2021 Handbook of Florida Water Regulation: Onsite Sewage Treatment and Disposal Systems[1]

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Preface

This handbook is designed to provide an accurate, current, and authoritative summary of the principal federal and state (Florida) laws that directly or indirectly relate to agriculture. This handbook provides a basic overview of the many rights and responsibilities that farmers and farmland owners have under both federal and state laws as well as the appropriate contact information to obtain more detailed information. However, the reader should be aware that because the laws, administrative rulings, and court decisions on which this handbook is based are subject to constant revision, portions of this publication could become outdated at any time. Several details of cited laws are also left out due to space limitations. This handbook is provided as an educational text for those interested in water use and water resource issues in Florida.

This handbook is distributed with the understanding that the authors are not engaged in rendering legal or other professional advice, and the information contained herein should not be regarded as a substitute for professional advice. This handbook is not all inclusive in providing information to achieve compliance with the federal and state laws and regulations governing water protection. For these reasons, the use of these materials by any person constitutes an agreement to hold harmless the authors, the UF/IFAS Center for Agricultural and Natural Resource Law, and UF/IFAS Extension for any liability claims, damages, or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this handbook. Note: UF/IFAS is the acronym for University of Florida, Institute of Food and Agricultural Sciences.

OSTDS Overview

The Florida Statutes contain a set of broad guidelines regulating onsite sewage treatment and disposal systems (OSTDS). In 2020, the Florida Legislature passed the Clean Waterways Act, which regulates OSTDS. Generally, OSTDS implies septic tanks and drain fields.

Who regulates OSTDS?

While the Florida Department of Health (FDOH) was he primary authority for specific statewide regulations controlling the installation and use of OSTDS systems, the OSTDS program will transfer from FDOH to the Florida Department of Environmental Protection (FDEP) as a Type Two transfer as defined in section 20.06(2), Florida Statutes (http://www.floridahealth.gov/environmental-health/onsite-sewage/ostds-transfer-to-dep.html).

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Which federal and state regulations apply?

The installation and use of OSTDS falls under the permit authority of FDEP and the United States Environmental Protection Agency (EPA), based on the federal Clean Water Act and Safe Drinking Water Act. This is the case especially when an OSTDS or an OSTDS drain field is installed in a wetland, or when the failure (leaking) of an OSTDS would threaten the quality of groundwater and/or surface water with contamination and make public well water unsafe for human consumption.

EPA can regulate an OSTDS under the Safe Drinking Water Act as a Class V (Five) well (which is defined and regulated by Section 144 of the Code of Federal Regulation). EPA requires a well to meet Underground Injection Control Program requirements if either one of the following conditions is met:

1. The OSTDS, regardless of size, receives any amount of industrial or commercial wastewater

2. The OSTDS receives solely sanitary waste from multiple family residences or a nonresidential establishment and has the capacity to serve 20 or more persons per day (also known as a large-capacity OSTDS)

If either condition is met, the owners or operators of the OSTDS must meet state requirements and federal requirements for Class V wells. The federal requirements are as follows:

1. Obey the non-endangerment performance standard that is set to protect drinking water quality. The non-endangerment performance standard prohibits any injection that allows the movement of fluids containing any contaminant into underground sources of drinking water if the presence of the contaminant(s) may cause a violation of any primary drinking water regulation or adversely affect public health.

2. Provide inventory information to the state or EPA regional Underground Injection Control Program. The inventory information includes facility name and location, legal contact name and address, ownership information, nature and type of injection wells, and operating status of the injection wells.

On the state level, the waste disposal rules of the FDEP applies in the following situations:

- The estimated volume of domestic sewage to be processed exceeds 10,000 gallons per day (domestic sewage includes wastes from homes, boats, and portable toilets)
- The estimated volume of commercial sewage to be processed exceeds 5,000 gallons per day (commercial sewage includes waste from restaurants, animal grooming facilities, and beauty salons)
- The water contains or will contain industrial or hazardous waste

If the system falls into one of these categories, FDEP will likely require a separate permit and impose further restrictions on the system. In addition to the statewide rules, local governments may have more stringent rules and requirements for permitting and regulating the disposal system. For more information on permitting, see https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting.

Where must the OSTDS be placed?

Under Florida law, the location of the OSTDS must be at least

- 75 feet from private potable wells
- 50 feet away from any non-potable wells
- 10 feet away from any storm sewer pipe
- 5 feet away from any buildings or property lines
- 75 feet away from any surface water bodies

Additionally, Florida law requires that

- if an on-site sewage system processes more than 2,000 gallons per day, then it must be at least 200 feet away from any public drinking well
- if an on-site sewage system processes less than 2,000 gallons per day, then it must be at least 100 feet away from any public drinking well

How should the OSTDS be maintained?

The owner of the property is responsible for maintenance and upkeep of the system. It is important to note that the OSTDS must be operated under the terms of the rule and construction permit under which it was approved. The owner may not make any changes to the structure/system or increase sewage flow without approval from the local health department. Under FDOH rules, the owner should have the level of the tank checked a minimum of once every three years by a licensed septic tank contractor. A licensed contractor should also perform any necessary maintenance to the system. If garbage grinders or commercial sewage

are being discharged into a tank, the owner needs to have the system inspected by a licensed septic tank contractor or plumber once a year. Both the statute and the rules prohibit the use of organic chemical solvents, toxic or hazardous chemicals, or petroleum products to degrease or de-clog the system. A licensed contractor must be issued an annual service permit prior to the removal of septage from any OSTDS.

What are the procedures for OSTDS abandonment?

In order to abandon an OSTDS, a property owner must obtain a system abandonment permit and pay a fee. The following steps must be followed:

1. The septic tank should be pumped out.

2. The bottom should be opened or ruptured to prevent water retention.

3. The tank should be filled with clean sand or other suitable material and completely covered with soil.

4. An inspection of the system abandonment shall be conducted by FDOH or by the local utility or plumbing authority performing the system abandonment.

What permits are required for OSTDS construction?

FDOH requires a construction permit for the installation, operation, repair, alteration, modification, replacement, or abandonment of allOSTDS. Prior to the issuance of any permit, a property owner is required to fill out an application and have FDOH, Florida licensed professional engineers, or other authorized persons conduct a site investigation. FDOH also requires an inspection of the entire septic system before burial.

FDOH attempts to perform all inspections within one working day after being notified that the tank installation is complete. FDOH will collect a fee for the permit, the inspections, and any other necessary services FDOH performed.

It is essential to note that local governments may have separate requirements, including separate permits (e.g., plumbing permits), that may be more stringent than state law or rule. In many cases, the issuance of these permits will be contingent on the applicant having already obtained an FDOH permit.

For more information on how to apply for a construction permit, see http://www.floridahealth.gov/Environmental-Health/onsite-sewage/index.html\

What alternative systems can be used and when?

When approved by FDOH and the county health department, alternative systems may, at the discretion of the applicant, be used in circumstances where standard subsurface systems are unsuitable or where alternative systems are more feasible. The rules give the individual county health departments as part of FDOH the authority to approve alternative onsite sewage systems such as mounds, gravity sewers, low pressure pipe, and other systems so long as the county feels there will be no adverse effects. However, any approvals of alternative systems must comply with applicable rules and laws. FDOH or the county health department may require the submission of plans prepared by an engineer registered in the state of Florida prior to considering the use of any alternative system. FDOH retains authority to approve the use of temporary measures such as portable toilets as well. FDOH rules also create a Variance Review and Advisory Committee to hear requests for variances. The committee may advise FDOH to grant a variance when it deems strict compliance with the laws and rules governing the OSTDS cannot be met. However, only FDOH has the authority to grant a variance.

Additional Considerations

The state does not encourage the use of the OSTDS when public or investor-owned sewage systems are readily available for use. Both the statutes and FDOH rules require the use of public or investor-owned sewage systems in areas where they are readily available when the plumbing of a home or business is actually capable of being connected to these systems.

Unless the system is authorized by the utility and is being used to dispose only graywater (i.e., residential wastewater from the bathtub, shower, lavatory, laundry, and sink, except kitchen sink waste), it must be connected to a public sewage system within one year from the date such a public system becomes available in the area.

Furthermore, the 2016 Water Bill created the Florida Springs and Aquifer Protection Act, which is aimed at protecting springs fed by the Florida aquifer. The Act added regulations regarding OSTDS:

- It is prohibited to install new septic tanks within the areas related to the Outstanding Florida Springs (referred to as Priority Focus Areas) on lots of less than one acre, if the septic tank conflicts with Basin Management Action plans intended to protect springs water quality.
- Local governments must develop an OSTDS remediation plan where at least 20% of the nonpoint source (i.e., diffuse) pollution of the Outstanding Florida Springs is caused by septic tanks.

Sources

Chapter 381, Florida Statutes, Section 381.0065

Chapter 64E-6, Florida Administrative Code

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