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Chapter 163

Intergovernmental Programs

Part II

Growth Policy; County and Municipal Planning; Land Development Regulation

Enforceable Policies

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Chapter 163 Intergovernmental Programs Part II: Growth Policy; County and Municipal Planning; Land Development Regulation

163.32051 Floating solar facilities.—

(1)(a) The Legislature finds that floating solar facilities, also known as "floatovoltaics," can be effective tools in harnessing energy in bodies of water that have been permitted for storage.

(b) The Legislature finds that siting floating solar facilities on wastewater treatment ponds, abandoned limerock mine areas, stormwater treatment ponds, reclaimed water ponds, and other water storage reservoirs are beneficial uses of those areas for many reasons, including the fact that the water has a cooling effect on the solar panels, which can boost power production, and 1the fact that the panels help decrease the amount of water lost to evaporation and the formation of harmful algal blooms.

(c) Therefore, the Legislature finds that the siting of floating solar facilities should be encouraged by local governments as appropriate uses of water and land areas.

(2) For purposes of this section, the term "floating solar facility" means a solar facility as defined in s. 163.3205(2), which is located on wastewater treatment ponds, abandoned limerock mine areas, stormwater treatment ponds, reclaimed water ponds, or other water storage reservoirs.

(3) A floating solar facility shall be a permitted use in the appropriate land use categories in each local government comprehensive plan, and each local government must amend its land development regulations to promote the expanded use of floating solar facilities.

(4) A county or municipality may adopt an ordinance specifying buffer and landscaping requirements for floating solar facilities. The requirements may not exceed the requirements for similar uses involving the construction of other solar facilities that are permitted uses in agricultural land use categories and zoning districts.

(5) Notwithstanding subsections (3) and (4), a floating solar facility may not be constructed in an Everglades Agricultural Area reservoir project if the local governments involved with the project determine that the floating solar facility will have a negative impact on that project.

(6) The Office of Energy within the Department of Agriculture and Consumer Services shall develop and submit recommendations to the Legislature by December 31, 2022, to provide a regulatory framework to private and public sector entities that implement floating solar facilities.

History.—s. 1, ch. 2022-83.

1Note.—The words "the fact that" were inserted by the editors to improve clarity.

Chapter 252

Emergency Management

Enforceable Policies

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*Sections 252.351, .3569, .359, .3611, .3655, .515, .62, .63, .905, .921, and .9335, F.S., are not considered enforceable policies for federal consistency purposes.

**Sections 252.3711, .64, and .71, F.S., are not proposed as enforceable policies for federal consistency purposes.

252.3711 Emergency Preparedness and Response Fund.—
(1) The Emergency Preparedness and Response Fund is created within the Executive Office of the Governor.
(2) The fund is established for use as a depository for moneys specifically transferred or appropriated to the fund. The moneys deposited in the fund are available as a primary funding source for the Governor for purposes of preparing or responding to a disaster declared by the Governor as a state of emergency that exceeds regularly appropriated funding sources.
(3) In accordance with s. 19(f)(2), Art. III of the State Constitution, the Emergency Preparedness and Response Fund shall, unless terminated sooner, be terminated 4 years after the effective date of this act. Before its scheduled termination, the fund shall be reviewed as provided in s. 215.3206(1) and (2).
History.—s. 1, ch. 2022-2.

252.64 Protection of religious institutions.—
(1) For purposes of this section, the term "religious institution" has the same meaning as in s. 496.404.
(2) An emergency order authorized by this part may not directly or indirectly prohibit a religious institution from conducting regular religious services or activities. However, a general provision in an emergency order which applies uniformly to all entities in the affected jurisdiction may be applied to a religious institution if the provision is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.
History.—s. 1, ch. 2022-208.

252.71 Florida Emergency Management Assistance Foundation.—
(1) As used in this section, the term:
(a) "Foundation" means the Florida Emergency Management Assistance Foundation for the division.
(b) "Personal services" includes full-time or part-time personnel of the division.
(2) The foundation is hereby created as a direct-support organization of the division to provide assistance, funding, and support to the division in its disaster response, recovery, and relief efforts for natural emergencies.
(a) The foundation must be an organization that is a Florida nonprofit corporation incorporated under chapter 617, approved by the Department of State, and recognized under s. 501(c)(3) of the Internal Revenue Code. The foundation is exempt from paying fees under s. 617.0122.
(b) The foundation is organized and operated exclusively to obtain funds; request and receive grants, gifts, and bequests of moneys or other items; acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and make expenditures to or for the direct or indirect benefit of the division, political subdivisions of this state, and individuals adversely impacted by a natural emergency occurring within this state.

(c) The division must determine that the foundation is operating in a manner consistent with the goals of the division and in the best interest of the state.
(3) The foundation shall be governed by a board of directors.
(a) The board of directors shall consist of five members appointed by the director of the division. A majority of the members must be knowledgeable about emergency management activities and programs. The importance of geographic representation shall be considered in appointing members. Members must be residents of this state at the time of appointment and throughout their terms.
(b) The term of office of the appointed members of the board of directors shall be 3 years, except that the initial terms of appointment shall be two members for 1 year, two members for 2 years, and one member for 3 years. A member may be reappointed when his or her term expires and may continue to serve in such capacity upon expiration of his or her term until an appointment is made to fill the vacancy. However, a member may not serve more than two consecutive terms.
(c) Upon a finding based on a majority vote of the board of directors, the director of the division may remove any member of the board for cause.
(d) Any vacancy that occurs shall be filled in the same manner as the original appointment for the unexpired term of that seat.
(e) Members of the board of directors shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses in accordance with s. 112.061, and shall be paid from funds managed by the foundation.
(f) Moneys of the foundation must be held in a separate depository account in the name of the foundation, subject to the provisions of the contract with the division, and shall be used in a manner consistent with the goals of the foundation.
(4) The foundation shall operate under a written contract with the division. The written contract must, at a minimum, provide for:
(a) Approval of the articles of incorporation and bylaws of the foundation by the director of the division.
(b) Certification by the division that the foundation is complying with the terms of the contract and is doing so consistent with the goals and purposes of the division and in the best interests of the state. The division must make this certification annually, and it must be reported in the official minutes of a meeting of the foundation.
(c) Reversion of moneys and property held by the foundation to the:
1. Division if the foundation is no longer approved to operate by the division;
2. Division if the foundation fails to maintain its tax-exempt status pursuant to s. 501(c)(3) of the Internal Revenue Code;
3. Division if the foundation ceases to exist; or
4. State if the division ceases to exist.
(d) Prominent disclosure of the distinction between the division and the foundation to donors, including such disclosure in all promotional and fundraising publications or activities.
(e) Approval by the board of directors of an annual operating budget for the foundation.
(f) Adoption of an ethics code as required by s. 112.3251.
(5) The division may permit the use of its property, facilities, and personal services by the foundation and shall set forth any requirements or conditions on such use in the

contract between the division and the foundation, including provisions governing the use of such property, facilities, and personal services during a declared state of emergency for a natural emergency. However, the division may not permit the use of such property, facilities, or personal services by the foundation if it does not provide equal employment opportunities to all persons regardless of race, color, national origin, gender, age, or religion.

(6)(a) The fiscal year of the foundation shall begin on July 1 of each year and end on June 30 of the following year.

(b) By August 1 of each year, the foundation shall submit to the division its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

(c) By September 30 of each year, the foundation shall submit the budget and a report of contributions and expenditures to the division in a manner prescribed by the division.

(7) The foundation shall provide for an annual financial audit in accordance with s. 215.981.

(8) This section is repealed December 31, 2024, unless reviewed and saved from repeal by the Legislature.

History.—s. 6, ch. 2022-272.

Chapter 253

State Lands

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*Sections 253.01, .0251, .027, .031, .034, .61(1)(d), .7824, 7828, .87, and .90, F.S., are not considered enforceable policies for federal consistency purposes.

253.0346 Lease of sovereignty submerged lands for marinas, boatyards, mooring fields, and marine retailers.—

(1) For purposes of this section, the term “first-come, first-served basis” means the facility operates on state-owned submerged land for which:

(a) There is not a club membership, stock ownership, equity interest, or other qualifying requirement.

(b) Rental terms do not exceed 12 months and do not include automatic renewal rights or conditions.

(2) For marinas that are open to the public on a first-come, first-served basis and for which at least 90 percent of the slips are open for rent to the public, a discount of 30 percent on the annual lease fee shall apply if dockage rate sheet publications and dockage advertising clearly state that slips are open for rent to the public on a first-come, first-served basis.

(3) For a facility designated by the department as a Clean Marina, Clean Boatyard, or Clean Marine Retailer under the Clean Marina Program:

(a) A discount of 10 percent on the annual lease fee shall apply if the facility:

1. Actively maintains designation under the program.
2. Complies with the terms of the lease.
3. Does not change use during the term of the lease.

(b) Extended-term lease surcharges shall be waived if the facility:

1. Actively maintains designation under the program.
2. Complies with the terms of the lease.
3. Does not change use during the term of the lease.
4. Is available to the public on a first-come, first-served basis.

(c) If the facility is in arrears on lease fees or fails to comply with paragraph (b), the facility is not eligible for the discount or waiver under this subsection until arrears have been paid and compliance with the program has been met.

(4) Notwithstanding any other law, all of the following conditions apply for approved and permitted moorings or mooring fields in Monroe County:

(a) The general tenancy on a mooring may exceed 12 months, if requested, but may not exceed 10 years.

(b) A sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field or limit the tenancy of a vessel because an individual has established it as his or her domicile in accordance with s. 222.17 or because the vessel is an individual’s primary residence.

(5) This section applies to new leases or amendments to leases effective after July 1, 2013.

History.—s. 6, ch. 2013-92; s. 1, ch. 2022-78.

Chapter 339

Transportation Finance and Planning

Enforceable Policies

Any additions are underlined, and any deletions are struck-through.

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339.175 Metropolitan planning organization.
339.241 Florida Junkyard Control Law.

*Section 339.157, F.S., is not proposed as an enforceable policy for federal consistency purposes.

339.157 Resilience action plan.—

(1) The department shall develop a resilience action plan for the State Highway System based on current conditions and forecasted future events. The goals of the action plan must be to:

(a) Recommend strategies to enhance infrastructure and the operational resilience of the State Highway System that may be incorporated into the transportation asset management plan.

(b) Recommend design changes to retrofit existing state highway facilities and to construct new state highway facilities.

(c) Enhance partnerships to address multijurisdictional resilience needs.

(2) The resilience action plan must include all of the following:

(a) An assessment of the State Highway System to identify roadway facilities and drainage outfalls that may be subject to vulnerabilities associated with tidal, rainfall, the combination of tidal and rainfall, and storm surge flooding, including future projections of sea level rise, using existing data for current and forecasted future events. As part of the assessment, the department shall, using the most up-to-date National Oceanic and Atmospheric Administration precipitation frequency and sea level rise data, do all of the following:

1. Synthesize historical and current infrastructure resilience issues statewide.
2. Evaluate alternatives for retrofitting existing systems and infrastructure.
3. Develop prioritization criteria for resilience project identification.
4. Develop a prioritized resilience needs project list, in addition to existing projects within the work program, with the associated costs and timeline.
5. Develop a statewide database identifying and documenting those assets vulnerable to current and future flooding. The department shall develop a cost estimate and schedule to enhance existing data to include site-specific details and existing criteria to improve the needs prioritization.

(b) A systemic review of the department's policies, procedures, manuals, tools, and guidance documents to identify revisions that will facilitate cost-effective improvements to address existing and future State Highway System infrastructure vulnerabilities associated with flooding and sea level rise.

(c) Provision of technical assistance to local agencies and modal partners on resilience issues related to the State Highway System and the deployment of local and regional solutions.

(3) By June 30, 2023, the department shall submit the resilience action plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Every third year on June 30 thereafter, the department shall submit a status report reviewing updates to the action plan and the associated implementation activities.

History.—s. 3, ch. 2022-89.

Chapter 373

Water Resources

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**Sections 373.41365, F.S., is not proposed as an enforceable policy for federal consistency purposes.

373.4134 Water quality enhancement areas.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that:

(a) Water quality will be improved and adverse water quality impacts of activities regulated under this part may be addressed by the construction, operation, maintenance, and long-term management of water quality enhancement areas that provide offsite compensatory treatment.

(b) An expansion of existing authority for regional treatment to include offsite compensatory treatment in water quality enhancement areas to make enhancement credits available for purchase by governmental entities to address impacts regulated under this part is needed.

(c) The construction, operation, maintenance, and long-term management of water quality enhancement areas under this section will improve the certainty and long-term viability of water quality treatment systems.

(d) Water quality enhancement areas are a valuable tool to assist governmental entities in satisfying the net improvement performance standard under s. 373.414(1)(b)3. to ensure significant reductions of pollutant loadings.

(e) Water quality enhancement areas that provide water quality enhancement credits to governmental entities seeking permits under this part and governmental entities seeking to meet an assigned basin management action plan allocation or reasonable assurance plan under s. 403.067 are considered an appropriate and permittable option.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Enhancement credit" means a standard unit of measure that represents a quantity of pollutant removed.

(b) "Governmental entity" means any political subdivision of the state, including any state agency, department, county, municipality, special district, school district, utility authority, or other authority or instrumentality, agency, unit, or department thereof.

(c) "Natural system" means an ecological system supporting aquatic and wetland-dependent natural resources, including fish and aquatic and wetland-dependent wildlife habitats.

(d) "Water quality enhancement area" means a natural system constructed, operated, managed, and maintained for the purpose of providing offsite regional treatment for which enhancement credits may be provided pursuant to a water quality enhancement area permit issued under this section.

(e) "Water quality enhancement area permit" means an environmental resource permit issued for a water quality enhancement area which authorizes the construction, operation, management, and maintenance of an enhancement area and the purchase and sale of enhancement credits.

(3) WATER QUALITY ENHANCEMENT AREAS.—

(a) The construction, operation, management, and maintenance of a water quality enhancement area must be approved through the environmental resource permitting process.

(b) Water quality enhancement credits may be sold only to governmental entities seeking to meet an assigned basin management action plan allocation or reasonable assurance plan or for the purpose of achieving net improvement under

s. 373.414(1)(b)3. after the governmental entity has provided reasonable assurance of meeting department rules for design and construction of all onsite stormwater management.
(c) A water quality enhancement area must be used to address contributions of one or more pollutants or other constituents in the watershed, basin, sub-basin, targeted restoration area, waterbody, or section of waterbody, as determined by the department, in which the water quality enhancement area is located that do not meet applicable state water quality criteria.
(d) A water quality enhancement area must be used to create, improve, or use natural systems to improve water quality.
(e) A governmental entity may use a water quality enhancement area for its own water quality needs. However, a governmental entity may not act as a sponsor to construct, operate, manage, or maintain a water quality enhancement area or market enhancement credits to third parties.
(f) A local government may not require a permit or otherwise impose regulations governing the operation of a water quality enhancement area.
(g) This section does not eliminate the obligation of an applicant for a water quality enhancement area permit or an applicant proposing to use enhancement credits to comply with all requirements of this part pertaining to adverse impacts to water quality in receiving waters and adjacent lands or wetlands.
(4) WATER QUALITY ENHANCEMENT AREA PERMIT.—
(a) To obtain a water quality enhancement area permit, the applicant must provide reasonable assurances that the proposed water quality enhancement area will be used to:
1. Meet the requirements for issuance of an environmental resource permit;
2. Benefit water quality in the watershed in which the water quality enhancement area is located;
3. Meet defined performance or success criteria for the reduction of one or more pollutants or other constituents that prevent receiving waters from meeting applicable state water quality criteria;
4. Ensure long-term pollutant reduction through effective operation and maintenance in perpetuity by designation of a responsible long-term maintenance entity supported by an endowment or other long-term financial assurance sufficient to ensure perpetual operation and maintenance;
5. Demonstrate sufficient legal or equitable interest in the property to ensure access and perpetual protection and management of the land within the water quality enhancement area; and
6. Provide for permanent preservation of the water quality enhancement area that meets the requirements of s. 704.06.
(b) The water quality enhancement area permit must provide for the assessment, valuation, and award of credits based on units of pollutants removed.
(c) The department shall base its determination of the award of enhancement credits on standard numerical models or analytical tools that establish the ability of the water quality enhancement area to remove pollutants or constituents.
1. If a basin management action plan exists for the watershed in which the water quality enhancement area is located, the applicant must use the same numerical

models or analytical tools used for that basin management action plan in the water quality enhancement area permit application.
2. If a basin management action plan does not exist for the watershed in which the water quality enhancement area is located, the applicant, with the approval of the department, may submit as part of the water quality enhancement area permit application model parameters and results used in a numerical model or an analytical tool used by the department to develop a basin management action plan for a watershed with similar physical characteristics and pollutants as the watershed in which the proposed water quality enhancement area is to be located.
3. If the department determines that its numerical model or analytical tool used for a basin management action plan is not appropriate for the proposed water quality enhancement area, the applicant must use a standard numerical model or analytical tool for the proposed water quality enhancement area.
4. To assist the department in evaluating and determining enhancement credits, a water quality enhancement area permit application must include the numerical model or analytical tool results used to establish the efficacy of the water quality enhancement area. Supporting information must include, but need not be limited to:
a. Rainfall data over the longest period of record available collected from the closest site to the proposed water quality enhancement area, preferably within the same drainage basin.
b. Anticipated average annual water quality and quantity inflows to the proposed water quality enhancement area, based on published local data collected over a period of record that most closely matches the rainfall data collected under this paragraph.
c. Site-specific conditions affecting the anticipated performance of the proposed water quality enhancement area, including the proposed treatment type and the anticipated associated reduction rates, as demonstrated by the performance of other areas where the treatment type has been established and operating over a minimum of two consecutive wet and dry seasons.
d. Data provided pursuant to sub-subparagraphs a. and b. must be from monitoring stations the department deems sufficient to determine flows and local water quality conditions.
(d) The issuance of a water quality enhancement area permit under this section does not preclude the responsibility of an applicant to obtain other applicable federal, state, and local permits for construction activities associated with the water quality enhancement area.
(5) WATER QUALITY ENHANCEMENT SERVICE AREA.—The department shall establish a water quality enhancement service area for each water quality enhancement area. Enhancement credits may be withdrawn and used only to address adverse impacts in the enhancement service area. The boundaries of the enhancement service area shall depend upon the geographic area in which the water quality enhancement area could reasonably be expected to address adverse impacts. Enhancement service areas may overlap, and enhancement service areas for two or more water quality enhancement areas may be approved for a regional watershed.
(6) MONITORING AND VERIFICATION.—
(a) An applicant for a water quality enhancement area permit must propose a performance and success criteria monitoring and verification plan, with protocols to be

implemented once the water quality enhancement area is operational. The protocols must be appropriate for the water quality enhancement area and sufficient to demonstrate that the area is meeting defined performance or success criteria for the reduction of pollutants or contaminants for which credits are awarded by the department.

(b) If a permittee fails to comply with the conditions of a water quality enhancement area permit, the department must revoke the ability of the permittee to sell enhancement credits until the water quality enhancement area complies with the permit conditions.

(7) ENHANCEMENT CREDITS.—

(a) The department or water management district shall authorize the sale and use of enhancement credits to governmental entities to address adverse water quality impacts of activities regulated under this part or to assist governmental entities seeking to meet required nonpoint source contribution reductions assigned in a basin management action plan or reasonable assurance plan under s. 403.067.

(b) Before approving the use of enhancement credits, the department or water management district must determine that the enhancement credits used by an applicant seeking a permit under this part are appropriate for a specific permit use.

(c) Water quality improvement projects using natural systems or land use modifications, including, but not limited to, constructed wetlands or minor impoundments that reduce pollutants to a receiving water body, may be used by an applicant to generate enhancement credits if approved by the department. Water quality enhancement areas may not be located on lands purchased for conservation pursuant to the Florida Forever Act or the Florida Preservation 2000 Act.

(d) The department shall provide for and maintain a ledger to track the award, release, and use of enhancement credits.

1. A water management district that authorizes applicants seeking permits under this part to use enhancement credits to address water quality impacts must report to the department the amount of enhancement credits used by the applicants.

2. The operator of a water quality enhancement area shall notify the department of the amount of enhancement credits sold or used within 30 days after the date the enhancement credit transaction is completed.

(e) Reductions in pollutant loading required under any state regulatory program are not eligible to be considered as enhancement credits.

(f) Enhancement credits may not be used by point source dischargers to satisfy regulatory requirements other than those necessary to obtain an environmental resource permit for construction and operation of the surface water management system of the site.

(g) Use of enhancement credits made available by water quality enhancement areas is voluntary.

(h) Any landowner, discharger, or other responsible person regulated under this part or s. 403.067 implementing applicable management strategies specified in an adopted basin management action plan or reasonable assurance plan may not be required by any permit or other enforcement action to use enhancement credits to reduce pollutant loads to achieve the pollutant reductions established pursuant to s. 403.067.

(i) A local government may not deny the use of enhancement credits due to the location of the water quality enhancement area outside the jurisdiction of the local government.
(j) Notwithstanding any other law, this section does not limit or restrict the authority of the department to deny the use of enhancement credits when the department is not reasonably assured that the use of the credits will not cause or contribute to a violation of water quality standards, even if the project being implemented by the governmental entity is within the enhancement service area. The department may allow the use of enhancement credits if the department receives a request for the use of enhancement credits and determines that such use will not cause or contribute to a violation of water quality standards.
(8) AUTHORITY.—The authority granted to the department under this section is supplemental to the authority granted under s. 403.067(8).
(9) RULES.—The department shall adopt rules to implement this section. This section may not be implemented until the department adopts such rules.
History.—s. 1, ch. 2022-215.

373.41365 Adoption and modification of rules to ensure financial assurances for long-term management of mitigation under ss. 373.4136 and 373.414.—
The Department of Environmental Protection shall adopt and modify rules adopted pursuant to ss. 373.4136 and 373.414 to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation permitted under ss. 373.4136 and 373.414. The department, in consultation with the water management districts, shall include the rulemaking required by this section in existing active rulemaking, or shall complete rule development by June 30, 2023.
History.—s. 3, ch. 2022-215.

Chapter 376

Pollutant Discharge Prevention and Removal

Enforceable Policies

Any additions are underlined, and any deletions are struck through.

376.011*	Pollutant Discharge Prevention and Control Act; short title.
376.021	Legislative intent with respect to pollution of coastal waters and lands.
376.031	Definitions; ss. 376.011-376.21.
376.041	Pollution of waters and lands of the state prohibited.
376.051	Powers and duties of the Department of Environmental Protection.
376.065	Operation of terminal facility without discharge prevention and response certificate prohibited; penalty.
376.07	Regulatory powers of department; penalties for inadequate booming by terminal facilities.
376.0705	Development of training programs and educational materials.
376.071	Discharge contingency plan for vessels.
376.09	Removal of prohibited discharges.
376.10	Personnel and equipment.
376.11	Florida Coastal Protection Trust Fund.
376.12	Liabilities and defenses of responsible parties; liabilities of third parties; financial security requirements for vessels; liability of cargo owners; notification requirements.
376.121	Liability for damage to natural resources.
376.123	Claims against the Florida Coastal Protection Trust Fund.
376.13	Emergency proclamation; Governor's powers.
376.14	Vessels; financial responsibility; claims against providers of financial responsibility; service of process against responsible parties.
~~376.15~~	~~Derelict vessels; relocation or removal from waters of this state.~~
376.16	Enforcement and penalties.
376.165	"Hold-harmless" agreements prohibited.
376.19	County and municipal ordinances; powers limited.
376.20	Limitation on application.
376.205	Individual cause of action for damages under ss. 376.011-376.21.
376.207	Traps impregnated with pollutants prohibited.
376.21	Construction of ss. 376.011-376.21.
376.25	Gambling vessels; registration; required and prohibited releases.
376.30	Legislative intent with respect to pollution of surface and ground waters.
376.301	Definitions of terms used in ss. 376.30-376.317, 376.70, and 376.75.
376.302	Prohibited acts; penalties.
376.303	Powers and duties of the Department of Environmental Protection.
376.304	Review and analysis of disposal materials or byproducts; disposal at designated local government solid waste disposal facilities.
376.305	Removal of prohibited discharges.

376.81 Brownfield site and brownfield areas contamination cleanup criteria.
376.82 Eligibility criteria and liability protection.
376.83 Violation; penalties.
376.84 Brownfield redevelopment economic incentives.
376.85 Annual report.
376.91** Statewide cleanup of perfluoroalkyl and polyfluoroalkyl substances.

*Sections 376.011, .3073, .3075, .317, and .41, F.S., are not considered enforceable policies for federal consistency purposes.

**Section 376.91, F.S., is not proposed as an enforceable policy for federal consistency purposes.

~~**376.15 Derelict vessels; relocation or removal from waters of this state.—**~~

~~(1) As used in this section, the term:~~

~~(a) "Commission" means the Fish and Wildlife Conservation Commission.~~

~~(b) "Gross negligence" means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct.~~

~~(c) "Willful misconduct" means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner.~~

~~(2)(a) It is unlawful for any person, firm, or corporation to leave any derelict vessel as defined in s. 823.11 upon the waters of this state. For purposes of this paragraph, the term "leave" means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.~~

~~(b) Notwithstanding paragraph (a), a person who owns or operates a vessel that becomes derelict upon the waters of this state solely as a result of a boating accident that is reported to law enforcement in accordance with s. 327.301 or otherwise reported to law enforcement; a hurricane; or another sudden event outside of his or her control may not be charged with a violation if:~~

~~1. The individual documents for law enforcement the specific event that led to the vessel being derelict upon the waters of this state; and~~

~~2. The vessel has been removed from the waters of this state or has been repaired or addressed such that it is no longer derelict upon the waters of this state:~~

~~a. For a vessel that has become derelict as a result of a boating accident or other sudden event outside of his or her control, within 7 days after such accident or event; or~~

~~b. Within 45 days after the hurricane has passed over this state.~~

~~(c) This subsection does not apply to a vessel that was derelict upon the waters of this state before the stated accident or event.~~

~~(3)(a) The commission, an officer of the commission, or a law enforcement agency or officer specified in s. 327.70 may relocate, remove, store, destroy, or dispose of or cause to be relocated, removed, stored, destroyed, or disposed of a derelict vessel as defined in s. 823.11 from waters of this state as defined in s. 327.02. All costs, including costs owed to a third party, incurred by the commission or other law enforcement agency in the relocation, removal, storage, destruction, or disposal of any abandoned or derelict vessel are recoverable against the owner of the vessel or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition. The Department of Legal Affairs shall represent the commission in actions to recover such costs.~~

~~(b) The commission, an officer of the commission, or a law enforcement agency or officer specified in s. 327.70 acting pursuant to this section to relocate, remove, store, destroy, or dispose of or cause to be relocated, removed, stored, destroyed, or disposed of a derelict vessel from waters of this state as defined in s. 327.02 shall be held harmless for all damages to the derelict vessel resulting from such action unless the damage results from gross negligence or willful misconduct as these terms are defined in s. 823.11.~~

~~(c) A contractor performing relocation or removal activities at the direction of the commission, an officer of the commission, a law enforcement agency or officer, or a governmental subdivision, when the governmental subdivision has received authorization for the relocation or removal from a law enforcement officer or agency pursuant to this section, must be licensed in accordance with applicable United States Coast Guard regulations where required; obtain and carry in full force and effect a policy from a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and be properly equipped to perform the services to be provided.~~
~~(d) The commission may establish a program to provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels from the waters of this state as defined in s. 327.02. The program shall be funded from the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund. Notwithstanding s. 216.181(11), funds available for grants may only be authorized by appropriations acts of the Legislature. In a given fiscal year, if all funds appropriated pursuant to this paragraph are not requested by and granted to local governments for the removal, storage, destruction, and disposal of derelict vessels by the end of the third quarter, the Fish and Wildlife Conservation Commission may use the remainder of the funds to remove, store, destroy, and dispose of, or to pay private contractors to remove, store, destroy, and dispose of, derelict vessels.~~
~~(e) The commission shall adopt by rule procedures for submitting a grant application and criteria for allocating available funds. Such criteria shall include, but not be limited to, the following:~~
~~1. The number of derelict vessels within the jurisdiction of the applicant.~~
~~2. The threat posed by such vessels to public health or safety, the environment, navigation, or the aesthetic condition of the general vicinity.~~
~~3. The degree of commitment of the local government to maintain waters free of abandoned and derelict vessels and to seek legal action against those who abandon vessels in the waters of this state as defined in s. 327.02.~~
~~(f) This section constitutes the authority for such removal but is not intended to be in contravention of any applicable federal act.~~
~~History.—s. 15, ch. 70-244; s. 1, ch. 70-439; s. 6, ch. 80-382; s. 7, ch. 85-252; s. 64, ch. 95-143; s. 5, ch. 95-150; s. 257, ch. 99-245; s. 23, ch. 2001-56; s. 7, ch. 2006-309; s. 2, ch. 2014-143; s. 6, ch. 2019-54; s. 26, ch. 2021-184.~~

376.91 Statewide cleanup of perfluoroalkyl and polyfluoroalkyl substances.—

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

(a) "Department" means the Department of Environmental Protection.

(b) "PFAS" means perfluoroalkyl and polyfluoroalkyl substances, including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS).

(2) STATEWIDE CLEANUP TARGET LEVELS.—

(a) If the United States Environmental Protection Agency has not finalized its standards for PFAS in drinking water, groundwater, and soil by January 1, 2025, the department shall adopt by rule statewide cleanup target levels for PFAS in drinking water, groundwater, and soil using criteria set forth in s. 376.30701, with priority given to

PFOA and PFOS. The rules for statewide cleanup target levels may not take effect until ratified by the Legislature.

(b) Until the department's rule for a particular PFAS constituent has been ratified by the Legislature, a governmental entity or private water supplier may not be subject to any administrative or judicial action under this chapter brought by any state or local governmental entity to compel or enjoin site rehabilitation, to require payment for the cost of rehabilitation of environmental contamination, or to require payment of any fines or penalties regarding rehabilitation based on the presence of that particular PFAS constituent.

(c) Until site rehabilitation is completed or rules for statewide cleanup target levels are ratified by the Legislature, any statute of limitations that would bar a state or local governmental entity from pursuing relief in accordance with its existing authority is tolled from June 20, 2022.

(d) This section does not affect the ability or authority to seek any recourse or relief from any person who may have liability with respect to a contaminated site and who did not receive protection under paragraph (b).

History.—ss. 1, 2, ch. 2022-203.

Chapter 377

Energy Resources

Enforceable Policies

Any additions are underlined, and any deletions are struck through.

377.01	Governor to enter into interstate compact to conserve oil and gas.
377.03	Extension of compact.
377.04	Official report of state.
377.06**	Public policy of state concerning natural resources of oil and gas.
377.07	Division of Resource Management; powers, duties, and authority.
377.075	Division of Technical Services; geological functions.
377.10	Certain persons not to be employed by division.
377.18	Common sources of oil and gas.
377.19	Definitions.
377.20	Waste prohibited.
377.21*	Jurisdiction of division.
377.22*	Rules and orders.
377.23	Monthly reports to division.
377.24**	Notice of intention to drill well; permits; abandoned wells and dry holes.
377.2407	Natural gas storage facility permit application to inject gas into and recover gas from a natural gas storage reservoir.
377.2408	Application to conduct geophysical operations.
377.2409	Geophysical activities; confidential information; penalties.
377.241	Criteria for issuance of permits.
377.2411	Lawful right to drill, develop, or explore.
377.242**	Permits for drilling or exploring and extracting through well holes or by other means.
377.2421	Division to review federal applications.
377.2424	Conditions for granting permits for geophysical operations.
377.2425	Manner of providing security for geophysical exploration, drilling, and production.
377.2426	Abandonment of geophysical holes.
377.243	Conditions for granting permits for extraction through well holes.
377.2431	Conditions for granting permits for natural gas storage facilities.
377.2432	Natural gas storage facilities; protection of water supplies.
377.2433	Protection of natural gas storage facilities; remedies.
377.2434*	Property rights to injected natural gas.
377.2435*	Rule adoption relating to natural gas storage.
377.244	Conditions for granting permits for surface exploratory and extraction operations.
377.245	Provision for distribution of earnings to lessees or owners of the fractional undivided mineral rights not owned by applicant for permit under ss. 377.243 and 377.244.

377.804* Renewable Energy and Energy-Efficient Technologies Grants Program.
377.805* Energy efficiency and conservation clearinghouse.
377.808* Florida Green Government Grants Act.
377.809* Energy Economic Zone Pilot Program.
377.810* Natural gas fuel fleet vehicle rebate program.
377.814*** Municipal Solid Waste-to-Energy Program.
377.815* Alternative fueling stations and electric vehicle charging stations.
377.816 Qualified energy conservation bond allocation.

*Sections 377.21, .22, .2434, .2435, .6015, .707, .801, .802, .803, .804, .805, .808, .809, .810, and .815, F.S., are not considered enforceable policies for federal consistency purposes.

**Sections 377.06, .24(9), and .242(1)(a)5, F.S., are not included in the federally approved FCMP.

***Section 377.814, F.S., is not proposed as an enforceable policy for federal consistency purposes.

377.814 Municipal Solid Waste-to-Energy Program.—

(1) CREATION AND PURPOSE OF THE PROGRAM.—The Municipal Solid Waste-to-Energy Program is created within the department. The purpose of the program is to provide financial assistance grants and incentive grants to municipal solid waste-to-energy facilities to incentivize the production and sale of energy from municipal solid waste-to-energy facilities while also reducing the amount of waste that would otherwise be disposed of in a landfill.

(2) DEFINITIONS.—For purposes of this section, the term:

(a) "Department" means the Department of Agriculture and Consumer Services.

(b) "Municipal solid waste-to-energy facility" means a publicly owned facility that uses an enclosed device using controlled combustion to thermally break down solid waste to an ash residue that contains little or no combustible material and that produces electricity, steam, or other energy as a result. The term does not include facilities that primarily burn fuels other than solid waste even if such facilities also burn some solid waste as a fuel supplement. The term 1also does not include facilities that primarily burn vegetative, agricultural, or silvicultural wastes, bagasse, clean dry wood, methane or other landfill gas, wood fuel derived from construction or demolition debris, or waste tires, alone or in combination with fossil fuels.

(3) FINANCIAL ASSISTANCE GRANT PROGRAM.—The department, subject to appropriation, shall provide annual financial assistance grants to municipal solid waste-to-energy facilities that entered into a power purchase agreement with an electric utility before January 1, 2022, which included capacity and energy payments, and the owner of the municipal solid waste-to-energy facility has entered into a new or amended power purchase agreement that either no longer includes capacity payments or includes capacity and energy payments in an amount less than the total of the capacity and energy payments the municipal solid waste-to-energy facility received under the power purchase agreement entered into before January 1, 2022.

(a) To apply for an annual financial assistance grant, the owner of a municipal solid waste-to-energy facility must submit an application to the department. The application must include the name of the applicant's municipal solid waste-to-energy facility, the name of the utility purchasing the electric power from the municipal solid waste-to-energy facility, the total capacity and energy payment the municipal solid waste-to-energy facility received during the last year of the power purchase agreement entered into before January 1, 2022, and the amount of energy delivered to and the total amount paid for such power by an electric utility pursuant to a new or amended power purchase agreement during the preceding state fiscal year.

(b) The department shall distribute funds, subject to appropriation, to each qualifying applicant at a rate of 2 cents per kilowatt-hour of electric power purchased by an electric utility during the preceding state fiscal year, not to exceed the difference between the total capacity and energy payment the municipal solid waste-to-energy facility received during the last year of the power purchase agreement entered into before January 1, 2022, and the total of the capacity and energy payment the municipal solid waste-to-energy facility received under a new or amended power purchase agreement during the preceding state fiscal year. To the extent that funds are not available to provide financial

assistance to each qualifying applicant for every qualifying kilowatt-hour purchased, the department shall prorate the funds on an equitable basis.
(c) The department shall establish a process to verify the amount of electric power purchased from a municipal solid waste-to-energy facility by an electric utility during each preceding state fiscal year. The Public Service Commission shall provide assistance to the department to help verify the information provided pursuant to paragraph (a).
(4) INCENTIVE GRANT PROGRAM.—The department, subject to appropriation, shall provide incentive grants to municipal solid waste-to-energy facilities to assist with the planning and designing for constructing, upgrading, or expanding a municipal solid waste-to-energy facility, including necessary legal or administrative expenses.
(a) To qualify for an incentive grant, the owner of a municipal solid waste-to-energy facility must apply to the department for funding; provide matching funds on a dollar-for-dollar basis; and demonstrate that the project is cost-effective, permittable, and implementable and complies with s. 403.7061.
(b) The Department of Environmental Protection shall provide assistance to the department in determining the eligibility of grant applications and establishing requirements to ensure the long-term and efficient operation and maintenance of facilities constructed or expanded under an incentive grant.
(c) The department shall perform adequate overview of each grant application and grant award, including technical review, regular inspections, disbursement approvals, and auditing, to implement this section.
(d) Funds awarded under the incentive grant program may not be used to promote, establish, or convert a residential collection system that does not provide for the separate collection of residential solid waste from recovered materials as defined in s. 403.703.
(e) The department shall require the termination or repayment of incentive grant funds if the department determines that program requirements are not being met.
(5) FUNDING.—
(a) Funds appropriated for the Municipal Solid Waste-to-Energy Program must first be used for financial assistance grants. Any funds remaining in a state fiscal year after disbursement to all qualifying applicants may be used to fund the incentive grant program.
(b) Funds awarded under the grant programs set forth in this section may not be used to support, subsidize, or enable the sale of electric power generated by a municipal solid waste-to-energy facility to any small electric utility eligible to petition the commission under s. 366.06(4).
(c) Notwithstanding s. 216.301 and pursuant to s. 216.351, funds allocated for the purpose of this section which are not disbursed by June 30 of the fiscal year in which the funds are allocated may be carried forward for up to 5 years after the effective date of the original appropriation.
(6) RULES.—The department shall adopt rules to implement and administer this section, including establishing grant application processes for financial assistance grants and incentive grants. The rules shall include application deadlines and establish the supporting documentation necessary to be provided to the department. In adopting rules relating to the financial assistance grant program, the department shall consult the

Public Service Commission. In adopting rules for the incentive grant program, the department shall consult the Department of Environmental Protection.
History.—s. 1, ch. 2022-199.
1Note.—The word “also” was inserted by the editors to improve clarity.

Chapter 379

Fish and Wildlife Conservation

Enforceable Policies

Any additions are underlined, and any deletions are struck-through.

379.101	Definitions.
379.102	Fish and Wildlife Conservation Commission.
379.1025	Powers, duties, and authority of commission; rules, regulations, and orders.
379.10255	Headquarters of commission.
379.1026*	Site-specific location information for endangered and threatened species; public records exemption.
379.103	Duties of executive director.
379.104	Right to hunt and fish.
379.105	Harassment of hunters, trappers, or fishers.
379.106	Administration of commission grant programs.
379.107*	Residential conservation programs.
379.201	Administrative Trust Fund.
379.203	Dedicated License Trust Fund.
379.204	Federal Grants Trust Fund.
379.205	Florida Panther Research and Management Trust Fund.
379.206*	Grants and Donations Trust Fund.
379.207*	Lifetime Fish and Wildlife Trust Fund.
379.208	Marine Resources Conservation Trust Fund; purposes.
379.209	Nongame Wildlife Trust Fund.
379.211	State Game Trust Fund.
379.212*	Land Acquisition Trust Fund.
379.213*	Save the Manatee Trust Fund.
379.214*	Invasive Plant Control Trust Fund.
379.2201	Deposit of license fees; allocation of federal funds.
379.2202*	Expenditure of funds.
379.2203	Disposition of fines, penalties, and forfeitures.
379.2213	Management area permit revenues.
379.2222	Acquisition of state game lands.
379.2223	Control and management of state game lands.
379.2224	Preserves, refuges, etc., not tax-exempt.
379.2225	Everglades recreational sites; definitions.
379.223*	Citizen support organizations; use of state property; audit.
379.2231*	Additional assessment; Wildlife Alert Reward Association, Inc.
379.224	Memorandum of agreement relating to Fish and Wildlife Research Institute.
379.2251*	Agreements with Federal Government for the preservation of saltwater fisheries; authority of commission.

379.2426 Regulation of shark fins; penalties.
379.2431 Marine animals; regulation.
379.2432 Manatee protection; intent; conduct of studies; initiatives and plans.
379.2433* Enhanced manatee protection study.
379.244 Crustacea, marine animals, fish; regulations; general provisions.
379.245 Spiny lobster reports by dealers during closed season required.
379.246 Tortugas shrimp beds; gifted and loan property.
379.247 Regulation of shrimp fishing; Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties.
379.248 Sponges; regulation.
379.249 Artificial reef program; grants and financial and technical assistance to local governments.
379.2495 Florida Ships-2-Reefs Program; matching grant requirements.
379.25 Sale of unlawfully landed product; jurisdiction.
379.2511 Lease of state-owned water bottoms for growing oysters and clams.
379.2512 Oyster bottom land grants made pursuant to ch. 3293.
379.2521 Rulemaking authority with respect to marine life.
379.2522 Oysters produced in and outside state; labeling; tracing; rules.
379.2523 Aquaculture definitions; marine aquaculture products, producers, and facilities.
379.2525 Noncultured shellfish harvesting.
379.26 Illegal importation or possession of nonindigenous marine plants and animals; rules and regulations.
379.28 Imported fish.
379.29 Contaminating fresh waters.
379.295 Use of explosives and other substances or force prohibited.
379.3001 No net loss of hunting lands.
379.3002 J. W. Corbett and Cecil M. Webb Wildlife Management Areas.
379.3003 Required clothing for persons hunting deer.
379.3004 Voluntary Authorized Hunter Identification Program.
379.3012 Alligator management program implementation; commission authority.
379.3014 Unlawful sale, possession, or transporting of alligators or alligator skins.
379.3015 Prima facie evidence of intent to violate laws protecting alligators.
379.302 Private game preserves and farms; regulations; penalties.
379.303 Classification of wildlife; seizure of captive wildlife.
379.304 Exhibition or sale of wildlife.
379.305 Rules and regulations; penalties.
379.33 Enforcement of commission rules.
379.3311 Police powers of commission and its agents.
379.3312 Powers of arrest by agents of commission.
379.3313 Powers of commission law enforcement officers.
379.332 Prosecutions; state attorney to represent state.
379.333 Arrest by officers of the commission; recognizance; cash bond; citation.
379.334 Search and seizure authorized and limited.
379.335 Issuance of warrant for search of private dwelling.

379.3711 License fee for private game preserves and farms.
379.3712 Private hunting preserve license fees; exception.
379.372 Capturing, keeping, possessing, transporting, or exhibiting venomous reptiles, reptiles of concern, conditional reptiles, or prohibited reptiles; license required.
379.373 License fee; renewal, revocation.
379.374 Bond required, amount.
379.3751 Taking and possession of alligators; trapping licenses; fees.
379.3752 Required tagging of alligators and hides; fees; revenues.
379.3761 Exhibition or sale of wildlife; fees; classifications.
379.3762 Personal possession of wildlife.
379.377 Tag fees for sale of Lake Okeechobee game fish.
379.401 Penalties and violations; civil penalties for noncriminal infractions; criminal penalties; suspension and forfeiture of licenses and permits.
379.4015 Nonnative and captive wildlife penalties.
379.402 Definition; possession of certain licensed traps prohibited; penalties; exceptions; consent.
379.404 Illegal taking and possession of deer and wild turkey; evidence; penalty.
379.4041* Illegal taking, possession, and sale of bears.
379.405 Illegal molestation of or theft from freshwater fishing gear.
379.406 Illegal possession or transportation of freshwater game fish in commercial quantities; penalty.
379.407 Administration; rules, publications, records; penalties; injunctions.
379.408 Forfeiture or denial of licenses and permits.
379.409 Illegal killing, possessing, or capturing of alligators or other crocodilia or eggs; confiscation of equipment.
379.411 Intentional killing or wounding of any species designated as endangered, threatened, or of special concern; penalties.
379.4115 Florida or wild panther; killing prohibited; penalty.
379.412 Penalties for feeding wildlife and freshwater fish.
379.413 Bonefish; penalties.
379.414 Additional penalties for saltwater products dealers violating records requirements.
379.501 Aquatic weeds and plants; prohibitions; violations; penalties; intent.
379.502 Enforcement; procedure; remedies.
379.503 Civil action.
379.504 Civil liability; joint and several liability.

*Sections 379.1026, .107, .206, .207, .212, .213, .214, .2202, .223, .2231, .2251, .2255, .2256, .2273, .2293, .2311, .2433, .359, .362, and .4041 are not considered enforceable polices for federal consistency purposes.

Chapter 379 Fish and Wildlife Conservation

379.101 Definitions.—

In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term:

(1) “Authorization” means a number issued by the Fish and Wildlife Conservation Commission, or its authorized agent, which serves in lieu of a license or permits and affords the privilege purchased for a specified period of time.

(2) “Beaches” and “shores” shall mean the coastal and intracoastal shoreline of this state bordering upon the waters of the Atlantic Ocean, the Gulf of Mexico, the Straits of Florida, and any part thereof, and any other bodies of water under the jurisdiction of the State of Florida, between the mean high-water line and as far seaward as may be necessary to effectively carry out the purposes of this act.

(3) “Closed season” shall be that portion of the year wherein the laws or rules of Florida forbid the taking of particular species of game or varieties of fish.

(4) “Coastal construction” includes any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore processes.

(5) “Commercial harvester” means any person, firm, or corporation that takes, harvests, or attempts to take or harvest saltwater products for sale or with intent to sell; that is operating under or is required to operate under a license or permit or authorization issued pursuant to this chapter; that is using gear that is prohibited for use in the harvest of recreational amounts of any saltwater product being taken or harvested; or that is harvesting any saltwater product in an amount that is at least two times the recreational bag limit for the saltwater product being taken or harvested.

(6) “Commission” shall mean the Fish and Wildlife Conservation Commission.

(7) “Common carrier” shall include any person, firm, or corporation, who undertakes for hire, as a regular business, to transport persons or commodities from place to place offering his or her services to all such as may choose to employ the common carrier and pay his or her charges.

(8) “Coon oysters” are oysters found growing in bunches along the shore between high-water mark and low-water mark.

(9) “Department” shall mean the Department of Environmental Protection.

(10) “Erosion control,” “beach preservation,” and “hurricane protection” shall include any activity, work, program, project, or other thing deemed necessary by the Department of Environmental Protection to effectively preserve, protect, restore, rehabilitate, stabilize, and improve the beaches and shores of this state, as defined above.

(11) “Exhibit” means to present or display upon request.

(12) “Finfish” means any member of the classes Agnatha, Chondrichthyes, or Osteichthyes.

(13) “Fish and game” means all fresh and saltwater fish, shellfish, crustacea, sponges, wild birds, and wild animals.

(14) “Fish management area” means a pond, lake, or other water within a county, or within several counties, designated to improve fishing for public use, and established and specifically circumscribed for authorized management by the commission and the board of county commissioners of the county in which such waters lie, under agreement

between the commission and an owner with approval by the board of county commissioners or under agreement with the board of county commissioners for use of public waters in the county in which such waters lie.
(15) “Fish pond” means a body of water that does not occur naturally and that has been constructed and is maintained primarily for the purpose of fishing.
(16) “Food fish” shall include mullet, trout, redfish, sheepshead, pompano, mackerel, bluefish, red snapper, grouper, black drum, jack crevalle, and all other fish generally used for human consumption.
(17) “Fresh water,” except where otherwise provided by law, means all lakes, rivers, canals, and other waterways of Florida, to such point or points where the fresh and salt waters commingle to such an extent as to become unpalatable and unfit for human consumption because of the saline content, or to such point or points as may be fixed by order of the commission by and with the consent of the board of county commissioners of the county or counties to be affected by such order. The Steinhatchee River shall be considered fresh water from its source to mouth.
(18) “Freshwater fish” means all classes of pisces that are native to fresh water.
(19) “Fur-bearing animals” means muskrat, mink, raccoon, otter, civet cat, skunk, red and gray fox, and opossum.
(20) “Game” means deer, bear, squirrel, rabbits, and, where designated by commission rules, wild hogs, ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves.
(21) “Guide” shall include any person engaged in the business of guiding hunters or hunting parties, fishers or fishing parties, for compensation.
(22) “Marine fish” means any saltwater species of finfish of the classes Agnatha, Chondrichthyes, and Osteichthyes and marine invertebrates of ~~in~~ the classes Gastropoda and~~,~~ Bivalvia, the subphylum ~~and~~ Crustacea, or the phylum Echinodermata; however, the term ~~but~~ does not include nonliving shells or echinoderms.
(23) “Molest,” in connection with any fishing trap or its buoy or buoy line, means to touch, bother, disturb, or interfere or tamper with, in any manner.
(24) A “natural oyster or clam reef” or “bed” or “bar” shall be considered and defined as an area containing not less than 100 square yards of the bottom where oysters or clams are found in a stratum.
(25) “Nongame” means all species and populations of native wild vertebrates and invertebrates in the state that are not defined as game.
(26) “Nonresident alien” shall mean those individuals from other nations who can provide documentation from the Bureau of Citizenship and Immigration Services evidencing permanent residency status in the United States. For the purposes of this chapter, a “nonresident alien” shall be considered a “nonresident.”
(27) “Open season” shall be that portion of the year wherein the laws of Florida for the preservation of fish and game permit the taking of particular species of game or varieties of fish.
(28) “Private hunting preserve” includes any area set aside by a private individual or concern on which artificially propagated game or birds are taken.
(29) “Reef bunch oysters” are oysters found growing on the bars or reefs in the open bay and exposed to the air between high and low tide.
(30) “Resident” or “resident of Florida” means:

(a) For purposes of part VII, a citizen of the United States who has continuously resided in this state for 1 year before applying for a hunting, fishing, or other license. However, for purposes of ss. 379.363, 379.364, 379.3711, 379.3712, 379.372, 379.373, 379.374, 379.3751, 379.3752, 379.3761, and 379.3762, the term means a citizen of the United States who has continuously resided in this state for 6 months before applying for a hunting, fishing, or other license.
(b) For purposes of part VI:
1. A member of the United States Armed Forces who is stationed in the state and his or her family members residing with such member; or
2. A person who has declared Florida as his or her only state of residence as evidenced by a valid Florida driver license or identification card that has both a Florida address and a Florida residency verified by the Department of Highway Safety and Motor Vehicles, or, in the absence thereof, one of the following:
a. A current Florida voter information card;
b. A sworn statement manifesting and evidencing domicile in Florida in accordance with s. 222.17;
c. Proof of a current Florida homestead exemption; or
d. For a child younger than 18 years of age, a student identification card from a Florida school or, if accompanied by his or her parent at the time of purchase, the parent's proof of residency.
(31) "Resident alien" means a person who has continuously resided in this state for at least 1 year and can provide documentation from the Bureau of Citizenship and Immigration Services evidencing permanent residency status in the United States. For the purposes of this chapter, a "resident alien" is considered a "resident."
(32) "Restricted species" means any species of saltwater products which the state by law, or the Fish and Wildlife Conservation Commission by rule, has found it necessary to so designate. The term includes a species of saltwater products designated by the commission as restricted within a geographical area or during a particular time period of each year. Designation as a restricted species does not confer the authority to sell a species pursuant to s. 379.361 if the law or rule prohibits the sale of the species.
(33) "Salt water," except where otherwise provided by law, shall be all of the territorial waters of Florida excluding all lakes, rivers, canals, and other waterways of Florida from such point or points where the fresh and salt waters commingle to such an extent as to become unpalatable because of the saline content, or from such point or points as may be fixed for conservation purposes by the Department of Environmental Protection and the Fish and Wildlife Conservation Commission, with the consent and advice of the board of county commissioners of the county or counties to be affected.
(34) "Saltwater fish" means:
(a) Any saltwater species of finfish of the classes Agnatha, Chondrichthyes, or Osteichthyes and marine invertebrates of the classes Gastropoda and~~,~~ Bivalvia, the subphylum ~~or~~ Crustacea, or the phylum Echinodermata; however, the term ~~but~~ does not include nonliving shells or echinoderms; and
(b) All classes of pisces, shellfish, sponges, and crustaceans native to salt water.
(35) "Saltwater license privileges," except where otherwise provided by law, means any license, endorsement, certificate, or permit issued pursuant to this chapter.

(36) “Saltwater products” means any species of saltwater fish, marine plant, or echinoderm, except shells, and salted, cured, canned, or smoked seafood.
(37) “Shellfish” shall include oysters, clams, and whelks.
(38) “Take” means taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any wildlife or freshwater or saltwater fish, or their nests or eggs, by any means, whether or not such actions result in obtaining possession of such wildlife or freshwater or saltwater fish or their nests or eggs.
(39) “Transport” shall include shipping, transporting, carrying, importing, exporting, receiving or delivering for shipment, transportation or carriage or export.
History.—s. 2, ch. 28145, 1953; s. 1, ch. 63-40; s. 1, ch. 65-140; ss. 25, 35, ch. 69-106; s. 127, ch. 71-377; s. 1, ch. 78-56; s. 76, ch. 79-164; s. 1, ch. 85-234; s. 1, ch. 87-116; s. 4, ch. 88-412; s. 1, ch. 89-270; s. 4, ch. 90-310; s. 4, ch. 93-223; s. 192, ch. 94-356; s. 979, ch. 95-148; s. 1, ch. 96-300; s. 2, ch. 98-203; s. 1, ch. 98-227; s. 94, ch. 99-245; s. 7, ch. 2003-143; s. 34, ch. 2004-5; s. 1, ch. 2006-304; s. 3, ch. 2008-247; s. 8, ch. 2010-185; s. 3, ch. 2013-194; s. 12, ch. 2014-136; s. 9, ch. 2022-142.
Note.—Former s. 370.01.

Chapter 381

Public Health: General provisions

Enforceable Polices

Any additions are underlined, and any deletions are struck-through.

381.001	Public health system.
381.0011	Duties and powers of the Department of Health.
381.0012	Enforcement authority.
381.006	Environmental health.
381.0061	Administrative fines.
381.0065	Onsite sewage treatment and disposal systems; regulation.
381.00651	Periodic evaluation and assessment of onsite sewage treatment and disposal systems.
381.0066	Onsite sewage treatment and disposal systems; fees.
381.0067	Corrective orders; private and certain public water systems and onsite sewage treatment and disposal systems.

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(1) LEGISLATIVE INTENT.—

(a) It is the intent of the Legislature that proper management of onsite sewage treatment and disposal systems is paramount to the health, safety, and welfare of the public.

(b) It is the intent of the Legislature that where a publicly owned or investor-owned sewerage system is not available, the department shall issue permits for the construction, installation, modification, abandonment, or repair of onsite sewage treatment and disposal systems under conditions as described in this section and rules adopted under this section. It is further the intent of the Legislature that the installation and use of onsite sewage treatment and disposal systems not adversely affect the public health or significantly degrade the groundwater or surface water.

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

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

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

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

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

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

(b)1. "Bedroom" means a room that can be used for sleeping and that:

a. For site-built dwellings, has a minimum of 70 square feet of conditioned space;

b. For manufactured homes, is constructed according to the standards of the United States Department of Housing and Urban Development and has a minimum of 50 square feet of floor area;

c. Is located along an exterior wall;

d. Has a closet and a door or an entrance where a door could be reasonably installed; and
e. Has an emergency means of escape and rescue opening to the outside in accordance with the Florida Building Code.
2. A room may not be considered a bedroom if it is used to access another room except a bathroom or closet.
3. “Bedroom” does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.
(c) “Blackwater” means that part of domestic sewage carried off by toilets, urinals, and kitchen drains.
(d) “Department” means the Department of Environmental Protection.
(e) “Domestic sewage” means human body waste and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from appurtenances at a residence or establishment.
(f) “Graywater” means that part of domestic sewage that is not blackwater, including waste from the bath, lavatory, laundry, and sink, except kitchen sink waste.
(g) “Florida Keys” means those islands of the state located within the boundaries of Monroe County.
(h) “Injection well” means an open vertical hole at least 90 feet in depth, cased and grouted to at least 60 feet in depth which is used to dispose of effluent from an onsite sewage treatment and disposal system.
(i) “Innovative system” means an onsite sewage treatment and disposal system that, in whole or in part, employs materials, devices, or techniques that are novel or unique and that have not been successfully field-tested under sound scientific and engineering principles under climatic and soil conditions found in this state.
(j) “Lot” means a parcel or tract of land described by reference to recorded plats or by metes and bounds, or the least fractional part of subdivided lands having limited fixed boundaries or an assigned number, letter, or any other legal description by which it can be identified.
(k) “Mean annual flood line” means the elevation determined by calculating the arithmetic mean of the elevations of the highest yearly flood stage or discharge for the period of record, to include at least the most recent 10-year period. If at least 10 years of data is not available, the mean annual flood line shall be as determined based upon the data available and field verification conducted by a certified professional surveyor and mapper with experience in the determination of flood water elevation lines or, at the option of the applicant, by department personnel. Field verification of the mean annual flood line shall be performed using a combination of those indicators listed in subparagraphs 1.-7. that are present on the site, and that reflect flooding that recurs on an annual basis. In those situations where any one or more of these indicators reflect a rare or aberrant event, such indicator or indicators shall not be utilized in determining the mean annual flood line. The indicators that may be considered are:
1. Water stains on the ground surface, trees, and other fixed objects;
2. Hydric adventitious roots;
3. Drift lines;
4. Rafted debris;

5. Aquatic mosses and liverworts;
6. Moss collars; and
7. Lichen lines.

(l) “Onsite sewage treatment and disposal system” means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

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

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

1. For irrigation systems into which chemicals are not injected, any atmospheric or pressure vacuum breaker or double check valve or any detector check assembly.
2. For irrigation systems into which chemicals such as fertilizers, pesticides, or herbicides are injected, any reduced pressure backflow preventer.

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

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

(q) “Tidally influenced surface water body” means a body of water that is subject to the ebb and flow of the tides and has as its boundary a mean high-water line as defined by s. 177.27(15).
(r) “Toxic or hazardous chemical” means a substance that poses a serious danger to human health or the environment.
(3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.—The department shall:
(a) Adopt rules to administer ss. 381.0065-381.0067, including definitions that are consistent with the definitions in this section, 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, sited, repaired, modified, abandoned, used, operated, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination, including impacts from nutrient pollution, 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 Secretary of Environmental Protection, 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 applicable to and reflect the soil conditions specific to this state. 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 this state and that are principally located in this state.
(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.
(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; 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 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 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, 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. This paragraph does not allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(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. 1The rulemaking process for such rules must be completed by July 1, 2022, and the department shall notify the Division of Law Revision of the date such rules take effect. 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 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 exceedance of a total maximum daily load.

(f) Onsite sewage treatment and disposal systems that are permitted before June 21, 2022, may 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.

(g) 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 Environmental Protection 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.
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 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 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 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 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 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 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 is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) 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 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 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.
(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 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.
(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). 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) 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.

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

(q) 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 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 may 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 before 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 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 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. 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. 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) 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) 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 engineer-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)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.

(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 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) 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.

(5) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—
(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489. As used in this paragraph, the term “premises” does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction.
(b)1. The department may issue citations that may contain an order of correction or an order to pay a fine, or both, for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department, when a violation of these sections or rules is enforceable by an administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action.
2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.
3. The fines imposed by a citation issued by the department may not exceed $500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.
4. The department shall inform the recipient, by written notice pursuant to ss. 120.569 and 120.57, of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must contain a conspicuous statement that if the recipient fails to pay the fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient’s right to contest the citation and must pay an amount up to the maximum fine.
5. The department may reduce or waive the fine imposed by the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person’s attempts at correcting the violation, and the person’s history of previous violations including violations for which enforcement actions were taken under ss. 381.0065-381.0067, part I of chapter 386, part III of chapter 489, or other provisions of law or rule.
6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
7. The department, pursuant to ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, shall deposit any fines it collects in the county health department trust fund for use in providing services specified in those sections.
8. This section provides an alternative means of enforcing ss. 381.0065-381.0067, part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. 381.0065-381.0067, part I of chapter 386, or part III of

chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of enforcement for each violation.
(6) LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective January 1, 2016, the land application of septage from onsite sewage treatment and disposal systems is prohibited.
(7) USE OF ENHANCED NUTRIENT-REDUCING ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS.—To meet the requirements of a total maximum daily load, the department shall implement a fast-track approval process of no longer than 6 months for the determination of the use of American National Standards Institute 245 systems approved by NSF International before July 1, 2020.
(8) PRIVATE PROVIDER INSPECTIONS.—
(a) Notwithstanding any other law, ordinance, or policy, the owner of an onsite sewage treatment and disposal system or a contractor upon the owner's written authorization may hire a private provider to perform an inspection that follows applicable regulatory requirements of the onsite sewage treatment and disposal system.
(b) An inspection of an onsite sewage treatment and disposal system required under this section may not be conducted by the private provider or authorized representative of the private provider that installed the onsite sewage treatment and disposal system.
(c) A private provider or an authorized representative of a private provider may perform onsite sewage treatment and disposal system inspections if they are:
1. An environmental health professional certified under s. 381.0101;
2. A master septic tank contractor registered under part III of chapter 489;
3. A professional engineer licensed under chapter 471 and have passed all parts of the Onsite Sewage Treatment and Disposal System Accelerated Certification Training; or
4. Working under the supervision of a licensed professional engineer and have passed all parts of the Onsite Sewage Treatment and Disposal System Accelerated Certification Training.
(d) An owner or authorized contractor using a private provider for an onsite sewage treatment and disposal system inspection must provide notice to the department at the time of permit application or by 2 p.m. local time, 2 business days before the first scheduled inspection by the department. The notice must include all of the following information:
1. For each private provider or authorized representative performing the inspection:
a. Name and firm name, address, telephone number, and e-mail address.
b. Professional license or certification number.
c. Qualification statement or resume.
2. An acknowledgment from the owner in substantially the following form:
I HAVE ELECTED TO USE ONE OR MORE PRIVATE PROVIDERS TO PERFORM AN ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM INSPECTION THAT IS THE SUBJECT OF THE ENCLOSED PERMIT APPLICATION. I UNDERSTAND THAT THE DEPARTMENT OF ENVIRONMENTAL PROTECTION MAY NOT PERFORM THE REQUIRED ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM INSPECTION TO DETERMINE COMPLIANCE WITH THE APPLICABLE CODES, EXCEPT TO THE EXTENT AUTHORIZED BY LAW. INSTEAD, THE INSPECTION WILL BE PERFORMED BY THE LICENSED OR CERTIFIED PRIVATE

PROVIDER IDENTIFIED IN THE APPLICATION. BY EXECUTING THIS FORM, I ACKNOWLEDGE THAT I HAVE MADE INQUIRY REGARDING THE COMPETENCE OF THE LICENSED OR CERTIFIED PRIVATE PROVIDER AND AM SATISFIED THAT MY INTERESTS ARE ADEQUATELY PROTECTED. I AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE DEPARTMENT FROM ANY CLAIMS ARISING FROM MY USE OF THE LICENSED OR CERTIFIED PRIVATE PROVIDER IDENTIFIED IN THE APPLICATION TO PERFORM THE ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM INSPECTION THAT IS THE SUBJECT OF THE ENCLOSED PERMIT APPLICATION. ADDITIONALLY, I UNDERSTAND THAT IN THE EVENT THE ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM DOES NOT COMPLY WITH APPLICABLE RULES AND LAW, I WILL BE RESPONSIBLE FOR REMEDIATING THE SYSTEM IN ACCORDANCE WITH EXISTING LAW.

If an owner or authorized contractor makes any changes to the listed private provider or the service to be performed by the private provider, the owner or the authorized contractor must update the notice to reflect the change within 1 business day after the change. The change of an authorized representative identified in the permit application does not require a revision of the permit, and the department may not charge a fee for making such change.

(e) The department may audit up to 25 percent of private providers each year to ensure the accurate performance of onsite sewage treatment and disposal system inspections. Work on an onsite sewage treatment and disposal system may proceed after inspection and approval by a private provider if the owner or authorized contractor has given notice of the inspection pursuant to paragraph (d), and, subsequent to such inspection and approval, such work may not be delayed for completion of an inspection audit by the department unless deficiencies are found in the audit.

(f) This subsection does not prevent the department from investigating complaints.

(g) By October 1, 2023, the department shall submit a report to the President of the Senate and the Speaker of the House of Representatives reviewing the use of private providers to perform onsite sewage treatment and disposal system inspections as authorized by this subsection. The report must include, at a minimum, the number of such inspections performed by private providers.

(h) The department shall adopt rules to implement this subsection and must initiate such rulemaking by August 31, 2022.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 75-145; s. 72, ch. 77-147; s. 1, ch. 77-174; ss. 1, 2, ch. 77-308; s. 1, ch. 78-430; s. 1, ch. 79-45; s. 1, ch. 82-10; s. 37, ch. 83-218; ss. 43, 46, ch. 83-310; s. 1, ch. 84-119; s. 4, ch. 85-314; s. 5, ch. 86-220; s. 14, ch. 89-324; s. 26, ch. 91-297; ss. 1, 10, 11, ch. 93-151; s. 40, ch. 94-218; s. 352, ch. 94-356; s. 1033, ch. 95-148; ss. 1, 3, ch. 96-303; s. 116, ch. 96-410; s. 181, ch. 97-101; s. 21, ch. 97-237; s. 7, ch. 98-151; s. 2, ch. 98-420; s. 192, ch. 99-13; ss. 1, 7, ch. 99-395; s. 10, ch. 2000-242; s. 19, ch. 2001-62; s. 1, ch. 2001-234; s. 7, ch. 2004-350; s. 48, ch. 2005-2; s. 4, ch. 2006-68; s. 1, ch. 2008-215; s. 19, ch. 2008-240; s. 35, ch. 2010-205; s. 1, ch. 2010-283; s. 28, ch. 2011-4; s. 3, ch. 2012-13; s. 32, ch. 2012-184; s. 67, ch. 2013-15; s. 1, ch. 2013-79; s. 7, ch. 2013-193; s. 10, ch. 2013-213; ss. 50, 51, ch. 2015-222; ss. 6, 7, 52, ch. 2020-150; s. 1, ch. 2022-105.

1Note.—This language was added by s. 7, ch. 2020-150. The rules became effective June 21, 2022, and the Department of Environmental Protection notified the Division of Law Revision to that effect.
Note.—Former s. 381.272.

Chapter 403

Environmental Control

Enforceable Polices

Any additions are underlined, and any deletions are struck-through.

403.011	Short title.
403.021	Legislative declaration; public policy.
403.031	Definitions.
403.051	Meetings; hearings and procedure.
403.061*	Department; powers and duties.
403.0611	Alternative methods of regulatory permitting; department duties.
403.0615	Water resources restoration and preservation.
403.0616*	Real-time water quality monitoring program.
403.0617*	Innovative nutrient and sediment reduction and conservation pilot project program.
403.062	Pollution control; underground, surface, and coastal waters.
403.0623	Environmental data; quality assurance.
403.0625	Environmental laboratory certification; water quality tests conducted by a certified laboratory.
403.063	Groundwater quality monitoring.
403.064	Reuse of reclaimed water.
403.0643	Applicability of rules when reclaimed water is injected into specified receiving groundwater.
403.0645	Reclaimed water use at state facilities.
403.067	Establishment and implementation of total maximum daily loads.
403.0671*	Basin management action plan wastewater reports.
403.0673*	Wastewater grant program.
403.0675*	Progress reports.
403.072	Pollution Prevention Act.
403.073	Pollution prevention; state goal; agency programs; public education.
403.074	Technical assistance by the department.
403.0741***	Grease waste removal and disposal.
403.075	Legislative findings.
403.0752	Ecosystem management agreements.
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*Sections 403.061(40), .0616, .0617, .0671, .0673, .0675, .076, .078, .08601, .0874, .1832, .414, .50663, .70611, .709, .7095, .7264, .763, .805, .8055, .871, .873, .874, .885, .892, .928, .9301, .9302, and .941, F.S., are not considered enforceable policies for federal consistency purposes.

**Section 403.7125(2) and (3), F.S., are not approved as enforceable polices.

***Sections 403.0741, and .9339, F.S., are not proposed as enforceable polices for federal consistency purposes.

403.0741 Grease waste removal and disposal.—

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

(a) "Disposal facility" means a permitted or certified waste management facility that is authorized to receive grease waste.

(b) "Graywater" means kitchen sink wastewater.

(c) "Grease interceptor or grease trap" means a receptacle through which wastewater containing fats, oils, or grease flows before entering a drainage system and which is designed to trap or intercept the fats, oils, or grease while allowing clear water to escape. The term does not include receptacles designed specifically for collecting used cooking oil or fats and bones.

(d) "Grease waste" means liquid or solid material composed primarily of fatty substances, oils, and grease from animal or vegetable sources which is retained in a grease interceptor or grease trap.

(e) "Hauler" means a person who removes and disposes of grease waste.

(f) "Originator" means a food service establishment that processes, prepares, or serves food or beverages for consumption by the public, including, but not limited to, restaurants, commercial kitchens, cafeterias, hotels, school kitchens, hospitals, prisons, correctional facilities, and care institutions.

(g) "Service manifest" means an electronic or a hard copy recordkeeping system used for the collection and disposal of grease waste pursuant to this section. The service manifest must consist of an originator section, a hauler section, and a disposal facility section and must contain, at a minimum, the following information:

1. The name, address, and telephone number of the originator.
2. The name, address, and telephone number of the hauler.
3. The name, address, and telephone number of the disposal facility.
4. The condition of the originator's grease interceptor or grease trap and verification that the grease interceptor or grease trap was cleaned by the hauler and that graywater was not returned to the grease interceptor or grease trap.
5. The amount of grease waste removed from the originator's grease interceptor or grease trap.
6. The amount of grease waste disposed of at the disposal facility.
7. The billing receipt or ticket number provided to the hauler by the disposal facility.

(2) DISPOSAL OF GREASE WASTE.—

(a) A hauler who removes grease waste from a grease interceptor or grease trap must dispose of the grease waste at a disposal facility.

(b) A hauler may not:

1. Return grease waste or graywater to a grease interceptor or grease trap; or
2. Dispose of grease waste in any location other than a disposal facility.

(3) GREASE WASTE SERVICE MANIFEST.—

(a) A hauler must document the removal and disposal of grease waste with a service manifest.

(b) Upon completion of grease waste removal during the originator's hours of operation, the originator and the hauler must sign the service manifest, verifying that the information contained in the service manifest is accurate. The hauler must provide a

copy of the signed service manifest to the originator. If the grease waste removal occurs when the originator is closed or before or after the originator's hours of operation, the hauler must sign the service manifest, verifying that the information contained in the service manifest is accurate, and leave a signed copy of the service manifest on the premises in a location designated by the originator or make the service manifest available to the originator electronically.

(c) Upon completion of grease waste disposal, the disposal facility operator and the hauler must sign the service manifest, verifying that the information contained in the service manifest is accurate.

(d) The hauler must provide the originator and the county and municipality in which the originator is located with a copy of the completed service manifest showing the signatures of the originator if signed pursuant to paragraph (b), the hauler, and the disposal facility operator within 30 days after the date of the disposal.

(e) A copy of the signed completed service manifest must be retained onsite by the originator and the hauler for 1 year.

(4) COMPLIANCE INSPECTIONS.—

(a) An inspecting entity must verify that an originator has a contract with a hauler for grease waste removal and that grease waste removal and disposal are documented pursuant to this section.

(b) The department shall periodically inspect the service manifests retained by a hauler to ensure compliance with this section.

(5) PENALTIES.—

(a) A hauler who violates this section is subject to the following penalties:

1. For each failure to provide or retain a service manifest, an administrative fine not to exceed $100.

2. For each failure to clean a grease interceptor or grease trap, an administrative fine not to exceed $250. The department shall authorize an inspecting entity to impose this penalty as part of a grease interceptor or grease trap inspection.

3. For an unlawful disposal of grease waste, an administrative fine of at least $2,500.

4. For a second or subsequent unlawful disposal of grease waste, an administrative fine of at least $5,000.

(b) For a violation of subparagraph (a)3., the penalty must include a license suspension of at least 30 days.

(c) For a second or subsequent violation of subparagraph (a)3., the penalty must include a license revocation of at least 12 months.

(6) REGULATION BY LOCAL GOVERNMENTS.—

(a) A local government may:

1. Receive copies of service manifests from haulers.

2. Receive reports of violations.

3. Collect and retain fines for service manifest violations.

4. Impose license actions.

(b) This section does not prohibit a local government from adopting or enforcing an ordinance or a rule to regulate the removal and disposal of grease waste which is stricter or more extensive than this section.

(c) Fiscally constrained counties as described in s. 218.67(1) and small counties as defined in s. 339.2818(2) may opt out of the requirements of this section.

(7) RULES.—The department shall adopt rules to implement this section.
History.—s. 1, ch. 2022-95.

403.73 Trade secrets; confidentiality.—
(1) Records, reports, or information obtained from any person under this part, unless otherwise provided by law, must be available to the public, except upon a showing satisfactory to the department by the person from whom the records, reports, or information is obtained that such records, reports, or information, or a particular part thereof, contains trade secrets as defined in s. 812.081. Such trade secrets are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The person submitting such trade secret information to the department must request that it be kept confidential and must inform the department of the basis for the claim of trade secret. The department shall, subject to notice and opportunity for hearing, determine whether the information, or portions thereof, claimed to be a trade secret is or is not a trade secret. Such trade secrets may be disclosed, however, to authorized representatives of the department or, pursuant to request, to other governmental entities in order for them to properly perform their duties, or when relevant in any proceeding under this part. Authorized representatives and other governmental entities receiving such trade secret information shall retain its confidentiality. Those involved in any proceeding under this part, including an administrative law judge, a hearing officer, or a judge or justice, shall retain the confidentiality of any trade secret information revealed at such proceeding.
(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.
History.—s. 8, ch. 80-302; s. 3, ch. 90-74; s. 5, ch. 95-366; s. 243, ch. 96-406; s. 158, ch. 96-410; s. 8, ch. 2016-6.

403.9339 Golf course best management practices certification.—
(1) To provide a means of documenting and ensuring compliance with best management practices for fertilizer application to golf courses, the turfgrass science program at the University of Florida Institute of Food and Agricultural Sciences, in coordination with the department, shall administer a certification for golf course best management practices.
(2) The turfgrass science program, in cooperation with the department, shall:
(a) Provide training and testing programs in golf course best management practices and may issue certificates demonstrating satisfactory completion of the training.
(b) Approve training and testing programs in golf course best management practices that are equivalent to or more comprehensive than the programs provided by the turfgrass science program under paragraph (a). Such programs must be reviewed and reapproved by the turfgrass science program if significant changes are made.
(3) To obtain a golf course best management practices certification, an applicant must submit to the turfgrass science program a copy of the training certificate issued under subsection (2).
(4) A golf course best management practices certification issued under this section expires 4 years after the date of issuance. Upon expiration of the certification, or after a

grace period of not more than 30 days after the expiration date, a recertification may be issued.
(5) To obtain a golf course best management practices recertification, an applicant must submit to the turfgrass science program proof of having completed 8 classroom hours of continuing education, of which at least 2 hours must address fertilizer best management practices.
(6) A person certified under this section is exempt from:
(a) Additional local training.
(b) Local ordinances relating to water and fertilizer use blackout periods or restrictions, unless a state of emergency is declared. The certified person must continue to coordinate with the local government to ensure that he or she adheres to the comprehensive best management practices for that specific community.
(7) This section does not exempt a person certified under this section from complying with the rules and requirements for basin management action plans set forth in s. 403.067(7) if the golf course is located in an area within a basin management action plan.
(8)(a) The turfgrass science program may provide the certification status of persons certified under this section to local and state governmental entities.
(b) The turfgrass science program is encouraged to create a registry of persons certified under this section on its website.
History.—s. 1, ch. 2022-202.