Onsite Wastewater Concepts, Materials, Regulations & The Application Process
Part I

C – State Regulations

Objective

To give a clear understanding of the regulations governing the onsite sewage treatment and disposal program in Florida. In addition, to give an overview of certain regulations, policies and agreements with other State agencies.
State Regulations

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381.0065, Florida Statutes

- **Foundation**
- Law enacted by State Legislature
- Tells us what to do or regulate
- We can only do what is authorized by the Law
Part III, 489, Florida Statutes

- Septic Tank Contracting

Chapter 64E-6, Florida Administrative Code

- Technical requirements
- Standards
- Authorized by Law to write rule
120.60, Florida Statutes

- Administrative Procedures Act
- Licensing
- 30 days to review application
- 90 days to approve/deny after receiving complete application

EH Manual 150-4

- Environmental Health Program Manual, Chapter K – Onsite Sewage Disposal
- Procedures for department Not an interpretation of the Law or rule or not a substitute for rules or agency interpretations of the law
Policies and Interpretations

- Explanations and clarifications of the Laws and Rules
- Interpretations only given by the Bureau
- Interoffice Memo’s
- From the Mound Top
- Email or letter correspondence

Suwannee/Aucilla Rivers

381.0065(4)(t), FS

- Floodways of Suwannee/Aucilla River
- Drainfield shall not be subject to flooding
- Based on 10 yr. flood elevation
  - Exceptions: if subdivided prior to 1/17/1990 (all must be met)
  - Lot minimum ½ acre
  - Bottom of DF at least 36” above 2-yr flood elevation
  - Installation of either: a waterless, incinerating, or composting toilet/gray-water system, ATU and DF or N reducing system approved by State Health Office
- Fill and mounding – not permitted if in regulatory floodway of the Suwannee or Aucilla River
Roof Run-off

- Mostly known as “guttering”
- Guttering shall not be required if system is not within 5 feet from the drip line of a residence (tank not included)
- The intent is to protect the drainfield, shoulders and slopes from the drainage impact of buildings
- Downspouts shall be directed away from drainfield
- § 381.0065(4)(s)

“In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering shall 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”. Section 381.0065(4)(s), Florida Statutes

Rights to Hearings

- Provide “Notice of Rights” with construction permit
- Substantial interest is affected
- Right to Petition for Administrative Hearing pursuant to 120.569 and 120.57
- Send to Agency Clerk in Tallahassee
- Mediation is not available
- See Handout “Notice of Rights”

NOTICE OF RIGHTS

A party whose substantial interest is affected by this order may petition for an administrative hearing pursuant to sections 120.569 and 120.57, Florida Statutes. Such proceedings are governed by Rule 26-100, Florida Administrative Code. A petition for administrative hearing must be in writing and must be received by the Agency Clerk for the Department, within twenty-one (21) days from the receipt of this order. The address of the Agency Clerk is 400 North Orange Ave., Room 140, Tallahassee, Florida 32301-1701. The Agency Clerk’s facsimile number is (850) 413-1446.

Reduction is not available as an alternative remedy. Your failure to submit a petition for hearing within 21 days from receipt of this order will constitute a waiver of your right to an administrative hearing, and this order shall become a final order.

Should this order become a final order, a party who is adversely affected by it is entitled to judicial review pursuant to Section 120.88, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings may be commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Department of Health and a second copy, accompanied by the filing fee required by law, with the Court of Appeal in the appropriate District Court. The notice must be filed within 30 days of rendition of the final order.

Variance Review and Advisory Committee

- Application of Construction Permit is denied when provisions of 64E-6, F.A.C. and Section 381.0065, FS can not be met.
- Right to Apply for a Variance
- Granted for Hardship Cases (not caused by applicant)
- Variance Application Submitted to CHD and reviewed (Form DH4057)
- Variance sent to SHO to Review and Schedule for Meeting
- Schedule for Variance Meeting (monthly)
- Variance Review and Advisory Committee
- Variance Approved, Denied or Tabled
- Construction Permit Issued based on Variance
- 381.0065(4)(h), FS
- See Handout for “Variances”
Denial Letter

March 18, 2013

Monica Gomez, agent for
Monica Gomez
Melbourne, FL 32901

To: Monica Gomez

RE: Application Denial and Notice of Right to Administrative Proceedings.

Application Case No. 05-01356-04

This notice is to inform you that your application for a permit to construct and operate an existing septic system located on the above referenced property has been denied.

You have the right to appeal this decision to the Florida Department of Health in Hillsborough County, or to file a petition for a rehearing with the Florida Administrative Appeals Commission.

Notice on back of Denial Letter

Notice to Potential Variance Applicants

If you have any questions on this matter, please call our office at 813-445-2302, extension 52512.

Sincerely,

[Signature]

Environmental Specialist III

Variance Response Letter

DOH Jurisdictional Authority

- Where sewer is not available, the department shall issue permits for OSTDS
- OSTDS shall not adversely affect the public health or significantly degrade groundwater or surface water
- Issue permits for domestic flows of 10,000 gpd or less or commercial at 5,000 gpd or less
- Develop comprehensive program to ensure proper regulation and maintenance to prevent groundwater contamination and surface water contamination and to preserve the public health
- Final rule interpretative authority is with the Onsite Sewage Program Office
Sewer Availability

- (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:

381.0065(2), Florida Statutes

Sewer Availability

- 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.

381.0065(2), Florida Statutes
Sewer Availability

For a single family residence with flow < 1000 gpd, sewer would be considered “available” if a gravity or low pressure line exists in the shaded area.

- Flow < 1000 gpd.  There is no limit to the width of the easement abutting the property - if the sewer line is in shaded area - even if that area is 100 feet wide and sewer is on the far edge - it’s available.
- Variance provisions do not apply to sewer availability
- But the utility can waive connection.

381.0065(2)1. FS

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64E-6, F.A.C.

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Interagency Agreement
Between DEP and DOH

FOR
ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS

September 10, 2001

An agreement between the two agencies that outlines how the agencies interact together on issues regarding jurisdictional flow limits, industrial/manufacturing zones and equivalents, septage treatment facilities, variances and more.


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Interagency Coordination Regarding Regulated Establishments

- Ensure coordination between agencies
- DOH, DACS, DBPR, APD, ACHA, DCF
- Licensing agency conducts inspections
- For new facility, remodeling upgrade, change in business operation
- Food Establishments, Group Care, Institutions
- Memo 12-004

DOH Responsibilities

Prior to licensing DOH regulated Food Service/Institutional/and Group Care Facilities that depends on a water supply system regulated by Chapter 64E-8, F.A.C. and/or an onsite sewage disposal system regulated by Chapter 64E-6, F.A.C., DOH staff will verify requisite approvals from their office for the following:

1. New facilities.
2. Existing facilities increasing the number of beds/residents/seating, food preparation area, etc.
3. Existing facilities undergoing extensive remodeling that may impact the septic system.
4. For a change in ownership, a commercial sewage waste operating permit may be required. See section below.

Note: DOH should ensure that a routing procedure is in place so the staff responsible for the facility inspections are coordinating with the onsite sewage and onsite well sections of the county health department.
DBPR Responsibilities

Prior to licensing an establishment that depends on a water supply system regulated by Chapter 64E-8, F.A.C. and/or onsite sewage disposal system regulated by Chapter 64E-6, F.A.C., approval is required from the CHD for the following:

- New public food service establishments requiring plan review.
- Existing public food service establishments requiring plan review due to remodeling or conversion.
- Existing public food service establishments with onsite water systems and/or septic tank systems that do not require plan review but request an increase in seating.
- Existing public food service establishments with onsite water systems and/or septic tank systems that do not require plan review but undergo significant change in operations (e.g., switch from single-service to multiuse tableware).
Operating Permits

- Not To Be Confused With Construction Permit
- Allows Business or System to Operate
- Facilities and Service Companies
- Issued On An Annual/Biannual Basis
- Inspections – CHD/Maintenance Entity
- Managed System

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Questions?