

**PENNSYLVANIA SEPTAGE MANAGEMENT ASSOCIATION**

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**WRITTEN TESTIMONY**

**REGARDING THE PADEP IMPLIMENTATION OF ACT 34**

**BEFORE THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE**

**April 27, 2021**

**Joseph A. Valentine**

**Secretary of PSMA**

**INTRODUCTION**

The Pennsylvania Septage Management Association (PSMA) is a non-profit trade association for companies dealing with the permitting, inspection, installation and management of on lot sewage treatment systems in Pennsylvania. There are 250 member companies with an average of ten employees. The mission of PSMA is to protect the citizens of the Commonwealth and our industry through sound management, proper maintenance and environmentally conscious treatment of wastewater. Our members inspect operating on lot sewage systems for compliance with the PSMA Standards. This is done normally at the time of a real estate transaction. Our members inspect, pump and clean the treatment tanks and transport the material to a site for final treatment in conformance with PADEP regulations. Our members test and design on lot sewage treatment systems for permitting by a Sewage Enforcement Officer (SEO). Our members install and perform operation and maintenance services for on lot waste water treatment systems which include Shallow Limiting Zone Alternate Systems (SLZAS) which are the subject of Act 34 and this hearing. PSMA provides training for all of these services along with a certification program for our members. PSMA is a member of the PADEP Sewage Advisory Committee (SAC). For more information about the services and training provided by PSMA please visit our web site at <https://www.pdma.net/>

## EXECUTIVE SUMMARY

Alternate systems have been listed by the Pennsylvania Department of Environmental Protection (DEP) first in ALL SEO LETTERS and then in a document called the Alternate System Guidance (ASG) used in Pennsylvania since about 1998 in one form or another. A number of these alternate systems have become to be known as Shallow Limiting Zone Alternate Systems (SLZAS). These systems are used on soils which are not suitable for an elevated sand mound which requires a 20 inch or greater soil limiting zone. SLZAS require a minimum of 10 inches to a seasonal high water table and 16 inches to a rock limiting zone. This is the same requirement for a system identified in the regulations (Chapter 73 section 73.161 through section 73.167) known as an individual residential spray irrigation system (IRSIS). This is an important fact as it is the basis for the DEP argument that SLZAS cannot be used for new land development under the regulations prior to Act 26 and cannot be used under Act 34 when considering the signing statement by the Governor (attachment #1).

- The DEP has approved the use of alternate systems in PA since 1996. DEP has had a listing of approved alternate systems since 1998. The first SLZAS listed as an alternate system was called the AB system. It was developed and tested by DEP in the NW Regional office
- The current listing of alternate systems on the DEP website lists five SLZAS. These systems were placed on the list by DEP after reviewing data submitted by the manufacture and in most cases a period of monitoring and sampling of the system before assigning alternate system status.
- There was a short period from about 2003 to 2005 that a SLZAS was being used for new land planning. That system was the AB system develop and tested by DEP in the NW regional office. That practice ceased on 6/9/05 when an email from Dana Aunkst of the DEP-Central office outlined a *restatement of existing regulations which was not new policy*. That email became to be known as the Flag Day Email which guided the use of SLZAS in PA up to the passage of Act 26 on 7/20/2017. From 2005 until 2016 the SAC asked the DEP to allow for SLZAS use in new land development but the DEP maintained the position that the current regulations do not permit for the use of SLZAS for new land development. The justification for that position is outlined in the Flag Day Email which basically says the regulations (71.62, 73.14 and 73.15) require that for general site suitability a site meeting the regulations for a system identified within the regulations must be use for at least the primary site. Those systems include spray irrigation(IRSIS) as the only system permitted for planning approval on soils with a limiting zone less than 20 inches. A secondary or replacement site could use a SLZAS. Once the subdivision has received Act 537 planning approval, the use of a SLZAS could be considered since the lot now exists and has Act 537 planning approval.
- In 2005 DEP was revising the regulations in consultation with SAC to allow for the use of SLZAS for new land planning. Those proposed regulations were known as Chapter

71a, 72a and 73a. During that regulation review process DEP did not oppose the use of SLAS for new construction and new land planning. DEP has not provided any data to support a change in their 2005 position.

- The DEP position as outlined in the Flag Day Email and the decision by DEP not to continue with the approval of the proposed regulation (Chapters 71a, 72a,73a) left no other choice but to change the regulations by proposing Act 26 to revise Act 537 and allow for the use of SLAS for new land development. Act 26 was signed into law on 7/20/2017. The original language of Act 26 was revised to include language that allowed DEP to develop standards for the use of SLZAS for new land planning and to develop technical standards and performance monitoring of SLZAS which became the new Testing Verification Protocol (TVP). It should be noted that neither the original TVP nor the recent TVP received endorsement by the SAC.
- Act 34 (SB1030) was proposed to reinstate the original intent and language of Act 26. Act 34 was signed into law on 6/5/20 with a governor signing statement (attachment #1). This signing statement is at the core of the DEP position on implementing Act 34. Act 34 simply states: *When proposing a new land development, the applicant may submit and the department shall accept, for the purpose of satisfying general site suitability requirements, any conventional sewage system or alternate sewage system that meets site conditions present at the proposed new land development.*
- DEP has not provided any documentation or data that the currently listed SLZAS are adversely affecting the waters of the Commonwealth and creating a public health hazard.
- The DEP implementation of Act 34 as presented at the 2/23/21 SAC meeting and the restrictions listed in the 3/2/21 ALL SEO LETTER (attachment #2) to eliminate the use of SLZAS for new land development with certain time rest restrictions is arbitrary, without proper vetting by the SAC, is inconsistent with prior DEP actions regarding SLZAS and places an undue hardship on the residents of the Commonwealth. Furthermore, the SE Regional office of DEP has indicated that the use of SLZAS may also be restricted from use on existing lots of record for new construction (attachment #3). The DEP action will affect the rights and property values of the Commonwealth citizens and will adversely affect the business that supports the on lot sewage industry.

In conclusion, PSMA and the residents of the Commonwealth have relied on previous documents prepared by DEP in considering SLZAS for new land planning along with prior direction provided by the DEP staff to the SAC members. Subdivisions plans have been prepared in accordance with the DEP document developed under Act26 using SLZAS for new land development and expenses incurred which now do not meet the arbitrary dates set by DEP in the 3/2/21 ALL SEO LETTER. There was no discussion at any SAC meeting before 2/23/21 that the DEP was interpreting Act 34 to eliminate the use of all SLZAS except for repairs. There was ample opportunity for a SAC meeting in 2020 to meet the 60 day requirement (due by 8/5/20) of Act 34 placed on DEP to present this information. The mere fact of missing the 60 day deadline

maybe interpreted as DEP forfeiting their opportunity to develop any policy document other than what is clearly stated in Act 34. The DEP decision to present their interpretation of Act 34 with the elimination of all SLZAS for all uses except for repairs is arbitrary, without supporting data, proper vetting by the SAC and places an undue hardship on the residents of the Commonwealth that will affect their property values. The DEP decision will adversely affect the businesses which support the on lot sewage industry in PA. PSMA recommends that the 3/2/21 ALL SEO letter be rescinded. Any future notifications regarding the DEP implementation of Act 34 must be first vetted with the SAC and be consistent with the plain and simple language of Act 34.

## **BACKGROUND AND HISTORY OF ALTERNATE SYSTEM USE IN PA**

An alternate system by definition in Title 25 PA Code Act 537 Chapters 73 section 73.1 Definitions is a *method of demonstrated on lot sewage treatment and disposal not described in this part (Chapter 73)*. Chapter 73 section 73.3 Policy subsection (c) states in part

*The Department recognizes the existence of technologies related to on lot sewage disposal which are not specifically addressed in this chapter as well as technologies from other disciplines which may be applied to the design or construction of an on lot sewage disposal system. Alternate sewage systems provide a classification for innovative and alternative technology which has been developed through the experimental program, by application of existing technologies from other disciplines or through technological advances from other areas of the United States. The alternate sewage system permit will provide a method for utilizing proven technologies within this Commonwealth without constant changes to this chapter.*

Alternate systems have been listed by the Pennsylvania Department of Environmental Protection (DEP) first in ALL SEO LETTERS and then in a document called the Alternate System Guidance (ASG) used in Pennsylvania since about 1996 in one form or another. There were a few alternate systems listed by ALL SEO LETTERS prior to the ASG. A number of these alternate systems have become to be known as Shallow Limiting Zone Alternate Systems (SLZAS). These systems are used on soils which are not suitable for an elevated sand mound which requires a 20 inch or greater soil limiting zone. SLZAS require a minimum of 10 inches to a seasonal high water table and 16 inches to a rock limiting zone. This is the same requirement for a system identified in the regulations (Chapter 73 section 73.161 through section 73.167) known as an individual residential spray irrigation system (IRSIS). This is an important fact as it is the basis for the DEP argument that SLZAS cannot be used for new land development.

The first SLZAS was the AB System developed and tested by the staff of DEP in the NW regional office. This system was first listed in an ALL SEO LETTER on or about 1997. It was subsequently listed in the first ASG in or about 1998. This system used a sand filter for pre-treatment, disinfection and discharge to an at-grade absorption area. The absorption area was

sized using landscape loading developed by Dr. Tyler then with the University of Wisconsin-Madison. This is commonly called the Tyler Chart. The PADEP required that a soil scientist was needed to evaluate the site conditions for the AB system and subsequently for all SLZAS. Dr. Tyler visited PA on three occasions between 1997 and 2007 to provide training and information regarding the implementation of landscape loading and the Tyler Chart.

The second SLZAS was the micro mound drip irrigation system developed by American Manufacturing. This system used sand as the treatment media with drip irrigation as the fluid handling device or effluent distribution in the absorption area. This system was placed in the Experimental System Guidance (ESG) document in or about 1998. At that time it was only used for repairs and required monthly lysimeter sampling and reporting to the DEP for two years. In or about 2006 the micro mound received alternate system status and placed in the ASG. The use of a micro mound was extended to new construction on existing lots of record at that time.

The third SLAS listed in the ASG in or about 2009 was an at-grade system similar to the AB system above but used a peat filter or the Orenco AdvanTex filter as the pre-treatment unit and UV light for disinfection. Both pre-treatment units went through a period of testing to determine their wastewater treatment effectiveness. The Orenco AdvanTex filter was also approved by DEP as a denitrification unit.

The fourth SLZAS approved by DEP and listed in the ASG was the Eljen Geotextile Sand Filter (GSF) on or about 2010. This system used a foot of sand with the Eljen module placed on top of the sand and standard pressure distribution. This technology went through a period of testing and monitoring before being placed on the ASG by the DEP.

The fifth and last SLZAS approved by the DEP was a pre-treatment unit called a Singular-Hydro Kinetic Combo aerobic treatment unit (ATU) by Norweco which discharges to an at-grade system sized by landscape loading. This at-grade absorption area is the same absorption area used in the AB system, the peat filter system and the Orenco Advantex system. This system was listed on the ASG on or about 2012.

In summary the DEP have approved the use of SLZAS in one form or another since 1998. The SLZAS were first used for repairs as an experimental system. After a period of monitoring and data collection these SLZAS was elevated to an alternate system status, placed in the ASG and could be used for new construction on existing lots of record.

In 2005 there was a push by DEP to revise and update the sewage regulations. A SAC sub-committee met with the DEP staff on 15 separate occasions to revise Chapters 71, 72 and 73 and developed the criteria that would incorporate SLZAS into the regulations. These draft regulations were known as Chapter 71a, 72a and 73a. For reasons not fully explained to SAC the DEP stopped the process on proceeding with new regulations. That said it is important to note that in 2005 the DEP was going to incorporate SLZAS into the regulations without need for any additional testing and monitoring. The proposed regulation approach at that time was to have

increasing pre-treatment quality requirements as the limiting zone was closer to the ground surface. SLZAS would use the Tyler Chart for sizing the absorption area.

From 1992 to 1997 DEP funded research at Delaware Valley Collage (DVC). The funding source was planning module review fees collected by DEP. These fees were also used to implement SEO training. The PA Builders Association (PBA) initially opposed the requirement for planning module fees. However, since a portion of the collected fees was to be used to develop new on lot sewage technologies, the PBA agreed with the fee assessment. The research goals were to identify six technologies used outside of PA, install three full size systems of each technology and monitor/sample their function over three years. The systems evaluated included a constructed wetland, various pre-treatment media filters, sloping at-grade systems and a drip irrigation system installed beneath the ground surface. A report of that research was provided to DEP. That research resulted in the listing in an ALL SEO LETTER the use of drip irrigation and sloping at-grades on 20 inch or greater sites in PA and a gravity sand filter pre-treatment unit as alternate systems. There was extensive data supporting the use of other systems including a SLZAS. However DEP decided not to implement these other tested technologies.

From 1997 to 2002 DEP funded a second phase of research at DVC. This research was focused on septic tank quality effluent for drip irrigation, community systems using drip irrigation, a pressure distribution system different then currently used in PA and SLZAS using drip irrigation and at-grade absorption area using a constructed wetland as pre-treatment. A report was provided to DEP on or about 2002. That research resulted in using septic tank quality effluent for drip irrigation on sites with a 24 inch or greater limiting zone. There was extensive data supporting the use of other systems including a SLZAS that the DEP did not implement. DEP has shown reluctance to bring new technology into PA even when they fund their own research. In 2003 all of the planning module fees were utilized for SEO training administered by the PSATS. Research at DVC stopped and there was no investment by DEP to maintain the testing infrastructure that was constructed at the college during Phases I and II. The recession of 2008 curtailed land development and therefore the planning module fees dried up. DEP funded SEO training was also curtailed. Since that time all planning module fees go into the general operating fund of DEP. This was not the original intent when the planning module fee was started.

## **BACKGROUND AND HISTORY OF USING SLZAS FOR NEW LAND DEVELOPMENT**

There was a short period from about 2003 to 2005 that a SLZAS could be used for new land planning. That practice ceased on 6/9/05 when an email from Dana Aunkst of the DEP-Central office outlined a *restatement of existing regulations which was not new policy*. That email became to be known as the *Flag Day Email* which guided the use of SLZAS in PA up to the passage of Act 26 on 7/20/2017. From 2005 until 2016 the SAC asked the DEP to allow for SLZAS use in new land development but the DEP maintained the position that the current regulations do not permit for the use of SLZAS for new land development. The justification

for that position is outlined in the Flag Day Email which basically says the regulations (71.62, 73.14 and 73.15) require that a site meeting the regulations for systems identified within the regulations must be use for at least the primary site. Those systems include spray irrigation(IRSIS) as the only system permitted for planning approval on soils with a limiting zone less than 20 inches. A secondary or replacement site could use a SLZAS. Once the subdivision has received Act 537 planning approval, the use of a SLZAS could be considered since the lot now exists and has Act 537 planning approval. PSMA has on two occasions met with the Secretary of DEP and Central office staff to discuss a number of issues affecting PSMA members and the citizens of PA. One of these issues was the use of SLZAS for new land development. The DEP position was unchanged from the Flag Day Email which in the opinion of DEP the current regulations did not allow for the use of SLZAS as a primary site in new land planning. The DEP staff admitted they had no data on poor performance of SLZAS but were more comfortable with IRSIS for sites with limiting zones less than 20 inches. That was because IRSIS require more land area than a SLZAS making the lots larger.

The DEP position as outlined in the Flag Day Email left no other choice but to change the regulations by proposing Act 26 to revise Act 537 and allow for the use of SLAS for new land development. Act 26 was signed into law on 7/20/2017. The original language of Act 26 was revised to include DEP responsibility to develop standards for the use of SLZAS for new land planning and to develop technical standards and performance monitoring of SLZAS which became the new Testing Verification Protocol (TVP). SAC met at least four times in 2017 and 2018 to review the proposed documents prepared by DEP to implement Act 24. None of the documents receive the endorsement of the SAC. The documents were sent to the PA Bulletin for public comment. To date the document dealing with TVP has been implemented. The document dealing with SLZAS and new land planning has not been formally approved by DEP but is being implemented as policy in the review of new land development that is using SLZAS for primary sites.

Act 34 (SB1030) was proposed to reinstate the original intent and language of Act 26. Act 34 was signed into law on 6/5/20 with a governor signing statement which is attached. This signing statement is at the core of the DEP position on implementing Act 34. Act 34 simply states:

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

DEP had 60 days to develop documents to implement Act 34. Though there was ample time in 2020 for DEP to meet this 60 day requirement and present their proposed implementation of Act 34, they chose to present and make effective at the 2/23/21 SAC meeting the elimination of the use of SLZAS except for repairs. The DEP position at that SAC meeting was that Act 34 re-set the clock for all SLZAS since their ability to require testing and monitor as developed under Act

26 was removed by the passage of Act 34. DEP's position was that the Governor's signing statement gave them the authority to determine if the SLZAS would protect the waters and public health of the Commonwealth. With the elimination of the testing and monitoring requirements of Act 26, DEP would not consider the prior alternate approval of the current SLZAS. In fact a DEP representative stated in response to a question by PSMA, that if Act 34 had not been signed into law, the use of SLZAS could continue for new land development under Act 26 using the new land development document developed by DEP but not formally approved. That is an interesting interpretation of Act 34 and certainly was not the intent. DEP decided at the SAC meeting not to implement any changes until an ALL SEO LETTER has been sent. DEP has issued an All SEO Letter dated 3/2/21. In that letter DEP summarizes their position for the use of SLZAS for new land development.

### **ALL SEO LETTER of MARCH 2, 2021**

On March 2, 2021 DEP issued an All SEO Letter. The letter only addresses the use of SLZAS for new land development. The DEP will provide further guidance with respect to SLZAS use on existing lots of record and for repairs in a future All SEO Letter. The summary of the 3/2/21 All SEO Letter is:

- A municipality who receives a planning module proposing SLZAS for primary absorption areas must utilize the PADEP Guidance document 385-2207-001 developed under Act 26 in the review of the proposal.
- Site testing completed between 9/18/17 and 2/23/21 for SLZAS in new land development must have the planning modules submitted to the municipality by 6/1/21.
- Any site testing completed for a SLZAS to be used for new land development after 2/23/21 will not be evaluated under Act 26 requirements but will be reviewed under the Act 34 interpretation by DEP. That means any site testing completed after 2/23/21 for a SLZAS cannot be used for new land development.
- Information regarding the use of SLZAS for existing lots of record and repairs will be forth coming in another ALL SEO LETTER.

Currently the SE Regional office of DEP is notifying owners of existing lots of record that the use of SLZAS may not be approved for new construction in the future. A copy of that letter is attached. That notification would indicate that DEP intends notify SEO's in an ALL SEO LETTER that SLZAS cannot be used for new construction on existing lots of record.



## STATEMENT OF FACTS

- SLZAS listed in the current DEP Web Listing of Alternative Systems have been tested and approved for use in PA by the DEP.
- Some of the SLZAS have a history of use for over twenty years, most with at least a decade of permitting.
- DEP has not provided any documentation on the failure of these systems to warrant a re-set to 1998 to collect data on their performance or to simply say they cannot be used except for repairs.
- In 2005 DEP was revising the regulations to allow for the use of SLZAS. During that regulation review process DEP did not oppose the use of SLAS for new construction of new land planning. DEP has not provided any data to support a change in that position.
- SLZAS require a higher level of siting and soil expertise by having the site evaluation conducted by the local agency SEO in conjunction with a professional soil scientist.
- Act 34 language is simple and clear. *When proposing a new land development, the applicant may submit and the department shall accept, for the purpose of satisfying general site suitability requirements, any conventional sewage system or alternate sewage system that meets site conditions present at the proposed new land development.*
- The use of a governor signing statement does not allow for DEP to eliminate approved technologies from the ASG unless there is data to support that action.
- The guiding DEP document for 12 years was the Flag Day Email of 6/9/05 which restricted the use of SLZAS for new land development due to the regulation in effect at that time (sections 71.62, 73.14 and 73.15). Act 34 (SB1030) resolved that issue by allowing DEP to use SLZAS for new land planning.
- All on lot sewage systems require maintenance. Some systems require more maintenance than others. PSMA has offered on numerous occasions to develop in conjunction with DEP and SAC practical and effective operation and maintenance (O&M) procedures. To date the DEP has not accepted the PSMA offer. In some regions of the Commonwealth, DEP is requiring municipal O&M in the form of an agreement and a cash escrow. This type of O&M is ineffective and is a financial burden to the homeowner.

## CONCLUSIONS AND RECONMENDATIONS

SLZAS have been used in PA for 10 to 20 years with the approval of the DEP for use as repairs and new construction on exiting lots of record. The AB system was developed and approved by DEP as an alternate system in or about 1997. It was used for new land planning from 2003 to 2005. The micro mound drip irrigation system has been approved for new construction as an approved alternate system since 2006. The peat filter and AdvanTex Filter have been approved with an at-grade system as an approved alternate system since 2008. The Eljen GSF has been approved as an alternate system since 2009. The Singular-Hydro Kinetic Combo aerobic

treatment unit (ATU) by Norweco has been an approved alternate system since 2012. The DEP decision to eliminate all SLZAS for all uses except for repairs is arbitrary, without proper vetting by the SAC, is inconsistent with prior DEP actions regarding SLZAS and places an undue hardship on the residents of the Commonwealth. The DEP action will affect the rights of the Commonwealth citizens to use their property and will affect the business that supports the on lot sewage industry.

The planning for a subdivision includes many studies beyond the site testing with the SEO for the sewage approval. For the DEP to state that for SLZAS used in new land planning, all SEO testing had to be completed by 2/23/21 (without any prior notification) and the module submission must be received by the municipality on or before 6/1/21 is arbitrary and without proper prior notification. DEP does not recognize or understand the cost and time needed to prepare a subdivision plan to meet the subdivision and land development ordinance (SALDO) of a municipality which goes well beyond site testing for on lot sewage. It is a normal practice to conduct preliminary soil testing to determine if the site is feasible for on lot sewage treatment. Subsequent to that preliminary testing, significant expense is accrued in determining if other factors are feasible to subdivide the parcel which are but not limited to wetlands, township and county ordinances (SALDO) and other environmental and zoning requirements. Testing with the SEO may be many months after the preliminary soil/site investigation which determined the site was feasible for on lot sewage using SLZAS. The DEP position as stated in the 3/2/21 ALL SEO LETTER places an undue burden and a financial loss to individuals who proceeded with the expense of a subdivision based on the use of SLZAS.

PSMA does not support the decision of the DEP as presented at the 2/23/21 SAC meeting and the 3/2/21 ALL SEO LETTER. It is also inconsistent with the DEP position in 2005 in which they were working with SAC to develop regulations (Chapter 71a, 72a and 73a) to include the use of SLZAS for all land uses including new land development.

In conclusion, PSMA and the residents of the Commonwealth have relied on previous documents prepared by DEP in considering SLZAS for new land planning along with prior direction provided by the DEP staff to the SAC members. There was no discussion at any SAC meeting before 2/23/21 that the DEP was interpreting Act 34 to eliminate the use of all SLZAS except for repairs. There was ample opportunity for a SAC meeting in 2020 and meet the 60 day requirement of Act 34 to present this information. The mere fact of missing the 60 day deadline maybe interpreted as DEP forfeiting their opportunity to develop any policy document other than what is clearly stated in Act34. The DEP decision to present their interpretation of Act 34 with the elimination of all SLZAS for all uses except for repairs is arbitrary, without proper vetting by the SAC and places an undue hardship on the residents of the Commonwealth. The DEP decision will adversely affect the business which supports the on lot sewage industry in PA. PSMA recommends that the 3/2/21 ALL SEO letter be rescinded. Any future notifications regarding the DEP implementation of Act 34 must be first presented to the SAC and be consistent with the language of Act 34.

## **ATTACHMENTS**

- #1 Governor Wolf's signing statement dated 6/5/20 regarding Act 34
- #2 3/2/21 ALL SEO LETTER from DEP
- #3 SE Regional Office letter dated 4/22/21 regarding the possible restriction of using SLZAS on existing lots of record
- #4 Joseph A. Valentine resume

**ATTACHMENT # 1**  
**GOVERNOR WOLF SIGNING STATEMENT**

**6/5/21**



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR  
HARRISBURG

June 5, 2020

THE GOVERNOR

TO THE HONORABLE GENERAL ASSEMBLY OF  
THE COMMONWEALTH OF PENNSYLVANIA:

Today, I am signing Senate Bill 1030, Printer's Number 1489 of 2020 (SB 1030), which amends Section 5 (relating to official plans) of the Pennsylvania Sewage Facilities Act. This legislation passed the General Assembly on May 28, 2020, and amends provisions of the Sewage Facilities Act added by Act 26 of 2017. In light of certain ambiguities with SB 1030, I provide this statement regarding the administration of the Pennsylvania Sewage Facilities Act and associated laws.

The three key goals of the Sewage Facilities Act continue to be: (1) protecting public health, safety, and welfare through the development and implementation of plans for the sanitary disposal of sewage waste; (2) preventing and eliminating pollution of waters of the Commonwealth by coordinating planning for the sanitary disposal of sewage wastes with a comprehensive program of water quality management; and (3) encouraging the use of the best available technologies for on-site sewage disposal systems. Section 5(d)(3) of the Sewage Facilities Act continues to require official plans to provide for adequate sewage treatment facilities which will prevent the discharge of untreated or inadequately treated sewage or other waste into any waters or otherwise provide for the safe and sanitary treatment of sewage or other waste. Furthermore, the Department of Environmental Protection remains authorized to approve or disapprove official plans under Section 5(e)(1) of the Sewage Facilities Act.

While SB 1030 removes provisions related to scientific, technical, and field-testing standards for the evaluation of alternate onlot sewage treatment systems, SB 1030 does not remove the obligations that the department maintains under the Sewage Facilities Act and under the Clean Streams Law to ensure that sewage facilities plans and sewage treatment technologies protect public health and the waters of the Commonwealth. These threshold protections in the Sewage Facilities Act and the Clean Streams Law are also consistent with Article 1, Section 27 of the Constitution of Pennsylvania, which requires the conservation and maintenance of the Commonwealth's natural resources.

As amended by SB 1030, Section 5(c.1) of the Sewage Facilities Act will read as follows:

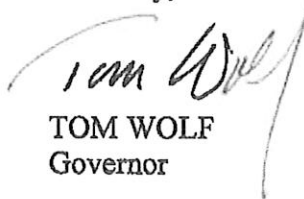
“When proposing a new land development, the applicant may submit and the department shall accept, for the purpose of satisfying general site suitability requirements, any conventional sewage system or alternate sewage system that meets site conditions presented at the proposed new land development.”

As amended, the provisions of the Sewage Facilities Act allow for the use of conventional and alternate onlot systems on sites that meet general site suitability, which is currently set forth under 25 Pa. Code § 71.62 (relating to individual and community onlot sewage systems). As provided in the Sewage Facilities Act, sewage planning approval is required when a subdivision is proposed for new land development. Proposals must establish that site conditions – including, but not limited to, soil type, depth of soil, geomorphology, hydraulic conductivity, and soil permeability – allow for safe and effective treatment and disposal of sewage on the proposed lots.

Consistent with the Sewage Facilities Act and the Clean Streams Law, conventional and alternate onlot sewage treatment technologies must continue to provide safe and effective treatment of sewage on the parcel where they are installed to ensure protection of public health and the waters of the Commonwealth. Although this legislation removes certain specified provisions, current departmental regulations under 25 Pa. Code § 73.72 (relating to alternate sewage systems) provide for the classification and use of alternate onlot systems. As such, the department continues to have regulatory authority consistent with the Sewage Facilities Act and the Clean Streams Law to classify an onlot sewage treatment or disposal technology as an alternate sewage system and to allow for the use of alternate sewage systems in accordance with its regulations.

With the understanding articulated above, I am signing SB 1030 and will direct my staff to administer the law accordingly.

Sincerely,



TOM WOLF  
Governor

**ATTACHMENT # 2**  
**PADEP ALL SEO LETTER**

**3/2/21**

March 2, 2021

Dear Sewage Enforcement Officer,

As you may know, Act 34 of 2020 amended sections of the Sewage Facilities Act (SFA) that were previously amended by Act 26 of 2017; specifically, sections 5(c.1) and 5(c.2). Amendments to Section 5(c.1) seek to provide for the use of alternate or conventional systems in planning for new land development. However, without site suitability criteria specifically for alternates, the general site suitability criteria established in the existing regulations are required to be implemented. The Department understands that the intent of recent amendments to the SFA is to expand the use of alternate systems to allow for development of lots that are currently unavailable for new land development. However, other provisions of the SFA and the Clean Streams Law also require DEP to ensure that sewage plans and treatment technologies protect public health and the environment.

The Department is working on additional guidance to address specific items associated with the implementation of the SFA as amended by Act 34 of 2020. This guidance will be forthcoming in an "All SEO Letter."

In the meantime, the Department wants to clarify our expectation of what municipalities should do with proposals for new land development that they have already received and that were submitted based on the draft *Pennsylvania Sewage Facilities Act Program Guidance; Site Suitability and Alternatives Analysis Guidelines for New Land Development Proposing On-lot Sewage Disposal (385-2207-001)* (Planning Guidance) that was developed in response to Act 26 of 2017. The following contains important deadlines for sewage planning proposals:

- If a municipality has received or receives a sewage planning proposal for a subdivision that proposes lots that rely on on-lot sewage disposal and that sewage planning proposal is consistent with the draft Planning Guidance, the municipality may base their decision for action based on whether the proposal is consistent with the sewage planning requirements in the draft Planning Guidance if the site investigation was completed and attested to by the local agency SEO between September 18, 2017 (effective date of Act 26 of 2017) and February 23, 2021 (Sewage Advisory Committee meeting).
- Any new plan revision using the site investigation completed between September 18, 2017 and February 23, 2021 must be submitted to the municipality by **June 1, 2021** (90 days from date of this letter). Any new plan revision received after June 1, 2021 should be consistent with the SFA as amended by Act 34 of 2020 regardless of when the site investigation work was completed; guidance on this will be forthcoming. If the plan revision is withdrawn or denied, any subsequent submittal should follow the forthcoming guidance.
- Any sewage planning proposal with site investigation completed and attested to by the local agency SEO after **February 23, 2021**, should be consistent with the SFA as amended by Act 34 of 2020.

If you have any questions or concerns, about this or any other issues, please contact us through the SEO Resource Account at [RA-seotrng@pa.gov](mailto:RA-seotrng@pa.gov).

Sincerely,



Brian Schlauderaff

Environmental Group Manager  
DEP Planning Section



**ATTACHMENT # 3**

**PADEP SE REGIONAL OFFICE LETTER**

**4/22/21**



April 22, 2021

**SENT VIA ELECTRONIC MAIL ONLY**

Ms. Richelle Daly  
VW Consultants, LLC  
1590 Canary Road  
Quakertown, PA 18951  
rdaly@vw-consultants.com

Re: Act 537 Planning Waiver  
8452 Easton Road  
DEP Code No. 1-09936-272-X  
Nockamixon Township  
Bucks County

Dear Ms. Daly:

This letter is in response to your application for Sewage Facilities Planning Modules for the construction of a single-family dwelling on an existing, 2.9-acre vacant lot. This project is located at 8452 Easton Road in Nockamixon Township, Bucks County on Tax Map Parcel 30-011-057.

The Department of Environmental Protection (DEP) has determined that sewage facilities planning is not required for this project. Therefore, no planning modules are required to be submitted to DEP.

The project will generate 600 gallons of sewage per day to be treated by an individual onlot sewage disposal system.

However, although the planning requirements pursuant to the Pennsylvania Sewage Facilities Act are waived, please be advised that, pending further guidance, uncertainty exists regarding whether onlot systems sited on soils with shallow limiting zones can be permitted. If your project proposes a shallow limiting zone system for new construction, it may not be permissible if general site suitability cannot be demonstrated.

This response is only a determination of planning requirements under the Pennsylvania Sewage Facilities Act concerning the above-referenced project. We recommend that you contact Nockamixon Township regarding any additional local requirements applicable to this project.

Ms. Richelle Daly

-2-

April 22, 2021

If you have any questions or concerns, please contact me at 484.250.5179 or [subanks@pa.gov](mailto:subanks@pa.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Suzanne Banks".

Suzanne Banks  
Sewage Planning Specialist 1  
Clean Water

Cc: Bucks County Planning Commission (via email)  
Bucks County Health Department (via email)  
Nockamixon Township (via email)  
Planning Section  
Re

**ATTACHMENT # 4**  
**PROFESSIONAL RESUME**  
**JOSEPH A. VALENTINE**  
**4/25/21**

**JOSEPH A. VALENTINE**  
**VW Consultants, LLC**  
**Soil Scientist / Biologist**  
**1590 Canary Road**  
**Quakertown, PA 18951**

[jvalentine@vw-consultants.com](mailto:jvalentine@vw-consultants.com)

[joseph.valentine@delval.edu](mailto:joseph.valentine@delval.edu)

[valsoils@verizon.net](mailto:valsoils@verizon.net)

267-784-6873

Joseph A. Valentine is a soil scientist and biologist who has 45 years of experience with on lot sewage treatment systems and land development using land application of wastewater. He has eleven years regulatory experience and 34 years as a consultant. In addition to land application of wastewater, his expertise includes hydric soil and wetland delineations, stormwater infiltration studies and alluvial soil investigations. Mr. Valentine has also been an adjunct soil instructor at Delaware Valley College now a University for 30 years.

**EDUCATION**

Bachelor of Arts (1974) Indiana University of Pennsylvania, Indiana, PA.  
Major: Biology

Non-Degree Program (1981) Delaware Valley College, Doylestown, PA.  
Major: Agronomy and Soils

**CONTINUING EDUCATION**

Hydric Soils (Parts I, II & III), 2002; North Carolina State University  
Saturated Hydraulic Conductivity (Course 202), 2000 North Carolina State University  
Redoximorphic Features, Soil Wetness and Water Table Relationships (Course 120) 2004  
North Carolina State University  
Soil Structure (Course 130), 2004; North Carolina State University  
Wetland Delineation Certification Course, 2008; Rutgers University  
Vegetation Identification N., 2008; Rutgers University  
Vegetation Identification S., 2008; Rutgers University  
Introduction to Wetlands, 2008; Rutgers University  
Piedmont Regional Supplement Wetland Training, 2011: The Swamp School

**PROFESSIONAL MEETING PRESENTATIONS**

*Comparison of Waste Water Treatment on Fecal Coliform Transport on Two SE PA Soils.*  
J. Valentine and L Hepner, oral presentation, SSSA Meetings, Long Beach, CA in 2010

### **Abstract**

Primary septic tank effluent was applied to three full scale at-grade absorption areas at a rate of 400 gpd on a deep, well drained soil. Secondary effluent (30/30) was applied to three full scale at-grade absorption areas at a rate of 400 gpd on a deep, somewhat poorly drained soil. Two nests of four gravity lysimeters were installed in each at-grade absorption area at a depth of 1, 2, 3 and 4 feet beneath the ground surface. Monthly sampling of the lysimeters occurred for three years. The samples were analyzed for fecal coliform, fecal streptococcus, the nitrogen series and total phosphorous. This paper shall present the results of fecal coliform and fecal streptococcus renovation by a coarse-loamy, mixed, mesic Typic Hapludult and a fine-silty mixed, mesic Aquic Fragiudalf. A relative hazard ratio for comparative risk evaluation was determined for the parameters samples in each system.

### *Comparison of Soil Renovation of Primary and Secondary Pre-Treatment Using Drip Irrigation on a Moderately Well Drained Soil*

J.A. Valentine and L.D. Hepner, oral presentation, SSSA Meetings, San Antonia, TX in 2019

### **Abstract**

Wastewater was applied to a deep, moderately -well drained soil (fine-loamy, mixed mesic Oxyaquic Hapludalf) using drip irrigation installed at a depth of 25 cm. Phase I of the project used pre-treated effluent using a sand filter producing 30/30 effluent. The waste water renovation by the soil was sampled at 1, 2, 3 and 4 feet beneath the drip tubing. The effluent was sampled monthly for three years for the parameters of: fecal coliform; fecal strep; the nitrogen series and phosphorus. Phase II of the project used septic tank effluent. The wastewater renovation by the soil was also sampled at 1, 2, 3 and 4 feet beneath the drip tubing for the same parameters as Phase I. An analysis of the data indicated that there was no statistical difference in effluent quality between septic tank and pretreated sand filter effluent on the water quality at the measured depths.

### **PROFESSIONAL POSITIONS**

2014- Present **VW Consultants, LLC**

1590 Canary Road Quakertown, PA 18951

Staff Soil Scientist and Principal. Perform detailed soil mapping, interpretations and soil classification for land application of wastewater, wetland delineations and storm water infiltration.

2018- Present **Soil Hub, LLC**

Staff soil scientist providing soil training for wetland delineators, stormwater infiltration and Sewage Enforcement Officers. Soil Hub awarded the PADEP contract to provide soil training to Sewage Enforcement Officers.

2011- Present **Quality Septic Inspections, LLC**

1830 Walnut Lane Quakertown, PA 18951

PSMA/NOF certified inspector of existing on-lot sewage disposal systems for real estate Transfer using the PSMA Standards.

1992 -Present **Delaware Valley College/University**

700 E. Butler Ave. Doylestown, PA 18901

Adjunct Instructor for undergraduate and continuing ed. students

Courses taught:

*Introductory Soil- Laboratory (2005 - present)*

*Introductory Soil- Lecture (2005 -2013)*

*Soil Genesis and Classification Lecture and Laboratory (2012-present)*

*Field Soil Morphology Lecture and Laboratory (2015)*

*Soil Judging Coach (1992-2008)*

2011- 2014 **Joseph A. Valentine; Qualified Soil Scientist as a sole proprietor**

1830 Walnut lane Quakertown, PA 18951

Qualified Soil scientist consulting in land application of waste water, wetland delineations, storm water testing, alluvial soil studies and hydric soil determinations.

1986-2011 **DelVal Soil and Environmental Consultants, Inc**

Sky Run II, Suite A1, 4050 Skyron Drive Doylestown, Pennsylvania.

Staff Soil Scientist and Principal. Perform detailed soil mapping, interpretations and site classification for land use and environmental considerations. Area of specialization is land application of wastewater. Staff member assigned to the *Research and Demonstration Project for On-Lot Systems and Small Discharge Technology* at Delaware Valley College, which is a Pennsylvania Department of Environmental Protection funded project to identify new on-lot sewage disposal technologies for use in Pennsylvania.

1995-1997 **PA Department of Environmental Protection**

At the request of the PADEP central office, developed a pilot course for training certified sewage enforcement officers in fundamentals of soil science as it applies to on-lot sewage disposal.

1999-2005 **PA Association of Township Supervisors**

PSATS Trainer for Sewage Enforcement Officer Academy; *Drip* Irrigation and Advance Soil training courses.

1982-1986 **Bucks County Department of Health**

Health Building, Neshaminy Manor Center, Doylestown, Pennsylvania.

Staff Soil Scientist. Performed detailed soil mapping, interpretations and training for the Department. Major responsibility was the technical support to the on-site sewage disposal (Act 537) program. Developed numerous Bucks County Department of Health policy and procedures for on-site sewage disposal. Examples of work performed: Perform field and laboratory investigations of proposed sewage and solid waste disposal sites. Conduct research on soils to determine leaching rates, filterability, and compaction characteristics for proposed disposal sites. Examine characteristics of soils that affect leaching rates, filtering, compact ability and overall suitability for liquid and solid waste disposal. Examine sites for erosion hazards and evaluate soil erodability. Accompany

environmental protection specialists (Sewage Enforcement Officers) on field investigations to classify soils and collect soil samples. Conduct training classes for technical environmental health personnel on the fundamental relationship of soil science to their particular field. Prepare technical reports of findings and analyses of soils. Prepare interpretations of soil for on-site sewage disposal systems, community sewage disposal and solid waste applications.

**1983-1984 Delaware Valley College**

Adjunct Instructor: Laboratory Introductory Soils Course

**1975-1986 Bucks County Department of Health**

Health Building, Neshaminy Manor Center, Doylestown, Pennsylvania.

Environmental Protection Specialist. Performed site investigations and inspections on a variety of public health programs. Inspected restaurants, schools, camps and pollution incidents. Investigated sewage overflow, vector and housing complaints. Predominantly, functioned as a Sewage Enforcement Officer administering the requirements of Act 537, the PA Sewage Facilities Act, Chapters 71 and 73 from 1976-1982. Duties included the evaluation of all sites over limestone in the county.

**PROFESSIONAL AFFILIATIONS**

American Society of Agronomy (ASA)  
Soil Science Society of America (SSSA)  
Pennsylvania Association of Professional Soil Scientists (PAPSS)  
Virginia Association of Professional Soil Scientists (VAPSS)  
Mid-Atlantic Association of Professional Soil Scientists (MAPSS)  
National On-Site Wastewater Recycling Association (NOWRA)  
Pennsylvania On-Site Wastewater Recycling Association (POWRA)  
Geologic Society of America (GSA)  
Pennsylvania Septage Management Association (PSMA)  
Association of Wetland Scientists (AWS)  
National Environmental Health Association (NEHA)

**PROFESSIONAL ORGANIZATION SERVICE RECORD**

**Pennsylvania Association of Professional Soil Scientists (PAPSS)**

|           |                |
|-----------|----------------|
| 1999-2001 | Board Member   |
| 1987-1989 | Board Member   |
| 1988      | Vice President |
| 2000      | Vice President |
| 1989      | President      |
| 2001      | President      |
| 2020-2023 | Board Member   |



**Pennsylvania On-Site Wastewater Recycling Association (POWRA)**

|           |              |
|-----------|--------------|
| 1999-2009 | Board Member |
| 2006-2009 | President    |
| 2013-2016 | Board Member |
| 2020-2023 | Board member |

**National On-Site Wastewater Recycling Association (NOWRA)**

|      |                  |
|------|------------------|
| 2003 | Committee Member |
|------|------------------|

Model Code for On-Site Sewage Disposal – Soils Section

**Pennsylvania Septage Management Association (PSMA)**

|              |                            |
|--------------|----------------------------|
| 2010-Present | Board member and Secretary |
|--------------|----------------------------|

**PADEP Sewage Advisory Committee (SAC)**

|              |                                     |
|--------------|-------------------------------------|
| 1999-2001    | Delegated Member representing PAPSS |
| 2001-2006    | Alternate Member representing PAPSS |
| 2006-2008    | Alternate Member representing POWRA |
| 2008-2010    | Primary Member representing POWRA   |
| 2008-2010    | Chairman of SAC representing POWRA  |
| 2013-present | Primary Member representing PSMA    |

**The Consortium for On-Site Sewage Treatment**

2003 Reviewer of practitioner curriculum developed  
by the Consortium for on-lot sewage treatment under an EPA Grant

**Mid- Atlantic Hydric Soil Committee**

2008 –present Committee member representing DVU and PAPSS

**CERTIFICATIONS and REGISTRATIONS**

Pennsylvania Certified Sewage Enforcement Officer #00995  
PSMA/NOF Certified Sewage System Inspector # 101238

**COMMUNITY SERVICE**

Milford Township Park Board  
Milford Township Open Space Committee  
Milford Township Trumbauersville Area Sewer Authority Board Member/Treasurer

**House Environmental Resources & Energy Committee**  
**Joint Public Hearing with Senate Environmental Resources & Energy**  
**9:00AM/523, Irvis Office Building**  
**April 27, 2021**

|                         |  |
|-------------------------|--|
| 9:00 a.m. – 9:05 a.m.   | Opening Remarks  |
| 9:05 a.m. – 9:45 a.m.   | Aneca Atkinson, Deputy Secretary<br>Water Programs<br>Pennsylvania Department of Environmental Protection  |
| 9:45 a.m. – 10:05 a.m.  | Joseph H Gerdes III<br>Director of Government Relations<br>Pennsylvania State Association of Township Supervisors<br><br>Kimberly D. Geyer<br>Butler County Commissioner<br>County of Butler   |
| 10:05 a.m. – 10:35 a.m. | Joseph A. Valentine<br>Pennsylvania Septage Management Association (PSMA)<br>VW Consultants, LLC<br><br>Paul A. Golrick, P.G.<br>Pennsylvania Association of Sewage Enforcement Officers (PASEO)<br>Penn's Trail Environmental, LLC<br><br>Adam B. Browning<br>Manager, Penn's Trail Environmental, LLC<br>President, Pennsylvania Onsite Wastewater Recycling Association |
| 10:35 a.m. – 10:55 a.m. | Laurel F. Mueller<br>Certified Professional Soil Scientist<br>Pennsylvania Builders Association (PBA)<br><br>Amy Hopkins, PLS<br>President<br>Pennsylvania Society of Land Surveyors   |
| 10:55 a.m. – 11:00 a.m. | Closing Remarks  |