



FLORIDA DEPARTMENT OF Environmental Protection

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Memorandum

TO: Environmental Health Directors

FROM: Benjamin Melnick
Director, Division of Water Resource Management

SUBJECT: Updates to Permitting and Environmental Health Program Manual 150-4 Chapter K (Onsite Sewage Treatment and Disposal), Effective July 1, 2021

DATE: July 22, 2021

This memorandum provides guidance on changes in permitting procedures and Chapter K of the Environmental Health Program Manual following the July 1, 2021, transfer of the Florida Department of Health's (DOH) Onsite Sewage Program (OSP) to the Florida Department of Environmental Protection (DEP). As stated in the Interagency Agreement for the transfer, DOH's County Health Departments (CHDs) will continue implementing the onsite sewage program under the direction of DEP, and Chapter 64E-6, Florida Administrative Code (F.A.C.), continues to be in effect.

Current direction on permitting is described primarily in DOH's Bureau of Environmental Health Program Manual, Section VI, Chapter K: Onsite Sewage Treatment and Disposal Systems (DOH OSTDS Program Manual) version 2021. References in the DOH Environmental Health (EH) Program Manual to the State Health Office OSP program office are now referring to the DEP OSP program office.

Florida's Clean Waterways Act (Chapter 2020-150, Laws of Florida; formerly 2020's SB 712) mandated rulemaking on system setbacks and revised section 381.0065(4)(f), Florida Statutes (F.S.), and other sections related to setback distances. Setback requirements for OSTDS permits per Chapter 64E-6 F.A.C., will remain unchanged until this rulemaking is completed.

The following are clarifications or changes to Chapter K effective July 1, 2021. These or revised guidance will be included in Chapter K or its successor at the next update:

- a. (B.2.) The 2015 Interagency Agreement between DEP and DOH is being replaced by the 2021 Interagency Agreement.
- b. (C.8) Enforcement responsibilities are outlined in Section IV.F.1 of the Interagency Agreement. Enforcement of Chapter 386, Part I, F.S., violations under the direction of DEP are limited to sanitary nuisances caused by septic systems that are in failure, improperly built or maintained and/or discharging untreated or improperly treated human waste. DOH will continue to prosecute all other types of sanitary nuisance violations that remain within the authority of DOH.
- c. (D.4.) In addition to the procedures for accepting sealed documents by professional engineers and professional land surveyors and mappers already described in this section, DEP policy allows an additional option: CHDs shall accept electronically submitted legible and appropriately scaled scans of documents that have been physically signed, dated and sealed in accordance with Chapter 61G15-23, F.A.C.
- d. (D.6.) The record retention schedule for the onsite sewage program is incorporated by the Florida Department of State (DOS) into DEP's retention schedule without change in the periods of time records will have to be retained. Once DOS has finalized the record retention schedule, OSP will share this information.
- e. (D.7.) Both agencies will follow applicable public records exemptions and DEP's guidance regarding public records disclosure. Until directed otherwise, the DOH CHDs will continue to follow exemption requirements stated within the DOH OSTDS Program Manual.
- f. (E.3.o) The current DOH policy regarding permitting of OSTDS for federal and tribal facilities and lands remains in place contingent DEP review of the policy.
- g. (E.4) For permit applications that fail to meet criteria set by statutes other than section 381.0065, F.S., a Chapter 381, F.S., variance request cannot be submitted using the provisions in section 381.0065, F.S. Denials based on section 373.811, F.S., (Springs Protection) shall use the denial language issued in the permitting guidance from OSP.
- h. (H.1) The 2015 DEP/DOH Interagency Agreement has been replaced with the 2021 Interagency Agreement.
- i. (I.12) The OSP website will move to <https://floridadep.gov/Water/Onsite-Sewage>.
- j. (J.3) Memo 11-006, "Surface Water Boundary Determinations," includes an Attachment II "Sample Agency Jurisdictional Notification Letter" to address wetlands over which OSP has no jurisdiction. This letter has been revised and is included with this memo as Attachment I.

- k. (J.6) The 2021 Interagency Agreement supersedes Memo 12-002, "Guidance for DEP/DOH Interagency Agreement on Industrial Wastewater." The 2021 Interagency Agreement includes the following provisions for Industrial and Manufacturing Areas/Industrial Wastewater in its section IV.H.2.b.ii:
When reviewing a permit application for an OSTDS located in an area zoned or used for an industrial or manufacturing purpose or for potential industrial wastewater generators the CHD shall apply the following procedures:
1. If an available publicly owned or investor-owned sewerage system does not exist, the CHD will evaluate the OSTDS permit application to determine whether the establishment may generate toxic, hazardous, or industrial waste, using the List of Potential Toxic, Hazardous, and Industrial Waste Generators from OSP as a guide. This list is available at:
https://floridadep.gov/sites/default/files/List_toxic_haz_iw_generators_0.pdf.
 2. If the CHD determines that the establishment will not generate toxic, hazardous or industrial wastes, and the OSTDS complies with all other requirements in Chapter 381, F.S., and Chapter 64E-6, F.A.C., the CHD shall permit the OSTDS.
 3. Within five business days of receipt of an OSTDS permit application, if the CHD determines that the establishment may generate toxic, hazardous, or industrial waste then the CHD shall send a copy of the OSTDS permit application to and request a review by the applicable DEP district office's permitting program.
 4. The DEP district office shall respond within 15 business days of receipt of the request to review. The DEP district office shall respond in writing, noting one of the following in the response:
 - a. The establishment does not generate toxic, hazardous or industrial waste and the CHD can permit an OSTDS for the establishment.
 - b. The establishment generates toxic, hazardous or industrial waste and is required to obtain a Chapter 403, F.S., wastewater facility permit. The response shall include whether the CHD can permit an OSTDS for the domestic and commercial sewage waste.
 - c. The establishment generates toxic, hazardous or industrial waste and whether DEP has an objection or no objection to the issuance of a Chapter 381, F.S., variance to allow discharge to and treatment by an OSTDS of this waste. The letter shall provide information of the amount and types of toxic, hazardous, or industrial waste qualifying for a no objection for the use of an OSTDS. If circumstances change for the establishment, a new review is

necessary. The CHDs will include the DEP determination with any variance request.

5. If the DEP district office notifies the CHDs that a likelihood exists that the OSTDS will receive these types of wastes, the CHDs shall deny the permit for not meeting section 381.0065(4)(i), F.S., and notify the applicant that a DEP regulated industrial wastewater treatment facility permit will be required.

ATTACHMENT I

SAMPLE AGENCY JURISDICTIONAL NOTIFICATION LETTER (WETLAND)

Date

Re: OSTDS Permit # _____

Dear Applicant:

The above referenced permit has been issued on property that may contain jurisdictional wetlands that are under the regulatory authority of the Florida Department of Environmental Protection's Environmental Resources Permitting and State 404 Permitting programs and/or the U.S. Army Corps of Engineers dredge and fill program. Additional permits from those programs may be required before the initiating or commencing of construction and installation of the onsite sewage treatment and disposal system (OSTDS). Additional permits may also be necessary from a local permitting agency, such as your county building department or local environmental program. The above referenced permit does not authorize you to either excavate or place fill in jurisdictional wetlands or violate any other state/local agency regulation. If applicable, you must obtain the necessary permit from the appropriate regulatory agency.

By copy of this letter, we are advising the appropriate regulatory agencies and the local building department that we have issued a construction permit for an OSTDS on a site that may be under their regulatory authority.

Further information regarding the Environmental Resource Permitting and State 404 programs can be found here: <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination>.

If you have any questions on this matter, please call our office at _____.

Sincerely,

[NAME]

Environmental Health Director

cc: Florida Department of Environmental Protection, _____ District
Florida Department of Environmental Protection Onsite Sewage Program
U.S. Army Corps of Engineers
_____ Building Department