



Fact Sheet

COMMONWEALTH OF PENNSYLVANIA • DEPARTMENT OF ENVIRONMENTAL PROTECTION

Act 537 #4

PROCESS FOR RESOLVING COMPLAINTS about MALFUNCTIONING ON-LOT SEWAGE DISPOSAL SYSTEMS

Under the Pennsylvania Sewage Facilities Act (Act 537 of 1966, as amended), local governments have substantial powers and primary responsibilities for administering and enforcing major portions of the Act 537 sewage facilities program. Among the many responsibilities:

1. A municipal government (such as township board of supervisors, borough council or city council) must develop and implement an approved official sewage facilities plan that addresses existing sewage disposal needs or problems, accounts for future land development and provides for future sewage disposal needs of the entire municipality. The official plan must be revised when new subdivisions are proposed or when the plan becomes outdated for various reasons.
2. A local agency must handle the permitting program for the installation or repair of individual and community on-lot sewage disposal systems with a flow of 10,000 gallons or less each day. ***The local agency, through its Sewage Enforcement Officer (SEO), must investigate complaints about malfunctioning on-lot systems and, if necessary, take enforcement actions to ensure proper repairs.***

This fact sheet provides information on the roles and responsibilities of local agencies and their SEOs in handling and resolving complaints about malfunctioning on-lot sewage disposal systems. (On-lot systems are more commonly referred to as septic systems.)

What is a Local Agency?

A local government that is able to administer its on-lot sewage disposal permit program is called a local agency. To qualify as a local agency, the local government must employ a certified Sewage Enforcement Officer (SEO) to perform activities including: 1) issue, deny or revoke septic system permits in accordance with state regulations and standards; 2) inspect newly-installed systems to ensure proper installation; and 3) investigate and resolve septic system malfunction problems. The certified SEO is employed by and works for the local agency, not the Pennsylvania Department of Environmental Protection (DEP).

Qualifying local agencies can be one of the following:

- a single municipality;
- a combination of municipalities acting jointly; or
- a county or joint-county Department of Health

Local agencies, usually through their SEOs, are by law responsible for investigating complaints of malfunctioning septic systems and ensuring that the malfunctions are properly repaired. Where system repairs are not made voluntarily, local agencies must take enforcement actions against responsible property owners. (The local agency also is responsible for taking action against property owners with illegal septic systems that were installed without prior permit approval.)

Where and how should septic system malfunctions be reported?

Complaints about malfunctioning septic systems should be reported directly to the local agency, SEO or the local government officials (township, borough or city officials) with jurisdiction in the municipality where the malfunction exists. Depending on each municipality's rules and procedures, complaints may have to be made in writing. Complaints received by DEP's service representatives will be directed to the appropriate local agency and/or SEO.

What should happen once a complaint is received?

When a certified SEO or local official receives a complaint, the local government should take certain steps, including:

1. Local official may issue a letter notifying the property owner of the alleged malfunction and allowing for voluntary compliance if a malfunction exists. Some local agencies bypass this step and first require the certified SEO to conduct an initial site investigation to document the conditions. If there is a malfunction, the SEO will try to determine the causes of the malfunction and to decide the extent of the repair needed to correct the problem. Corrective action may be as simple as requiring a septic tank to be cleaned or as complex as installing a new system at a new location.

2. Local agency issues a Notice of Violation to the responsible property owner requiring the submission of a sewage permit application for the proper system repair. The local agency can often persuade the responsible property owner to take appropriate corrective action. If the responsible property owner fails to voluntarily take proper corrective action, the local agency and SEO should take appropriate legal actions, generally with the assistance of the municipal solicitor.
3. SEO issues the responsible property owner a permit to repair or replace the malfunctioning system after any necessary site testing has been done and an acceptable system design has been submitted.
4. The responsible property owner begins the repair/replacement activities as approved by the permit. Heavy rains or frozen soils could delay the repair/replacement activities until conditions improve.

What should the person making a complaint expect from the local agency and SEO?

The local agency or SEO should acknowledge a complaint and investigate serious complaints in a timely fashion. Normally, the SEO should contact the owner of the alleged malfunction within one week of receiving the complaint. An actual site visit, if necessary, should be scheduled promptly.

The person making the complaint should not expect a final resolution of a serious malfunction to occur "overnight." The various steps to resolving a serious malfunction all take time; investigating the site, testing soils, processing the sewage permit application, designing the repair system and conducting the repair. Also, the timing of the field activities are dependent on the weather.

If legal action is required by the local agency to get the responsible property owner to resolve the serious malfunction, additional delays can be expected. Complainants need to give their local officials time to do the job.

What happens if the malfunction problem is not resolved?

If the responsible property owner fails to repair the malfunction, the person making the complaint should go back to the local agency and renew the complaint. That person also may wish to seek private legal assistance to help resolve the matter.

What are DEP's roles and responsibilities for resolving malfunction problems?

DEP's role in the on-lot sewage disposal program is one of oversight. Under Act 537 and its regulations, the responsibility for investigating and resolving

malfunction problems was explicitly given to local agencies, not to DEP. For that reason, DEP does not ordinarily get directly involved in matters that are strictly the responsibility of local agencies.

DEP's responsibilities under the on-lot sewage program include:

- training and providing technical assistance to SEOs and local agencies to ensure that they can effectively perform their activities.
- routinely evaluating the performance of each certified SEO and each local agency. Appropriate action is taken where an evaluation reveals inadequate or inappropriate municipal or SEO response to complaints about system malfunctions or other violations of Act 537 or the rules and regulations.
- providing grants and reimbursements to local agencies and SEOs for permitting and enforcement activities which are consistent with Act 537 and DEP's rules and regulations.

While DEP will not ordinarily intervene in individual complaints, it is DEP's responsibility to take action where a pattern of unresponsiveness on the part of an SEO or municipality is observed. DEP action could include:

- the suspension or revocation of an SEO's certification.
- the withholding or reduction of a local agency's reimbursement for the administration of the program.
- the issuance of a formal order to compel a local agency to adequately administer the program.

In addition to providing training and technical guidance to handle individual septic system problems, DEP works cooperatively with municipal governments to correct areas with multiple malfunctions. During the process of updating an official municipal plan, a schedule is developed either to provide comprehensive municipal repair and management of area-wide problems, or to construct community sewage collection and treatment systems to replace the failed septic systems.

Are there indications of a septic system in trouble?

Yes. There are many indicators of a malfunctioning septic system. Some indicators can be very obvious to the property owner while others may require more careful observation. The indicators may include:

- Toilet runs sluggishly.
- Sewer odors in the house and/or drinking water.
- Sponginess around septic tank, distribution box or dosing tank and absorption area.
- Surfacing raw sewage.

- Dosing pump runs constantly or not at all.
- Dosing tank alarm light is on.
- Backup of sewage into laundry tubs or other fixtures.

What can property owners do to prevent septic system malfunctions?

Properly designed and installed sewage disposal systems function better and longer with proper maintenance. Most of the following recommended maintenance activities are simple and inexpensive for the property owner to implement:

- Conserve water and reduce wastewater flow into the septic tank.

- Have the septic tank pumped at least every 3-5 years, depending on tank size and household size.
- Avoid putting harsh chemicals in the septic system.
- Do not use the toilet to dispose of bulky, slowly decomposing wastes.
- Divert run-off from downspouts, sump pumps, and paved surfaces away from septic tank and sewage disposal area.
- Keep heavy vehicles, equipment and livestock away from the septic system.
- Do not plant trees and shrubs over or close to the septic system.

DEP Regional Offices:

Southeast Regional Office 610-832-6130
 Counties: Bucks, Chester, Delaware, Montgomery, Philadelphia

Northeast Regional Office 717-826-2553
 Counties: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne, Wyoming

Southcentral Regional Office 717-657-4590
 Counties: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry, York

Northcentral Regional Office 717-327-3669
 Counties: Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga, Union

Southwest Regional Office 412-442-4000
 Counties: Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington, Westmoreland

Northwest Regional Office 814-332-6942
 Counties: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango, Warren

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