FLORIDA DEPARTMENT OF Environmental Protection

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Secretary

Dec. 26, 2024

Alexis A. Lambert, Secretary
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, M.S. 49
Tallahassee, FL 32399-0001

Joseph Ladapo, MD, PhD, State Surgeon General
Florida Department of Health
4052 Bald Cypress Way, Bin A00
Tallahassee, FL 32399-3250

Dear Secretary Hamilton and State Surgeon General Ladapo:

Florida Department of Environmental Protection (DEP) and Department of Health (DOH) employees continue to work together to implement regulations related to onsite sewage treatment and disposal systems (OSTDS) in Florida in accordance with 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).

Attached, please find the third annual report on activities conducted under the Interagency Agreement, *Onsite Sewage Program Annual Report Fiscal Year 2023-2024*. Please feel free to contact me at 850-245-8709 if there are any questions on this report or OSTDS program activities.

Sincerely,

John A. Coates, P.E., Director
Division of Water Resource Management

cc: Jessica Kramer, Deputy Secretary of Regulatory Programs, DEP
Mark Lander, Interim Deputy Secretary for County Health Systems, DOH
Kenneth A. Scheppke, MD, FAEMS, Deputy Secretary for Health, DOH

Enclosure

Onsite Sewage Program Annual Report
Fiscal Year 2023-2024

Onsite Sewage Program
Division of Water Resource Management
Florida Department of Environmental Protection
December 2024

Onsite Sewage Program Annual Report
Fiscal Year 2023-2024

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Executive Summary

Florida's Clean Waterways Act of 2020 (CWA) was signed into law by Governor Ron 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 (F.S.) 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 September 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 third such annual report, covering Fiscal Year (FY) 2023-2024. 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 2023

On May 25, 2023, Governor DeSantis approved House Bill (HB) 7063, codified as Chapter 2023-157, Laws of Florida (L.O.F.). The newly created section 220.199, F.S., establishes for DEP the duty to determine the eligibility of an applicant for a tax credit relating to the installation of specific residential graywater systems. DEP shall make a determination on the eligibility of the applicant for the credit sought and shall certify the determination to the applicant and the Department of Revenue.

On May 30, 2023, Governor DeSantis approved HB 1379, codified into law as Chapter 2023-169, L.O.F. Effective July 1, 2023, this statute specifies 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. Additional requirements became effective on Jan. 1, 2024, in the Indian River Lagoon Protection Program area.

On June 29, 2023, Governor DeSantis approved HB 7027, codified as Chapter 2023-308, L.O.F. This provided final legislative ratification for revisions to section 62-6.001, Florida Administrative Code (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 impact repair and modification permit applications in areas surrounding impaired Outstanding Florida Springs and have been implemented in the first half of 2024 in the DeLeon Springs and Wakulla Springs BMAPs.

Legislative Session 2024

On May 10, 2024, Governor DeSantis approved HB 1557, codified into law as Chapter 2024-180, L.O.F. The law addresses the transfer of the OSP program from DOH to DEP in several ways. It provides for a continuation of the phased approach transferring the OSP from DOH to DEP, along with clarifications of trust funds to be used. The law also authorizes DEP to delegate its powers to implement the regulation of OSTDS to a county. It revises enforcement authority for OSTDS regulations and sanitary nuisances related to OSTDS by transferring them from sections 381.0061 and 381.0065, F.S., to sections 403.091 and 403.121, F.S. Section 381.0065(3)(o), F.S., was created to authorize rulemaking to establish and implement a program of general permits, and amends section 381.0065(7), F.S., requiring the establishment of an enhanced nutrient-reducing (ENR) OSTDS approval program to expeditiously evaluate and approve such systems for use in Florida where they are required.

On June 12, 2024, Governor DeSantis approved HB 5001, the budget, codified as Chapter 2024-231, L.O.F. It provides funding for Phase 1 of the transfer of field operations from DOH-CHDs to DEP. During this phase, DEP will assume operations in 16 counties in the Florida Panhandle and Marion

County. The budget also included funding for DEP's future Permit Lifecycle Unified Management System (PLUMS), which will include a component to replace the DOH-maintained OSTDS permitting database.

On June 18, 2024, Governor DeSantis approved Senate Bill (SB) 1582, codified as Chapter 2024-246, L.O.F. It requires DEP to assist DOH to develop certifications and standards for environmental health technicians, a newly created category of individuals that can perform OSTDS inspections.

Rulemaking

Chapter 2022-105, L.O.F. amended section 381.0065, F.S., effective July 1, 2022, to authorize qualified PPIs to inspect OSTDS to determine compliance with applicable regulatory requirements upon written authorization by the owner of the OSTDS. DEP provided interim guidance for implementation on June 28, 2022. On July 1, 2022, and Nov. 18, 2022, DEP published Notices of Rule Development for potential revisions to Chapter 62-6, F.A.C., in the Florida Administrative Register. DEP held two rule development workshops on July 19, 2022, and Dec. 6, 2022, with over 100 individuals attending each. DEP addressed comments, published a Notice of Extension for Publication of the Notice of Proposed Rule on March 20, 2023, and provided a legislative report on PPIs to Governor DeSantis and the Florida Legislature in October 2023 (https://floridadep.gov/water/onsite-sewage/documents/october-2023-legislative-report-private-provider-inspectors).

DEP published a second Notice of Extension for Publication of the Notice of Proposed Rule on March 5, 2024. DEP held another public workshop on Nov. 18, 2024, to discuss draft rule language. DEP is finalizing PPI rule language with final rule adoption expected in 2025. 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.

In response to a Notice of Unadopted Rule Challenge letter received on Feb. 29, 2024, DEP proposed to clarify the permit related review and inspection requirements for performance-based treatment systems (PBTSs) in Rule 62-6.027, F.A.C. In March 2024, DEP published a Notice of Rule Development and a Notice of Proposed Rule. A public hearing was held on June 19, 2024, and the revised rule became effective Aug. 27, 2024.

Onsite Sewage Program Staff

OSP work is performed at DEP's program office, 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 2023-2024).

Program Component	Estimated FTEs in OSP	Total Estimated FTEs + Administration Support
DEP: OSP office	11	14.5
DOH-CHD: Onsite sewage	285	358
DOH-CHD: Sanitary nuisances	10	12

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 FTEs 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) supporting OSP.

Onsite sewage is part of the Environmental Health (EH) services within 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 OSP. Four FTEs support and maintain the EHD. Additional contracted staff assist with EHD enhancement and development.
2. Administration of the CEHP registration program for OSTDS and food programs as authorized by section 381.0101, F.S.

DOH-CHDs provide onsite sewage services including site assessments, permitting, inspections 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 2023-2024 corresponded to 285 FTEs; this is an increase from 239, the five-year average for FY 2014 through FY 2019, and a slight drop from 292 the previous year. DOH-CHD staff recorded time for sanitary nuisances separately, which corresponded to a workload of an additional 10 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-three such "overhead" FTEs were allocated to

the onsite sewage program and two FTEs were allocated by DOH to sanitary nuisances in FY 2023-2024.

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 service type. In comparison to the previous year, the distribution of effort has remained similar with inspections decreasing and plan review increasing by a percentage point. During the fall of 2022, DOH developed a method to identify time spent by staff on review and support of PPIs. A preliminary review indicated that this method has not been implemented sufficiently to provide meaningful data.

The FY 2024-2025 budget provided for staff to take on program implementation from DOH-CHDs in the Panhandle and Marion County (28 positions) and four additional positions for central office functions.

Table 2. Distribution of Reported Time in the Onsite Sewage Program by Service Type.

	Support (direct, clerical, professional, supervisory)	Other (leave, training)	Inspections	Plan reviews	Site evaluations	Complaints, enforcement	Total
Hours reported	316,950	91,203	74,277	65,394	18,710	7,043	**573,577**
Percentage of hours	55.2%	15.9%	12.9%	11.4%	3.3%	1.2%	**100%**

OSTDS Permits

System Construction Permits

Table 3 shows the number of OSTDS construction permits issued in FY 2023-2024. The total number of construction permits (66,605) represents a 6% increase from last fiscal year and a 54% 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 2023-2024.

Construction Permit Type	Number of Construction Permits Issued
New (and existing new)	38,627
Repair (and existing repair)	22,044
Abandonment	4,744
Modification	840
Existing	293
Holding Tank	57
Total	**66,605**

DOH-CHDs have seen a lengthening in new permit issuance from a monthly average of 7.2 days to issue at the beginning of July 2023 to 10.5 days to issue at the beginning of July 2024, roughly the same as in July 2022. The average time to issue repair permits has also increased with 2.8 days to issue at the beginning of July 2023 and 3.6 days to issue at the beginning of July 2024.

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.

Operating and Service Permits

Table **4** provides an overview of operating permits issued during FY 2023-2024. The number of aerobic treatment unit (ATU) permits have nearly tripled and PBTS permits have more than doubled from those in FY 2014 through FY 2019. This is due to the implementation of the 2023 HB 1379; beginning July 1, 2023, BMAPs for Outstanding Florida Springs and several local ordinances required additional treatment to ensure increased water quality protections are being implemented.

Table 4. Operating Permits During FY 2023-2024.

Permit Type (Duration of Permit)	Permits Issued
ATU (two years*)	10,366
Industrial or manufacturing zone (one year*)	5,220
Commercial (one year*)	2,848
PBTS (two years*)	1,479
Operating permit total	**19,913**

**Operating permits for ATUs and PBTSs are generally valid for two years, so the number of systems is twice the number of permits issued. 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 45 provides an overview of active service permits during FY 2023-2024. For ATU maintenance entities, Table 5 includes in parentheses for the number of entities that are marked as a single-family residence for which the homeowner maintains their own treatment unit (after certification).

Table 5. Service Permits During FY 2023-2024.

Permit Type	Permits Issued
Septage disposal service	542
Total ATU maintenance entities (number of homeowner maintenance entities)	735 (254)
Temporary system service	168

Septic tank manufacturing	31
Service permit entities total	**1,476**

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 822 in FY 2023-2024. Variance application dispositions are shown in Table 6 below.

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

Variance Disposition	Number of Applications
Approved with proviso	742
Approved	63
Tabled	8
No action	6
Denied	3
Total	**822**

Septic Tank Contractors, CEHPs and PPIs

As of the end of FY 2023-2024, there were 664 registered septic tank contractors (an increase of 82), 69 master septic tank contractors (an increase of 2) and 596 authorized septic tank contracting companies (an increase of 83).

The total number of CEHPs certified by DOH in OSP under section 381.0101, F.S., decreased during the year (which included a biannual renewal) from 661 to 619. Of this number, 405 were identified as DOH employees.

There were 278 qualified PPIs at the end of FY 2023-2024. Of these, 183 were CEHPs, 69 were master septic tank contractors, 12 were engineers and 14 were engineer staff. Even though an individual is considered a qualified PPI, they may not have conducted OSTDS inspections during a given period. In FY 2023-2024, 162 PPIs were recorded as having performed one or more OSTDS inspections.

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 industry.

Construction Inspections

There were 99,020 system inspections conducted during FY 2023-2024. Two-thirds of these were performed by CHD staff. PPIs conducted 33,839 recorded OSTDS inspections in connection with the permitting and construction of new, repaired and modified OSTDS, as well as abandonment of existing systems. This approximately doubled the fraction of construction inspections performed by PPIs to one-third. Twelve thousand, one hundred and eighty-one PPI inspections were submitted via the private provider portal that DOH established early in 2023.

Operating Permit and Service Permit Inspections

Table 7 summarizes operating permit and service permit inspections completed for FY 2023-2024. Overall, required inspections for 22,506 operating permits and 623 service permits were completed during FY 2023-2024. 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 higher number of such inspections (i.e., 26,585 operating permit inspections and 1,070 service permit inspections) were completed during FY 2023-2024, indicating more than one inspection per permit.

Table 7. Number of Operating and Service Permit Inspections Completed During FY 2023-2024.

Reporting Period	Operating Permit Inspections Completed	Service Permit Inspections Completed
FY 2023-2024 inspections	22,506	623

Program Quality Assurance

Enforcement Actions

Three measures of enforcement actions are presented in this report. The first is the number of septic tank contractor complaints received and logged by the program office. Depending on the results of the investigation, the complaint is deemed "valid," "invalid" or "inconclusive," still in "alleged status" or

referred to another agency as appropriate in situations where the subject of the complaint was not a septic tank contractor and not under OSP jurisdiction. Table 8 shows the results for the 79 septic tank contractor complaints received during FY 2023-2024, about the same number as in the previous year.

Other measures of enforcement are the number of associated fines that were collected and the number of enforcement actions recorded. Entries for onsite sewage in DOH's fines and forfeitures budget category indicate that in FY 2023-2024, not counting returned check fees, there were 41 deposits for a total of $63,500.

Table 8. Results of Septic Tank Contracting Complaints Received in FY 2023-2024 (79 total).

Complaint Result	Number of Complaints Received
Alleged (waiting on outcome of investigation)	34
Valid	18
Invalid	19
Inconclusive/No further action/Referred	6
Settled	2

Another enforcement indicator is the number of requests for legal assistance and petitions for hearings by DEP's OGC. These requests and petitions are assigned case numbers by OGC for tracking purposes. Requests for legal assistance generally occur after a DOH-CHD has begun enforcement and seeks assistance with complex issues or citation enforcement. During this fiscal year, there were also several Chapter 120, F.S., petitions requesting to be exempted from compliance requirements for enhanced nutrient reduction. Approximately 164 OGC case numbers for enforcement activities were assigned during FY 2023-2024. Of these, 18 were closed within the same fiscal year.

Audits

No audits or program evaluations were performed during FY 2023-2024. DOH's Bureau of Environmental Health, which is charged with evaluating program work in DOH-CHDs, had paused program evaluations in 2020, as many routine services were halted during the extended public health pandemic. During 2021, 2022 and 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. OSP participated in these discussions and arrived at a program evaluation framework in early 2024 consistent with other environmental health programs. Implementation of program evaluations has been delayed into FY 2024-2025.

Audits for PPI are authorized by section 381.0065(8), F.S., and are addressed in DEP's draft rules.

DEP staff serving as mediators for questions or disputes about OSTDS permitting held quarterly regional consistency meetings with DOH-CHD staff during FY 2023-2024.

Training Events

OSP staff taught 10 sessions of the hands-on portion of the accelerated certification training (ACT) at the Florida Onsite Wastewater Association (FOWA) training center (provided under contract to DEP). The objective of these trainings is to ensure new OSP staff at DOH and DEP are qualified and can pass the exam to become CEHPs under section 381.0101, F.S. This training is also required for individuals that wish to become master septic tank contractors or PPIs, pursuant to Chapter 2022-105, L.O.F. A total of 114 participants took the ACT in FY 2023-2024. These consisted of 59 state agency personnel (58 DOH, 1 DEP), 21 private CEHPs, 17 septic or plumbing contractors, 14 engineer staff, 2 engineers and one person working towards a septic tank contracting license.

Since April 2022, OSP has hosted monthly DEP/DOH update webinars to foster additional coordination and communication. DEP's OSP staff participates in the DOH monthly environmental health webinar series. Presentations were given by DEP's OSP staff at FOWA's 2023 annual conference and the Florida Environmental Health Association's (FEHA's) 2024 annual conference.

Fees Collected

The fees collected by DOH through its DOH-CHDs during FY 2023-2024 are summarized in Table 9. Collected state permit fees 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 $5.00 surcharge on new and repair permits. Some counties have established local fees in addition to state fees. These local fees remain within their respective counties. Table 9 includes total amounts of various fees collected by DOH during FY 2023-2024. The total amount of fees collected by DOH-CHDs was $28,385,033, an increase of 6% from the previous year presumably due to the corresponding increase in construction permits. The portion of fees collected by DOH and transmitted to DEP was $1,911,947.

Table 9. OSTDS Fees Collected by DOH and Amount Transmitted to DEP During FY 2023-2024.

Fee Description	Total Fees Collected by DOH	Portion of Fees Transmitted to DEP
State permit fees	$17,707,894	$1,515,654
Local permit fees	$8,765,192	$0
Variance fee	$166,372	$83,186
Research fee	$194,562	$194,562
Training center fee	$118,545	$118,545
Total	**$28,385,033**	**$1,911,947**

Some fees for program office functions related to septic tank contractor registration and innovative system permit applications are paid directly to DEP's OSP office. These fee amounts are listed in Table 10 and total $59,325.

Table 10. Fees Collected by DEP for Septic Tank Contracting and Innovative System Permit Applications During FY 2023-2024.

Fee Description	Other Cost Accumulator	Fee Amount	Fees Collected
Contractor registration application fee	OSPCA	$75	$3,225
Contractor re-examination fee	OSPRE	$75	$4,600
Contractor registration renewal fee	OSPRR	$100	$36,300
Contractor business authorization fee	OSPBA	$250	$10,750
Contractor education course provider fee	OSPCP	$250	$0
Contractor education course approval fee*	OSPCR	$150*	$1,950
Innovative System Permit Application	OSPIN	$2,500	$2,500
Total			**$59,325**

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

Summary and Next Steps

During the fourth year of the Interagency Agreement between DEP and DOH, the two agencies anticipate implementing additional changes and continuing preparations for June 2026, when DEP will by fully implementing OSP activities throughout Florida. As provided for in 2024 by the Florida Legislature, this transfer will begin with Northwest Florida in early 2025. As part of this transition, the collection of local OSTDS fees will discontinue in counties as DEP begins implementing the program.

Coordination between DEP and DOH has resulted in an agreed upon approach for implementing the OSP permitting database in conjunction with the phased DEP transition of permitting activities in additional counties during 2025 and 2026. DEP began work in March 2024 on a new long-term permitting database solution (PLUMS) where the OSP functions are expected to be completed in 2025.

Continued implementation of Chapter 2023-169, L.O.F., imposes more stringent standards on OSTDS permits for new construction in larger areas of the state to ensure improved water quality protection. The implementation of these requirements for existing systems requiring repair or modification in some sensitive locations is expected to occur during the next year. Additional rule development is anticipated during the next year, including finalization and adoption of the rule changes related to PPIs.

DEP's OSP anticipates resuming program evaluations in coordination with DOH-CHDs and beginning audits of PPIs during FY 2024-2025. 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.

DEP's OSP will continue 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.