

CHAPTER 2013-79

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 375

An act relating to onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; deleting provisions relating to the development of performance criteria applicable to engineer-designed systems; revising requirements for maintenance entity service agreements for certain engineer-designed systems; authorizing certain property owners to be approved and permitted as maintenance entities for performance-based treatment systems under certain conditions; requiring owners of performance-based treatment unit systems to obtain certain permits; providing that certain systems constitute compliance with nitrogen standards; requiring systems in certain areas of Monroe County to comply with specified rules and standards; deleting a requirement for new, modified, and repaired systems to meet specified standards; authorizing property owners in certain areas of Monroe County to install certain tanks and systems; providing that certain systems in Monroe County are not required to connect to the central sewer system until a specified date; deleting a requirement for maintenance entities to obtain certain permits; authorizing electronic submission of certain reports; authorizing certain property owners to be approved and permitted as maintenance entities for aerobic treatment unit systems under certain conditions; providing requirements for such maintenance entity service agreements; prohibiting manufacturers from denying certain septic tank contractors access to aerobic treatment unit system training and spare parts; authorizing certain replacement parts for aerobic treatment unit systems; requiring maintenance entities to maintain documentation for such replacement parts; requiring owners of aerobic treatment unit systems to obtain certain permits; providing an effective date.

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

Section 1. Paragraphs (j), (l), and (u) of subsection (4) of section 381.0065, Florida Statutes, are 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, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from 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 for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. 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.

(j) 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.~~

~~2.3.~~ 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.

~~3.4. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall obtain a biennial system operating permit from the department for each system under service contract. The department shall inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced. The reports may be submitted electronically.~~

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

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

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

6.5. 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.

(1) 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 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 following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

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

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

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

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

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

~~4.3.~~ On or after July 1, 2010, all new, modified, and repaired onsite sewage treatment and disposal systems must provide the level of treatment described in subparagraph 2. However, In areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that meets may be repaired to the following minimum standards:

- a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and
- b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

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

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

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

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

~~(u)1.~~ The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. ~~The maintenance entity shall obtain a system operating permit from the department for each aerobic treatment unit under service contract.~~ The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems inspected and serviced. ~~The reports may be submitted electronically.~~

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from

the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

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

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

Section 2. This act shall take effect July 1, 2013.

Approved by the Governor May 30, 2013.

Filed in Office Secretary of State May 30, 2013.