

***Onsite Sewage Program Annual Report***  
***July 1, 2021 – June 30, 2022***

**Division of Water Resource Management**

**Florida Department of Environmental Protection**

**Sept. 30, 2022**



*This annual report is prepared in accordance with the requirements of the June 2021 “Interagency Agreement Between the Florida Department of Environmental Protection and the Florida Department of Health in Compliance with the 2020 Clean Waterways Act for Transfer of the Onsite Sewage Program.”*

*Copies of this annual report may be obtained from DEP’s Onsite Sewage Program website at <https://floridadep.gov/water/onsite-sewage/content/program-transfer> or by contacting [OSTDS\\_Feedback@FloridaDEP.gov](mailto:OSTDS_Feedback@FloridaDEP.gov).*



**Table of Contents**

Executive Summary ..... 1  
Onsite Sewage Program Staff ..... 1  
OSTDS Permits..... 4  
OSTDS Inspections..... 5  
Enforcement Actions ..... 6  
Rulemaking Updates..... 7  
Chapter 381 Variances..... 9  
Audits..... 9  
Training Events..... 9  
Septic Tank Contractors and CEHPs ..... 10  
Fees Collected..... 10  
Summary and Next Steps..... 11

## ***Executive Summary***

Florida's Clean Waterways Act of 2020 (CWA) was signed into law by Governor DeSantis on June 30, 2020, as Chapter 2020-150, Laws of Florida. The CWA transferred the responsibility of regulating onsite sewage treatment and disposal systems (OSTDS) from the Florida Department of Health (DOH) to the Florida Department of Environmental Protection (DEP) effective July 1, 2021. As such, DEP is responsible for implementing the Florida Statutes and regulations applicable to OSTDS. As outlined in the *Interagency Agreement Between the Florida Department of Environmental Protection and the Florida Department of Health in Compliance with the 2020 Clean Waterways Act for Transfer of the Onsite Sewage Program* (Interagency Agreement), DOH's county health department (CHD) offices continue to perform the permitting, inspections, data management and tracking of OSTDS under the direction of DEP.

The Interagency Agreement requires DEP to prepare and submit an annual report on Florida's Onsite Sewage Program (OSP) for each contract year, and to submit the report by Sept. 30 each year to DEP's Secretary and Deputy Secretary for Regulatory Programs, the State Surgeon General, and DOH's Deputy Secretary for Health and Deputy Secretary for County Health Systems. This is the first such annual report for the period July 1, 2021 through June 30, 2022. The report provides the number of staff performing program work, the number and types of permits issued, number and types of inspections conducted, enforcement actions taken, status of rulemaking, numbers of variances, audits and trainings, number of septic tank contractors and certified environmental health professionals (CEHPs) in OSTDS, and fees collected for the current program.

## ***Onsite Sewage Program Staff***

OSP work is performed at DEP's headquarters, at DOH's central office and at DOH's CHDs. **Table 1** provides estimates for staff full time equivalents (FTE) working directly and in support of OSP.

The OSP is part of the Division of Water Resource Management (DWRM). These employees provide OSTDS services including rulemaking, programmatic guidance to CHDs, licensing of septic tank contractors and businesses, approval of OSTDS components, research, public and

local government training, technical support, variances, local CHD program evaluations, tracking of septic tank contracting complaints and OSTDS training for the CEHP certification. The transfer of the OSP office from DOH's central office to DEP's headquarters included 12 full-time positions and one part-time other personnel support position. The transfer included two administrative and legal support positions; these positions are located in DWRM and DEP's Office of General Counsel (OGC), respectively. Additional support is provided through DWRM and by DEP for administrative functions like budget management, human resources and leadership support.

Two central supporting program functions for onsite sewage remain at DOH's central office. One is the administration, maintenance and technical support for the Environmental Health Database (EHD). An estimated 60% of the use of EHD can be attributed to OSTDS. Full-time positions for EHD include four full-time positions and additional contracted developers that do limited maintenance and enhancement of EHD. The second program function remaining at DOH's central office is the administration and CEHP registration program for OSTDS, which is authorized by section 381.0101, F.S. As the CEHP is not exclusive to the OSTDS program, the administration of the certification program remains staffed at DOH by one full-time position. The total work for OSTDS is estimated as three full-time positions working in the program and one supporting position.

DOH CHD onsite sewage functions include permitting, inspection and tracking of OSTDS through the centralized EHD. Onsite sewage is part of the Environmental Health (EH) services of DOH which is implemented at both the county level and state level. For DOH CHDs, staff time is estimated based upon the total recorded service time reported by staff in OSP converted to estimated, FTEs or the number of individual full-time staff necessary to perform the hours of work recorded for onsite sewage. The total amount of time recorded by staff corresponded to the workload of 297 FTEs (increased from 239 as the five-year average for fiscal year (FY) 2014 through FY 2019). This staffing level was not sufficient to keep up with increased workloads based upon the number of applications received last year. DOH treats sanitary nuisances as a separate program, but support for investigation and enforcement of sanitary nuisances related to OSTDS are part of the DEP's programmatic responsibilities. Staff time recorded by CHD staff for sanitary nuisances corresponded to a workload of an additional eight FTEs.

DOH estimates a number of additional FTEs to account for the general administration and costs in the CHDs that do not code time to specific program areas. This can be thought of as allocating an overhead to specific program areas. Seventy-two FTEs of overhead were allocated to onsite sewage and two FTEs were allocated to sanitary nuisances in FY 2021-22.

**Table 1. Estimated staff (FTEs) working directly in onsite sewage and supporting programs and with administration and support staff.**

Program Component	Estimated FTEs in Program	Total Estimated FTEs + Administration Support
DEP Headquarters: OSP	12	15
DOH Central Office: EHD and certification	3	4
DOH CHD: onsite sewage	297	369
DOH CHD: sanitary nuisances	8	10

DOH’s data systems provide further information about the number of staff that coded at least some time to onsite sewage and details on work coded by types of services and classification of employees. There were 675 employees that coded at least some time to onsite sewage. There were 297 employees that coded more than 75% of their time to onsite sewage, while 186 employees coded less than 10% of their time. **Table 2** provides a summary of the work hours coded to onsite sewage by staff classification for the 675 employees coding time to onsite sewage. Three classes of employees accounted for 91.6% of the nearly 600,000 work hours reported. Nearly two-thirds (64.0%) were Environmental Health Specialists, 19.0% were administrative support, followed by 8.7% environmental health senior program managers (Environmental Managers or Environmental Administrators). Smaller contributions were made by employees classified as “Other,” which included both clerical and managerial positions (3.7%), and a variety of other professional staff grouped together (4.6%).

**Table 2. Distribution of time coded (in hours) by CHD staff to onsite sewage by position classification.**

	EH Specialists	Admin. Support	EH Senior Program Managers	Various Professional Staff	Other (Clerical and Managerial)	Total
Hours Coded	378,286	112,089	51,299	27,460	22,033	591,167
Percentage of Hours	64.0%	19.0%	8.7%	4.6%	3.7%	100%

## **OSTDS Permits**

### **Construction Permits**

**Table 3** shows the number of construction permits issued in FY 2021-22. This data was pulled from the DOH EHD. The total number of construction permits, 71,015, represents a 64% increase over the five-year average of 43,247 construction permits from FY 2014-2019. The number of new system construction permits has nearly reached the previous peak of 51,000 in FY 2006-07.

**Table 3. Construction permits issued by CHDs during FY 2021-22.**

<b>Construction Permit Type</b>	<b>Number of Construction Permits Issued</b>
Abandonment	5,415
Existing	288
New (and existing new)	40,821
Repair (and existing repair)	23,676
Modification	740
Holding tank	75
Total	71,015

An activity that is not captured in the number of construction permits, but serves a similar function, is the evaluation of applications for which a single-family home is remodeled or modified without addition of a bedroom (section 381.0065(4)(z), F.S.). During FY 2021-22, 6,857 applications for such an approval were filed and reviewed.

### **Operating and Service Permits**

DOH tracks operating and service permits based on a permit year that begins Oct. 1 and ends Sept. 30, which does not line up with the state fiscal year reporting period of this report. Typically, inspections (discussed later) and operating permit renewals are more frequent during the last quarter of the permit year. **Table 4** provides an overview of operating and service permits issued during FY 2021-22. Operating permits for aerobic treatment units and performance-based treatment systems are for two-year periods, so each year, only half of the existing systems are due for a renewed issuance of their operating permits. The number of

aerobic treatment units and performance-based treatment system permits have rapidly increased since the 2020 report – by 75% and 61%, respectively. This is due to the implementation of basin management action plans (BMAPs) for Outstanding Florida Springs and several local ordinances requiring additional treatment.

**Table 4. Operating and service permits issued during FY 2021-22.**

Permit Type	Permits Issued
Operating permit total	13,477
Aerobic (two-year)	7,257
Performance-based (two-year)	1,100
Industrial or manufacturing	3,397
Commercial	1,723
Service permit total	681
Septage disposal service	323
Temporary system service	104
ATU maintenance	235
Septic tank manufacturing	19

Issuance of the permits is not the only workload associated with permitting; getting customers to renew permits and maintenance contracts requires additional work and still results in a fraction of systems and facilities not being under a current permit. As of Sept. 19, 2022, the fraction of current permits successfully issued for active accounts was 89% for both operating and service permits.

### ***OSTDS Inspections***

Inspections are performed by staff in the DOH CHDs. These are distinguished between construction inspections (associated with the approval of the installation of a permitted OSTDS), operating permit inspections (to check up on the operating conditions and continued compliance of the site with permit conditions of an OSTDS that has an associated operating permit) and service permit inspections (of facilities that provide certain services in the onsite industry).



The number of construction inspections was calculated based on inspection form record dates from EHD. An inspection was counted if either the construction or the final system approval date (which are recorded on the inspection form) fell within FY 2021-22. This methodology resulted in 87,647 inspection form records and 4,521 abandonment inspections. An independent (and somewhat higher) estimate for the number of construction inspections comes from DOH’s time coding systems, which includes a count of service units. According to this methodology, 74,864 construction inspections, 20,109 construction reinspections and 3,117 abandonment inspections were completed within the same time period.

DOH tracks the completion of operating and service permit inspections in a quota report. For purposes of these quota reports, the permit year begins Oct. 1 and ends Sept. 30, which does not line up with the fiscal year reporting period of this report. Completed inspections are compared to expected inspections based on the issued number of permits. In general, inspections are more frequently completed in the last quarter of the permit year. **Table 5** summarizes inspections completed for the permit year and for the fiscal year. Overall, about 18,153 operating permit inspections and 638 service permit inspections were completed during FY 2021-22. An independent estimate for the number of these services comes from DOH’s time coding systems, according to which 17,250 operating permit inspections and 998 service permit inspections were completed.

**Table 5. Number of operating and service permit inspections completed during permit year October 2020 – September 2021 and during FY 2021-22.**

Reporting Period	Operating Permit Inspections Completed	Completion Percentage	Service Permit Inspections Completed	Completion Percentage
End of permit year October 2020 – September 2021	18,526	80%	840	89%
FY 2021-22 inspections	18,153	N/A	638	N/A

### ***Enforcement Actions***

Three measures of enforcement actions are presented in this report. The first is the number of septic tank contracting complaints. Such complaints reported to OSP are logged and assigned to CHDs for further investigation. Depending on the results of the investigation, the complaint is

deemed “valid,” “invalid” or “inconclusive,” still in “alleged status,” and sometimes the complaint is referred to another agency as appropriate in situations where the subject of the complaint was not a septic tank contractor and was not under OSP jurisdiction. **Table 6** shows the distribution of results for the 57 septic tank contracting complaints received during FY 2021-22.

**Table 6. Results of septic tank contractor complaints (n=57 in FY 2021-22).**

Complaint Type	Number of Complaints
Valid	15
Invalid/inconclusive	8
Alleged (waiting on outcome of investigation)	33
Referred to another agency	1

Another measure of enforcement is the number of citations issued and associated fines collected. Currently, there is no central data collection for how many citations are issued. For onsite sewage in FY 2021-22, there were 36 deposits for a total of \$42,665. This does not include the amount in one fee for a returned check. There were no fines or forfeitures deposited for sanitary nuisances.

A third way enforcement is tracked is the number of requests for legal assistance by DEP’s OGC. These requests generally occur after a CHD has begun enforcement and needs help with complex issues or the enforcement of citations. By early July 2022, OGC had 110 open requests and 55 closed requests related to onsite sewage.

### ***Rulemaking Updates***

During the last year, OSP has seen one rule section update become effective. One rule section update is awaiting ratification and additional rulemaking is underway. DEP provides updates on OSP rulemaking activities on its website at <https://floridadep.gov/water/water/content/water-resource-management-rules-development#onsite>.

Through the CWA, Florida’s Legislature directed DEP to create an OSTDS technical advisory committee (TAC) to be charged with developing and providing recommendations to Governor

DeSantis and the Legislature by Jan. 1, 2022. These recommendations were related to requirements for the physical location of OSTDS and the marketplace availability and use of associated enhanced nutrient reducing (ENR) technology. As directed, DEP appointed 10 members to the TAC from key stakeholder groups. The legislative direction in the CWA informed three charge questions for the TAC. The TAC members met six times; during these meetings, subject matter experts from DEP and other organizations provided them information about OSTDS, nitrogen-removal technology and technology approval processes. TAC members discussed the information and deliberated as to how to best address each charge question. The TAC members reached consensus on recommendations and their report was submitted to the Governor, Speaker of the Florida House and President of the Florida Senate as directed on Dec. 29, 2021. The report is available on DEP's website at [https://floridadep.gov/sites/default/files/OSTDS\\_TAC\\_Recommendations.pdf](https://floridadep.gov/sites/default/files/OSTDS_TAC_Recommendations.pdf).

A Notice of Rule Development (NORD) was published on Dec. 20, 2021, opened all of Chapter 62-6, F.A.C. for rulemaking. Rulemaking during the first half of 2022 was undertaken in two packages. The first package incorporated requirements of OSTDS remediation plans to be adopted as part of BMAPs of nutrient-impaired water bodies. This revision of Rule 62-6.001, F.A.C., required a statement of estimated regulatory costs. This rulemaking package was filed with the Department of State on May 10, 2022 and will become effective upon becoming law (awaiting ratification by the Florida Legislature, anticipated Spring 2023). The second package updated several rule sections to address CWA mandates and recommendations of the TAC, updated referenced documents and clarified rules. This rulemaking package became effective June 21, 2022.

During its 2022 session, the Florida Legislature passed Senate Bill 856, now codified as Chapter 2022-105, Laws of Florida, which allows private provider inspections of OSTDS. DEP provided interim guidance on June 29, 2022 via memorandum. The new law also contained a requirement for DEP to begin rulemaking for implementation by Aug. 31, 2022. DEP published a NORD on July 1, 2022 and held a public workshop on July 19, 2022.

## ***Chapter 381 Variances***

Section 381.0065(4)(h)1, F.S. allows DEP to grant variances to property owners under certain conditions. OSP staff meet monthly with a variance review and advisory committee (appointed by the designee of the DEP Secretary) to provide recommendations whether to grant or deny variance requests, or to request additional information. The Secretary’s designee then decides the disposition. The average annual number of variance applications has increased from 218 applications during FY 2014-19 to 641 during FY 2021-22. Results are shown in **Table 7**.

***Table 7. Dispositions of Chapter 381, F.S., variance applications.***

<b>Variance Disposition</b>	<b>Number of Applications</b>
Approved	61
Approved with proviso	544
Denied	12
Tabled	17
Withdrawn	7

## ***Audits***

No audits or program evaluations were performed during FY 2021-22. DOH’s Bureau of Environmental Health, which is charged with evaluating program work in the CHDs, had paused program evaluations in 2020 as many routine services were halted during the extended public health pandemic. During 2021 and 2022, discussions were had related to revamping the program evaluation tool for the next cycle of program evaluations to begin in January 2023. It is anticipated that OSP will have a program evaluation framework in place by January 2023 that will be consistent with other environmental health programs.

DEP staff who serve as OSP mediators for questions or disputes about OSTDS permitting held regional consistency meetings with CHD staff quarterly.

## ***Training Events***

OSP staff taught five double sessions of the hands-on portion of the accelerated certification training (ACT) at the training center provided by the Florida Onsite Wastewater Association

(FOWA) under contract to DEP. The objective is to provide training to new DOH staff so they are qualified and can pass the exam to become CEHPs under section 381.0101, F.S. This training is now required for individuals that wish to become private inspectors pursuant to Chapter 2022-105, Laws of Florida.

In addition, OSP staff and OGC provided four web-based overviews of the enforcement process to CHD staff and OGC in order to familiarize staff with OSP. Since April 2022, OSP has hosted monthly webinars for DOH staff to serve as another venue for communication.

DEP's OSP staff also participated in the DOH Bureau of Environmental Health's monthly environmental health webinar series, providing two presentations. Two presentations were also given by DEP's OSP staff at the annual conferences of both the Florida Environmental Health Association (FEHA) and FOWA. Additional presentations were given at the FEHA conference by staff DOH Charlotte County staff.

### ***Septic Tank Contractors and CEHPs***

At the end of FY 2021-22, the number of registered septic tank contractors was 587, the number of master septic tank contractors was 63 and the number of authorized septic tank contracting companies was 520.

The total number of CEHPs certified under section 381.0101, F.S., increased during the year. At the end of June 2022, the number was 579. Based on email address records, an estimated 123 of these were not employees of DOH. DOH allows dual employment for employees to work in private practice on a case-by-case basis.

### ***Fees Collected***

The fees collected during FY 2021-22 are summarized in **Table 8**. Most fees are charged by DOH CHDs for construction, operating or service permit applications, permits and inspections. The fees collected are split; a portion remains at DOH (generally 92%) and a portion is transmitted at regular intervals to DEP to fund headquarters' functions. The DEP portion of variance fees (50%) is tracked separately by DEP. Some counties have established local fees in addition to state fees, and occasionally directly support OSTDS efforts (local government).

These fees are also charged by CHDs and remain within their respective counties. Research and training center fees add a \$5 surcharge on new and repair permits, respectively; these are charged at the CHD and transmitted to DEP. There are a few fees that are paid directly to DEP’s headquarters office for septic tank contractor registration and continuing education providers for septic tank contractors. During the year, it has become apparent that the splitting of fees generally works out but appears to be subject to variations. For example, the monthly transmittals of research and training fees are not integer multiples of \$5 and the DEP portions of variance fees are not integer multiples of \$50. Table 8 includes total amounts of various fees collected by DOH and DEP during FY 2021-22.

During FY 2021-22, the total amount of fees charged and kept by CHDs was \$28,353,408. The total amount of fees received by DEP was \$2,218,619.

**Table 8. Fees collected by DOH and DEP during the FY 2021-22.**

DOH Portion of Shared Fees	DOH Local Fees	DOH Local Government	DEP Portion of Permit Fees	DEP Portion of Variance Fee	DEP Research Fee	DEP Training Center Fee	DEP Contractor Registration
\$19,922,967	\$8,424,728	\$5,713	\$1,783,785	\$68,490	\$224,700	\$127,483	\$82,650

### **Summary and Next Steps**

During the second year of the Interagency Agreement between DEP and DOH, the two agencies will be planning for the time after the agreement’s expiration in June 2026. This planning will include decisions about the structure of the program and physical location of staff.

DEP’s OSP plans to resume program evaluations in coordination with DOH CHDs during calendar year 2023. The program evaluation framework will include ongoing monitoring of quantitative measures of overall program performance, closer looks to address problems that occur and technical assistance and training visits with a narrative evaluation. The data tools for this will rely largely on EHD.

DEP’s OSP will continue work to assess the adequacy of setback distance requirements in current regulations. Following the December 2021 recommendations of the OSTDS TAC, the

program has procured an initial review, analysis and synthesis of over two dozen plume studies. This analysis will be completed by January 2023 and will provide background for further study or development of rule revisions.

As mentioned, several rulemaking efforts are currently underway. The Florida Legislature will have had an opportunity to ratify rule provisions requiring OSTDS permits to incorporate BMAP OSTDS remediation plan requirements. Rule language for private provider inspections will be developed and will likely have been adopted. After the July 19, 2022, public workshop, OSP has been reviewing comments, developing rule language to address the comments and is planning to hold another workshop for stakeholder input before proceeding with a notice of proposed rule.