By the Committee on Environment and Natural Resources; and Senator Albritton

A bill to be entitled An act relating to onsite sewage treatment and disposal systems; transferring the Onsite Sewage Program within the Department of Health to the Department of Environmental Protection; requiring a memorandum of agreement between the Department of Health and the Department of Environmental Protection by a specified date; amending ss. 153.54, 153.73, 163.3180, and 180.03, F.S.; conforming provisions to changes made by the act; amending s. 373.036, F.S.; requiring water management districts to submit consolidated annual reports to the Office of Economic and Demographic Research by a specified date; requiring such reports to include septic-to-sewer conversion and septic tank remediation projects; amending ss. 373.807, 381.006, 381.0061, and 381.0064, F.S.; conforming provisions and a cross-reference to changes made by the act; amending s. 381.0065, F.S.; conforming provisions to changes made by the act; removing provisions requiring certain onsite sewage treatment and disposal system research projects to be approved by a Department of Health technical review and advisory panel; removing provisions prohibiting the award of research projects to certain entities; removing provisions establishing a Department of Health onsite sewage treatment and disposal system research review and advisory committee; providing requirements for the department’s lot size calculation; authorizing the department to allow the
use of National Sanitation Foundation
International/American National Standards Institute
245 systems; amending s. 381.00651, F.S.; requiring
the county health departments to coordinate with the
department to administer onsite sewage treatment and
disposal system evaluation programs; conforming
provisions to changes made by the act; creating s.
381.00652, F.S.; requiring the Department of
Environmental Protection to appoint an onsite sewage
treatment and disposal systems technical advisory
committee; providing for committee purpose,
member, membership, and expiration; directing the department
to initiate rulemaking by a specified date and to
adopt specified rules; repealing s. 381.0068, F.S.,
relating to the Department of Health onsite sewage
treatment and disposal systems technical review and
advisory panel; amending s. 381.0101, F.S.; conforming
provisions to changes made by the act; amending s.
403.067, F.S.; directing the department to submit
certain water quality project cost estimates to the
Office of Economic and Demographic Research; amending
s. 489.551, F.S.; conforming provisions to changes
made by the act; providing effective dates.

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

Section 1. All powers, duties, functions, records, offices,
personnel, associated administrative support positions,
property, pending issues, existing contracts, administrative
authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the regulation of onsite sewage treatment and disposal systems relating to the Onsite Sewage Program in the Department of Health are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Environmental Protection.

Section 2. The Department of Health and the Department of Environmental Protection shall enter into a memorandum of agreement regarding the type 2 transfer of the Onsite Sewage Program before January 1, 2020. The agreement must address all aspects of the transfer identified in section 1 of this act and the respective administrative and regulatory roles of the county health departments and the Department of Environmental Protection after the July 1, 2020 type two transfer of authority.

Section 3. Subsection (5) of section 153.54, Florida Statutes, is amended to read:

153.54 Preliminary report by county commissioners with respect to creation of proposed district.—Upon receipt of a petition duly signed by not less than 25 qualified electors who are also freeholders residing within an area proposed to be incorporated into a water and sewer district pursuant to this law and describing in general terms the proposed boundaries of such proposed district, the board of county commissioners if it shall deem it necessary and advisable to create and establish such proposed district for the purpose of constructing, establishing or acquiring a water system or a sewer system or both in and for such district (herein called “improvements”), shall first cause a preliminary report to be made which such
report together with any other relevant or pertinent matters, shall include at least the following:

(5) For the construction of a new proposed sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection Health on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment system that is approved by the Department of Environmental Protection Health and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority’s obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by the local authority.

Such report shall be filed in the office of the clerk of the circuit court and shall be open for the inspection of any taxpayer, property owner, qualified elector or any other interested or affected person.

Section 4. Paragraph (c) of subsection (2) of section 153.73, Florida Statutes, is amended to read:

153.73 Assessable improvements; levy and payment of special...
assessments. — Any district may provide for the construction or
reconstruction of assessable improvements as defined in s. 153.52, and for the levying of special assessments upon
benefited property for the payment thereof, under the provisions of this section.

(2)(c) For the construction of a new proposed sewerage
system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection Health on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment system that is approved by the Department of Environmental Protection Health and that provides for the comparable level of environmental and health protection as the proposed central sewerage system; consideration of the local authority’s obligations or reasonably anticipated obligations for water body cleanup and protection under state or federal programs, including requirements for water bodies listed under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
the local authority.

Section 5. Subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and
potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy or its functional equivalent. A local government may meet the concurrency requirement for sanitary sewer through the use of onsite sewage treatment and disposal systems approved by the Department of Environmental Protection Health to serve new development.

Section 6. Subsection (3) of section 180.03, Florida Statutes, is amended to read:

180.03 Resolution or ordinance proposing construction or extension of utility; objections to same.—

(3) For the construction of a new proposed sewerage system or the extension of an existing sewerage system that was not previously approved, the report shall include a study that includes the available information from the Department of Environmental Protection Health on the history of onsite sewage treatment and disposal systems currently in use in the area and a comparison of the projected costs to the owner of a typical lot or parcel of connecting to and using the proposed sewerage system versus installing, operating, and properly maintaining an onsite sewage treatment system that is approved by the Department of Environmental Protection Health and that provides for the comparable level of environmental and health protection...
as the proposed central sewerage system; consideration of the
local authority’s obligations or reasonably anticipated
obligations for water body cleanup and protection under state or
federal programs, including requirements for water bodies listed
under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
the local authority. The results of such a study shall be
included in the resolution or ordinance required under
subsection (1).

Section 7. Paragraphs (a) and (b) of subsection (7) of
section 373.036, Florida Statutes, are amended to read:

373.036 Florida water plan; district water management
plans.—

(7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

(a) By March 1, annually, each water management district
shall prepare and submit to the Office of Economic and
Demographic Research, the department, the Governor, the
President of the Senate, and the Speaker of the House of
Representatives a consolidated water management district annual
report on the management of water resources. In addition, copies
must be provided by the water management districts to the chairs
of all legislative committees having substantive or fiscal
jurisdiction over the districts and the governing board of each
county in the district having jurisdiction or deriving any funds
for operations of the district. Copies of the consolidated
annual report must be made available to the public, either in
printed or electronic format.

(b) The consolidated annual report must contain the
following elements, as appropriate to that water management
1. A district water management plan annual report or the annual work plan report allowed in subparagraph (2)(e)4.

2. The department-approved minimum flows and minimum water levels annual priority list and schedule required by s. 373.042(3).

3. The annual 5-year capital improvements plan required by s. 373.536(6)(a)3.

4. The alternative water supplies annual report required by s. 373.707(8)(n).

5. The final annual 5-year water resource development work program required by s. 373.536(6)(a)4.


7. The mitigation donation annual report required by s. 373.414(1)(b)2.

8. Information on all projects related to water quality or water quantity as part of a 5-year work program, including:
   a. A list of all specific projects identified to implement a basin management action plan, including any septic-to-sewer conversion and septic tank remediation projects, or a recovery or prevention strategy;
   b. A priority ranking for each listed project for which state funding through the water resources development work program is requested, which must be made available to the public for comment at least 30 days before submission of the consolidated annual report;
   c. The estimated cost for each listed project;
   d. The estimated completion date for each listed project;
e. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project; and

f. A quantitative estimate of each listed project’s benefit to the watershed, water body, or water segment in which it is located.

9. A grade for each watershed, water body, or water segment in which a project listed under subparagraph 8. is located representing the level of impairment and violations of adopted minimum flow or minimum water levels. The grading system must reflect the severity of the impairment of the watershed, water body, or water segment.

Section 8. Subsection (3) of section 373.807, Florida Statutes, is amended to read:

373.807 Protection of water quality in Outstanding Florida Springs.—By July 1, 2016, the department shall initiate assessment, pursuant to s. 403.067(3), of Outstanding Florida Springs or spring systems for which an impairment determination has not been made under the numeric nutrient standards in effect for spring vents. Assessments must be completed by July 1, 2018.

(3) As part of a basin management action plan that includes an Outstanding Florida Spring, the department, the Department of Health, relevant local governments, and relevant local public and private wastewater utilities shall develop an onsite sewage treatment and disposal system remediation plan for a spring if the department determines onsite sewage treatment and disposal systems within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve the
total maximum daily load. The plan shall identify cost-effective and financially feasible projects necessary to reduce the nutrient impacts from onsite sewage treatment and disposal systems and shall be completed and adopted as part of the basin management action plan no later than the first 5-year milestone required by subparagraph (1)(b)8. The department is the lead agency in coordinating the preparation of and the adoption of the plan. The department shall:

(a) Collect and evaluate credible scientific information on the effect of nutrients, particularly forms of nitrogen, on springs and springs systems; and

(b) Develop a public education plan to provide area residents with reliable, understandable information about onsite sewage treatment and disposal systems and springs.

In addition to the requirements in s. 403.067, the plan must include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for an onsite sewage treatment and disposal system or group of systems within a priority focus area that contribute at least 20 percent of nonpoint source nitrogen pollution or if the department determines remediation is necessary to achieve a total maximum daily load. For these systems, the department shall include in the plan a priority ranking for each system or group of systems that requires remediation and shall award funds to implement the remediation projects contingent on an appropriation in the General Appropriations Act, which may include all or part of the costs necessary for repair, upgrade,
replacement, drainfield modification, addition of effective
nitrogen reducing features, initial connection to a central
sewerage system, or other action. In awarding funds, the
department may consider expected nutrient reduction benefit per
unit cost, size and scope of project, relative local financial
contribution to the project, and the financial impact on
property owners and the community. The department may waive
matching funding requirements for proposed projects within an
area designated as a rural area of opportunity under s.
288.0656.

Section 9. Section 381.006, Florida Statutes, is amended to
read:

381.006 Environmental health.—The Department of Health
shall conduct an environmental health program as part of
fulfilling the state’s public health mission. The purpose of
this program is to detect and prevent disease caused by natural
and manmade factors in the environment. The environmental health
program shall include, but not be limited to:

(1) A drinking water function.

(2) An environmental health surveillance function which
shall collect, compile, and correlate information on public
health and exposure to hazardous substances through sampling and
testing of water, air, or foods. Environmental health
surveillance shall include a comprehensive assessment of
drinking water under the department’s supervision and an indoor
air quality testing and monitoring program to assess health
risks from exposure to chemical, physical, and biological agents
in the indoor environment.

(3) A toxicology and hazard assessment function which shall
conduct toxicological and human health risk assessments of exposure to toxic agents, for the purposes of:

(a) Supporting determinations by the State Health Officer of safe levels of contaminants in water, air, or food if applicable standards or criteria have not been adopted. These determinations shall include issuance of health advisories to protect the health and safety of the public at risk from exposure to toxic agents.

(b) Provision of human toxicological health risk assessments to the public and other governmental agencies to characterize the risks to the public from exposure to contaminants in air, water, or food.

(c) Consultation and technical assistance to the Department of Environmental Protection and other governmental agencies on actions necessary to ameliorate exposure to toxic agents, including the emergency provision by the Department of Environmental Protection of drinking water in cases of drinking water contamination that present an imminent and substantial threat to the public’s health, as required by s. 376.30(3)(c)1.a.

(d) Monitoring and reporting the body burden of toxic agents to estimate past exposure to these toxic agents, predict future health effects, and decrease the incidence of poisoning by identifying and eliminating exposure.

(4) A sanitary nuisance function, as that term is defined in chapter 386.

(5) A migrant labor function.

(6) A public facilities function, including sanitary practices relating to state, county, municipal, and private
institutions serving the public; jointly with the Department of Education, publicly and privately owned schools; all places used for the incarceration of prisoners and inmates of state institutions for the mentally ill; toilets and washrooms in all public places and places of employment; any other condition, place, or establishment necessary for the control of disease or the protection and safety of public health.

(7) An onsite sewage treatment and disposal function.

(8) A biohazardous waste control function.

(8)(9) A function to control diseases transmitted from animals to humans, including the segregation, quarantine, and destruction of domestic pets and wild animals having or suspected of having such diseases.

(9)(10) An environmental epidemiology function which shall investigate food-borne disease, waterborne disease, and other diseases of environmental causation, whether of chemical, radiological, or microbiological origin. A $10 surcharge for this function shall be assessed upon all persons permitted under chapter 500. This function shall include an educational program for physicians and health professionals designed to promote surveillance and reporting of environmental diseases, and to further the dissemination of knowledge about the relationship between toxic substances and human health which will be useful in the formulation of public policy and will be a source of information for the public.

(10)(11) Mosquito and pest control functions as provided in chapters 388 and 482.

(11)(12) A radiation control function as provided in chapter 404 and part IV of chapter 468.
(12) A public swimming and bathing facilities function as provided in chapter 514.

(13) A mobile home park, lodging park, recreational vehicle park, and recreational camp function as provided in chapter 513.

(14) A sanitary facilities function, which shall include minimum standards for the maintenance and sanitation of sanitary facilities; public access to sanitary facilities; and fixture ratios for special or temporary events and for homeless shelters.

(15) A group-care-facilities function. As used in this subsection, the term “group care facility” means any public or private school, assisted living facility, adult family-care home, adult day care center, short-term residential treatment center, residential treatment facility, home for special services, transitional living facility, crisis stabilization unit, hospice, prescribed pediatric extended care center, intermediate care facility for persons with developmental disabilities, or boarding school. The department may adopt rules necessary to protect the health and safety of residents, staff, and patrons of group care facilities. Rules related to public and private schools shall be developed by the Department of Education in consultation with the department. Rules adopted under this subsection may include definitions of terms; provisions relating to operation and maintenance of facilities, buildings, grounds, equipment, furnishings, and occupant-space requirements; lighting; heating, cooling, and ventilation; food service; water supply and plumbing; sewage; sanitary facilities; insect and rodent control; garbage; safety; personnel health,
hygiene, and work practices; and other matters the department finds are appropriate or necessary to protect the safety and health of the residents, staff, students, faculty, or patrons. The department may not adopt rules that conflict with rules adopted by the licensing or certifying agency. The department may enter and inspect at reasonable hours to determine compliance with applicable statutes or rules. In addition to any sanctions that the department may impose for violations of rules adopted under this section, the department shall also report such violations to any agency responsible for licensing or certifying the group care facility. The licensing or certifying agency may also impose any sanction based solely on the findings of the department.

(16) A function for investigating elevated levels of lead in blood. Each participating county health department may expend funds for federally mandated certification or recertification fees related to conducting investigations of elevated levels of lead in blood.

(17) A food service inspection function for domestic violence centers that are certified by the Department of Children and Families and monitored by the Florida Coalition Against Domestic Violence under part XII of chapter 39 and group care homes as described in subsection (15), which shall be conducted annually and be limited to the requirements in department rule applicable to community-based residential facilities with five or fewer residents.

The department may adopt rules to carry out the provisions of this section.
Section 10. Subsection (1) of section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which shall not exceed $500 for each violation, for a violation of s. 381.006(15), s. 381.006(16), s. 381.0065, s. 381.0066, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of any of the provisions of chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 11. Subsection (1) of section 381.0064, Florida Statutes, is amended to read:

381.0064 Continuing education courses for persons installing or servicing septic tanks.—

(1) The Department of Environmental Protection Health shall establish a program for continuing education which meets the purposes of ss. 381.0101 and 489.554 regarding the public health and environmental effects of onsite sewage treatment and disposal systems and any other matters the department determines desirable for the safe installation and use of onsite sewage treatment and disposal systems. The department may charge a fee to cover the cost of such program.

Section 12. Present paragraphs (d) through (q) of subsection (2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (e) through (r), respectively, and a new paragraph (d) is added to that subsection, subsections (3)
and (4) are amended, and subsections (7) and (8) are added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

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

(d) “Department” means the Department of Environmental Protection.

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

(a) Adopt rules to administer ss. 381.0065-381.0067, including definitions that are consistent with the definitions in this section, decreases to setback requirements where no health hazard exists, increases for the lot-flow allowance for performance-based systems, requirements for separation from water table elevation during the wettest season, requirements for the design and construction of any component part of an onsite sewage treatment and disposal system, application and permit requirements for persons who maintain an onsite sewage treatment and disposal system, requirements for maintenance and service agreements for aerobic treatment units and performance-based treatment systems, and recommended standards, including disclosure requirements, for voluntary system inspections to be performed by individuals who are authorized by law to perform such inspections and who shall inform a person having ownership, control, or use of an onsite sewage treatment and disposal system of the inspection standards and of that person’s authority to request an inspection based on all or part of the standards.
(b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an onsite sewage treatment and disposal system for a residence or establishment with an estimated domestic sewage flow of 10,000 gallons or less per day, or an estimated commercial sewage flow of 5,000 gallons or less per day, which is not currently regulated under chapter 403.

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

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

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

(f) Issue annual operating permits under this section.
(g) Establish and collect fees as established under s. 381.0066 for services provided with respect to onsite sewage treatment and disposal systems.

(h) Conduct enforcement activities, including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted under this section, part I of chapter 386, or part III of chapter 489.

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

(j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical review and advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in
onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects shall not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review and advisory panel or the research review and advisory committee.

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

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

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

(n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer’s specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include: training, access to approved spare parts and components, access to
manufacturer’s maintenance and operation manuals, and service
response time. The maintenance entity shall employ a contractor
licensed under s. 489.105(3)(m), or part III of chapter 489, or
a state-licensed wastewater plant operator, who is responsible
for maintenance and repair of all systems under contract.

(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
before 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.

(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 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 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 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. In a subdivision regulated by this paragraph, the average daily 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 sewage treatment system is available. It is the intent of this paragraph does not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(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. Fifty feet from any nonpotable well.
5. 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 mean annual flood line of a permanent nontidal surface water body.

8. 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 (s) (t), no limitations may not 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) 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 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) 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. A fee is not 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. A reasonable alternative, taking into consideration factors such as cost, does not exist 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 Secretary 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 Onsite Wastewater Association.

e. A representative from the Department of Health 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) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing 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 sewage treatment 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 sewage 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 may 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, does not need to 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) An onsite sewage treatment and disposal system 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. A person electing to **use** 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 **use** 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. 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 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. 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) An innovative system may be approved in conjunction with an engineer-designed site-specific system that which is certified by the engineer to meet the performance-based criteria adopted by the department.
(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. In areas scheduled to be served by a central sewerage system by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewerage system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that meets 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. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

6. 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. 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.

(m) Any No product sold in the state for use in onsite
sewage treatment and disposal systems may not 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. If 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) 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)(k) (2)(j). 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) 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 State Surgeon General, or his or her designee.
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 local government who is knowledgeable about domestic wastewater treatment.
8. A representative from the real estate profession.
9. A representative from the restaurant industry.
10. 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.

(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 is not 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.

(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.

(q) Nothing in This section does not limit the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(r) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering may 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.

(s) Notwithstanding the provisions of subparagraph
(g)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 in accordance with department rules; or a system other than a system using alternative drainfield materials in accordance with department rules 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 may 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.

(t)1.(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 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.

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

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

(w) A governmental entity, including a municipality,
county, or statutorily created commission, may not require an
ingineer-designed performance-based treatment system, excluding
a passive engineer-designed performance-based treatment system,
before the completion of the Florida Onsite Sewage Nitrogen
Reduction Strategies Project. This paragraph does not apply to a
governmental entity, including a municipality, county, or
statutorily created commission, which adopted a local law,
ordinance, or regulation on or before January 31, 2012.
Notwithstanding this paragraph, an engineer-designed
performance-based treatment system may be used to meet the
requirements of the variance review and advisory committee
recommendations.

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

a. The reconnection of the system is to the same type of
structure which contains the same number of bedrooms or fewer,
if the square footage of the structure is less than or equal to
110 percent of the original square footage of the structure that
existed before the disaster;
  b. The system is not a sanitary nuisance; and
  c. The system has not been altered without prior
authorization.
2. An onsite sewage treatment and disposal system that
serves a property that is foreclosed upon is not considered
abandoned.
(y)(z) If an onsite sewage treatment and disposal system
permittee receives, relies upon, and undertakes construction of
a system based upon a validly issued construction permit under
rules applicable at the time of construction but a change to a
rule occurs within 5 years after the approval of the system for
construction but before the final approval of the system, the
rules applicable and in effect at the time of construction
approval apply at the time of final approval if fundamental site
conditions have not changed between the time of construction
approval and final approval.
(z)(aa) An existing-system inspection or evaluation and
assessment, or a modification, replacement, or upgrade of an
onsite sewage treatment and disposal system is not required for
a remodeling addition or modification to a single-family home if
a bedroom is not added. However, a remodeling addition or
modification to a single-family home may not cover any part of
the existing system or encroach upon a required setback or the
unobstructed area. To determine if a setback or the unobstructed
area is impacted, the local health department shall review and
verify a floor plan and site plan of the proposed remodeling
addition or modification to the home submitted by a remodeler
which shows the location of the system, including the distance
of the remodeling addition or modification to the home from the
onsite sewage treatment and disposal system. The local health
department may visit the site or otherwise determine the best
means of verifying the information submitted. A verification of
the location of a system is not an inspection or evaluation and
assessment of the system. The review and verification must be
completed within 7 business days after receipt by the local
health department of a floor plan and site plan. If the review
and verification is not completed within such time, the
remodeling addition or modification to the single-family home,
for the purposes of this paragraph, is approved.

(7) LOT SIZE CALCULATION.—When applying the prohibition
imposed by s. 373.811(2), the department shall:

(a) Include portions of the lot subject to an easement or
right of entry when determining the size of a lot.

(b) Determine that a hardship exists in accordance with s.
403.201(1)(c) when an applicant for a variance demonstrates that
the lot subject to the request is no smaller than 0.85 acres and
that lots in the immediate proximity average one acre in size or
larger.

(8) In addition to allowing the use of other department
approved nutrient removing onsite sewage treatment and disposal
systems to meet the requirements of a total maximum daily load
or basin management action plan adopted pursuant to 403.067, a
reasonable assurance plan, or other water quality protection and
restoration requirements, the department shall also allow the
use of National Sanitation Foundation International/American National Standards Institute 245 systems approved by the Public Health and Safety Organization before July 1, 2019.

Section 13. Paragraph (d) of subsection (7) and subsections (8) and (9) of section 381.00651, Florida Statutes, are amended to read:

381.00651 Periodic evaluation and assessment of onsite sewage treatment and disposal systems.—

(7) The following procedures shall be used for conducting evaluations:

(d) Assessment procedure.—All evaluation procedures used by a qualified contractor shall be documented in the environmental health database of the department of Health. The qualified contractor shall provide a copy of a written, signed evaluation report to the property owner upon completion of the evaluation and to the county health department within 30 days after the evaluation. The report shall contain the name and license number of the company providing the report. A copy of the evaluation report shall be retained by the local county health department for a minimum of 5 years and until a subsequent inspection report is filed. The front cover of the report must identify any system failure and include a clear and conspicuous notice to the owner that the owner has a right to have any remediation of the failure performed by a qualified contractor other than the contractor performing the evaluation. The report must further identify any crack, leak, improper fit, or other defect in the tank, manhole, or lid, and any other damaged or missing component; any sewage or effluent visible on the ground or discharging to a ditch or other surface water body; any
downspout, stormwater, or other source of water directed onto or
toward the system; and any other maintenance need or condition
of the system at the time of the evaluation which, in the
opinion of the qualified contractor, would possibly interfere
with or restrict any future repair or modification to the
existing system. The report shall conclude with an overall
assessment of the fundamental operational condition of the
system.

(8) The county health department, in coordination with the
department, shall administer any evaluation program on behalf of
a county, or a municipality within the county, that has adopted
an evaluation program pursuant to this section. In order to
administer the evaluation program, the county or municipality,
in consultation with the county health department, may develop a
reasonable fee schedule to be used solely to pay for the costs
of administering the evaluation program. Such a fee schedule
shall be identified in the ordinance that adopts the evaluation
program. When arriving at a reasonable fee schedule, the
estimated annual revenues to be derived from fees may not exceed
reasonable estimated annual costs of the program. Fees shall be
assessed to the system owner during an inspection and separately
identified on the invoice of the qualified contractor. Fees
shall be remitted by the qualified contractor to the county
health department. The county health department’s administrative
responsibilities include the following:

(a) Providing a notice to the system owner at least 60 days
before the system is due for an evaluation. The notice may
include information on the proper maintenance of onsite sewage
treatment and disposal systems.
(b) In consultation with the department of Health, providing uniform disciplinary procedures and penalties for qualified contractors who do not comply with the requirements of the adopted ordinance, including, but not limited to, failure to provide the evaluation report as required in this subsection to the system owner and the county health department. Only the county health department may assess penalties against system owners for failure to comply with the adopted ordinance, consistent with existing requirements of law.

(9)(a) A county or municipality that adopts an onsite sewage treatment and disposal system evaluation and assessment program pursuant to this section shall notify the Secretary of Environmental Protection, the Department of Health, and the applicable county health department upon the adoption of its ordinance establishing the program.

(b) Upon receipt of the notice under paragraph (a), the department of Environmental Protection shall, within existing resources, notify the county or municipality of the potential use of, and access to, program funds under the Clean Water State Revolving Fund or s. 319 of the Clean Water Act, provide guidance in the application process to receive such moneys, and provide advice and technical assistance to the county or municipality on how to establish a low-interest revolving loan program or how to model a revolving loan program after the low-interest loan program of the Clean Water State Revolving Fund. This paragraph does not obligate the department of Environmental Protection to provide any county or municipality with money to fund such programs.

(c) The department of Health may not adopt any rule that
alters the provisions of this section.

(d) The department of Health must allow county health departments and qualified contractors access to the environmental health database to track relevant information and assimilate data from assessment and evaluation reports of the overall condition of onsite sewage treatment and disposal systems. The environmental health database must be used by contractors to report each service and evaluation event and by a county health department to notify owners of onsite sewage treatment and disposal systems when evaluations are due. Data and information must be recorded and updated as service and evaluations are conducted and reported.

Section 14. Effective July 1, 2019, section 381.00652, Florida Statutes, is created to read:

381.00652 Onsite treatment and disposal systems;

permitting.—

(1) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS TECHNICAL ADVISORY COMMITTEE.—

(a) By August 1, 2019, the department, in consultation with the Department of Health, shall appoint a technical advisory committee to assist in developing rules that will increase the availability of nutrient-removing onsite sewage treatment and disposal systems in the marketplace, including such systems that are cost-effective, low maintenance, and reliable. By July 1, 2020, the committee shall consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient-removing onsite sewage treatment and disposal systems that have been reviewed and approved by a national agency or

CODING: Words stricken are deletions; words underlined are additions.
organization, such as the National Sanitation Foundation International/American National Standards Institute 245 systems approved by the Public Health and Safety Organization. The department shall use existing and available resources to administer and support the activities of the technical advisory committee.

(b) The advisory committee shall consist of at least five but not more than nine members representing the home-building industry, the real estate industry, the onsite sewage treatment and disposal system industry, septic tank contractors, engineers, and local governments. Members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

(c) This subsection shall expire on July 1, 2020.

(2) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS RULEMAKING.—The department shall initiate rulemaking no later than August 1, 2020, considering the recommendations of the technical advisory committee, and adopt rules to increase the availability of cost-effective, low maintenance, and reliable nutrient-removing onsite sewage treatment and disposal systems in the marketplace.

Section 15. Section 381.0068, Florida Statutes, is repealed.

Section 16. Paragraph (g) of subsection (1) of section 381.0101, Florida Statutes, is amended to read:

381.0101 Environmental health professionals.—

(1) DEFINITIONS.—As used in this section:

(g) “Primary environmental health program” means those programs determined by the department to be essential for
providing basic environmental and sanitary protection to the public. At a minimum, these programs shall include food protection programs, program work, and onsite sewage treatment and disposal system evaluations.

Section 17. Paragraph (a) of subsection (7) of section 403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

(a) Basin management action plans.—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151.

The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan’s effectiveness, and identify feasible funding strategies for implementing the plan’s management strategies. The management strategies may include regional treatment systems or other public works, where appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate,
pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). Where appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a

CODING: Words stricken are deletions; words underlined are additions.
newspaper of general circulation in each county in which the watershed or basin lies at least not less than 5 days but not more than 15 days before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. Each new or revised basin management action plan shall include:
   a. The appropriate management strategies available through existing water quality protection programs to achieve total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;
   b. A description of best management practices adopted by rule;
   c. A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;
   d. The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable; and
   e. A planning-level estimate of each listed project’s expected load reduction, if applicable.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement the provisions of this section.

6. The basin management action plan must include milestones for implementation and water quality improvement, and an
associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The provisions of the department’s rule relating to the
equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

9. The department shall submit to the Office of Economic and Demographic Research the project cost estimates required in sub-subparagraph 4.c., including any septic-to-sewer conversion and septic tank remediation project costs.

Section 18. Subsection (1) of section 489.551, Florida Statutes, is amended to read:

489.551 Definitions.—As used in this part:

(1) “Department” means the Department of Environmental Protection Health.

Section 19. Except as otherwise expressly provided in this act, and except for section 2, s. 381.0065(7) as amended by this act, and this section, which shall take effect upon July 1, 2019, this act shall take effect on July 1, 2020.