

1
2 An act relating to onsite sewage and disposal
3 systems; amending s. 381.0065, F.S.; defining
4 "mean annual flood line," "permanent nontidal
5 surface water body," and "tidally influenced
6 surface water body"; providing that the
7 Department of Health shall not make the
8 issuance of a permit to construct, repair,
9 modify, abandon, or operate an onsite sewage
10 treatment and disposal system contingent upon
11 prior approval by the Department of
12 Environmental Protection; revising certain
13 limitations with respect to the placement of
14 onsite sewage treatment and disposal systems;
15 providing that no limitations shall be imposed
16 by rule, relating to the distance between an
17 onsite disposal system and any area that either
18 permanently or temporarily has viable surface
19 water; specifying persons required to perform
20 evaluations for determining mean annual flood
21 lines and the accuracy of seasonally inundated
22 area designations; amending s. 381.0066, F.S.;
23 providing that a specified portion of onsite
24 sewage treatment and disposal repair permit
25 fees shall be used for the funding of certain
26 training centers; specifying ordinances which
27 may be enacted by a local government within the
28 Florida Keys area of critical state concern;
29 providing a definition; providing specified
30 sewage treatment and disposal system
31 requirements in Monroe County; requiring the

1 Department of Environmental Protection and the
2 Department of Health to adopt specified rules;
3 amending s. 381.0065, F.S.; eliminating a
4 requirement that specified onsite sewage
5 treatment and disposal systems meet certain
6 advanced waste treatment concentrations;
7 requiring specified reports; providing an
8 effective date.

9

10 Be It Enacted by the Legislature of the State of Florida:

11

12 Section 1. Subsections (2) and (4) of section
13 381.0065, Florida Statutes, 1998 Supplement, are amended to
14 read:

15 381.0065 Onsite sewage treatment and disposal systems;
16 regulation.--

17 (2) DEFINITIONS.--As used in ss. 381.0065-381.0067,
18 the term:

19 (a) "Available," as applied to a publicly owned or
20 investor-owned sewerage system, means that the publicly owned
21 or investor-owned sewerage system is capable of being
22 connected to the plumbing of an establishment or residence, is
23 not under a Department of Environmental Protection moratorium,
24 and has adequate permitted capacity to accept the sewage to be
25 generated by the establishment or residence; and:

26 1. For a residential subdivision lot, a single-family
27 residence, or an establishment, any of which has an estimated
28 sewage flow of 1,000 gallons per day or less, a gravity sewer
29 line to maintain gravity flow from the property's drain to the
30 sewer line, or a low pressure or vacuum sewage collection line
31 in those areas approved for low pressure or vacuum sewage

1 collection, exists in a public easement or right-of-way that
2 abuts the property line of the lot, residence, or
3 establishment.

4 2. For an establishment with an estimated sewage flow
5 exceeding 1,000 gallons per day, a sewer line, force main, or
6 lift station exists in a public easement or right-of-way that
7 abuts the property of the establishment or is within 50 feet
8 of the property line of the establishment as accessed via
9 existing rights-of-way or easements.

10 3. For proposed residential subdivisions with more
11 than 50 lots, for proposed commercial subdivisions with more
12 than 5 lots, and for areas zoned or used for an industrial or
13 manufacturing purpose or its equivalent, a sewerage system
14 exists within one-fourth mile of the development as measured
15 and accessed via existing easements or rights-of-way.

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

21 (b) "Blackwater" means that part of domestic sewage
22 carried off by toilets, urinals, and kitchen drains.

23 (c) "Domestic sewage" means human body waste and
24 wastewater, including bath and toilet waste, residential
25 laundry waste, residential kitchen waste, and other similar
26 waste from appurtenances at a residence or establishment.

27 (d) "Graywater" means that part of domestic sewage
28 that is not blackwater, including waste from the bath,
29 lavatory, laundry, and sink, except kitchen sink waste.

30 (e) "Florida Keys" means those islands of the state
31 located within the boundaries of Monroe County.

1 (f) "Injection well" means an open vertical hole at
2 least 90 feet in depth, cased and grouted to at least 60 feet
3 in depth which is used to dispose of effluent from an onsite
4 sewage treatment and disposal system.

5 (g) "Innovative system" means an onsite sewage
6 treatment and disposal system that, in whole or in part,
7 employs materials, devices, or techniques that are novel or
8 unique and that have not been successfully field-tested under
9 sound scientific and engineering principles under climatic and
10 soil conditions found in this state.

11 (h) "Lot" means a parcel or tract of land described by
12 reference to recorded plats or by metes and bounds, or the
13 least fractional part of subdivided lands having limited fixed
14 boundaries or an assigned number, letter, or any other legal
15 description by which it can be identified.

16 (i) "Mean annual flood line" means the elevation
17 determined by calculating the arithmetic mean of the
18 elevations of the highest yearly flood stage or discharge for
19 the period of record, to include at least the most recent
20 10-year period. If at least 10 years of data is not available,
21 the mean annual flood line shall be as determined based upon
22 the data available and field verification conducted by a
23 certified professional surveyor and mapper with experience in
24 the determination of flood water elevation lines or, at the
25 option of the applicant, by department personnel. Field
26 verification of the mean annual flood line shall be performed
27 using a combination of those indicators listed in
28 subparagraphs 1. through 7. that are present on the site, and
29 that reflect flooding that recurs on an annual basis. In those
30 situations where any one or more of these indicators reflect a
31 rare or aberrant event, such indicator or indicators shall not

1 be utilized in determining the mean annual flood line. The
2 indicators that may be considered are:

3 1. Water stains on the ground surface, trees, and
4 other fixed objects;

5 2. Hydric adventitious roots;

6 3. Drift lines;

7 4. Rafted debris;

8 5. Aquatic mosses and liverworts;

9 6. Moss collars; and

10 7. Lichen lines.

11 (j)(i) "Onsite sewage treatment and disposal system"

12 means a system that contains a standard subsurface, filled, or
13 mound drainfield system; an aerobic treatment unit; a
14 graywater system tank; a laundry wastewater system tank; a
15 septic tank; a grease interceptor; a dosing tank; a solids or
16 effluent pump; a waterless, incinerating, or organic
17 waste-composting toilet; or a sanitary pit privy that is
18 installed or proposed to be installed beyond the building
19 sewer on land of the owner or on other land to which the owner
20 has the legal right to install a system. This term does not
21 include package sewage treatment facilities and other
22 treatment works regulated under chapter 403.

23 (k) "Permanent nontidal surface water body" means a
24 perennial stream, a perennial river, an intermittent stream, a
25 perennial lake, a submerged marsh or swamp, a submerged wooded
26 marsh or swamp, a spring, or a seep, as identified on the most
27 recent quadrangle map, 7.5 minute series (topographic),
28 produced by the United States Geological Survey. "Permanent
29 nontidal surface water body" shall also mean an artificial
30 surface water body that does not have an impermeable bottom
31 and side and that is designed to hold, or does hold, visible

1 standing water for at least 180 days of the year. However, a
2 nontidal surface water body that is drained, either naturally
3 or artificially, where the intent or the result is that such
4 drainage be temporary, shall be considered a permanent
5 nontidal surface water body. A nontidal surface water body
6 that is drained of all visible surface water, where the lawful
7 intent or the result of such drainage is that such drainage
8 will be permanent, shall not be considered a permanent
9 nontidal surface water body. The boundary of a permanent
10 nontidal surface water body shall be the mean annual flood
11 line.

12 (l)~~(j)~~ "Potable water line" means any water line that
13 is connected to a potable water supply source, but the term
14 does not include an irrigation line with any of the following
15 types of backflow devices:

16 1. For irrigation systems into which chemicals are not
17 injected, any atmospheric or pressure vacuum breaker or double
18 check valve or any detector check assembly.

19 2. For irrigation systems into which chemicals such as
20 fertilizers, pesticides, or herbicides are injected, any
21 reduced pressure backflow preventer.

22 (m)~~(k)~~ "Septage" means a mixture of sludge, fatty
23 materials, human feces, and wastewater removed during the
24 pumping of an onsite sewage treatment and disposal system.

25 (n)~~(i)~~ "Subdivision" means, for residential use, any
26 tract or plot of land divided into two or more lots or parcels
27 of which at least one is 1 acre or less in size for sale,
28 lease, or rent. A subdivision for commercial or industrial
29 use is any tract or plot of land divided into two or more lots
30 or parcels of which at least one is 5 acres or less in size
31 and which is for sale, lease, or rent. A subdivision shall be

1 deemed to be proposed until such time as an application is
2 submitted to the local government for subdivision approval or,
3 in those areas where no local government subdivision approval
4 is required, until such time as a plat of the subdivision is
5 recorded.

6 (o)(m) "Tidally influenced surface water body" means a
7 recognizable body of water that is subject to the ebb and flow
8 of the tides and has as its boundary a mean high-water line as
9 defined by s. 177.27(15), including swamp or marsh areas,
10 bayheads, cypress ponds and sloughs, and natural or
11 constructed ponds contained within a recognizable boundary.
12 ~~This does not include retention or detention areas designed to~~
13 ~~contain standing or flowing water for less than 72 hours after~~
14 ~~a rainfall.~~

15 (p)(n) "Toxic or hazardous chemical" means a substance
16 that poses a serious danger to human health or the
17 environment.

18 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
19 may not construct, repair, modify, abandon, or operate an
20 onsite sewage treatment and disposal system without first
21 obtaining a permit approved by the department. The department
22 may issue permits to carry out this section, but shall not
23 make the issuance of such permits contingent upon prior
24 approval by the Department of Environmental Protection. A
25 construction permit is valid for 18 months from the issuance
26 date and may be extended by the department for one 90-day
27 period under rules adopted by the department. A repair permit
28 is valid for 90 days from the date of issuance. An operating
29 permit must be obtained prior to the use of any aerobic
30 treatment unit or if the establishment generates commercial
31 waste. Buildings or establishments that use an aerobic

1 treatment unit or generate commercial waste shall be inspected
2 by the department at least annually to assure compliance with
3 the terms of the operating permit. The operating permit is
4 valid for 1 year from the date of issuance and must be renewed
5 annually. If all information pertaining to the siting,
6 location, and installation conditions or repair of an onsite
7 sewage treatment and disposal system remains the same, a
8 construction or repair permit for the onsite sewage treatment
9 and disposal system may be transferred to another person, if
10 the transferee files, within 60 days after the transfer of
11 ownership, an amended application providing all corrected
12 information and proof of ownership of the property. There is
13 no fee associated with the processing of this supplemental
14 information. A person may not contract to construct, modify,
15 alter, repair, service, abandon, or maintain any portion of an
16 onsite sewage treatment and disposal system without being
17 registered under part III of chapter 489. A property owner
18 who personally performs construction, maintenance, or repairs
19 to a system serving his or her own owner-occupied
20 single-family residence is exempt from registration
21 requirements for performing such construction, maintenance, or
22 repairs on that residence, but is subject to all permitting
23 requirements. A municipality or political subdivision of the
24 state may not issue a building or plumbing permit for any
25 building that requires the use of an onsite sewage treatment
26 and disposal system unless the owner or builder has received a
27 construction permit for such system from the department. A
28 building or structure may not be occupied and a municipality,
29 political subdivision, or any state or federal agency may not
30 authorize occupancy until the department approves the final
31 installation of the onsite sewage treatment and disposal

1 system. A municipality or political subdivision of the state
2 may not approve any change in occupancy or tenancy of a
3 building that uses an onsite sewage treatment and disposal
4 system until the department has reviewed the use of the system
5 with the proposed change, approved the change, and amended the
6 operating permit.

7 (a) Subdivisions and lots in which each lot has a
8 minimum area of at least one-half acre and either a minimum
9 dimension of 100 feet or a mean of at least 100 feet of the
10 side bordering the street and the distance formed by a line
11 parallel to the side bordering the street drawn between the
12 two most distant points of the remainder of the lot may be
13 developed with a water system regulated under s. 381.0062 and
14 onsite sewage treatment and disposal systems, provided the
15 projected daily domestic sewage flow does not exceed an
16 average of 1,500 gallons per acre per day, and provided
17 satisfactory drinking water can be obtained and all distance
18 and setback, soil condition, water table elevation, and other
19 related requirements of this section and rules adopted under
20 this section can be met.

21 (b) Subdivisions and lots using a public water system
22 as defined in s. 403.852 may use onsite sewage treatment and
23 disposal systems, provided there are no more than four lots
24 per acre, provided the projected daily domestic sewage flow
25 does not exceed an average of 2,500 gallons per acre per day,
26 and provided that all distance and setback, soil condition,
27 water table elevation, and other related requirements that are
28 generally applicable to the use of onsite sewage treatment and
29 disposal systems are met.

30 (c) Notwithstanding the provisions of paragraphs (a)
31 and (b), for subdivisions platted of record on or before

1 October 1, 1991, when a developer or other appropriate entity
2 has previously made or makes provisions, including financial
3 assurances or other commitments, acceptable to the Department
4 of Health, that a central water system will be installed by a
5 regulated public utility based on a density formula, private
6 potable wells may be used with onsite sewage treatment and
7 disposal systems until the agreed-upon densities are reached.
8 The department may consider assurances filed with the
9 Department of Business and Professional Regulation under
10 chapter 498 in determining the adequacy of the financial
11 assurance required by this paragraph. In a subdivision
12 regulated by this paragraph, the average daily domestic sewage
13 flow may not exceed 2,500 gallons per acre per day. This
14 section does not affect the validity of existing prior
15 agreements. After October 1, 1991, the exception provided
16 under this paragraph is not available to a developer or other
17 appropriate entity.

18 (d) Paragraphs (a) and (b) do not apply to any
19 proposed residential subdivision with more than 50 lots or to
20 any proposed commercial subdivision with more than 5 lots
21 where a publicly owned or investor-owned sewerage system is
22 available. It is the intent of this paragraph not to allow
23 development of additional proposed subdivisions in order to
24 evade the requirements of this paragraph. The department
25 shall report to the Legislature by February 1 of each
26 odd-numbered year concerning the success in meeting this
27 intent.

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

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

31

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

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

7 ~~4. Seventy-five feet from surface waters.~~

8 ~~4.5.~~ Fifty feet from any nonpotable well.

9 ~~5.6.~~ Ten feet from any storm sewer pipe, to the
10 maximum extent possible, but in no instance shall the setback
11 be less than 5 feet.

12 6. Seventy-five feet from the mean high-water line of
13 a tidally influenced surface water body;

14 7. Seventy-five feet from the normal annual flood line
15 of a permanent nontidal surface water body;

16 ~~8.7.~~ Fifteen feet from the design high water line of
17 retention areas, detention areas, or swales designed to
18 contain standing or flowing water for less than 72 hours after
19 a rainfall or the design high water level of normally dry
20 drainage ditches or normally dry individual lot stormwater
21 retention areas.

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

26 (g)(f) All provisions of this section and rules
27 adopted under this section relating to soil condition, water
28 table elevation, distance, and other setback requirements must
29 be equally applied to all lots, with the following exceptions:

30 1. Any residential lot that was platted and recorded
31 on or after January 1, 1972, or that is part of a residential

1 subdivision that was approved by the appropriate permitting
2 agency on or after January 1, 1972, and that was eligible for
3 an onsite sewage treatment and disposal system construction
4 permit on the date of such platting and recording or approval
5 shall be eligible for an onsite sewage treatment and disposal
6 system construction permit, regardless of when the application
7 for a permit is made. If rules in effect at the time the
8 permit application is filed cannot be met, residential lots
9 platted and recorded or approved on or after January 1, 1972,
10 shall, to the maximum extent possible, comply with the rules
11 in effect at the time the permit application is filed. At a
12 minimum, however, those residential lots platted and recorded
13 or approved on or after January 1, 1972, but before January 1,
14 1983, shall comply with those rules in effect on January 1,
15 1983, and those residential lots platted and recorded or
16 approved on or after January 1, 1983, shall comply with those
17 rules in effect at the time of such platting and recording or
18 approval. In determining the maximum extent of compliance
19 with current rules that is possible, the department shall
20 allow structures and appurtenances thereto which were
21 authorized at the time such lots were platted and recorded or
22 approved.

23 2. Lots platted before 1972 are subject to a 50-foot
24 minimum surface water setback and are not subject to lot size
25 requirements. The projected daily flow for domestic onsite
26 sewage treatment and disposal systems for lots platted before
27 1972 may not exceed:

28 a. Two thousand five hundred gallons per acre per day
29 for lots served by public water systems as defined in s.
30 403.852.

31

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

3 (h)~~(g)~~1. The department may grant variances in
4 hardship cases which may be less restrictive than the
5 provisions specified in this section. If a variance is
6 granted and the onsite sewage treatment and disposal system
7 construction permit has been issued, the variance may be
8 transferred with the system construction permit, if the
9 transferee files, within 60 days after the transfer of
10 ownership, an amended construction permit application
11 providing all corrected information and proof of ownership of
12 the property and if the same variance would have been required
13 for the new owner of the property as was originally granted to
14 the original applicant for the variance. There is no fee
15 associated with the processing of this supplemental
16 information. A variance may not be granted under this section
17 until the department is satisfied that:

18 a. The hardship was not caused intentionally by the
19 action of the applicant;

20 b. No reasonable alternative, taking into
21 consideration factors such as cost, exists for the treatment
22 of the sewage; and

23 c. The discharge from the onsite sewage treatment and
24 disposal system will not adversely affect the health of the
25 applicant or the public or significantly degrade the
26 groundwater or surface waters.

27
28 Where soil conditions, water table elevation, and setback
29 provisions are determined by the department to be
30 satisfactory, special consideration must be given to those
31 lots platted before 1972.

1 2. The department shall appoint and staff a variance
2 review and advisory committee, which shall meet monthly to
3 recommend agency action on variance requests. The committee
4 shall make its recommendations on variance requests at the
5 meeting in which the application is scheduled for
6 consideration, except for an extraordinary change in
7 circumstances, the receipt of new information that raises new
8 issues, or when the applicant requests an extension. The
9 committee shall consider the criteria in subparagraph 1. in
10 its recommended agency action on variance requests and shall
11 also strive to allow property owners the full use of their
12 land where possible. The committee consists of the following:

13 a. The Division Director for Environmental Health of
14 the department or his or her designee.

15 b. A representative from the county health
16 departments.

17 c. A representative from the home building industry
18 recommended by the Florida Home Builders Association.

19 d. A representative from the septic tank industry
20 recommended by the Florida Septic Tank Association.

21 e. A representative from the Department of
22 Environmental Protection.

23 f. A representative from the real estate industry who
24 is also a developer in this state who develops lots using
25 onsite sewage treatment and disposal systems, recommended by
26 the Florida Association of Realtors.

27 g. A representative from the engineering profession
28 recommended by the Florida Engineering Society.

29

30 Members shall be appointed for a term of 3 years, with such
31 appointments being staggered so that the terms of no more than

1 two members expire in any one year. Members shall serve
2 without remuneration, but if requested, shall be reimbursed
3 for per diem and travel expenses as provided in s. 112.061.

4 (i)~~(h)~~ A construction permit may not be issued for an
5 onsite sewage treatment and disposal system in any area zoned
6 or used for industrial or manufacturing purposes, or its
7 equivalent, where a publicly owned or investor-owned sewage
8 treatment system is available, or where a likelihood exists
9 that the system will receive toxic, hazardous, or industrial
10 waste. An existing onsite sewage treatment and disposal
11 system may be repaired if a publicly owned or investor-owned
12 sewerage system is not available within 500 feet of the
13 building sewer stub-out and if system construction and
14 operation standards can be met. This paragraph does not
15 require publicly owned or investor-owned sewerage treatment
16 systems to accept anything other than domestic wastewater.

17 1. A building located in an area zoned or used for
18 industrial or manufacturing purposes, or its equivalent, when
19 such building is served by an onsite sewage treatment and
20 disposal system, must not be occupied until the owner or
21 tenant has obtained written approval from the department. The
22 department shall not grant approval when the proposed use of
23 the system is to dispose of toxic, hazardous, or industrial
24 wastewater or toxic or hazardous chemicals.

25 2. Each person who owns or operates a business or
26 facility in an area zoned or used for industrial or
27 manufacturing purposes, or its equivalent, or who owns or
28 operates a business that has the potential to generate toxic,
29 hazardous, or industrial wastewater or toxic or hazardous
30 chemicals, and uses an onsite sewage treatment and disposal
31 system that is installed on or after July 5, 1989, must obtain

1 an annual system operating permit from the department. A
2 person who owns or operates a business that uses an onsite
3 sewage treatment and disposal system that was installed and
4 approved before July 5, 1989, need not obtain a system
5 operating permit. However, upon change of ownership or
6 tenancy, the new owner or operator must notify the department
7 of the change, and the new owner or operator must obtain an
8 annual system operating permit, regardless of the date that
9 the system was installed or approved.

10 3. The department shall periodically review and
11 evaluate the continued use of onsite sewage treatment and
12 disposal systems in areas zoned or used for industrial or
13 manufacturing purposes, or its equivalent, and may require the
14 collection and analyses of samples from within and around such
15 systems. If the department finds that toxic or hazardous
16 chemicals or toxic, hazardous, or industrial wastewater have
17 been or are being disposed of through an onsite sewage
18 treatment and disposal system, the department shall initiate
19 enforcement actions against the owner or tenant to ensure
20 adequate cleanup, treatment, and disposal.

21 (j)~~(i)~~ An onsite sewage treatment and disposal system
22 for a single-family residence that is designed by a
23 professional engineer registered in the state and certified by
24 such engineer as complying with performance criteria adopted
25 by the department must be approved by the department subject
26 to the following:

27 1. The performance criteria applicable to
28 engineer-designed systems must be limited to those necessary
29 to ensure that such systems do not adversely affect the public
30 health or significantly degrade the groundwater or surface
31 water. Such performance criteria shall include consideration

1 of the quality of system effluent, the proposed total sewage
2 flow per acre, wastewater treatment capabilities of the
3 natural or replaced soil, water quality classification of the
4 potential surface-water-receiving body, and the structural and
5 maintenance viability of the system for the treatment of
6 domestic wastewater. However, performance criteria shall
7 address only the performance of a system and not a system's
8 design.

9 2. The technical review and advisory panel shall
10 assist the department in the development of performance
11 criteria applicable to engineer-designed systems. Workshops
12 on the development of the rules delineating such criteria
13 shall commence not later than September 1, 1996, and the
14 department shall advertise such rules for public hearing no
15 later than October 1, 1997.

16 3. A person electing to utilize an engineer-designed
17 system shall, upon completion of the system design, submit
18 such design, certified by a registered professional engineer,
19 to the county health department. The county health department
20 may utilize an outside consultant to review the
21 engineer-designed system, with the actual cost of such review
22 to be borne by the applicant. Within 5 working days after
23 receiving an engineer-designed system permit application, the
24 county health department shall request additional information
25 if the application is not complete. Within 15 working days
26 after receiving a complete application for an
27 engineer-designed system, the county health department either
28 shall issue the permit or, if it determines that the system
29 does not comply with the performance criteria, shall notify
30 the applicant of that determination and refer the application
31 to the department for a determination as to whether the system

1 should be approved, disapproved, or approved with
2 modification. The department engineer's determination shall
3 prevail over the action of the county health department. The
4 applicant shall be notified in writing of the department's
5 determination and of the applicant's rights to pursue a
6 variance or seek review under the provisions of chapter 120.

7 4. The owner of an engineer-designed performance-based
8 system must obtain an annual system operating permit from the
9 department. The department shall inspect the system at least
10 annually and may collect system-effluent samples if
11 appropriate to determine compliance with the performance
12 criteria. The fee for the annual operating permit shall be
13 collected beginning with the second year of system operation.

14 5. If an engineer-designed system fails to properly
15 function or fails to meet performance standards, the system
16 shall be re-engineered, if necessary, to bring the system into
17 compliance with the provisions of this section.

18 (k)~~(j)~~ An innovative system may be approved in
19 conjunction with an engineer-designed site-specific system
20 which is certified by the engineer to meet the
21 performance-based criteria adopted by the department.

22 (l)~~(k)~~ For the Florida Keys, the department shall
23 adopt a special rule for the construction, installation,
24 modification, operation, repair, maintenance, and performance
25 of onsite sewage treatment and disposal systems which
26 considers the unique soil conditions and which considers water
27 table elevations, densities, and setback requirements. On
28 lots where a setback distance of 75 feet from surface waters,
29 saltmarsh, and buttonwood association habitat areas cannot be
30 met, an injection well, approved and permitted by the
31 department, may be used for disposal of effluent from onsite

1 sewage treatment and disposal systems. The department shall
2 require effluent from onsite sewage treatment and disposal
3 systems to meet advanced waste treatment concentrations, as
4 defined in s. 403.086.

5 (m)~~(l)~~ No product sold in the state for use in onsite
6 sewage treatment and disposal systems may contain any
7 substance in concentrations or amounts that would interfere
8 with or prevent the successful operation of such system, or
9 that would cause discharges from such systems to violate
10 applicable water quality standards. The department shall
11 publish criteria for products known or expected to meet the
12 conditions of this paragraph. In the event a product does not
13 meet such criteria, such product may be sold if the
14 manufacturer satisfactorily demonstrates to the department
15 that the conditions of this paragraph are met.

16 (n)~~(m)~~ Evaluations for determining the seasonal
17 high-water table elevations or the suitability of soils for
18 the use of a new onsite sewage treatment and disposal system
19 shall be performed by department personnel, professional
20 engineers registered in the state, or such other persons with
21 expertise, as defined by rule, in making such evaluations.
22 Evaluations for determining mean annual flood lines shall be
23 performed by those persons identified in paragraph (2)(i).The
24 department shall accept evaluations submitted by professional
25 engineers and such other persons as meet the expertise
26 established by this section or by rule unless the department
27 has a reasonable scientific basis for questioning the accuracy
28 or completeness of the evaluation.

29 (o)~~(n)~~ The department shall appoint a research review
30 and advisory committee, which shall meet at least
31 semiannually. The committee shall advise the department on

1 directions for new research, review and rank proposals for
2 research contracts, and review draft research reports and make
3 comments. The committee is comprised of:

4 1. A representative of the Division of Environmental
5 Health of the Department of Health.

6 2. A representative from the septic tank industry.

7 3. A representative from the home building industry.

8 4. A representative from an environmental interest
9 group.

10 5. A representative from the State University System,
11 from a department knowledgeable about onsite sewage treatment
12 and disposal systems.

13 6. A professional engineer registered in this state
14 who has work experience in onsite sewage treatment and
15 disposal systems.

16 7. A representative from the real estate profession.

17 8. A representative from the restaurant industry.

18 9. A consumer.
19

20 Members shall be appointed for a term of 3 years, with the
21 appointments being staggered so that the terms of no more than
22 four members expire in any one year. Members shall serve
23 without remuneration, but are entitled to reimbursement for
24 per diem and travel expenses as provided in s. 112.061.

25 (p)~~(o)~~ An application for an onsite sewage treatment
26 and disposal system permit shall be completed in full, signed
27 by the owner or the owner's authorized representative, or by a
28 contractor licensed under chapter 489, and shall be
29 accompanied by all required exhibits and fees. No specific
30 documentation of property ownership shall be required as a
31 prerequisite to the review of an application or the issuance

1 of a permit. The issuance of a permit does not constitute
2 determination by the department of property ownership.

3 (q)~~(p)~~ The department may not require any form of
4 subdivision analysis of property by an owner, developer, or
5 subdivider prior to submission of an application for an onsite
6 sewage treatment and disposal system.

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

10 (s)~~(r)~~ In the siting of onsite sewage treatment and
11 disposal systems, including drainfields, shoulders, and
12 slopes, guttering shall not be required on single-family
13 residential dwelling units for systems located greater than 5
14 feet from the roof drip line of the house. If guttering is
15 used on residential dwelling units, the downspouts shall be
16 directed away from the drainfield.

17 (t)~~(s)~~ Notwithstanding the provisions of subparagraph
18 (f)1., onsite sewage treatment and disposal systems located in
19 floodways of the Suwannee and Aucilla Rivers must adhere to
20 the following requirements:

21 1. The absorption surface of the drainfield shall not
22 be subject to flooding based on 10-year flood elevations.
23 Provided, however, for lots or parcels created by the
24 subdivision of land in accordance with applicable local
25 government regulations prior to January 17, 1990, if an
26 applicant cannot construct a drainfield system with the
27 absorption surface of the drainfield at an elevation equal to
28 or above 10-year flood elevation, the department shall issue a
29 permit for an onsite sewage treatment and disposal system
30 within the 10-year floodplain of rivers, streams, and other
31

1 bodies of flowing water if all of the following criteria are
2 met:

3 a. The lot is at least one-half acre in size;
4 b. The bottom of the drainfield is at least 36 inches
5 above the 2-year flood elevation; and
6 c. The applicant installs either: a waterless,
7 incinerating, or organic waste composting toilet and a
8 graywater system and drainfield in accordance with department
9 rules; an aerobic treatment unit and drainfield in accordance
10 with department rules; a system approved by the State Health
11 Office that is capable of reducing effluent nitrate by at
12 least 50 percent; or a system approved by the county health
13 department pursuant to department rule other than a system
14 using alternative drainfield materials. The United States
15 Department of Agriculture Soil Conservation Service soil maps,
16 State of Florida Water Management District data, and Federal
17 Emergency Management Agency Flood Insurance maps are resources
18 that shall be used to identify flood-prone areas.

19 2. The use of fill or mounding to elevate a drainfield
20 system out of the 10-year floodplain of rivers, streams, or
21 other bodies of flowing water shall not be permitted if such a
22 system lies within a regulatory floodway of the Suwannee and
23 Aucilla Rivers. In cases where the 10-year flood elevation
24 does not coincide with the boundaries of the regulatory
25 floodway, the regulatory floodway will be considered for the
26 purposes of this subsection to extend at a minimum to the
27 10-year flood elevation.

28 Section 2. Paragraph (k) of subsection (2) of section
29 381.0066, Florida Statutes, is amended to read:

30 381.0066 Onsite sewage treatment and disposal systems;
31 fees.--

1 (1) The department may collect fees for services
2 provided with respect to onsite sewage treatment and disposal
3 systems. The total fees assessed under this section must be
4 sufficient to meet the cost of administering this section and
5 ss. 381.0065 and 381.00655.

6 (2) The minimum fees in the following fee schedule
7 apply until changed by rule by the department within the
8 following limits:

9 (k) Research: An additional \$5 fee shall be added to
10 each new system construction permit issued during fiscal years
11 1996-2002 to be used for onsite sewage treatment and disposal
12 system research, demonstration, and training projects. Five
13 dollars from any repair permit fee collected under this
14 section shall be used for funding the hands-on training
15 centers described in s. 381.0065(3)(j).

16
17 The funds collected pursuant to this subsection must be
18 deposited in a trust fund administered by the department, to
19 be used for the purposes stated in this section and ss.
20 381.0065 and 381.00655.

21 Section 3. By February 1, 2000, the department is to
22 report to the Legislature its findings from a scientific
23 research project, applicable to Florida soils, on the
24 appropriate setback of an onsite sewage treatment and disposal
25 system to a seasonally inundated area so as to assure the
26 system does not adversely affect public health or
27 significantly degrade the groundwater or surface waters of the
28 state. For purposes of the study, the term "seasonally
29 inundated area" shall mean:

30 Specific soil mapping units, of at least 0.025
31 acre, that are classified in the Soil Legend of

1 the applicable USDA Natural Resource
2 Conservation Service (NRCS) Florida county soil
3 survey as frequently flooded, ponded,
4 depressional or slough, that are described in
5 the Detailed Soil Map Units of the applicable
6 NRCS Florida county soil survey as very poorly
7 drained; or that are classified in the Soil
8 Legend of the NRCS county soil survey for
9 Taylor County as commonly flooded. The accuracy
10 of any soil mapping unit designated for a
11 specific site may be field-verified using NRCS
12 soil survey methodologies by a soil scientist
13 or soil classifier certified by the American
14 Registry of Certified Professionals in
15 Agronomy, Crops, and Soils, a soil scientist
16 employed by NRCS, a licensed professional
17 engineer experienced in utilizing NRCS soil
18 survey methodologies, or at the applicant's
19 option, department personnel. Where the
20 department can authorize construction of an
21 onsite sewage treatment and disposal system
22 taking into account the seasonally inundated
23 area, field verification is not a precondition
24 to permit issuance. An area shall not be
25 considered a seasonally inundated area if it
26 has been physically altered, or will be
27 physically altered before an onsite sewage
28 treatment and disposal system is operated, in a
29 manner that prevents future seasonal
30 inundation, provided that such physical
31 alteration is not unlawful.

1
2 If the department chooses to retain an outside consultant, the
3 requirement for contracting the project pursuant to s.
4 381.0065(3)(j), shall be met. Any research findings made as a
5 result of the project will be reviewed by the research review
6 and advisory committee and the technical review advisory
7 panel. Any comments made by either group will be submitted
8 along with the report to the Legislature. In addition, the
9 technical review advisory panel may provide technical
10 assistance and recommendations to the Secretaries of the
11 Department of Environmental Protection, Department of Health,
12 and the Department of Community Affairs in their consideration
13 of whether the current planning and permitting processes
14 applied to the use, design and placement of onsite sewage
15 treatment and disposal systems adequately address their
16 impacts, including the process of onsite sewage treatment and
17 disposal systems in which area-wide impacts, including
18 cumulative impacts, warrant development of additional
19 standards or criteria through statutory or rule changes; and,
20 whether existing processes can or should be modified to reduce
21 costs and increase predictability, efficiency and
22 effectiveness in the use, design and placement of onsite
23 sewage treatment and disposal systems. Any conclusions
24 reached by either the technical review advisory panel or the
25 Secretaries should be supported by research and scientific
26 justification applicable to Florida conditions.

27 Section 4. Notwithstanding any provision of chapter
28 380, part I, to the contrary, a local government within the
29 Florida Keys area of critical state concern may enact an
30 ordinance that:
31

1 (1) Requires connection to a central sewerage system
2 within 30 days of notice of availability of services; and

3 (2) Provides a definition of onsite sewage treatment
4 and disposal systems that does not exclude package sewage
5 treatment facilities if such facilities are in full compliance
6 with all regulatory requirements and treat sewage to advanced
7 wastewater treatment standards or utilize effluent reuse as
8 their primary method of effluent disposal.

9 Section 5. Definition of terms used in this act.--As
10 used in this act, the term "existing" means permitted by the
11 Department of Environmental Protection or the Department of
12 Health as of the effective date of this act.

13 Section 6. Sewage requirements in Monroe County.--

14 (1) The provisions of this section apply to all sewage
15 treatment, reuse, and disposal facilities and all onsite
16 sewage treatment and disposal systems in Monroe County, except
17 as provided in subsection (8):

18 (2) No new or expanded discharges shall be allowed
19 into surface waters.

20 (3) Existing surface water discharges shall be
21 eliminated before July 1, 2006.

22 (4) Existing sewage facilities that discharge to other
23 than surface waters and existing onsite sewage treatment and
24 disposal systems shall cease discharge or shall comply with
25 the applicable treatment requirements of subsection (6) by
26 July 1, 2010, and with the rules of the Department of
27 Environmental Protection or the Department of Health, as
28 applicable.

29 (5) All new or expanded discharges into other than
30 surface waters and all onsite sewage treatment and disposal
31 systems permitted after the effective date of this act shall

1 comply with the requirements of subsection (6) and with the
2 rules of the Department of Environmental Protection or the
3 Department of Health, as applicable.

4 (6)(a) Sewage facilities with design capacities
5 greater than or equal to 100,000 gallons per day that do not
6 discharge to surface waters shall provide basic disinfection
7 as defined by Department of Environmental Protection rule and
8 the level of treatment that will produce an effluent that
9 contains not more, on a permitted annual average basis, than
10 the following concentrations:

- 11 1. Biochemical Oxygen Demand (CBOD5) of 5 mg/l.
- 12 2. Suspended Solids of 5 mg/l.
- 13 3. Total Nitrogen, expressed as N, of 3 mg/l.
- 14 4. Total Phosphorus, expressed as P, of 1 mg/l.

15 (b) Sewage facilities with design capacities less than
16 100,000 gallons per day that do not discharge to surface
17 waters shall provide basic disinfection as defined by
18 Department of Environmental Protection rule and the level of
19 treatment that will produce an effluent that contains not
20 more, on a permitted annual average basis, than the following
21 concentrations:

- 22 1. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
- 23 2. Suspended Solids of 10 mg/l.
- 24 3. Total Nitrogen, expressed as N, of 10 mg/l.
- 25 4. Total Phosphorus, expressed as P, of 1 mg/l.

26 (c) Onsite sewage treatment and disposal systems shall
27 provide the level of treatment that will produce an effluent
28 that contains not more, on a permitted annual average basis,
29 than the following concentrations:

- 30 1. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
- 31 2. Suspended Solids of 10 mg/l.

1 3. Total Nitrogen, expressed as N, of 10 mg/l.

2 4. Total Phosphorus, expressed as P, of 1 mg/l.

3
4 In addition, onsite sewage treatment and disposal systems
5 discharging to injection wells shall provide basic
6 disinfection as defined by Department of Health rule.

7 (7) Class V injection wells, as defined by Department
8 of Environmental Protection or Department of Health rule,
9 shall meet the following requirements and shall otherwise
10 comply with Department of Environmental Protection or
11 Department of Health rules, as applicable:

12 (a) If the design capacity of the facility is less
13 than 1,000,000 gallons per day, the injection well shall be at
14 least 90 feet deep and cased to a minimum depth of 60 feet or
15 to such greater cased depth and total well depth as may be
16 required by Department of Environmental Protection rule.

17 (b) If the design capacity of the facility is equal to
18 or greater than 1,000,000 gallons per day, the injection well
19 shall be cased to a minimum depth of 2,000 feet or to such
20 greater depth as may be required by Department of
21 Environmental Protection rule.

22 (8) The requirements of subsections (2)-(7) do not
23 apply to the following:

24 (a) Class 1 injection wells as defined by Department
25 of Environmental Protection rule, including any authorized
26 mechanical integrity tests.

27 (b) Authorized mechanical integrity tests associated
28 with Class V wells as defined by Department of Environmental
29 Protection rule.

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1 (c) The following types of reuse systems authorized by
2 Department of Environmental Protection domestic wastewater
3 rules:

- 4 1. Slow-rate land application systems;
5 2. Industrial uses of reclaimed water; and
6 3. Use of reclaimed water for toilet flushing, fire
7 protection, vehicle washing, construction dust control, and
8 decorative water features.

9
10 However, disposal systems serving as backups to reuse systems
11 shall comply with the other provisions of this act.

12 (9) If it is demonstrated that a discharge, even if it
13 is otherwise in compliance with this act or chapter 403,
14 Florida Statutes, will cause or contribute to a violation of
15 state water quality standards, the Department of Environmental
16 Protection shall:

- 17 (a) Require more stringent effluent limitations;
18 (b) Order the point or method of discharge changed;
19 (c) Limit the duration or volume of the discharge; or
20 (d) Prohibit the discharge.

21 (10) All sewage treatment facilities shall monitor
22 effluent for total nitrogen and total phosphorus concentration
23 as required by Department of Environmental Protection rule
24 beginning October 1, 1999. All onsite sewage treatment and
25 disposal systems issued a construction permit after the
26 effective date of this act shall be monitored for total
27 nitrogen and total phosphorus concentrations as required by
28 Department of Health rule.

29 (11) The Department of Environmental Protection shall
30 require the levels of operator certification and staffing
31 necessary to ensure proper operation and maintenance of sewage

1 facilities. The Department of Health shall ensure proper
2 operation and maintenance of onsite sewage treatment and
3 disposal systems.

4 (12) The Department of Environmental Protection and
5 the Department of Health shall adopt rules necessary to carry
6 out the provisions of this act.

7 Section 7. Paragraph (k) of subsection (4) of section
8 381.0065, Florida Statutes, 1998 Supplement, is amended to
9 read:

10 381.0065 Onsite sewage treatment and disposal systems;
11 regulation.--

12 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person
13 may not construct, repair, modify, abandon, or operate an
14 onsite sewage treatment and disposal system without first
15 obtaining a permit approved by the department. The department
16 may issue permits to carry out this section. A construction
17 permit is valid for 18 months from the issuance date and may
18 be extended by the department for one 90-day period under
19 rules adopted by the department. A repair permit is valid for
20 90 days from the date of issuance. An operating permit must be
21 obtained prior to the use of any aerobic treatment unit or if
22 the establishment generates commercial waste. Buildings or
23 establishments that use an aerobic treatment unit or generate
24 commercial waste shall be inspected by the department at least
25 annually to assure compliance with the terms of the operating
26 permit. The operating permit is valid for 1 year from the date
27 of issuance and must be renewed annually. If all information
28 pertaining to the siting, location, and installation
29 conditions or repair of an onsite sewage treatment and
30 disposal system remains the same, a construction or repair
31 permit for the onsite sewage treatment and disposal system may

1 be transferred to another person, if the transferee files,
2 within 60 days after the transfer of ownership, an amended
3 application providing all corrected information and proof of
4 ownership of the property. There is no fee associated with
5 the processing of this supplemental information. A person may
6 not contract to construct, modify, alter, repair, service,
7 abandon, or maintain any portion of an onsite sewage treatment
8 and disposal system without being registered under part III of
9 chapter 489. A property owner who personally performs
10 construction, maintenance, or repairs to a system serving his
11 or her own owner-occupied single-family residence is exempt
12 from registration requirements for performing such
13 construction, maintenance, or repairs on that residence, but
14 is subject to all permitting requirements. A municipality or
15 political subdivision of the state may not issue a building or
16 plumbing permit for any building that requires the use of an
17 onsite sewage treatment and disposal system unless the owner
18 or builder has received a construction permit for such system
19 from the department. A building or structure may not be
20 occupied and a municipality, political subdivision, or any
21 state or federal agency may not authorize occupancy until the
22 department approves the final installation of the onsite
23 sewage treatment and disposal system. A municipality or
24 political subdivision of the state may not approve any change
25 in occupancy or tenancy of a building that uses an onsite
26 sewage treatment and disposal system until the department has
27 reviewed the use of the system with the proposed change,
28 approved the change, and amended the operating permit.

29 (k) For the Florida Keys, the department shall adopt a
30 special rule for the construction, installation, modification,
31 operation, repair, maintenance, and performance of onsite

1 sewage treatment and disposal systems which considers the
2 unique soil conditions and which considers water table
3 elevations, densities, and setback requirements. On lots
4 where a setback distance of 75 feet from surface waters,
5 saltmarsh, and buttonwood association habitat areas cannot be
6 met, an injection well, approved and permitted by the
7 department, may be used for disposal of effluent from onsite
8 sewage treatment and disposal systems. ~~The department shall~~
9 ~~require effluent from onsite sewage treatment and disposal~~
10 ~~systems to meet advanced waste treatment concentrations, as~~
11 ~~defined in s. 403.086.~~

12 Section 8. No later than January 1, 2003, the
13 Department of Environmental Protection and the Department of
14 Health shall report to the Governor, the President of the
15 Senate, and the Speaker of the House on the then current state
16 of sewage treatment technology. The report shall address the
17 treatment capabilities and operational and maintenance
18 requirements of various sizes and types of sewage facilities
19 and onsite sewage treatment and disposal systems, with special
20 attention given to individual systems and facilities designed
21 to treat 100,000 gallons per day or less of sewage. The
22 report shall also address the status of research on the fate
23 and transport of nutrients after injection, and shall provide
24 an overall assessment of water quality in Monroe County and
25 include recommendations for changes to the sewage collection,
26 treatment, and disposal requirements in Monroe County.

27 Section 9. No later than January 1, 2003, Monroe
28 County and the Florida Keys Aqueduct Authority shall report to
29 the Governor, the President of the Senate, and the Speaker of
30 the House of Representatives on the implementation of charges,
31 fees, and assessments related to sewage collection, treatment,

1 and disposal in Monroe County, and on implementation of the
2 Monroe County Wastewater Master Plan.

3 Section 10. This act shall take effect upon becoming a
4 law.

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