



Rick Scott
Governor

Steven L. Harris, M.D., M.Sc.
Interim State Surgeon General

INTEROFFICE MEMORANDUM

ACTION
HSES 12-006

DATE: April 30, 2012
TO: County Health Department Directors/Administrators
ATTN: Environmental Health and Engineering Directors
THROUGH: Sterling Whisenhunt *Whisenhunt*
Assistant Deputy Secretary for Health
FROM: Patti Anderson, P.E., Interim Director *Patti Anderson*
Division of Environmental Health
SUBJECT: Implementing HB 1263 Onsite Sewage Program Provisions

ACTION
REQUIRED: Review and Implement DUE DATE: May 15, 2012

In addition to the deletion of the statewide OSTDS evaluation program and creation of a local level evaluation program, HB 1263 has a number of changes that will impact the onsite sewage program.

The bill provides a definition of bedroom. While this bedroom definition has some elements of the guidance already given on defining bedrooms, it does include some additional restrictions. CHDs should accept the applicant's submission as labeled in regard to bedrooms. For example, under the law a room labeled as a "den" cannot be considered a bedroom even if it meets all the bedroom standards. Single family residences will still be sized based on building area and the number of bedrooms (as labeled by the applicant). Remarks on the permit should include a statement that "The system is sized for xx of bedrooms with a maximum occupancy of xx of persons (2 per bedroom), for a total estimated sewage flow of xx."

The bill provides for the transfer of construction permit and prohibits any governmental entity from mandating a system evaluation inspection at the time of home sale. We are unaware of any restriction on the transfer of construction permits. Once issued, the permit is valid for 18 months for use under the terms and conditions under which it was issued. A new property owner is not required to obtain a new permit unless there is a change to the permit conditions. Home sale inspections, if requested, would still be done in accordance with the "Procedure for Voluntary Inspection and Assessment of Existing System, May 2000", incorporated in the rule.



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The bill states that a government entity may not require a performance based treatment system (PBTS). This does not prohibit the applicant from requesting and receiving a permit for a PBTS. The bill provides an exemption for the Variance Board requiring a PBTS as a variance proviso. Nutrient reducing PBTS are still required in the Florida Keys under other specific statutory requirements. The prohibition does not apply to any local ordinance adopted on or before January 31, 2012.

The bill establishes that an OSTDS is not considered abandoned if the system is disconnected from a structure made unusable or destroyed by a disaster. The system must have been properly functioning at the time of disconnection and not adversely affected by the disaster. To reconnect the system an existing system evaluation is required. The reconnection shall be approved if:

1. The reconnection is to the same type of structure with the same or fewer bedrooms and the square footage is not more than 110 percent of the original.
2. The system is not a sanitary nuisance.
3. The system has not been altered without approval.

The abandonment procedures in 64E-6.011 are still valid. The new law will eliminate some abandonments but you will still permit abandonments where sewer connections are being made or other situations where the system is being taken out of service. You should not allow a health and safety issue to exist. For example, broken lids on septic tanks must be replaced if a system is to remain in place when the structure is damaged or destroyed.

The bill provides that if a system **receives construction approval** and the permit expires before final approval is given and the conditions that formed the basis for the issuance of the permit have not changed, the rules applicable at the time of construction approval apply at the time of final approval. This provision is only valid for five years from the date of construction approval. The applicant is required to provide a written statement that fundamental site conditions on which the permit was based have not changed. A new site evaluation is not required. In EHD take the following steps:

1. Print the existing permit. This generates the creation of a pdf file in the system.
2. Edit the issue and expiration dates on the permit. Again, print the permit to generate a pdf.
3. Charge the permit fee and research or training surcharge and, if required, inspection fees.

If conditions have changed a new application, site evaluation and permit are required.

The bill provides that "a modification, replacement, or upgrade of an onsite sewage disposal and treatment system is not required for a remodeling addition to a single-family home [only] if a bedroom is not added." In determining whether additional drainfield is required in such cases you may only consider the addition of bedrooms as requiring additional drainfield. You are still required to do an existing system evaluation and determine if the remodeling project is in compliance with all provisions of the statute and rule. A new flow chart is attached. Work is underway to modify the decision tree in EHD. For example:

1. The addition may not impact the required unobstructed area (1.5x) or create any setback violations.
2. The lot must have sufficient authorized flow for the addition. You still determine the estimated flow based on square footage or bedrooms, whichever is greater. Where the estimated flow exceeds authorized flow, the permit must be denied.

If bedrooms are not being added, then only in the event of a failure can you require any repair of the system. In such cases, the permit would be handled under repair standards based on the original structure square footage or bedrooms for sizing the system.

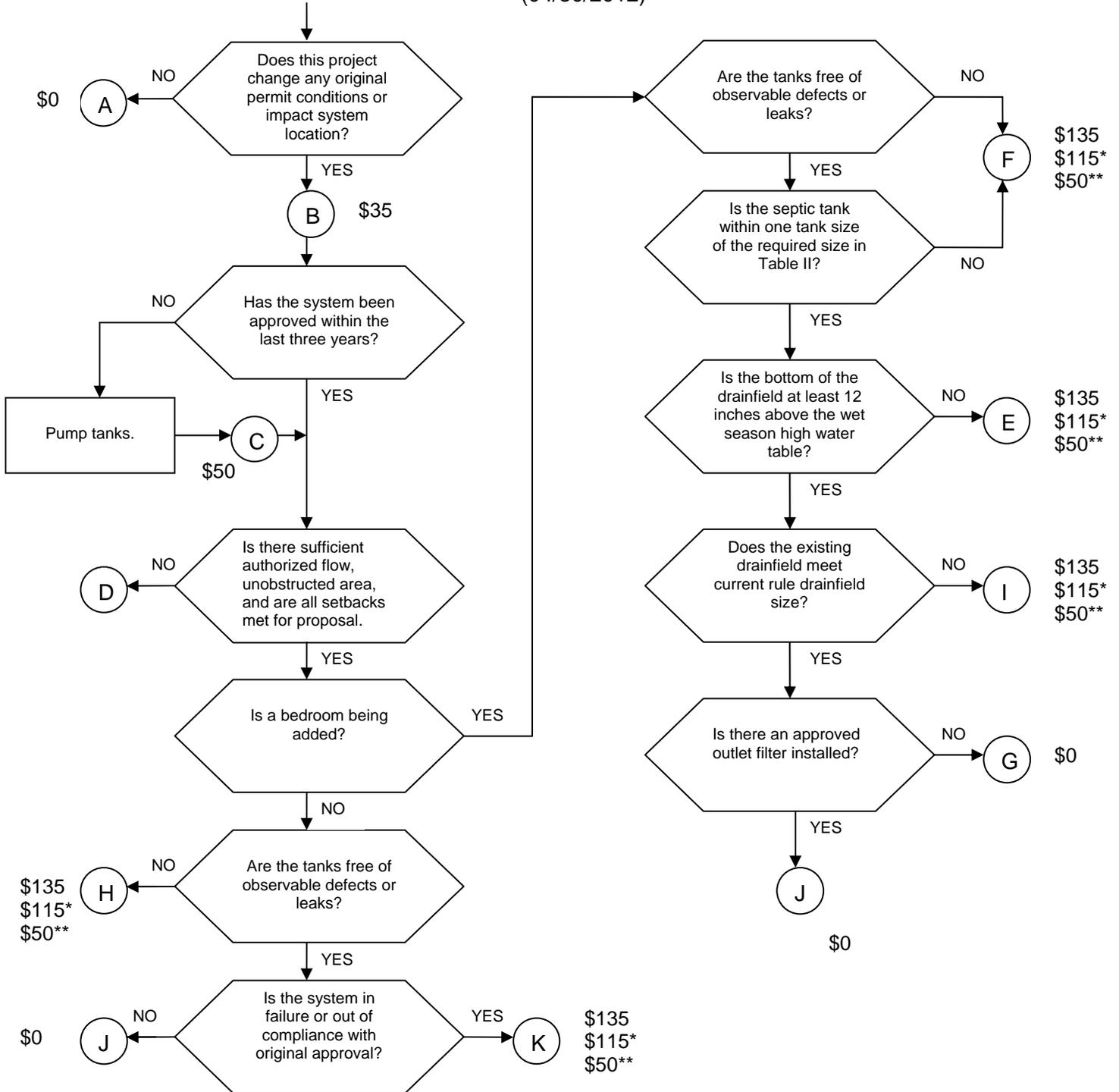
In regard to the current rule requirements for modifications of single family residences, if no bedroom is being added:

1. Tanks must be structurally sound. Size is not an issue. No outlet filter can be required unless the system was originally permitted with one and it is damaged or missing.
2. Drainfield size is not an issue nor is separation from the wet season water table.
3. If the tank is not structurally sound and must be replaced then it would be handled as a repair and repair standards, including minimum separation from the wet season water table, would apply.

Based on these changes some applicants may request that their approval / permit be amended. CHDs should evaluate these on a case-by-case basis and modify approvals or permits accordingly. In some cases construction or final inspections may not be required and fees should be refunded accordingly. Fees cannot be refunded for work already performed.

Please distribute this memorandum to your local contractors, certified private site evaluators and engineers. Contact your Bureau consultant in Tallahassee or Orlando with any questions or issues.

EXISTING RESIDENTIAL SYSTEM APPROVAL DECISION TREE
(04/30/2012)



- A - No action required, no fee.
 - B - Application fee, site plan and floor plan required. [64E-6.030(1)(b)]
 - C - Application and existing system evaluation. [64E-6.030(1)(c) – if CHD does field work]
 - D - Issue Denial w/ variance/hearing rights. Address any tank and drainfield issues in the denial.
 - E - Bring drainfield into full compliance with new system drainfield standards – new permit fees. [64E-6.030(1)(e*, g, h, i, j**)]
 - F - Bring system into full compliance with current rule – new permits fees. [64E-6.030(1)(e*, g, h, i, j**)]
 - G - Require outlet filter installation and certification – no additional fee.
 - H - Require correction action - repair permit and fees [64E-6.030(1)(e*, g, h, i, j**)] or enforcement.
 - I - Increase drainfield to current rule requirements; maintain current separation (12" min) – modification fees. [64E-6.030(1)(e*, g, h, i, j**)]
 - J - Issue approval – no additional fee.
 - K - Require corrective action, this may be a repair, a modification, or a new permit depending on facts and circumstances. [64E-6.030(1)(e**, g, h, i, j**)]
- * Current site evaluation required. ** Reinspection Fee when applicable