

By Senator Martin

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A bill to be entitled
An act relating to onsite sewage treatment and
disposal system permits; amending s. 381.0065, F.S.;
prohibiting a municipality or political subdivision of
the state from requiring owners and builders of
certain residences to receive construction permits
from the Department of Environmental Protection as a
condition of issuing building or plumbing permits;
requiring such owners and builders to provide certain
proof to the municipality or political subdivision;
providing applicability for new rules adopted by the
department beginning on a specified date; amending ss.
380.0552 and 381.00651, F.S.; conforming cross-
references; providing effective dates.

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

Section 1. Subsection (4) of section 381.0065, Florida
Statutes, is amended to read:

381.0065 Onsite sewage treatment and disposal systems;
regulation.—

(4) PERMITS; INSTALLATION; 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, 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

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department. A construction permit is valid for 18 months after the date of issuance 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 after the date of issuance. An operating permit must be obtained before 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 after the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years after 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. A fee is not 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

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59 registration requirements for performing such construction,
60 maintenance, or repairs on that residence, but is subject to all
61 permitting requirements. Notwithstanding paragraph (a), a
62 municipality or political subdivision of the state may not issue
63 a building or plumbing permit for any building that requires the
64 use of an onsite sewage treatment and disposal system unless the
65 owner or builder has received a construction permit for such
66 system from the department. A building or structure may not be
67 occupied and a municipality, political subdivision, or any state
68 or federal agency may not authorize occupancy until the
69 department approves the final installation of the onsite sewage
70 treatment and disposal system. A municipality or political
71 subdivision of the state may not approve any change in occupancy
72 or tenancy of a building that uses an onsite sewage treatment
73 and disposal system until the department has reviewed the use of
74 the system with the proposed change, approved the change, and
75 amended the operating permit.

76 (a) If the building or plumbing permit is for a single-
77 family residence that requires the use of an onsite sewage
78 treatment and disposal system, a municipality or political
79 subdivision of the state may not require the owner or builder to
80 receive a construction permit from the department for such
81 system as a condition of issuing the building or plumbing
82 permit. The owner or builder of the single-family residence must
83 provide to a municipality or political subdivision proof that
84 the owner or builder submitted an application for the onsite
85 sewage treatment and disposal system when applying for a
86 building and plumbing permit.

87 (b)-(a) Subdivisions and lots in which each lot has a

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

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

108 (d)~~(e)~~ Notwithstanding paragraphs ~~(a) and (b)~~ and (c), for
109 subdivisions platted of record on or before October 1, 1991,
110 when a developer or other appropriate entity has previously made
111 or makes provisions, including financial assurances or other
112 commitments, acceptable to the department, that a central water
113 system will be installed by a regulated public utility based on
114 a density formula, private potable wells may be used with onsite
115 sewage treatment and disposal systems until the agreed-upon
116 densities are reached. In a subdivision regulated by this

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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.

(e)~~(d)~~ Paragraphs ~~(a) and~~ (b) and (c) 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. This paragraph does not allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(f)~~(e)~~ The department shall adopt rules relating to the location of onsite sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rules must consider conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs, impaired or degraded water bodies, domestic wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to former s. 381.00652. The rules must also allow a person to apply for and receive a variance from a rule requirement upon demonstration that the requirement would cause an undue hardship and granting the variance would not cause or contribute to the

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146 exceedance of a total maximum daily load.

147 (g)~~(f)~~ Onsite sewage treatment and disposal systems that
148 are permitted before June 21, 2022, may not be placed closer
149 than:

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

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

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

157 4. Fifty feet from any nonpotable well.

158 5. Ten feet from any storm sewer pipe, to the maximum
159 extent possible, but in no instance shall the setback be less
160 than 5 feet.

161 6. Seventy-five feet from the mean high-water line of a
162 tidally influenced surface water body.

163 7. Seventy-five feet from the mean annual flood line of a
164 permanent nontidal surface water body.

165 8. Fifteen feet from the design high-water line of
166 retention areas, detention areas, or swales designed to contain
167 standing or flowing water for less than 72 hours after a
168 rainfall or the design high-water level of normally dry drainage
169 ditches or normally dry individual lot stormwater retention
170 areas.

171 (h)~~(g)~~ This section and rules adopted under this section
172 relating to soil condition, water table elevation, distance, and
173 other setback requirements must be equally applied to all lots,
174 with the following exceptions:

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175 1. Any residential lot that was platted and recorded on or
176 after January 1, 1972, or that is part of a residential
177 subdivision that was approved by the appropriate permitting
178 agency on or after January 1, 1972, and that was eligible for an
179 onsite sewage treatment and disposal system construction permit
180 on the date of such platting and recording or approval shall be
181 eligible for an onsite sewage treatment and disposal system
182 construction permit, regardless of when the application for a
183 permit is made. If rules in effect at the time the permit
184 application is filed cannot be met, residential lots platted and
185 recorded or approved on or after January 1, 1972, shall, to the
186 maximum extent possible, comply with the rules in effect at the
187 time the permit application is filed. At a minimum, however,
188 those residential lots platted and recorded or approved on or
189 after January 1, 1972, but before January 1, 1983, shall comply
190 with those rules in effect on January 1, 1983, and those
191 residential lots platted and recorded or approved on or after
192 January 1, 1983, shall comply with those rules in effect at the
193 time of such platting and recording or approval. In determining
194 the maximum extent of compliance with current rules that is
195 possible, the department shall allow structures and
196 appurtenances thereto which were authorized at the time such
197 lots were platted and recorded or approved.

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

203 a. Two thousand five hundred gallons per acre per day for

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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.

(i) 1. ~~(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,

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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.

a. The committee is composed of the following:

(I) The Secretary of Environmental Protection or his or her designee.

(II) A representative from the county health departments.

(III) A representative from the home building industry recommended by the Florida Home Builders Association.

(IV) A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

(V) A representative from the Department of Health.

(VI) 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.

(VII) A representative from the engineering profession recommended by the Florida Engineering Society.

b. Members shall be appointed for a term of 3 years, with

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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.

3. The variance review and advisory committee is not responsible for reviewing water well permitting. However, the committee shall consider all requirements of law related to onsite sewage treatment and disposal systems when making recommendations on variance requests for onsite sewage treatment and disposal system permits.

(j)~~(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 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 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 not grant approval when the proposed use of the

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291 system is to dispose of toxic, hazardous, or industrial
292 wastewater or toxic or hazardous chemicals.

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

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

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320 (k)~~(j)~~ An onsite sewage treatment and disposal system
321 designed by a professional engineer registered in the state and
322 certified by such engineer as complying with performance
323 criteria adopted by the department must be approved by the
324 department subject to the following:

325 1. The performance criteria applicable to engineer-designed
326 systems must be limited to those necessary to ensure that such
327 systems do not adversely affect the public health or
328 significantly degrade the groundwater or surface water. Such
329 performance criteria shall include consideration of the quality
330 of system effluent, the proposed total sewage flow per acre,
331 wastewater treatment capabilities of the natural or replaced
332 soil, water quality classification of the potential surface-
333 water-receiving body, and the structural and maintenance
334 viability of the system for the treatment of domestic
335 wastewater. However, performance criteria shall address only the
336 performance of a system and not a system's design.

337 2. A person electing to use an engineer-designed system
338 shall, upon completion of the system design, submit such design,
339 certified by a registered professional engineer, to the county
340 health department. The county health department may use an
341 outside consultant to review the engineer-designed system, with
342 the actual cost of such review to be borne by the applicant.
343 Within 5 working days after receiving an engineer-designed
344 system permit application, the county health department shall
345 request additional information if the application is not
346 complete. Within 15 working days after receiving a complete
347 application for an engineer-designed system, the county health
348 department shall issue the permit or, if it determines that the

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349 system does not comply with the performance criteria, shall
350 notify the applicant of that determination and refer the
351 application to the department for a determination as to whether
352 the system should be approved, disapproved, or approved with
353 modification. The department engineer's determination shall
354 prevail over the action of the county health department. The
355 applicant shall be notified in writing of the department's
356 determination and of the applicant's rights to pursue a variance
357 or seek review under the provisions of chapter 120.

358 3. The owner of an engineer-designed performance-based
359 system must maintain a current maintenance service agreement
360 with a maintenance entity permitted by the department. The
361 maintenance entity shall inspect each system at least twice each
362 year and shall report quarterly to the department on the number
363 of systems inspected and serviced. The reports may be submitted
364 electronically.

365 4. The property owner of an owner-occupied, single-family
366 residence may be approved and permitted by the department as a
367 maintenance entity for his or her own performance-based
368 treatment system upon written certification from the system
369 manufacturer's approved representative that the property owner
370 has received training on the proper installation and service of
371 the system. The maintenance service agreement must conspicuously
372 disclose that the property owner has the right to maintain his
373 or her own system and is exempt from contractor registration
374 requirements for performing construction, maintenance, or
375 repairs on the system but is subject to all permitting
376 requirements.

377 5. The property owner shall obtain a biennial system

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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.

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

(m)~~(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,

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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 sewerage system, 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

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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 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 sewerage system until December 31, 2020.

(n) ~~(m)~~ A 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

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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 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.

(o)~~(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)(1). 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.

(p)~~(o)~~ An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. 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.

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

498 (r)~~(q)~~ This section does not limit the power of a
499 municipality or county to enforce other laws for the protection
500 of the public health and safety.

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

508 (t)~~(s)~~ Notwithstanding subparagraph (h)1. ~~(g)1.~~, onsite
509 sewage treatment and disposal systems located in floodways of
510 the Suwannee and Aucilla Rivers must adhere to the following
511 requirements:

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

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523 a. The lot is at least one-half acre in size;

524 b. The bottom of the drainfield is at least 36 inches above
525 the 2-year flood elevation; and

526 c. The applicant installs a waterless, incinerating, or
527 organic waste composting toilet and a graywater system and
528 drainfield in accordance with department rules; an aerobic
529 treatment unit and drainfield in accordance with department
530 rules; a system that is capable of reducing effluent nitrate by
531 at least 50 percent in accordance with department rules; or a
532 system other than a system using alternative drainfield
533 materials in accordance with department rules. The United States
534 Department of Agriculture Soil Conservation Service soil maps,
535 State of Florida Water Management District data, and Federal
536 Emergency Management Agency Flood Insurance maps are resources
537 that shall be used to identify flood-prone areas.

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

547 (u)1.~~(t)1.~~ The owner of an aerobic treatment unit system
548 shall maintain a current maintenance service agreement with an
549 aerobic treatment unit maintenance entity permitted by the
550 department. The maintenance entity shall inspect each aerobic
551 treatment unit system at least twice each year and shall report

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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

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581 include collection and analysis of system-effluent samples for
582 performance criteria established by rule of the department.

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

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

601 (x)~~(w)~~ A governmental entity, including a municipality,
602 county, or statutorily created commission, may not require an
603 engineer-designed performance-based treatment system, excluding
604 a passive engineer-designed performance-based treatment system,
605 before the completion of the Florida Onsite Sewage Nitrogen
606 Reduction Strategies Project. This paragraph does not apply to a
607 governmental entity, including a municipality, county, or
608 statutorily created commission, which adopted a local law,
609 ordinance, or regulation on or before January 31, 2012.

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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.

(y) ~~1. (x) 1.~~ 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.

(z) ~~(y)~~ 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

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approval apply at the time of final approval if fundamental site conditions have not changed between the time of construction approval and final approval.

(aa)~~(z)~~ 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.

Section 2. Effective July 1, 2026, subsection (10) is added to section 381.0065, Florida Statutes, to read:

381.0065 Onsite sewage treatment and disposal systems;

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regulation.—

(10) ADOPTION OF NEW RULES.—Any new rules for the use and installation of onsite wastewater systems adopted by the department under this section do not apply to permit applications submitted within 120 days after the date such rules are adopted.

Section 3. Paragraph (i) of subsection (2), paragraph (b) of subsection (4), paragraph (j) of subsection (7), and paragraph (a) of subsection (9) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(m) and 403.086(11) ~~ss. 381.0065(4)(l) and 403.086(11)~~, as applicable.

(4) REMOVAL OF DESIGNATION.—

(b) Beginning November 30, 2010, the state land planning agency shall annually submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:

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1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(11) and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(m) ~~s. 381.0065(4)(1)~~;

2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and

3. A local government has adopted a resolution at a public hearing recommending the removal of the designation.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(j) Ensuring the improvement of nearshore water quality by

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requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(m) and 403.086(11) ~~ss. 381.0065(4)(l) and 403.086(11)~~, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(11) for wastewater treatment and disposal facilities or s. 381.0065(4)(m) ~~s. 381.0065(4)(l)~~ for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a

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hurricane evacuation clearance time for permanent residents of no more than 24.5 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency. For purposes of hurricane evacuation clearance time:

a. Mobile home residents are not considered permanent residents.

b. The City of Key West Area of Critical State Concern established by chapter 28-36, Florida Administrative Code, shall be included in the hurricane evacuation study and is subject to the evacuation requirements of this subsection.

Section 4. Paragraph (c) of subsection (6) of section 381.00651, Florida Statutes, is amended to read:

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

(6) The requirements for an onsite sewage treatment and disposal system evaluation and assessment program are as follows:

(c) *Repair of systems.*—The local ordinance may not require a repair, modification, or replacement of a system as a result of an evaluation unless the evaluation identifies a system failure. For purposes of this subsection, the term "system failure" means a condition existing within an onsite sewage treatment and disposal system which results in the discharge of untreated or partially treated wastewater onto the ground surface or into surface water or that results in the failure of building plumbing to discharge properly and presents a sanitary nuisance. A system is not in failure if the system does not have

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a minimum separation distance between the drainfield and the wettest season water table or if an obstruction in a sanitary line or an effluent screen or filter prevents effluent from flowing into a drainfield. If a system failure is identified and several allowable remedial measures are available to resolve the failure, the system owner may choose the least costly allowable remedial measure to fix the system. There may be instances in which a pump-out is sufficient to resolve a system failure. Allowable remedial measures to resolve a system failure are limited to what is necessary to resolve the failure and must meet, to the maximum extent practicable, the requirements of the repair code in effect when the repair is made, subject to the exceptions specified in s. 381.065(4)(h) ~~s. 381.0065(4)(g)~~. An engineer-designed performance-based treatment system to reduce nutrients may not be required as an alternative remediation measure to resolve the failure of a conventional system.

Section 5. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.