

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

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

9

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

11

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 2. Hydric adventitious roots;

6 3. Drift lines;

7 4. Rafted debris;

8 5. Aquatic mosses and liverworts;

9 6. Moss collars; and

10 7. Lichen lines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29  
30 Members shall be appointed for a term of 3 years, with such  
31 appointments being staggered so that the terms of no more than

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 2. A representative from the septic tank industry.

7 3. A representative from the home building industry.

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

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

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

16 7. A representative from the real estate profession.

17 8. A representative from the restaurant industry.

18 9. A consumer.  
19

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

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

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

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

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

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

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

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

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

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

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

28       Section 2. Paragraph (k) of subsection (2) of section  
29 381.0066, Florida Statutes, is amended to read:  
30       381.0066 Onsite sewage treatment and disposal systems;  
31 fees.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30  
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1           (c) The following types of reuse systems authorized by  
2 Department of Environmental Protection domestic wastewater  
3 rules:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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