

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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IRRC Number: # 2004

(1) Agency

Department of Environmental Protection

(2) I.D. Number (Governor's Office Use)

7-344

(3) Short Title

Amendment to applications for certification of sewage enforcement officers.

(4) PA Code Cite

25 Pa. Code Chapter 72

(5) Agency Contacts & Telephone Numbers

Primary Contact: Sharon Freeman, 783-1303

Secondary Contact: Barbara Sexton, 783-1303

(6) Type of Rulemaking (Check One)

Proposed Rulemaking

Final Order Adopting Regulation

Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation is intended to clarify the requirements of Section 72.54(a), relating to application requirements, for persons who submit applications for certification as sewage enforcement officers in the Commonwealth. Under the existing regulation, applicants for certification are required to submit documentation of successful completion of precertification training to the Certification Board at least 40 days prior to the scheduled examination. Under a newly developed precertification and training program, DEP will provide precertification training to candidates for certification shortly before the scheduled examination. Accordingly, the Certification Board believes it is necessary to amend the deadline for submission of documentation of the successful completion of required precertification training from 40 day prior to examination to "no later than the commencement of the scheduled examination for which the precertification training was held."

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Section 9 of the Pennsylvania Sewage Facilities Act, the act of January 24, 1966 (P.L. (1965) 1535, (No. 537) (35 P.S. §750.9) and Section 1920-A of the Administrative Code of 1929 (71 P.S. §510.20).

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The current regulation requires candidates for SEO certification to submit documentation of successful completion of required precertification courses at least 40 days prior to the scheduled certification exam.

Beginning in 1999, DEP will be implementing a new SEO precertification training program. The current program requires minimal training prior to certification. Local agencies have observed that many newly certified SEOs are not adequately prepared to perform critical duties. To better prepare SEO candidates for certification and subsequent job duties, DEP will conduct a six-day precertification academy as a prerequisite for the certification exam. DEP and the Certification Board desire to hold the certification exam immediately following the precertification academy. This has several advantages for the candidates and DEP. Because the exam will be given the next day following the completion of the training, the information will be fresh in the candidate's mind. Also, separate arrangements for the exam at some future date would not have to be made. The exam would be held at the training site where all the candidates are already located. This arrangement saves DEP time and resources and saves the candidates time and additional travel.

The regulation amendment would eliminate the 40-day requirement for the training documentation and require the documentation to be provided no later than the commencement of the scheduled exam.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

The regulation is an administrative adjustment to the current SEO training and certification program that is part of a DEP initiative to improve the overall performance and qualifications of certified SEOs. Failure to implement this regulation in a timely manner hampers DEP's overall effort to raise the level of SEO competence. SEOs perform a number of critical duties affecting public health and safety.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The regulation will benefit the approximately 100 candidates for certification each year by allowing them to take the certification exam immediately following completion of the precertification training. This gives them the advantage of testing while the information is freshest in their minds and eliminates the need for them to schedule for the exam at a future date and travel to the new exam site. The regulation, as part of an overall DEP initiative to improve SEO training and certification, benefits the citizens of the municipalities served by SEOs who are better prepared to perform their duties following certification.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

No one is expected to be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The regulation eases a requirement for the approximately 100 yearly SEO candidates and provides more flexibility for the candidates, DEP and the SEO Certification Board in the way documentation of successful completion of required precertification training is administered prior to examination.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The regulation and associated SEO training and certification improvements have been discussed with The State Board for the Certification of Sewage Enforcement Officers, the Sewage Advisory Committee and an advisory group to the PA State Association of Township Supervisors (PSATS) representing the SEO community and local government. PSATS is assisting the Department in administering SEO training. The Board and these advisory groups have indicated support for this amendment toward allowing full implementation of the SEO training and certification improvements.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The regulation will result in no increased costs or cost savings to the regulated community.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The regulation will result in no increased costs or cost savings to local governments.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

Although cost savings to the Commonwealth is not the primary purpose of this regulation, it is possible that DEP will realize a limited cost savings by having the SEO certification exam held immediately following the precertification training. However, since numerous variables are involved in quantifying the amount, no attempt will be made to calculate any fiscal savings.

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(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

| | Current FY Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|-----------------------------|--------------------|---------------|---------------|---------------|---------------|---------------|
| SAVINGS: | \$ | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | 0 | 0 | 0 | 0 | 0 | 0 |
| Local Government | 0 | 0 | 0 | 0 | 0 | 0 |
| State Government | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Savings | 0 | 0 | 0 | 0 | 0 | 0 |
| | | | | | | |
| Regulated Community | 0 | 0 | 0 | 0 | 0 | 0 |
| Local Government | 0 | 0 | 0 | 0 | 0 | 0 |
| State Government | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Costs | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | 0 | 0 | 0 | 0 | 0 | 0 |
| Local Government | 0 | 0 | 0 | 0 | 0 | 0 |
| State Government | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Revenue Losses | 0 | 0 | 0 | 0 | 0 | 0 |

(20a) Explain how the cost estimates listed above were derived.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY-3 | FY-2 | FY-1 | Current FY |
|---------|------|------|------|------------|
| | | | | |
| | | | | |
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(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

There are no adverse effects or costs associated with this regulation.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no feasible nonregulatory alternatives to this regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no feasible alternative regulatory schemes to this regulation.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This question does not apply to this regulation.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The regulation changes only the timing of one element of SEO candidate application requirements. The application paperwork requirements will be unchanged by this regulation.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The regulation itself is being proposed to help SEO candidates by allowing them to take the certification examination immediately following the precertification training rather than waiting 40 days.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The anticipated effective date of the regulation is July 1, 1999.

(31) Provide the schedule for continual review of the regulation.

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

[Signature]
DEPUTY ATTORNEY GENERAL

JAN 05 1999

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct copy
of a document issued, prescribed or promulgated by:

DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-344

DATE OF ADOPTION: 12-15-98

BY: *[Signature]*

TITLE: JAMES M. SEIF, CHAIRMAN
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to
form and legality. Executive or Independent
Agency

[Signature]

12/23/98
DATE OF APPROVAL

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

NOTICE OF
PROPOSED RULEMAKING
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

Amendment to SEO Application Requirements
for Certification

(25 Pa. Code Chapter 72)

**Notice of Proposed Rulemaking
Department of Environmental Protection
Environmental Quality Board
(25 Pa. Code Chapter 72)**

Preamble

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code Chapter 72 (relating to administration of sewage facilities permitting program). The amendment is being proposed to clarify requirements relating to applications for certification of sewage enforcement officers outlined at §72.54 (relating to applications for certification) as set forth in Annex A.

This notice is given under Board order at its meeting of Dec. 15, 1998.

A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information, contact Glenn Maurer, Director, Bureau of Water Quality Protection, 11th Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8465, Harrisburg, PA. 17105-8465, (717) 787-2666, or William S. Cumings, Jr., Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section H of this preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the DEP Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

The proposed rulemaking is made under the authority of Section 9 of the Pennsylvania Sewage Facilities Act, the act of January 24, 1966 (P.L. (1965) 1535, No. 537) (35 P.S. §750.9) and Section 1920-A of the Administrative Code of 1929 (71 P.S. §510.20).

D. Background, Purpose and Summary of Proposed Regulatory Revision

This proposed amendment is intended to clarify the requirements of §72.54(a) relating to application requirements for persons who submit applications for certification as sewage enforcement officers within the Commonwealth. Section 8(b) of the Sewage Facilities Act (the Act) provides that local agencies, which include counties, municipalities and multi-municipal local agencies, are required to “employ an adequate number of sewage enforcement officers or contract with individuals, firms or corporations to adequately perform the services of sewage enforcement officers to administer the [permitting requirements] of this act . . . in accordance with the rules and regulations of the department. No person shall be employed or contracted as a sewage enforcement officer unless said person has been certified by the department pursuant to standards set by the Environmental Quality Board.”

The State Board for Certification of Sewage Enforcement Officers (Certification Board), an entity of the Department established under Section 11 of the Act, is responsible for the administration of examinations for the certification of sewage enforcement officers. As explained below, the Department and the Certification Board have determined that it is necessary to amend §72.54 to provide a more streamlined procedure for the submission of certain documentation to the Board by an applicant for certification as a sewage enforcement officer.

Section 72.54(a) requires that a candidate for certification as a sewage enforcement officer successfully complete precertification training courses prior to the certification examination. The Department is responsible for the administration of training programs for sewage enforcement officers, including precertification training. See *25 Pa. Code* §72.43(d). Beginning in April 1999, the precertification training will be provided to candidates for certification shortly before the scheduled examinations. Under existing §72.54(a), applicants for certification are required to submit documentation of the successful completion of precertification training to the Board at least 40 days prior to the scheduled examination. Since the precertification training is intended to be provided to applicants less than 40 days prior to the scheduled examination, a conflict with the existing regulation will be created. Accordingly, the Department and the Certification Board believe it is necessary to propose an amendment to §72.54(a) which will change the deadline for the submission of documentation of the successful completion of required precertification training from 40 days prior to the examination to “no later than the commencement of the scheduled examination for which the precertification training was held.” Until this regulation is implemented, it will not be possible to link certification examinations with the precertification training academy.

The regulation and associated SEO training and certification improvements have been discussed with the Sewage Advisory Committee and an advisory group to the PA State Association of Township Supervisors (PSATS) representing the SEO community and local government. PSATS is assisting the Department in administering SEO training. These advisory groups have indicated support for this amendment toward allowing full implementation of the SEO training and certification improvements.

E. Benefits, Costs and Compliance

Executive Order 1996-1 provides for a cost/benefit analysis of proposed regulations.

Benefits

Applicants for certification as sewage enforcement officers will benefit from the proposed regulation because they will not need to submit documentation of the successful prerequisite training for certification until the commencement of the scheduled examinations, which will be held shortly after the conclusion of the training course.

Costs

There are no additional costs to the Commonwealth, its citizens or applicants for certification as sewage enforcement officers associated with this proposal.

Compliance Costs

The proposed amendments are not expected to impose any additional compliance costs on the regulated community.

F. Sunset Review

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

G. Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), the Department submitted a copy of the proposed rulemaking on Feb. 9, 19 99 to the Independent Regulatory Review Commission (IRRC), and the Chairpersons

of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before final publication of the regulations.

H. Public Comments

Written Comments - Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulation to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail; Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by March 22, 1999. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by March 22, 1999. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulations will be considered.

Electronic Comments - Comments may be submitted electronically to the Board at RegComments@A1.dep.state.pa.us and must also be received by the Board by March 22, 1999. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within two working days, the comments should be retransmitted to ensure receipt.

BY:

JAMES M. SEIF
Chairman
Environmental Quality Board

ANNEX A

CHAPTER 72. ADMINISTRATION OF SEWAGE FACILITIES
PERMITTING PROGRAM

* * * * *

§ 72.54. Applications for certification.

(a) Correctly completed applications[, documentation of the successful completion of required precertification training courses] and an application fee of \$25.00 shall be received by the Board at least 40 days prior to the scheduled examination. IN ADDITION, THE APPLICANT SHALL PROVIDE DOCUMENTATION OF THE SUCCESSFUL COMPLETION OF REQUIRED PRECERTIFICATION TRAINING COURSES TO THE BOARD NO LATER THAN THE COMMENCEMENT OF THE SCHEDULED EXAMINATION FOR WHICH THE PRECERTIFICATION TRAINING COURSE WAS HELD.



Pennsylvania Department of Environmental Protection

**Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063
February 9, 1999**

The Secretary

717-787-2814

Mr. Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor, Harristown II
Harrisburg, PA 17101

RE: Proposed Rulemaking: Amendment to Sewage Enforcement Officers Application Requirements for Certification (#7-344)

Dear Bob:

Enclosed is a copy of a proposed regulation for review and comment by the Commission pursuant to Section 5(a) of the Regulatory Review Act. This proposal is scheduled for publication as a proposed rulemaking in the *Pennsylvania Bulletin* on February 20, 1999, with a 30-day public comment period. This proposal was approved by the Environmental Quality Board (EQB) on December 15, 1998.

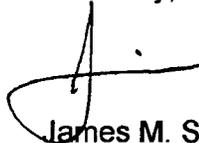
This proposal amends Section 72.54(a) to streamline the application requirements for certification of sewage enforcement officers (SEOs). Currently, applicants must wait at least 40 days to take the SEO exam following completion of successful precertification training. The amendment would reduce this 40-day time period to "no later than commencement of the scheduled examination for which the precertification was held," allowing applicants the opportunity to be examined by the State Board for Certification of Sewage Enforcement Officers (Certification Board) immediately following precertification training. The Certification Board has asked DEP to change this 40-day requirement based upon concerns expressed by several newly-certified SEOs that they are not adequately prepared to perform critical functions relative to permitting and administrative aspects of land disposal of sewage sludge. To address this concern, and in addition to offering the training and the exam together, DEP plans to expand the precertification training program from a one-day event to a six-day academy and offer some of the basic continuing education courses up front. The academy would be held annually as necessary.

The proposed amendment and expanded training program are supported by the Certification Board, the Sewage Advisory Committee and an advisory group to the Pennsylvania State Association of Township Supervisors representing SEOs and local government.

The Department will provide the Commission with any assistance required to facilitate a thorough review of this proposal. Section 5(g) of the Act provides that the Commission may, within ten days after the expiration of the Committee review period, notify the agency of any objections to the proposed regulation. The Department will consider any comments or suggestions received by the Commission, together with Committee and other public comments prior to final adoption.

For additional information, please contact Sharon Freeman, Regulatory Coordinator, at 783-1303.

Sincerely,

A handwritten signature in black ink, appearing to read 'James M. Seif', with a large, sweeping flourish at the end.

James M. Seif
Secretary

Enclosure

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

RECEIVED

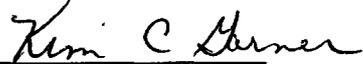
I.D. NUMBER: 7-344
 SUBJECT: Amendment to SEO Application Requirements for Certification
 AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

99 FEB -9 AM 9: 50
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|--------|---|---|
| |  (under) | HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY |
| |  (White) | SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY |
| 2/9/99 |  | INDEPENDENT REGULATORY REVIEW COMMISSION |
| | | ATTORNEY GENERAL |
| 2/9/99 |  | LEGISLATIVE REFERENCE BUREAU |

January 12, 1999