plan revisions to ensure that:
  - (1) Official plans and official plan revisions evaluate alternatives available to provide for adequate sewage facilities as required under §§ 71.21 and 71.52(a)(3) (relating to official plans, update revisions and special studies; and content requirements—revisions for new land development).
  - (2) Each alternative for the provision of adequate sewage facilities is evaluated for compliance with the technical and administrative planning requirements of the act and the regulations promulgated thereunder.
  - (3) One alternative is selected to solve the need for sewage facilities in the planning area, and this choice is supported by documentation that shows that the alternative is technically, environmentally, financially and administratively feasible.
  - (4) Long-term operation and maintenance of the sewage facilities selected for use within the area are accounted for in official plans and official plan revisions.
- (a.2) The Department may require evaluation of additional technically available alternatives prior to making its decision concerning approval of any official plan or

**Commented [A171]:** This new alternative analysis section is intended to provide planners with more specific regulatory direction, based upon the type of sewage disposal technology that is being proposed. Subsections (a) and (b) are taken from §71.61 (relating to general) and further supplemented with new material in paragraph (a)(4) and subsections (c) – (f). Subsection (a) paragraph (4) requires identification of how operation and maintenance concerns will be addressed. Subsection (c) – (f) are technology-specific, and include cross-references to sections that list the specific regulatory requirements that must be satisfied for individual types of sewage disposal technologies. These individual sections include sewage systems, onlot sewage systems, privies and small flow treatments facilities.

**Commented [A172]:** Moved to 71.61(a.1)(1) and modified as in the comment of that part.

**Commented [A173]:** Moved to 71.61(a.2) and revised

**Commented [A174]:** Moved from 71.61(a) first sentence and revised

**Commented [A175]:** Moved from 71.61(b) and revised

**Commented [A176]:** Moved from 71.61(c) and revised

**official plan revision.**

- (b) **[Each alternative for the provision of adequate sewage facilities shall be evaluated for compliance with the technical and administrative planning requirements of the act and regulations promulgated thereunder.] {Reserved}.**
- (c) **[The official plan or revision shall select one alternative which is supported by documentation as described in § 71.21(a)(4)—(6) which assures the long term sanitary collection, treatment and disposal of sewage.] {Reserved}.**
- (d) Approval of official plans and **official plan** revisions **[shall] must** be based on:
- (1) The technical feasibility of the selected alternative in relation to applicable regulations and standards.
  - (2) The feasibility for implementation of the selected alternative in relation to applicable administrative and institutional requirements.

**Commented [A177]:** Moved from 71.61(a) second sentence and revised

**Commented [A178]:** Moved to 71.61(a.1)(2) and revised

**Commented [A179]:** Moved to 71.61(a.1)(3) and revised

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

- (a) Official plans and official plan revisions proposing individual and community onlot sewage systems shall evaluate **[general site suitability to establish their use as a feasible alternative] the suitability of the site for relving on onlot sewage systems as a viable, long-term alternative sewage treatment and disposal option**, as specified in subsection (b).
- (b) When an official plan or **official plan** revision proposes the renovation of sewage effluent by means of **[a subsurface]an** absorption area or **[a] spray field[irrigation system]**, the following **[shall]must** be provided:
- (1) Anticipated raw waste characteristics of the sewage. Where industrial wastes **[as defined in the Clean Streams Law]** are expected to be present in the raw sewage, **[§ 72.25(g)(2)] § 72.25(a.1)(3)(ii)** (relating to issuance of permits) applies.
  - (1.1) **A primary and replacement absorption area for each lot in the subdivision when an absorption area is proposed.**
  - (2) Documentation that the soils and geology of the proposed site are **[generally]suitable, as specified in Chapter 73 (relating to standards for onlot sewage treatment facilities)**, for the installation of the **[systems including] type of onlot sewage systems identified and proposed for each lot in the subdivision. Documentation of the site evaluation must include:**
    - (i) Soils mapping as per the United States **[Soil Conservation Service] Department of Agriculture, Natural Resources Conservation Service Web Soil Survey** mapping or the equivalent.
    - (ii) Contour lines, **indicating elevation changes of two foot or less across the**

**areas planned to be used as an absorption area, including any berm, or spray field, and on 5-foot or less intervals across the entire plat,** as per the **[United States Geologic Survey Topographic] USGS** mapping or site **[determined contour lines] survey.**

- (iii) **[Soil profiles as described in Chapter 73 (relating to standards for onlot sewage treatment facilities) shall be performed to insure that an adequate area with suitable soils is available in the area of the proposed system. These profiles shall be approximately equally distributed among the various soils mapped in the area. For the purpose of this section, each change of slope or change in erosion characteristic specified as part of the soil classification system of the United States Department of Agriculture, Natural Resources Conservation Service will be equivalent to a change in soil type.] A minimum of two soil probe evaluations per absorption area, or more as required by system type and design, completed or verified by the sewage enforcement officer for presence and identification of limiting zone restrictions, and if required, morphological descriptions by a qualified soil scientist, as described in Chapter 73 shall be performed to ensure that an adequate area with suitable soils is available to site the proposed primary and replacement systems. These soil probes shall be of sufficient number and placement to adequately evaluate the various soils mapped in the area.**
- (iv) **[A] When required under § 73.15 (relating to percolation tests), a sufficient number of percolation tests to confirm that the [general] average percolation rate for each [soil type in the area where systems are to be installed] primary and replacement absorption area is within acceptable limits as described in Chapter 73. [For the purpose of this section, each change of slope or change in erosion characteristic specified as part of the soil classification system of the United States Soil Conservation Service will be equivalent to a change in soil type.]**
- (v) **When required by subsection (d.1), a sufficient number of soil hydraulic conductivity tests must be performed, by a method acceptable to the Department, to confirm that the hydraulic conductivity for each absorption area is adequate to disperse the proposed design flow.**
- (vi) **When required by subsections (e), (g) and (h), a preliminary or detailed hydrogeologic study must be conducted that demonstrates the effluent will not create a public health hazard or a nuisance and the proposed system will be protective of existing or proposed drinking water uses.**

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

institutional feasibility of using the systems.

- (1) **Additional permeability testing is required when an official plan or revision proposes the use of a large volume onlot sewage system or a community onlot system with a sewage flow in excess of 10,000 gpd, and may be required for other onlot system proposals where the total absorption area is greater than 5,000 square feet or where soil profiles or geology reveal slowly permeable conditions below the depth at which the percolation test was performed. Sufficient testing shall be conducted to:**
    - (i) **Determine the permeability of an identified restrictive soil, geologic or hydraulic layer.**
    - (ii) **Determine the vertical rate and the horizontal rate of flow in or above the restrictive layers in inches per hour.**
    - (iii) **Determine the application rate required as derived from the information contained in subparagraphs (i) and (ii). When this application rate is more stringent than that derived from percolation testing, as contained in Chapter 73, the more stringent rate shall be used to size the system.**
    - (iv) **Determine the impact of the system on groundwater mounding.**
  - (2) **A preliminary hydrogeologic evaluation is required when the use of subsurface soil absorption areas is proposed and one of the following exists:**
    - (i) **A large volume onlot sewage system will be used.**
    - (ii) **A subdivision of more than 50 equivalent dwelling units with a density of more than one equivalent dwelling unit per acre is proposed.**
    - (iii) **The Department has documented that the quality of water supplies within 1/4 mile of the proposed site exceed five parts per million (ppm) nitrate-nitrogen.**
    - (iv) **The Department has determined that known geological conditions for the proposed site may contribute to the potential for groundwater pollution from the systems.**
  - (3) **A preliminary hydrogeologic evaluation shall include as a minimum, in map and narrative report form:**
    - (i) **The topographic location of the proposed systems in relation to groundwater or surface water flow, or both.**
    - (ii) **Estimated wastewater dispersion plume using an average daily flow of 262.5 gallons per equivalent dwelling unit per day or other flow supported by documentation.**
- Commented [A180]:** Moved to 71.62(d.1) and revised
- Commented [A181]:** Moved to 71.62(d.1)(1) and revised
- Commented [A182]:** Moved to 71.62(d.1)(2) and revised
- Commented [A183]:** Moved to 71.62(d.1)(3)
- Commented [A184]:** Moved to 71.62(d.1)(4) and revised
- Commented [A185]:** Moved to 71.62(d.1)(5) and revised
- Commented [A186]:** Moved to 71.62(e) and revised
- Commented [A187]:** Moved to 71.62(e)(1) and revised
- Commented [A188]:** Moved to 71.62(e)(2) and revised
- Commented [A189]:** Moved to 71.62(e)(5) and revised
- Commented [A190]:** Moved to 71.62(e)(6) and revised
- Commented [A191]:** Moved to 71.62(f) and revised
- Commented [A192]:** Moved to 71.62(f)(1) and revised
- Commented [A193]:** Moved to 71.62(f)(2) and revised
- Commented [A194]:** Moved to 71.62(f)(5) and revised



- (iii) **Identification and location of existing and potential groundwater uses in the estimated area of impacted groundwater.** Commented [A195]: Moved to 71.62(f)(6) and revised
- (4) **Detailed hydrogeologic studies may be required by the Department when the preliminary hydrogeologic evaluation identifies a potential for a conflict between the proposal and existing or potential future uses of groundwater in the area. Detailed hydrogeologic studies shall identify constituents of the sewage which may pollute groundwater and shall evaluate methods for preventing the pollution of the waters of this Commonwealth. A detailed hydrogeologic study shall be submitted using the Department’s sewage facilities planning module.** Commented [A196]: Moved to 71.62(g) and revised  
{Reserved}.
- (c.1) **In addition to the requirements in subsections (a) and (b), official plans and official plan revisions proposing large-volume onlot sewage systems must evaluate and document that the soils and geology of the proposed site are suitable as established under subsections (d.1)—(i).**
- (d) **[Municipalities shall evaluate and implement options for establishing an institutional framework to assure the proper operation and maintenance of these systems under the act and this part.]** {Reserved}.
- (d.1) **Soil hydraulic conductivity testing is required on sites where a soil morphological or geologic evaluation reveal conditions below the depth at which the percolation test was performed that can reasonably be expected to impede proper dispersion of effluent, cause groundwater mounding, or when proposing use of the following:**
  - (1) **A large-volume onlot sewage system.** Commented [A197]: Moved from 71.62(c)(2)(1) and revised
  - (2) **An onlot sewage system where the total absorption area is greater than 5,000 square feet.** Commented [A198]: Moved from (c)(1) last part of sentence one and revised
- (d.2) **When required under subsection (d.1), sufficient hydraulic conductivity testing must be conducted to:** Commented [A199]: Moved from 71.62(c)(1) and revised
  - (1) **Determine the permeability of an identified restrictive soil, geologic or hydraulic layer.** Commented [A200]: Moved from 71.62(c)(1)(i) – no change.
  - (2) **Determine the vertical and horizontal rate of flow, in or above the restrictive layers in inches per hour.** Commented [A201]: Moved from 71.62(c)(1)(ii) and revised
  - (3) **Determine a loading rate acceptable to the Department derived from the information in paragraphs (1) and (2). When the loading rate, derived from the percolation testing or soil morphologic evaluation, and the loading rate derived from hydraulic conductivity testing yield different rates, the more restrictive rate must be used to determine the size of the absorption area.** Commented [A202]: Moved from 71.62(c)(1)(iii) first sentence and revised
  - (4) **Determine the impact the system on groundwater mounding.** Commented [A203]: Moved from 71.62(c)(1)(iii) second sentence and revised  
Commented [A204]: Moved from 71.62(c)(1)(iv) – no changes.

(e) **A preliminary hydrogeologic evaluation as described in subsection (f) must be completed when the use of an absorption area is proposed and one of the following exists:**

Commented [A205]: Moved from 71.62(c)(2) and revised

(1) **A large-volume onlot sewage system.**

Commented [A206]: Moved from 71.62(c)(2)(i) and revised

(2) **A subdivision of 25 or more dwelling units or EDUs.**

Commented [A207]: Moved from 71.62(c)(2)(ii) and revised

(3) **A subdivision of five or more EDUs sited on soils with a limiting zone less than 20 inches from the mineral soil surface and a density of more than one EDU per 2 acres.**

(4) **The municipality or the Department has documented that the quality of water supplies within 1/4 mile of the proposed site exceed 5 parts per million nitrate-nitrogen.**

Commented [A208]: Moved from 71.62(c)(2)(iii) and revised

(5) **The Department has determined that known geologic or hydrogeologic conditions at the site demonstrate the potential for groundwater or surface water pollution from the systems.**

Commented [A209]: Moved from 71.62(c)(2)(iv) and revised

(f) **A preliminary hydrogeologic evaluation, in the form of a map and narrative report, must include at a minimum:**

Commented [A210]: Moved from 71.62(c)(3) and revised

(1) **The most recent USGS 7.5-minute topographic map or other map acceptable to the Department with the absorption area or discharge location plotted.**

Commented [A211]: Moved from 71.62(c)(3)(i) first part of sentence and revised

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

Commented [A212]: Moved from 71.62(c)(3)(i) second part of sentence and revised

(3) **The estimated wastewater dispersion plume or plumes using an average daily flow of 262.5 gallons per dwelling unit or EDU per day or other flow acceptable to the Department and supported by documentation.**

Commented [A213]: Moved from 71.62(c)(3)(ii) and revised

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

Commented [A214]: Moved from 71.62(c)(3)(iii) – no changes.

(g) **A detailed hydrogeologic study may be required by the Department when the preliminary hydrogeologic evaluation identifies a potential for a conflict between the proposal and existing or potential future uses of groundwater in the area. Detailed hydrogeologic studies must identify constituents of the sewage which may pollute groundwater and must evaluate methods for preventing the pollution of the waters of this Commonwealth. When a detailed hydrogeologic study is required, the report must be submitted as part of the Department's sewage facilities planning module. A detailed hydrogeologic study must be completed when:**

Commented [A215]: Moved from 71.62(c)(4) and revised

(1) **A preliminary hydrogeologic evaluation identifies the proposed onlot sewage system discharge may impact the water quality of existing or potential future uses of groundwater in the area.**

- (2) The Department has determined that known geologic conditions, including, but not limited to, limiting geologic conditions, surficial rock outcrops or karst geology at the proposed site may contribute to groundwater pollution from the system.
- (h) A detailed hydrogeologic evaluation must include at a minimum, in map and narrative report form, the requirements under subsection (f) and the following:
- (1) Groundwater and surface water quality characteristics.
  - (2) Geologic and hydrogeologic characteristics influencing groundwater flow, including, but not limited to, faults, fractures, lineaments, karst features and bedrock orientation.
  - (3) Describe the proposed project's impact on, and evaluate methods for preventing the pollution of, the waters of this Commonwealth by using an average daily flow of 262.5 gallons per dwelling unit for individual sewage systems or per EDU for community sewage systems or other flow acceptable to the Department and supported by documentation evaluating:
    - (i) The impact of effluent movement away from the system, including:
      - (A) The extent of all dispersion plumes and mixing zones in which the existing water quality will be degraded.
      - (B) Any buffer zones for the dispersion plume and mixing zone and any impacts on existing, planned, and potential groundwater uses in the delineated dispersion plume, mixing zone and buffer zone.
      - (C) Potential impacts to any surface waterbodies that may intercept or interact with the dispersion plume.
    - (ii) The impact of effluent movement beneath the system, including:
      - (A) The extent and height of any groundwater mound and capillary fringe.
      - (B) Any physical, chemical, or biological impact to groundwater, surface water or treatment facility function resulting from the formation of a groundwater/wastewater mound.
      - (C) Any system changes or recommendations deemed necessary to mitigate the effects of the identified groundwater or wastewater mounding.
  - (4) Identify sewage system treatment methods to be implemented to decrease effluent contamination levels that are protective of groundwater sources.

- (5) **Identify any groundwater monitoring program necessary to guard against adverse impacts from the sewage system(s) including, but not limited to, authority for controlling groundwater uses within the mixing and buffer zones and groundwater easements and access rights that are necessary for mitigation or abatement purposes and contingency plans to abate pollution if groundwater monitoring reveals the groundwater is polluted.**
- (i) **When a proposed project requires a preliminary or detailed hydrogeologic evaluation, the results must demonstrate that the average concentration of nitrate (as nitrogen) will not exceed drinking water standards at the lot boundary or at any existing or planned potable water well or source. For this purpose, hydrogeologic studies must treat nitrate (as nitrogen) as a conservative pollutant in groundwater. Conservative pollutants are pollutants presumed not to be destroyed, biodegraded, chemically transformed or volatilized within the groundwater.**

§ 71.63. Retaining tanks.

- (a) Retaining tanks are designed and constructed to facilitate ultimate disposal of the sewage at another site. This requires the control of retaining tanks through specific restrictions on their use **and municipal ordinances to ensure their proper operation and maintenance.**
- (b) General requirements for retaining tank use are as follows:
  - (1) The official plan or **official plan** revision **[shall] must** meet the requirements of Subchapters B and C (relating to official plan requirements; and **planning for** new land development **[plan revisions]**).
  - (2) Proposed disposal sites, the method of disposal and the **[retaining tank cleaner for waste shall] qualified service provider contracted to pump and inspect the retaining tank must** be approved by the Department in a manner consistent with the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) prior to **municipal** approval of the official plan or **official plan** revision allowing the use of retaining tanks.
  - (3) A municipality, sewer authority or sewage management agency may delegate or contract for the collection and disposal of the contents of the retaining tanks except that the ultimate responsibility for the proper collection and disposal of the contents shall remain with the municipality, authority or agency.
  - (4) Whenever the local agency issues permits for retaining tanks the municipality or local agency may impose other conditions it deems necessary for operation and maintenance of the tanks to prevent a nuisance or a public health hazard.
  - (5) **The municipality has a sewage management program providing for the use of retaining tanks in a local ordinance detailed in Subchapter E (relating to sewage management programs).**
- (c) Holding tanks **are retaining tanks that** require regular service and maintenance to prevent

their malfunction and overflow **[and shall]. Holding tanks require sewage facilities planning and may** be used in lieu of other methods of sewage disposal only when the **requirements of subsection (b) and the** following **[additional]** conditions are met:

- (1) **[The applicable official plan or revision thereto indicates the use of holding tanks for that lot and provides for] When a temporary holding tank is proposed, the official plan or official plan revision provide for their** replacement by adequate sewerage services in accordance with a schedule approved by the Department.
- (2) The **[applicable]** official plan or **official plan** revision includes municipal financial assurances of the replacement project's implementation, such as public financing, bonding, or other security of sufficient present value to assure completion or other assurances either singularly or in combination that the Department deems necessary. **Any financing, bonding or other security must be finalized to be considered financially assured.**
- (3) The municipality, sewer authority or other Department approved entity with jurisdiction or responsibility over the site has by **[suitable] ordinance[, regulation or restriction]** assumed full responsibility for maintaining existing and new holding tanks. The ordinances **[, regulations or restrictions shall, as] must, at** a minimum, include:
  - (i) Identification of the administrative entity to receive, review and retain pumping receipts from permitted holding tanks.
  - (ii) **[An annual inspection] Procedures for annual inspections** of holding tanks within the municipality **[with] that include the** completion and retention of a written inspection report.
  - (iii) Procedures and penalties for correction of malfunctions or public health hazards from holding tanks.
- (4) **The restrictions in paragraphs (1)—(3) do not apply to holding tanks when the local agency, municipality or the Department determines that the use is necessary to abate a nuisance or public health hazard.**
- (5) **The restrictions in paragraph (2) do not apply to permanent holding tanks when their use is for institutions or commercial establishments with a total sewage flow of less than 800 gpd per lot.**
- (d) **[The restrictions in subsection (c)(1)—(3) do not apply to holding tanks when the local agency, municipality or the Department determines that the use is necessary to abate a nuisance or public health hazard.] {Reserved}.**
- (e) **[The restrictions in subsection (c)(1) and (2) do not apply to holding tanks when the use is for institutions, recreational vehicle dump stations or commercial establishments with a sewage flow of less than 800 gpd.] {Reserved}.**

Commented [A216]: Moved from (d) with technical edit

Commented [A217]: Moved from (e) and revised

Commented [A218]: Moved to (c)(5) and revised

Commented [A219]: Moved to (c)(4) and revised

(f) **[A privy or chemical toilet is] Privies or chemical toilets are retaining tanks** designed to receive **blackwater** sewage where there is no **pipd water or** water under pressure and no piped wastewater. Privies **[shall]may** be used in lieu of other methods of sewage disposal only when the **requirements of subsection (b) and the** following conditions are met:

(1) **[The applicable official plan or official plan revision thereto indicates the use of privies for that lot and documents that soil and site suitability testing of that lot under §§ 73.11—73.16] Documentation is submitted that soil and site suitability testing of that lot under §§ 73.11—73.15a** has been conducted, and the site meets the requirements for the ultimate sewage disposal, **of blackwater and graywater,** by **[one of the systems described under §§ 73.51—73.55 and 73.167 (relating to construction of absorption areas; and spray fields)]an absorption area or spray field** to assure that adequate sewage facilities will be available to that lot in the future. **The municipality shall require deed restrictions necessary to protect the replacement absorption area or spray field from damage that would make it unsuitable for future use.**

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

(3) **The restrictions in paragraph (1) do not apply to privies or chemical toilets when proposed for use on a lot of record in existence prior to May 15, 1972, which is one acre or larger and is not served now and will not be served in the future by water under pressure, piped water or plumbing to move sewage from the structure to the privy vault.**

Commented [A220]: Moved from (g)(1) and revised

(4) **The restrictions in paragraph (1) do not apply to the temporary use of portable retaining tanks, portable restroom trailers, or portable chemical toilets when their use is proposed at construction sites or at the site of a public gathering, public entertainment event, or a single private entertainment event.**

Commented [A221]: Moved from (g)(2) and revised

(5) **The restrictions in this subsection apply to private event venues.**

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

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

Commented [A222]: Moved to (f)(3) and revised

(2) **To temporary use of portable retention tanks or portable chemical toilets when**

**their use is proposed at construction sites or at the site of public gathering and entertainments.]{Reserved}.**

Commented [A223]: Moved to (f)(4) and revised

(h) **Composting, incinerating and recycling toilets may be used in lieu of other methods of sewage disposal only when the requirements of subsection (b) and the following additional conditions are met:**

- (1) **Documentation that soil and site suitability testing of that lot under §§ 73.11, 73.13—73.15a, and 73.51 has been conducted, and the site meets the requirements for the ultimate sewage disposal, of blackwater and graywater, by an absorption area or spray field to assure that adequate sewage facilities will be available to that lot in the future. The municipality shall require deed restrictions necessary to protect the replacement absorption area or spray field from damage that would make it unsuitable for future use.**
- (2) **Discharges of liquids from these units, including graywater generated from the structure, must be served by a sewage facility or reclaimed water system.**
- (3) **The municipality, sewer authority or other Department approved entity with jurisdiction or responsibility over the site has by ordinance assumed full responsibility for composting, incinerating and recycling toilet maintenance. The ordinances must, at a minimum, include:**
  - (i) **Identification of the administrative entity to receive, review and retain receipts from the composting, incinerating and recycling toilet maintenance provider.**
  - (ii) **Procedures and penalties for correction of malfunctions or public health hazards from composting, incinerating and recycling toilets.**
- (4) **The restrictions in paragraph (1) do not apply to composting, incinerating, and recycling toilets proposed for use on a lot of record in existence prior to May 15, 1972, and which is 1 acre or larger.**

Commented [A224]: Partially from 73.65e

- (i) **Portable restroom trailers are retaining tanks designed to receive blackwater and graywater from the restrooms' onboard fixtures only. They may be used in lieu of other methods of sewage disposal only when the requirements of subsection (b) and the following conditions are met:**
  - (1) **The use of portable restroom trailers is restricted to temporary usage at events, weddings, concerts, sporting events, construction sites and sites of public gatherings and is not a means of long-term sewage disposal.**
  - (2) **Portable restroom trailers must be self-contained with no permanent water and sewer connection.**
  - (3) **A maintenance contract with a service provider must be approved by the municipality or local agency and the Department that will satisfy the identified**

needs of the event in terms of sewage flows and schedule of events.

- (4) Documentation must be provided demonstrating the portable restroom trailer has adequate sewage capacity for the proposed event. Adequate sewage capacity will be based on flows in § 73.17 (relating to sewage flows).

§ 71.64. Small flow treatment facilities.

- (a) Small flow treatment facilities require adequate operation and maintenance to prevent the creation of environmental problems or public health hazards associated with improperly treated sewage. This requires the control of small flow treatment facilities through specific restrictions on their use.
- (b) Small flow treatment facilities are restricted to use as a replacement or repair system which the Department determines is necessary to abate an existing nuisance or public health hazard or as a system to serve residential dwellings or commercial facilities which generate domestic wastewater not containing industrial waste.
- (c) When an official plan or update revision proposes the use of small flow treatment facilities, the official plan or revision shall, as a minimum, contain the following, in addition to the requirements of Subchapters B and C (relating to official plan requirements; and **planning for** new land development **[plan revisions]**):
- (1) Documentation that soils are not suitable for the installation of individual or community onlot sewage disposal systems, **[excluding]including** individual residential spray irrigation systems **and alternate systems** proposed for use in areas outside the watershed of waters classified as high quality or exceptional value under §§ 93.6 and 93.9 (relating to general water quality criteria; and designated water uses and water quality criteria).
- (1.1) When a small flow treatment facility is proposed for use within a watershed containing waters classified as special protection under §§ 93.6 and 93.9 (relating to general water quality criteria; and designated water uses and water quality criteria) the alternatives evaluation must include the results of an analysis under the Department's water quality antidegradation requirements.
- (2) A preliminary hydrogeologic evaluation when the small flow treatment facility will use land disposal or a dry stream channel discharge for final disposal. This evaluation shall include:
- (i) **[The most recent 7 1/2' United States Geologic Survey Topographic map with the discharge accurately plotted.] {Reserved}.**
- (i.1) A plot plan including the proposed lot, the stream channel, topography, and existing groundwater withdrawals within a 200-foot width on each side of the channel downstream from the discharge point of the system, until perennial stream conditions are reached.



- (ii) The discharge rate and quality, including seasonal variations.
  - (iii) **[An identification on the topographic map of existing groundwater uses for 200 feet in width on each side of the channel downstream from the discharge from the system until perennial stream conditions are reached.] {Reserved}.**
- (2.1) **Soil hydraulic conductivity testing when proposing an infiltration area to verify the soil can hydraulically disperse the treated effluent.**
- (3) Documentation, using the information developed in **[paragraph (2)] paragraphs (2) and (2.1)**, which confirms that existing or proposed drinking water uses will be protected and that effluent will not create a public health hazard or a nuisance.
  - (4) Documentation that the proposed use of these small flow treatment facilities does not conflict with comprehensive sewage planning for the area.
  - (5) **[An evaluation that establishes specific responsibilities for operation and maintenance of the proposed system which shall include documentation that one or a combination of the following operation and maintenance requirements have been established or approved in writing by the municipality:**
    - (i) **A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.**
    - (ii) **A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.**
    - (iii) **A municipal ordinance which requires that the small flow treatment facilities be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.**
    - (iv) **Municipal ownership of the system.**
    - (v) **Inclusion of the system under a sewage management agency developed in accordance with § 71.73 (relating to sewage management programs for sewage facilities permitted by local agencies) operated by the municipality.**
    - (vi) **A properly chartered association, trust or other private entity which is structured to manage the system.**
    - (vii) **Establishment of bonding, escrow or other security prior to planning**

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

**(5.1) The municipality has an approved municipal-wide sewage management program as detailed in Subchapter E (relating to sewage management programs) that addresses the assurance of long-term operation and maintenance for small flow treatment facilities, except when a small flow treatment facility is proposed as a replacement or repair system which the Department determines is necessary to abate an existing nuisance or public health hazard until the municipality has a municipal wide sewage management program, the requirements in § 71.72(b) (relating to sewage management programs for Department-permitted sewage facilities and community onlot sewage systems) apply for the update revision.**

- (6) An evaluation of the density of development and the number and density of other similar systems in the watershed, **the density of lots where malfunctioning onlot systems could only be addressed with onlot systems not conforming to the design and siting standards in Chapter 73 (relating to standards for onlot sewage treatment facilities), and the potential for connection to existing or planned sewerage facilities.** As a result of that evaluation the Department may impose additional conditions or limit the construction or operation of small flow treatment facilities[.] **if the Department determines that adding additional small flow facilities to the watershed will cause any of the following:**
- (i) **Create or contribute to an impairment of a surface water of this Commonwealth.**
  - (ii) **Create or contribute to pollution of a drinking water supply.**
  - (iii) **Create a nuisance.**
  - (iv) **Create undue stress on the management capabilities of the municipality to properly manage the growing number of small flow facilities.**
- (7) An evaluation of the alternatives available to provide sewage facilities **[which]that** documents **[that]**the use of small flow treatment facilities is a technically,

environmentally, and administratively acceptable alternative.

- (d) Small flow treatment facilities and their appurtenances **[shall meet] must conform to** applicable design, installation, operation and other standards established for small flow treatment facilities by the Department under sections 202 and 207 of **[The] the** Clean Streams Law (35 P. S. § § 691.202 and 691.207) **[and]. Owners of these facilities or appurtenances** shall obtain a Clean Streams Law permit and if there is a discharge to surface water, a National Pollutant Discharge Elimination System permit, prior to construction and operation.
- (e) Plans and specifications **[shall] for small flow treatment facilities must** be prepared by a licensed professional engineer **[in compliance with Chapter 91 (relating to general provisions)] under § 91.23(b) (relating to plans, reports and specifications).**
- (f) The Department may require independent oversight of the system installation.

**§ 71.65. Individual and community sewerage systems.**

- (a) **[When an official plan or revision proposes the use of publicly or privately owned individual or community sewerage system, the official plan or revision shall contain the following, in addition to the requirements of Subchapters B and C (relating to the official plan requirements; and new land development plan revisions):] Official plans and official plan revisions proposing the use of a publicly or privately owned individual or community sewerage system, must, in addition to providing the required information under Subchapters B and C (relating to official plan requirements; and planning for new land development), evaluate and document the following:**
  - (1) **[An evaluation of alternatives available to provide sewage facilities and proof that the proposed sewage facilities are the best short- and long-term, environmentally acceptable alternative.] The alternatives available to provide sewerage facilities and proof that the proposed sewerage facility chosen satisfies both the short- and long-term sewage needs of the area.**
  - (2) **[An evaluation that establishes specific] Specific** responsibilities for operation and maintenance of the proposed system under Subchapter E (relating to sewage management programs).
- (b) When the proposed discharge from the individual or community sewerage system is to **[a dry] an intermittent or ephemeral** stream channel or land **[disposal] treatment** site, **[the information as required in] a preliminary hydrogeologic evaluation under § 71.64(c)(2) and (3)** (relating to small flow treatment facilities) and **[appropriate] related** Department guidance **[manuals shall be included with the official plan or revision] documents are required.**
- (c) Individual and community sewerage systems **[and], large-volume onlot sewerage systems** and their appurtenances **[shall meet] must be designed and constructed in accordance with** applicable design and other standards established by the Department under sections 202 and 207 of **[The] the** Clean Streams Law (35 P. S. §§ 691.202 and 691.207) and shall

obtain a Clean Streams Law permit **[and if there is]. If there will be** a discharge to surface water, a National Pollutant Discharge Elimination System permit[,] **shall be obtained** prior to **system** construction and operation.

#### Subchapter E. SEWAGE MANAGEMENT PROGRAMS

##### § 71.71. General requirements.

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

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

- (a) When an official plan or **official plan** revision **[to an official plan ]** for existing needs areas or new land development proposes the construction of Department-permitted nonmunicipal sewage facilities, or a community onlot sewage system permitted by a local agency (except for small flow treatment facilities which shall comply with the management provisions **[of § 71.64(c)(5) (relating to small flow treatment facilities)] in subsection (b) or the official plan reflects any sewage disposal by an existing Department-permitted nonmunicipal sewage facility or community onlot sewage system,** the official plan or **official plan** revision shall evaluate the options available to assure the long-term proper operation and maintenance of the **[proposed]** sewage facilities. The municipality, prior to adoption of that official plan or revision, shall require one or more of the following:
  - (1) A bond or escrow account sufficient to cover the costs of future operation and maintenance of the sewage facilities under local ordinances. Bonding, escrow or other security shall be forfeited to the municipality upon notice by the Department of continuing noncompliance of the system with the operation and maintenance standards established through a condition in the permit issued by the Department or local agency. The municipality shall use the forfeited security to cover the costs of repair or future operation and maintenance of the system over its design life or until the system is in compliance and being properly operated and maintained. The bonding, escrow or other security shall be for an amount up to a maximum of 50% for each of the first 2 years of operation. After 2 years of operation, the bond agreement shall provide for a refund of a portion of the original bond so that only 10% of the cost of the equipment and installation is retained by the bondholder. The remaining

bond totaling 10% of the cost of the equipment and installation shall be maintained for the life of the system.

- (2) A maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.
- (3) A maintenance agreement between the property owner and municipality or its designated local agency which establishes the property owner's responsibility for operating and maintaining the system and the responsibility of the municipality or local agency for oversight of the system.
- (4) A municipal ordinance which requires the system to be operated and maintained through a maintenance agreement between the property owner and an individual, firm or corporation experienced in the operation and maintenance of sewage treatment systems.
- (5) Establishment of a properly chartered association, trust or other private legal entity to assure long-term administration of an operation and maintenance program.
- (6) Municipal ownership of the sewage facilities upon completion.
- (7) Establishment of, or inclusion of, the sewage facilities under a management agency through existing municipal codes, including but not limited to, municipal authorities, sanitary boards and boards of health.
- (8) Establishment of, or inclusion of, the sewage facilities under a management agency through the adoption of local ordinances under municipal codes.
- (9) One or a combination of the requirements in paragraphs (1)—(8) or other actions permitted by and consistent with the act and The Clean Streams Law found necessary by the municipality to insure proper installation, maintenance and operation of the proposed sewage facilities.

**(b) When a small flow treatment facility provides sewage disposal for existing sewage flows or when an official plan or official plan revision for existing needs areas or new land development proposes the construction of a small flow treatment facility, periodic inspection and operation and maintenance are required to provide long-term proper operation. The municipality shall revise its official plan to establish a sewage management program for these types of facilities. The official plan or official plan revision shall include the following:**

- (1) **Identification of the specific legal authority to be used by municipal officials and their designated employees to enter lands and make inspections of the small flow treatment facilities. A policy which identifies the specific legal authority to be used by municipal officials and their designated employees to enter lands and make inspections of the small flow treatment facilities, establishes a schedule of inspections, and identifies the methods which will be used to notify landowners**

of upcoming inspections.

- (2) Standards for operation, maintenance of small flow treatment facilities which must include:
  - (i) Requirements for annual maintenance and inspection of the small flow treatment facility by the municipality, a management agency established through municipal codes, a local agency, municipal authority or a service provider. For the purpose of this subparagraph, a service provider means an individual who is capable of satisfactorily completing the operation and maintenance of a small flow treatment facility. The permittee may not be a service provider unless the permittee is a certified wastewater system operator under Chapter 302 (relating to administration of the water and wastewater systems operators' certification program) or has been trained on the operation and maintenance of the small flow treatment facility proposed for use. For proprietary small flow treatment facilities permitted after \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of this proposed rulemaking), the service provider must be certified by the system manufacturer to provide operation and maintenance.
  - (ii) Requirements for removal of septage or other solids from treatment tanks in accordance with the small flow treatment facility operation and maintenance requirements.
  - (iii) Requirements for the operation and maintenance of electrical, mechanical and chemical components of the small flow treatment facility; collection and conveyance piping, pressure lines and manholes; alarm and flow recorder devices; pumps; disinfection equipment and related safety items.
- (3) A discussion of the specific requirements of the sewage management program and administrative or legal functions needed to ensure operation and maintenance of small flow treatment facility.
- (4) Establishment of a fee schedule for the cost of municipal services related to ensuring operation and maintenance of small flow treatment facilities.
- (5) Identification of the authority to be used to enforce the requirements of the sewage management program or restrain violations of the program.
- (6) Identification of penalty provisions for violations of the program requirements.
- (7) Draft ordinances, regulations or policies which relate to the sewage management program.

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

- (a) When sewage facilities are permitted by local agencies, the municipality is responsible for taking actions necessary to assure continued compliance of these sewage facilities with the act, The Clean Streams Law and regulations promulgated thereunder.
- (b) When an official plan or official plan revision shows, or the Department determines, that existing sewage facilities permitted by the local agency need periodic inspection, operation or maintenance to provide long-term proper operation, or are not properly functioning because of inadequate operation and maintenance, the municipality shall revise its official plan to establish a sewage management program for these types of facilities. The update revision shall include the following as a minimum:
  - (1) Identification of the specific legal authority to be used by municipal officials and their designated employees to enter lands and make inspections of onlot sewage facilities. The policy concerning a schedule of inspections and methods of notification of landowners of this policy shall be included.
  - (2) Standards consistent with section 8(b)(9) of the act (35 P. S. § 750.8(b)(9)) **and Chapter 73 (relating to standards for onlot sewage treatment facilities)** for operation, maintenance, repair or replacement of sewage facilities which include:
    - (i) Removal of septage or other solids from **[treatment]septic** tanks once every 3 years or whenever an inspection program reveals that the **[treatment]septic** tanks are filled with solids in excess of 1/3 of the liquid depth of the tank or with scum in excess of 1/3 of the liquid depth of the tank.
    - (ii) Maintenance of surface contouring and other measures, consistent with Chapter 73 **[(relating to standards for onlot sewage treatment facilities)]** to divert stormwater away from the treatment facilities and absorption areas and protection of the absorption areas from physical damage.
    - (iii) Requirements for the use of water conservation devices to reduce hydraulic loading to the sewage system.
    - (iv) Requirements for the operation and maintenance of electrical, mechanical and chemical components of the sewage facilities; collection and conveyance piping, pressure lines and manholes; alarm and flow recorder devices; pumps; disinfection equipment and related safety items.
    - (v) Requirements for septage pumpers/haulers which are consistent with the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).
    - (vi) Requirements for holding tank maintenance.
    - (vii) **Removal of septage or solids from aerobic treatment tanks, alternate onlot system treatment tanks and experimental onlot system treatment tanks in accordance with the alternate or experimental onlot system approval and**

**the aerobic treatment tank manufacturer's recommendations.**

- (viii) **Requirements to inspect all individual and community onlot sewage facilities every 3 years. The inspection must include the following, at a minimum:**
  - (A) **Field verification that all onlot sewage system components are operable.**
  - (B) **Field verification that the maintenance standards in Chapter 73, the alternate onlot system approval or the experimental system approval are being implemented.**
  - (C) **Field verification that all applicable isolation distances in Chapter 73 have been maintained.**
  - (D) **Field verification that the system has not been modified.**
  - (E) **Field verification that the system is not malfunctioning.**
  - (F) **Field verification that the use of the residence or establishment has not changed in a manner that would increase sewage flows greater than the design capacity of the onlot system.**
- (ix) **Notification of the results of an inspection to the sewage enforcement officer if the sewage facilities are inspected by someone other than the sewage enforcement officer or agent of the entity having jurisdiction over the sewage facilities within 10 days of the inspection. If the inspection results identify deficiencies that were not resolved during the inspection the notification must include a plan and schedule to resolve the deficiencies.**
- (3) A discussion of the specific requirements of the sewage management program and administrative or legal functions needed to carry out the program.
- (3.1) **Identification of the implementing agency for the sewage management program. Sewage management program activities may be delegated by a municipality to a local agency, another municipality, county, municipal authority, health department or other management agency. Delegation must be by written agreement incorporated within the official plan or update revision and adopted by resolution.**
- (4) Establishment of a fee schedule for the cost of municipal services related to implementing the provision of the sewage management program.
- (5) Identification of the authority to be used to enforce the requirements of the sewage management program or restrain violations of the program.
- (6) Identification of penalty provisions for violations of the program requirements.



- (7) Draft ordinances, regulations or policies which relate to the sewage management program.
- (8) Other requirements consistent with the act and The Clean Streams Law.
- (9) **Requirements for use and maintenance of chemical toilets, portable restroom trailers and other portable toilets.**
- (c) When the official plan update identifies a local agency as the entity responsible for administering a municipal sewage management program and when the local agency identified in the official plan update agrees to administer the program, the local agency is eligible for reimbursement of eligible costs for administrative and personnel expenditures to implement sewage management programs under § 72.44 (relating to reimbursement).
- (d) When the official plan identifies the municipality as the entity responsible for administering a municipal sewage management program and when that municipality's onlot system permitting program is administered by a multimunicipal local agency or a county or joint county department of health, the municipality is eligible for reimbursement of eligible costs for the administrative and personnel expenditures to implement a sewage management program. Application for eligible costs shall be submitted by the municipality in accordance with the provisions of § 72.44.

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

- (a) The Department will require municipalities to revise their official plan to evaluate the feasibility of establishing a sewage management program or the inclusion of sewage facilities in an existing sewage management program whenever the Department determines that one of the following exists:
  - (1) Existing sewage facilities within the municipality are not being properly operated and maintained under this part.
  - (2) A revision for new land development is submitted which does not adequately address the administrative, technical or legal functions needed to carry out operation and maintenance of the proposed facilities.
  - (3) The official plan or revision shows that existing or new sewage facilities need periodic inspection, operation or maintenance to provide long-term proper operation.
  - (4) **Small flow treatment facilities provide for sewage disposal for existing and proposed development.**
- (b) The Department may provide technical and administrative guidance to local municipalities to assist them in the development of sewage management programs for existing needs areas and new land development proposals.

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

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

Commented [A225]: Changed to match language in 71.14(a)

- (1) That existing sewage facilities within the municipality are not being properly operated and maintained under this part.
- (2) That a revision for new land development does not adequately address the administrative, technical or legal functions needed to carry out operation and maintenance of the proposed facilities.

**Subchapter F. FEES**

**§ 71.81. General requirements.**

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

**§ 71.82. Delegated agency fees.**

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

**§ 71.83. Department fees.**

- (a) Fees charged by the Department for the review of sewage facilities planning modules for new land development **[shall] must** be as follows and will be shown on and be specific to each type of planning module:
  - (1) For onlot proposals not qualifying under § 71.55 (relating to exceptions to the requirement to revise the official plan **[for new land development]**) as an exception to the requirement to revise, the fee is \$30 per **[equivalent dwelling unit or lot] EDU or lot, whichever is greater.**
  - (2) For **[surface]** discharge proposals **to waters of this Commonwealth or to the surface of the ground** with flows greater than 2,000 gpd or onlot proposals requiring a permit under **[The] the** Clean Streams Law, the fee is \$1,500. For onlot proposals **requiring a permit under the Clean Streams Law or discharge proposals to waters of this Commonwealth proposed by and** submitted by **[and proposing discharges by]** political subdivisions, the fee is \$500.
  - (3) For **[public]** sewerage proposals, the fee is \$50 per **[equivalent dwelling unit] EDU** or lot, whichever is greater.

- (4) For all other proposals, the fee is \$35 per **[equivalent dwelling unit]EDU** or lot, whichever is greater.
- (5) For proposals consisting of one lot subdivided from a parent tract existing as of December 14, 1995, there is no fee. The subdivision of a second lot from that tract shall disqualify the applicant from the fee exemption.
- (6) **For proposals that include activities falling under more than one of the fee categories, the total fee for that proposal shall be the sum of all applicable individual fees.**
- (b) A subsequent submission **[which proposes substantial changes to the original submittal]** following **denial of or withdrawal of a sewage facilities** planning module **[denial shall] for new land development, or other proposal, will** be considered a new submission for the purpose of fee assessment. **[Denial of a planning module does not include the planning module completeness review procedure.]****A planning proposal for new land development or other proposal that is found incomplete, but not denied by the Department, and resubmitted by the municipality, is not considered a new submission for the purpose of fee assessment.**
- (c) Fees may **[not]** be charged for activities relating to determinations by the Department under **[§ 71.51(b) (relating to general)] § 71.56a (relating to exemptions from the requirement to revise the official plan for new land development).** **Fee amounts must be determined at the rates in subsection (a)(4).**