

Notice of Proposed Rule

DEPARTMENT OF HEALTH
Division of Environmental Health

RULE NO: RULE TITLE

[64E-6.001](#): General[64E-6.003](#): Permits[64E-6.004](#): Application for System Construction Permit[64E-6.010](#): Septage and Food Establishment Sludge[64E-6.0101](#): Portable Restrooms and Portable or Stationary Holding Tanks[64E-6.012](#): Standards for the Construction, Operation, and Maintenance of Aerobic Treatment Units[64E-6.013](#): Construction Materials and Standards for Treatment Receptacles[64E-6.015](#): Permitting and Construction of Repairs[64E-6.019](#): Requirements for Registration[64E-6.023](#): Certification of Partnerships and Corporations[64E-6.026](#): Applications for Innovative System Permits and System Construction Permits[64E-6.027](#): Permits[64E-6.028](#): Location and Installation

PURPOSE AND EFFECT: The proposed changes to Chapter 64E-6, Florida Administrative Code, update references to forms incorporated by reference into the Chapter.

SUMMARY: The proposed rules correct outdated references to forms incorporated by reference into the Chapter.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There should be no impacts on the regulated entities because the forms being incorporated have already been in use for several years but the references to the forms are no longer up-to-date.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: [381.011](#), [381.0065](#), [381.0066](#), [489.552](#), [489.553](#), [489.557 FS](#).

LAW IMPLEMENTED: [381.0065](#), [381.066](#), [381.0067](#), [386.041](#), [489.553](#), [489.557 FS](#).

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: January 11, 2010, 3:00 p.m.

PLACE: Bureau of Onsite Sewage Programs, Conference Room 240P, Capital Circle Office Center, 4042 Bald Cypress Way, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Shirley Kugler, Bureau of Onsite Sewage Programs, 4052 Bald Cypress Way, Bin #A08, Tallahassee, Florida 32399-1713. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dale Holcomb, Environmental Administrator, Bureau of Onsite Sewage Programs

THE FULL TEXT OF THE PROPOSED RULE IS:

64E-6.001 General.

(1) through (3) No change.

(4) Except as provided for in Section 381.00655, F.S., any existing and prior approved system which has been placed into use and which remains in satisfactory operating condition shall remain valid for use under the terms of the rule and permit under which it was approved. Alterations that change the conditions under which the system was permitted and approved, sewage characteristics or increase sewage flow will require that the owner, or their authorized representative, apply for and receive reapproval of the system by the DOH county health department, prior to any alteration of the structure, or system. If an applicant requests that the department consider the previous structure's or establishment's most recent approved occupancy, the applicant must provide written documentation

that the onsite sewage treatment and disposal system was approved by the department for that previous occupancy. An applicant will be required to complete Form DH 4015, ~~08/09~~ ~~10/97~~, Application for ~~Onsite Sewage Treatment and Disposal System Construction Permit~~, herein incorporated by reference, and provide a site plan in accordance with paragraph 64E-6.004(3)(a), F.S., to provide information of the site conditions under which the system is currently in use and conditions under which it will be used. The applicant shall have all system tanks pumped by a permitted septage disposal service. A registered septic tank contractor, state-licensed plumber, person certified under section 381.0101, FS, or master septic tank contractor shall determine the tank volume and shall perform a visual inspection of the tank when the tank is empty to detect any observable defects or leaks in the tank. The tank volume shall be obtained from the tank legend or shall be calculated from measured internal tank dimensions for length, width and depth to the liquid level line or from the measured outside dimensions for length and width minus the wall thickness and depth to the liquid level line. For odd shaped tanks and tanks without a legend, metered water flows from the refilling of the tank may be used in lieu of measured inside or outside tank dimensions. The person performing the inspection shall submit the results to the DOH county health department as part of the application using page 4 of Form DH 4015. If a prior approved existing system has been approved by the DOH county health department within the preceding three years, and the system was determined to be in satisfactory operating condition at that time, a new inspection is not required unless there is a record of failure of the system. If it is determined that a new inspection is not required, only the application fee shall be charged for this application and approval. A commercial system out of service for more than one year shall be brought into full compliance with current requirements of this Chapter prior to the system being placed into service. If the use of a building is changed or if additions or alterations to a building are made which will increase domestic sewage flow, change sewage characteristics, or compromise the integrity or function of the system, the onsite sewage treatment and disposal system serving such building shall be brought into full compliance with the provisions and requirements of these rules. Proper well setbacks shall be maintained. Prior to any modification of the system, the owner shall apply for and obtain a permit for modification of the system from the county health department in accordance with Rule 64E-6.004, F.A.C. The permit shall be valid for 18 months from the date of issue. Where building construction has commenced, it shall be valid for an additional 90 days. Necessary site investigations and tests shall be performed at the expense of the owner by either an engineer with soils training who is licensed in the state of Florida pursuant to Chapter 471, F.S., registered septic tank contractors, master septic tank contractors, or persons certified under Section 381.0101, F.S., or department personnel for the appropriate fee specified in Section 381.0066, F.S.

(a) through (g) No change.

(5) through (7) No change.

Rulemaking Authority 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 381.0065, 381.0067, 386.041, 489.553, FS. History—New 12-22-82, Amended 2-5-85, Formerly 10-6.41, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.041, Amended 11-19-97, 2-3-98, 3-22-00, 9-5-00, 5-24-04, 11-26-06, 6-25-09, _____.

64E-6.003 Permits.

(1) System Construction Permit – No portion of an onsite sewage treatment and disposal system shall be installed, repaired, altered, modified, abandoned or replaced until a construction permit ~~an "Onsite Sewage Treatment and Disposal System Construction Permit"~~ has been issued on Form DH 4016, ~~08/09~~, Construction Permit, herein incorporated by reference. If building construction has commenced, the system construction permit shall be valid for an additional 90 days beyond the eighteen month expiration date. A fee shall not be charged for a repair permit issued within 12 months from the date of final authorization of the onsite sewage treatment and disposal system. If a construction or repair permit for an onsite sewage treatment and disposal system is transferred to another person the date of the construction or repair permit shall not be amended, but shall run from the date of original issuance prior to the transfer. Servicing or replacing with like kind mechanical or electrical parts of an approved onsite sewage treatment and disposal system; pumping of septage from a system; or making minor structural corrections to a tank, or distribution box, does not constitute a repair.

(2) No change.

(3) Repair Inspections – A system repair shall be inspected by the department or a master septic tank contractor to determine compliance with construction permit standards prior to final covering of the system. Inspections shall comply with subsection 64E-6.003(2), F.A.C., and the following:

(a) No change.

(b) The master septic tank contractor shall document the inspection on page 3 of Form DH 4016, ~~10/96~~, ~~System Repair Certification~~, and fax or hand deliver the form to the department by the next normal duty day following the inspection.

(c) through (e) No change.

(4) No change.

(5) Operating permits – No business or facility shall occupy a building served by an onsite sewage treatment and disposal system if the building is located in an area zoned or used for industrial or manufacturing purposes or its equivalent; or where a business will generate commercial sewage waste; and no structure shall be occupied where an aerobic treatment unit or performance-based treatment system is used, until an “Application for Onsite Sewage Treatment and Disposal System Operating Permit” has been received and approved by the department. Form DH 4081, 10/96, “Application for Onsite Sewage Treatment and Disposal System Operating Permit,” is herein ~~hereby~~ incorporated by reference.

(a) No change.

(b) Operating permits are not transferable. If the owner of the system remains the same but the tenancy of the building changes, a Business Survey, form which is an attachment to Form DH 4081A, 10/96, herein incorporated by reference, must be completed and submitted to the DOH county health department for review. Changes in building occupancy shall be reviewed per Section 381.0065(4), F.S.

(c) No change.

(6) No change.

Rulemaking Authority 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 381.0065, 381.0067, 386.041 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.43, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.043, Amended 3-22-00, 4-21-02, 5-24-04, 11-26-06, 6-25-09,_____.

64E-6.004 Application for System Construction Permit.

(1) through (5) No change.

(6) Requests for variance shall be made on Form DH 4057, 08/09, Application for Variance from Chapter 64E-6, F.A.C., herein incorporated by reference.

(7) through (9) No change.

Rulemaking Authority 381.0065(3)(a), 489.553(3) FS. Law Implemented 381.0065, 489.553 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.44, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.044, Amended 11-19-97, 3-22-00, 11-26-06, 6-25-09,_____.

64E-6.010 Septage and Food Establishment Sludge.

(1) through (6) No change.

(7) The food establishment sludge and contents from onsite waste disposal systems shall be disposed of at a site approved by the DOH county health department and by an approved disposal method. Untreated domestic septage or food establishment sludges shall not be applied to the land. Criteria for approved stabilization methods and the subsequent land application of domestic septage or other domestic onsite wastewater sludges shall be in accordance with the following criteria for land application and disposal of domestic septage.

(a) No change.

(b) No land application of stabilized septage or food service sludge may occur until:

1. through 2. No change.

3. An Agricultural Use Plan, Form DH 4012A, 08/09, herein incorporated by reference, has been completed for the proposed application site.

a. through b. No change.

4. through 5. No change.

(c) through (v) No change.

(8) through (10) No change.

Rulemaking Authority 381.0065(3)(a), 489.553(3) FS. Law Implemented 381.0065, 386.041, 373.4595 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.52, Amended 3-17-92, 1-3-95, 5-14-96, Formerly 10D-6.052, Amended 3-22-00, 5-24-04, 11-26-06, 6-25-09,_____.

64E-6.0101 Portable Restrooms and Portable or Stationary Holding Tanks.

(1) Persons servicing portable restrooms, portable hand washing facilities and portable or stationary holding tanks shall obtain an annual permit on Form DH 4013, ~~01/92, Operating Permit, herein incorporated by reference,~~ from the county health department in the county in which the service company has an office or storage yard. The service company need not be permitted in neighboring counties in which the service company operates but does not have an office or storage yard. Service persons shall carry proof of possession of a current annual operating permit and vehicle inspection for review by department personnel in neighboring counties. Permits issued under this rule authorize the disposal service to handle liquid waste associated with portable restrooms, portable hand washing facilities, restroom trailers, shower trailers and portable or stationary holding tanks containing domestic wastewater

produced in the State of Florida.

(2) Application for a service permit shall be made to the DOH county health department on Form DH 4012, ~~01/92, “Application for Septage Disposal Service Permit, Temporary System Service Permit, Septage Treatment and Disposal Facility, Septic Tank Manufacturing Approval”~~ ~~herein incorporated by reference~~. The following must be provided for the evaluation prior to issuance of a service permit:

(a) through (c) No change.

(3) through (6) No change.

(7) Portable Restrooms, Portable Holding Tanks, Stationary Holding Tanks, Mobile Restroom Trailers, Mobile Shower Trailers, and Portable Sinks.

(a) through (r) No change.

(s) Application for a service permit shall be made to the county health department on Form DH 4012, ~~01/92, “Application for Septage Disposal Service Permit, Temporary System Service Permit, Septage Treatment and Disposal Facility, Septic Tank Manufacturing Approval”~~ ~~herein incorporated by reference~~. The following must be provided for the evaluation prior to issuance of a service permit:

1. through 2. No change.

(t) through (x) No change.

(8) No change.

Rulemaking Authority 381.0065(3)(a), 489.553(3) FS. Law Implemented 381.0065, 386.041 FS. History--New 5-24-04, Amended 11-26-06, 6-25-09,_____.

64E-6.012 Standards for the Construction, Operation, and Maintenance of Aerobic Treatment Units.

When aerobic treatment units are used for treating domestic and commercial sewage waste, each unit shall be installed, operated and maintained in conformance with the following provisions:

(1) through (3) No change.

(4) No aerobic treatment unit shall be serviced or repaired by a person or entity engaged in an aerobic treatment unit maintenance service until the service entity has obtained an annual written permit issued on Form DH 4013 from the DOH county health department in the county where the service company is located. Each service entity shall employ at least one plumbing contractor licensed under Section 489.105(3)(m), F.S., septic tank contractor registered under Part III of Chapter 489, F.S., or a state-licensed wastewater treatment plant operator, who is responsible for maintenance and repair of all systems under contract. Application for a Maintenance Service Permit, Form DH 4066, 01/92, [herein incorporated by reference](#), shall be made to the DOH county health department and shall contain the following information:

(a) through (c) No change.

(5) No change.

Rulemaking Authority 381.0065(3)(a), 489.553(3) FS. Law Implemented 381.0065, Part I 386 FS. History--New 3-17-92, Amended 1-3-95, Formerly 10D-6.0541, Amended 11-19-97, 4-21-02, 6-18-03, 11-26-06, 6-25-09,_____.

64E-6.013 Construction Materials and Standards for Treatment Receptacles.

(1) through (2) No change.

(3) Onsite wastewater treatment receptacle design approval – All onsite wastewater treatment receptacles distributed in the state shall be approved for use by the department prior to being offered for sale or installed. Such approval shall not be obtained until the manufacturer of a specific receptacle model has submitted the following:

(a) through (h) No change.

(i) The department will issue an approval number to the manufacturer. Form DH 4012, ~~01/92, “Application for Septage Disposal Service Permit, Temporary System Service Permit, Septage Treatment and Disposal Facility, Septic Tank Manufacturing Approval”~~ ~~herein incorporated by reference~~, shall be used to apply for manufacturing approval. The form can be obtained from the department.

(4) through (12) No change.

Rulemaking Authority 381.0065(3)(a) FS. Law Implemented 381.0065 FS. History--New 12-22-82, Amended 2-5-85, Formerly 10D-6.55, Amended 3-17-92, 1-3-95, Formerly 10D-6.055, Amended 11-19-97, 2-3-98, 3-22-00, 4-21-02, 5-24-04, 11-26-06, 6-25-09,_____.

64E-6.015 Permitting and Construction of Repairs.

All repairs made to a failing onsite sewage treatment and disposal system shall be made only with prior knowledge and written approval from the DOH county health department having jurisdiction over the system. Approval shall be granted only if all of the following conditions are met:

(1) Any property owner or lessee who has an onsite sewage treatment and disposal system which is improperly

constructed or maintained, or which fails to function in a safe or sanitary manner shall request from the DOH county health department, either directly or through their agent, a permit to repair the system prior to initiating repair of the system. A permit shall be issued on Form DH 4016, ~~hereby incorporated by reference~~, only after the submission of an application accompanied by the necessary exhibits and fees. Form DH 4015, ~~10/96, hereby incorporated by reference~~, shall be used for this purpose, and can be obtained from the department. Applications shall contain the following information:

(a) through (f) No change.

(2) through (12) No change.

Rulemaking Authority 381.0065(3)(a) FS. Law Implemented 381.0065, 386.041 FS. History—New 3-17-92, Amended 1-3-95, 2-13-97, Formerly 10D-6.0571, Amended 2-3-98, 3-22-00, 5-24-04 11-26-06, 6-25-09,_____.

64E-6.019 Requirements for Registration.

(1) No change.

(2) Any person seeking registration shall apply to the department to take the registration examination on Form DH 4075, 1/97, Application for Septic Tank Contractor Registration, herein incorporated by reference ~~in these rules~~. The form is available from the department.

(3) through (5) No change.

Rulemaking Specific Authority 489.553(3), 489.557(1) FS. Law Implemented 489.552, 489.553 FS. History—New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.072, Amended 2-3-98, 4-21-02, 06-18-03, 11-26-06,_____.

64E-6.023 Certification of Partnerships and Corporations.

(1) Authorization of a corporation is only effective as to that corporation; subsidiaries or parents of authorized corporations must be separately authorized.

(a) Application for a certificate of authorization shall be made to the department on Form DH 4077, 4/03, Application for Certificate of Authorization, herein incorporated by reference ~~into this rule~~, and shall be accompanied by all necessary exhibits and fees. A business that applies for a certificate of authorization after the mid point of the biennial authorization cycle shall pay one/half the fee required in rule 64E-6.030, F.A.C.

(b) No change.

(2) through (6) No change.

Rulemaking Authority 381.0065, 489.553, 489.557 FS. Law Implemented 381.0065, 381.0066, 381.0067, Part I 386, Part III 489 FS. History—New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.076, Amended 4-21-02, 5-24-04, 6-25-09,_____.

64E-6.026 Applications for Innovative System Permits and System Construction Permits.

(1) Applications for innovative system permits – Applications for innovative system permits shall be made using form DH 3143 ~~herein incorporated by reference~~. The application and all supporting information shall be signed, dated and sealed by an engineer, licensed in the State of Florida. Except as provided for in subsection 64E-6.028(3) F.A.C., alternative drainfield materials and designs shall not be approved which would result in a reduction in drainfield size using the mineral aggregate drainfield system as described in Rule 64E-6.014, FAC, and the total surface area of soil at the bottom of the drainfield as the criteria for drainfield sizing comparisons. Applications shall include:

(a) through (b) No change.

(2) through (3) No change.

Rulemaking Specific Authority 381.0011(4), (13), 381.0065(3)(a) FS. Law Implemented 381.0065, 381.0067, Part I 386 FS. History—New 2-3-98, Amended 6-18-03, 11-26-06,_____.

64E-6.027 Permits.

(1) No change.

(2) System Construction Permit – No portion of a performance-based treatment system shall be installed, repaired, altered, modified, abandoned or replaced until a construction permit ~~an “Onsite Sewage Treatment and Disposal System Construction Permit”~~ has been issued on Form DH 4016. If building construction has commenced, the system construction permit shall be valid for an additional 90 days beyond the eighteen month expiration date. A fee shall be charged for a repair permit issued within 12 months from the date of final authorization of the performance-based treatment system. If a construction or repair permit for a performance-based treatment system is transferred to another person, the date of the construction or repair permit shall not be amended, but shall run from the date of original issuance prior to the transfer. Servicing or replacing with like kind mechanical or electrical parts of a performance-based treatment system; pumping of septage from a system; or making minor structural corrections

to a tank, or distribution box, does not constitute a repair, however, all services must be performed by the performance system maintenance entity. Any proposed change from the original design, including increasing or decreasing changes in flow rate, shall require that the system be re-engineered to achieve the desired performance standard under the altered conditions.

(3) through (6) No change.

(6) Operating permits – No residence or establishment served by a performance-based treatment system shall be occupied until Form DH 4081-10/96, “Application for Onsite Sewage Treatment and Disposal System Operating Permit” has been received and approved by the department. ~~Form DH 4081, is hereby incorporated by reference, and is available from the department.~~ Where a performance-based treatment system is used, only one operating permit shall be required for the system.

(a) through (e) No change.

(7) No change.

Rulemaking Authority 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 381.0065, Part I 386, 489.553 FS. History– New 2-3-98, Amended 4-21-02, 6-18-03, 6-25-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Holcomb, Environmental Administrator, Bureau of Onsite Sewage Programs

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D., M.P.H., Secretary of Health/State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 4, 2009