

By Senator Albritton

26-01753B-19

20191022__

1 A bill to be entitled
2 An act relating to onsite treatment and disposal
3 systems; transferring the onsite sewage program of the
4 Department of Health to the Department of
5 Environmental Protection by a type two transfer;
6 amending s. 373.036, F.S.; requiring each water
7 management district to submit a copy of its
8 consolidated water management district annual report
9 to the Office of Economic and Demographic Research;
10 revising the contents of such report; amending ss.
11 373.807, 381.006, and 381.0064, F.S.; conforming
12 provisions to changes made by the act and making
13 technical changes; amending s. 381.0065, F.S.;
14 defining the term "department" as it relates to onsite
15 sewage treatment and disposal systems provisions;
16 revising duties related to the Department of
17 Environmental Protection research projects; deleting
18 provisions relating to the department's research and
19 review advisory committee; requiring the department to
20 convene a technical advisory committee by a specified
21 date; providing for the purpose and membership of the
22 advisory committee; requiring the department to adopt
23 rules; providing for the expiration of the committee;
24 amending s. 381.00651, F.S.; requiring county health
25 departments to coordinate with the department to
26 administer certain programs; conforming provisions to
27 changes made by the act; repealing s. 381.0068, F.S.,
28 relating to the technical review and advisory panel;
29 amending s. 403.067, F.S.; requiring the department to

26-01753B-19

20191022__

30 submit certain project cost estimates to the office;
31 amending s. 381.0061, F.S.; conforming a cross-
32 reference; reenacting ss. 373.026(8)(b), 373.0363(5),
33 373.042(3), 373.199(7), 373.414(1)(b), 373.4592(4)(d),
34 (13), and (14), 373.45926(3), 373.4595(6), 373.463(3),
35 373.470(7), 373.536(6)(a) and (b), and 373.707(8),
36 F.S., relating to the general powers and duties of the
37 department, the Southern Water Use Caution Area
38 Recovery Strategy, minimum flows and minimum water
39 levels, the Florida Forever Water Management District
40 Work Plan, additional criteria for activities in
41 surface waters and wetlands, Everglades improvement
42 and management, the Everglades Trust Fund, the
43 Northern Everglades and Estuaries Protection Program,
44 the heartland headwaters annual report, Everglades
45 restoration, district budget and hearing thereon, and
46 alternative water supply development, respectively, to
47 incorporate the amendment made to s. 373.036, F.S., in
48 references thereto; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. All powers, duties, functions, records, offices,
53 personnel, associated administrative support positions,
54 property, pending issues, existing contracts, administrative
55 authority, administrative rules, and unexpended balances of
56 appropriations, allocations, and other funds for the regulation
57 of onsite sewage treatment and disposal systems and relating to
58 the onsite sewage program of the Department of Health are

26-01753B-19

20191022__

59 transferred by a type two transfer, as defined in s. 20.06(2),
60 Florida Statutes, to the Department of Environmental Protection.

61 Section 2. Subsection (7) of section 373.036, Florida
62 Statutes, is amended to read:

63 373.036 Florida water plan; district water management
64 plans.—

65 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

66 (a) By March 1, annually, each water management district
67 shall prepare and submit to the Office of Economic and
68 Demographic Research, the department, the Governor, the
69 President of the Senate, and the Speaker of the House of
70 Representatives a consolidated water management district annual
71 report on the management of water resources. In addition, copies
72 must be provided by the water management districts to the chairs
73 of all legislative committees having substantive or fiscal
74 jurisdiction over the districts and the governing board of each
75 county in the district having jurisdiction or deriving any funds
76 for operations of the district. Copies of the consolidated
77 annual report must be made available to the public, either in
78 printed or electronic format.

79 (b) The consolidated annual report must ~~shall~~ contain the
80 following elements, as appropriate to that water management
81 district:

82 1. A district water management plan annual report or the
83 annual work plan report allowed in subparagraph (2)(e)4.

84 2. The department-approved minimum flows and minimum water
85 levels annual priority list and schedule required by s.
86 373.042(3).

87 3. The annual 5-year capital improvements plan required by

26-01753B-19

20191022__

88 s. 373.536(6) (a)3.

89 4. The alternative water supplies annual report required by
90 s. 373.707(8) (n).

91 5. The final annual 5-year water resource development work
92 program required by s. 373.536(6) (a)4.

93 6. The Florida Forever Water Management District Work Plan
94 annual report required by s. 373.199(7).

95 7. The mitigation donation annual report required by s.
96 373.414(1) (b)2.

97 8. Information on all projects related to water quality or
98 water quantity as part of a 5-year work program, including:

99 a. A list of all specific projects identified to implement
100 a basin management action plan, including any septic to sewer
101 conversion and septic tank remediation projects, or a recovery
102 or prevention strategy;

103 b. A priority ranking for each listed project for which
104 state funding through the water resources development work
105 program is requested, which must be made available to the public
106 for comment at least 30 days before submission of the
107 consolidated annual report;

108 c. The estimated cost for each listed project;

109 d. The estimated completion date for each listed project;

110 e. The source and amount of financial assistance to be made
111 available by the department, a water management district, or
112 other entity for each listed project; and

113 f. A quantitative estimate of each listed project's benefit
114 to the watershed, water body, or water segment in which it is
115 located.

116 9. A grade for each watershed, water body, or water segment

26-01753B-19

20191022__

117 in which a project listed under subparagraph 8. is located
118 representing the level of impairment and violations of adopted
119 minimum flow or minimum water levels. The grading system must
120 reflect the severity of the impairment of the watershed, water
121 body, or water segment.

122 (c) Each of the elements listed in paragraph (b) shall ~~is~~
123 ~~to~~ be addressed in a separate chapter or section within the
124 consolidated annual report, although information common to more
125 than one of these elements may be consolidated as deemed
126 appropriate by the individual water management district.

127 (d) Each water management district may include in the
128 consolidated annual report such additional information on the
129 status or management of water resources within the district as
130 it deems appropriate.

131 (e) In addition to the elements specified in paragraph (b),
132 the South Florida Water Management District shall include in the
133 consolidated annual report the following elements:

134 1. The Lake Okeechobee Protection Program annual progress
135 report required by s. 373.4595(6).

136 2. The Everglades annual progress reports specified in s.
137 373.4592(4)(d)5., (13), and (14).

138 3. The Everglades restoration annual report required by s.
139 373.470(7).

140 4. The Everglades Trust Fund annual expenditure report
141 required by s. 373.45926(3).

142 Section 3. Subsection (3) of section 373.807, Florida
143 Statutes, is amended to read:

144 373.807 Protection of water quality in Outstanding Florida
145 Springs.—By July 1, 2016, the department shall initiate

26-01753B-19

20191022__

146 assessment, pursuant to s. 403.067(3), of Outstanding Florida
147 Springs or spring systems for which an impairment determination
148 has not been made under the numeric nutrient standards in effect
149 for spring vents. Assessments must be completed by July 1, 2018.

150 (3) As part of a basin management action plan that includes
151 an Outstanding Florida Spring, the department, ~~the Department of~~
152 ~~Health~~, relevant local governments, and relevant local public
153 and private wastewater utilities shall develop an onsite sewage
154 treatment and disposal system remediation plan for a spring if
155 the department determines onsite sewage treatment and disposal
156 systems within a priority focus area contribute at least 20
157 percent of nonpoint source nitrogen pollution or if the
158 department determines remediation is necessary to achieve the
159 total maximum daily load. The plan shall identify cost-effective
160 and financially feasible projects necessary to reduce the
161 nutrient impacts from onsite sewage treatment and disposal
162 systems and shall be completed and adopted as part of the basin
163 management action plan no later than the first 5-year milestone
164 required by subparagraph (1)(b)8. The department is the lead
165 agency in coordinating the preparation of and the adoption of
166 the plan. The department shall:

167 (a) Collect and evaluate credible scientific information on
168 the effect of nutrients, particularly forms of nitrogen, on
169 springs and springs systems; and

170 (b) Develop a public education plan to provide area
171 residents with reliable, understandable information about onsite
172 sewage treatment and disposal systems and springs.

173
174 In addition to the requirements in s. 403.067, the plan must

26-01753B-19

20191022__

175 ~~shall~~ include options for repair, upgrade, replacement,
176 drainfield modification, addition of effective nitrogen reducing
177 features, connection to a central sewerage system, or other
178 action for an onsite sewage treatment and disposal system or
179 group of systems within a priority focus area that contribute at
180 least 20 percent of nonpoint source nitrogen pollution or if the
181 department determines remediation is necessary to achieve a
182 total maximum daily load. For these systems, the department
183 shall include in the plan a priority ranking for each system or
184 group of systems that requires remediation and shall award funds
185 to implement the remediation projects contingent on an
186 appropriation in the General Appropriations Act, which may
187 include all or part of the costs necessary for repair, upgrade,
188 replacement, drainfield modification, addition of effective
189 nitrogen reducing features, initial connection to a central
190 sewerage system, or other action. In awarding funds, the
191 department may consider expected nutrient reduction benefit per
192 unit cost, size and scope of project, relative local financial
193 contribution to the project, and the financial impact on
194 property owners and the community. The department may waive
195 matching funding requirements for proposed projects within an
196 area designated as a rural area of opportunity under s.
197 288.0656.

198 Section 4. Section 381.006, Florida Statutes, is amended to
199 read:

200 381.006 Environmental health.—The Department of Health
201 shall conduct an environmental health program as part of
202 fulfilling the state's public health mission. The purpose of
203 this program is to detect and prevent disease caused by natural

26-01753B-19

20191022__

204 and manmade factors in the environment. The environmental health
205 program shall include, but not be limited to:

206 (1) A drinking water function.

207 (2) An environmental health surveillance function which
208 shall collect, compile, and correlate information on public
209 health and exposure to hazardous substances through sampling and
210 testing of water, air, or foods. Environmental health
211 surveillance shall include a comprehensive assessment of
212 drinking water under the department's supervision and an indoor
213 air quality testing and monitoring program to assess health
214 risks from exposure to chemical, physical, and biological agents
215 in the indoor environment.

216 (3) A toxicology and hazard assessment function which shall
217 conduct toxicological and human health risk assessments of
218 exposure to toxic agents, for the purposes of:

219 (a) Supporting determinations by the State Health Officer
220 of safe levels of contaminants in water, air, or food if
221 applicable standards or criteria have not been adopted. These
222 determinations shall include issuance of health advisories to
223 protect the health and safety of the public at risk from
224 exposure to toxic agents.

225 (b) Provision of human toxicological health risk
226 assessments to the public and other governmental agencies to
227 characterize the risks to the public from exposure to
228 contaminants in air, water, or food.

229 (c) Consultation and technical assistance to the Department
230 of Environmental Protection and other governmental agencies on
231 actions necessary to ameliorate exposure to toxic agents,
232 including the emergency provision by the Department of

26-01753B-19

20191022__

233 Environmental Protection of drinking water in cases of drinking
234 water contamination that present an imminent and substantial
235 threat to the public's health, as required by s.
236 376.30(3)(c)1.a.

237 (d) Monitoring and reporting the body burden of toxic
238 agents to estimate past exposure to these toxic agents, predict
239 future health effects, and decrease the incidence of poisoning
240 by identifying and eliminating exposure.

241 (4) A sanitary nuisance function, as that term is defined
242 in chapter 386.

243 (5) A migrant labor function.

244 (6) A public facilities function, including sanitary
245 practices relating to state, county, municipal, and private
246 institutions serving the public; jointly with the Department of
247 Education, publicly and privately owned schools; all places used
248 for the incarceration of prisoners and inmates of state
249 institutions for the mentally ill; toilets and washrooms in all
250 public places and places of employment; any other condition,
251 place, or establishment necessary for the control of disease or
252 the protection and safety of public health.

253 ~~(7) An onsite sewage treatment and disposal function.~~

254 ~~(8)~~ A biohazardous waste control function.

255 (8)~~(9)~~ A function to control diseases transmitted from
256 animals to humans, including the segregation, quarantine, and
257 destruction of domestic pets and wild animals having or
258 suspected of having such diseases.

259 (9)~~(10)~~ An environmental epidemiology function which shall
260 investigate food-borne disease, waterborne disease, and other
261 diseases of environmental causation, whether of chemical,

26-01753B-19

20191022__

262 radiological, or microbiological origin. A \$10 surcharge for
263 this function must ~~shall~~ be assessed upon all persons permitted
264 under chapter 500. This function shall include an educational
265 program for physicians and health professionals designed to
266 promote surveillance and reporting of environmental diseases,
267 and to further the dissemination of knowledge about the
268 relationship between toxic substances and human health which
269 will be useful in the formulation of public policy and will be a
270 source of information for the public.

271 (10) ~~(11)~~ Mosquito and pest control functions as provided in
272 chapters 388 and 482.

273 (11) ~~(12)~~ A radiation control function as provided in
274 chapter 404 and part IV of chapter 468.

275 (12) ~~(13)~~ A public swimming and bathing facilities function
276 as provided in chapter 514.

277 (13) ~~(14)~~ A mobile home park, lodging park, recreational
278 vehicle park, and recreational camp function as provided in
279 chapter 513.

280 (14) ~~(15)~~ A sanitary facilities function, which shall
281 include minimum standards for the maintenance and sanitation of
282 sanitary facilities; public access to sanitary facilities; and
283 fixture ratios for special or temporary events and for homeless
284 shelters.

285 (15) ~~(16)~~ A group-care-facilities function. As used in this
286 subsection, the term "group care facility" means any public or
287 private school, assisted living facility, adult family-care
288 home, adult day care center, short-term residential treatment
289 center, residential treatment facility, home for special
290 services, transitional living facility, crisis stabilization

26-01753B-19

20191022__

291 unit, hospice, prescribed pediatric extended care center,
292 intermediate care facility for persons with developmental
293 disabilities, or boarding school. The department may adopt rules
294 necessary to protect the health and safety of residents, staff,
295 and patrons of group care facilities. Rules related to public
296 and private schools shall be developed by the Department of
297 Education in consultation with the department. Rules adopted
298 under this subsection may include definitions of terms;
299 provisions relating to operation and maintenance of facilities,
300 buildings, grounds, equipment, furnishings, and occupant-space
301 requirements; lighting; heating, cooling, and ventilation; food
302 service; water supply and plumbing; sewage; sanitary facilities;
303 insect and rodent control; garbage; safety; personnel health,
304 hygiene, and work practices; and other matters the department
305 finds are appropriate or necessary to protect the safety and
306 health of the residents, staff, students, faculty, or patrons.
307 The department may not adopt rules that conflict with rules
308 adopted by the licensing or certifying agency. The department
309 may enter and inspect at reasonable hours to determine
310 compliance with applicable statutes or rules. In addition to any
311 sanctions that the department may impose for violations of rules
312 adopted under this section, the department shall also report
313 such violations to any agency responsible for licensing or
314 certifying the group care facility. The licensing or certifying
315 agency may also impose any sanction based solely on the findings
316 of the department.

317 (16)~~(17)~~ A function for investigating elevated levels of
318 lead in blood. Each participating county health department may
319 expend funds for federally mandated certification or

26-01753B-19

20191022__

320 recertification fees related to conducting investigations of
321 elevated levels of lead in blood.

322 (17)~~(18)~~ A food service inspection function for domestic
323 violence centers that are certified by the Department of
324 Children and Families and monitored by the Florida Coalition
325 Against Domestic Violence under part XII of chapter 39 and group
326 care homes as described in subsection (15) ~~(16)~~, which shall be
327 conducted annually and be limited to the requirements in
328 department rule applicable to community-based residential
329 facilities with five or fewer residents.

330
331 The department may adopt rules to carry out the provisions of
332 this section.

333 Section 5. Subsection (1) of section 381.0064, Florida
334 Statutes, is amended to read:

335 381.0064 Continuing education courses for persons
336 installing or servicing septic tanks.-

337 (1) The Department of Environmental Protection ~~Health~~ shall
338 establish a program for continuing education which meets the
339 purposes of ss. 381.0101 and 489.554 regarding the public health
340 and environmental effects of onsite sewage treatment and
341 disposal systems and any other matters the department determines
342 desirable for the safe installation and use of onsite sewage
343 treatment and disposal systems. The department may charge a fee
344 to cover the cost of such program.

345 Section 6. Subsections (2), (3), and (4) of section
346 381.0065, Florida Statutes, are amended, and subsection (7) is
347 added to that section, to read:

348 381.0065 Onsite sewage treatment and disposal systems;

26-01753B-19

20191022__

349 regulation.—

350 (2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the
351 term:

352 (a) "Available," as applied to a publicly owned or
353 investor-owned sewerage system, means that the publicly owned or
354 investor-owned sewerage system is capable of being connected to
355 the plumbing of an establishment or residence, is not under a
356 Department of Environmental Protection moratorium, and has
357 adequate permitted capacity to accept the sewage to be generated
358 by the establishment or residence; and:

359 1. For a residential subdivision lot, a single-family
360 residence, or an establishment, any of which has an estimated
361 sewage flow of 1,000 gallons per day or less, a gravity sewer
362 line to maintain gravity flow from the property's drain to the
363 sewer line, or a low pressure or vacuum sewage collection line
364 in those areas approved for low pressure or vacuum sewage
365 collection, exists in a public easement or right-of-way that
366 abuts the property line of the lot, residence, or establishment.

367 2. For an establishment with an estimated sewage flow
368 exceeding 1,000 gallons per day, a sewer line, force main, or
369 lift station exists in a public easement or right-of-way that
370 abuts the property of the establishment or is within 50 feet of
371 the property line of the establishment as accessed via existing
372 rights-of-way or easements.

373 3. For proposed residential subdivisions with more than 50
374 lots, for proposed commercial subdivisions with more than 5
375 lots, and for areas zoned or used for an industrial or
376 manufacturing purpose or its equivalent, a sewerage system
377 exists within one-fourth mile of the development as measured and

26-01753B-19

20191022__

378 accessed via existing easements or rights-of-way.

379 4. For repairs or modifications within areas zoned or used
380 for an industrial or manufacturing purpose or its equivalent, a
381 sewerage system exists within 500 feet of an establishment's or
382 residence's sewer stub-out as measured and accessed via existing
383 rights-of-way or easements.

384 (b)1. "Bedroom" means a room that can be used for sleeping
385 and that:

386 a. For site-built dwellings, has a minimum of 70 square
387 feet of conditioned space;

388 b. For manufactured homes, is constructed according to the
389 standards of the United States Department of Housing and Urban
390 Development and has a minimum of 50 square feet of floor area;

391 c. Is located along an exterior wall;

392 d. Has a closet and a door or an entrance where a door
393 could be reasonably installed; and

394 e. Has an emergency means of escape and rescue opening to
395 the outside in accordance with the Florida Building Code.

396 2. A room may not be considered a bedroom if it is used to
397 access another room except a bathroom or closet.

398 3. "Bedroom" does not include a hallway, bathroom, kitchen,
399 living room, family room, dining room, den, breakfast nook,
400 pantry, laundry room, sunroom, recreation room, media/video
401 room, or exercise room.

402 (c) "Blackwater" means that part of domestic sewage carried
403 off by toilets, urinals, and kitchen drains.

404 (d) "Department" means the Department of Environmental
405 Protection.

406 (e) ~~(d)~~ "Domestic sewage" means human body waste and

26-01753B-19

20191022__

407 wastewater, including bath and toilet waste, residential laundry
408 waste, residential kitchen waste, and other similar waste from
409 appurtenances at a residence or establishment.

410 (f)~~(e)~~ "Graywater" means that part of domestic sewage that
411 is not blackwater, including waste from the bath, lavatory,
412 laundry, and sink, except kitchen sink waste.

413 (g)~~(f)~~ "Florida Keys" means those islands of the state
414 located within the boundaries of Monroe County.

415 (h)~~(g)~~ "Injection well" means an open vertical hole at
416 least 90 feet in depth, cased and grouted to at least 60 feet in
417 depth which is used to dispose of effluent from an onsite sewage
418 treatment and disposal system.

419 (i)~~(h)~~ "Innovative system" means an onsite sewage treatment
420 and disposal system that, in whole or in part, employs
421 materials, devices, or techniques that are novel or unique and
422 that have not been successfully field-tested under sound
423 scientific and engineering principles under climatic and soil
424 conditions found in this state.

425 (j)~~(i)~~ "Lot" means a parcel or tract of land described by
426 reference to recorded plats or by metes and bounds, or the least
427 fractional part of subdivided lands having limited fixed
428 boundaries or an assigned number, letter, or any other legal
429 description by which it can be identified.

430 (k)~~(j)~~ "Mean annual flood line" means the elevation
431 determined by calculating the arithmetic mean of the elevations
432 of the highest yearly flood stage or discharge for the period of
433 record, to include at least the most recent 10-year period. If
434 at least 10 years of data is not available, the mean annual
435 flood line shall be as determined based upon the data available

26-01753B-19

20191022__

436 and field verification conducted by a certified professional
437 surveyor and mapper with experience in the determination of
438 flood water elevation lines or, at the option of the applicant,
439 by department personnel. Field verification of the mean annual
440 flood line shall be performed using a combination of those
441 indicators listed in subparagraphs 1.-7. that are present on the
442 site, and that reflect flooding that recurs on an annual basis.
443 In those situations where any one or more of these indicators
444 reflect a rare or aberrant event, such indicator or indicators
445 shall not be utilized in determining the mean annual flood line.
446 The indicators that may be considered are:

- 447 1. Water stains on the ground surface, trees, and other
448 fixed objects;
- 449 2. Hydric adventitious roots;
- 450 3. Drift lines;
- 451 4. Rafted debris;
- 452 5. Aquatic mosses and liverworts;
- 453 6. Moss collars; and
- 454 7. Lichen lines.

455 (1)~~(*)~~ "Onsite sewage treatment and disposal system" means
456 a system that contains a standard subsurface, filled, or mound
457 drainfield system; an aerobic treatment unit; a graywater system
458 tank; a laundry wastewater system tank; a septic tank; a grease
459 interceptor; a pump tank; a solids or effluent pump; a
460 waterless, incinerating, or organic waste-composting toilet; or
461 a sanitary pit privy that is installed or proposed to be
462 installed beyond the building sewer on land of the owner or on
463 other land to which the owner has the legal right to install a
464 system. The term includes any item placed within, or intended to

26-01753B-19

20191022__

465 be used as a part of or in conjunction with, the system. This
466 term does not include package sewage treatment facilities and
467 other treatment works regulated under chapter 403.

468 (m)~~(l)~~ "Permanent nontidal surface water body" means a
469 perennial stream, a perennial river, an intermittent stream, a
470 perennial lake, a submerged marsh or swamp, a submerged wooded
471 marsh or swamp, a spring, or a seep, as identified on the most
472 recent quadrangle map, 7.5 minute series (topographic), produced
473 by the United States Geological Survey, or products derived from
474 that series. "Permanent nontidal surface water body" shall also
475 mean an artificial surface water body that does not have an
476 impermeable bottom and side and that is designed to hold, or
477 does hold, visible standing water for at least 180 days of the
478 year. However, a nontidal surface water body that is drained,
479 either naturally or artificially, where the intent or the result
480 is that such drainage be temporary, shall be considered a
481 permanent nontidal surface water body. A nontidal surface water
482 body that is drained of all visible surface water, where the
483 lawful intent or the result of such drainage is that such
484 drainage will be permanent, shall not be considered a permanent
485 nontidal surface water body. The boundary of a permanent
486 nontidal surface water body shall be the mean annual flood line.

487 (n)~~(m)~~ "Potable water line" means any water line that is
488 connected to a potable water supply source, but the term does
489 not include an irrigation line with any of the following types
490 of backflow devices:

491 1. For irrigation systems into which chemicals are not
492 injected, any atmospheric or pressure vacuum breaker or double
493 check valve or any detector check assembly.

26-01753B-19

20191022__

494 2. For irrigation systems into which chemicals such as
495 fertilizers, pesticides, or herbicides are injected, any reduced
496 pressure backflow preventer.

497 (o)~~(n)~~ "Septage" means a mixture of sludge, fatty
498 materials, human feces, and wastewater removed during the
499 pumping of an onsite sewage treatment and disposal system.

500 (p)~~(e)~~ "Subdivision" means, for residential use, any tract
501 or plot of land divided into two or more lots or parcels of
502 which at least one is 1 acre or less in size for sale, lease, or
503 rent. A subdivision for commercial or industrial use is any
504 tract or plot of land divided into two or more lots or parcels
505 of which at least one is 5 acres or less in size and which is
506 for sale, lease, or rent. A subdivision shall be deemed to be
507 proposed until such time as an application is submitted to the
508 local government for subdivision approval or, in those areas
509 where no local government subdivision approval is required,
510 until such time as a plat of the subdivision is recorded.

511 (q)~~(p)~~ "Tidally influenced surface water body" means a body
512 of water that is subject to the ebb and flow of the tides and
513 has as its boundary a mean high-water line as defined by s.
514 177.27(15).

515 (r)~~(q)~~ "Toxic or hazardous chemical" means a substance that
516 poses a serious danger to human health or the environment.

517 (3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL
518 PROTECTION ~~HEALTH~~.—The department shall:

519 (a) Adopt rules to administer ss. 381.0065-381.0067,
520 including definitions that are consistent with the definitions
521 in this section, decreases to setback requirements where no
522 health hazard exists, increases for the lot-flow allowance for

26-01753B-19

20191022__

523 performance-based systems, requirements for separation from
524 water table elevation during the wettest season, requirements
525 for the design and construction of any component part of an
526 onsite sewage treatment and disposal system, application and
527 permit requirements for persons who maintain an onsite sewage
528 treatment and disposal system, requirements for maintenance and
529 service agreements for aerobic treatment units and performance-
530 based treatment systems, and recommended standards, including
531 disclosure requirements, for voluntary system inspections to be
532 performed by individuals who are authorized by law to perform
533 such inspections and who shall inform a person having ownership,
534 control, or use of an onsite sewage treatment and disposal
535 system of the inspection standards and of that person's
536 authority to request an inspection based on all or part of the
537 standards.

538 (b) Perform application reviews and site evaluations, issue
539 permits, and conduct inspections and complaint investigations
540 associated with the construction, installation, maintenance,
541 modification, abandonment, operation, use, or repair of an
542 onsite sewage treatment and disposal system for a residence or
543 establishment with an estimated domestic sewage flow of 10,000
544 gallons or less per day, or an estimated commercial sewage flow
545 of 5,000 gallons or less per day, which is not currently
546 regulated under chapter 403.

547 (c) Develop a comprehensive program to ensure that onsite
548 sewage treatment and disposal systems regulated by the
549 department are sized, designed, constructed, installed,
550 repaired, modified, abandoned, used, operated, and maintained in
551 compliance with this section and rules adopted under this

26-01753B-19

20191022__

552 section to prevent groundwater contamination and surface water
553 contamination and to preserve the public health. The department
554 is the final administrative interpretive authority regarding
555 rule interpretation. In the event of a conflict regarding rule
556 interpretation, the State Surgeon General, or his or her
557 designee, shall timely assign a staff person to resolve the
558 dispute.

559 (d) Grant variances in hardship cases under the conditions
560 prescribed in this section and rules adopted under this section.

561 (e) Permit the use of a limited number of innovative
562 systems for a specific period of time, when there is compelling
563 evidence that the system will function properly and reliably to
564 meet the requirements of this section and rules adopted under
565 this section.

566 (f) Issue annual operating permits under this section.

567 (g) Establish and collect fees as established under s.
568 381.0066 for services provided with respect to onsite sewage
569 treatment and disposal systems.

570 (h) Conduct enforcement activities, including imposing
571 fines, issuing citations, suspensions, revocations, injunctions,
572 and emergency orders for violations of this section, part I of
573 chapter 386, or part III of chapter 489 or for a violation of
574 any rule adopted under this section, part I of chapter 386, or
575 part III of chapter 489.

576 (i) Provide or conduct education and training of department
577 personnel, service providers, and the public regarding onsite
578 sewage treatment and disposal systems.

579 (j) Supervise research on, demonstration of, and training
580 on the performance, environmental impact, and public health

26-01753B-19

20191022__

581 impact of onsite sewage treatment and disposal systems within
582 this state. Research fees collected under s. 381.0066(2)(k) must
583 be used to develop and fund hands-on training centers designed
584 to provide practical information about onsite sewage treatment
585 and disposal systems to septic tank contractors, master septic
586 tank contractors, contractors, inspectors, engineers, and the
587 public and must also be used to fund research projects which
588 focus on improvements of onsite sewage treatment and disposal
589 systems, including use of performance-based standards and
590 reduction of environmental impact. Research projects must ~~shall~~
591 ~~be initially approved by the technical review and advisory panel~~
592 ~~and shall be~~ applicable to and reflect the soil conditions
593 specific to Florida. Such projects shall be awarded through
594 competitive negotiation, using the procedures provided in s.
595 287.055, to public or private entities that have experience in
596 onsite sewage treatment and disposal systems in Florida and that
597 are principally located in Florida. ~~Research projects shall not~~
598 ~~be awarded to firms or entities that employ or are associated~~
599 ~~with persons who serve on either the technical review and~~
600 ~~advisory panel or the research review and advisory committee.~~

601 (k) Approve the installation of individual graywater
602 disposal systems in which blackwater is treated by a central
603 sewerage system.

604 (l) Regulate and permit the sanitation, handling,
605 treatment, storage, reuse, and disposal of byproducts from any
606 system regulated under this chapter and not regulated by the
607 Department of Environmental Protection.

608 (m) Permit and inspect portable or temporary toilet
609 services and holding tanks. The department shall review

26-01753B-19

20191022__

610 applications, perform site evaluations, and issue permits for
611 the temporary use of holding tanks, privies, portable toilet
612 services, or any other toilet facility that is intended for use
613 on a permanent or nonpermanent basis, including facilities
614 placed on construction sites when workers are present. The
615 department may specify standards for the construction,
616 maintenance, use, and operation of any such facility for
617 temporary use.

618 (n) Regulate and permit maintenance entities for
619 performance-based treatment systems and aerobic treatment unit
620 systems. To ensure systems are maintained and operated according
621 to manufacturer's specifications and designs, the department
622 shall establish by rule minimum qualifying criteria for
623 maintenance entities. The criteria shall include: training,
624 access to approved spare parts and components, access to
625 manufacturer's maintenance and operation manuals, and service
626 response time. The maintenance entity shall employ a contractor
627 licensed under s. 489.105(3)(m), or part III of chapter 489, or
628 a state-licensed wastewater plant operator, who is responsible
629 for maintenance and repair of all systems under contract.

630 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
631 construct, repair, modify, abandon, or operate an onsite sewage
632 treatment and disposal system without first obtaining a permit
633 approved by the department. The department may issue permits to
634 carry out this section, ~~but shall not make the issuance of such~~
635 ~~permits contingent upon prior approval by the Department of~~
636 ~~Environmental Protection, except that~~ The issuance of a permit
637 for work seaward of the coastal construction control line
638 established under s. 161.053 is ~~shall be~~ contingent upon receipt

26-01753B-19

20191022__

639 of any required coastal construction control line permit from
640 the department ~~of Environmental Protection~~. A construction
641 permit is valid for 18 months from the issuance date and may be
642 extended by the department for one 90-day period under rules
643 adopted by the department. A repair permit is valid for 90 days
644 from the date of issuance. An operating permit must be obtained
645 before ~~prior to~~ the use of any aerobic treatment unit or if the
646 establishment generates commercial waste. Buildings or
647 establishments that use an aerobic treatment unit or generate
648 commercial waste shall be inspected by the department at least
649 annually to assure compliance with the terms of the operating
650 permit. The operating permit for a commercial wastewater system
651 is valid for 1 year from the date of issuance and must be
652 renewed annually. The operating permit for an aerobic treatment
653 unit is valid for 2 years from the date of issuance and must be
654 renewed every 2 years. If all information pertaining to the
655 siting, location, and installation conditions or repair of an
656 onsite sewage treatment and disposal system remains the same, a
657 construction or repair permit for the onsite sewage treatment
658 and disposal system may be transferred to another person, if the
659 transferee files, within 60 days after the transfer of
660 ownership, an amended application providing all corrected
661 information and proof of ownership of the property. There is no
662 fee associated with the processing of this supplemental
663 information. A person may not contract to construct, modify,
664 alter, repair, service, abandon, or maintain any portion of an
665 onsite sewage treatment and disposal system without being
666 registered under part III of chapter 489. A property owner who
667 personally performs construction, maintenance, or repairs to a

26-01753B-19

20191022__

668 system serving his or her own owner-occupied single-family
669 residence is exempt from registration requirements for
670 performing such construction, maintenance, or repairs on that
671 residence, but is subject to all permitting requirements. A
672 municipality or political subdivision of the state may not issue
673 a building or plumbing permit for any building that requires the
674 use of an onsite sewage treatment and disposal system unless the
675 owner or builder has received a construction permit for such
676 system from the department. A building or structure may not be
677 occupied and a municipality, political subdivision, or any state
678 or federal agency may not authorize occupancy until the
679 department approves the final installation of the onsite sewage
680 treatment and disposal system. A municipality or political
681 subdivision of the state may not approve any change in occupancy
682 or tenancy of a building that uses an onsite sewage treatment
683 and disposal system until the department has reviewed the use of
684 the system with the proposed change, approved the change, and
685 amended the operating permit.

686 (a) Subdivisions and lots in which each lot has a minimum
687 area of at least one-half acre and either a minimum dimension of
688 100 feet or a mean of at least 100 feet of the side bordering
689 the street and the distance formed by a line parallel to the
690 side bordering the street drawn between the two most distant
691 points of the remainder of the lot may be developed with a water
692 system regulated under s. 381.0062 and onsite sewage treatment
693 and disposal systems, provided the projected daily sewage flow
694 does not exceed an average of 1,500 gallons per acre per day,
695 and provided satisfactory drinking water can be obtained and all
696 distance and setback, soil condition, water table elevation, and

26-01753B-19

20191022__

697 other related requirements of this section and rules adopted
698 under this section can be met.

699 (b) Subdivisions and lots using a public water system as
700 defined in s. 403.852 may use onsite sewage treatment and
701 disposal systems, provided there are no more than four lots per
702 acre, provided the projected daily sewage flow does not exceed
703 an average of 2,500 gallons per acre per day, and provided that
704 all distance and setback, soil condition, water table elevation,
705 and other related requirements that are generally applicable to
706 the use of onsite sewage treatment and disposal systems are met.

707 (c) Notwithstanding paragraphs (a) and (b), for
708 subdivisions platted of record on or before October 1, 1991,
709 when a developer or other appropriate entity has previously made
710 or makes provisions, including financial assurances or other
711 commitments, acceptable to the department ~~of Health~~, that a
712 central water system will be installed by a regulated public
713 utility based on a density formula, private potable wells may be
714 used with onsite sewage treatment and disposal systems until the
715 agreed-upon densities are reached. In a subdivision regulated by
716 this paragraph, the average daily sewage flow may not exceed
717 2,500 gallons per acre per day. This section does not affect the
718 validity of existing prior agreements. After October 1, 1991,
719 the exception provided under this paragraph is not available to
720 a developer or other appropriate entity.

721 (d) Paragraphs (a) and (b) do not apply to any proposed
722 residential subdivision with more than 50 lots or to any
723 proposed commercial subdivision with more than 5 lots where a
724 publicly owned or investor-owned sewerage system is available.
725 It is the intent of this paragraph not to allow development of

26-01753B-19

20191022__

726 additional proposed subdivisions in order to evade the
727 requirements of this paragraph.

728 (e) Onsite sewage treatment and disposal systems must not
729 be placed closer than:

730 1. Seventy-five feet from a private potable well.

731 2. Two hundred feet from a public potable well serving a
732 residential or nonresidential establishment having a total
733 sewage flow of greater than 2,000 gallons per day.

734 3. One hundred feet from a public potable well serving a
735 residential or nonresidential establishment having a total
736 sewage flow of less than or equal to 2,000 gallons per day.

737 4. Fifty feet from any nonpotable well.

738 5. Ten feet from any storm sewer pipe, to the maximum
739 extent possible, but in no instance shall the setback be less
740 than 5 feet.

741 6. Seventy-five feet from the mean high-water line of a
742 tidally influenced surface water body.

743 7. Seventy-five feet from the mean annual flood line of a
744 permanent nontidal surface water body.

745 8. Fifteen feet from the design high-water line of
746 retention areas, detention areas, or swales designed to contain
747 standing or flowing water for less than 72 hours after a
748 rainfall or the design high-water level of normally dry drainage
749 ditches or normally dry individual lot stormwater retention
750 areas.

751 (f) Except as provided under paragraphs (e) and (s) ~~(t)~~, no
752 limitations shall be imposed by rule, relating to the distance
753 between an onsite disposal system and any area that either
754 permanently or temporarily has visible surface water.

26-01753B-19

20191022__

755 (g) All provisions of this section and rules adopted under
756 this section relating to soil condition, water table elevation,
757 distance, and other setback requirements must be equally applied
758 to all lots, with the following exceptions:

759 1. Any residential lot that was platted and recorded on or
760 after January 1, 1972, or that is part of a residential
761 subdivision that was approved by the appropriate permitting
762 agency on or after January 1, 1972, and that was eligible for an
763 onsite sewage treatment and disposal system construction permit
764 on the date of such platting and recording or approval shall be
765 eligible for an onsite sewage treatment and disposal system
766 construction permit, regardless of when the application for a
767 permit is made. If rules in effect at the time the permit
768 application is filed cannot be met, residential lots platted and
769 recorded or approved on or after January 1, 1972, shall, to the
770 maximum extent possible, comply with the rules in effect at the
771 time the permit application is filed. At a minimum, however,
772 those residential lots platted and recorded or approved on or
773 after January 1, 1972, but before January 1, 1983, shall comply
774 with those rules in effect on January 1, 1983, and those
775 residential lots platted and recorded or approved on or after
776 January 1, 1983, shall comply with those rules in effect at the
777 time of such platting and recording or approval. In determining
778 the maximum extent of compliance with current rules that is
779 possible, the department shall allow structures and
780 appurtenances thereto which were authorized at the time such
781 lots were platted and recorded or approved.

782 2. Lots platted before 1972 are subject to a 50-foot
783 minimum surface water setback and are not subject to lot size

26-01753B-19

20191022__

784 requirements. The projected daily flow for onsite sewage
785 treatment and disposal systems for lots platted before 1972 may
786 not exceed:

787 a. Two thousand five hundred gallons per acre per day for
788 lots served by public water systems as defined in s. 403.852.

789 b. One thousand five hundred gallons per acre per day for
790 lots served by water systems regulated under s. 381.0062.

791 (h)1. The department may grant variances in hardship cases
792 which may be less restrictive than the provisions specified in
793 this section. If a variance is granted and the onsite sewage
794 treatment and disposal system construction permit has been
795 issued, the variance may be transferred with the system
796 construction permit, if the transferee files, within 60 days
797 after the transfer of ownership, an amended construction permit
798 application providing all corrected information and proof of
799 ownership of the property and if the same variance would have
800 been required for the new owner of the property as was
801 originally granted to the original applicant for the variance.
802 There is no fee associated with the processing of this
803 supplemental information. A variance may not be granted under
804 this section until the department is satisfied that:

805 a. The hardship was not caused intentionally by the action
806 of the applicant;

807 b. No reasonable alternative, taking into consideration
808 factors such as cost, exists for the treatment of the sewage;
809 and

810 c. The discharge from the onsite sewage treatment and
811 disposal system will not adversely affect the health of the
812 applicant or the public or significantly degrade the groundwater

26-01753B-19

20191022__

813 or surface waters.

814

815 Where soil conditions, water table elevation, and setback
816 provisions are determined by the department to be satisfactory,
817 special consideration must be given to those lots platted before
818 1972.

819 2. The department shall appoint and staff a variance review
820 and advisory committee, which shall meet monthly to recommend
821 agency action on variance requests. The committee shall make its
822 recommendations on variance requests at the meeting in which the
823 application is scheduled for consideration, except for an
824 extraordinary change in circumstances, the receipt of new
825 information that raises new issues, or when the applicant
826 requests an extension. The committee shall consider the criteria
827 in subparagraph 1. in its recommended agency action on variance
828 requests and shall also strive to allow property owners the full
829 use of their land where possible. The committee consists of the
830 following:

831 a. The State Surgeon General or his or her designee.

832 b. A representative from the county health departments.

833 c. A representative from the home building industry
834 recommended by the Florida Home Builders Association.

835 d. A representative from the septic tank industry
836 recommended by the Florida Onsite Wastewater Association.

837 e. A representative from the Department of Environmental
838 Protection.

839 f. A representative from the real estate industry who is
840 also a developer in this state who develops lots using onsite
841 sewage treatment and disposal systems, recommended by the

26-01753B-19

20191022__

842 Florida Association of Realtors.

843 g. A representative from the engineering profession
844 recommended by the Florida Engineering Society.

845
846 Members shall be appointed for a term of 3 years, with such
847 appointments being staggered so that the terms of no more than
848 two members expire in any one year. Members shall serve without
849 remuneration, but if requested, shall be reimbursed for per diem
850 and travel expenses as provided in s. 112.061.

851 (i) A construction permit may not be issued for an onsite
852 sewage treatment and disposal system in any area zoned or used
853 for industrial or manufacturing purposes, or its equivalent,
854 where a publicly owned or investor-owned sewage treatment system
855 is available, or where a likelihood exists that the system will
856 receive toxic, hazardous, or industrial waste. An existing
857 onsite sewage treatment and disposal system may be repaired if a
858 publicly owned or investor-owned sewerage system is not
859 available within 500 feet of the building sewer stub-out and if
860 system construction and operation standards can be met. This
861 paragraph does not require publicly owned or investor-owned
862 sewerage treatment systems to accept anything other than
863 domestic wastewater.

864 1. A building located in an area zoned or used for
865 industrial or manufacturing purposes, or its equivalent, when
866 such building is served by an onsite sewage treatment and
867 disposal system, must not be occupied until the owner or tenant
868 has obtained written approval from the department. The
869 department shall not grant approval when the proposed use of the
870 system is to dispose of toxic, hazardous, or industrial

26-01753B-19

20191022__

871 wastewater or toxic or hazardous chemicals.

872 2. Each person who owns or operates a business or facility
873 in an area zoned or used for industrial or manufacturing
874 purposes, or its equivalent, or who owns or operates a business
875 that has the potential to generate toxic, hazardous, or
876 industrial wastewater or toxic or hazardous chemicals, and uses
877 an onsite sewage treatment and disposal system that is installed
878 on or after July 5, 1989, must obtain an annual system operating
879 permit from the department. A person who owns or operates a
880 business that uses an onsite sewage treatment and disposal
881 system that was installed and approved before July 5, 1989, need
882 not obtain a system operating permit. However, upon change of
883 ownership or tenancy, the new owner or operator must notify the
884 department of the change, and the new owner or operator must
885 obtain an annual system operating permit, regardless of the date
886 that the system was installed or approved.

887 3. The department shall periodically review and evaluate
888 the continued use of onsite sewage treatment and disposal
889 systems in areas zoned or used for industrial or manufacturing
890 purposes, or its equivalent, and may require the collection and
891 analyses of samples from within and around such systems. If the
892 department finds that toxic or hazardous chemicals or toxic,
893 hazardous, or industrial wastewater have been or are being
894 disposed of through an onsite sewage treatment and disposal
895 system, the department shall initiate enforcement actions
896 against the owner or tenant to ensure adequate cleanup,
897 treatment, and disposal.

898 (j) An onsite sewage treatment and disposal system designed
899 by a professional engineer registered in the state and certified

26-01753B-19

20191022__

900 by such engineer as complying with performance criteria adopted
901 by the department must be approved by the department subject to
902 the following:

903 1. The performance criteria applicable to engineer-designed
904 systems must be limited to those necessary to ensure that such
905 systems do not adversely affect the public health or
906 significantly degrade the groundwater or surface water. Such
907 performance criteria shall include consideration of the quality
908 of system effluent, the proposed total sewage flow per acre,
909 wastewater treatment capabilities of the natural or replaced
910 soil, water quality classification of the potential surface-
911 water-receiving body, and the structural and maintenance
912 viability of the system for the treatment of domestic
913 wastewater. However, performance criteria shall address only the
914 performance of a system and not a system's design.

915 2. A person electing to utilize an engineer-designed system
916 shall, upon completion of the system design, submit such design,
917 certified by a registered professional engineer, to the county
918 health department. The county health department may utilize an
919 outside consultant to review the engineer-designed system, with
920 the actual cost of such review to be borne by the applicant.
921 Within 5 working days after receiving an engineer-designed
922 system permit application, the county health department shall
923 request additional information if the application is not
924 complete. Within 15 working days after receiving a complete
925 application for an engineer-designed system, the county health
926 department either shall issue the permit or, if it determines
927 that the system does not comply with the performance criteria,
928 shall notify the applicant of that determination and refer the

26-01753B-19

20191022__

929 application to the department for a determination as to whether
930 the system should be approved, disapproved, or approved with
931 modification. The department engineer's determination shall
932 prevail over the action of the county health department. The
933 applicant shall be notified in writing of the department's
934 determination and of the applicant's rights to pursue a variance
935 or seek review under ~~the provisions of~~ chapter 120.

936 3. The owner of an engineer-designed performance-based
937 system must maintain a current maintenance service agreement
938 with a maintenance entity permitted by the department. The
939 maintenance entity shall inspect each system at least twice each
940 year and shall report quarterly to the department on the number
941 of systems inspected and serviced. The reports may be submitted
942 electronically.

943 4. The property owner of an owner-occupied, single-family
944 residence may be approved and permitted by the department as a
945 maintenance entity for his or her own performance-based
946 treatment system upon written certification from the system
947 manufacturer's approved representative that the property owner
948 has received training on the proper installation and service of
949 the system. The maintenance service agreement must conspicuously
950 disclose that the property owner has the right to maintain his
951 or her own system and is exempt from contractor registration
952 requirements for performing construction, maintenance, or
953 repairs on the system but is subject to all permitting
954 requirements.

955 5. The property owner shall obtain a biennial system
956 operating permit from the department for each system. The
957 department shall inspect the system at least annually, or on

26-01753B-19

20191022__

958 such periodic basis as the fee collected permits, and may
959 collect system-effluent samples if appropriate to determine
960 compliance with the performance criteria. The fee for the
961 biennial operating permit shall be collected beginning with the
962 second year of system operation.

963 6. If an engineer-designed system fails to properly
964 function or fails to meet performance standards, the system
965 shall be re-engineered, if necessary, to bring the system into
966 compliance with ~~the provisions of~~ this section.

967 (k) An innovative system may be approved in conjunction
968 with an engineer-designed site-specific system which is
969 certified by the engineer to meet the performance-based criteria
970 adopted by the department.

971 (l) For the Florida Keys, the department shall adopt a
972 special rule for the construction, installation, modification,
973 operation, repair, maintenance, and performance of onsite sewage
974 treatment and disposal systems which considers the unique soil
975 conditions and water table elevations, densities, and setback
976 requirements. On lots where a setback distance of 75 feet from
977 surface waters, saltmarsh, and buttonwood association habitat
978 areas cannot be met, an injection well, approved and permitted
979 by the department, may be used for disposal of effluent from
980 onsite sewage treatment and disposal systems. The following
981 additional requirements apply to onsite sewage treatment and
982 disposal systems in Monroe County:

983 1. The county, each municipality, and those special
984 districts established for the purpose of the collection,
985 transmission, treatment, or disposal of sewage shall ensure, in
986 accordance with the specific schedules adopted by the

26-01753B-19

20191022__

987 Administration Commission under s. 380.0552, the completion of
988 onsite sewage treatment and disposal system upgrades to meet the
989 requirements of this paragraph.

990 2. Onsite sewage treatment and disposal systems must cease
991 discharge by December 31, 2015, or must comply with department
992 rules and provide the level of treatment which, on a permitted
993 annual average basis, produces an effluent that contains no more
994 than the following concentrations:

995 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

996 b. Suspended Solids of 10 mg/l.

997 c. Total Nitrogen, expressed as N, of 10 mg/l or a
998 reduction in nitrogen of at least 70 percent. A system that has
999 been tested and certified to reduce nitrogen concentrations by
1000 at least 70 percent shall be deemed to be in compliance with
1001 this standard.

1002 d. Total Phosphorus, expressed as P, of 1 mg/l.

1003

1004 In addition, onsite sewage treatment and disposal systems
1005 discharging to an injection well must provide basic disinfection
1006 as defined by department rule.

1007 3. In areas not scheduled to be served by a central sewer,
1008 onsite sewage treatment and disposal systems must, by December
1009 31, 2015, comply with department rules and provide the level of
1010 treatment described in subparagraph 2.

1011 4. In areas scheduled to be served by central sewer by
1012 December 31, 2015, if the property owner has paid a connection
1013 fee or assessment for connection to the central sewer system,
1014 the property owner may install a holding tank with a high water
1015 alarm or an onsite sewage treatment and disposal system that

26-01753B-19

20191022__

1016 meets the following minimum standards:

1017 a. The existing tanks must be pumped and inspected and
1018 certified as being watertight and free of defects in accordance
1019 with department rule; and

1020 b. A sand-lined drainfield or injection well in accordance
1021 with department rule must be installed.

1022 5. Onsite sewage treatment and disposal systems must be
1023 monitored for total nitrogen and total phosphorus concentrations
1024 as required by department rule.

1025 6. The department shall enforce proper installation,
1026 operation, and maintenance of onsite sewage treatment and
1027 disposal systems pursuant to this chapter, including ensuring
1028 that the appropriate level of treatment described in
1029 subparagraph 2. is met.

1030 7. The authority of a local government, including a special
1031 district, to mandate connection of an onsite sewage treatment
1032 and disposal system is governed by s. 4, chapter 99-395, Laws of
1033 Florida.

1034 8. Notwithstanding any other provision of law, an onsite
1035 sewage treatment and disposal system installed after July 1,
1036 2010, in unincorporated Monroe County, excluding special
1037 wastewater districts, that complies with the standards in
1038 subparagraph 2. is not required to connect to a central sewer
1039 system until December 31, 2020.

1040 (m) No product sold in the state for use in onsite sewage
1041 treatment and disposal systems may contain any substance in
1042 concentrations or amounts that would interfere with or prevent
1043 the successful operation of such system, or that would cause
1044 discharges from such systems to violate applicable water quality

26-01753B-19

20191022__

1045 standards. The department shall publish criteria for products
1046 known or expected to meet the conditions of this paragraph. In
1047 the event a product does not meet such criteria, such product
1048 may be sold if the manufacturer satisfactorily demonstrates to
1049 the department that the conditions of this paragraph are met.

1050 (n) Evaluations for determining the seasonal high-water
1051 table elevations or the suitability of soils for the use of a
1052 new onsite sewage treatment and disposal system shall be
1053 performed by department personnel, professional engineers
1054 registered in the state, or such other persons with expertise,
1055 as defined by rule, in making such evaluations. Evaluations for
1056 determining mean annual flood lines shall be performed by those
1057 persons identified in paragraph (2) (j). The department shall
1058 accept evaluations submitted by professional engineers and such
1059 other persons as meet the expertise established by this section
1060 or by rule unless the department has a reasonable scientific
1061 basis for questioning the accuracy or completeness of the
1062 evaluation.

1063 ~~(o) The department shall appoint a research review and~~
1064 ~~advisory committee, which shall meet at least semiannually. The~~
1065 ~~committee shall advise the department on directions for new~~
1066 ~~research, review and rank proposals for research contracts, and~~
1067 ~~review draft research reports and make comments. The committee~~
1068 ~~is comprised of:~~

1069 ~~1. A representative of the State Surgeon General, or his or~~
1070 ~~her designee.~~

1071 ~~2. A representative from the septic tank industry.~~

1072 ~~3. A representative from the home building industry.~~

1073 ~~4. A representative from an environmental interest group.~~

26-01753B-19

20191022__

1074 ~~5. A representative from the State University System, from~~
1075 ~~a department knowledgeable about onsite sewage treatment and~~
1076 ~~disposal systems.~~

1077 ~~6. A professional engineer registered in this state who has~~
1078 ~~work experience in onsite sewage treatment and disposal systems.~~

1079 ~~7. A representative from local government who is~~
1080 ~~knowledgeable about domestic wastewater treatment.~~

1081 ~~8. A representative from the real estate profession.~~

1082 ~~9. A representative from the restaurant industry.~~

1083 ~~10. A consumer.~~

1084
1085 ~~Members shall be appointed for a term of 3 years, with the~~
1086 ~~appointments being staggered so that the terms of no more than~~
1087 ~~four members expire in any one year. Members shall serve without~~
1088 ~~remuneration, but are entitled to reimbursement for per diem and~~
1089 ~~travel expenses as provided in s. 112.061.~~

1090 ~~(o)~~ (p) An application for an onsite sewage treatment and
1091 disposal system permit shall be completed in full, signed by the
1092 owner or the owner's authorized representative, or by a
1093 contractor licensed under chapter 489, and shall be accompanied
1094 by all required exhibits and fees. No specific documentation of
1095 property ownership shall be required as a prerequisite to the
1096 review of an application or the issuance of a permit. The
1097 issuance of a permit does not constitute determination by the
1098 department of property ownership.

1099 ~~(p)~~ (q) The department may not require any form of
1100 subdivision analysis of property by an owner, developer, or
1101 subdivider before ~~prior to~~ submission of an application for an
1102 onsite sewage treatment and disposal system.

26-01753B-19

20191022__

1103 (q)~~(r)~~ Nothing in this section limits the power of a
1104 municipality or county to enforce other laws for the protection
1105 of the public health and safety.

1106 (r)~~(s)~~ In the siting of onsite sewage treatment and
1107 disposal systems, including drainfields, shoulders, and slopes,
1108 guttering shall not be required on single-family residential
1109 dwelling units for systems located greater than 5 feet from the
1110 roof drip line of the house. If guttering is used on residential
1111 dwelling units, the downspouts shall be directed away from the
1112 drainfield.

1113 (s)~~(t)~~ Notwithstanding ~~the provisions of~~ subparagraph
1114 (g)1., onsite sewage treatment and disposal systems located in
1115 floodways of the Suwannee and Aucilla Rivers must adhere to the
1116 following requirements:

1117 1. The absorption surface of the drainfield shall not be
1118 subject to flooding based on 10-year flood elevations. Provided,
1119 however, for lots or parcels created by the subdivision of land
1120 in accordance with applicable local government regulations
1121 before ~~prior to~~ January 17, 1990, if an applicant cannot
1122 construct a drainfield system with the absorption surface of the
1123 drainfield at an elevation equal to or above 10-year flood
1124 elevation, the department shall issue a permit for an onsite
1125 sewage treatment and disposal system within the 10-year
1126 floodplain of rivers, streams, and other bodies of flowing water
1127 if all of the following criteria are met:

- 1128 a. The lot is at least one-half acre in size;
1129 b. The bottom of the drainfield is at least 36 inches above
1130 the 2-year flood elevation; and
1131 c. The applicant installs either: a waterless,

26-01753B-19

20191022__

1132 incinerating, or organic waste composting toilet and a graywater
1133 system and drainfield in accordance with department rules; an
1134 aerobic treatment unit and drainfield in accordance with
1135 department rules; a system approved by the State Health Office
1136 that is capable of reducing effluent nitrate by at least 50
1137 percent; or a system approved by the county health department
1138 pursuant to department rule other than a system using
1139 alternative drainfield materials. The United States Department
1140 of Agriculture Soil Conservation Service soil maps, State of
1141 Florida Water Management District data, and Federal Emergency
1142 Management Agency Flood Insurance maps are resources that shall
1143 be used to identify flood-prone areas.

1144 2. The use of fill or mounding to elevate a drainfield
1145 system out of the 10-year floodplain of rivers, streams, or
1146 other bodies of flowing water shall not be permitted if such a
1147 system lies within a regulatory floodway of the Suwannee and
1148 Aucilla Rivers. In cases where the 10-year flood elevation does
1149 not coincide with the boundaries of the regulatory floodway, the
1150 regulatory floodway will be considered for the purposes of this
1151 subsection to extend at a minimum to the 10-year flood
1152 elevation.

1153 (t)~~(u)~~ 1. The owner of an aerobic treatment unit system
1154 shall maintain a current maintenance service agreement with an
1155 aerobic treatment unit maintenance entity permitted by the
1156 department. The maintenance entity shall inspect each aerobic
1157 treatment unit system at least twice each year and shall report
1158 quarterly to the department on the number of aerobic treatment
1159 unit systems inspected and serviced. The reports may be
1160 submitted electronically.

26-01753B-19

20191022__

1161 2. The property owner of an owner-occupied, single-family
1162 residence may be approved and permitted by the department as a
1163 maintenance entity for his or her own aerobic treatment unit
1164 system upon written certification from the system manufacturer's
1165 approved representative that the property owner has received
1166 training on the proper installation and service of the system.
1167 The maintenance entity service agreement must conspicuously
1168 disclose that the property owner has the right to maintain his
1169 or her own system and is exempt from contractor registration
1170 requirements for performing construction, maintenance, or
1171 repairs on the system but is subject to all permitting
1172 requirements.

1173 3. A septic tank contractor licensed under part III of
1174 chapter 489, if approved by the manufacturer, may not be denied
1175 access by the manufacturer to aerobic treatment unit system
1176 training or spare parts for maintenance entities. After the
1177 original warranty period, component parts for an aerobic
1178 treatment unit system may be replaced with parts that meet
1179 manufacturer's specifications but are manufactured by others.
1180 The maintenance entity shall maintain documentation of the
1181 substitute part's equivalency for 2 years and shall provide such
1182 documentation to the department upon request.

1183 4. The owner of an aerobic treatment unit system shall
1184 obtain a system operating permit from the department and allow
1185 the department to inspect during reasonable hours each aerobic
1186 treatment unit system at least annually, and such inspection may
1187 include collection and analysis of system-effluent samples for
1188 performance criteria established by rule of the department.

1189 (u) ~~(v)~~ The department may require the submission of

26-01753B-19

20191022__

1190 detailed system construction plans that are prepared by a
1191 professional engineer registered in this state. The department
1192 shall establish by rule criteria for determining when such a
1193 submission is required.

1194 (v)~~(w)~~ Any permit issued and approved by the department for
1195 the installation, modification, or repair of an onsite sewage
1196 treatment and disposal system shall transfer with the title to
1197 the property in a real estate transaction. A title may not be
1198 encumbered at the time of transfer by new permit requirements by
1199 a governmental entity for an onsite sewage treatment and
1200 disposal system which differ from the permitting requirements in
1201 effect at the time the system was permitted, modified, or
1202 repaired. An inspection of a system may not be mandated by a
1203 governmental entity at the point of sale in a real estate
1204 transaction. This paragraph does not affect a septic tank phase-
1205 out deferral program implemented by a consolidated government as
1206 defined in s. 9, Art. VIII of the State Constitution (1885).

1207 (w)~~(*)~~ A governmental entity, including a municipality,
1208 county, or statutorily created commission, may not require an
1209 engineer-designed performance-based treatment system, excluding
1210 a passive engineer-designed performance-based treatment system,
1211 before the completion of the Florida Onsite Sewage Nitrogen
1212 Reduction Strategies Project. This paragraph does not apply to a
1213 governmental entity, including a municipality, county, or
1214 statutorily created commission, which adopted a local law,
1215 ordinance, or regulation on or before January 31, 2012.
1216 Notwithstanding this paragraph, an engineer-designed
1217 performance-based treatment system may be used to meet the
1218 requirements of the variance review and advisory committee

26-01753B-19

20191022__

1219 recommendations.

1220 (x)~~(y)~~1. An onsite sewage treatment and disposal system is
1221 not considered abandoned if the system is disconnected from a
1222 structure that was made unusable or destroyed following a
1223 disaster and if the system was properly functioning at the time
1224 of disconnection and was not adversely affected by the disaster.
1225 The onsite sewage treatment and disposal system may be
1226 reconnected to a rebuilt structure if:

1227 a. The reconnection of the system is to the same type of
1228 structure which contains the same number of bedrooms or fewer,
1229 if the square footage of the structure is less than or equal to
1230 110 percent of the original square footage of the structure that
1231 existed before the disaster;

1232 b. The system is not a sanitary nuisance; and

1233 c. The system has not been altered without prior
1234 authorization.

1235 2. An onsite sewage treatment and disposal system that
1236 serves a property that is foreclosed upon is not considered
1237 abandoned.

1238 (y)~~(z)~~ If an onsite sewage treatment and disposal system
1239 permittee receives, relies upon, and undertakes construction of
1240 a system based upon a validly issued construction permit under
1241 rules applicable at the time of construction but a change to a
1242 rule occurs within 5 years after the approval of the system for
1243 construction but before the final approval of the system, the
1244 rules applicable and in effect at the time of construction
1245 approval apply at the time of final approval if fundamental site
1246 conditions have not changed between the time of construction
1247 approval and final approval.

26-01753B-19

20191022__

1248 (z)~~(aa)~~ An existing-system inspection or evaluation and
1249 assessment, or a modification, replacement, or upgrade of an
1250 onsite sewage treatment and disposal system is not required for
1251 a remodeling addition or modification to a single-family home if
1252 a bedroom is not added. However, a remodeling addition or
1253 modification to a single-family home may not cover any part of
1254 the existing system or encroach upon a required setback or the
1255 unobstructed area. To determine if a setback or the unobstructed
1256 area is impacted, the local health department shall review and
1257 verify a floor plan and site plan of the proposed remodeling
1258 addition or modification to the home submitted by a remodeler
1259 which shows the location of the system, including the distance
1260 of the remodeling addition or modification to the home from the
1261 onsite sewage treatment and disposal system. The local health
1262 department may visit the site or otherwise determine the best
1263 means of verifying the information submitted. A verification of
1264 the location of a system is not an inspection or evaluation and
1265 assessment of the system. The review and verification must be
1266 completed within 7 business days after receipt by the local
1267 health department of a floor plan and site plan. If the review
1268 and verification is not completed within such time, the
1269 remodeling addition or modification to the single-family home,
1270 for the purposes of this paragraph, is approved.

1271 (7) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS TECHNICAL
1272 ADVISORY COMMITTEE; RULEMAKING.-

1273 (a) By August 30, 2019, the department shall convene a
1274 technical advisory committee to assist in developing rules that
1275 will increase the availability of nutrient-removing onsite
1276 systems in the marketplace, including such systems that are

26-01753B-19

20191022__

1277 cost-effective, low maintenance, and reliable. The committee
 1278 shall consider and recommend regulatory options, such as fast-
 1279 track approval, prequalification, and expedited permitting to
 1280 facilitate the introduction and use of nitrogen removing systems
 1281 that have been reviewed and approved by a national agency or
 1282 organization, such as NSF/ANSI 245 systems approved by NSF
 1283 International.

1284 (b) The committee shall consist of at least five, but no
 1285 more than nine, members representing the home building industry,
 1286 the real estate industry, the onsite sewage treatment and
 1287 disposal system industry, septic tank contractors, engineers,
 1288 and local governments. Members shall provide for their own
 1289 expenses.

1290 (c) The department shall initiate rulemaking by January 1,
 1291 2020, and adopt rules, taking into account the recommendations
 1292 of the technical advisory committee, which are intended to
 1293 increase the availability of cost-effective, low-maintenance,
 1294 nutrient-removing onsite systems in the marketplace.

1295 (d) The committee automatically dissolves and this
 1296 subsection expires on July 1, 2020.

1297 Section 7. Paragraph (d) of subsection (7) and subsections
 1298 (8) and (9) of section 381.00651, Florida Statutes, are amended
 1299 to read:

1300 381.00651 Periodic evaluation and assessment of onsite
 1301 sewage treatment and disposal systems.—

1302 (7) The following procedures shall be used for conducting
 1303 evaluations:

1304 (d) *Assessment procedure.*—All evaluation procedures used by
 1305 a qualified contractor must ~~shall~~ be documented in the

26-01753B-19

20191022__

1306 environmental health database of the department ~~of Health~~. The
1307 qualified contractor shall provide a copy of a written, signed
1308 evaluation report to the property owner upon completion of the
1309 evaluation and to the county health department within 30 days
1310 after the evaluation. The report must ~~shall~~ contain the name and
1311 license number of the company providing the report. A copy of
1312 the evaluation report shall be retained by the local county
1313 health department for a minimum of 5 years and until a
1314 subsequent inspection report is filed. The front cover of the
1315 report must identify any system failure and include a clear and
1316 conspicuous notice to the owner that the owner has a right to
1317 have any remediation of the failure performed by a qualified
1318 contractor other than the contractor performing the evaluation.
1319 The report must further identify any crack, leak, improper fit,
1320 or other defect in the tank, manhole, or lid, and any other
1321 damaged or missing component; any sewage or effluent visible on
1322 the ground or discharging to a ditch or other surface water
1323 body; any downspout, stormwater, or other source of water
1324 directed onto or toward the system; and any other maintenance
1325 need or condition of the system at the time of the evaluation
1326 which, in the opinion of the qualified contractor, would
1327 possibly interfere with or restrict any future repair or
1328 modification to the existing system. The report shall conclude
1329 with an overall assessment of the fundamental operational
1330 condition of the system.

1331 (8) The county health department, in coordination with the
1332 department, shall administer any evaluation program on behalf of
1333 a county, or a municipality within the county, that has adopted
1334 an evaluation program pursuant to this section. In order to

26-01753B-19

20191022__

1335 administer the evaluation program, the county or municipality,
1336 in consultation with the county health department, may develop a
1337 reasonable fee schedule to be used solely to pay for the costs
1338 of administering the evaluation program. Such a fee schedule
1339 shall be identified in the ordinance that adopts the evaluation
1340 program. When arriving at a reasonable fee schedule, the
1341 estimated annual revenues to be derived from fees may not exceed
1342 reasonable estimated annual costs of the program. Fees shall be
1343 assessed to the system owner during an inspection and separately
1344 identified on the invoice of the qualified contractor. Fees
1345 shall be remitted by the qualified contractor to the county
1346 health department. The county health department's administrative
1347 responsibilities include the following:

1348 (a) Providing a notice to the system owner at least 60 days
1349 before the system is due for an evaluation. The notice may
1350 include information on the proper maintenance of onsite sewage
1351 treatment and disposal systems.

1352 (b) In consultation with the department ~~of Health~~,
1353 providing uniform disciplinary procedures and penalties for
1354 qualified contractors who do not comply with the requirements of
1355 the adopted ordinance, including, but not limited to, failure to
1356 provide the evaluation report as required in this subsection to
1357 the system owner and the county health department. Only the
1358 county health department may assess penalties against system
1359 owners for failure to comply with the adopted ordinance,
1360 consistent with existing requirements of law.

1361 (9) (a) A county or municipality that adopts an onsite
1362 sewage treatment and disposal system evaluation and assessment
1363 program pursuant to this section shall notify the Secretary of

26-01753B-19

20191022__

1364 Environmental Protection, the Department of Health, and the
1365 applicable county health department upon the adoption of its
1366 ordinance establishing the program.

1367 (b) Upon receipt of the notice under paragraph (a), the
1368 department ~~of Environmental Protection~~ shall, within existing
1369 resources, notify the county or municipality of the potential
1370 use of, and access to, program funds under the Clean Water State
1371 Revolving Fund or s. 319 of the Clean Water Act, provide
1372 guidance in the application process to receive such moneys, and
1373 provide advice and technical assistance to the county or
1374 municipality on how to establish a low-interest revolving loan
1375 program or how to model a revolving loan program after the low-
1376 interest loan program of the Clean Water State Revolving Fund.
1377 This paragraph does not obligate the department ~~of Environmental~~
1378 ~~Protection~~ to provide any county or municipality with money to
1379 fund such programs.

1380 (c) The department ~~of Health~~ may not adopt any rule that
1381 alters the provisions of this section.

1382 (d) The department ~~of Health~~ must allow county health
1383 departments and qualified contractors access to the
1384 environmental health database to track relevant information and
1385 assimilate data from assessment and evaluation reports of the
1386 overall condition of onsite sewage treatment and disposal
1387 systems. The environmental health database must be used by
1388 contractors to report each service and evaluation event and by a
1389 county health department to notify owners of onsite sewage
1390 treatment and disposal systems when evaluations are due. Data
1391 and information must be recorded and updated as service and
1392 evaluations are conducted and reported.

26-01753B-19

20191022__

1393 Section 8. Section 381.0068, Florida Statutes, is repealed.

1394 Section 9. Paragraph (a) of subsection (7) of section
1395 403.067, Florida Statutes, is amended to read:

1396 403.067 Establishment and implementation of total maximum
1397 daily loads.—

1398 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
1399 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

1400 (a) *Basin management action plans.*—

1401 1. In developing and implementing the total maximum daily
1402 load for a water body, the department, or the department in
1403 conjunction with a water management district, may develop a
1404 basin management action plan that addresses some or all of the
1405 watersheds and basins tributary to the water body. Such plan
1406 must integrate the appropriate management strategies available
1407 to the state through existing water quality protection programs
1408 to achieve the total maximum daily loads and may provide for
1409 phased implementation of these management strategies to promote
1410 timely, cost-effective actions as provided for in s. 403.151.
1411 The plan must establish a schedule implementing the management
1412 strategies, establish a basis for evaluating the plan's
1413 effectiveness, and identify feasible funding strategies for
1414 implementing the plan's management strategies. The management
1415 strategies may include regional treatment systems or other
1416 public works, where appropriate, and voluntary trading of water
1417 quality credits to achieve the needed pollutant load reductions.

1418 2. A basin management action plan must equitably allocate,
1419 pursuant to paragraph (6) (b), pollutant reductions to individual
1420 basins, as a whole to all basins, or to each identified point
1421 source or category of nonpoint sources, as appropriate. For

26-01753B-19

20191022__

1422 nonpoint sources for which best management practices have been
1423 adopted, the initial requirement specified by the plan must be
1424 those practices developed pursuant to paragraph (c). Where
1425 appropriate, the plan may take into account the benefits of
1426 pollutant load reduction achieved by point or nonpoint sources
1427 that have implemented management strategies to reduce pollutant
1428 loads, including best management practices, before the
1429 development of the basin management action plan. The plan must
1430 also identify the mechanisms that will address potential future
1431 increases in pollutant loading.

1432 3. The basin management action planning process is intended
1433 to involve the broadest possible range of interested parties,
1434 with the objective of encouraging the greatest amount of
1435 cooperation and consensus possible. In developing a basin
1436 management action plan, the department shall assure that key
1437 stakeholders, including, but not limited to, applicable local
1438 governments, water management districts, the Department of
1439 Agriculture and Consumer Services, other appropriate state
1440 agencies, local soil and water conservation districts,
1441 environmental groups, regulated interests, and affected
1442 pollution sources, are invited to participate in the process.
1443 The department shall hold at least one public meeting in the
1444 vicinity of the watershed or basin to discuss and receive
1445 comments during the planning process and shall otherwise
1446 encourage public participation to the greatest practicable
1447 extent. Notice of the public meeting must be published in a
1448 newspaper of general circulation in each county in which the
1449 watershed or basin lies not less than 5 days nor more than 15
1450 days before the public meeting. A basin management action plan

26-01753B-19

20191022__

1451 does not supplant or otherwise alter any assessment made under
1452 subsection (3) or subsection (4) or any calculation or initial
1453 allocation.

1454 4. Each new or revised basin management action plan shall
1455 include:

1456 a. The appropriate management strategies available through
1457 existing water quality protection programs to achieve total
1458 maximum daily loads, which may provide for phased implementation
1459 to promote timely, cost-effective actions as provided for in s.
1460 403.151;

1461 b. A description of best management practices adopted by
1462 rule;

1463 c. A list of projects in priority ranking with a planning-
1464 level cost estimate and estimated date of completion for each
1465 listed project;

1466 d. The source and amount of financial assistance to be made
1467 available by the department, a water management district, or
1468 other entity for each listed project, if applicable; and

1469 e. A planning-level estimate of each listed project's
1470 expected load reduction, if applicable.

1471 5. The department shall adopt all or any part of a basin
1472 management action plan and any amendment to such plan by
1473 secretarial order pursuant to chapter 120 to implement ~~the~~
1474 ~~provisions of~~ this section.

1475 6. The basin management action plan must include milestones
1476 for implementation and water quality improvement, and an
1477 associated water quality monitoring component sufficient to
1478 evaluate whether reasonable progress in pollutant load
1479 reductions is being achieved over time. An assessment of

26-01753B-19

20191022__

1480 progress toward these milestones shall be conducted every 5
1481 years, and revisions to the plan shall be made as appropriate.
1482 Revisions to the basin management action plan shall be made by
1483 the department in cooperation with basin stakeholders. Revisions
1484 to the management strategies required for nonpoint sources must
1485 follow the procedures set forth in subparagraph (c)4. Revised
1486 basin management action plans must be adopted pursuant to
1487 subparagraph 5.

1488 7. In accordance with procedures adopted by rule under
1489 paragraph (9) (c), basin management action plans, and other
1490 pollution control programs under local, state, or federal
1491 authority as provided in subsection (4), may allow point or
1492 nonpoint sources that will achieve greater pollutant reductions
1493 than required by an adopted total maximum daily load or
1494 wasteload allocation to generate, register, and trade water
1495 quality credits for the excess reductions to enable other
1496 sources to achieve their allocation; however, the generation of
1497 water quality credits does not remove the obligation of a source
1498 or activity to meet applicable technology requirements or
1499 adopted best management practices. Such plans must allow trading
1500 between NPDES permittees, and trading that may or may not
1501 involve NPDES permittees, where the generation or use of the
1502 credits involve an entity or activity not subject to department
1503 water discharge permits whose owner voluntarily elects to obtain
1504 department authorization for the generation and sale of credits.

1505 8. The provisions of the department's rule relating to the
1506 equitable abatement of pollutants into surface waters do not
1507 apply to water bodies or water body segments for which a basin
1508 management plan that takes into account future new or expanded

26-01753B-19

20191022__

1509 activities or discharges has been adopted under this section.

1510 9. The department shall submit to the Office of Economic
1511 and Demographic Research the project cost estimates required in
1512 sub-subparagraph 4.c., including any septic to sewer conversion
1513 and septic tank remediation project costs.

1514 Section 10. Subsection (1) of section 381.0061, Florida
1515 Statutes, is amended to read:

1516 381.0061 Administrative fines.—

1517 (1) In addition to any administrative action authorized by
1518 chapter 120 or by other law, the department may impose a fine,
1519 which shall not exceed \$500 for each violation, for a violation
1520 of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s.
1521 381.0072, or part III of chapter 489, for a violation of any
1522 rule adopted under this chapter, or for a violation of any of
1523 the provisions of chapter 386. Notice of intent to impose such
1524 fine shall be given by the department to the alleged violator.
1525 Each day that a violation continues may constitute a separate
1526 violation.

1527 Section 11. For the purpose of incorporating the amendment
1528 made by this act to section 373.036, Florida Statutes, in a
1529 reference thereto, paragraph (b) of subsection (8) of section
1530 373.026, Florida Statutes, is reenacted to read:

1531 373.026 General powers and duties of the department.—The
1532 department, or its successor agency, shall be responsible for
1533 the administration of this chapter at the state level. However,
1534 it is the policy of the state that, to the greatest extent
1535 possible, the department may enter into interagency or
1536 interlocal agreements with any other state agency, any water
1537 management district, or any local government conducting programs

26-01753B-19

20191022__

1538 related to or materially affecting the water resources of the
1539 state. All such agreements shall be subject to the provisions of
1540 s. 373.046. In addition to its other powers and duties, the
1541 department shall, to the greatest extent possible:

1542 (8)

1543 (b) To ensure to the greatest extent possible that project
1544 components will go forward as planned, the department shall
1545 collaborate with the South Florida Water Management District in
1546 implementing the comprehensive plan as defined in s.
1547 373.470(2)(b), the Lake Okeechobee Watershed Protection Plan as
1548 defined in s. 373.4595(2), and the River Watershed Protection
1549 Plans as defined in s. 373.4595(2). Before any project component
1550 is submitted to Congress for authorization or receives an
1551 appropriation of state funds, the department must approve, or
1552 approve with amendments, each project component within 60 days
1553 following formal submittal of the project component to the
1554 department. Prior to the release of state funds for the
1555 implementation of the comprehensive plan, department approval
1556 shall be based upon a determination of the South Florida Water
1557 Management District's compliance with s. 373.1501(5). Once a
1558 project component is approved, the South Florida Water
1559 Management District shall provide to the President of the Senate
1560 and the Speaker of the House of Representatives a schedule for
1561 implementing the project component, the estimated total cost of
1562 the project component, any existing federal or nonfederal
1563 credits, the estimated remaining federal and nonfederal share of
1564 costs, and an estimate of the amount of state funds that will be
1565 needed to implement the project component. All requests for an
1566 appropriation of state funds needed to implement the project

26-01753B-19

20191022__

1567 component shall be submitted to the department, and such
1568 requests shall be included in the department's annual request to
1569 the Governor. Prior to the release of state funds for the
1570 implementation of the Lake Okeechobee Watershed Protection Plan
1571 or the River Watershed Protection Plans, on an annual basis, the
1572 South Florida Water Management District shall prepare an annual
1573 work plan as part of the consolidated annual report required in
1574 s. 373.036(7). Upon a determination by the secretary of the
1575 annual work plan's consistency with the goals and objectives of
1576 s. 373.4595, the secretary may approve the release of state
1577 funds. Any modifications to the annual work plan shall be
1578 submitted to the secretary for review and approval.

1579 Section 12. For the purpose of incorporating the amendment
1580 made by this act to section 373.036, Florida Statutes, in a
1581 reference thereto, subsection (5) of section 373.0363, Florida
1582 Statutes, is reenacted to read:

1583 373.0363 Southern Water Use Caution Area Recovery
1584 Strategy.—

1585 (5) As part of the consolidated annual report required
1586 pursuant s. 373.036(7), the district may include:

1587 (a) A summary of the conditions of the Southern Water Use
1588 Caution Area, including the status of the components of the
1589 West-Central Florida Water Restoration Action Plan.

1590 (b) An annual accounting of the expenditure of funds. The
1591 accounting must, at a minimum, provide details of expenditures
1592 separately by plan component and any subparts of a plan
1593 component, and include specific information about amount and use
1594 of funds from federal, state, and local government sources. In
1595 detailing the use of these funds, the district shall indicate

26-01753B-19

20191022__

1596 those funds that are designated to meet requirements for
1597 matching funds.

1598 Section 13. For the purpose of incorporating the amendment
1599 made by this act to section 373.036, Florida Statutes, in a
1600 reference thereto, subsection (3) of section 373.042, Florida
1601 Statutes, is reenacted to read:

1602 373.042 Minimum flows and minimum water levels.—

1603 (3) By November 15, annually, each water management
1604 district shall submit to the department for review and approval
1605 a priority list and schedule for the establishment of minimum
1606 flows and minimum water levels for surface watercourses,
1607 aquifers, and surface waters within the district. The priority
1608 list and schedule shall identify those listed water bodies for
1609 which the district will voluntarily undertake independent
1610 scientific peer review; any reservations proposed by the
1611 district to be established pursuant to s. 373.223(4); and those
1612 listed water bodies that have the potential to be affected by
1613 withdrawals in an adjacent district for which the department's
1614 adoption of a reservation pursuant to s. 373.223(4) or a minimum
1615 flow or minimum water level pursuant to subsection (1) may be
1616 appropriate. By March 1, annually, each water management
1617 district shall include its approved priority list and schedule
1618 in the consolidated annual report required by s. 373.036(7). The
1619 priority list shall be based upon the importance of the waters
1620 to the state or region and the existence of or potential for
1621 significant harm to the water resources or ecology of the state
1622 or region, and shall include those waters which are experiencing
1623 or may reasonably be expected to experience adverse impacts.
1624 Each water management district's priority list and schedule

26-01753B-19

20191022__

1625 shall include all first magnitude springs, and all second
1626 magnitude springs within state or federally owned lands
1627 purchased for conservation purposes. The specific schedule for
1628 establishment of spring minimum flows and minimum water levels
1629 shall be commensurate with the existing or potential threat to
1630 spring flow from consumptive uses. Springs within the Suwannee
1631 River Water Management District, or second magnitude springs in
1632 other areas of the state, need not be included on the priority
1633 list if the water management district submits a report to the
1634 Department of Environmental Protection demonstrating that
1635 adverse impacts are not now occurring nor are reasonably
1636 expected to occur from consumptive uses during the next 20
1637 years. The priority list and schedule is not subject to any
1638 proceeding pursuant to chapter 120. Except as provided in
1639 subsection (4), the development of a priority list and
1640 compliance with the schedule for the establishment of minimum
1641 flows and minimum water levels pursuant to this subsection
1642 satisfies the requirements of subsection (1).

1643 Section 14. For the purpose of incorporating the amendment
1644 made by this act to section 373.036, Florida Statutes, in a
1645 reference thereto, subsection (7) of section 373.199, Florida
1646 Statutes, is reenacted to read:

1647 373.199 Florida Forever Water Management District Work
1648 Plan.—

1649 (7) By June 1, 2001, each district shall file with the
1650 President of the Senate, the Speaker of the House of
1651 Representatives, and the Secretary of Environmental Protection
1652 the initial 5-year work plan as required under subsection (2).
1653 By March 1 of each year thereafter, as part of the consolidated

26-01753B-19

20191022__

1654 annual report required by s. 373.036(7), each district shall
1655 report on acquisitions completed during the year together with
1656 modifications or additions to its 5-year work plan. Included in
1657 the report shall be:

1658 (a) A description of land management activity for each
1659 property or project area owned by the water management district.

1660 (b) A list of any lands surplused and the amount of
1661 compensation received.

1662 (c) The progress of funding, staffing, and resource
1663 management of every project funded pursuant to former s.
1664 259.101(3), Florida Statutes 2014, s. 259.105, or former s.
1665 373.59(2), Florida Statutes 2014, for which the district is
1666 responsible.

1667
1668 The secretary shall submit the report referenced in this
1669 subsection to the Board of Trustees of the Internal Improvement
1670 Trust Fund together with the Acquisition and Restoration
1671 Council's project list as required under s. 259.105.

1672 Section 15. For the purpose of incorporating the amendment
1673 made by this act to section 373.036, Florida Statutes, in a
1674 reference thereto, paragraph (b) of subsection (1) of section
1675 373.414, Florida Statutes, is reenacted to read:

1676 373.414 Additional criteria for activities in surface
1677 waters and wetlands.—

1678 (1) As part of an applicant's demonstration that an
1679 activity regulated under this part will not be harmful to the
1680 water resources or will not be inconsistent with the overall
1681 objectives of the district, the governing board or the
1682 department shall require the applicant to provide reasonable

26-01753B-19

20191022__

1683 assurance that state water quality standards applicable to
1684 waters as defined in s. 403.031(13) will not be violated and
1685 reasonable assurance that such activity in, on, or over surface
1686 waters or wetlands, as delineated in s. 373.421(1), is not
1687 contrary to the public interest. However, if such an activity
1688 significantly degrades or is within an Outstanding Florida
1689 Water, as provided by department rule, the applicant must
1690 provide reasonable assurance that the proposed activity will be
1691 clearly in the public interest.

1692 (b) If the applicant is unable to otherwise meet the
1693 criteria set forth in this subsection, the governing board or
1694 the department, in deciding to grant or deny a permit, shall
1695 consider measures proposed by or acceptable to the applicant to
1696 mitigate adverse effects that may be caused by the regulated
1697 activity. Such measures may include, but are not limited to,
1698 onsite mitigation, offsite mitigation, offsite regional
1699 mitigation, and the purchase of mitigation credits from
1700 mitigation banks permitted under s. 373.4136. It shall be the
1701 responsibility of the applicant to choose the form of
1702 mitigation. The mitigation must offset the adverse effects
1703 caused by the regulated activity.

1704 1. The department or water management districts may accept
1705 the donation of money as mitigation only where the donation is
1706 specified for use in a duly noticed environmental creation,
1707 preservation, enhancement, or restoration project, endorsed by
1708 the department or the governing board of the water management
1709 district, which offsets the impacts of the activity permitted
1710 under this part. However, the provisions of this subsection
1711 shall not apply to projects undertaken pursuant to s. 373.4137

26-01753B-19

20191022__

1712 or chapter 378. Where a permit is required under this part to
1713 implement any project endorsed by the department or a water
1714 management district, all necessary permits must have been issued
1715 prior to the acceptance of any cash donation. After the
1716 effective date of this act, when money is donated to either the
1717 department or a water management district to offset impacts
1718 authorized by a permit under this part, the department or the
1719 water management district shall accept only a donation that
1720 represents the full cost to the department or water management
1721 district of undertaking the project that is intended to mitigate
1722 the adverse impacts. The full cost shall include all direct and
1723 indirect costs, as applicable, such as those for land
1724 acquisition, land restoration or enhancement, perpetual land
1725 management, and general overhead consisting of costs such as
1726 staff time, building, and vehicles. The department or the water
1727 management district may use a multiplier or percentage to add to
1728 other direct or indirect costs to estimate general overhead.
1729 Mitigation credit for such a donation shall be given only to the
1730 extent that the donation covers the full cost to the agency of
1731 undertaking the project that is intended to mitigate the adverse
1732 impacts. However, nothing herein shall be construed to prevent
1733 the department or a water management district from accepting a
1734 donation representing a portion of a larger project, provided
1735 that the donation covers the full cost of that portion and
1736 mitigation credit is given only for that portion. The department
1737 or water management district may deviate from the full cost
1738 requirements of this subparagraph to resolve a proceeding
1739 brought pursuant to chapter 70 or a claim for inverse
1740 condemnation. Nothing in this section shall be construed to

26-01753B-19

20191022__

1741 require the owner of a private mitigation bank, permitted under
1742 s. 373.4136, to include the full cost of a mitigation credit in
1743 the price of the credit to a purchaser of said credit.

1744 2. The department and each water management district shall
1745 report by March 1 of each year, as part of the consolidated
1746 annual report required by s. 373.036(7), all cash donations
1747 accepted under subparagraph 1. during the preceding water
1748 management district fiscal year for wetland mitigation purposes.
1749 The report shall exclude those contributions pursuant to s.
1750 373.4137. The report shall include a description of the endorsed
1751 mitigation projects and, except for projects governed by s.
1752 373.4135(6), shall address, as applicable, success criteria,
1753 project implementation status and timeframe, monitoring, long-
1754 term management, provisions for preservation, and full cost
1755 accounting.

1756 3. If the applicant is unable to meet water quality
1757 standards because existing ambient water quality does not meet
1758 standards, the governing board or the department shall consider
1759 mitigation measures proposed by or acceptable to the applicant
1760 that cause net improvement of the water quality in the receiving
1761 body of water for those parameters which do not meet standards.

1762 4. If mitigation requirements imposed by a local government
1763 for surface water and wetland impacts of an activity regulated
1764 under this part cannot be reconciled with mitigation
1765 requirements approved under a permit for the same activity
1766 issued under this part, including application of the uniform
1767 wetland mitigation assessment method adopted pursuant to
1768 subsection (18), the mitigation requirements for surface water
1769 and wetland impacts shall be controlled by the permit issued

26-01753B-19

20191022__

1770 under this part.

1771 Section 16. For the purpose of incorporating the amendment
1772 made by this act to section 373.036, Florida Statutes, in
1773 references thereto, paragraph (d) of subsection (4) and
1774 subsections (13) and (14) of section 373.4592, Florida Statutes,
1775 are reenacted to read:

1776 373.4592 Everglades improvement and management.—

1777 (4) EVERGLADES PROGRAM.—

1778 (d) *Everglades research and monitoring program.*—

1779 1. The department and the district shall review and
1780 evaluate available water quality data for the Everglades
1781 Protection Area and tributary waters and identify any additional
1782 information necessary to adequately describe water quality in
1783 the Everglades Protection Area and tributary waters. The
1784 department and the district shall also initiate a research and
1785 monitoring program to generate such additional information
1786 identified and to evaluate the effectiveness of the BMPs and
1787 STAs, as they are implemented, in improving water quality and
1788 maintaining designated and existing beneficial uses of the
1789 Everglades Protection Area and tributary waters. As part of the
1790 program, the district shall monitor all discharges into the
1791 Everglades Protection Area for purposes of determining
1792 compliance with state water quality standards.

1793 2. The research and monitoring program shall evaluate the
1794 ecological and hydrological needs of the Everglades Protection
1795 Area, including the minimum flows and levels. Consistent with
1796 such needs, the program shall also evaluate water quality
1797 standards for the Everglades Protection Area and for the canals
1798 of the EAA, so that these canals can be classified in the manner

26-01753B-19

20191022__

1799 set forth in paragraph (e) and protected as an integral part of
1800 the water management system which includes the STAs of the
1801 Everglades Construction Project and allows landowners in the EAA
1802 to achieve applicable water quality standards compliance by BMPs
1803 and STA treatment to the extent this treatment is available and
1804 effective.

1805 3. The research and monitoring program shall include
1806 research seeking to optimize the design and operation of the
1807 STAs, including research to reduce outflow concentrations, and
1808 to identify other treatment and management methods and
1809 regulatory programs that are superior to STAs in achieving the
1810 intent and purposes of this section.

1811 4. The research and monitoring program shall be conducted
1812 to allow the department to propose a phosphorus criterion in the
1813 Everglades Protection Area, and to evaluate existing state water
1814 quality standards applicable to the Everglades Protection Area
1815 and existing state water quality standards and classifications
1816 applicable to the EAA canals. In developing the phosphorus
1817 criterion, the department shall also consider the minimum flows
1818 and levels for the Everglades Protection Area and the district's
1819 water supply plans for the Lower East Coast.

1820 5. Beginning March 1, 2006, as part of the consolidated
1821 annual report required by s. 373.036(7), the district and the
1822 department shall annually issue a peer-reviewed report regarding
1823 the research and monitoring program that summarizes all data and
1824 findings. The report shall identify water quality parameters, in
1825 addition to phosphorus, which exceed state water quality
1826 standards or are causing or contributing to adverse impacts in
1827 the Everglades Protection Area.

26-01753B-19

20191022__

1828 6. The district shall continue research seeking to optimize
1829 the design and operation of STAs and to identify other treatment
1830 and management methods that are superior to STAs in achieving
1831 optimum water quality and water quantity for the benefit of the
1832 Everglades. The district shall optimize the design and operation
1833 of the STAs described in the Everglades Construction Project
1834 prior to expanding their size. Additional methods to achieve
1835 compliance with water quality standards shall not be limited to
1836 more intensive management of the STAs.

1837 (13) ANNUAL REPORTS.—Beginning March 1, 2006, as part of
1838 the consolidated annual report required by s. 373.036(7), the
1839 district shall report on implementation of the section. The
1840 annual report will include a summary of the water conditions in
1841 the Everglades Protection Area, the status of the impacted
1842 areas, the status of the construction of the STAs, the
1843 implementation of the BMPs, and actions taken to monitor and
1844 control exotic species. The district must prepare the report in
1845 coordination with federal and state agencies.

1846 (14) EVERGLADES FUND.—The South Florida Water Management
1847 District is directed to separately account for all moneys used
1848 for the purpose of funding the Everglades Construction Project
1849 as part of the consolidated annual report required by s.
1850 373.036(7).

1851 Section 17. For the purpose of incorporating the amendment
1852 made by this act to section 373.036, Florida Statutes, in a
1853 reference thereto, subsection (3) of section 373.45926, Florida
1854 Statutes, is reenacted to read:

1855 373.45926 Everglades Trust Fund; allocation of revenues and
1856 expenditure of funds for conservation and protection of natural

26-01753B-19

20191022__

1857 resources and abatement of water pollution.—

1858 (3) The South Florida Water Management District shall
1859 furnish, as part of the consolidated annual report required by
1860 s. 373.036(7), a detailed copy of its expenditures from the
1861 Everglades Trust Fund to the Governor, the President of the
1862 Senate, and the Speaker of the House of Representatives, and
1863 shall make copies available to the public.

1864 Section 18. For the purpose of incorporating the amendment
1865 made by this act to section 373.036, Florida Statutes, in a
1866 reference thereto, subsection (6) of section 373.4595, Florida
1867 Statutes, is reenacted to read:

1868 373.4595 Northern Everglades and Estuaries Protection
1869 Program.—

1870 (6) ANNUAL PROGRESS REPORT.—Each March 1 the district, in
1871 cooperation with the other coordinating agencies, shall report
1872 on implementation of this section as part of the consolidated
1873 annual report required in s. 373.036(7). The annual report shall
1874 include a summary of the conditions of the hydrology, water
1875 quality, and aquatic habitat in the northern Everglades based on
1876 the results of the Research and Water Quality Monitoring
1877 Programs, the status of the Lake Okeechobee Watershed
1878 Construction Project, the status of the Caloosahatchee River
1879 Watershed Construction Project, and the status of the St. Lucie
1880 River Watershed Construction Project. In addition, the report
1881 shall contain an annual accounting of the expenditure of funds
1882 from the Save Our Everglades Trust Fund. At a minimum, the
1883 annual report shall provide detail by program and plan,
1884 including specific information concerning the amount and use of
1885 funds from federal, state, or local government sources. In

26-01753B-19

20191022__

1886 detailing the use of these funds, the district shall indicate
1887 those designated to meet requirements for matching funds. The
1888 district shall prepare the report in cooperation with the other
1889 coordinating agencies and affected local governments. The
1890 department shall report on the status of the Lake Okeechobee
1891 Basin Management Action Plan, the Caloosahatchee River Watershed
1892 Basin Management Action Plan, and the St. Lucie River Watershed
1893 Basin Management Action Plan. The Department of Agriculture and
1894 Consumer Services shall report on the status of the
1895 implementation of the agricultural nonpoint source best
1896 management practices, including an implementation assurance
1897 report summarizing survey responses and response rates, site
1898 inspections, and other methods used to verify implementation of
1899 and compliance with best management practices in the Lake
1900 Okeechobee, Caloosahatchee River, and St. Lucie River
1901 watersheds.

1902 Section 19. For the purpose of incorporating the amendment
1903 made by this act to section 373.036, Florida Statutes, in a
1904 reference thereto, subsection (3) of section 373.463, Florida
1905 Statutes, is reenacted to read:

1906 373.463 Heartland headwaters annual report.—

1907 (3) The cooperative shall also annually coordinate with the
1908 appropriate water management district to submit a status report
1909 on projects receiving priority state funding for inclusion in
1910 the consolidated water management district annual report
1911 required by s. 373.036(7).

1912 Section 20. For the purpose of incorporating the amendment
1913 made by this act to section 373.036, Florida Statutes, in a
1914 reference thereto, subsection (7) of section 373.470, Florida

26-01753B-19

20191022__

1915 Statutes, is reenacted to read:

1916 373.470 Everglades restoration.—

1917 (7) ANNUAL REPORT.—To provide enhanced oversight of and
1918 accountability for the financial commitments established under
1919 this section and the progress made in the implementation of the
1920 comprehensive plan, the following information must be prepared
1921 annually as part of the consolidated annual report required by
1922 s. 373.036(7):

1923 (a) The district, in cooperation with the department, shall
1924 provide the following information as it relates to
1925 implementation of the comprehensive plan:

1926 1. An identification of funds, by source and amount,
1927 received by the state and by each local sponsor during the
1928 fiscal year.

1929 2. An itemization of expenditures, by source and amount,
1930 made by the state and by each local sponsor during the fiscal
1931 year.

1932 3. A description of the purpose for which the funds were
1933 expended.

1934 4. The unencumbered balance of funds remaining in trust
1935 funds or other accounts designated for implementation of the
1936 comprehensive plan.

1937 5. A schedule of anticipated expenditures for the next
1938 fiscal year.

1939 (b) The department shall prepare a detailed report on all
1940 funds expended by the state and credited toward the state's
1941 share of funding for implementation of the comprehensive plan.
1942 The report shall include:

1943 1. A description of all expenditures, by source and amount,

26-01753B-19

20191022__

1944 from the former Conservation and Recreation Lands Trust Fund,
 1945 the Land Acquisition Trust Fund, the former Preservation 2000
 1946 Trust Fund, the Florida Forever Trust Fund, the Save Our
 1947 Everglades Trust Fund, and other named funds or accounts for the
 1948 acquisition or construction of project components or other
 1949 features or facilities that benefit the comprehensive plan.

1950 2. A description of the purposes for which the funds were
 1951 expended.

1952 3. The unencumbered fiscal-year-end balance that remains in
 1953 each trust fund or account identified in subparagraph 1.

1954 (c) The district, in cooperation with the department, shall
 1955 provide a detailed report on progress made in the implementation
 1956 of the comprehensive plan, including the status of all project
 1957 components initiated after the effective date of this act or the
 1958 date of the last report prepared under this subsection,
 1959 whichever is later.

1960
 1961 The information required in paragraphs (a), (b), and (c) shall
 1962 be provided as part of the consolidated annual report required
 1963 by s. 373.036(7). Each annual report is due by March 1.

1964 Section 21. For the purpose of incorporating the amendment
 1965 made by this act to section 373.036, Florida Statutes, in
 1966 references thereto, paragraphs (a) and (b) of subsection (6) of
 1967 section 373.536, Florida Statutes, are reenacted to read:

1968 373.536 District budget and hearing thereon.—

1969 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
 1970 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

1971 (a) Each district must, by the date specified for each
 1972 item, furnish copies of the following documents to the Governor,

26-01753B-19

20191022__

1973 the President of the Senate, the Speaker of the House of
1974 Representatives, the chairs of all legislative committees and
1975 subcommittees having substantive or fiscal jurisdiction over the
1976 districts, as determined by the President of the Senate or the
1977 Speaker of the House of Representatives as applicable, the
1978 secretary of the department, and the governing board of each
1979 county in which the district has jurisdiction or derives any
1980 funds for the operations of the district:

1981 1. The adopted budget, to be furnished within 10 days after
1982 its adoption.

1983 2. A financial audit of its accounts and records, to be
1984 furnished within 10 days after its acceptance by the governing
1985 board. The audit must be conducted in accordance with s. 11.45
1986 and the rules adopted thereunder. In addition to the entities
1987 named above, the district must provide a copy of the audit to
1988 the Auditor General within 10 days after its acceptance by the
1989 governing board.

1990 3. A 5-year capital improvements plan, to be included in
1991 the consolidated annual report required by s. 373.036(7). The
1992 plan must include expected sources of revenue for planned
1993 improvements and must be prepared in a manner comparable to the
1994 fixed capital outlay format set forth in s. 216.043.

1995 4. A 5-year water resource development work program to be
1996 furnished within 30 days after the adoption of the final budget.
1997 The program must describe the district's implementation strategy
1998 and include an annual funding plan for each of the 5 years
1999 included in the plan for the water resource and water supply
2000 development components, including alternative water supply
2001 development, of each approved regional water supply plan

26-01753B-19

20191022__

2002 developed or revised under s. 373.709. The work program must
2003 address all the elements of the water resource development
2004 component in the district's approved regional water supply
2005 plans, as well as the water supply projects proposed for
2006 district funding and assistance. The annual funding plan shall
2007 identify both anticipated available district funding and
2008 additional funding needs for the second through fifth years of
2009 the funding plan. The work program must identify projects in the
2010 work program which will provide water; explain how each water
2011 resource and water supply project will produce additional water
2012 available for consumptive uses; estimate the quantity of water
2013 to be produced by each project; provide an assessment of the
2014 contribution of the district's regional water supply plans in
2015 supporting the implementation of minimum flows and minimum water
2016 levels and water reservations; and ensure sufficient water is
2017 available to timely meet the water supply needs of existing and
2018 future reasonable-beneficial uses for a 1-in-10-year drought
2019 event and to avoid the adverse effects of competition for water
2020 supplies.

2021 (b) Within 30 days after its submittal, the department
2022 shall review the proposed work program and submit its findings,
2023 questions, and comments to the district. The review must include
2024 a written evaluation of the program's consistency with the
2025 furtherance of the district's approved regional water supply
2026 plans, and the adequacy of proposed expenditures. As part of the
2027 review, the department shall post the proposed work program on
2028 its website and give interested parties the opportunity to
2029 provide written comments on each district's proposed work
2030 program. Within 45 days after receipt of the department's

26-01753B-19

20191022__

2031 evaluation, the governing board shall state in writing to the
2032 department which of the changes recommended in the evaluation it
2033 will incorporate into its work program submitted as part of the
2034 March 1 consolidated annual report required by s. 373.036(7) or
2035 specify the reasons for not incorporating the changes. The
2036 department shall include the district's responses in a final
2037 evaluation report and shall submit a copy of the report to the
2038 Governor, the President of the Senate, and the Speaker of the
2039 House of Representatives.

2040 Section 22. For the purpose of incorporating the amendment
2041 made by this act to section 373.036, Florida Statutes, in a
2042 reference thereto, subsection (8) of section 373.707, Florida
2043 Statutes, is reenacted to read:

2044 373.707 Alternative water supply development.—

2045 (8) (a) The water management districts and the state shall
2046 share a percentage of revenues with water providers and users,
2047 including local governments, water, wastewater, and reuse
2048 utilities, municipal, special district, industrial, and
2049 agricultural water users, and other public and private water
2050 users, to be used to supplement other funding sources in the
2051 development of alternative water supplies and conservation
2052 projects that result in quantifiable water savings.

2053 (b) Beginning in the 2005-2006 fiscal year, the state shall
2054 annually provide a portion of those revenues deposited into the
2055 Water Protection and Sustainability Program Trust Fund for the
2056 purpose of providing funding assistance for the development of
2057 alternative water supplies and conservation projects that result
2058 in quantifiable water savings pursuant to the Water Protection
2059 and Sustainability Program. At the beginning of each fiscal

26-01753B-19

20191022__

2060 year, beginning with the 2005-2006 fiscal year, such revenues
2061 shall be distributed by the department into the alternative
2062 water supply trust fund accounts created by each district for
2063 the purpose of alternative water supply development under the
2064 following funding formula:

2065 1. Thirty percent to the South Florida Water Management
2066 District;

2067 2. Twenty-five percent to the Southwest Florida Water
2068 Management District;

2069 3. Twenty-five percent to the St. Johns River Water
2070 Management District;

2071 4. Ten percent to the Suwannee River Water Management
2072 District; and

2073 5. Ten percent to the Northwest Florida Water Management
2074 District.

2075 (c) The financial assistance for alternative water supply
2076 projects allocated in each district's budget as required in
2077 subsection (6) shall be combined with the state funds and used
2078 to assist in funding the project construction costs of
2079 alternative water supply projects and the project costs of
2080 conservation projects that result in quantifiable water savings
2081 selected by the governing board. If the district has not
2082 completed any regional water supply plan, or the regional water
2083 supply plan does not identify the need for any alternative water
2084 supply projects, funds deposited in that district's trust fund
2085 may be used for water resource development projects, including,
2086 but not limited to, springs protection.

2087 (d) All projects submitted to the governing board for
2088 consideration shall reflect the total capital cost for

26-01753B-19

20191022__

2089 implementation. The costs shall be segregated pursuant to the
2090 categories described in the definition of capital costs.

2091 (e) Applicants for projects that may receive funding
2092 assistance pursuant to the Water Protection and Sustainability
2093 Program shall, at a minimum, be required to pay 60 percent of
2094 the project's construction costs. The water management districts
2095 may, at their discretion, totally or partially waive this
2096 requirement for projects sponsored by:

2097 1. Financially disadvantaged small local governments as
2098 defined in former s. 403.885(5); or

2099 2. Water users for projects determined by a water
2100 management district governing board to be in the public interest
2101 pursuant to paragraph (1)(f), if the projects are not otherwise
2102 financially feasible.

2103
2104 The water management districts or basin boards may, at their
2105 discretion, use ad valorem or federal revenues to assist a
2106 project applicant in meeting the requirements of this paragraph.

2107 (f) The governing boards shall determine those projects
2108 that will be selected for financial assistance. The governing
2109 boards may establish factors to determine project funding;
2110 however, significant weight shall be given to the following
2111 factors:

2112 1. Whether the project provides substantial environmental
2113 benefits by preventing or limiting adverse water resource
2114 impacts.

2115 2. Whether the project reduces competition for water
2116 supplies.

2117 3. Whether the project brings about replacement of

26-01753B-19

20191022__

2118 traditional sources in order to help implement a minimum flow or
2119 level or a reservation.

2120 4. Whether the project will be implemented by a consumptive
2121 use permittee that has achieved the targets contained in a goal-
2122 based water conservation program approved pursuant to s.
2123 373.227.

2124 5. The quantity of water supplied by the project as
2125 compared to its cost.

2126 6. Projects in which the construction and delivery to end
2127 users of reuse water is a major component.

2128 7. Whether the project will be implemented by a
2129 multijurisdictional water supply entity or regional water supply
2130 authority.

2131 8. Whether the project implements reuse that assists in the
2132 elimination of domestic wastewater ocean outfalls as provided in
2133 s. 403.086(9).

2134 9. Whether the county or municipality, or the multiple
2135 counties or municipalities, in which the project is located has
2136 implemented a high-water recharge protection tax assessment
2137 program as provided in s. 193.625.

2138 (g) Additional factors to be considered in determining
2139 project funding shall include:

2140 1. Whether the project is part of a plan to implement two
2141 or more alternative water supply projects, all of which will be
2142 operated to produce water at a uniform rate for the participants
2143 in a multijurisdictional water supply entity or regional water
2144 supply authority.

2145 2. The percentage of project costs to be funded by the
2146 water supplier or water user.

26-01753B-19

20191022__

2147 3. Whether the project proposal includes sufficient
2148 preliminary planning and engineering to demonstrate that the
2149 project can reasonably be implemented within the timeframes
2150 provided in the regional water supply plan.

2151 4. Whether the project is a subsequent phase of an
2152 alternative water supply project that is underway.

2153 5. Whether and in what percentage a local government or
2154 local government utility is transferring water supply system
2155 revenues to the local government general fund in excess of
2156 reimbursements for services received from the general fund,
2157 including direct and indirect costs and legitimate payments in
2158 lieu of taxes.

2159 (h) After conducting one or more meetings to solicit public
2160 input on eligible projects, including input from those entities
2161 identified pursuant to s. 373.709(2)(a)3.d. for implementation
2162 of alternative water supply projects, the governing board of
2163 each water management district shall select projects for funding
2164 assistance based upon the criteria set forth in paragraphs (f)
2165 and (g). The governing board may select a project identified or
2166 listed as an alternative water supply development project in the
2167 regional water supply plan, or allocate up to 20 percent of the
2168 funding for alternative water supply projects that are not
2169 identified or listed in the regional water supply plan but are
2170 consistent with the goals of the plan.

2171 (i) Without diminishing amounts available through other
2172 means described in this paragraph, the governing boards are
2173 encouraged to consider establishing revolving loan funds to
2174 expand the total funds available to accomplish the objectives of
2175 this section. A revolving loan fund created under this paragraph

26-01753B-19

20191022__

2176 must be a nonlapsing fund from which the water management
2177 district may make loans with interest rates below prevailing
2178 market rates to public or private entities for the purposes
2179 described in this section. The governing board may adopt
2180 resolutions to establish revolving loan funds which must specify
2181 the details of the administration of the fund, the procedures
2182 for applying for loans from the fund, the criteria for awarding
2183 loans from the fund, the initial capitalization of the fund, and
2184 the goals for future capitalization of the fund in subsequent
2185 budget years. Revolving loan funds created under this paragraph
2186 must be used to expand the total sums and sources of cooperative
2187 funding available for the development of alternative water
2188 supplies. The Legislature does not intend for the creation of
2189 revolving loan funds to supplant or otherwise reduce existing
2190 sources or amounts of funds currently available through other
2191 means.

2192 (j) For each utility that receives financial assistance
2193 from the state or a water management district for an alternative
2194 water supply project, the water management district shall
2195 require the appropriate rate-setting authority to develop rate
2196 structures for water customers in the service area of the funded
2197 utility that will:

- 2198 1. Promote the conservation of water; and
- 2199 2. Promote the use of water from alternative water
2200 supplies.

2201 (k) The governing boards shall establish a process for the
2202 disbursement of revenues pursuant to this subsection.

2203 (l) All revenues made available pursuant to this subsection
2204 must be encumbered annually by the governing board when it

26-01753B-19

20191022__

2205 approves projects sufficient to expend the available revenues.

2206 (m) This subsection is not subject to the rulemaking
2207 requirements of chapter 120.

2208 (n) By March 1 of each year, as part of the consolidated
2209 annual report required by s. 373.036(7), each water management
2210 district shall submit a report on the disbursal of all budgeted
2211 amounts pursuant to this section. Such report shall describe all
2212 alternative water supply projects funded as well as the quantity
2213 of new water to be created as a result of such projects and
2214 shall account separately for any other moneys provided through
2215 grants, matching grants, revolving loans, and the use of
2216 district lands or facilities to implement regional water supply
2217 plans.

2218 (o) The Florida Public Service Commission shall allow
2219 entities under its jurisdiction constructing or participating in
2220 constructing facilities that provide alternative water supplies
2221 to recover their full, prudently incurred cost of constructing
2222 such facilities through their rate structure. If construction of
2223 a facility or participation in construction is pursuant to or in
2224 furtherance of a regional water supply plan, the cost shall be
2225 deemed to be prudently incurred. Every component of an
2226 alternative water supply facility constructed by an investor-
2227 owned utility shall be recovered in current rates. Any state or
2228 water management district cost share is not subject to the
2229 recovery provisions allowed in this paragraph.

2230 Section 23. This act shall take effect July 1, 2019.