

HB 1055

2014

1 A bill to be entitled

2 An act relating to onsite sewage treatment and  
3 disposal systems; amending s. 381.0065, F.S.;  
4 providing legislative intent; defining the term  
5 "combined system"; authorizing the Department of  
6 Health to establish and collect fees for combined  
7 systems; providing conditions for issuance of permits  
8 relating to such systems; providing an effective date.  
9

10 Be It Enacted by the Legislature of the State of Florida:  
11

12 Section 1. Section 381.0065, Florida Statutes, is amended  
13 to read:

14 381.0065 Onsite sewage treatment and disposal systems;  
15 regulation.—

16 (1) LEGISLATIVE INTENT.—

17 (a) It is the intent of the Legislature that proper  
18 management of onsite sewage treatment and disposal systems is  
19 paramount to the health, safety, and welfare of the public.

20 (b) It is the intent of the Legislature that where a  
21 publicly owned or investor-owned sewerage system is not  
22 available, the department shall issue permits for the  
23 construction, installation, modification, abandonment, or repair  
24 of onsite sewage treatment and disposal systems under conditions  
25 as described in this section and rules adopted under this  
26 section. It is further the intent of the Legislature that the

27 installation and use of onsite sewage treatment and disposal  
28 systems not adversely affect the public health or significantly  
29 degrade the groundwater or surface water.

30 (c) It is the intent of the Legislature that where a  
31 publicly owned or investor-owned sewerage system is available,  
32 the department shall issue permits for the construction of a  
33 combined system when connection to the publicly owned or  
34 investor-owned sewerage system results in the use of any part of  
35 an onsite sewage treatment and disposal system.

36 (2) DEFINITIONS.—As used in ss. 381.0065–381.0067, the  
37 term:

38 (a) "Available," as applied to a publicly owned or  
39 investor-owned sewerage system, means that the publicly owned or  
40 investor-owned sewerage system is capable of being connected to  
41 the plumbing of an establishment or residence, is not under a  
42 Department of Environmental Protection moratorium, and has  
43 adequate permitted capacity to accept the sewage to be generated  
44 by the establishment or residence; and:

45 1. For a residential subdivision lot, a single-family  
46 residence, or an establishment, any of which has an estimated  
47 sewage flow of 1,000 gallons per day or less, a gravity sewer  
48 line to maintain gravity flow from the property's drain to the  
49 sewer line, or a low pressure or vacuum sewage collection line  
50 in those areas approved for low pressure or vacuum sewage  
51 collection, exists in a public easement or right-of-way that  
52 abuts the property line of the lot, residence, or establishment.

53           2. For an establishment with an estimated sewage flow  
54 exceeding 1,000 gallons per day, a sewer line, force main, or  
55 lift station exists in a public easement or right-of-way that  
56 abuts the property of the establishment or is within 50 feet of  
57 the property line of the establishment as accessed via existing  
58 rights-of-way or easements.

59           3. For proposed residential subdivisions with more than 50  
60 lots, for proposed commercial subdivisions with more than 5  
61 lots, and for areas zoned or used for an industrial or  
62 manufacturing purpose or its equivalent, a sewerage system  
63 exists within one-fourth mile of the development as measured and  
64 accessed via existing easements or rights-of-way.

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

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

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

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

77           c. Is located along an exterior wall;

78           d. Has a closet and a door or an entrance where a door

79 could be reasonably installed; and

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

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

84 3. "Bedroom" does not include a hallway, bathroom,  
85 kitchen, living room, family room, dining room, den, breakfast  
86 nook, pantry, laundry room, sunroom, recreation room,  
87 media/video room, or exercise room.

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

90 (d) "Combined system" means a system that includes any  
91 part of an onsite sewage and disposal system that is also  
92 connected to a publicly owned or investor-owned sewerage system  
93 regulated under chapter 403.

94 (e)~~(d)~~ "Domestic sewage" means human body waste and  
95 wastewater, including bath and toilet waste, residential laundry  
96 waste, residential kitchen waste, and other similar waste from  
97 appurtenances at a residence or establishment.

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

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

103 (h)~~(g)~~ "Injection well" means an open vertical hole at  
104 least 90 feet in depth, cased and grouted to at least 60 feet in

105 depth which is used to dispose of effluent from an onsite sewage  
106 treatment and disposal system.

107 (i)~~(h)~~ "Innovative system" means an onsite sewage  
108 treatment and disposal system that, in whole or in part, employs  
109 materials, devices, or techniques that are novel or unique and  
110 that have not been successfully field-tested under sound  
111 scientific and engineering principles under climatic and soil  
112 conditions found in this state.

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

118 (k)~~(j)~~ "Mean annual flood line" means the elevation  
119 determined by calculating the arithmetic mean of the elevations  
120 of the highest yearly flood stage or discharge for the period of  
121 record, to include at least the most recent 10-year period. If  
122 at least 10 years of data is not available, the mean annual  
123 flood line shall be as determined based upon the data available  
124 and field verification conducted by a certified professional  
125 surveyor and mapper with experience in the determination of  
126 flood water elevation lines or, at the option of the applicant,  
127 by department personnel. Field verification of the mean annual  
128 flood line shall be performed using a combination of those  
129 indicators listed in subparagraphs 1.-7. that are present on the  
130 site, and that reflect flooding that recurs on an annual basis.

131 In those situations where any one or more of these indicators  
 132 reflect a rare or aberrant event, such indicator or indicators  
 133 may ~~shall~~ not be used ~~utilized~~ in determining the mean annual  
 134 flood line. The indicators that may be considered are:

- 135 1. Water stains on the ground surface, trees, and other
- 136 fixed objects;
- 137 2. Hydric adventitious roots;
- 138 3. Drift lines;
- 139 4. Rafted debris;
- 140 5. Aquatic mosses and liverworts;
- 141 6. Moss collars; and
- 142 7. Lichen lines.

143 (l) ~~(\*)~~ "Onsite sewage treatment and disposal system" means  
 144 a system that contains a standard subsurface, filled, or mound  
 145 drainfield system; an aerobic treatment unit; a graywater system  
 146 tank; a laundry wastewater system tank; a septic tank; a grease  
 147 interceptor; a pump tank; a solids or effluent pump; a  
 148 waterless, incinerating, or organic waste-composting toilet; or  
 149 a sanitary pit privy that is installed or proposed to be  
 150 installed beyond the building sewer on land of the owner or on  
 151 other land to which the owner has the legal right to install a  
 152 system. The term includes any item placed within, or intended to  
 153 be used as a part of or in conjunction with, the system. This  
 154 term does not include package sewage treatment facilities and  
 155 other treatment works regulated under chapter 403.

156 (m) ~~(l)~~ "Permanent nontidal surface water body" means a

157 | perennial stream, a perennial river, an intermittent stream, a  
158 | perennial lake, a submerged marsh or swamp, a submerged wooded  
159 | marsh or swamp, a spring, or a seep, as identified on the most  
160 | recent quadrangle map, 7.5 minute series (topographic), produced  
161 | by the United States Geological Survey, or products derived from  
162 | that series. "Permanent nontidal surface water body" shall also  
163 | mean an artificial surface water body that does not have an  
164 | impermeable bottom and side and that is designed to hold, or  
165 | does hold, visible standing water for at least 180 days of the  
166 | year. However, a nontidal surface water body that is drained,  
167 | either naturally or artificially, where the intent or the result  
168 | is that such drainage be temporary, shall be considered a  
169 | permanent nontidal surface water body. A nontidal surface water  
170 | body that is drained of all visible surface water, where the  
171 | lawful intent or the result of such drainage is that such  
172 | drainage will be permanent, shall not be considered a permanent  
173 | nontidal surface water body. The boundary of a permanent  
174 | nontidal surface water body shall be the mean annual flood line.

175 |       (n) ~~(m)~~ "Potable water line" means any water line that is  
176 | connected to a potable water supply source, but the term does  
177 | not include an irrigation line with any of the following types  
178 | of backflow devices:

179 |           1. For irrigation systems into which chemicals are not  
180 | injected, any atmospheric or pressure vacuum breaker or double  
181 | check valve or any detector check assembly.

182 |           2. For irrigation systems into which chemicals such as

183 fertilizers, pesticides, or herbicides are injected, any reduced  
184 pressure backflow preventer.

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

188 (p)~~(e)~~ "Subdivision" means, for residential use, any tract  
189 or plot of land divided into two or more lots or parcels of  
190 which at least one is 1 acre or less in size for sale, lease, or  
191 rent. A subdivision for commercial or industrial use is any  
192 tract or plot of land divided into two or more lots or parcels  
193 of which at least one is 5 acres or less in size and which is  
194 for sale, lease, or rent. A subdivision shall be deemed to be  
195 proposed until such time as an application is submitted to the  
196 local government for subdivision approval or, in those areas  
197 where no local government subdivision approval is required,  
198 until such time as a plat of the subdivision is recorded.

199 (q)~~(p)~~ "Tidally influenced surface water body" means a  
200 body of water that is subject to the ebb and flow of the tides  
201 and has as its boundary a mean high-water line as defined by s.  
202 177.27(15).

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

205 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The  
206 department shall:

207 (a) Adopt rules to administer ss. 381.0065–381.0067,  
208 including definitions that are consistent with the definitions

209 in this section, decreases to setback requirements where no  
210 health hazard exists, increases for the lot-flow allowance for  
211 performance-based systems, requirements for separation from  
212 water table elevation during the wettest season, requirements  
213 for the design and construction of any component part of an  
214 onsite sewage treatment and disposal system, application and  
215 permit requirements for persons who maintain an onsite sewage  
216 treatment and disposal system, requirements for maintenance and  
217 service agreements for aerobic treatment units and performance-  
218 based treatment systems, and recommended standards, including  
219 disclosure requirements, for voluntary system inspections to be  
220 performed by individuals who are authorized by law to perform  
221 such inspections and who shall inform a person having ownership,  
222 control, or use of an onsite sewage treatment and disposal  
223 system of the inspection standards and of that person's  
224 authority to request an inspection based on all or part of the  
225 standards.

226 (b) Perform application reviews and site evaluations,  
227 issue permits, and conduct inspections and complaint  
228 investigations associated with the construction, installation,  
229 maintenance, modification, abandonment, operation, use, or  
230 repair of an onsite sewage treatment and disposal system for a  
231 residence or establishment with an estimated domestic sewage  
232 flow of 10,000 gallons or less per day, or an estimated  
233 commercial sewage flow of 5,000 gallons or less per day, which  
234 is not currently regulated under chapter 403.

235 (c) Develop a comprehensive program to ensure that onsite  
 236 sewage treatment and disposal systems regulated by the  
 237 department are sized, designed, constructed, installed,  
 238 repaired, modified, abandoned, used, operated, and maintained in  
 239 compliance with this section and rules adopted under this  
 240 section to prevent groundwater contamination and surface water  
 241 contamination and to preserve the public health. The department  
 242 is the final administrative interpretive authority regarding  
 243 rule interpretation. In the event of a conflict regarding rule  
 244 interpretation, the State Surgeon General, or his or her  
 245 designee, shall timely assign a staff person to resolve the  
 246 dispute.

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

249 (e) Permit the use of a limited number of innovative  
 250 systems for a specific period ~~of time~~, when there is compelling  
 251 evidence that the system will function properly and reliably to  
 252 meet the requirements of this section and rules adopted under  
 253 this section.

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

255 (g) Establish and collect fees as established under s.  
 256 381.0066 for services provided with respect to onsite sewage  
 257 treatment and disposal systems and combined systems.

258 (h) Conduct enforcement activities, including imposing  
 259 fines, issuing citations, suspensions, revocations, injunctions,  
 260 and emergency orders for violations of this section, part I of

261 chapter 386, or part III of chapter 489 or for a violation of  
262 any rule adopted under this section, part I of chapter 386, or  
263 part III of chapter 489.

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

267 (j) Supervise research on, demonstration of, and training  
268 on the performance, environmental impact, and public health  
269 impact of onsite sewage treatment and disposal systems within  
270 this state. Research fees collected under s. 381.0066(2)(k) must  
271 be used to develop and fund hands-on training centers designed  
272 to provide practical information about onsite sewage treatment  
273 and disposal systems to septic tank contractors, master septic  
274 tank contractors, contractors, inspectors, engineers, and the  
275 public and must also be used to fund research projects which  
276 focus on improvements of onsite sewage treatment and disposal  
277 systems, including use of performance-based standards and  
278 reduction of environmental impact. Research projects shall be  
279 initially approved by the technical review and advisory panel  
280 and shall be applicable to and reflect the soil conditions  
281 specific to Florida. Such projects shall be awarded through  
282 competitive negotiation, using the procedures provided in s.  
283 287.055, to public or private entities that have experience in  
284 onsite sewage treatment and disposal systems in Florida and that  
285 are principally located in Florida. Research projects may ~~shall~~  
286 not be awarded to firms or entities that employ or are

287 associated with persons who serve on either the technical review  
288 and advisory panel or the research review and advisory  
289 committee.

290 (k) Approve the installation of individual graywater  
291 disposal systems in which blackwater is treated by a central  
292 sewerage system.

293 (l) Regulate and permit the sanitation, handling,  
294 treatment, storage, reuse, and disposal of byproducts from any  
295 system regulated under this chapter and not regulated by the  
296 Department of Environmental Protection.

297 (m) Permit and inspect portable or temporary toilet  
298 services and holding tanks. The department shall review  
299 applications, perform site evaluations, and issue permits for  
300 the temporary use of holding tanks, privies, portable toilet  
301 services, or any other toilet facility that is intended for use  
302 on a permanent or nonpermanent basis, including facilities  
303 placed on construction sites when workers are present. The  
304 department may specify standards for the construction,  
305 maintenance, use, and operation of any such facility for  
306 temporary use.

307 (n) Regulate and permit maintenance entities for  
308 performance-based treatment systems and aerobic treatment unit  
309 systems. To ensure systems are maintained and operated according  
310 to manufacturer's specifications and designs, the department  
311 shall establish by rule minimum qualifying criteria for  
312 maintenance entities. The criteria shall include: training,

313 access to approved spare parts and components, access to  
314 manufacturer's maintenance and operation manuals, and service  
315 response time. The maintenance entity shall employ a contractor  
316 licensed under s. 489.105(3)(m), or part III of chapter 489, or  
317 a state-licensed wastewater plant operator, who is responsible  
318 for maintenance and repair of all systems under contract.

319 (o) Approve the installation of a combined system when  
320 connection to a publicly owned or investor-owned sewerage system  
321 results in the use of any part of an onsite sewage and disposal  
322 system.

323 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may  
324 not construct, repair, modify, abandon, or operate an onsite  
325 sewage treatment and disposal system or combined system without  
326 first obtaining a permit approved by the department. The  
327 department may issue permits to carry out this section, but may  
328 ~~shall~~ not make the issuance of such permits contingent upon  
329 prior approval by the Department of Environmental Protection,  
330 except that the issuance of a permit for work seaward of the  
331 coastal construction control line established under s. 161.053  
332 shall be contingent upon receipt of any required coastal  
333 construction control line permit from the Department of  
334 Environmental Protection and the construction of a combined  
335 system shall be contingent upon approval of the receiving force  
336 main system by the Department of Environmental Protection. A  
337 construction permit is valid for 18 months from the issuance  
338 date and may be extended by the department for one 90-day period

339 under rules adopted by the department. A repair permit is valid  
340 for 90 days from the date of issuance. An operating permit must  
341 be obtained before ~~prior to~~ the use of any aerobic treatment  
342 unit or if the establishment generates commercial waste.  
343 Buildings or establishments that use an aerobic treatment unit  
344 or generate commercial waste shall be inspected by the  
345 department at least annually to assure compliance with the terms  
346 of the operating permit. The operating permit for a commercial  
347 wastewater system is valid for 1 year from the date of issuance  
348 and must be renewed annually. The operating permit for an  
349 aerobic treatment unit is valid for 2 years from the date of  
350 issuance and must be renewed every 2 years. If all information  
351 pertaining to the siting, location, and installation conditions  
352 or repair of an onsite sewage treatment and disposal system  
353 remains the same, a construction or repair permit for the onsite  
354 sewage treatment and disposal system may be transferred to  
355 another person, if the transferee files, within 60 days after  
356 the transfer of ownership, an amended application providing all  
357 corrected information and proof of ownership of the property.  
358 There is no fee associated with the processing of this  
359 supplemental information. A person may not contract to  
360 construct, modify, alter, repair, service, abandon, or maintain  
361 any portion of an onsite sewage treatment and disposal system  
362 without being registered under part III of chapter 489. A  
363 property owner who personally performs construction,  
364 maintenance, or repairs to a system serving his or her own

365 owner-occupied single-family residence is exempt from  
366 registration requirements for performing such construction,  
367 maintenance, or repairs on that residence, but is subject to all  
368 permitting requirements. A municipality or political subdivision  
369 ~~of the state~~ may not issue a building or plumbing permit for any  
370 building that requires the use of an onsite sewage treatment and  
371 disposal system or combined system unless the owner or builder  
372 has received a construction permit for such system from the  
373 department. A building or structure may not be occupied and a  
374 municipality, political subdivision, or any state or federal  
375 agency may not authorize occupancy until the department approves  
376 the final installation of the onsite sewage treatment and  
377 disposal system or combined system. A municipality or political  
378 subdivision ~~of the state~~ may not approve any change in occupancy  
379 or tenancy of a building that uses an onsite sewage treatment  
380 and disposal system until the department has reviewed the use of  
381 the system with the proposed change, approved the change, and  
382 amended the operating permit.

383 (a) Subdivisions and lots in which each lot has a minimum  
384 area of at least one-half acre and either a minimum dimension of  
385 100 feet or a mean of at least 100 feet of the side bordering  
386 the street and the distance formed by a line parallel to the  
387 side bordering the street drawn between the two most distant  
388 points of the remainder of the lot may be developed with a water  
389 system regulated under s. 381.0062 and onsite sewage treatment  
390 and disposal systems, if ~~provided~~ the projected daily sewage

391 flow does not exceed an average of 1,500 gallons per acre per  
392 day, ~~and if provided~~ satisfactory drinking water can be obtained  
393 and all distance and setback, soil condition, water table  
394 elevation, and other related requirements of this section and  
395 rules adopted under this section can be met.

396 (b) Subdivisions and lots using a public water system as  
397 defined in s. 403.852 may use onsite sewage treatment and  
398 disposal systems, ~~if provided~~ there are no more than four lots  
399 per acre, ~~if provided~~ the projected daily sewage flow does not  
400 exceed an average of 2,500 gallons per acre per day, and if  
401 ~~provided that~~ all distance and setback, soil condition, water  
402 table elevation, and other related requirements that are  
403 generally applicable to the use of onsite sewage treatment and  
404 disposal systems are met.

405 (c) Notwithstanding paragraphs (a) and (b), for  
406 subdivisions platted of record on or before October 1, 1991,  
407 when a developer or other appropriate entity has previously made  
408 or makes provisions, including financial assurances or other  
409 commitments, acceptable to the Department of Health, that a  
410 central water system will be installed by a regulated public  
411 utility based on a density formula, private potable wells may be  
412 used with onsite sewage treatment and disposal systems until the  
413 agreed-upon densities are reached. In a subdivision regulated by  
414 this paragraph, the average daily sewage flow may not exceed  
415 2,500 gallons per acre per day. This section does not affect the  
416 validity of existing prior agreements. After October 1, 1991,

417 the exception provided under this paragraph is not available to  
418 a developer or other appropriate entity.

419 (d) Paragraphs (a) and (b) do not apply to any proposed  
420 residential subdivision with more than 50 lots or to any  
421 proposed commercial subdivision with more than 5 lots where a  
422 publicly owned or investor-owned sewerage system is available.  
423 It is the intent of this paragraph not to allow development of  
424 additional proposed subdivisions in order to evade the  
425 requirements of this paragraph.

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

- 428 1. Seventy-five feet from a private potable well.
- 429 2. Two hundred feet from a public potable well serving a  
430 residential or nonresidential establishment having a total  
431 sewage flow of greater than 2,000 gallons per day.
- 432 3. One hundred feet from a public potable well serving a  
433 residential or nonresidential establishment having a total  
434 sewage flow of less than or equal to 2,000 gallons per day.
- 435 4. Fifty feet from any nonpotable well.
- 436 5. Ten feet from any storm sewer pipe, to the maximum  
437 extent possible, but in no instance shall the setback be less  
438 than 5 feet.
- 439 6. Seventy-five feet from the mean high-water line of a  
440 tidally influenced surface water body.
- 441 7. Seventy-five feet from the mean annual flood line of a  
442 permanent nontidal surface water body.

443 8. Fifteen feet from the design high-water line of  
444 retention areas, detention areas, or swales designed to contain  
445 standing or flowing water for less than 72 hours after a  
446 rainfall or the design high-water level of normally dry drainage  
447 ditches or normally dry individual lot stormwater retention  
448 areas.

449 (f) Except as provided under paragraphs (e) and (t), ~~no~~  
450 limitations may not ~~shall~~ be imposed by rule, relating to the  
451 distance between an onsite disposal system and any area that  
452 either permanently or temporarily has visible surface water.

453 (g) ~~All provisions of~~ This section and rules adopted under  
454 this section relating to soil condition, water table elevation,  
455 distance, and other setback requirements must be equally applied  
456 to all lots, with the following exceptions:

457 1. Any residential lot that was platted and recorded on or  
458 after January 1, 1972, or that is part of a residential  
459 subdivision that was approved by the appropriate permitting  
460 agency on or after January 1, 1972, and that was eligible for an  
461 onsite sewage treatment and disposal system construction permit  
462 on the date of such platting and recording or approval shall be  
463 eligible for an onsite sewage treatment and disposal system  
464 construction permit, regardless of when the application for a  
465 permit is made. If rules in effect at the time the permit  
466 application is filed cannot be met, residential lots platted and  
467 recorded or approved on or after January 1, 1972, shall, to the  
468 maximum extent possible, comply with the rules in effect at the

469 time the permit application is filed. At a minimum, however,  
 470 those residential lots platted and recorded or approved on or  
 471 after January 1, 1972, but before January 1, 1983, shall comply  
 472 with those rules in effect on January 1, 1983, and those  
 473 residential lots platted and recorded or approved on or after  
 474 January 1, 1983, shall comply with those rules in effect at the  
 475 time of such platting and recording or approval. In determining  
 476 the maximum extent of compliance with current rules that is  
 477 possible, the department shall allow structures and  
 478 appurtenances thereto which were authorized at the time such  
 479 lots were platted and recorded or approved.

480 2. Lots platted before 1972 are subject to a 50-foot  
 481 minimum surface water setback and are not subject to lot size  
 482 requirements. The projected daily flow for onsite sewage  
 483 treatment and disposal systems for lots platted before 1972 may  
 484 not exceed:

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

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

489 (h)1. The department may grant variances in hardship cases  
 490 which may be less restrictive than the provisions specified in  
 491 this section. If a variance is granted and the onsite sewage  
 492 treatment and disposal system construction permit has been  
 493 issued, the variance may be transferred with the system  
 494 construction permit, if the transferee files, within 60 days

495 after the transfer of ownership, an amended construction permit  
496 application providing all corrected information and proof of  
497 ownership of the property and if the same variance would have  
498 been required for the new owner of the property as was  
499 originally granted to the original applicant for the variance.  
500 There is no fee associated with the processing of this  
501 supplemental information. A variance may not be granted under  
502 this section until the department is satisfied that:

503 a. The hardship was not caused intentionally by the action  
504 of the applicant;

505 b. No reasonable alternative, taking into consideration  
506 factors such as cost, exists for the treatment of the sewage;  
507 and

508 c. The discharge from the onsite sewage treatment and  
509 disposal system will not adversely affect the health of the  
510 applicant or the public or significantly degrade the groundwater  
511 or surface waters.

512  
513 Where soil conditions, water table elevation, and setback  
514 provisions are determined by the department to be satisfactory,  
515 special consideration must be given to those lots platted before  
516 1972.

517 2. The department shall appoint and staff a variance  
518 review and advisory committee, which shall meet monthly to  
519 recommend agency action on variance requests. The committee  
520 shall make its recommendations on variance requests at the

521 meeting in which the application is scheduled for consideration,  
522 except for an extraordinary change in circumstances, the receipt  
523 of new information that raises new issues, or when the applicant  
524 requests an extension. The committee shall consider the criteria  
525 in subparagraph 1. in its recommended agency action on variance  
526 requests and shall also strive to allow property owners the full  
527 use of their land where possible. The committee consists of the  
528 following:

- 529       a. The State Surgeon General or his or her designee.  
530       b. A representative from the county health departments.  
531       c. A representative from the home building industry  
532 recommended by the Florida Home Builders Association.  
533       d. A representative from the septic tank industry  
534 recommended by the Florida Onsite Wastewater Association.  
535       e. A representative from the Department of Environmental  
536 Protection.  
537       f. A representative from the real estate industry who is  
538 also a developer in this state who develops lots using onsite  
539 sewage treatment and disposal systems, recommended by the  
540 Florida Association of Realtors.  
541       g. A representative from the engineering profession  
542 recommended by the Florida Engineering Society.

543  
544 Members shall be appointed for a term of 3 years, with such  
545 appointments being staggered so that the terms of no more than  
546 two members expire in any one year. Members shall serve without

547 remuneration, but if requested, shall be reimbursed for per diem  
548 and travel expenses as provided in s. 112.061.

549 (i) A construction permit may not be issued for an onsite  
550 sewage treatment and disposal system in any area zoned or used  
551 for industrial or manufacturing purposes, or its equivalent,  
552 where a publicly owned or investor-owned sewage treatment system  
553 is available, or where a likelihood exists that the system will  
554 receive toxic, hazardous, or industrial waste. An existing  
555 onsite sewage treatment and disposal system may be repaired if a  
556 publicly owned or investor-owned sewerage system is not  
557 available within 500 feet of the building sewer stub-out and if  
558 system construction and operation standards can be met. This  
559 paragraph does not require publicly owned or investor-owned  
560 sewerage treatment systems to accept anything other than  
561 domestic wastewater.

562 1. A building located in an area zoned or used for  
563 industrial or manufacturing purposes, or its equivalent, when  
564 such building is served by an onsite sewage treatment and  
565 disposal system, must not be occupied until the owner or tenant  
566 has obtained written approval from the department. The  
567 department may ~~shall~~ not grant approval when the proposed use of  
568 the system is to dispose of toxic, hazardous, or industrial  
569 wastewater or toxic or hazardous chemicals.

570 2. Each person who owns or operates a business or facility  
571 in an area zoned or used for industrial or manufacturing  
572 purposes, or its equivalent, or who owns or operates a business

573 that has the potential to generate toxic, hazardous, or  
574 industrial wastewater or toxic or hazardous chemicals, and uses  
575 an onsite sewage treatment and disposal system that is installed  
576 on or after July 5, 1989, must obtain an annual system operating  
577 permit from the department. A person who owns or operates a  
578 business that uses an onsite sewage treatment and disposal  
579 system that was installed and approved before July 5, 1989, does  
580 not need to ~~not~~ obtain a system operating permit. However, upon  
581 change of ownership or tenancy, the new owner or operator must  
582 notify the department of the change, and the new owner or  
583 operator must obtain an annual system operating permit,  
584 regardless of the date that the system was installed or  
585 approved.

586 3. The department shall periodically review and evaluate  
587 the continued use of onsite sewage treatment and disposal  
588 systems in areas zoned or used for industrial or manufacturing  
589 purposes, or its equivalent, and may require the collection and  
590 analyses of samples from within and around such systems. If the  
591 department finds that toxic or hazardous chemicals or toxic,  
592 hazardous, or industrial wastewater have been or are being  
593 disposed of through an onsite sewage treatment and disposal  
594 system, the department shall initiate enforcement actions  
595 against the owner or tenant to ensure adequate cleanup,  
596 treatment, and disposal.

597 (j) An onsite sewage treatment and disposal system  
598 designed by a professional engineer registered in the state and

599 certified by such engineer as complying with performance  
600 criteria adopted by the department must be approved by the  
601 department subject to the following:

602 1. The performance criteria applicable to engineer-  
603 designed systems must be limited to those necessary to ensure  
604 that such systems do not adversely affect the public health or  
605 significantly degrade the groundwater or surface water. Such  
606 performance criteria shall include consideration of the quality  
607 of system effluent, the proposed total sewage flow per acre,  
608 wastewater treatment capabilities of the natural or replaced  
609 soil, water quality classification of the potential surface-  
610 water-receiving body, and the structural and maintenance  
611 viability of the system for the treatment of domestic  
612 wastewater. However, performance criteria shall address only the  
613 performance of a system and not a system's design.

614 2. A person electing to use ~~utilize~~ an engineer-designed  
615 system shall, upon completion of the system design, submit such  
616 design, certified by a registered professional engineer, to the  
617 county health department. The county health department may use  
618 ~~utilize~~ an outside consultant to review the engineer-designed  
619 system, with the actual cost of such review to be borne by the  
620 applicant. Within 5 working days after receiving an engineer-  
621 designed system permit application, the county health department  
622 shall request additional information if the application is not  
623 complete. Within 15 working days after receiving a complete  
624 application for an engineer-designed system, the county health

625 department either shall issue the permit or, if it determines  
626 that the system does not comply with the performance criteria,  
627 shall notify the applicant of that determination and refer the  
628 application to the department for a determination as to whether  
629 the system should be approved, disapproved, or approved with  
630 modification. The department engineer's determination shall  
631 prevail over the action of the county health department. The  
632 applicant shall be notified in writing of the department's  
633 determination and of the applicant's rights to pursue a variance  
634 or seek review under ~~the provisions of~~ chapter 120.

635 3. The owner of an engineer-designed performance-based  
636 system must maintain a current maintenance service agreement  
637 with a maintenance entity permitted by the department. The  
638 maintenance entity shall inspect each system at least twice each  
639 year and shall report quarterly to the department on the number  
640 of systems inspected and serviced. The reports may be submitted  
641 electronically.

642 4. The property owner of an owner-occupied, single-family  
643 residence may be approved and permitted by the department as a  
644 maintenance entity for his or her own performance-based  
645 treatment system upon written certification from the system  
646 manufacturer's approved representative that the property owner  
647 has received training on the proper installation and service of  
648 the system. The maintenance service agreement must conspicuously  
649 disclose that the property owner has the right to maintain his  
650 or her own system and is exempt from contractor registration

651 requirements for performing construction, maintenance, or  
652 repairs on the system but is subject to all permitting  
653 requirements.

654 5. The property owner shall obtain a biennial system  
655 operating permit from the department for each system. The  
656 department shall inspect the system at least annually, or on  
657 such periodic basis as the fee collected permits, and may  
658 collect system-effluent samples if appropriate to determine  
659 compliance with the performance criteria. The fee for the  
660 biennial operating permit shall be collected beginning with the  
661 second year of system operation.

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

666 (k) An innovative system may be approved in conjunction  
667 with an engineer-designed site-specific system which is  
668 certified by the engineer to meet the performance-based criteria  
669 adopted by the department.

670 (l) For the Florida Keys, the department shall adopt a  
671 special rule for the construction, installation, modification,  
672 operation, repair, maintenance, and performance of onsite sewage  
673 treatment and disposal systems which considers the unique soil  
674 conditions and water table elevations, densities, and setback  
675 requirements. On lots where a setback distance of 75 feet from  
676 surface waters, saltmarsh, and buttonwood association habitat

677 areas cannot be met, an injection well, approved and permitted  
678 by the department, may be used for disposal of effluent from  
679 onsite sewage treatment and disposal systems. The following  
680 additional requirements apply to onsite sewage treatment and  
681 disposal systems in Monroe County:

682 1. The county, each municipality, and those special  
683 districts established for the purpose of the collection,  
684 transmission, treatment, or disposal of sewage shall ensure, in  
685 accordance with the specific schedules adopted by the  
686 Administration Commission under s. 380.0552, the completion of  
687 onsite sewage treatment and disposal system upgrades to meet the  
688 requirements of this paragraph.

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

- 694 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.  
695 b. Suspended Solids of 10 mg/l.  
696 c. Total Nitrogen, expressed as N, of 10 mg/l or a  
697 reduction in nitrogen of at least 70 percent. A system that has  
698 been tested and certified to reduce nitrogen concentrations by  
699 at least 70 percent shall be deemed to be in compliance with  
700 this standard.  
701 d. Total Phosphorus, expressed as P, of 1 mg/l.  
702

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

706 3. In areas not scheduled to be served by a central sewer,  
707 onsite sewage treatment and disposal systems must, by December  
708 31, 2015, comply with department rules and provide the level of  
709 treatment described in subparagraph 2.

710 4. In areas scheduled to be served by central sewer by  
711 December 31, 2015, if the property owner has paid a connection  
712 fee or assessment for connection to the central sewer system,  
713 the property owner may install a holding tank with a high water  
714 alarm or an onsite sewage treatment and disposal system that  
715 meets the following minimum standards:

716 a. The existing tanks must be pumped and inspected and  
717 certified as being watertight and free of defects in accordance  
718 with department rule; and

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

721 5. Onsite sewage treatment and disposal systems must be  
722 monitored for total nitrogen and total phosphorus concentrations  
723 as required by department rule.

724 6. The department shall enforce proper installation,  
725 operation, and maintenance of onsite sewage treatment and  
726 disposal systems pursuant to this chapter, including ensuring  
727 that the appropriate level of treatment described in  
728 subparagraph 2. is met.

729           7. The authority of a local government, including a  
730 special district, to mandate connection of an onsite sewage  
731 treatment and disposal system is governed by s. 4, chapter 99-  
732 395, Laws of Florida.

733           8. Notwithstanding any other provision of law, an onsite  
734 sewage treatment and disposal system installed after July 1,  
735 2010, in unincorporated Monroe County, excluding special  
736 wastewater districts, that complies with the standards in  
737 subparagraph 2. is not required to connect to a central sewer  
738 system until December 31, 2020.

739           (m) A ~~Ne~~ product sold in the state for use in onsite  
740 sewage treatment and disposal systems may not contain any  
741 substance in concentrations or amounts that would interfere with  
742 or prevent the successful operation of such system, or that  
743 would cause discharges from such systems to violate applicable  
744 water quality standards. The department shall publish criteria  
745 for products known or expected to meet the conditions of this  
746 paragraph. In the event a product does not meet such criteria,  
747 such product may be sold if the manufacturer satisfactorily  
748 demonstrates to the department that the conditions of this  
749 paragraph are met.

750           (n) Evaluations for determining the seasonal high-water  
751 table elevations or the suitability of soils for the use of a  
752 new onsite sewage treatment and disposal system shall be  
753 performed by department personnel, professional engineers  
754 registered in the state, or such other persons with expertise,

755 as defined by rule, in making such evaluations. Evaluations for  
756 determining mean annual flood lines shall be performed by those  
757 persons identified in paragraph (2)(j). The department shall  
758 accept evaluations submitted by professional engineers and such  
759 other persons as meet the expertise established by this section  
760 or by rule unless the department has a reasonable scientific  
761 basis for questioning the accuracy or completeness of the  
762 evaluation.

763 (o) The department shall appoint a research review and  
764 advisory committee, which shall meet at least semiannually. The  
765 committee shall advise the department on directions for new  
766 research, review and rank proposals for research contracts, and  
767 review draft research reports and make comments. The committee  
768 is comprised of:

769 1. A representative of the State Surgeon General, or his  
770 or her designee.

771 2. A representative from the septic tank industry.

772 3. A representative from the home building industry.

773 4. A representative from an environmental interest group.

774 5. A representative from the State University System, from  
775 a department knowledgeable about onsite sewage treatment and  
776 disposal systems.

777 6. A professional engineer registered in this state who  
778 has work experience in onsite sewage treatment and disposal  
779 systems.

780 7. A representative from local government who is

781 knowledgeable about domestic wastewater treatment.

782 8. A representative from the real estate profession.

783 9. A representative from the restaurant industry.

784 10. A consumer.

785

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

791 (p) An application for an onsite sewage treatment and  
 792 disposal system permit shall be completed in full, signed by the  
 793 owner or the owner's authorized representative, or by a  
 794 contractor licensed under chapter 489, and shall be accompanied  
 795 by all required exhibits and fees. ~~No~~ Specific documentation of  
 796 property ownership may not ~~shall~~ be required as a prerequisite  
 797 to the review of an application or the issuance of a permit. The  
 798 issuance of a permit does not constitute determination by the  
 799 department of property ownership.

800 (q) The department may not require any form of subdivision  
 801 analysis of property by an owner, developer, or subdivider  
 802 before ~~prior to~~ submission of an application for an onsite  
 803 sewage treatment and disposal system.

804 (r) ~~Nothing in~~ This section does not limit ~~limits~~ the  
 805 power of a municipality or county to enforce other laws for the  
 806 protection of the public health and safety.

807 (s) In the siting of onsite sewage treatment and disposal  
 808 systems, including drainfields, shoulders, and slopes, guttering  
 809 may ~~shall~~ not be required on single-family residential dwelling  
 810 units for systems located greater than 5 feet from the roof drip  
 811 line of the house. If guttering is used on residential dwelling  
 812 units, the downspouts shall be directed away from the  
 813 drainfield.

814 (t) Notwithstanding ~~the provisions of~~ subparagraph (g)1.,  
 815 onsite sewage treatment and disposal systems located in  
 816 floodways of the Suwannee and Aucilla Rivers must adhere to the  
 817 following requirements:

818 1. The absorption surface of the drainfield must ~~shall~~ not  
 819 be subject to flooding based on 10-year flood elevations.  
 820 ~~Provided,~~ However, for lots or parcels created by the  
 821 subdivision of land in accordance with applicable local  
 822 government regulations before ~~prior to~~ January 17, 1990, if an  
 823 applicant cannot construct a drainfield system with the  
 824 absorption surface of the drainfield at an elevation equal to or  
 825 above 10-year flood elevation, the department shall issue a  
 826 permit for an onsite sewage treatment and disposal system within  
 827 the 10-year floodplain of rivers, streams, and other bodies of  
 828 flowing water if all of the following criteria are met:

- 829 a. The lot is at least one-half acre in size. ~~;~~
- 830 b. The bottom of the drainfield is at least 36 inches  
 831 above the 2-year flood elevation. ~~;~~ and
- 832 c. The applicant installs either: a waterless,

833 incinerating, or organic waste composting toilet and a graywater  
834 system and drainfield in accordance with department rules; an  
835 aerobic treatment unit and drainfield in accordance with  
836 department rules; a system approved by the State Health Office  
837 that is capable of reducing effluent nitrate by at least 50  
838 percent; or a system approved by the county health department  
839 pursuant to department rule other than a system using  
840 alternative drainfield materials. The United States Department  
841 of Agriculture Soil Conservation Service soil maps, State of  
842 Florida Water Management District data, and Federal Emergency  
843 Management Agency Flood Insurance maps are resources that shall  
844 be used to identify flood-prone areas.

845       2. The use of fill or mounding to elevate a drainfield  
846 system out of the 10-year floodplain of rivers, streams, or  
847 other bodies of flowing water must ~~shall~~ not be permitted if  
848 such a system lies within a regulatory floodway of the Suwannee  
849 and Aucilla Rivers. In cases where the 10-year flood elevation  
850 does not coincide with the boundaries of the regulatory  
851 floodway, the regulatory floodway will be considered for the  
852 purposes of this subsection to extend at a minimum to the 10-  
853 year flood elevation.

854       (u)1. The owner of an aerobic treatment unit system shall  
855 maintain a current maintenance service agreement with an aerobic  
856 treatment unit maintenance entity permitted by the department.  
857 The maintenance entity shall inspect each aerobic treatment unit  
858 system at least twice each year and shall report quarterly to

859 the department on the number of aerobic treatment unit systems  
860 inspected and serviced. The reports may be submitted  
861 electronically.

862 2. The property owner of an owner-occupied, single-family  
863 residence may be approved and permitted by the department as a  
864 maintenance entity for his or her own aerobic treatment unit  
865 system upon written certification from the system manufacturer's  
866 approved representative that the property owner has received  
867 training on the proper installation and service of the system.  
868 The maintenance entity service agreement must conspicuously  
869 disclose that the property owner has the right to maintain his  
870 or her own system and is exempt from contractor registration  
871 requirements for performing construction, maintenance, or  
872 repairs on the system but is subject to all permitting  
873 requirements.

874 3. A septic tank contractor licensed under part III of  
875 chapter 489, if approved by the manufacturer, may not be denied  
876 access by the manufacturer to aerobic treatment unit system  
877 training or spare parts for maintenance entities. After the  
878 original warranty period, component parts for an aerobic  
879 treatment unit system may be replaced with parts that meet  
880 manufacturer's specifications but are manufactured by others.  
881 The maintenance entity shall maintain documentation of the  
882 substitute part's equivalency for 2 years and shall provide such  
883 documentation to the department upon request.

884 4. The owner of an aerobic treatment unit system shall

885 obtain a system operating permit from the department and allow  
886 the department to inspect during reasonable hours each aerobic  
887 treatment unit system at least annually, and such inspection may  
888 include collection and analysis of system-effluent samples for  
889 performance criteria established by rule of the department.

890 (v) The department may require the submission of detailed  
891 system construction plans that are prepared by a professional  
892 engineer registered in this state. The department shall  
893 establish by rule criteria for determining when such a  
894 submission is required.

895 (w) Any permit issued and approved by the department for  
896 the installation, modification, or repair of an onsite sewage  
897 treatment and disposal system or combined system shall transfer  
898 with the title to the property in a real estate transaction. A  
899 title may not be encumbered at the time of transfer by new  
900 permit requirements by a governmental entity for an onsite  
901 sewage treatment and disposal system or combined system which  
902 differ from the permitting requirements in effect at the time  
903 the system was permitted, modified, or repaired. An inspection  
904 of a system may not be mandated by a governmental entity at the  
905 point of sale in a real estate transaction. This paragraph does  
906 not affect a septic tank phase-out deferral program implemented  
907 by a consolidated government as defined in s. 9, Art. VIII of  
908 the State Constitution (1885).

909 (x) A governmental entity, including a municipality,  
910 county, or statutorily created commission, may not require an

911 engineer-designed performance-based treatment system, excluding  
912 a passive engineer-designed performance-based treatment system,  
913 before the completion of the Florida Onsite Sewage Nitrogen  
914 Reduction Strategies Project. This paragraph does not apply to a  
915 governmental entity, including a municipality, county, or  
916 statutorily created commission, which adopted a local law,  
917 ordinance, or regulation on or before January 31, 2012.  
918 Notwithstanding this paragraph, an engineer-designed  
919 performance-based treatment system may be used to meet the  
920 requirements of the variance review and advisory committee  
921 recommendations.

922 (y)1. An onsite sewage treatment and disposal system is  
923 not considered abandoned if the system is disconnected from a  
924 structure that was made unusable or destroyed following a  
925 disaster and if the system was properly functioning at the time  
926 of disconnection and was not adversely affected by the disaster.  
927 The onsite sewage treatment and disposal system may be  
928 reconnected to a rebuilt structure if:

929 a. The reconnection of the system is to the same type of  
930 structure which contains the same number of bedrooms or fewer,  
931 if the square footage of the structure is less than or equal to  
932 110 percent of the original square footage of the structure that  
933 existed before the disaster;

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

935 c. The system has not been altered without prior  
936 authorization.

937           2. An onsite sewage treatment and disposal system that  
938 serves a property that is foreclosed upon is not considered  
939 abandoned.

940           (z) If an onsite sewage treatment and disposal system  
941 permittee receives, relies upon, and undertakes construction of  
942 a system based upon a validly issued construction permit under  
943 rules applicable at the time of construction but a change to a  
944 rule occurs within 5 years after the approval of the system for  
945 construction but before the final approval of the system, the  
946 rules applicable and in effect at the time of construction  
947 approval apply at the time of final approval if fundamental site  
948 conditions have not changed between the time of construction  
949 approval and final approval.

950           (aa) An existing-system inspection or evaluation and  
951 assessment, or a modification, replacement, or upgrade of an  
952 onsite sewage treatment and disposal system is not required for  
953 a remodeling addition or modification to a single-family home if  
954 a bedroom is not added. However, a remodeling addition or  
955 modification to a single-family home may not cover any part of  
956 the existing system or encroach upon a required setback or the  
957 unobstructed area. To determine if a setback or the unobstructed  
958 area is impacted, the local health department shall review and  
959 verify a floor plan and site plan of the proposed remodeling  
960 addition or modification to the home submitted by a remodeler  
961 which shows the location of the system, including the distance  
962 of the remodeling addition or modification to the home from the

963 onsite sewage treatment and disposal system. The local health  
964 department may visit the site or otherwise determine the best  
965 means of verifying the information submitted. A verification of  
966 the location of a system is not an inspection or evaluation and  
967 assessment of the system. The review and verification must be  
968 completed within 7 business days after receipt by the local  
969 health department of a floor plan and site plan. If the review  
970 and verification is not completed within such time, the  
971 remodeling addition or modification to the single-family home,  
972 for the purposes of this paragraph, is approved.

973 (5) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

974 (a) Department personnel who have reason to believe  
975 noncompliance exists, may at any reasonable time, enter the  
976 premises permitted under ss. 381.0065-381.0066, or the business  
977 premises of any septic tank contractor or master septic tank  
978 contractor registered under part III of chapter 489, or any  
979 premises that the department has reason to believe is being  
980 operated or maintained not in compliance, to determine  
981 compliance with ~~the provisions of~~ this section, part I of  
982 chapter 386, or part III of chapter 489 or rules or standards  
983 adopted under ss. 381.0065-381.0067, part I of chapter 386, or  
984 part III of chapter 489. As used in this paragraph, the term  
985 "premises" does not include a residence or private building. To  
986 gain entry to a residence or private building, the department  
987 must obtain permission from the owner or occupant or secure an  
988 inspection warrant from a court of competent jurisdiction.

989 (b)1. The department may issue citations that may contain  
990 an order of correction or an order to pay a fine, or both, for  
991 violations of ss. 381.0065-381.0067, part I of chapter 386, or  
992 part III of chapter 489 or the rules adopted by the department,  
993 when a violation of these sections or rules is enforceable by an  
994 administrative or civil remedy, or when a violation of these  
995 sections or rules is a misdemeanor of the second degree. A  
996 citation issued under ss. 381.0065-381.0067, part I of chapter  
997 386, or part III of chapter 489 constitutes a notice of proposed  
998 agency action.

999 2. A citation must be in writing and must describe the  
1000 particular nature of the violation, including specific reference  
1001 to the ~~provisions of~~ law or rule allegedly violated.

1002 3. The fines imposed by a citation issued by the  
1003 department may not exceed \$500 for each violation. Each day the  
1004 violation exists constitutes a separate violation for which a  
1005 citation may be issued.

1006 4. The department shall inform the recipient, by written  
1007 notice pursuant to ss. 120.569 and 120.57, of the right to an  
1008 administrative hearing to contest the citation within 21 days  
1009 after the date the citation is received. The citation must  
1010 contain a conspicuous statement that if the recipient fails to  
1011 pay the fine within the time allowed, or fails to appear to  
1012 contest the citation after having requested a hearing, the  
1013 recipient has waived the recipient's right to contest the  
1014 citation and must pay an amount up to the maximum fine.

1015           5. The department may reduce or waive the fine imposed by  
 1016 the citation. In determining whether to reduce or waive the  
 1017 fine, the department must consider the gravity of the violation,  
 1018 the person's attempts at correcting the violation, and the  
 1019 person's history of previous violations including violations for  
 1020 which enforcement actions were taken under ss. 381.0065-  
 1021 381.0067, part I of chapter 386, part III of chapter 489, or  
 1022 other ~~provisions of~~ law or rule.

1023           6. A ~~Any~~ person who willfully refuses to sign and accept a  
 1024 citation issued by the department commits a misdemeanor of the  
 1025 second degree, punishable as provided in s. 775.082 or s.  
 1026 775.083.

1027           7. The department, pursuant to ss. 381.0065-381.0067, part  
 1028 I of chapter 386, or part III of chapter 489, shall deposit any  
 1029 fines it collects in the county health department trust fund for  
 1030 use in providing services specified in those sections.

1031           8. This section provides an alternative means of enforcing  
 1032 ss. 381.0065-381.0067, part I of chapter 386, and part III of  
 1033 chapter 489. This section does not prohibit the department from  
 1034 enforcing ss. 381.0065-381.0067, part I of chapter 386, or part  
 1035 III of chapter 489, or its rules, by any other means. However,  
 1036 the department must elect to use only a single method of  
 1037 enforcement for each violation.

1038           (6) LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective  
 1039 January 1, 2016, the land application of septage from onsite  
 1040 sewage treatment and disposal systems is prohibited.

HB 1055

2014

1041

Section 2. This act shall take effect July 1, 2014.