



# FLORIDA DEPARTMENT OF Environmental Protection

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3900 Commonwealth Boulevard  
Tallahassee, FL 32399

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

Dec. 29, 2021

The Honorable Ron DeSantis  
Governor, State of Florida  
Plaza Level 5, The Capitol  
400 S. Monroe St.  
Tallahassee, Florida 32399-0001

The Honorable Wilton Simpson  
President, Florida Senate  
409 The Capitol  
404 S. Monroe St.  
Tallahassee, Florida 32399-1100

The Honorable Chris Sprowls  
Speaker, Florida House of Representatives  
420 The Capitol  
402 S. Monroe St.  
Tallahassee, Florida 32399-1300

Dear Governor DeSantis, President Simpson, and Speaker Sprowls:

Pursuant to Chapter 2020-150, Laws of Florida, also known as the Clean Waterways Act, please find the attached recommendations of the Onsite Sewage Treatment and Disposal System Technical Advisory Committee.

If you have any questions, please contact me or John Truitt, Deputy Secretary of Regulatory Programs, at 850-245-2037.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shawn Hamilton".

Shawn Hamilton  
Secretary  
Enclosure

cc: John Truitt, Deputy Secretary of Regulatory Programs, DEP

Governor DeSantis, President Simpson, and Speaker Sprowls

Page 2

Dec. 29, 2021

Alex Bickley, Director, Office of Legislative Affairs, DEP

***Recommendations of the Onsite Sewage Treatment and  
Disposal System Technical Advisory Committee  
(Implementation of Chapter 2020-150, Laws of Florida)***

**Division of Water Resource Management**

**Florida Department of Environmental Protection**

**December 2021**



## ***Florida Clean Waterways Act***

In 2020, the Florida Legislature passed Senate Bill 712, also known as the Clean Waterways Act (CWA), now Chapter 2020-150, Laws of Florida. This legislation passed with unanimous, bipartisan support and carries a wide range of water-quality protection provisions aimed at minimizing the impact of known sources of nutrient pollution and strengthening regulatory requirements. Onsite sewage treatment and disposal systems (OSTDS) were one of the sources addressed by the legislation.

Section 8 of Chapter 2020-150, Laws of Florida, directed the Department of Environmental Protection (DEP) to convene an OSTDS Technical Advisory Committee (TAC), which was charged with providing recommendations to Governor Ron DeSantis and the Florida Legislature regarding requirements for the physical location of OSTDS, increasing marketplace availability, and introduction of enhanced nutrient reducing (ENR) technologies in Florida.

## ***Onsite Sewage Treatment and Disposal System Technical Advisory Committee***

As directed by the legislation, DEP appointed 10 members to the TAC from key stakeholder groups. These members provided their time, technical expertise and perspective in representing their stakeholder groups. The TAC members are outlined in Table 1 below.

**Table 1. OSTDS TAC Members**

<b>Stakeholder Group</b>	<b>Representative</b>
A professional engineer	John Shearer – Shearer Consulting, Inc.
A septic tank contractor	Greg Mayfield – Tampa Septic, Inc.-Southern Water and Soil
Two representatives from the home building industry	Robert Himschoot – Crews Environmental Jerry Prescott – Liberty Plumbing and Septic
A representative from the real estate industry	JP Fraites – Florida Realtors
A representative from the OSTDS industry	Roxanne Groover – Florida Onsite Wastewater Association, Inc.

<b>Stakeholder Group</b>	<b>Representative</b>
A representative from local government	Virginia Barker – Brevard County Natural Resources Management Department
Two representatives from the environmental community	Chris Farrell – Audubon Florida Cyndi Fernandez – Conservation Florida
A representative of the scientific and technical community who has substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology or environmental sciences	Dr. John Schert – University of Florida, Hinkley Center for Solid and Hazardous Waste Management

The legislative direction in the CWA informed three charge questions for the TAC, which met six times: Aug. 25, 2021; Oct. 13, 2021; Oct. 25, 2021; Nov. 10, 2021; Nov. 17, 2021; and Nov. 29, 2021. During these meetings, subject matter experts from DEP and other organizations provided information to TAC members about the OSTDS program, nitrogen-removal technology, and technology approval processes. TAC members discussed the information and deliberated as to how to best address each charge question. During the final meeting on Nov. 29, 2021, the TAC members reached consensus on the following recommendations.

***Technical Advisory Committee Recommendations***

**Charge Question 1: Provide recommendations to increase the availability of enhanced nutrient-reducing onsite sewage treatment and disposal systems in the marketplace, including such systems that are cost-effective, low maintenance, and reliable.**

**TAC RECOMMENDATION 1.1:** Accept treatment systems certified to NSF 245, which are currently acceptable in the state of Florida as aerobic treatment units, to also be classified as performance-based treatment systems, using data from NSF 245 testing without further treatment performance testing.

**TAC RECOMMENDATION 1.2:** Define the term, “enhanced nutrient reduction,” if and when it is used in a regulatory framework.

*For purposes of drafting this recommendation, the TAC presumed ENR systems to be distinct*

*from a conventional system and utilized treatment systems like ones certified to NSF 245 standards, which have a minimum 50% nitrogen reduction, as a working definition.*

**TAC RECOMMENDATION 1.3:** Increase funding for ENRs in the state.

- Develop funding mechanisms to get access to OSTDS funding to end users, including providing money to system owners to install and/or upgrade systems to ENR.
  - Provide for additional funding for ENRs outside of springs areas.
  - Prioritize/pro-rate funding for systems that make the most environmental impact.
- Establish a competitive grant program to facilitate testing for innovative systems. This could include supporting field testing of innovative systems, or testing treatment systems to establish their treatment capability.

**TAC RECOMMENDATION 1.4:** Provide information on the benefits and necessity for nitrogen reducing systems in Florida, for both those interested in bringing a product to Florida and those selecting a system to install.

**Charge Question 2: Consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of enhanced nutrient-reducing onsite sewage treatment and disposal systems that have been reviewed and approved by a national agency or organization, such as the American National Standards Institute 245 systems approved by the NSF International.**

**TAC RECOMMENDATION 2.1:** Define ENR and define ENR levels (Tier 1 [at least 50% nitrogen reduction before drainfield, or at least 65% combined treatment and drainfield] vs. Tier 2 [better], etc.).

*For purposes of drafting this recommendation, the TAC presumed ENR systems to be distinct from a conventional system and utilized treatment systems like ones certified to NSF 245 standards, which have a minimum 50% nitrogen reduction, as a working definition.*

**TAC RECOMMENDATION 2.2:** Streamline innovative system testing.

- Establish standard protocol (QAPP) for innovative testing.
- Allow for innovative testing without technologies being required to apply for and be granted a variance to address rule conflicts.
- Allow for six-month testing period (same as NSF 40/245) for those systems that do not use soil as a treatment component.
- Establish a competitive grant program to facilitate testing for innovative systems. This could also include supporting field testing of innovative systems or testing treatment systems to establish their treatment capability.

**TAC RECOMMENDATION 2.3:** Allow qualified third-party testing to substitute for certification to NSF Standard 245 or innovative testing. If verified testing meets the treatment standards currently used to determine classification, then the technology would be approved as such.

**TAC RECOMMENDATION 2.4:** In addition to Florida Professional Engineers, allow others who become trained and certified to design elements of systems that are commonly associated with ENR (such as performance-based treatment systems or drip irrigation systems).

**TAC RECOMMENDATION 2.5:** Modify the repair rule on water table separation to allow less than currently required separation from the water table during the wettest season on systems providing higher treatment. This would increase demand for ENR.

**TAC RECOMMENDATION 2.6:** Establish a monitoring program for all ENR systems, to include subsidence for in-ground nitrogen reducing biofilters.

**Charge Question 3: Provide recommendations for appropriate setback distances for OSTDS from surface water, groundwater, and wells.**

**TAC RECOMMENDATION 3.1:** Maintain current setbacks for now.

**TAC RECOMMENDATION 3.2:** Evaluate existing research/data, and/or undertake original research to better understand the fate and transport mechanisms of nutrients discharging from OSTDS.

**TAC RECOMMENDATION 3.3:** Use the most recent research available to establish setbacks that protect Florida waters, including such considerations as the impact of sea level rise and coastal and inland flooding.

**TAC RECOMMENDATION 3.4:** Allow others in addition to professional surveyors and mappers to become trained and certified to determine mean annual flood lines.

**TAC RECOMMENDATION 3.5:** Reach out to stakeholders, such as local governments, to get input on data and observations that relate to these setbacks.

**TAC RECOMMENDATION 3.6:** Continue TAC or establish an advisory committee to assist DEP with rulemaking and research.