

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM
DCEH 13-005

DATE: July 10, 2013

TO: County Health Department Directors/Administrators
ATTN: Environmental Health and Engineering Directors

THROUGH: C. Meade Grigg, Deputy Secretary for Statewide Services

FROM: Patti Anderson, MSc, P.E., Chief, Bureau of Environmental Health

SUBJECT: Onsite Sewage Programs – Implementation of 2013 Legislation

This memorandum provides guidance on implementation of changes to subsection 381.0065(4), Florida Statutes, in the onsite sewage program enacted this year.

House Bill 269

House Bill 269 provides additional clarification on review of existing systems for remodeling additions or modifications to a single-family home where a bedroom is not added. The language specifies that “an existing system inspection or evaluation and assessment” is not required in these cases. “The remodeling addition or modification may not cover any part of the existing system or encroach upon a required setback or 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.”

The floor plan must give dimensions, appropriately label all rooms, and show the existing portion and the proposed remodeling addition or modification. The site plan must be to-scale and must show all features required by 64E-6.004(3)(a), F.A.C., on the property and adjacent properties. For this review unobstructed area should be based on the current standard of 1.5 times the drainfield area. Proposed remodeling would include mobile home replacements, pools and accessory buildings. The \$35 existing system application fee applies.

Field visits to verify the information may be conducted, however no inspection fee may be charged. Our recommendation is that field visits only be performed when the information submitted conflicts with the department’s existing system approval records. No tank pumpout and certification may be required.

The review and verification of the floor plan and site plan must be completed within 7 business days after receipt of the plans. The language provides that if floor plan and site plan review and verification is not completed on time, the remodeling addition or modification is considered “approved.” The statutory change does not speak to the form of the department’s approval or disapproval (verbal, letter, email, etc.), how notification should be made, or even if notification is required; only that the department’s review and verification be “completed within 7 business days ...” Because there is no

existing system inspection or evaluation and the department's review does not provide a license under section 120.60, Florida Statutes, the department will not approve the site plans or issue approval letters in these cases. Denials will be handled following existing protocol. A sample letter simply acknowledging the review is enclosed for your use.

House Bill 375

House Bill 375 makes several changes to performance based treatment systems (PBTS) and aerobic treatment unit (ATU) requirements. It deletes language limiting PBTS to single family residences. A variance is no longer required to use a PBTS on commercial, institutional or multi-family establishments.

The language reiterates existing law that owners performing work on systems for their owner-occupied, single-family residence are exempt from contractor licensing. They must still comply with all other requirements for being permitted as a maintenance entity (ME) including receiving training from the manufacturer and a written certification of the training, paying the annual ME service permit fee (\$25), and reporting all maintenance and repair services performed on their system to the Department of Health in the local county. A maintenance agreement is not required if the owner is performing their own maintenance work. The law does not allow the Department to mandate an ATU manufacturer or PBTS designer to provide maintenance training to anyone requesting it. The ATU manufacturer or PBTS designer can decline to provide maintenance training to specific individuals.

The language requires the system owner, not the ME, to apply to the Department and obtain the biennial operating permit. Enclosed is a sample letter to include with the invoices to system owners renewing operating permits after July 1, 2013. If the owner has already paid the ME for the operating permit, you can accept payment from the ME. If an owner states that they have already paid the ME for the permit and the ME refuses to pay for the permit or make a refund to the owner, advise the owner to request a refund in writing and copy your office with documentation of their payment to the ME. If the ME continues to refuse to make a refund, they should be issued a citation citing misconduct causing monetary harm and fined \$500 (64E-6.022(1) (l) 2, FAC). Such actions must be coordinated with your CHD attorney. We will issue a letter to all permitted MEs advising them of the change and their need to refund permit fees to the system owner if they have not already paid for the operating permit. Modifications will be made to EHD to address invoices to owners. Owners and their MEs may still agree by the terms of their contract to have the ME obtain the permit. We have enclosed a sample letter for MEs you may wish to send so they are fully informed and compliant.

Finally, as to ATUs only, House Bill 375 allows the use of equivalent spare parts after the original 2 year warranty period. MEs using equivalent spare parts must report such substitutions to the Department and forward documentation from the part manufacturer or a professional engineer specifically stating the part's equivalency to the original equipment. The ME is required to maintain documentation of the substitute parts equivalency for two years.

Local fees are not impacted by any of these changes and may still be charged.

The changes in House Bill 269 and House Bill 375 are effective July 1, 2013. Other changes in these bills specific to Monroe County will be addressed in a separate memo. If you have any questions on this memorandum please contact the onsite sewage program office in Tallahassee or Orlando.

Enclosures

(Draft letter to residential property owner acknowledging application for an addition or modification to the residence)

<date>

<applicant>
<mail address>
<mail city, state, zip>

RE: Modification to a Single Family Residence – No Bedroom Addition
Application Document No: <AP99999999>
Centrax Permit Numer: <99-xx-99999>
OSTDS Number: <99-9999-9>
<address>
<city, state, zip>

Lot: <lot> Block: <block> Subdivision: <subdivision>

Dear Applicant:

This will acknowledge receipt of a floor plan and site plan on <date> for the use of the existing onsite sewage treatment and disposal system located on the above referenced property.

This office has reviewed and verified the floor plan and site plan you submitted, for the proposed remodeling addition or modification to your single-family home. Based on the information you provided, the Health Department concludes:

1. the proposed remodeling addition or modification is not adding a bedroom; and
2. it does not appear to cover any part of the existing system or encroach on the required setback or unobstructed area.
3. No existing system inspection or evaluation and assessment, or modification, replacement, or upgrade authorization is required.

Because an inspection or evaluation of the existing septic system was not conducted, the Department cannot attest to the existing system's current condition, size, or adequacy to serve the proposed use. You may request a voluntary inspection and assessment of your system from a licensed septic tank contractor or plumber, or a person certified under section 381.0101, Florida Statutes.

If you have any questions, please call our office at <phone>.

Sincerely,

<EH Director>

Dear Maintenance Entity:

The 2013 Legislature made several changes to subsection 381.0065(4), Florida Statutes, in regard to performance-based treatment systems (PBTS) and aerobic treatment unit (ATU) requirements. This legislation becomes law on July 1, 2013. Below is a summary for your information and action.

1. House Bill 375 (HB 375) deleted language limiting PBTS to single family residences. A variance is no longer required to use a PBTS on commercial, institutional or multi-family establishments.
2. HB 375 reiterated existing law that owners performing work on systems for their owner-occupied, single-family residence are exempt from contractor licensing requirements. Property owners, who are approved as maintenance entities (ME) to service and maintain the system at their owner-occupied single-family home, must still comply with all other requirements for being permitted as a ME including receiving training from the ATU manufacturer or PBTS designer, paying the annual service permit fee (\$25), and reporting all service performed to the local Department of Health in accordance with established reporting requirements.
3. New language requires your maintenance service agreements to **“conspicuously disclose that the property owner has the right to maintain his or her system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.”**
4. A new provision requires the owner, not the ME, to obtain the biennial operating permit. If the owner has already paid you for the operating permit, the owner may request you to make payment to the department for the permit or refund their money, so the owner may pay the fee. Failure to pay for the permit or refund the fees to the owner may result in disciplinary action against your contractor license, in accordance with Rule 64E-6.022, Florida Administrative Code. The department will issue invoices to owners for operating permits requiring renewal after June 30, 2013. You and the owner may agree within your contract terms to have you obtain the permit.
5. Finally, HB 375 allows the use of equivalent spare parts for ATU (only) repairs and maintenance, after the original unit warranty period expires. You are required to maintain documentation of the substitute parts equivalency for two years. Documentation is a letter from the spare parts manufacturer or a licensed professional engineer stating the part is equivalent to the original part and providing specifications. You must report use of spare parts and provide the required documentation in your maintenance reports to the department upon request.

If you have any questions about this letter please contact your local County Health Department of the Florida Department of Health (DOH) or the DOH Onsite Sewage Treatment and Disposal Systems program office in Tallahassee at (850) 245-4070.

(Draft letter to system owner)

Dear Homeowner:

The 2013 Florida Legislature made several changes to subsection 381.0065(4), Florida Statutes, in regard to sewage treatment performance-based treatment systems (PBTS) and aerobic treatment unit (ATU) requirements. This legislation becomes law on July 1, 2013.

According to our records you have one of these onsite sewage systems on your property. Below is a summary for your information and action.

1. House Bill 375 reiterated existing law that exempts property owners from obtaining a septic tank contractor's registration, while permitting them to work on the onsite sewage treatment and disposal system serving their owner-occupied, single-family home. If you decide to maintain your own system and not use a septic-service contractor known as a Maintenance Entity (ME), you must obtain a Maintenance Entity Service permit from the department. You will be required to receive maintenance training from the ATU manufacturer or PBTS designer and obtain training certification in writing, pay the annual service permit fee (\$25), and report all service performed on the system to the County Health Department in your county. Requests for training should be made to your system manufacturer or their local representative. Please note: the law does not allow the department to mandate that a manufacturer provide training to anyone requesting it, and the manufacturer may decline your request. Once you have received training you may make application to the local County Health Department to be "permitted" as the ME for your system. The application for maintenance service permit (DH 4066) form is available online at www.MyFloridaEH.com under the "Sewage" tab.

2. New language requires you, as the property owner, to obtain the biennial Operating Permit for your home's system. This provision applies whether you serve as your own ME or use a contracted ME. If you have already paid your ME for the permit renewal, you can request the ME to pay for the permit this time, or request a refund from the ME in writing. If the ME refuses to pay for the permit or make a refund, please provide the local County Health Department with a copy of your refund request and documentation of your payment to the ME. The Department can take disciplinary action against the contractor's license, but this does not relieve you of your obligation to make payment and obtain the onsite sewage system's operating permit. You and your ME may still opt to have the ME obtain the operating permit on your behalf, according to your agreement.

3. Finally, the new law allows the use of equivalent spare parts for ATUs only, after the original warranty period. The ME is required to maintain documentation of the substitute parts equivalency for two years. Documentation is a letter from the spare part manufacturer or a licensed professional engineer stating the part is equivalent to the original part and providing specifications. The use of spare parts must be reported to the department, upon request, with the required documentation by the ME or, if the owner is the ME, by the owner.

If you have any questions, please contact the Florida Department of Health in XXXX County at (xxx) xxx-xxxx.