



**Onsite Sewage Program Annual Report
Fiscal Year 2022-2023**

**Onsite Sewage Program
Division of Water Resource Management
Florida Department of Environmental Protection
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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 June 30, 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* (Interagency Agreement), DOH's county health department offices (DOH-CHDs) 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, and DOH's State Surgeon General, Deputy Secretary for Health and Deputy Secretary for County Health Systems. This is the second such annual report, covering Fiscal Year (FY) 2022-2023. The report includes information related to statutory and rule changes, the number of staff performing program work, the number and types of permits issued, number of septic tank contractors, certified environmental health professionals (CEHPs) in OSTDS and private provider inspectors (PPIs), numbers of variances, number and types of inspections conducted, enforcement actions taken, audits and trainings performed, and fees collected for the current program.

Statute and Rulemaking Updates

Legislative Session 2022

On May 12, 2022, Governor Ron DeSantis approved Senate Bill 856, codified into law as Chapter 2022-105, Laws of Florida. Effective July 1, 2022, section 381.0065, Florida Statutes (F.S.), was amended to authorize qualified PPIs to inspect OSTDS to determine compliance with applicable regulatory requirements upon written authorization by the owner of the OSTDS. Prior to the new statutory authorization for PPIs, inspections in each of these permit categories were primarily performed by permitting agency staff (i.e., DOH-CHD field staff).¹

On July 1, 2022, DEP published a Notice of Rule Development for potential revisions to Chapter 62-6, Florida Administrative Code (F.A.C.), in the Florida Administrative Register. DEP held a virtual rule development workshop on July 19, 2022, with 101 attendees participating; 66 public comments were submitted. On Dec. 6, 2022, DEP held a second workshop to refine draft rule language, hosting a total of 103 attendees (both in-person and virtual participants); 118 public comments were submitted at this second workshop.

DEP anticipates publishing its Notice of Proposed Rule for PPIs by November 2023, with final rule adoption expected in early 2024. Draft rule language, draft forms, public comments and responses can be found on DEP's Division of Water Resource Management's (DWRM's) "Rules in Development" webpage at <https://floridadep.gov/water/water/content/water-resource-management-rules-development#onsite>.

Legislative Session 2023

On May 30, 2023, Governor Ron DeSantis approved House Bill (HB) 1379, codified into law as Chapter 2023-169, Laws of Florida. Effective July 1, 2023, this statute specifies areas (impacted areas) in the state where enhanced nutrient-reducing OSTDS (ENR-OSTDS) are required instead of conventional septic systems. The new requirements became effective for new OSTDS construction permit applications that are: (1) located on lots one acre or less in size in an impacted area; and (2) received by the DOH-CHD on or after July 1, 2023. The statute expands requirements that were established in the 2016 Florida Springs and Aquifer Protection Act for smaller areas of the state.

¹ Master Septic Tank Contractors were allowed to conduct an initial construction inspection for OSTDS repairs under limited conditions as described in paragraph 62-6.003(3)(a), F.A.C.

On June 29, 2023, Governor Ron DeSantis approved HB 7027, codified into law as Chapter 2023-308, Laws of Florida. This provided final legislative ratification for a revision to rule 62-6.001, F.A.C., and requires OSTDS permits to incorporate more stringent requirements of OSTDS remediation plans adopted as part of Basin Management Action Plans (BMAPs) for nutrient-impaired water bodies. These changes are expected to impact repair and modification permit applications in areas surrounding impaired Outstanding Florida Springs.

Onsite Sewage Program Staff

OSP work is performed at DEP’s program office (in DWRM), at DOH’s central office and at DOH-CHDs. Table 1 provides estimates for staff full-time equivalents (FTE) working directly on and in support of OSP duties and responsibilities.

Table 1. Estimated Staff (FTEs) Working in Onsite Sewage Program and Supporting Administration and Other Support Staff (FY 2022-23).

Program Component	Estimated FTEs in OSP	Total Estimated FTEs + Administration Support
DEP: OSP office	12	14.5
DOH-CHD: Onsite sewage	292	366
DOH-CHD: Sanitary nuisances	8	9

DEP OSP staff members provide OSTDS services including rulemaking, programmatic guidance to CHDs, licensing of septic tank contractors and businesses, approval of OSTDS components, technical support, processing applications for variances in coordination with the Variance Review and Advisory Committee, evaluating local CHD onsite sewage program implementation, tracking of septic tank contracting complaints, providing OSTDS training for the CEHP certification, research and training of program staff, members of the public and local government representatives. The July 2021 transfer of the OSP office from DOH included 12 full-time positions and one part-time other personnel services (OPS) position. Two additional administrative and legal support positions were provided. Of the 14.5 total positions, 2.5 positions are incorporated into DWRM’s centralized administrative functions, to provide support for OSP functions (e.g., budget management, human resources and leadership). One position is incorporated into DEP’s Office of General Counsel (OGC) for OSP.

Onsite sewage is part of the Environmental Health (EH) services of DOH, which are implemented at both the county level (through the DOH-CHDs) and at the state level (through DOH’s central office). Table 1 does not quantify DOH’s central office effort in terms of FTEs. DOH’s central office provides two centralized support functions for the OSP.

1. Administration, maintenance and technical support for the Environmental Health Database (EHD). The EHD serves multiple environmental health programs at DOH in addition to the OSP. Four full-time positions support and maintain the EHD. Additional

contracted staff assist with EHD enhancement and development, including creation of a new data entry portal for qualified PPIs.

2. Administration of the CEHP registration program for OSTDS and food programs, authorized by section 381.0101, F.S.

DOH-CHDs provide onsite sewage services including site assessments, permitting, inspecting and ongoing education about OSTDS. DOH-CHD staff also investigate complaints about sanitary nuisances and septic tank contracting violations and prepare enforcement documents to address such violations. The total amount of OSP time recorded by staff during FY 2022-23 corresponded to 292 FTEs; this is an increase from 239, the five-year average for FY 2014 through FY 2019, and a slight drop from 297 the previous year. DOH-CHD staff recorded time for sanitary nuisances separately, which corresponded to a workload of an additional eight FTEs. DOH estimates that additional FTEs are needed to account for the general administration and overhead costs that are not coded to specific program areas (i.e., allocating “overhead” to specific program areas). Seventy-four such “overhead” FTEs were allocated to onsite sewage and one FTE was allocated to sanitary nuisances in FY 2022-23 by DOH.

DOH’s data systems provide further information about the number of staff that reported work time for onsite sewage, and details on reported work by the types of services and classification of employees. Table 2 provides a summary of the work hours reported in onsite sewage by staff classification for the 681 positions reporting onsite sewage programmatic work time. Three classes of employees accounted for 89.3% of the nearly 600,000 work hours reported. Nearly two-thirds (59.8%) were Environmental Health Specialists, 20.5% were administrative support, and 8.9% were environmental health senior program managers (i.e., Environmental Managers or Environmental Administrators). Smaller contributions were made by employees classified as “Other,” which included both clerical and managerial positions (4.9%) and a variety of other professional staff grouped together (5.9%). In comparison to the previous year, the fraction of time coded by Environmental Health Specialists decreased while all other groups increased. During the fall of 2022, DOH developed a method to identify time spent by staff on review and support of PPIs.

Table 2. Distribution of Reported Time in the Onsite Sewage Program by Position Classification.

	EH Specialists	Admin. Support	EH Senior Program Managers	Various Professional Staff	Other (Clerical and Managerial)	Total
Hours reported	351,968	120,882	52,604	34,448	28,618	588,520
Percentage of hours	59.8%	20.5%	8.9%	5.9%	4.9%	100%

OSTDS Permits

System Construction Permits

Table 3 shows the number of OSTDS construction permits issued in FY 2022-23. The total number of construction permits (62,835) represents a 12% decrease from last fiscal year, but a 45% increase over the five-year average of 43,247 construction permits (FY 2014 through FY 2019).

Table 3. Construction Permits Issued by CHDs During FY 2022-23.

Construction Permit Type	Number of Construction Permits Issued
New (and existing new)	35,927
Repair (and existing repair)	21,623
Abandonment	4,470
Modification	788
Existing	27
Total	62,835

DOH-CHDs have seen an improvement in new permit issuance from an average of 10.1 days to issue at the beginning of July 2022 to 7.2 days to issue at the beginning of July 2023. The average time to issue repair permits has remained fairly consistent at 2.9 days to issue at the beginning of July 2022 and 2.8 days to issue at the beginning of July 2023.

The above number of construction permits does not include the review and verification of applications when a single-family home is remodeled or modified without addition of a bedroom, as required pursuant to section 381.0065(4)(z), F.S. It estimated that during FY 2022-23, approximately 6,000 applications for such an approval were filed and reviewed.

Operating and Service Permits

Table 4 provides an overview of operating permits issued during FY 2022-23. The number of aerobic treatment units (ATUs) and performance-based treatment system permits have more than doubled from their numbers in FY 2014 through FY 2019. This is due to the implementation of BMAPs for Outstanding Florida Springs and several local ordinances requiring additional treatment to ensure increased water quality protections are being implemented.

Table 45 below provides an overview of service permits issued during FY 2022-23. For ATU maintenance entities, Table 5 includes in parentheses the number of entities that are marked as a single-family residence homeowner that maintain their own treatment unit (after certification).

Table 4. Operating Permits Issued During FY 2022-23.

Permit Type (Duration of Permit)	Permits Issued
Aerobic treatment unit (two years*)	8,388
Industrial or manufacturing zone (one year*)	3,621
Commercial (one year*)	1,736
Performance-based treatment system (two years*)	1,520
Operating permit total	15,265

**Operating permits for aerobic treatment units and performance based treatment systems are generally valid for two years. Operating permits for commercial systems and systems in areas zoned for industrial and manufacturing use as well as service permits are valid only for one year.*

Table 5. Service Permits Issued During FY 2022-23.

Permit Type	Permits Issued
Septage disposal service	316
Total ATU maintenance entities (number of homeowner maintenance entities)	246 (48)
Temporary system service	115
Septic tank manufacturing	17
Treatment facility	5
No types given	2
Service permit entities total	634*

**Some facilities fit into multiple permit types; total represents the number of unique facilities.*

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 Secretary of DEP) to provide recommendations on whether to grant or deny variance requests, or to request additional information (the designee then decides the disposition). The average annual number of variance applications has increased from an

average of 218 applications from FY 2014 through 2019 to a total of 576 in FY 2022-23. Variance application dispositions are shown in Table 6.

Table 6. Dispositions of Chapter 381, F.S., Variance Applications.

Variance Disposition	Number of Applications
Approved with proviso	462
Approved	86
Tabled	16
Withdrawn	8
Denied	4
Total	576

Septic Tank Contractors, CEHPs and PPIs

As of the end of FY 2022-23, there were 582 registered septic tank contractors, 67 master septic tank contractors and 513 authorized septic tank contracting companies.

The total number of CEHPs certified by DOH in OSP under section 381.0101, F.S., increased during the year; as of the end of FY 2022-23, the number was 661. DOH allows dual employment for employees to work in private practice on a case-by-case basis.

There were 283 qualified PPIs known to DEP as of June 30, 2023. Even though a person is considered a qualified PPI, they may not have conducted OSTDS inspections during a given period. In FY 2022-23, only 125 PPIs performed one or more OSTDS inspections, which is only 44% of the total qualified PPIs known to DEP.

OSTDS Inspections

Inspections are generally performed by staff in DOH-CHDs or by qualified PPIs. The inspections are distinguished as the following types.

- Construction inspections (associated with the approval of the installation or abandonment of a permitted OSTDS). As of July 2022, construction inspections can also be performed by PPIs.
- Operating permit inspections (to check on the operating conditions and continued compliance of the site with permit conditions of an OSTDS that has an associated operating permit).

- Service permit inspections (for facilities that provide certain services in the onsite industry).

Construction Inspections

During FY 2022-23, PPIs conducted 16,493 recorded OSTDS inspections in connection with the permitting and construction of new, repair and modified OSTDS, as well as abandonment of existing systems. This equates to 17% of the 98,317 system inspections conducted and recorded in FY 2022-23. There were 4% fewer construction inspections in FY 2022-23 compared to the previous year.

Operating Permit and Service Permit Inspections

Table 7 summarizes operating permit and service permit inspections completed for the fiscal year. Overall, required inspections for 20,689 operating permits and 558 service permits were completed during FY 2022-23. An independent estimate for the number of these services is provided by a review of DOH’s time coding systems. This review indicates that a similar number of such inspections (i.e., 20,937 operating permit inspections and 1,240 service permit inspections) were completed during FY 2022-23.

Table 7. Number of Operating and Service Permit Inspections Completed During FY 2022-23.

Reporting Period	Operating Permit Inspections Completed	Service Permit Inspections Completed
FY 2022-23 inspections	20,689	558

Program Quality Assurance

Enforcement Actions

Three measures of enforcement actions are presented in this report. The first is the number of septic tank contracting complaints. 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 8 shows the results for the 75 septic tank contracting complaints received during FY 2022-23.

Table 8. Results of Septic Tank Contracting Complaints Received in FY 2022-23 (75 total).

Complaint Result	Number of Complaints Received
Alleged (waiting on outcome of investigation)	30
Invalid/inconclusive	26

Complaint Result	Number of Complaints Received
Valid	19

Another measure of enforcement is the number of associated fines collected and the number of enforcement actions recorded. Entries for onsite sewage in DOH's fines and forfeitures budget category indicate that in FY 2022-23, there were 56 deposits for a total of \$74,650. There were no fines or forfeitures deposited for sanitary nuisances. A total of 5,982 enforcement actions were recorded by DOH. These enforcement actions are defined as any legal procedure used to initiate or pursue action when efforts of inspection, education and persuasion fail to result in correction of violations.

A third way enforcement is tracked is the number of requests for legal assistance with enforcement by DEP's OGC. These requests generally occur after a DOH-CHD has begun enforcement and requests assistance with complex issues or the enforcement of citations. They are assigned a case number by OGC for further tracking. Approximately 109 requests for legal assistance were filed during FY 2022-23. As of June 30, 2023, OGC had 197 open cases for enforcement assistance, and 73 closed cases related to onsite sewage.

Audits

No audits or program evaluations were performed during FY 2022-23. DOH's Bureau of Environmental Health (BEH), which is charged with evaluating program work in the DOH-CHDs, had paused program evaluations in 2020 as many routine services were halted during the extended public health pandemic. During 2021, 2022 and into 2023, DOH engaged in facilitated discussions involving DOH-CHDs and DOH EH program staff to revamp the program evaluation tool for the next cycle of program evaluations to begin in January 2024. The OSP office participated in these discussions. Work at DOH on the data tools to implement the new way of program evaluations has been ongoing. It is anticipated that OSP will have a program evaluation framework in place by January 2024 that will be consistent with other environmental health programs.

DEP staff who serve as OSP mediators for questions or disputes about OSTDS permitting held quarterly regional consistency meetings with DOH-CHD staff during FY 2022-23.

Training Events

OSP staff taught 10 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 OSP staff at DOH and DEP 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 PPIs pursuant to Chapter 2022-105, Laws of Florida. The training reached 172 state agency CEHPs, 25 private CEHPs,

eight Professional Engineers, 17 engineers' staff members and 35 Master Septic Tank Contractors.

In addition, OSP staff provided in person and web-based training to OSTDS staff in Miami-Dade County on PBTS and drip irrigation review. Since April 2022, OSP has hosted monthly webinars for DOH staff to provide additional coordination and communication. In addition, training materials developed by DOH were provided on the Private Provider Inspection Portal.

DEP's OSP staff participated in the DOH BEH's monthly environmental health webinar series, providing two presentations. These presentations were given by DEP's OSP staff at the annual 2022 conferences of both the Florida Environmental Health Association (FEHA) and FOWA. Additional presentations were given at the 2022 FEHA conference by DOH Charlotte County staff.

Fees Collected

The fees collected by DOH through its DOH-CHDs during FY 2022-23 are summarized in Table 9. The state permit fees collected are split; in general, a portion remains at DOH (92%) and the remaining portion is transmitted at regular intervals to DEP to fund DEP's OSP functions. As an exception, DEP receives 50% of the variance fees. DEP also receives research and training center fees as a \$5 surcharge on new and repair permits, respectively. Some counties have established local fees in addition to state fees and occasionally directly support OSTDS efforts (local government). These local fees remain within their respective counties. Table 9 includes total amounts of various fees collected by DOH during FY 2022-23. During FY 2022-23, the total amount of fees collected by DOH-CHDs was \$26,660,924, a reduction by 6% from the previous year, presumably due to the corresponding decrease in construction permits last fiscal year. The portion of fees collected by DOH and then transmitted to DEP was \$1,740,863.

Table 9. OSTDS Fees Collected by DOH and Amount Transmitted to DEP During FY 2022-23.

Fee Description	Total Fees Collected by DOH	Portion of Fees Transmitted to DEP
State permit fees	\$17,859,378	\$1,401,125
Local permit fees	\$8,131,940	\$0
Local government support	\$272,452	\$0
Variance fee	\$114,832	\$57,416
Research fee	\$177,554	\$177,554
Training center fee	\$104,768	\$104,768
Total	\$26,660,924	\$1,740,863

Some fees for the program office functions related to septic tank contractor registration are paid directly to the DEP OSP office. The received fee amounts are listed in Table 10 and total \$209,625.

Table 10. Septic Tank Contracting Fees Collected by DEP During FY 2022-23.

Fee Description	Other Cost Accumulator	Fee Amount	Fees Collected
Contractor registration application fee	OSPCA	\$75	\$750
Contractor re-examination fee	OSPRE	\$75	\$6,475
Contractor registration renewal fee	OSPRR	\$100	\$69,725
Contractor business authorization fee	OSPBA	\$250	\$127,675
Contractor education course provider fee	OSPCP	\$250	\$500
Contractor education course approval fee	OSPCR	\$150*	\$4,500
Total			\$209,625

* \$150 for six or more hours; \$25 per hour if under six hours.

Summary and Next Steps

During the third year of the Interagency Agreement between DEP and DOH, the two agencies anticipate implementing changes and preparations for June 2026 and beyond, when DEP is fully implementing OSP after the current Interagency Agreement expires. These activities are expected to include discussions, cooperative decisions, and necessary actions to prepare for the completion of the OSP transfer.

The implementation will continue for Chapter 2023-169, Laws of Florida, imposing more stringent standards on OSTDS permits for new construction in larger areas of the state to ensure improved water quality protections. The challenging implementation of more stringent requirements for existing system requiring repair or modification in some sensitive locations is expected to occur during the next year. Rule language for PPIs will be finalized and proposed. Additional rule development work is anticipated during the next FY.

DEP’s OSP anticipates resuming program evaluations in coordination with DOH-CHDs during 2024. The program evaluation framework will include ongoing monitoring of quantitative measures of overall program performance, evaluations to address problems that occur and technical assistance and training visits with a narrative evaluation. The data tools for this will rely largely on the 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 Technical Advisory Committee, the program procured an initial review, analysis and synthesis of over two dozen reports from previous Florida studies. An initial analysis was completed in June 2023 and is being used to provide information to complete the assessment.