



Fact Sheet

COMMONWEALTH OF PENNSYLVANIA • DEPARTMENT OF ENVIRONMENTAL PROTECTION

Act 537 #5

PERMITTING AND PLANNING EXEMPTIONS for SOME RURAL RESIDENCES

Effective December 14, 1994, owners of residential properties 10 acres or larger (owned since January 10, 1987) may no longer have to obtain a permit before installing an on-lot sewage disposal system. Qualifying owners automatically are exempt from the sewage facilities planning process if they meet specific requirements. This permitting and planning exemption is part of Act 149 of 1994, which amended the Pennsylvania Sewage Facilities Act (Act 537).

What are the requirements for getting a permit exemption?

In order for a property and the property owner to qualify for the on-lot septic system permit exemption, all of the following requirements must first be met:

- the municipality or local agency in which the on-lot system is to be located does not have a local ordinance requiring the issuance of on-lot sewage system permits regardless of lot size.
- the on-lot septic system will serve a residential structure.
- the residential structure will be occupied by the property owner or a member of the property owner's immediate family (Act 149 identifies the following as members of the property owner's immediate family: brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father, or mother).
- the residential structure and the on-lot septic system are to be located on a contiguous (touching along a boundary or at a point) tract of land 10 acres or more.
- the property owner was the owner as of January 10, 1987, or the property owner transferred ownership of a lot 10 acres or more subdivided from the parent tract after January 10, 1987, to a member of the immediate family.

Who determines if a property and property owner qualify for a permit exemption?

Act 149 gives the full responsibility to local agencies and their sewage enforcement officers for administering this permit exemption provision.

A property owner who believes his/her property qualifies for a permit exemption must notify the local agency. The Pennsylvania Department of Environmental Protection (DEP) recommends that local agencies request the following information from the property owner prior to allowing the construction of the structure or on-lot septic system:

- Copy of a deed or other record documenting ownership (prior to January 10, 1987) of the property for which the permit exemption is being requested and documenting that the property is a contiguous tract of land of 10 acres or more.
- Confirmation in writing that the structure served by the permit-exempt on-lot septic system is a residential structure to be occupied by either the property owner or a member of the property owner's immediate family.

When a permit exemption is requested for a lot or parcel subdivided after January 10, 1987, the documentation listed above should be provided for both the parent tract and the newly subdivided lot. The 10-acre or larger subdivided lot may be owned by either the property owner or a member of his/her immediate family at the time of requesting the permit exemption. Once such a permit exemption is granted for either an existing 10 acre or larger lot or a subdivided lot, Act 149 prohibits any additional exemptions to be issued for that lot or the parent tract. Act 149 does not provide for a permit exemption for more than one structure or on-lot system on the same tract, parcel or lot. Therefore, it is important for local agencies to maintain records of these subdivisions.

Proper documentation on the part of the local agency for all permit exempt properties is very important. It may help protect the local agency from liability should a permit-exempt system later malfunction, provided that the local agency properly granted the exemption.

What must a property owner do before installing a permit-exempt septic system?

Act 149 requires property owners who wish to install permit-exempt on-lot septic systems to indemnify and hold harmless the Commonwealth and the local agency and its sewage enforcement officer from liability for any property damages or injury to persons from subsequent malfunctions where the permit exemption was properly granted by the local agency.

DEP recommends that property owners and local agencies complete and keep on file a form developed by DEP entitled **10 ACRE PERMIT EXEMPTION CONFIRMATION** (DEP form 3600-FM-WQ0134 12/94). A copy of this form should also be sent to the appropriate DEP regional or district office.

What technical standards apply to permit-exempt systems?

Soils and site testing do not have to be conducted on these permit-exempt properties. The only technical standards that must be met are those related to isolation distances from the septic tank and the absorption area.

The isolation distances, which should be identified by the sewage enforcement officer, are as follows (perimeter of septic tanks and absorption area and the perimeter of):

● any property line	200 feet
● non-utility right-of-way	200 feet
● one hundred year flood plan	200 feet
● river	200 feet
● stream	200 feet
● creek	200 feet
● impoundment	200 feet
● well	200 feet
● watercourse	200 feet
● storm sewer	200 feet
● lake	200 feet
● dammed water	200 feet
● pond	200 feet
● spring	200 feet
● ditch	200 feet
● wetland	200 feet
● water supply	200 feet
● body of surface water	200 feet
● utility right-of-way	10 feet

Is there a fee for requesting a permit exemption?

Yes. A local agency can charge a property owner up to \$25.00 for work performed to determine the validity of a permit exemption request.

How can a potential property buyer find out if a permit-exempt septic system has been installed?

Act 149 requires that every property sales contract for a lot serviced by a permit-exempt system contain a statement in the contract that clearly indicates to the buyer that soils and site testing were not conducted. The contract must also state that the owner of the property, at the time of a malfunction, may be held liable for any contamination, pollution, public health hazard or nuisances as a result of the malfunction. Sales contracts that do not contain such language are not enforceable by the seller should the buyer decide to nullify a sales agreement.

What happens if a permit-exempt system malfunctions?

Act 149 puts the responsibility for correcting malfunctions that contaminate ground or surface waters or discharge to the surface of the ground on either the: 1) property owner who initially installed or contracted for the installation of the system; or 2) the subsequent property owner who accepted responsibility for the system upon purchase of the property. These malfunctions are considered nuisances and must be abated in accordance with DEP standards. This includes getting a permit from the local agency to repair the system.

Can a property owner who qualifies for a permit exemption choose instead to apply for a standard on-lot system permit?

Yes. Even if the property and property owner qualify for a permit exemption, the owner can apply to the local agency for an on-lot septic system permit. Getting a permit will not disqualify the property owner from the planning exemption under Act 149. The planning exemption is automatic for any permit-exempt lot 10 acres or more, regardless of whether a permit is issued or exempted.

This fact sheet and related environmental information are available electronically via internet. Access the DEP-DCNR Website at <http://www.dep.state.pa.us> (choose Information by Environmental Subject/choose Water Quality).