

## House Bill No. 1993

An act relating to onsite sewage and disposal systems; amending s. 381.0065, F.S.; defining “mean annual flood line,” “permanent non-tidal surface water body,” and “tidally influenced surface water body”; providing that the Department of Health shall not make the issuance of a permit to construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system contingent upon prior approval by the Department of Environmental Protection; revising certain limitations with respect to the placement of onsite sewage treatment and disposal systems; providing that no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has viable surface water; specifying persons required to perform evaluations for determining mean annual flood lines and the accuracy of seasonally inundated area designations; amending s. 381.0066, F.S.; providing that a specified portion of onsite sewage treatment and disposal repair permit fees shall be used for the funding of certain training centers; specifying ordinances which may be enacted by a local government within the Florida Keys area of critical state concern; providing a definition; providing specified sewage treatment and disposal system requirements in Monroe County; requiring the Department of Environmental Protection and the Department of Health to adopt specified rules; amending s. 381.0065, F.S.; eliminating a requirement that specified onsite sewage treatment and disposal systems meet certain advanced waste treatment concentrations; requiring specified reports; providing an effective date.

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

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

381.0065 Onsite sewage treatment and disposal systems; regulation.—

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

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

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

in a public easement or right-of-way that abuts the property line of the lot, residence, or establishment.

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

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

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

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

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

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

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

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

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

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

(i) "Mean annual flood line" means the elevation determined by calculating the arithmetic mean of the elevations of the highest yearly flood stage or discharge for the period of record, to include at least the most recent 10-year period. If at least 10 years of data is not available, the mean annual

flood line shall be as determined based upon the data available and field verification conducted by a certified professional surveyor and mapper with experience in the determination of flood water elevation lines or, at the option of the applicant, by department personnel. Field verification of the mean annual flood line shall be performed using a combination of those indicators listed in subparagraphs 1. through 7. that are present on the site, and that reflect flooding that recurs on an annual basis. In those situations where any one or more of these indicators reflect a rare or aberrant event, such indicator or indicators shall not be utilized in determining the mean annual flood line. The indicators that may be considered are:

1. Water stains on the ground surface, trees, and other fixed objects;
2. Hydric adventitious roots;
3. Drift lines;
4. Rafted debris;
5. Aquatic mosses and liverworts;
6. Moss collars; and
7. Lichen lines.

~~(j)~~<sup>(i)</sup> “Onsite sewage treatment and disposal system” means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a dosing tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

(k) “Permanent nontidal surface water body” means a perennial stream, a perennial river, an intermittent stream, a perennial lake, a submerged marsh or swamp, a submerged wooded marsh or swamp, a spring, or a seep, as identified on the most recent quadrangle map, 7.5 minute series (topographic), produced by the United States Geological Survey. “Permanent nontidal surface water body” shall also mean an artificial surface water body that does not have an impermeable bottom and side and that is designed to hold, or does hold, visible standing water for at least 180 days of the year. However, a nontidal surface water body that is drained, either naturally or artificially, where the intent or the result is that such drainage be temporary, shall be considered a permanent nontidal surface water body. A nontidal surface water body that is drained of all visible surface water, where the lawful intent or the result of such drainage is that such drainage will be permanent, shall not be considered a permanent nontidal surface water body. The boundary of a permanent nontidal surface water body shall be the mean annual flood line.

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

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

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

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

(n)(4) “Subdivision” means, for residential use, any tract or plot of land divided into two or more lots or parcels of which at least one is 1 acre or less in size for sale, lease, or rent. A subdivision for commercial or industrial use is any tract or plot of land divided into two or more lots or parcels of which at least one is 5 acres or less in size and which is for sale, lease, or rent. A subdivision shall be deemed to be proposed until such time as an application is submitted to the local government for subdivision approval or, in those areas where no local government subdivision approval is required, until such time as a plat of the subdivision is recorded.

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

(p)(n) “Toxic or hazardous chemical” means a substance that poses a serious danger to human health or the environment.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit is valid for 1 year from the date of issuance and must be renewed annually. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a

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

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

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

(c) Notwithstanding the provisions of paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with

onsite sewage treatment and disposal systems until the agreed-upon densities are reached. The department may consider assurances filed with the Department of Business and Professional Regulation under chapter 498 in determining the adequacy of the financial assurance required by this paragraph. In a subdivision regulated by this paragraph, the average daily domestic sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

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

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

1. Seventy-five feet from a private potable well.
2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.
3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.
4. ~~Seventy-five feet from surface waters.~~
- 4.5. Fifty feet from any nonpotable well.
- 5.6. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.
6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body;
7. Seventy-five feet from the normal annual flood line of a permanent nontidal surface water body;
8. 7. Fifteen feet from the design high water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

(f) Except as provided under paragraphs (e) and (t), no limitations shall be imposed by rule, relating to the distance between an onsite disposal

system and any area that either permanently or temporarily has visible surface water.

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

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

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

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

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

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

- a. The hardship was not caused intentionally by the action of the applicant;
- b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and
- c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

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

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

- a. The Division Director for Environmental Health of the department or his or her designee.
- b. A representative from the county health departments.
- c. A representative from the home building industry recommended by the Florida Home Builders Association.
- d. A representative from the septic tank industry recommended by the Florida Septic Tank Association.
- e. A representative from the Department of Environmental Protection.
- f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.
- g. A representative from the engineering profession recommended by the Florida Engineering Society.

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

~~(i)(h)~~ A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manu-

facturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

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

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

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

(j)(4) An onsite sewage treatment and disposal system for a single-family residence that is designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

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

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

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

3. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under the provisions of chapter 120.

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

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

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

~~(l)~~(k) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and which considers water table elevations, densities, and setback requirements. On lots where a setback distance

of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The department shall require effluent from onsite sewage treatment and disposal systems to meet advanced waste treatment concentrations, as defined in s. 403.086.

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

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

~~(o)~~<sup>(n)</sup> The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Division of Environmental Health of the Department of Health.
2. A representative from the septic tank industry.
3. A representative from the home building industry.
4. A representative from an environmental interest group.
5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.
6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.
7. A representative from the real estate profession.
8. A representative from the restaurant industry.

9. A consumer.

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

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

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

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

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

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

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

- a. The lot is at least one-half acre in size;
- b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and
- c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent; or

a system approved by the county health department pursuant to department rule other than a system using alternative drainfield materials. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

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

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

381.0066 Onsite sewage treatment and disposal systems; fees.—

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

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

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

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

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

Specific soil mapping units, of at least 0.025 acre, that are classified in the Soil Legend of the applicable USDA Natural Resource Conservation Service (NRCS) Florida county soil survey as frequently flooded, ponded, depressional or slough, that are described in the Detailed Soil Map Units of the applicable NRCS Florida county soil survey as very poorly drained; or that are classified in the Soil Legend of the NRCS county soil survey

for Taylor County as commonly flooded. The accuracy of any soil mapping unit designated for a specific site may be field-verified using NRCS soil survey methodologies by a soil scientist or soil classifier certified by the American Registry of Certified Professionals in Agronomy, Crops, and Soils, a soil scientist employed by NRCS, a licensed professional engineer experienced in utilizing NRCS soil survey methodologies, or at the applicant's option, department personnel. Where the department can authorize construction of an onsite sewage treatment and disposal system taking into account the seasonally inundated area, field verification is not a precondition to permit issuance. An area shall not be considered a seasonally inundated area if it has been physically altered, or will be physically altered before an onsite sewage treatment and disposal system is operated, in a manner that prevents future seasonal inundation, provided that such physical alteration is not unlawful.

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

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

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

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

Section 5. Definition of terms used in this act.—As used in this act, the term “existing” means permitted by the Department of Environmental Protection or the Department of Health as of the effective date of this act.

Section 6. Sewage requirements in Monroe County.—

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

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

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

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

(5) All new or expanded discharges into other than surface waters and all onsite sewage treatment and disposal systems permitted after the effective date of this act shall comply with the requirements of subsection (6) and with the rules of the Department of Environmental Protection or the Department of Health, as applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) The Department of Environmental Protection shall require the levels of operator certification and staffing necessary to ensure proper operation and maintenance of sewage facilities. The Department of Health shall ensure proper operation and maintenance of onsite sewage treatment and disposal systems.

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

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

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit is valid for 1 year from the date of issuance and must be renewed annually. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or re-

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

(k) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and which considers water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. ~~The department shall require effluent from onsite sewage treatment and disposal systems to meet advanced waste treatment concentrations, as defined in s. 403.086.~~

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

Section 9. No later than January 1, 2003, Monroe County and the Florida Keys Aqueduct Authority shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of charges, fees, and assessments related to sewage collection, treatment, and disposal in Monroe County, and on implementation of the Monroe County Wastewater Master Plan.

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

Approved by the Governor June 18, 1999.

Filed in Office Secretary of State June 18, 1999.