



FLORIDA KEYS AREAS OF CRITICAL STATE CONCERN
2016 Annual Report



Annual Report: 2015-2016
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TAB 1

Rick Scott
GOVERNOR



Cissy Proctor
EXECUTIVE DIRECTOR

November 30, 2016

The Honorable Rick Scott
Governor of Florida
The Capitol
Tallahassee, Florida 32399-0001

The Honorable Pam Bondi
Attorney General
The Capitol
Tallahassee, Florida 32399-1050

The Honorable Adam Putnam
Commissioner of Agriculture
The Capitol
Tallahassee, Florida 32399-0810

The Honorable Jeff Atwater
Chief Financial Officer
The Capitol
Tallahassee, Florida 32399-0300

Dear Governor and Members of the Administration Commission:

The Florida Department of Economic Opportunity is pleased to submit the 2016 Florida Keys Area of Critical State Concern Annual Report. Section 380.0552(4)(b), Florida Statutes, requires the agency to prepare a report that describes the progress of the Florida Keys Area of Critical State Concern toward completing each local government's work program. These work programs, adopted by administrative rule for Monroe County, the Village of Islamorada and City of Marathon, detail specific tasks required of each local government to achieve environmental and water quality improvements as well as goals for land acquisition and hurricane evacuation.

The Florida Department of Economic Opportunity appreciates the efforts of these local governments and looks forward to continuing our cooperative relationship with the Florida Keys communities to achieve the goals of the work programs.

Sincerely,

Cissy Proctor
Executive Director

CP/rj

cc: The Honorable Heather Carruthers, Mayor, Monroe County
The Honorable Mark Sinmartin, Vice Mayor, City of Marathon
The Honorable Deb Gillis, Mayor, Islamorada, Village of Islands
The Honorable Craig Cates, Mayor, City of Key West
The Honorable Jerry Ellis, Mayor, City of Key Colony Beach
The Honorable Norman Anderson, Mayor, City of Layton

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Florida Keys Area of Critical State Concern
Annual Report Summary for the Period July 1, 2015 – June 30, 2016
Executive Summary

Section 380.05, Florida Statutes, allows the Florida Administration Commission to designate areas that contain resources of statewide significance as an Area of Critical State Concern. The Florida Keys Area of Critical State Concern, designated in 1974, includes the Village of Islamorada, City of Marathon, City of Layton, City of Key Colony Beach and unincorporated Monroe County. In 1984, the City of Key West was also designated an Area of Critical State Concern. Administration Commission oversight includes authority to promulgate administrative rules that guide local government growth and development decisions related to comprehensive plans and land development regulations.

Annually, the Department of Economic Opportunity (DEO) is required by section 380.0552(4)(b), Florida Statutes, to submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks “specified in commission rules.” This report covers July 1, 2015 through June 30, 2016 and summarizes the status of the work programs. The work program covers the period from July 2011 through June 30, 2016, for most tasks. In addition, there are recurring requirements to annually apply for land acquisition grant funding and to identify and apply for wastewater infrastructure grants.

The work program matrix found under Tab 3 of this report contains measurable actions with due dates. Specifically, it contains the:

- Tasks.
- Dates for completion.
- Comments as to the extent to which these requirements have been met from the relevant local government.
- Status of each work program task in the third column as either “complete” or “incomplete” with tasks due this reporting period highlighted in yellow.

During this reporting period:

- Marathon completed 66% of the tasks assigned.
- Monroe County completed 88%.
- Islamorada completed 83% of the tasks assigned in the work program.

The percentage of tasks completed is not cumulative and covers only the current reporting period.

Explanations as to why the local government did not achieve 100% of the tasks assigned for this reporting period can be found under Tab 3. The report also describes tasks that were due in prior reporting periods but have not yet been completed by the local government.

Recommendations

DEO makes the following recommendations pursuant to section 380.0552(4)(b), Florida Statutes:

- (1) Accept the 2016 Annual Report for Monroe County, the City of Marathon and the Village of Islamorada.
- (2) Continue the Florida Keys Area of Critical State Concern designations.
- (3) Accept DEO's recommendation that progress toward accomplishing the tasks of the work program have been achieved for Monroe County, the City of Marathon and the Village of Islamorada.

TAB 2

DESIGNATION BACKGROUND AND PURPOSE

Section 380.05, Florida Statutes, allows the Florida Administration Commission to designate areas that contain resources of statewide significance as an Area of Critical State Concern. Administration Commission oversight includes authority to promulgate administrative rules that guide local government growth and development decisions related to local comprehensive plans and land development regulations.

The Florida Keys Area of Critical State Concern, designated in 1974, includes the Village of Islamorada, City of Marathon, City of Layton, City of Key Colony Beach and unincorporated Monroe County.¹ In 1984, the City of Key West was also designated an Area of Critical State Concern. It was the intent of the legislature that the designation would:



Mangrove (Source: Tom and Therisa Stack)

- Establish a land management system that:
 - Protects the natural environment of the Florida Keys.
 - Conserves and promotes the community character of the Florida Keys.
 - Promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services.
 - Promotes and supports a diverse and sound economic base.
- Provide affordable housing in close proximity to places of employment in the Florida Keys.
- Protect constitutional rights of property owners to own, use and dispose of their real property.
- Promote coordination and efficiency among governmental agencies that have permitting jurisdiction over land use activities in the Florida Keys.
- Protect and improve the nearshore water quality of the Florida Keys through federal, state and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet statutory requirements, as applicable.

¹ Monroe County, Key Colony Beach, Layton and Key West designated in 1974. Marathon and Islamorada, formerly unincorporated areas in Monroe County are also included in this designation.

- Ensure that the population of the Florida Keys can be safely evacuated.

Work plans have been adopted by administrative rule for unincorporated Monroe County, the Village of Islamorada and the City of Marathon, which contain specific tasks for each local government to achieve the intent of the legislature. Each work program was developed in recognition of the fact that these communities contain the most important habitat in need of protection and to provide a schedule for constructing regional sewer systems. Key West, Key Colony Beach and Layton, the remaining local governments in the Florida Keys, do not have work programs.

Diverse Economic Base

The environment and the economy are inextricably linked in the Florida Keys. The efforts to balance the economy and environmental protection have been facilitated through the extension of public facilities to assist vibrant economic development while improving water quality.

Tourism is the chief economic engine in the Florida Keys. More than \$1.2 billion dollars is spent annually by more than 4.4 million visitors, producing the highest sales tax per capita in the state (\$29,000 per capita)². The area is an international tourism mecca for sport fishing, diving, boating, cruising and wildlife viewing. Recreational and commercial fishing are the next most important sectors of the local economy, annually contributing an estimated \$557 million³. With a population of 76,047⁴, more than 33,000 jobs are supported by ocean recreation and tourism, accounting for 58% of the local economy and \$2.3 billion annually. Hotel and motel properties alone constitute more than \$1 billion in taxable property value and 90% of the top property taxpayers are tourism-related businesses. Nearly half of all taxable sales are direct purchases by tourists. Since 2007, there has been a 34% increase in tourism.



Sailfish Islamorada (Source: Bill Keogh)

² Florida Department of Revenue; United States Census.

³ National Marine Sanctuary Program, National Oceanic and Atmospheric Administration, National Ocean Service and US Department of Commerce. 2007. *Florida Keys National Marine Sanctuary Revised Management Plan*. Available at: <http://floridakeys.noaa.gov/mgmtplans/2007.html>.

⁴All population figures in report from: University of Florida. (2016). *Florida Estimates of Population 2016*. Gainesville: BEBR.

Florida Keys Tourism		
	2007	2014
Keys Overnight Visitors	2,089,021	3,090,267
Keys Day Trippers	386,469	580,667
Cruise Ship Passengers	816,919	765,132
All Keys Visitors	3,292,409	4,436,066
Source: Monroe County Tourist Development Council; Smith Travel Research		

In an effort to support environmental protection and economic development, the Administration Commission developed a work program to ensure construction of wastewater treatment facilities. The investment of \$1 billion for the construction of wastewater treatment facilities is serving the entire resident population and all visitors to this area.

NATURAL ENVIRONMENT AND WATER QUALITY IMPROVEMENT

Natural Environment

The diversity and quality of natural resources in Florida is an important part of life for Floridians and visitors to the state. Nowhere is this more evident than in the Florida Keys. Separated from the rest of the state, the Keys are connected by a single road. Electricity and potable water are extended to the area from the mainland with more than 113 miles of infrastructure throughout the area. The highest point of elevation along these rocky islands is only 18 feet above sea level and no point is more than four miles from water.

The Florida Keys form a unique sub-region supporting a combination of marine and tropical upland habitats that have one of the highest numbers of endemic and listed plant and animal species in North America.⁵ Globally imperiled habitats including tropical hardwood hammocks, pine rock lands and coastal rock barrens occur in the Florida Keys along with mangrove swamps and coastal salt marshes. The Keys are located



Schaus Butterfly (Source: National Park Service)

within the Atlantic flyway, one of four major travel corridors in the world that migratory birds follow on spring and fall migrations. They provide critical nesting, feeding and resting areas for more than 250 species of birds and the endangered Schaus Butterfly.

The Keys ecosystem evolved in clear waters with low nutrients. All the waters adjacent to the islands have been designated as Outstanding Florida Waters, including the Florida Keys National Marine Sanctuary, the largest national marine sanctuary in the United States. The Florida Bay

⁵ National Marine Sanctuary Program, National Oceanic and Atmospheric Administration, National Ocean Service and US Department of Commerce. 2007. *Florida Keys National Marine Sanctuary Revised Management Plan*. Available at: <http://floridakeys.noaa.gov/mgmtplans/2007.html>.



Key Deer (Source: Tina Zimmerman)

contains the most expansive seagrass meadow in the world. The outer reefs form the third largest barrier reef system in the world.

The Florida Keys ecosystem has limited capacity to sustain additional impacts from development. Of particular concern has been the declining water quality of the near shore environment and the loss of habitat for state and federally listed species.

Water Quality Improvement

Water quality is a critical focal point as degradation has resulted from nutrients discharging from private package plants and inadequately operating on-site disposal treatment systems (septic tanks). This is being corrected through the construction of central wastewater plants that treat to the highest standards required by Florida law. Wastewater treatment package plants and septic tanks dispose of treated effluent using injection wells. The effluent from these plants contain nutrients and human pathogens which rapidly migrate to surface water as a result of tidal pumping. The last step in the wastewater improvement process is to ensure that all septic tanks are abandoned and all privately owned package treatment plants are connected to a central system or upgraded to meet advanced wastewater treatment standards.

Florida Statutes⁶ (see Tab 4) require that the wastewater systems in the Florida Keys be upgraded by January 1, 2016. The Florida Department of Environmental Protection reports there have been ongoing efforts to upgrade or connect 23,000 on-site sewage treatment systems and approximately 249 Wastewater Treatment Package Plants since 1999. Of the 249 privately owned wastewater treatment package plants, the Department of Environmental Protection reports that all but 70 have connected to new regional wastewater treatment facilities that provide advanced water quality treatment or have upgraded their system to advanced wastewater treatment standards. Of those privately owned wastewater treatment package plants that have not connected or upgraded, 44 of the 70 are located in Islamorada, 19 in the lower keys within unincorporated Monroe County and three in Marathon. Tab 5 contains reports from the Florida Department of Health and the Department of Environmental Protection, and Tab 6 contains a detailed connection status for each local government regarding sewer connection at the various wastewater treatment facilities.

⁶ Sections 380.0552(7)(j), 381.0065(4)(e) and 403.086(10), Florida Statutes.

The Department of Health is responsible for monitoring on-site sewage disposal and treatment systems. As of July 2016, the Department of Health reports receipt of 11,918 applications to abandon existing systems. All owners of the approximate 23,000 sites that utilized on-site sewage treatment and disposal systems have been notified that regional wastewater facilities are available. Property owners are required to connect and abandon existing waste treatment systems. If regional upgraded wastewater systems are not available, in cases such as off-shore islands, then the property owners must upgrade to on-site sewage disposal and treatment systems that meet the best available treatment standards required by section 381.0065 Florida Statutes, by January 1, 2016.



Package Plant (Source: RWL Water)

Canal Restoration

The restoration of water quality within dredged canals is another effort undertaken to improve water quality. Prior to federal regulations being enacted that protected submerged lands and wetlands from dredge and fill activities, more than 502 canals were dredged, most without state and federal review. Due to the length and depth of the canals and poor circulation of the water, seagrasses become trapped and water quality is degraded. As a result, more than 300 canals have been identified in the Florida Keys that do not meet the state's minimum water quality criteria. Connecting the adjacent dwelling units to central sewer and constructing storm water treatment swales has reduced nutrient loading, but did not completely eliminate the impaired water quality.



Canal Restoration (Source: Monroe County)

The county has collaborated with the Florida Department of Environmental Protection, the Florida Keys Marine Sanctuary, local governments and other agencies to conduct a pilot program to improve water quality in the canals at a cost of \$7 million. Possible options for treatment include vacuum dredging for removal of organics, weed gates, air curtains and pumping systems to facilitate flushing, improved culvert connections and backfilling. These options are being evaluated for their cost effectiveness and ability to improve water quality.

HURRICANE EVACUATION AND LAND ACQUISITION

Hurricane Evacuation

Section 380.0552(2)(j), Florida Statutes, and local government work programs address evacuation timeliness in the event of a hurricane. Each local government comprehensive plan must contain goals, objectives and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. At this time, U.S. Highway 1 is the only evacuation route. In order to not exceed a 24-hour evacuation clearance time, a phased hurricane evacuation procedure has been developed.

In 2012, at the direction of the Administration Commission, each local government appointed an elected representative to the Hurricane Evacuation Clearance Time Working Group. The purpose of the working group was to determine the allocation and distribution of residential units that could be built without exceeding the 24-hour evacuation clearance time. After conducting numerous public hearings, the local governments executed a memorandum of understanding that referenced the agreed upon allocations. The evacuation is broken into two phases: During phase one, approximately 48 hours prior to an anticipated landfall of a Category 3 or higher hurricane event (as established by the Saffir-Simpson Hurricane Wind Scale) tourists, recreational vehicles, camp grounds, parks, hospitals and individuals with special needs are evacuated. During phase two, approximately 36 hours prior to anticipated landfall, mobile home occupants are directed to evacuate, and 24 hours prior to landfall, permanent residents are directed to evacuate.

The most recent hurricane evacuation models project that the evacuation clearance time will reach 24 hours after an additional 3,550 residential units are constructed in the Florida Keys.

As part of the overall evacuation strategy, the Administration Commission adopted a building permit allocation system that caps the number of permits that can be issued for new residential structures.

Local governments issue annual permits based upon a point system that awards the most points to the least environmentally sensitive lots. Each quarter, top ranked applications receive a building permit allocation until the cap is reached. If an applicant is unable to obtain an allocation over a four-year period, the applicant may apply for administrative relief and obtain an allocation or sell the



Fanny Key (Source: Private Islands Online)

lot to the county or state. This system is intended to limit development allocations by the year to ensure the 24-hour evacuation time, required by section 380.0552, Florida Statutes, can be accomplished.

Based upon current development trends and hurricane evacuation models, it is anticipated that up to 8,000 vacant parcels countywide may remain in 2023 when the 24-hour evacuation clearance time is expected to be reached. The value of the remaining privately owned vacant lots is estimated at \$317 million.



Dry Tortugas (Source: Google Earth)

Land Acquisition

In 2015 the legislature passed the Florida Keys Stewardship Act (see Tab 7) which provides the Florida Keys with an annual allocation for acquisition of conservation land and water quality improvements. Funding is determined annually by the Florida Legislature.

In addition, the Department of Environmental Protection's Florida Forever Land Acquisition Program has acquired more than 10,000 acres for natural resource protection, at a cost of \$243.9 million; however, not all privately owned vacant lots are eligible for acquisition under the Florida Forever Program. Numerous strategies are being evaluated to balance property rights, resource protection, economic development and public safety. During this reporting period, Monroe County Board of County Commissioners committed \$10 million for land acquisition and acquired 56 lots. The commissioners also directed the County Land Authority to acquire developable land that is not as environmentally sensitive instead of only focusing on environmentally sensitive lots targeted for conservation.

The following table identifies the magnitude of privately owned vacant lots:

Vacant Lot Analysis			
Area	No. Vacant Parcels	Average Parcel Value	Approximate Land Value (December 2012 MC Property Appraiser Data)
Key West ACSC	104	\$355,045	\$36,924,754
Unincorporated Monroe County	8,168	\$30,400	\$248,314,487
Marathon	1,680	\$49,845	\$83,740,226
Layton	34	\$51,080	\$1,736,724
Key Colony Beach	109	\$129,746	\$14,142,347
Islamorada	1,269	\$60,877	\$77,253,680
Total	11,364	\$40,644	\$462,112,218
Total Allocations	3,550	N/A	\$317,748,496
Parcels to Purchase (Countywide)	7,814	\$40,664	
Source: Monroe County			

Monroe County staff is active in supporting the acquisition of vacant lots and coordinating with the Department of Environmental Protection’s Division of State Lands to partner in acquisition opportunities. These acquisition efforts must continue at all levels of government to reduce the number of vacant lots.

Hotel Opportunity Program

Due to the limited number of new residential building permit allocations available, most local governments in the Florida Keys have not allocated building permits for the construction of new hotel rooms for more than 15 years. DEO developed a draft concept (the Hotel Opportunity Program) that proposed to award building permit allocations for the construction of hotel rooms in exchange for the extinguishment of development rights on vacant lots.



Hawks Cay Resort (Source: Trip Advisor)

DEO presented a draft Florida Administrative Code rule to the Administration Commission in March 2016. The draft rule included the exchange of 300 hotel room allocations for extinguishing development rights on 900 vacant lots.

The Administration Commission approved rule development workshops to discuss the Hotel Opportunity Program with the public. DEO staff conducted four public workshops across the Florida Keys, with approximately 90 participants, to obtain feedback on the Hotel Opportunity Program. The public and local governments expressed concern that the additional hotel rooms would drive up the demand for affordable housing to accommodate the new employees needed by the hotels. Currently, many hotel workers travel by bus from Homestead to provide services to hotels and resorts because the workers generally have difficulty finding affordable housing in the Florida Keys.

DEO leadership also met with local officials to discuss their concerns and to explore other mechanisms that would achieve the goal of reducing the number of developable lots. Future meetings will be conducted to examine additional strategies and to gain input from other stakeholders. DEO will continue to work with local governments on all potential solutions that will result in the reduction of vacant lots. No action is recommended by DEO at this time regarding the Hotel Opportunity Program. The draft rule and workshop comments are included in Tab 8 for reference.

STATUS OF LOCAL GOVERNMENT WORK PROGRAM ACCOMPLISHMENTS

The following pages provide an overview of the work program tasks that were due for completion during the reporting period (July 1, 2015 to June 30, 2016).

Work Program Tasks

- Monroe County, Marathon and Islamorada work programs are similar in requiring that each local government apply annually to federal and state agencies for funding to support wastewater infrastructure needed and to identify funding in the local government's budget for wastewater needs.
- All three work programs contain a requirement for a recurring annual evaluation of wastewater infrastructure funding needs and a resolution requesting issuance of a portion of the \$200 million in bonds authorized by section 215.619, Florida Statutes.
- All three work programs require each local government to conduct an annual evaluation of land acquisition needs and apply to at least one land acquisition grant program.
- Marathon is required to annually apply for stormwater funding.
- Marathon, Monroe County and Islamorada work program tasks that relate to upgrades to on-site sewage disposal and treatment systems were targeted for completion by December 31, 2015.
- Marathon, Monroe County and Islamorada work program tasks requiring connection to available regional sewer systems were targeted for completion by December 31, 2015.

The City of Marathon

The City of Marathon has a population of 8,549 residents as of 2016. The city has approximately 1,680 vacant lots with the ability to issue 30 new residential building permit allocations annually between between 2013 and 2023 (300 total). The city completed 66% of the tasks scheduled for completion in the work program during this report period which are outlined below.



City of Marathon Work Program Tasks (Rule 28-18.400, Florida Administrative Code)	Complete	Incomplete
Task 5(a)6: Apply for land acquisition funding		X
Task 5(b)1: Allocate funding for wastewater in the Capital Improvements Element	X	
Task 5(b)3: Apply for state or federal wastewater funding	X	
Task 5(b)6: Allocate wastewater funding to support bond issuance	X	
Task 7(e): Allocate funding for stormwater treatment facilities	X	
Task 7(e)2: Apply to the South Florida Water Management District for stormwater grants		X

Water Quality Improvements Funding

The total cost projected for improving and maintaining wastewater facilities in Marathon is approximately \$102.9 million. The city allocated \$10.8 million for wastewater improvements during this reporting period. In addition, the city has an allocation of \$17 million in Everglades restoration funds and \$2.3 million in State Revolving Loans from the Department of Environmental Protection.

Wastewater Connection Progress

Marathon has connected 96% of potential customers to the regional system. There are three private package plants pending connection.

Land Acquisition Funding

The city did not apply for land acquisition funding this past year; however, it submitted a resolution to the Department of Environmental Protection and to the Monroe County Land Authority requesting the acquisition of 432 parcels.

Stormwater Improvements

The city did not apply for stormwater funding this past year; however, it generated approximately \$1 million through the stormwater tax. There was no funding budgeted for stormwater improvements during this past year.

Unincorporated Monroe County

Unincorporated Monroe County has a population of 35,315 residents as of 2016. The county has approximately 8,168 vacant lots with the ability to issue 1,970 new building permits for residential development through 2023. The county completed 88% of the tasks assigned in the work program for this reporting period which are outlined below.



Unincorporated Monroe County Work Program Tasks (Rule 28-20.140, Florida Administrative Code)	Complete	Incomplete
Task 5(a)7: Report on efforts to acquire land and fund balances	X	
Task 5(a)10: Apply annually for land acquisition funding	X	
Task 5(b)1: Allocate wastewater funding	X	
Task 5(b)3: Request Everglades bonds issuance	X	
Task 5(b)5: Apply for wastewater grant funding	X	
Task 5(c)4h: Complete 100% of connections to the Cudjoe Wastewater Facility		X
Task 5(d)1: Allocate storm water funding in Capital Improvements Element	X	
Task 5(d)2: Apply to the South Florida Water Management District for stormwater grants	X	

Water Quality Improvements Funding

During this reporting period, the county has budgeted more than \$207 million for anticipated wastewater improvements. No new funding was awarded this year from Everglades Bonds, however the county has obtained \$56 million from the Department of Environmental Protection's State Revolving Loan Fund. The county initiated a stormwater improvement project at Stock Island estimated to cost \$22 million over the next five years with funding from the South Florida Water Management District.

Wastewater Connection Progress

The Collection System to the outer islands between Cudjoe Key and Big Pine Key were completed during this period, however the county did not complete 100% of the connections to the Cudjoe Key sewer facility. Notices were sent in February 2016 to property owners informing them of the sewer facility availability and requiring connection and abandonment of On Site Sewage Disposal and Treatment systems. Only a few remote areas, including No Name Key and the Torch Islands,

are still pending construction of collection line expansion. There are more than five wastewater plant facilities that have been constructed over the last few years within unincorporated Monroe County. All wastewater treatment plants in unincorporated Monroe have a 95% connection rate with exception of the newly built Cudjoe facility which has a 23% sewer connection rate.

Land Acquisition Funding

Monroe County Board of County Commissioners committed \$10 million for land acquisition and acquired 56 lots. The commissioners also directed the County Land Authority to acquire developable land that is not as environmentally sensitive instead of only focusing on environmentally sensitive lots targeted for conservation.

The Village of Islamorada

The Village of Islamorada has a population of 6,202 residents as of 2016. The village has approximately 1,269 vacant lots with the ability to allocate 28 new residential building permits each year through 2023 (280 total). The Village completed 80% of the work program tasks scheduled for completion during this reporting period which are outlined below.



Village of Islamorada Work Program Tasks (Rule 28-19.310, Florida Administrative Code)	Complete	Incomplete
Task 5(a)1: Apply for land acquisition funds		X
Task 5(b)1: Identify wastewater funding in the Capital Improvements Element	X	
Task 5(b)4: Apply to state or federal government for wastewater grant funding	X	
Task 5(b)6: Request Everglades restoration bonds for financing	X	
Task 5(c)13: Make available 100% of the connections to the Village-wide wastewater system.	X	

Water Quality Improvements Funding

The projected total cost of constructing wastewater facilities and connecting the flow to the Key Largo Wastewater Treatment Plant is \$115 million. The village spent more than \$39 million for sewer construction during this reporting period.

Wastewater Connection Progress

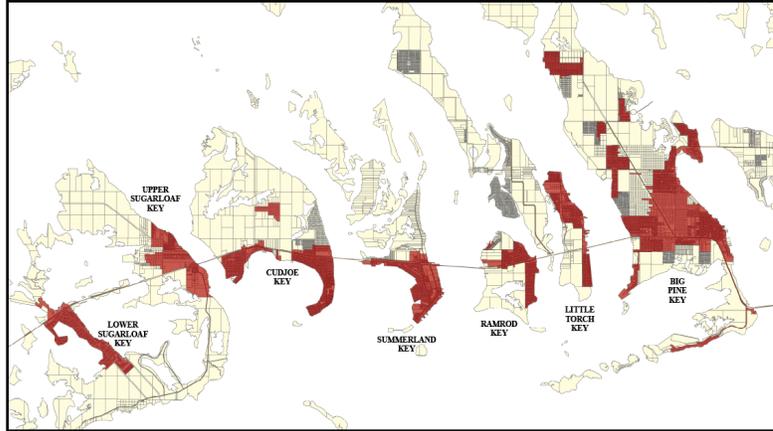
Approximately 64% of the potential connections have been made throughout the village. Another 15% of the potential customers have filed applications, which will bring the connection status to 80% when processed.

Land Acquisition Funding

The Village of Islamorada did not apply for land acquisition funding during this reporting period.

INCOMPLETE WORK PROGRAM TASKS FROM PREVIOUS REPORTING PERIODS

This section of the report addresses incomplete or partially completed tasks from earlier years and recurring work program tasks. The three local government work programs became effective in 2011 and envisioned that by January 1, 2016 all developed properties would be connected to a public sewer system or that on-site sewer systems would be upgraded to advanced treatment standards. Each work program contains target dates for construction of plants followed by goals for the estimated sewer connection rate to the plant. While all planned wastewater treatment plants have been constructed, not all property owners have connected to the new systems.



Service Area for Cudjoe Regional Wastewater Collection System & Treatment Plant
(Source: Monroe County)

Connections and Upgrades of Sewer Systems

City of Marathon

Marathon has completed 96% of potential wastewater connections and should continue implementation and monitoring until 100% of connections are made.

Unincorporated Monroe County

Currently, 23% of potential connections have been made to the Cudjoe Wastewater Treatment Facility in unincorporated Monroe County. Construction of the Cudjoe Plant was delayed in response to a local lawsuit regarding the depth of the injection well. Now that the lawsuit is resolved, it is anticipated that connections will occur quickly. This service area extends from Cudjoe Key to Big Pine Key and has approximately 9,000 potential connections. The county should continue implementation and monitoring until 100% of connections are made.

Village of Islamorada

Currently, the sewer connection rate on lower and upper Matecumbe Keys is less than 50%. The Village has made available sewer service to the entire municipality as required by rule, however the connection rate for the entire service area is only 63%. The village fell behind schedule due to funding delays. The overall demand for plumbing services occurring simultaneously is another

challenge for increasing the connection rate. The village should continue implementation and monitoring until 100% of connections are made.

Local governments expressed that they have no legal authority to ensure upgrades of the on-site sewage disposal and treatment systems through code enforcement and that enforcement of upgrades is a Department of Health responsibility. DEO staff will continue to work closely with the Department of Health to ensure that any remaining septic tanks are upgraded, particularly those located on off-shore islands.

Water Quality Improvement Funding

All three work programs contain a recurring annual evaluation of wastewater infrastructure funding needs and a resolution requesting issuance of a portion of the \$200 million in bonds authorized by section 215.619, Florida Statutes.

Land Acquisition

All three work programs require an annual application for federal or state grant funding for land acquisition. Islamorada and Marathon have not applied for land acquisition grants for the past four years and should increase efforts to secure funding.

Tier Maps

Monroe County has not completed Task 1 of the work program which requires adoption of the Tier Overlay Maps into the Monroe County Comprehensive Plan. However, the Tier Overlay Maps were adopted into the Monroe County Land Development Code in 2008 and are being routinely implemented.

LOCAL GOVERNMENTS IN THE FLORIDA KEYS WITHOUT WORK PROGRAM TASKS

City of Layton

The City of Layton has a population of 182 residents as of 2016. DEO staff have provided technical assistance to update the comprehensive plan, including modifications to the planning horizon, an updated water supply plan and an updated Coastal Management Element. The current building permit allocation is sufficient to cover the city's vacant lots.



The City of Layton has a fully operational wastewater facility that meets advanced wastewater treatment standards and cost \$5.7 million. All residents have been connected to the sewer system since 2006. The city is currently working with unincorporated Monroe County to connect two condominiums outside the city limits to the Layton wastewater treatment facility.

City of Key Colony Beach

The City of Key Colony Beach has a population of 793 residents as of 2016. All development is connected to a central wastewater system and the city is upgrading the existing system at a cost of \$5.9 million. The state allocated \$1 million in Everglades Restoration bond funding toward the \$5.9 million needed in modifications to the system.



In order to track the number of residential building permits issued by the city, the City of Key Colony Beach and the Department of Economic Opportunity entered into a Memorandum of Understanding that requires the city to render all new residential building permit allocations to DEO. The city rendered three building permits during the past year for review. DEO staff conducted expedited reviews of the building permits with satisfactory results for both DEO and the city.

City of Key West

The City of Key West has a population of 25,009 residents as of 2016. The city has a fully functional wastewater treatment system that meets advanced water quality treatment and all of the residents are connected to the system. Key West has sufficient building permit allocations to cover the remaining privately owned vacant lots within the city limits.



Key West Streetscape (Source: Raiza Gomez)

RECOMMENDATIONS

DEO makes the following recommendations pursuant to section 380.0552(4)(b), Florida Statutes:

- (1) Accept the 2016 Annual Report for Monroe County, the City of Marathon and the Village of Islamorada.
- (2) Continue the Florida Keys Area of Critical State Concern designations.
- (3) Accept DEO's recommendation that progress toward accomplishing the tasks of the work program have been achieved for Monroe County, the City of Marathon and the Village of Islamorada.

TAB 3

**Village of Islamorada
July 2015 through June 2016
Annual Report**

		Status	Islamorada Comments	Support Information Requested	Rule Completion Date	Comprehensive Plan Amendment Required
Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-19.310, F.A.C.	Achieved/Not Achieved				
1	(5)(a) Carrying Capacity Study Implementation.					
2	1. By July 1, 2011 and each July 1 thereafter, Islamorada shall evaluate its land acquisition needs and state and federal funding opportunities and apply to at least one state or federal land acquisition grant program.	Incomplete (annual requirement)	No state or federal grant opportunities were identified during this reporting period for which Islamorada would qualify. Land acquisition activities were focused on expanded GIS mapping and modeling project to gain more detailed parcel information including type and location of habitat. Islamorada also focused on support for the Florida Keys Stewardship Act legislation. The improved GIS information is being used to identify lands for acquisition in future months through recently appropriated Florida Keys Stewardship Act Funding.		July 1, 2016	
3	2. By July 1, 2012, Islamorada shall enter into a memorandum of understanding with the state land planning agency ² , Division of Emergency Management, Marathon, Monroe, Key West, Key Colony Beach, and Layton after a notice, public workshop and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the agency to accurately depict evacuation clearance times for the population of the Florida Keys.	Complete			July 1, 2012	
4	3. By July 1, 2012, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding. Islamorada and the state land planning agency ² shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Business and Economic Research, and other studies). Islamorada shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.	Complete			July 1, 2012	
5	4. By July 1, 2012, Islamorada shall complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the state land planning agency ² , Monroe County and each municipality in the Keys.	Complete			July 1, 2012	
6	5. By July 1, 2012, the state land planning agency ² (agency) shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The agency will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24-hour evacuation clearance time. If necessary, state land planning agency shall work with each local government to amend the Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.	Complete			July 1, 2012	
7	6. By July 1, 2013, based on the state land planning agency's ² recommendations, Islamorada shall amend the current building permit allocation system (BPAS in the Comprehensive Plan and Land Development Regulations) based on infrastructure availability, level of service standards, environmental carrying capacity constraints, and hurricane evacuation clearance time.	Complete			July 1, 2013	Yes
8	By March 31, 2012, the Area of Critical State Concern staff shall amend the agendas for the Hurricane Evacuation Clearance Modeling Workshops to include the potential for future transient allocations and their impact on hurricane evacuation clearance times. (January 18, 2012 Administration Commission Action)	Complete				

**Village of Islamorada
July 2015 through June 2016
Annual Report**

		Status	Islamorada Comments	Support Information Requested	Rule Completion Date	Comprehensive Plan Amendment Required
Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-19.310, F.A.C.	Achieved/Not Achieved				
9	(5)(b) Wastewater Implementation.					
10	1. Beginning July 1, 2011 and each July 1 thereafter, Islamorada shall identify any funding for wastewater implementation. Islamorada shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.	Complete (annual requirement)	CIP is adopted annually with the Village Budget.	CIP	July 1, 2016	2011-139 LOF, removed the requirement that the capital improvement schedule be an amendment to the comprehensive plan
11	2. By December 1, 2013, Islamorada shall provide a final determination of non-service areas requiring upgrade to meet Sections 381.0065(4)(l) and 403.086(10), F.S., wastewater treatment and disposal standards. This shall be in the form of a resolution including a map of the non-service areas.	Complete ¹	Resolution 13-11-68 identifying single property as non-service area transmitted to DEO on November 18, 2013		December 1, 2013	
12	3. By December 1, 2013, Islamorada shall work with the owners of wastewater facilities and on site systems throughout the Village and the Department of Environmental Protection (DEP) and the Department of Health (DOH) to fulfill the requirements of Sections 381.0065(3)(h) and (4)(l) and 403.086(10), F.S., regarding implementation of wastewater treatment and disposal systems. This will include coordination of actions with DOH and DEP to notify owners regarding systems that will not meet 2015 treatment and disposal standards.	Complete ¹			December 1, 2013	
13	4. By July 1, 2011 and by July 1 of each year thereafter, Islamorada shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal grant program for wastewater projects and connections.	Complete (annual requirement)	No new wastewater funding opportunities were available during this period for which Islamorada was eligible. Islamorada continued to lobby for state funding and continued to submit necessary documentation to ACOE resulting in reimbursement during the period of 7/1/15 6/30/16 of \$7M in Mayfield Grant funds and \$2.5 M in ACOE grant funds. Additionally, Islamorada utilized \$12.5M in SRF funding during this reporting period.	Application for or award of funding	July 1, 2016	
14	5. By September 1, 2011, Islamorada shall develop and implement local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement of facilities.	Complete			September 1, 2011	
15	6. By July 1, 2011 and each July 1 thereafter through 2013, Islamorada shall annually draft a resolution requesting the issuance of a portion of the \$200 million of bonds authorized under Section 215.619, F.S., and an appropriation of sufficient debt service for those bonds, for the construction of wastewater projects within the Florida Keys.	Complete	COMPLETE - annual requirement was through 2013. 2013 Wastewater Rate Study (financial plan) remains accurate and an effective mechanism to meet this goal. Review of study determined that update not necessary.		July 1, 2013	
16	7. By July 1, 2011 and each July 1 thereafter through 2013, Islamorada shall develop a mechanism to provide accurate and timely information and establish Islamorada's annual funding allocations necessary to provide unmet funding needs to support the issuance of bonds authorized under Section 215.619, F.S., and to assure the timely completion of work as necessary to fulfill any terms and conditions associated with bonds.	Complete	COMPLETE - annual requirement was through 2013. 2013 Wastewater Rate Study (financial plan) remains accurate and an effective mechanism to meet this goal. Review of study determined that update not necessary.		July 1, 2013	
17	8. By December 1, 2013, Islamorada shall provide a report of addresses and the property appraiser's parcel numbers of any property owner that fails or refuses to connect to the central sewer facility within the required timeframe to the Monroe County Health Department, Department of Environmental Protection and the state land planning agency ² . This report shall describe the status of Islamorada's enforcement action and provide the circumstances of why enforcement may or may not have been initiated.	Complete ¹	Code Compliance activities to enforce connections are detailed in the response letter.		December 1, 2013	

**Village of Islamorada
July 2015 through June 2016
Annual Report**

		Status	Islamorada Comments	Support Information Requested	Rule Completion Date	Comprehensive Plan Amendment Required
Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-19.310, F.A.C.	Achieved/Not Achieved				
18	(5)(c) Wastewater Project Implementation.					
19	1. By June 1, 2011, Islamorada shall provide a wastewater financing plan to the state land planning agency ² and Administration Commission.	Complete			June 1, 2011	
20	2. By July 1, 2011, Islamorada shall conclude negotiations with Key Largo Wastewater Treatment District for treatment capacity.	Complete			July 1, 2011	
21	3. By July 1, 2011, Islamorada shall advertise for proposal for design build operate finance construction of Village-wide wastewater system.	Complete			July 1, 2011	
22	4. By July 1, 2011 submit a copy of contract agreement with Key Largo Wastewater District documenting acceptance of effluent or alternative plan with construction of wastewater treatment plants in Village that ensures completion and connection of customers by December 2015.	Complete			July 1, 2011	
23	5. By July 1, 2011, Islamorada shall make available to its customers an additional 700 connections (Phase II) to the North Plantation Key Wastewater Treatment Plant (WWTP).	Complete			July 1, 2011	
24	6. By September 1, 2011, Islamorada shall select the design build operate finance contractor for the Village-wide wastewater system.	Complete			September 1, 2011	
25	7. By October 1, 2011, Islamorada shall submit a wastewater construction status report to the state land planning agency ² and the Administration Commission which includes substantial completion of construction prior to January 1, 2015 and final completion prior to July 1, 2015.	Complete			October 1, 2011	
26	By January 31, 2012, Islamorada shall submit a wastewater construction status report to the state land planning agency ² and the Administration Commission which includes substantial completion of construction prior to January 1, 2015 and final completion prior to July 1, 2015. (January 18, 2012 Administration Commission Action)	Complete			January 31, 2012	
27	8. By September 1, 2013, Islamorada shall complete final design of the Village-wide wastewater system.	Complete ¹	Final design of Village-wide wastewater system completed in December 2013.		September 1, 2013	
28	9. By December 1, 2013, Islamorada shall commence construction of the Village-wide wastewater system.	Complete ¹			December 1, 2013	
29	10. By June 1, 2014, Islamorada shall make available to its customers 25% of the Equivalent Dwelling Unit (EDU) connections to the Village-wide wastewater system.	Complete	Completed March 1, 2015		June 1, 2014	
30	11. By December 1, 2014, Islamorada shall make available to its customers 50% of the Equivalent Dwelling Unit (EDU) connections to the Village-wide wastewater system.	Complete	Completed July 1, 2015		December 1, 2014	
31	12. By June 1, 2015, Islamorada shall make available to its customers 75% of the Equivalent Dwelling Unit (EDU) connections to the Village-wide wastewater system.	Complete	Completed August 1, 2015		June 1, 2015	
32	13. By December 1, 2015, Islamorada shall make available to its customers 100% of the Equivalent Dwelling Unit (EDU) connections to the Village-wide wastewater system.	Complete	Completed November 2015		December 1, 2015	

End Notes:

- 1) Provisional - No 30-Day Report was issued in 2014 for 2012/2013 Reporting Period
- 2) References to the "Department of Community Affairs" have been replaced with the term "state land planning agency."

**City of Marathon
July 2015 through June 2016
Annual Report**

		Status	State Land Planning Agency Comments	Marathon Comments	Support Information Requested	Rule Completion Date	Comprehensive Plan Amendment Required
Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-18.400, F.A.C.	Achieved/Not Achieved					
1	(5)(a) Carrying Capacity Study Implementation.						
2	1. By July 1, 2011, Marathon shall adopt a Comprehensive Plan Policy to require that administrative relief in the form of the issuance of a building permit is not allowed for lands within the Florida Forever targeted acquisition areas unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel will not be purchased by any city, county, state or federal agency. Marathon shall develop a mechanism to routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least 6 months prior to the deadline for administrative relief.	Complete				July 1, 2011	Yes
3	2. By July 1, 2011, Marathon shall adopt Land Development Regulations to require that administrative relief in the form of the issuance of a building permit is not allowed for lands within the Florida Forever targeted acquisition areas unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel will not be purchased by any city, county, state or federal agency.	Complete				July 1, 2011	
4	3. By July 1, 2011, Marathon shall amend the Comprehensive Plan to limit allocations into high quality tropical hardwood hammock.	Complete				July 1, 2011	Yes
5	4. By July 1, 2011, Marathon shall amend the Land Development Regulations to limit allocations into high quality tropical hardwood hammock.	Complete				July 1, 2011	
6	5. By July 1, 2011, Marathon shall adopt a Comprehensive Plan Policy discouraging private applications for future land use map amendments which increase allowable density/intensity on lands in the Florida Keys.	Complete				July 1, 2011	Yes
7	6. By July 1, 2011, and each July thereafter, Marathon shall evaluate its land acquisition needs and state and federal funding opportunities and apply annually to at least one state or federal land acquisition grant program.	Incomplete (annual requirement)		List of 432 properties requested for acquisition transmitted to MCLA & FDEP	Resolution # 2016-47 and 2016-48	July 1, 2016	
8	7. By July 1, 2012, Marathon shall enter into a memorandum of understanding with the State Land Planning Agency ⁵ , Division of Emergency Management, Monroe County, Islamorada, Key West, Key Colony Beach, and Layton after a notice and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the State Land Planning Agency to accurately depict evacuation clearance times for the population of the Florida Keys.	Complete				July 1, 2012	
9	9. By December 1, 2012 , July 1, 2012 ¹ Marathon shall complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the state land planning agency ⁵ , Monroe County and each municipality in the Keys.	Complete				July 1, 2012	
10	10. By December 1, 2012 , July 1, 2012 ¹ the state land planning agency (agency) shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The agency will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24-hour hurricane evacuation clearance time. If necessary, the state land planning agency ⁵ shall work with each local government to amend the respective Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.	Complete				July 1, 2012	
11	11. By July 1, 2013, based on the state land planning agency's ⁵ recommendations, Marathon shall amend the current building permit allocation system (BPAS in the Comprehensive Plan and Land Development Regulations) based on infrastructure availability, level of service standards, environmental carrying capacity, and hurricane evacuation clearance time.	Complete ²				July 1, 2013	Yes
12	The City of Marathon may propose and adopt an amendment to their comprehensive plan to include a one-time allocation of 100 transient dwelling units. The plan amendment may also include an additional 100 units composed of units from the Administrative Relief pool and borrowing forward from the City's future allocations. (January 18, 2012 Administration Commission Action)	Complete ²					Yes
13	By March 31, 2012, the Area of Critical State Concern staff shall amend the agendas for the Hurricane Evacuation Clearance Modeling Workshops to include the potential for future transient allocations and their impact on hurricane evacuation clearance times. (January 18, 2012 Administration Commission Action)	Complete					

**City of Marathon
July 2015 through June 2016
Annual Report**

		Status	State Land Planning Agency Comments	Marathon Comments	Support Information Requested	Rule Completion Date	Comprehensive Plan Amendment Required
Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-18.400, F.A.C.	Achieved/Not Achieved					
14	(5)(b) Wastewater Implementation.						
15	1. By July 1, 2011 and each July 1 thereafter, Marathon shall annually evaluate and allocate funding for wastewater implementation. Marathon shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.	Complete		Marathon's proposed FY 16/17 Budget: 1). Allocates \$10,815,616 to Capital Improvements to the Existing Waste Water infrastructure. 2). Includes a portion of the \$17M grant received from FDEP Via the Mayfield Grant.	CIP	July 1, 2016	HB 7207 removes the requirement that the capital improvement schedule be an amendment to the comprehensive plan.
16	2. December 1, 2013, Marathon shall work with the owners of wastewater facilities and onsite systems throughout the City and the Department of Environmental Protection (DEP) and the Department of Health (DOH) to fulfill the requirements of Sections 381.0065(3)(h) and (4)(l) and 403.086(10), F.S., regarding implementation of wastewater treatment and disposal. This will include coordination of actions with DOH and DEP to notify owners regarding systems that will not meet 2015 treatment and disposal requirements.	Complete ²				December 1, 2013	
17	3. By July 1, 2011, Marathon shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal grant program for wastewater projects and connections.	Complete		Mayfield Grant funding was applied for and approved in the amount of \$17M.	CIP	July 1, 2016	
18	4. By July 1, 2011, Marathon shall continue to develop and implement local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement facilities.	Complete				July 1, 2011	
19	5. By July 1, 2011 and each year through 2013, Marathon shall annually draft a resolution requesting the issuance of a portion of the \$200 million of bonds authorized under Section 215.619, F.S., and an appropriation of sufficient debt service for those bonds, for the construction of wastewater projects within the Florida Keys.	Complete ²			Resolution #	July 1, 2013	
20	6. By July 1, 2011, Marathon shall develop a mechanism to provide accurate and timely information and establish Marathon's annual funding allocations necessary to provide evidence of unmet funding needs to support the issuance of bonds authorized under Section 215.619, F.S., and to assure the timely completion of work as necessary to fulfill any terms and conditions associated with bonds.	Complete ²				July 1, 2015	
21	7. By December 1, 2012, Marathon shall provide a report of addresses and the property appraiser's parcel numbers of any property owner that fails or refuses to connect to the central sewer facility within the required timeframe to the Monroe County Health Department and the state land planning agency ⁵ . This report shall describe the status of Marathon's enforcement action and provide the circumstances of why enforcement may or may not have been initiated.	Complete ²				December 1, 2012	
22	(5)(c) Wastewater Project Implementation.						
23	1. Sub area 1: Knight's Key.						
24	a. By July 1, 2011, Marathon shall secure plant site;	see end note ³				July 1, 2011	
25	b. By December 1, 2011, Marathon shall construct Knight's Key Wastewater Plant;	see end note ³				December 1, 2011	
26	c. By May 1, 2012, Marathon shall initiate connections; and	Complete				May 1, 2012	
27	d. By July 1, 2012, Marathon shall complete connections (100%).	see end note ³				July 1, 2012	
28	2. Sub area 2: Boot Key (non-service area).						
29	By July 1, 2011, Marathon shall ensure completion of upgrade.	Complete				July 1, 2011	
30	3. Sub area 3: 11 Street – 39 Street (Vaca Key West).						
31	a. By July 1, 2011, Marathon shall complete construction of plant;	Complete				July 1, 2011	
32	b. By July 1, 2011, Marathon shall complete construction of collection system;	Complete				July 1, 2011	
33	c. By July 1, 2011, Marathon shall initiate connections; and	Complete				July 1, 2011	

**City of Marathon
July 2015 through June 2016
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		Status	State Land Planning Agency Comments	Marathon Comments	Support Information Requested	Rule Completion Date	Comprehensive Plan Amendment Required
Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-18.400, F.A.C.	Achieved/Not Achieved					
34	(5)(c) Wastewater Project Implementation.						
35	3. Sub area 3: 11 Street – 39 Street (Vaca Key West).						
36	d. By July 1, 2012, Marathon shall complete connections (100%).	Incomplete		Approx 96% connected.	the number of EDUs connected and to be connected	July 1, 2012	
37	4. Sub area 4: Gulfside 39 Street (Vaca Key Central).						
38	By July 1, 2013, Marathon shall complete connections (100%).	Complete ²			the number of EDUs connected and to be connected	July 1, 2013	
39	5. Sub area 5: Little Venice (60 Street – Vaca Cut East).						
40	a. By July 1, 2012, Marathon shall complete construction of collection system;	Complete				July 1, 2012	
41	b. By July 1, 2012, Marathon shall initiate connections for Phase II;	Complete				July 1, 2012	
42	c. By July 1, 2013, Marathon shall complete connections (100%) for Phase II.	Incomplete		Some properties are stuck in foreclosure, others are in court battles regarding access easements. Approx. 60 properties are a Code case for not connecting.	the number of EDUs connected and to be connected	July 1, 2013	
43	6. Sub area 6-Vaca Cut-Coco Plum (Fat Key Deer West).						
44	By July 1, 2011, Marathon shall complete connections (100%).	Complete				July 1, 2011	
45	7. Sub area 7: Tom Harbor Bridge-Grassy Key.						
46	a. By July 1, 2012, Marathon shall complete construction of plant;	Complete				July 1, 2012	
47	b. By July 1, 2012, Marathon shall bid and award design of collection system;	Complete				July 1, 2012	
48	c. By July 1, 2012, Marathon shall complete construction of collection system; ⁴	Complete				July 1, 2012	
49	d. By July 1, 2012, Marathon shall initiate connections; and	Complete				July 1, 2012	
50	e. By July 1, 2013, Marathon shall complete connections (100%).	Incomplete		Some larger properties like hotels are vacant and make the connection number somewhat skewed toward a lower percent.	the number of EDUs connected and to be connected	July 1, 2013	
51	(5)(d) Stormwater Treatment Facilities.						
52	1. Beginning July 1, 2011 and each July 1 thereafter Marathon shall annually evaluate and allocate funding for stormwater implementation. Marathon shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.	Complete		Stormwater system is complete.	CIP	July 1, 2016	
53	2. Beginning July 1, 2011 and each July 1 thereafter, Marathon shall annually apply for stormwater grants from the South Florida Water Management District.	Incomplete (annual requirement)		A SW assessment is imposed annually to all properties to fund ongoing maintenance and capital improvements.	CIP	July 1, 2016	
54	3. By July 1, 2011, complete Stormwater Treatment Facilities simultaneously with wastewater projects, including the direct outfall retrofits for 27th Street and 24th Street. Sub area 3: 11 Street – 37 Street (Vaca Key West)	Complete				July 1, 2011	
55	4. By July 1, 2012, complete Stormwater Treatment Facilities simultaneously with wastewater projects. Sub area 5: Little Venice (60 Street – Vaca Cut East).	Complete				July 1, 2012	
56	5. By July 1, 2012, complete Stormwater Treatment Facilities simultaneously with wastewater projects. Sub area 7: Tom Harbor Bridge-Grassy Key.	Complete				July 1, 2012	
57	6. By July 1, 2012, Marathon shall eliminate direct outfall retrofits for: 27th Street, Sombrero Islands, 24th Street, and 52nd Street.	Complete				July 1, 2012	

**City of Marathon
July 2015 through June 2016
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		Status	State Land Planning Agency Comments	Marathon Comments	Support Information Requested	Rule Completion Date	Comprehensive Plan Amendment Required
Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-18.400, F.A.C.	Achieved/Not Achieved					

End Notes:

- 1) Technical correction: Dates inconsistent with the intent of the Administration Commission's direction to Monroe County (28-20.140) and Islamorada (28-19.310)
- 2) Provisional - No 30-Day Report was issued in 2014 for 2012/2013 Reporting Period
- 3) Due to legal circumstances beyond the City's control, a plant site was not secured at Knight's Key and the plant was not constructed. The City connected this service area through a force main to the Area 3 plant.
- 4) Corrects scrivener's error in Rule 28-18(5)(c) 7. c., F.A.C.
- 5) References to the "Department of Community Affairs" have been replaced with the term "state land planning agency."

**Monroe County
July 2015 through June 2016
Annual Report**

		ACSC Status	State Land Planning Agency Comments	Monroe Comments	Support Information Requested	Rule Completion Date	Comprehensive Plan Amendment Required
Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-20.140, F.A.C.	Achieved/ Not Achieved					
1	(5)(a) Carrying Capacity Study Implementation.						
2	1. By July 1, 2012, Monroe County shall adopt the conservation planning mapping (the Tier Zoning Overlay Maps and System) into the Comprehensive Plan based upon the recommendations of the Tier Designation Review Committee with the adjusted Tier boundaries.	Incomplete but requested a Rule revision		Monroe County sent a letter to the Administration Commission requesting that Rule 28- 20.140, F.A.C. be amended to remove the requirement to adopt the Tier Overlay Zoning Maps into the Comprehensive Plan as an overlay to the Future Land Use Map (FLUM). Monroe County also sent a letter to DEO requesting that Rule 28-20.140, F.A.C. be amended to not require adoption of the Tier Overlay Zoning Maps into the Comprehensive Plan unless the County is recommending removal of the Area of Critical State Concern designation. On July 12, 2013, the final Tier Zoning Overlay maps went into effect after approval by the State Land Planning Agency. The effective date is after the Rule deadline date of July 1, 2012. Now that all of the undesignated or invalidated parcels have a tier designation and the overlay district on the County's Zoning Maps is effective, starting the process over to adopt the maps for approximately 44,000 parcels as a Comprehensive Plan FLUM overlay would expose the County and all parcel owners to potential challenges by affected persons, as defined in Section 163.3184(1)(a), F.S. Completion of this requirement risks significant exposure (including restarting the appeal clock and possible takings claims to the County and State), as well as personnel demands/expenses, legal costs and attorney's fees.	See attached letter to Administration Commission, dated August 22, 2013, requesting deletion of Work Program Tasks (5)(a)1, 3 and 4 See attached letter to State Land Planning Agency, dated February 20, 2014, requesting a rule revision stating: Prior to the County adopting a resolution recommending the removal of the designation of Monroe County as an Area of Critical State Concern, pursuant to Section 380.0552(4)(b)3, F.S., Monroe County shall adopt the Tier Maps into the Comprehensive Plan as an overlay to the Future Land Use Map.	July 1, 2012	Yes
3	2. By July 1, 2012, Monroe County shall adjust the Tier I and Tier IIIA (SPA) boundaries to more accurately reflect the criteria for that Tier as amended by Final Order DCA07-GM166 and implement the Florida Keys Carrying Capacity Study, utilizing the updated habitat data, and based upon the recommendations of the Tier Designation Review Committee Work Group.	Complete				July 1, 2012	
4	3. By July 1, 2012, Monroe County shall create Goal 106 to complete the 10 Year Work Program found in Rule 28-20.110, F.A.C., and to establish objectives to develop a build-out horizon in the Florida Keys and adopt conservation planning mapping into the Comprehensive Plan.	Complete		Adopted amendment on April 13, 2016. Found in-compliance by DEO on June 20, 2016	GOAL 106 Monroe County shall continue to maintain the Tier System to ensure growth initiatives recognize the natural and man-made systems in the Florida Keys, the carrying capacity to accommodate further development, the need for the significant expansion of the public acquisition of vacant developable lands, and to equitably balance the rights and expectations of private property owners.	July 1, 2012	Yes
5	4. By July 1, 2012, Monroe County shall create Objective 106.2 to adopt conservation planning mapping (Tier Maps) into the Monroe Comprehensive Plan based upon the recommendations of the Tier Designation Review Committee Work Group.	Complete		Adopted amendment on April 13, 2016. Found in-compliance by DEO on June 20, 2016	Objective 106.1 Monroe County shall adjust the tier boundaries and implement the Florida Keys Carrying Capacity Study, utilizing updated habitat data and recommendations of the Tier Designation Review Committee (TDRC) Work Group. [Note: As amended by Final Order DCA07-GM166, parcels included in the challenge with Tier I and Tier IIIA (SPA) boundaries have been adjusted to	July 1, 2012	Yes
6	5. By July 1, 2012, Monroe County shall adopt Policy 106.2.1 to require the preparation of updated habitat data and establish a regular schedule for continued update to coincide with evaluation and appraisal report timelines.	Complete		Adopted amendment on April 13, 2016. Found in-compliance by DEO on June 20, 2016	Policy106.1.1 Monroe County shall update habitat data and the Land Development Code Tier (Zoning) Overlay District Maps to coincide with the State comprehensive plan evaluation and appraisal schedule (May 1, 2021).	July 1, 2012	Yes
7	6. By July 1, 2012, Monroe County shall adopt Policy 106.2.2 to establish the Tier Designation Work Group Review Committee to consist of representatives selected by the state land planning agency ⁴ from Monroe County, Florida Fish & Wildlife Conservation Commission, United States Fish & Wildlife Service, Department of Environmental Protection and environmental and other relevant interests. This Committee shall be tasked with the responsibility of Tier designation review utilizing the criteria for Tier placement and best available data to recommend amendments to ensure implementation of and adherence to the Florida Keys Carrying Capacity Study. These proposed amendments shall be recommended during 2009 and subsequently coincide with the Evaluation and Appraisal report timelines beginning with the second Evaluation and Appraisal review which follows the adoption of the revised Tier System and Maps as required above adopted in 2011. Each evaluation and appraisal report submitted following the 2011 evaluation and appraisal report shall also include an analysis and recommendations based upon the process described above.	Complete		Adopted amendment on April 13, 2016. Found in-compliance by DEO on June 20, 2016	Policy 106.1.2 Monroe County shall establish a Tier Designation Review Committee (TDRC) Work Group to consist of representatives selected by the Florida Department of Economic Opportunity (DEO) from Monroe County, Florida Fish & Wildlife Conservation Commission, United States Fish & Wildlife Service, Department of Environmental Protection and environmental and other relevant interests. The TDRC shall be tasked with the responsibility of tier designation review utilizing the criteria for tier placement and best available data to recommend amendments to ensure implementation of and adherence to the Florida Keys Carrying Capacity Study. These proposed Land Development Code Tier (Zoning) Overlay District Map amendments shall coincide with the State comprehensive plan evaluation and appraisal schedule (May 1, 2021). Each comprehensive plan evaluation and appraisal submitted shall also include an analysis and recommendations based upon the TDRC review process.	July 1, 2012	Yes
8	7. By July 1, 2012 and each July thereafter, Monroe County and the Monroe County Land Authority shall submit a report annually to the Administration Commission on the land acquisition funding and efforts in the Florida Keys to purchase Tier I and Big Pine Key Tier II lands and the purchase of parcels where a Monroe County building permit allocation has been denied for four (4) years or more. The report shall include an identification of all sources of funds and assessment of fund balances within those sources available to the County and the Monroe County Land Authority.	Complete		From August 1, 2015 to July 31, 2016, the Monroe County Land Authority acquired 50 Tier I parcels and 6 Big Pine Key Tier II parcels. From August 1, 2015 to July 31, 2016 there were no applicants for Administrative Relief	See attached Acquisition Report	July 1, 2016	No
9	8. By July 1, 2012, Monroe County shall adopt Land Development Regulations to require that administrative relief in the form of the issuance of a building permit is not allowed for lands within the Florida Forever targeted acquisition areas or Tier I lands unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel will not be purchased by any county, state, federal or any private entity. The County shall develop a mechanism to routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least 6 months prior to the deadline for administrative relief.	Complete				July 1, 2012	
10	9. By July 1, 2012, in order to implement the Florida Keys Carrying Capacity Study, Monroe County shall adopt a Comprehensive Plan Policy to discourage private applications for future land use changes which increase allowable density/intensity.	Complete				July 1, 2012	Yes
11	10. By July 1, 2011, Monroe County shall evaluate its land acquisition needs and state and federal funding opportunities and apply annually to at least one state or federal land acquisition grant program.	Complete		Monroe County Land Authority applied for a federal land acquisition grant from the US Army Corps of Engineers through Keys Restoration Fund on July 26, 2016 in the amount of \$5.305. The Florida Keys Stewardship Act was signed by the Governor on April 14, 2016. This Act establishes specific appropriations to the Florida Keys for water quality and land acquisition needs. For FY 2016, the BOCC committed \$10M (\$6M from Local Option Sales Surtax proceeds and \$4M from Land Authority Reserves) for land acquisition and match for Florida Forever	See attached Monroe County Land Authority Grant Proposal.	July 1, 2016	

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Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-20.140, F.A.C.	Achieved/ Not Achieved					
12	(5)(a) Carrying Capacity Study Implementation.						
13	11. By July 1, 2012, Monroe County shall enter into a memorandum of understanding with the state land planning agency ⁴ (agency), Division of Emergency Management, Marathon, Islamorada, Key West, Key Colony Beach, and Layton after a notice and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the agency to accurately depict evacuation clearance times for the population of the Florida Keys.	Complete				July 1, 2012	
14	12. By July 1, 2012, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding to complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the state land planning agency ⁴ and each municipality in the Keys.	Complete				July 1, 2012	
15	13. By July 1, 2012, the state land planning agency ⁴ shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Economic and Business Research, and other studies). The County shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.	Complete				July 1, 2012	Yes
16	14. By July 1, 2012, the state land planning agency (agency) shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The agency will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24 hour evacuation clearance time. If necessary, the state land planning agency ⁴ shall work with each local government to amend the Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.	Complete				July 1, 2012	
17	15. By July 1, 2013, if necessary, the state land planning agency ⁴ shall work with each local government to amend the Comprehensive Plan to reflect revised allocation rates and distribution or propose rule making to the Administration Commission.	Complete ³				July 1, 2013	Yes
18	By March 31, 2012, the Area of Critical State Concern staff shall amend the agendas for the Hurricane Evacuation Clearance Modeling Workshops to include the potential for future transient allocations and their impact on hurricane evacuation clearance times. (January 18, 2012 Administration Commission Action)	Complete					
19	(5)(b) Wastewater Implementation.						
20	1. By July 1, 2011, Monroe County shall annually evaluate and allocate funding for wastewater implementation. Monroe County shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.	Complete		Allocated Funding in the FY 2016-2020 CIE Key Haven Collection System = \$8,400,000 Duck Key Piping Improvements = \$300,000 Big Coppitt Collection/Expansion = \$9,200,000 Layton WW Collection System = \$1,500,000 Cudjoe Regional Project = \$187,000,000 Upgrade County owned facilities = \$943,487	See attached FY16-20 Capital Improvement Element 5-year schedule of improvements (Ordinance 001-2016)	July 1, 2016	2011-139 LOF, removed the requirement that the capital improvement schedule be an amendment to the comprehensive plan
21	2. By December 1, 2013, Monroe County shall work with the owners of wastewater facilities and onsite systems throughout the County and the Department of Health (DOH) and the Department of Environmental Protection (DEP) to fulfill the requirements of Sections 403.086(10) and 381.0065(3)(h) and (4)(l), F.S., regarding implementation of wastewater treatment and disposal. This will include coordination of actions with DOH and DEP to notify owners regarding systems that will not meet the 2015 treatment and disposal standards.	Complete		Property owners have been notified of the 2015 wastewater requirements. The County does not enforce the upgrade completion of onsite sewage treatment and disposal system. As provided by 403.086(10)(l), F.S., 381.0065(4)7, F.S., and Section 4 of Chapter 99-395, L.O.F., a local government has the authority to mandate connection to a central wastewater facility. There are no Rule tasks or specific schedules adopted by the Administration Commission under s. 380.0552, F.S., identifying the County as the entity to enforce onsite system upgrades.		December 1, 2013	
22	3. By July 1, 2011, Monroe County shall annually draft a resolution requesting the issuance of \$50 million of the \$200 million of bonds authorized under Section 215.619, F.S., and an appropriation of sufficient debt service for those bonds, for the construction of wastewater projects within the Florida Keys.	Complete		Monroe County did not adopt additional Resolutions but rather worked with the municipalities and special district through its legislative delegation and the Governor's office directly and secured an additional \$50 million grant under the Mayfield grant program during the 2014 legislative session.		July 1, 2016	
23	4. By July 1, 2011, Monroe County shall develop a mechanism to provide accurate and timely information and establish the County's annual funding allocations necessary to provide evidence of unmet funding needs to support the issuance of bonds authorized under Section 215.619, F.S., and to assure the timely completion of work as necessary to fulfill any terms and conditions associated with bonds.	Complete				July 1, 2011	
24	5. By July 1, 2011, Monroe County shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal grant program for wastewater projects and connections.	Complete		The Florida Keys Stewardship Act was signed by the Governor on April 14, 2016. This Act establishes specific appropriations to the Florida Keys for water quality and land acquisition needs. County supports the continuation and expansion of the current Mayfield authorization, whereby the State agreed to partner with the Florida Keys to provide \$200 Million (\$100M has been appropriated and \$100M remains in the authorization) to partially fund wastewater implementation.		July 1, 2016	
25	6. By July 1, 2011, Monroe County shall develop and implement local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement of facilities.	Complete				July 1, 2011	
26	By February 29, 2012, Monroe County shall submit a financial plan demonstrating local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement of facilities. (January 18, 2012 Administration Commission Action)	Complete				February 29, 2012	
27	7. By December 1, 2013, the County shall provide a report of addresses and the property appraiser's parcel numbers of any property owner that fails or refuses to connect to the central sewer facility within the required timeframe to the Monroe County Health Department, Department of Environmental Protection, and the state land planning agency ⁴ . This report shall describe the status of the County's enforcement action.	Complete		Key Largo Total Referred by KLWTD 78 (6 compliant) Active Cases 43 Cases to open 29		December 1, 2013	

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Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-20.140, F.A.C.	Achieved/ Not Achieved					
28	(5)(c) Wastewater Project Implementation.						
29	1. Key Largo Wastewater Treatment Facility. Key Largo Wastewater Treatment District is responsible for wastewater treatment in its service area and the completion of the Key Largo Wastewater Treatment Facility.						
30	a. By July 1, 2012, Monroe County shall complete construction of the South Transmission Line;	Complete				July 1, 2012	
31	b. By July 1, 2013, Monroe County shall complete design of Collection basin C, E, F, G, H, I, J, and K;	Complete				July 1, 2013	
32	c. By July 1, 2012, Monroe County shall complete construction of Collection basins E-H;	Complete				July 1, 2012	
33	d. By December 1, 2011, Monroe County shall schedule construction of Collection basins I-K;	Complete				December 1, 2011	
34	e. By July 1, 2011, Monroe County shall complete construction of Collection basins I-K;	Complete				July 1, 2011	
35	f. By July 1, 2011, Monroe County shall complete 50% of hook-ups to Key Largo Regional WWTP;	Complete				July 1, 2011	
36	g. By July 1, 2012, Monroe County shall complete 75% of hook-ups to Key Largo Regional WWTP;	Complete				July 1, 2012	
37	h. By July 1, 2013, Monroe County shall complete all remaining connections to Key Largo Regional WWTP.	Incomplete		There are 14,811.2 EDUs capable of generating wastewater. 14,144.9 EDUs are connected or 95.5%.	Number of EDUs connected; number of EDUs to be connected	July 1, 2013	
38	2. Hawk's Cay, Duck Key and Conch Key Wastewater Treatment Facility.						
39	a. By July 1, 2012, Monroe County shall complete construction of Hawk's Cay WWTP upgrade/expansion, transmission, and collection system;	Complete				July 1, 2012	
40	b. By July 1, 2013, Monroe County shall complete construction of Duck Key collection system;	Complete				July 1, 2013	
41	c. By July 1, 2012, Monroe County shall initiate property connections to Hawk's Cay WWTP;	Complete				July 1, 2012	
42	d. By December 1, 2012, Monroe County shall complete 50% of hook-ups to Hawk's Cay WWTP;	Complete				December 1, 2012	
43	e. By July 1, 2013, Monroe County shall complete 75% of hook-ups to Hawk's Cay WWTP; and	Complete				July 1, 2013	
44	f. By July 1, 2014, Monroe County shall complete all remaining connections to Hawk's Cay WWTP.	Incomplete		Conch Key / Coral Key = 100%, Hawk's Cay = 100%, Duck Key There are 1,471 EDUs capable of generating wastewater. 1,382 EDUs are connected or 94%.	1,382 connected, 89 remaining to be connected.	July 1, 2014	
45	3. South Lower Keys Wastewater Treatment Facility (Big Coppitt Regional System).						
46	a. By July 1, 2012, Monroe County shall complete 75% hookups to South Lower Keys WWTP; and	Complete				July 1, 2012	
47	b. By July 1, 2013, Monroe County shall complete all remaining connections to the South Lower Keys WWTP.	Incomplete		There are 1,733 EDUs in this system. As of 4 August 2016, 1,560 EDUs are connected or 90%. Of the remaining 173 EDUs, 24 properties are now vacant parcels with no structure to be connected.	1,560 connected, 149 EDUs remain to be connected. All have previously been referred to Code Compliance	July 1, 2013	
48	4. Cudjoe Regional Wastewater Treatment Facility.						
49	a. By July 1, 2011, Monroe County shall complete planning and design documents for the Cudjoe Regional Wastewater Treatment Facility, the Central Area (Cudjoe, Summerland, Upper Sugarloaf) collection system and the Central Area Transmission Main;	Complete				July 1, 2011	
50	b. By October 1, 2012, Monroe County shall initiate construction of Wastewater Treatment Facility, Central Area Collection System and Central Area Transmission Main;	Complete				October 1, 2012	
51	c. By July 1, 2014, Monroe County shall complete construction of Wastewater Treatment Facility, Central Area Collection System and Central Area Transmission Main; ¹	Complete		The WWTP was placed into operation on 16 October 2015. The Central Area (i.e. locally know as the Inner Islands of Upper Sugarloaf, Cudjoe, & Summerland Keys) collection and transmission systems were placed into operation on 25 January 2016, 16 October 2015, & 18 April 2016 and their 30 day notices were mailed		July 1, 2014	
52	By January, 2012 Monroe County shall complete design and planning for Outer Area (Lower Sugarloaf, Torches, Ramrod, Big Pine Key) Collection System and Transmission Main. ²	Complete				January 1, 2012	
53	d. By February 1, 2012, Monroe County shall initiate construction of Wastewater Treatment, Outer Area Collection System and Transmission Main; ¹	Complete				February 1, 2012	
54	e. By February 1, 2015, Monroe County shall complete construction of Outer Area collection and transmission main;	Incomplete		Construction of the Outer Area collection and transmission system is complete on all islands except for Big Pine Key (original design) and expanded coverage areas of Big & Middle Torch, and No Name Keys. Outer area collection and transmission systems on Lower Sugarloaf, Ramrod, & Little Torch Keys are complete and in service. FKAA mailed 30 day notices to these islands on February 11, 2016, February 23, 2016, & February 29, 2016, respectively.		February 1, 2015	

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Line #	WORK PROGRAM REQUIREMENTS PURSUANT TO RULE 28-20.140, F.A.C.	Achieved/ Not Achieved					
55	4. Cudjoe Regional Wastewater Treatment Facility.						
56	f. By July 1, 2014, Monroe County shall initiate property connections – complete 25% of hook-ups to Cudjoe Regional WWTP;	Incomplete		As of August 4, 2016, 2,083 EDUs of the 9,190 EDUs in the Cudjoe Regional system were connected to the system. This represents approximately 23% of the total system or 38% of the 5,529 EDUs who have received 30 day notices.		July 1, 2014	
57	g. By July 1, 2015, Monroe County shall complete 50% of hook-ups to Cudjoe Regional WWTP; and	Incomplete		Delayed due to challenges to the permits.		July 1, 2015	
58	h. By December 1, 2015, Monroe County shall complete remaining hook-ups to Cudjoe Regional WWTP.	Incomplete		Delayed due to challenges to the permits.	Number of EDUs connected; number of EDUs to be connected	December 1, 2015	
59	(5)(d) Stormwater Treatment Facilities.						
60	1. By July 1, 2011, Monroe County shall evaluate and allocate funding for stormwater implementation. Monroe County shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.	Complete		Allocated Funding in the FY 2016-2020 CIE Countywide Drainage Push Button = \$2,359,674 FY17 CIP includes construction funding to address storm water management in 3 road resurfacing projects and design funding for 2 other road resurfacing projects which include storm water management. FY budget also includes funding for a pilot design project to assess how to mitigate the effects of sea level rise on roads subject to nuisance flooding.		July 1, 2016	2011-139 LOF, removed the requirement that the capital improvement schedule be an amendment to the comprehensive plan.
61	2. By July 1, 2011, Monroe County shall apply for stormwater grants from the South Florida Water Management District.	N/A		In Spring 2016 the County submitted two projects for the SFWMD Cooperative Funding Program that was revised for implementation in the State's FY17.		July 1, 2016	
62	3. By July 1, 2011, Monroe County shall complete Card Sound Road stormwater improvements.	Complete				July 1, 2011	

- 1) Corrects scrivener's error in Rule 28-20.140 (5)(c)4.c. & d., F.A.C.
- 2) Omitted in final adopted rule. When rule is amended, rule will be modified to reflect this task.
- 3) Provisional - No 30-Day Report was issued in 2014 for 2012/2013 Reporting Period
- 4) References to the "Department of Community Affairs" have been replaced with the term "state land planning agency."

TAB 4

Program Statutes and Rules

Statute References

- Section 380.0552, Florida Statutes
- Section 381.0065, Florida Statutes
- Section 403.086, Florida Statutes

Rule References

- Chapter 28-18, Florida Administrative Codes
- Chapter 28-19, Florida Administrative Codes
- Chapter 28-20, Florida Administrative Codes

Section 380.0552, Florida Statutes

The 2016 Florida Statutes

Title XXVIII
NATURAL RESOURCES; CONSERVATION, RECLAMATION,
AND USE

Chapter 380
LAND AND WATER
MANAGEMENT

[View Entire
Chapter](#)

1380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

- (1) SHORT TITLE.—This section may be cited as the “Florida Keys Area Protection Act.”
- (2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:
 - (a) Establish a land use management system that protects the natural environment of the Florida Keys.
 - (b) Establish a land use management system that conserves and promotes the community character of the Florida Keys.
 - (c) Establish a land use management system that promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services.
 - (d) Provide affordable housing in close proximity to places of employment in the Florida Keys.
 - (e) Establish a land use management system that promotes and supports a diverse and sound economic base.
 - (f) Protect the constitutional rights of property owners to own, use, and dispose of their real property.
 - (g) Promote coordination and efficiency among governmental agencies that have permitting jurisdiction over land use activities in the Florida Keys.
 - (h) Promote an appropriate land acquisition and protection strategy for environmentally sensitive lands within the Florida Keys.
 - (i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable.
 - (j) Ensure that the population of the Florida Keys can be safely evacuated.
- (3) RATIFICATION OF DESIGNATION.—The designation of the Florida Keys Area as an area of critical state concern, the boundaries of which are described in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, is hereby ratified.
- (4) REMOVAL OF DESIGNATION.—
 - (a) The designation of the Florida Keys Area as an area of critical state concern under this section may be recommended for removal upon fulfilling the legislative intent under subsection (2) and completion of all the work program tasks specified in rules of the Administration Commission.
 - (b) Beginning November 30, 2010, the state land planning agency shall annually submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:
 1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(10) and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(l);
 2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and

3. A local government has adopted a resolution at a public hearing recommending the removal of the designation.

(c) After receipt of the state land planning agency report and recommendation, the Administration Commission shall determine whether the requirements have been fulfilled and may remove the designation of the Florida Keys as an area of critical state concern. If the commission removes the designation, it shall initiate rulemaking to repeal any rules relating to such designation within 60 days. If, after receipt of the state land planning agency's report and recommendation, the commission finds that the requirements for recommending removal of designation have not been met, the commission shall provide a written report to the local governments within 30 days after making such a finding detailing the tasks that must be completed by the local government.

(d) The Administration Commission's determination concerning the removal of the designation of the Florida Keys as an area of critical state concern may be reviewed pursuant to chapter 120. All proceedings shall be conducted by the Division of Administrative Hearings and must be initiated within 30 days after the commission issues its determination.

(e) After removal of the designation of the Florida Keys as an area of critical state concern, the state land planning agency shall review proposed local comprehensive plans, and any amendments to existing comprehensive plans, which are applicable to the Florida Keys Area, the boundaries of which were described in chapter 28-29, Florida Administrative Code, as of January 1, 2006, for compliance as defined in s. 163.3184. All procedures and penalties described in s. 163.3184 apply to the review conducted pursuant to this paragraph.

(f) The Administration Commission may adopt rules or revise existing rules as necessary to administer this subsection.

(5) APPLICATION OF THIS CHAPTER.—Section 380.05(1)-(5), (9)-(11), (15), (17), and (21) shall not apply to the area designated by this section for so long as the designation remains in effect. Except as otherwise provided in this section, s. 380.045 shall not apply to the area designated by this section. All other provisions of this chapter shall apply, including s. 380.07.

(6) RESOURCE PLANNING AND MANAGEMENT COMMITTEE.—The Governor, acting as the chief planning officer of the state, shall appoint a resource planning and management committee for the Florida Keys Area with the membership as specified in s. 380.045(2). Meetings shall be called as needed by the chair or on the demand of three or more members of the committee. The committee shall:

(a) Serve as a liaison between the state and local governments within Monroe County.

(b) Develop, with local government officials in the Florida Keys Area, recommendations to the state land planning agency as to the sufficiency of the Florida Keys Area's comprehensive plan and land development regulations.

(c) Recommend to the state land planning agency changes to state and regional plans and regulatory programs affecting the Florida Keys Area.

(d) Assist units of local government within the Florida Keys Area in carrying out the planning functions and other responsibilities required by this section.

(e) Review, at a minimum, all reports and other materials provided to it by the state land planning agency or other governmental agencies.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
- (g) Protecting the historical heritage of the Florida Keys.
- (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
 - 1. The Florida Keys Aqueduct and water supply facilities;
 - 2. Sewage collection, treatment, and disposal facilities;
 - 3. Solid waste treatment, collection, and disposal facilities;
 - 4. Key West Naval Air Station and other military facilities;
 - 5. Transportation facilities;
 - 6. Federal parks, wildlife refuges, and marine sanctuaries;
 - 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
 - 8. City electric service and the Florida Keys Electric Co-op; and
 - 9. Other utilities, as appropriate.
- (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; the installation and proper operation and maintenance of onsite sewage treatment and disposal systems; and other water quality and water supply projects, including direct and indirect potable reuse.
- (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
- (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.
- (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.
- (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

(8) **COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT REGULATIONS.**—The comprehensive plan elements and land development regulations approved pursuant to s. 380.05(6), (8), and (14) shall be the comprehensive plan elements and land development regulations for the Florida Keys Area.

(9) **MODIFICATION TO PLANS AND REGULATIONS.**—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(10) for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.

(b) The state land planning agency, after consulting with the appropriate local government, may, no more than once per year, recommend to the Administration Commission the enactment, amendment, or rescission of a land development regulation or element of a local comprehensive plan. Within 45 days following the receipt of such recommendation, the commission shall reject the recommendation, or accept it with or without modification and adopt it by rule, including any changes. Such local development regulation or plan must be in compliance with the principles for guiding development.

History.—s. 6, ch. 79-73; s. 4, ch. 86-170; s. 1, ch. 89-342; s. 641, ch. 95-148; s. 3, ch. 2006-223; s. 34, ch. 2010-205; s. 26, ch. 2011-4; s. 7, ch. 2016-225.

¹**Note.**—Section 7, ch. 2006-223, provides that “[i]f the designation of the Florida Keys Area as an area of critical state concern is removed, the state shall be liable in any inverse condemnation action initiated as a result of Monroe County land use regulations applicable to the Florida Keys Area as described in chapter 28-29, Florida Administrative Code, and adopted pursuant to instructions from the Administration Commission or pursuant to administrative rule of the Administration Commission, to the same extent that the state was liable on the date the Administration Commission determined that substantial progress had been made toward accomplishing the tasks of the work program as defined in s. 380.0552(4)(c), Florida Statutes. If, after the designation of the Florida Keys Area as an area of critical state concern is removed, an inverse condemnation action is initiated based upon land use regulations that were not adopted pursuant to instructions from the Administration Commission or pursuant to administrative rule of the Administration Commission and in effect on the date of the designation’s removal, the state’s liability in the inverse condemnation action shall be determined by the courts in the manner in which the state’s liability is determined in areas that are not areas of critical state concern. The state shall have standing to appear in any inverse condemnation action.”

Section 381.0065, Florida Statutes

The 2016 Florida Statutes

[Title XXIX](#)

PUBLIC HEALTH

[Chapter 381](#)

PUBLIC HEALTH: GENERAL PROVISIONS

[View Entire Chapter](#)

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(1) LEGISLATIVE INTENT.—

(a) It is the intent of the Legislature that proper management of onsite sewage treatment and disposal systems is paramount to the health, safety, and welfare of the public.

(b) It is the intent of the Legislature that where a publicly owned or investor-owned sewerage system is not available, the department shall issue permits for the construction, installation, modification, abandonment, or repair of onsite sewage treatment and disposal systems under conditions as described in this section and rules adopted under this section. It is further the intent of the Legislature that the installation and use of onsite sewage treatment and disposal systems not adversely affect the public health or significantly degrade the groundwater or surface water.

(2) DEFINITIONS.—As used in ss. [381.0065-381.0067](#), the term:

(a) “Available,” as applied to a publicly owned or investor-owned sewerage system, means that the publicly owned or investor-owned sewerage system is capable of being connected to the plumbing of an establishment or residence, is not under a Department of Environmental Protection moratorium, and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence; and:

1. For a residential subdivision lot, a single-family residence, or an establishment, any of which has an estimated sewage flow of 1,000 gallons per day or less, a gravity sewer line to maintain gravity flow from the property’s drain to the sewer line, or a low pressure or vacuum sewage collection line in those areas approved for low pressure or vacuum sewage collection, exists in a public easement or right-of-way that abuts the property line of the lot, residence, or establishment.

2. For an establishment with an estimated sewage flow exceeding 1,000 gallons per day, a sewer line, force main, or lift station exists in a public easement or right-of-way that abuts the property of the establishment or is within 50 feet of the property line of the establishment as accessed via existing rights-of-way or easements.

3. For proposed residential subdivisions with more than 50 lots, for proposed commercial subdivisions with more than 5 lots, and for areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within one-fourth mile of the development as measured and accessed via existing easements or rights-of-way.

4. For repairs or modifications within areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within 500 feet of an establishment’s or residence’s sewer stub-out as measured and accessed via existing rights-of-way or easements.

(b)1. “Bedroom” means a room that can be used for sleeping and that:

- a. For site-built dwellings, has a minimum of 70 square feet of conditioned space;
- b. For manufactured homes, is constructed according to the standards of the United States Department of Housing and Urban Development and has a minimum of 50 square feet of floor area;
- c. Is located along an exterior wall;
- d. Has a closet and a door or an entrance where a door could be reasonably installed; and
- e. Has an emergency means of escape and rescue opening to the outside in accordance with the Florida Building Code.

2. A room may not be considered a bedroom if it is used to access another room except a bathroom or closet.

3. "Bedroom" does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.

(c) "Blackwater" means that part of domestic sewage carried off by toilets, urinals, and kitchen drains.

(d) "Domestic sewage" means human body waste and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from appurtenances at a residence or establishment.

(e) "Graywater" means that part of domestic sewage that is not blackwater, including waste from the bath, lavatory, laundry, and sink, except kitchen sink waste.

(f) "Florida Keys" means those islands of the state located within the boundaries of Monroe County.

(g) "Injection well" means an open vertical hole at least 90 feet in depth, cased and grouted to at least 60 feet in depth which is used to dispose of effluent from an onsite sewage treatment and disposal system.

(h) "Innovative system" means an onsite sewage treatment and disposal system that, in whole or in part, employs materials, devices, or techniques that are novel or unique and that have not been successfully field-tested under sound scientific and engineering principles under climatic and soil conditions found in this state.

(i) "Lot" means a parcel or tract of land described by reference to recorded plats or by metes and bounds, or the least fractional part of subdivided lands having limited fixed boundaries or an assigned number, letter, or any other legal description by which it can be identified.

(j) "Mean annual flood line" means the elevation determined by calculating the arithmetic mean of the elevations of the highest yearly flood stage or discharge for the period of record, to include at least the most recent 10-year period. If at least 10 years of data is not available, the mean annual flood line shall be as determined based upon the data available and field verification conducted by a certified professional surveyor and mapper with experience in the determination of flood water elevation lines or, at the option of the applicant, by department personnel. Field verification of the mean annual flood line shall be performed using a combination of those indicators listed in subparagraphs 1.-7. that are present on the site, and that reflect flooding that recurs on an annual basis. In those situations where any one or more of these indicators reflect a rare or aberrant event, such indicator or indicators shall not be utilized in determining the mean annual flood line. The indicators that may be considered are:

1. Water stains on the ground surface, trees, and other fixed objects;
2. Hydric adventitious roots;
3. Drift lines;
4. Rafted debris;
5. Aquatic mosses and liverworts;
6. Moss collars; and
7. Lichen lines.

(k) "Onsite sewage treatment and disposal system" means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

(l) "Permanent nontidal surface water body" means a perennial stream, a perennial river, an intermittent stream, a perennial lake, a submerged marsh or swamp, a submerged wooded marsh or swamp, a spring, or a seep, as identified on the most recent quadrangle map, 7.5 minute series (topographic), produced by the United States Geological Survey, or products derived from that series. "Permanent nontidal surface water body" shall also mean an artificial surface water body that does not have an impermeable bottom and side and that is designed to hold, or does hold, visible standing water for at least 180 days of the year. However, a nontidal surface water body that is drained, either naturally or artificially, where the intent or the result is that such drainage be temporary, shall be

considered a permanent nontidal surface water body. A nontidal surface water body that is drained of all visible surface water, where the lawful intent or the result of such drainage is that such drainage will be permanent, shall not be considered a permanent nontidal surface water body. The boundary of a permanent nontidal surface water body shall be the mean annual flood line.

(m) "Potable water line" means any water line that is connected to a potable water supply source, but the term does not include an irrigation line with any of the following types of backflow devices:

1. For irrigation systems into which chemicals are not injected, any atmospheric or pressure vacuum breaker or double check valve or any detector check assembly.

2. For irrigation systems into which chemicals such as fertilizers, pesticides, or herbicides are injected, any reduced pressure backflow preventer.

(n) "Septage" means a mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping of an onsite sewage treatment and disposal system.

(o) "Subdivision" means, for residential use, any tract or plot of land divided into two or more lots or parcels of which at least one is 1 acre or less in size for sale, lease, or rent. A subdivision for commercial or industrial use is any tract or plot of land divided into two or more lots or parcels of which at least one is 5 acres or less in size and which is for sale, lease, or rent. A subdivision shall be deemed to be proposed until such time as an application is submitted to the local government for subdivision approval or, in those areas where no local government subdivision approval is required, until such time as a plat of the subdivision is recorded.

(p) "Tidally influenced surface water body" means a body of water that is subject to the ebb and flow of the tides and has as its boundary a mean high-water line as defined by s. 177.27(15).

(q) "Toxic or hazardous chemical" means a substance that poses a serious danger to human health or the environment.

(3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The department shall:

(a) Adopt rules to administer ss. 381.0065-381.0067, including definitions that are consistent with the definitions in this section, decreases to setback requirements where no health hazard exists, increases for the lot-flow allowance for performance-based systems, requirements for separation from water table elevation during the wettest season, requirements for the design and construction of any component part of an onsite sewage treatment and disposal system, application and permit requirements for persons who maintain an onsite sewage treatment and disposal system, requirements for maintenance and service agreements for aerobic treatment units and performance-based treatment systems, and recommended standards, including disclosure requirements, for voluntary system inspections to be performed by individuals who are authorized by law to perform such inspections and who shall inform a person having ownership, control, or use of an onsite sewage treatment and disposal system of the inspection standards and of that person's authority to request an inspection based on all or part of the standards.

(b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of an onsite sewage treatment and disposal system for a residence or establishment with an estimated domestic sewage flow of 10,000 gallons or less per day, or an estimated commercial sewage flow of 5,000 gallons or less per day, which is not currently regulated under chapter 403.

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, repaired, modified, abandoned, used, operated, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination and surface water contamination and to preserve the public health. The department is the final administrative interpretive authority regarding rule interpretation. In the event of a conflict regarding rule interpretation, the State Surgeon General, or his or her designee, shall timely assign a staff person to resolve the dispute.

(d) Grant variances in hardship cases under the conditions prescribed in this section and rules adopted under this section.

- (e) Permit the use of a limited number of innovative systems for a specific period of time, when there is compelling evidence that the system will function properly and reliably to meet the requirements of this section and rules adopted under this section.
- (f) Issue annual operating permits under this section.
- (g) Establish and collect fees as established under s. 381.0066 for services provided with respect to onsite sewage treatment and disposal systems.
- (h) Conduct enforcement activities, including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted under this section, part I of chapter 386, or part III of chapter 489.
- (i) Provide or conduct education and training of department personnel, service providers, and the public regarding onsite sewage treatment and disposal systems.
- (j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical review and advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects shall not be awarded to firms or entities that employ or are associated with persons who serve on either the technical review and advisory panel or the research review and advisory committee.
- (k) Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system.
- (l) Regulate and permit the sanitation, handling, treatment, storage, reuse, and disposal of byproducts from any system regulated under this chapter and not regulated by the Department of Environmental Protection.
- (m) Permit and inspect portable or temporary toilet services and holding tanks. The department shall review applications, perform site evaluations, and issue permits for the temporary use of holding tanks, privies, portable toilet services, or any other toilet facility that is intended for use on a permanent or nonpermanent basis, including facilities placed on construction sites when workers are present. The department may specify standards for the construction, maintenance, use, and operation of any such facility for temporary use.
- (n) Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems. To ensure systems are maintained and operated according to manufacturer's specifications and designs, the department shall establish by rule minimum qualifying criteria for maintenance entities. The criteria shall include: training, access to approved spare parts and components, access to manufacturer's maintenance and operation manuals, and service response time. The maintenance entity shall employ a contractor licensed under s. 489.105(3)(m), or part III of chapter 489, or a state-licensed wastewater plant operator, who is responsible for maintenance and repair of all systems under contract.
- (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the

establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph.

(e) Onsite sewage treatment and disposal systems must not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.
3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.
4. Fifty feet from any nonpotable well.
5. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.
6. Seventy-five feet from the mean high-water line of a tidally influenced surface water body.
7. Seventy-five feet from the mean annual flood line of a permanent nontidal surface water body.
8. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual lot stormwater retention areas.

(f) Except as provided under paragraphs (e) and (t), no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has visible surface water.

(g) All provisions of this section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

- a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

- b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(h)1. The department may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

- a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative, taking into consideration factors such as cost, exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint and staff a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The committee shall make its recommendations on variance requests at the meeting in which the application is scheduled for consideration, except for an extraordinary change in circumstances, the receipt of new information that raises new issues, or when the applicant requests an extension. The committee shall consider the criteria in subparagraph 1. in its recommended agency action on variance requests and shall also strive to allow property owners the full use of their land where possible. The committee consists of the following:

- a. The State Surgeon General or his or her designee.
- b. A representative from the county health departments.
- c. A representative from the home building industry recommended by the Florida Home Builders Association.
- d. A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.
- e. A representative from the Department of Environmental Protection.
- f. A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.
- g. A representative from the engineering profession recommended by the Florida Engineering Society.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(i) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department shall not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require

the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(j) An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within 5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under the provisions of chapter 120.

3. The owner of an engineer-designed performance-based system must maintain a current maintenance service agreement with a maintenance entity permitted by the department. The maintenance entity shall inspect each system at least twice each year and shall report quarterly to the department on the number of systems inspected and serviced. The reports may be submitted electronically.

4. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own performance-based treatment system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

5. The property owner shall obtain a biennial system operating permit from the department for each system. The department shall inspect the system at least annually, or on such periodic basis as the fee collected permits, and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the biennial operating permit shall be collected beginning with the second year of system operation.

6. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with the provisions of this section.

(k) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(l) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots

where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

1. The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.
2. Onsite sewage treatment and disposal systems must cease discharge by December 31, 2015, or must comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:
 - a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
 - b. Suspended Solids of 10 mg/l.
 - c. Total Nitrogen, expressed as N, of 10 mg/l or a reduction in nitrogen of at least 70 percent. A system that has been tested and certified to reduce nitrogen concentrations by at least 70 percent shall be deemed to be in compliance with this standard.
 - d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

3. In areas not scheduled to be served by a central sewer, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2.

4. In areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, the property owner may install a holding tank with a high water alarm or an onsite sewage treatment and disposal system that meets the following minimum standards:

- a. The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and
- b. A sand-lined drainfield or injection well in accordance with department rule must be installed.

5. Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

6. The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring that the appropriate level of treatment described in subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other provision of law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewer system until December 31, 2020.

(m) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in

paragraph (2)(j). The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(o) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the State Surgeon General, or his or her designee.
2. A representative from the septic tank industry.
3. A representative from the home building industry.
4. A representative from an environmental interest group.
5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.
6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.
7. A representative from local government who is knowledgeable about domestic wastewater treatment.
8. A representative from the real estate profession.
9. A representative from the restaurant industry.
10. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061.

(p) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(q) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(r) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(s) In the siting of onsite sewage treatment and disposal systems, including drainfields, shoulders, and slopes, guttering shall not be required on single-family residential dwelling units for systems located greater than 5 feet from the roof drip line of the house. If guttering is used on residential dwelling units, the downspouts shall be directed away from the drainfield.

(t) Notwithstanding the provisions of subparagraph (g)1., onsite sewage treatment and disposal systems located in floodways of the Suwannee and Aucilla Rivers must adhere to the following requirements:

1. The absorption surface of the drainfield shall not be subject to flooding based on 10-year flood elevations. Provided, however, for lots or parcels created by the subdivision of land in accordance with applicable local government regulations prior to January 17, 1990, if an applicant cannot construct a drainfield system with the absorption surface of the drainfield at an elevation equal to or above 10-year flood elevation, the department shall issue a permit for an onsite sewage treatment and disposal system within the 10-year floodplain of rivers, streams, and other bodies of flowing water if all of the following criteria are met:
 - a. The lot is at least one-half acre in size;
 - b. The bottom of the drainfield is at least 36 inches above the 2-year flood elevation; and
 - c. The applicant installs either: a waterless, incinerating, or organic waste composting toilet and a graywater system and drainfield in accordance with department rules; an aerobic treatment unit and drainfield in accordance with department rules; a system approved by the State Health Office that is capable of reducing effluent nitrate by at least 50 percent; or a system approved by the county health department pursuant to department rule other than a

system using alternative drainfield materials. The United States Department of Agriculture Soil Conservation Service soil maps, State of Florida Water Management District data, and Federal Emergency Management Agency Flood Insurance maps are resources that shall be used to identify flood-prone areas.

2. The use of fill or mounding to elevate a drainfield system out of the 10-year floodplain of rivers, streams, or other bodies of flowing water shall not be permitted if such a system lies within a regulatory floodway of the Suwannee and Aucilla Rivers. In cases where the 10-year flood elevation does not coincide with the boundaries of the regulatory floodway, the regulatory floodway will be considered for the purposes of this subsection to extend at a minimum to the 10-year flood elevation.

(u)1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems inspected and serviced. The reports may be submitted electronically.

2. The property owner of an owner-occupied, single-family residence may be approved and permitted by the department as a maintenance entity for his or her own aerobic treatment unit system upon written certification from the system manufacturer's approved representative that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system but is subject to all permitting requirements.

3. A septic tank contractor licensed under part III of chapter 489, if approved by the manufacturer, may not be denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities. After the original warranty period, component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer's specifications but are manufactured by others. The maintenance entity shall maintain documentation of the substitute part's equivalency for 2 years and shall provide such documentation to the department upon request.

4. The owner of an aerobic treatment unit system shall obtain a system operating permit from the department and allow the department to inspect during reasonable hours each aerobic treatment unit system at least annually, and such inspection may include collection and analysis of system-effluent samples for performance criteria established by rule of the department.

(v) The department may require the submission of detailed system construction plans that are prepared by a professional engineer registered in this state. The department shall establish by rule criteria for determining when such a submission is required.

(w) Any permit issued and approved by the department for the installation, modification, or repair of an onsite sewage treatment and disposal system shall transfer with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired. An inspection of a system may not be mandated by a governmental entity at the point of sale in a real estate transaction. This paragraph does not affect a septic tank phase-out deferral program implemented by a consolidated government as defined in s. 9, Art. VIII of the State Constitution (1885).

(x) A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(y)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and

c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that serves a property that is foreclosed upon is not considered abandoned.

(z) If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs within 5 years after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site conditions have not changed between the time of construction approval and final approval.

(aa) An existing-system inspection or evaluation and assessment, or a modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition or modification to a single-family home if a bedroom is not added. However, a remodeling addition or modification to a single-family home may not cover any part of the existing system or encroach upon a required setback or the unobstructed area. To determine if a setback or the unobstructed area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

(5) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.—

(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489. As used in this paragraph, the term “premises” does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction.

(b)1. The department may issue citations that may contain an order of correction or an order to pay a fine, or both, for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department, when a violation of these sections or rules is enforceable by an administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action.

2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.

3. The fines imposed by a citation issued by the department may not exceed \$500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.

4. The department shall inform the recipient, by written notice pursuant to ss. [120.569](#) and [120.57](#), of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must contain a conspicuous statement that if the recipient fails to pay the fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient's right to contest the citation and must pay an amount up to the maximum fine.

5. The department may reduce or waive the fine imposed by the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person's attempts at correcting the violation, and the person's history of previous violations including violations for which enforcement actions were taken under ss. [381.0065-381.0067](#), part I of chapter 386, part III of chapter 489, or other provisions of law or rule.

6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

7. The department, pursuant to ss. [381.0065-381.0067](#), part I of chapter 386, or part III of chapter 489, shall deposit any fines it collects in the county health department trust fund for use in providing services specified in those sections.

8. This section provides an alternative means of enforcing ss. [381.0065-381.0067](#), part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. [381.0065-381.0067](#), part I of chapter 386, or part III of chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of enforcement for each violation.

(6) **LAND APPLICATION OF SEPTAGE PROHIBITED.**—Effective January 1, 2016, the land application of septage from onsite sewage treatment and disposal systems is prohibited.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 75-145; s. 72, ch. 77-147; s. 1, ch. 77-174; ss. 1, 2, ch. 77-308; s. 1, ch. 78-430; s. 1, ch. 79-45; s. 1, ch. 82-10; s. 37, ch. 83-218; ss. 43, 46, ch. 83-310; s. 1, ch. 84-119; s. 4, ch. 85-314; s. 5, ch. 86-220; s. 14, ch. 89-324; s. 26, ch. 91-297; ss. 1, 10, 11, ch. 93-151; s. 40, ch. 94-218; s. 352, ch. 94-356; s. 1033, ch. 95-148; ss. 1, 3, ch. 96-303; s. 116, ch. 96-410; s. 181, ch. 97-101; s. 21, ch. 97-237; s. 7, ch. 98-151; s. 2, ch. 98-420; s. 192, ch. 99-13; ss. 1, 7, ch. 99-395; s. 10, ch. 2000-242; s. 19, ch. 2001-62; s. 1, ch. 2001-234; s. 7, ch. 2004-350; s. 48, ch. 2005-2; s. 4, ch. 2006-68; s. 1, ch. 2008-215; s. 19, ch. 2008-240; s. 35, ch. 2010-205; s. 1, ch. 2010-283; s. 28, ch. 2011-4; s. 3, ch. 2012-13; s. 32, ch. 2012-184; s. 67, ch. 2013-15; s. 1, ch. 2013-79; s. 7, ch. 2013-193; s. 10, ch. 2013-213; ss. 50, 51, ch. 2015-222.

Note.—Former s. 381.272.

Section 403.086, Florida Statutes

The 2016 Florida Statutes

[Title XXIX](#)
PUBLIC HEALTH

[Chapter 403](#)
ENVIRONMENTAL CONTROL

[View Entire Chapter](#)

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)(a) Neither the Department of Health nor any other state agency, county, special district, or municipality shall approve construction of any facilities for sanitary sewage disposal which do not provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the department.

(b) No facilities for sanitary sewage disposal constructed after June 14, 1978, shall dispose of any wastes by deep well injection without providing for secondary waste treatment and, in addition thereto, advanced waste treatment deemed necessary by the department to protect adequately the beneficial use of the receiving waters.

(c) Notwithstanding any other provisions of this chapter or chapter 373, facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment, as defined in subsection (4), approved by the department. This paragraph shall not apply to facilities which were permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

(2) Any facilities for sanitary sewage disposal shall provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the Department of Environmental Protection. Failure to conform shall be punishable by a civil penalty of \$500 for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

(3) This section shall not be construed to prohibit or regulate septic tanks or other means of individual waste disposal which are otherwise subject to state regulation.

(4) For purposes of this section, the term “advanced waste treatment” means that treatment which will provide a reclaimed water product that:

- (a) Contains not more, on a permitted annual average basis, than the following concentrations:
 - 1. Biochemical Oxygen Demand (CBOD5). 5mg/l
 - 2. Suspended Solids. 5mg/l
 - 3. Total Nitrogen, expressed as N. 3mg/l
 - 4. Total Phosphorus, expressed as P. 1mg/l
- (b) Has received high level disinfection, as defined by rule of the department.

In those waters where the concentrations of phosphorus have been shown not to be a limiting nutrient or a contaminant, the department may waive or alter the compliance levels for phosphorus until there is a demonstration that phosphorus is a limiting nutrient or a contaminant.

(5)(a) Notwithstanding any other provisions of this chapter or chapter 373, when a reclaimed water product has been established to be in compliance with the standards set forth in subsection (4), that water shall be presumed to be allowable, and its discharge shall be permitted in the waters described in paragraph (1)(c) at a reasonably

accessible point where such discharge results in minimal negative impact. This presumption may be overcome only by a demonstration that one or more of the following would occur:

1. That the discharge of reclaimed water that meets the standards set forth in subsection (4) will be, by itself, a cause of considerable degradation to an Outstanding Florida Water or to other waters and is not clearly in the public interest.

2. That the reclaimed water discharge will have a substantial negative impact on an approved shellfish harvesting area or a water used as a public domestic water supply.

3. That the increased volume of fresh water contributed by the reclaimed water product will seriously alter the natural fresh-salt water balance of the receiving water after reasonable opportunity for mixing.

(b) If one or more of the conditions described in subparagraphs (a)1.-3. have been demonstrated, remedies may include, but are not limited to, the following:

1. Require more stringent effluent limitations;
2. Order the point or method of discharge changed;
3. Limit the duration or volume of the discharge; or
4. Prohibit the discharge only if no other alternative is in the public interest.

(6) Any facility covered in paragraph (1)(c) shall be permitted to discharge if it meets the standards set forth in subsections (4) and (5). All of the facilities covered in paragraph (1)(c) shall be required to meet the standards set forth in subsections (4) and (5).

(7)(a) The department shall allow backup discharges pursuant to permit only. The backup discharge shall be limited to 30 percent of the permitted reuse capacity on an annual basis. For purposes of this subsection, a "backup discharge" is a surface water discharge that occurs as part of a functioning reuse system which has been permitted under department rules and which provides reclaimed water for irrigation of public access areas, residential properties, or edible food crops, or for industrial cooling or other acceptable reuse purposes. Backup discharges may occur during periods of reduced demand for reclaimed water in the reuse system.

(b) Notwithstanding any other provisions of this chapter or chapter 373, backup discharges of reclaimed water meeting the standards as set forth in subsection (4) shall be presumed to be allowable and shall be permitted in all waters in the state at a reasonably accessible point where such discharge results in minimal negative impact. Wet weather discharges as provided in s. 2(3)(c), chapter 90-262, Laws of Florida, shall include backup discharges as provided in this section. The presumption of the allowability of a backup discharge may be overcome only by a demonstration that one or more of the following conditions is present:

1. The discharge will be to an Outstanding Florida Water, except as provided in chapter 90-262, Laws of Florida;
2. The discharge will be to Class I or Class II waters;
3. The increased volume of fresh water contributed by a backup discharge will seriously alter the natural freshwater to saltwater balance of receiving waters after reasonable opportunity for mixing;
4. The discharge will be to a water body having a pollutant load reduction goal established by a water management district or the department, and the discharge will cause or contribute to a violation of the established goal;
5. The discharge fails to meet the requirements of the antidegradation policy contained in department rules; or
6. The discharge will be to waters that the department determines require more stringent nutrient limits than those set forth in subsection (4).

(c) Any backup discharge shall be subject to the provisions of the antidegradation policy contained in department rules.

(d) If one or more of the conditions described in paragraph (b) have been demonstrated, a backup discharge may still be allowed in conjunction with one or more of the remedies provided in paragraph (5)(b) or other suitable measures.

(e) The department shall allow lower levels of treatment of reclaimed water if the applicant affirmatively demonstrates that water quality standards will be met during periods of backup discharge and if all other requirements of this subsection are met.

(8) The department may require backflow prevention devices on potable water lines within reclaimed water service areas to protect public health and safety. The department shall establish rules that determine when backflow prevention devices on potable water lines are necessary and when such devices are not necessary.

(9) The Legislature finds that the discharge of domestic wastewater through ocean outfalls wastes valuable water supplies that should be reclaimed for beneficial purposes to meet public and natural systems demands. The Legislature also finds that discharge of domestic wastewater through ocean outfalls compromises the coastal environment, quality of life, and local economies that depend on those resources. The Legislature declares that more stringent treatment and management requirements for such domestic wastewater and the subsequent, timely elimination of ocean outfalls as a primary means of domestic wastewater discharge are in the public interest.

(a) The construction of new ocean outfalls for domestic wastewater discharge and the expansion of existing ocean outfalls for this purpose, along with associated pumping and piping systems, are prohibited. Each domestic wastewater ocean outfall shall be limited to the discharge capacity specified in the department permit authorizing the outfall in effect on July 1, 2008, which discharge capacity shall not be increased. Maintenance of existing, department-authorized domestic wastewater ocean outfalls and associated pumping and piping systems is allowed, subject to the requirements of this section. The department is directed to work with the United States Environmental Protection Agency to ensure that the requirements of this subsection are implemented consistently for all domestic wastewater facilities in the state which discharge through ocean outfalls.

(b) The discharge of domestic wastewater through ocean outfalls must meet advanced wastewater treatment and management requirements by December 31, 2018. For purposes of this subsection, the term “advanced wastewater treatment and management requirements” means the advanced waste treatment requirements set forth in subsection (4), a reduction in outfall baseline loadings of total nitrogen and total phosphorus which is equivalent to that which would be achieved by the advanced waste treatment requirements in subsection (4), or a reduction in cumulative outfall loadings of total nitrogen and total phosphorus occurring between December 31, 2008, and December 31, 2025, which is equivalent to that which would be achieved if the advanced waste treatment requirements in subsection (4) were fully implemented beginning December 31, 2018, and continued through December 31, 2025. The department shall establish the average baseline loadings of total nitrogen and total phosphorus for each outfall using monitoring data available for calendar years 2003 through 2007 and establish required loading reductions based on this baseline. The baseline loadings and required loading reductions of total nitrogen and total phosphorus shall be expressed as an average annual daily loading value. The advanced wastewater treatment and management requirements of this paragraph are deemed met for any domestic wastewater facility discharging through an ocean outfall on July 1, 2008, which has installed by December 31, 2018, a fully operational reuse system comprising 100 percent of the facility’s baseline flow on an annual basis for reuse activities authorized by the department.

(c)1. Each utility that had a permit for a domestic wastewater facility that discharged through an ocean outfall on July 1, 2008, must install, or cause to be installed, a functioning reuse system within the utility’s service area or, by contract with another utility, within Miami-Dade County, Broward County, or Palm Beach County by December 31, 2025. For purposes of this subsection, a “functioning reuse system” means an environmentally, economically, and technically feasible system that provides a minimum of 60 percent of a facility’s baseline flow on an annual basis for irrigation of public access areas, residential properties, or agricultural crops; aquifer recharge; groundwater recharge; industrial cooling; or other acceptable reuse purposes authorized by the department. For purposes of this subsection, the term “baseline flow” means the annual average flow of domestic wastewater discharging through the facility’s ocean outfall, as determined by the department, using monitoring data available for calendar years 2003 through 2007.

2. Flows diverted from facilities to other facilities that provide 100 percent reuse of the diverted flows before December 31, 2025, are considered to contribute to meeting the reuse requirement. For utilities operating more than one outfall, the reuse requirement may be apportioned between the facilities served by the outfalls, including flows diverted to other facilities for 100 percent reuse before December 31, 2025. Utilities that shared a common ocean outfall for the discharge of domestic wastewater on July 1, 2008, regardless of which utility operates the ocean outfall, are individually responsible for meeting the reuse requirement and may enter into binding agreements to

share or transfer such responsibility among the utilities. If treatment in addition to the advanced wastewater treatment and management requirements described in paragraph (b) is needed to support a functioning reuse system, the treatment must be fully operational by December 31, 2025.

3. If a facility that discharges through an ocean outfall contracts with another utility to install a functioning reuse system, the department must approve any apportionment of the reuse generated from the new or expanded reuse system that is intended to satisfy all or a portion of the reuse requirements pursuant to subparagraph 1. If a contract is between two utilities that have reuse requirements pursuant to subparagraph 1., the reuse apportioned to each utility's requirement may not exceed the total reuse generated by the new or expanded reuse system. A utility shall provide the department a copy of any contract with another utility that reflects an agreement between the utilities which is subject to the requirements of this subparagraph.

(d) The discharge of domestic wastewater through ocean outfalls is prohibited after December 31, 2025, except as a backup discharge that is part of a functioning reuse system or other wastewater management system authorized by the department. Except as otherwise provided in this subsection, a backup discharge may occur only during periods of reduced demand for reclaimed water in the reuse system, such as periods of wet weather, or as the result of peak flows from other wastewater management systems, and must comply with the advanced wastewater treatment and management requirements of paragraph (b). Peak flow backup discharges from other wastewater management systems may not cumulatively exceed 5 percent of a facility's baseline flow, measured as a 5-year rolling average, and are subject to applicable secondary waste treatment and water-quality-based effluent limitations specified in department rules. If peak flow backup discharges are in compliance with the effluent limitations, the discharges are deemed to meet the advanced wastewater treatment and management requirements of this subsection.

(e) The holder of a department permit authorizing the discharge of domestic wastewater through an ocean outfall as of July 1, 2008, shall submit the following to the secretary of the department:

1. A detailed plan to meet the requirements of this subsection, including the identification of the technical, environmental, and economic feasibility of various reuse options; the identification of each land acquisition and facility necessary to provide for reuse of the domestic wastewater; an analysis of the costs to meet the requirements, including the level of treatment necessary to satisfy state water quality requirements and local water quality considerations and a cost comparison of reuse using flows from ocean outfalls and flows from other domestic wastewater sources; and a financing plan for meeting the requirements, including identifying any actions necessary to implement the financing plan, such as bond issuance or other borrowing, assessments, rate increases, fees, other charges, or other financing mechanisms. The plan must evaluate reuse demand in the context of future regional water supply demands, the availability of traditional water supplies, the need for development of alternative water supplies, the degree to which various reuse options offset potable water supplies, and other factors considered in the Lower East Coast Regional Water Supply Plan of the South Florida Water Management District. The plan must include a detailed schedule for the completion of all necessary actions and be accompanied by supporting data and other documentation. The plan must be submitted by July 1, 2013.

2. By July 1, 2016, an update of the plan required in subparagraph 1. documenting any refinements or changes in the costs, actions, or financing necessary to eliminate the ocean outfall discharge in accordance with this subsection or a written statement that the plan is current and accurate.

(f) By December 31, 2009, and by December 31 every 5 years thereafter, the holder of a department permit authorizing the discharge of domestic wastewater through an ocean outfall shall submit to the secretary of the department a report summarizing the actions accomplished to date and the actions remaining and proposed to meet the requirements of this subsection, including progress toward meeting the specific deadlines set forth in paragraphs (b) through (e). The report shall include the detailed schedule for and status of the evaluation of reuse and disposal options, preparation of preliminary design reports, preparation and submittal of permit applications, construction initiation, construction progress milestones, construction completion, initiation of operation, and continuing operation and maintenance.

(g) By July 1, 2010, and by July 1 every 5 years thereafter, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of this subsection. In the report, the department shall summarize progress to date, including the increased amount of reclaimed water provided and potable water offsets achieved, and identify any obstacles to continued progress, including all instances of substantial noncompliance.

(h) The renewal of each permit that authorizes the discharge of domestic wastewater through an ocean outfall as of July 1, 2008, must be accompanied by an order in accordance with s. ~~403.088~~(2)(e) and (f) which establishes an enforceable compliance schedule consistent with the requirements of this subsection.

(i) An entity that diverts wastewater flow from a receiving facility that discharges domestic wastewater through an ocean outfall must meet the reuse requirement of paragraph (c). Reuse by the diverting entity of the diverted flows shall be credited to the diverting entity. The diverted flow shall also be correspondingly deducted from the receiving facility's baseline flow from which the required reuse is calculated pursuant to paragraph (c), and the receiving facility's reuse requirement shall be recalculated accordingly.

The department, the South Florida Water Management District, and the affected utilities must consider the information in the detailed plan in paragraph (e) for the purpose of adjusting, as necessary, the reuse requirements of this subsection. The department shall submit a report to the Legislature by February 15, 2015, containing recommendations for any changes necessary to the requirements of this subsection.

(10) The Legislature finds that the discharge of inadequately treated and managed domestic wastewater from dozens of small wastewater facilities and thousands of septic tanks and other onsite systems in the Florida Keys compromises the quality of the coastal environment, including nearshore and offshore waters, and threatens the quality of life and local economies that depend on those resources. The Legislature also finds that the only practical and cost-effective way to fundamentally improve wastewater management in the Florida Keys is for the local governments in Monroe County, including those special districts established for the purpose of collection, transmission, treatment, or disposal of sewage, to timely complete the wastewater or sewage treatment and disposal facilities initiated under the work program of Administration Commission rule 28-20, Florida Administrative Code, and the Monroe County Sanitary Master Wastewater Plan, dated June 2000. The Legislature therefore declares that the construction and operation of comprehensive central wastewater systems in accordance with this subsection is in the public interest. To give effect to those findings, the requirements of this subsection apply to all domestic wastewater facilities in Monroe County, including privately owned facilities, unless otherwise provided under this subsection.

(a) The discharge of domestic wastewater into surface waters is prohibited.

(b) Monroe County, each municipality, and those special districts established for the purpose of collection, transmission, treatment, or disposal of sewage in Monroe County shall complete the wastewater collection, treatment, and disposal facilities within its jurisdiction designated as hot spots in the Monroe County Sanitary Master Wastewater Plan, dated June 2000, specifically listed in Exhibits 6-1 through 6-3 of Chapter 6 of the plan and mapped in Exhibit F-1 of Appendix F of the plan. The required facilities and connections, and any additional facilities or other adjustments required by rules adopted by the Administration Commission under s. 380.0552, must be completed by December 31, 2015, pursuant to specific schedules established by the commission. Domestic wastewater facilities located outside local government and special district service areas must meet the treatment and disposal requirements of this subsection by December 31, 2015.

(c) After December 31, 2015, all new or expanded domestic wastewater discharges must comply with the treatment and disposal requirements of this subsection and department rules.

(d) Wastewater treatment facilities having design capacities:

1. Greater than or equal to 100,000 gallons per day must provide basic disinfection as defined by department rule and the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

- a. Biochemical Oxygen Demand (CBOD5) of 5 mg/l.
- b. Suspended Solids of 5 mg/l.

- c. Total Nitrogen, expressed as N, of 3 mg/l.
- d. Total Phosphorus, expressed as P, of 1 mg/l.
- 2. Less than 100,000 gallons per day must provide basic disinfection as defined by department rule and the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:
 - a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
 - b. Suspended Solids of 10 mg/l.
 - c. Total Nitrogen, expressed as N, of 10 mg/l.
 - d. Total Phosphorus, expressed as P, of 1 mg/l.
 - (e) Class V injection wells, as defined by department or Department of Health rule, must meet the following requirements and otherwise comply with department or Department of Health rules, as applicable:
 - 1. If the design capacity of the facility is less than 1 million gallons per day, the injection well must be at least 90 feet deep and cased to a minimum depth of 60 feet or to such greater cased depth and total well depth as may be required by department rule.
 - 2. Except as provided in subparagraph 3. for backup wells, if the design capacity of the facility is equal to or greater than 1 million gallons per day, each primary injection well must be cased to a minimum depth of 2,000 feet or to such greater depth as may be required by department rule.
 - 3. If an injection well is used as a backup to a primary injection well, the following conditions apply:
 - a. The backup well may be used only when the primary injection well is out of service because of equipment failure, power failure, or the need for mechanical integrity testing or repair;
 - b. The backup well may not be used for more than a total of 500 hours during any 5-year period unless specifically authorized in writing by the department;
 - c. The backup well must be at least 90 feet deep and cased to a minimum depth of 60 feet, or to such greater cased depth and total well depth as may be required by department rule; and
 - d. Fluid injected into the backup well must meet the requirements of paragraph (d).
 - (f) The requirements of paragraphs (d) and (e) do not apply to:
 - 1. Class I injection wells as defined by department rule, including any authorized mechanical integrity tests;
 - 2. Authorized mechanical integrity tests associated with Class V wells as defined by department rule; or
 - 3. The following types of reuse systems authorized by department rule:
 - a. Slow-rate land application systems;
 - b. Industrial uses of reclaimed water; and
 - c. Use of reclaimed water for toilet flushing, fire protection, vehicle washing, construction dust control, and decorative water features.

However, disposal systems serving as backups to reuse systems must comply with the other provisions of this subsection.

(g) For wastewater treatment facilities in operation as of July 1, 2010, which are located within areas to be served by Monroe County, municipalities in Monroe County, or those special districts established for the purpose of collection, transmission, treatment, or disposal of sewage but which are owned by other entities, the requirements of paragraphs (d) and (e) do not apply until January 1, 2016. Wastewater operating permits issued pursuant to this chapter and in effect for these facilities as of June 30, 2010, are extended until December 31, 2015, or until the facility is connected to a local government central wastewater system, whichever occurs first. Wastewater treatment facilities in operation after December 31, 2015, must comply with the treatment and disposal requirements of this subsection and department rules.

(h) If it is demonstrated that a discharge, even if the discharge is otherwise in compliance with this subsection, will cause or contribute to a violation of state water quality standards, the department shall:

- 1. Require more stringent effluent limitations;
- 2. Order the point or method of discharge changed;
- 3. Limit the duration or volume of the discharge; or

4. Prohibit the discharge.

(i) All sewage treatment facilities must monitor effluent for total nitrogen and total phosphorus concentration as required by department rule.

(j) The department shall require the levels of operator certification and staffing necessary to ensure proper operation and maintenance of sewage facilities.

(k) The department may adopt rules necessary to carry out this subsection.

(l) The authority of a local government, including a special district, to mandate connection of a wastewater facility, as defined by department rule, is governed by s. 4, chapter 99-395, Laws of Florida.

History.—ss. 1, 2, 3, ch. 71-259; s. 2, ch. 71-137; s. 1, ch. 72-58; s. 271, ch. 77-147; s. 1, ch. 78-206; s. 75, ch. 79-65; s. 1, ch. 80-371; s. 1, ch. 81-246; s. 262, ch. 81-259; s. 2, ch. 86-173; s. 1, ch. 87-303; s. 71, ch. 93-213; s. 2, ch. 94-153; s. 361, ch. 94-356; s. 158, ch. 99-8; s. 25, ch. 2000-153; s. 12, ch. 2000-211; s. 6, ch. 2008-232; s. 38, ch. 2010-205; s. 73, ch. 2013-15; s. 1, ch. 2013-31.

Chapter 28-18, Florida Administrative Code

CHAPTER 28-18
LAND PLANNING REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN –
CITY OF MARATHON

28-18.300	Purpose and Effect
28-18.400	Comprehensive Plan

28-18.300 Purpose and Effect.

As provided in Sections 380.05(10) and 380.0552(7), F.S., the Comprehensive Plan of the City of Marathon shall be superseded by amendments which are proposed by Marathon and approved by the Department of Community Affairs pursuant to Sections 380.05(6) and 380.0552(9), F.S.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History--New 6-17-11.

28-18.400 Comprehensive Plan.

(1) The Comprehensive Plan of the City of Marathon, as the same exists on January 1, 2011, is hereby amended to read as follows:

(2) Policy 1-3.5.18 Marathon Work Program Conditions and Objectives.

(a) The number of allocations issued annually for residential development under the Residential Building Permit Allocation System (BPAS) shall not exceed a total annual unit cap of 30, plus any available unused BPAS allocations from a previous year. Unused BPAS allocations may be retained and made available only for affordable housing and Administrative Relief from BPAS year to BPAS year. Unused market rate allocations shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. This BPAS allocation represents the total number of allocations for development that may be issued during a year. A BPAS year means the twelve-month period beginning on July 13. Policy 1-3.5.18 supersedes Policy 1-3.5.2 of the City of Marathon Comprehensive Plan.

(b) No exemptions or increases in the number of allocations may be allowed, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement as of September 27, 2005, for affordable housing between the Department and the local government in the critical areas.

(c) Through the Permit Allocation Systems, Marathon shall direct new growth and redevelopment to areas served by a central sewer system by 2015 that has committed or planned funding sources. Committed or planned funding is funding that is financially feasible and reflected in a Capital Improvements Element approved by the Department of Community Affairs. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures. Marathon shall coordinate with the central wastewater facility provider and shall increase an applicant's score by four points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of Sections 381.0065(4)(l) and 403.086(10), F.S., and where treatment capacity is available. The points shall only be awarded if a construction permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.

(3) Reporting and Oversight.

(a) Beginning November 30, 2011, Marathon and the Department of Community Affairs shall annually report to the Administration Commission documenting the degree to which the work program objectives for the work program year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether progress has been achieved toward accomplishing the tasks of the work program. If the Commission determines that progress has not been made, the unit cap for residential development shall be reduced by 20 percent for the following year.

(b) If the Commission determines that progress has been made for the work program year, then the Commission shall restore the unit cap for residential development for the following year up to a maximum of 30 allocations per BPAS year.

(c) Notwithstanding any other date set forth in this plan, the dates set forth in the work program shall control where conflicts exist.

(d) Wastewater treatment and disposal in Marathon is governed by the requirements of Sections 381.0065(4)(l) and 403.086(10), F.S., as amended. Nothing in this rule shall be construed to limit the authority of the Department of Environmental Protection or Department of Health to enforce Sections 381.0065(4)(l) and 403.086(10), F.S., as amended.

(4) Policy 1-2.2.4 Hurricane Modeling.

For hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for the permanent population for a hurricane that is classified as a Category 3-5 wind event or Category C-E surge event. The termination point shall be the intersection of U.S. Highway One and the Florida Turnpike in Homestead/Florida City.

(5) WORK PROGRAM.

(a) Carrying Capacity Study Implementation.

1. By July 1, 2011, Marathon shall adopt a Comprehensive Plan Policy to require that administrative relief in the form of the issuance of a building permit is not allowed for lands within the Florida Forever targeted acquisition areas unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel will not be purchased by any city, county, state or federal agency. Marathon shall develop a mechanism to routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least 6 months prior to the deadline for administrative relief.

2. By July 1, 2011, Marathon shall adopt Land Development Regulations to require that administrative relief in the form of the issuance of a building permit is not allowed for lands within the Florida Forever targeted acquisition areas unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel will not be purchased by any city, county, state or federal agency.

3. By July 1, 2011, Marathon shall amend the Comprehensive Plan to limit allocations into high quality tropical hardwood hammock.

4. By July 1, 2011, Marathon shall amend the Land Development Regulations to limit allocations into high quality tropical hardwood hammock.

5. By July 1, 2011, Marathon shall adopt a Comprehensive Plan Policy discouraging private applications for future land use map amendments which increase allowable density/intensity on lands in the Florida Keys.

6. By July 1, 2011, and each July thereafter, Marathon shall evaluate its land acquisition needs and state and federal funding opportunities and apply annually to at least one state or federal land acquisition grant program.

7. By July 1, 2012, Marathon shall enter into a memorandum of understanding with the Department of Community Affairs, Division of Emergency Management, Monroe County, Islamorada, Key West, Key Colony Beach, and Layton after a notice and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the Department of Community Affairs to accurately depict evacuation clearance times for the population of the Florida Keys.

8. By July 1, 2012, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding. Marathon and the Department of Community Affairs shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Business and Economic Research, and other studies). The City shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.

9. By December 1, 2012, Marathon shall complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the Department of Community Affairs, Monroe County and each municipality in the Keys.

10. By December 1, 2012, the Department of Community Affairs shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The Department will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24-hour hurricane evacuation clearance time. If necessary, the Department of Community Affairs shall work with each local government to amend the respective Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.

11. By July 1, 2013, based on the Department of Community Affairs' recommendations, Marathon shall amend the current building permit allocation system (BPAS in the Comprehensive Plan and Land Development Regulations) based on infrastructure availability, level of service standards, environmental carrying capacity, and hurricane evacuation clearance time.

(b) Wastewater Implementation.

1. By July 1, 2011 and each July 1 thereafter, Marathon shall annually evaluate and allocate funding for wastewater implementation. Marathon shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. December 1, 2013, Marathon shall work with the owners of wastewater facilities and onsite systems throughout the City and the Department of Environmental Protection (DEP) and the Department of Health (DOH) to fulfill the requirements of Sections 381.0065(3)(h) and (4)(l) and 403.086(10), F.S., regarding implementation of wastewater treatment and disposal. This will include coordination of actions with DOH and DEP to notify owners regarding systems that will not meet 2015 treatment and disposal requirements.

3. By July 1, 2011, Marathon shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal grant program for wastewater projects and connections.

4. By July 1, 2011, Marathon shall continue to develop and implement local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement facilities.

5. By July 1, 2011 and each year through 2013, Marathon shall annually draft a resolution requesting the issuance of a portion of the \$200 million of bonds authorized under Section 215.619, F.S., and an appropriation of sufficient debt service for those bonds, for the construction of wastewater projects within the Florida Keys.

6. By July 1, 2011, Marathon shall develop a mechanism to provide accurate and timely information and establish Marathon's annual funding allocations necessary to provide evidence of unmet funding needs to support the issuance of bonds authorized under Section 215.619, F.S., and to assure the timely completion of work as necessary to fulfill any terms and conditions associated with bonds.

7. By December 1, 2012, Marathon shall provide a report of addresses and the property appraiser's parcel numbers of any property owner that fails or refuses to connect to the central sewer facility within the required timeframe to the Monroe County Health Department and the Department of Community Affairs. This report shall describe the status of Marathon's enforcement action and provide the circumstances of why enforcement may or may not have been initiated.

(c) Wastewater Project Implementation.

1. Sub area 1: Knight's Key.

- a. By July 1, 2011, Marathon shall secure plant site;
- b. By December 1, 2011, Marathon shall construct Knight's Key Wastewater Plant;
- c. By May 1, 2012, Marathon shall initiate connections; and
- d. By July 1, 2012, Marathon shall complete connections (100%).

2. Sub area 2: Boot Key (non-service area).

By July 1, 2011, Marathon shall ensure completion of upgrade.

3. Sub area 3: 11 Street – 39 Street (Vaca Key West).

- a. By July 1, 2011, Marathon shall complete construction of plant;
- b. By July 1, 2011, Marathon shall complete construction of collection system;
- c. By July 1, 2011, Marathon shall initiate connections; and
- d. By July 1, 2012, Marathon shall complete connections (100%).

4. Sub area 4: Gulfside 39 Street (Vaca Key Central).

By July 1, 2013, Marathon shall complete connections (100%).

5. Sub area 5: Little Venice (60 Street – Vaca Cut East).

- a. By July 1, 2012, Marathon shall complete construction of collection system;
- b. By July 1, 2012, Marathon shall initiate connections for Phase II;
- c. By July 1, 2013, Marathon shall complete connections (100%) for Phase II.

6. Sub area 6-Vaca Cut-Coco Plum (Fat Key Deer West).

By July 1, 2011, Marathon shall complete connections (100%).

7. Sub area 7: Tom Harbor Bridge-Grassy Key.

- a. By July 1, 2012, Marathon shall complete construction of plant;
- b. By July 1, 2012, Marathon shall bid and award design of collection system;
- c. By July 1, 2012, Marathon shall construction of collection system;

- d. By July 1, 2012, Marathon shall initiate connections; and
- e. By July 1, 2013, Marathon shall complete connections (100%).

(d) Stormwater Treatment Facilities.

1. Beginning July 1, 2011 and each July 1 thereafter Marathon shall annually evaluate and allocate funding for stormwater implementation. Marathon shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. Beginning July 1, 2011 and each July 1 thereafter, Marathon shall annually apply for stormwater grants from the South Florida Water Management District.

3. Sub area 3: 11 Street – 37 Street (Vaca Key West): By July 1, 2011, complete Stormwater Treatment Facilities simultaneously with wastewater projects, including the direct outfall retrofits for 27th Street and 24th Street.

4. Sub area 5: Little Venice (60 Street – Vaca Cut East): By July 1, 2012, complete Stormwater Treatment Facilities simultaneously with wastewater projects.

5. Sub area 7: Tom Harbor Bridge-Grassy Key: By July 1, 2012, complete Stormwater Treatment Facilities simultaneously with wastewater projects.

6. By July 1, 2012, Marathon shall eliminate direct outfall retrofits for: 27th Street, Sombrero Islands, 24th Street, and 52nd Street.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History--New 6-17-11.

Chapter 28-19, Florida Administrative Code

CHAPTER 28-19
LAND PLANNING REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN,
ISLAMORADA, VILLAGE OF ISLANDS

28-19.100	Purpose and Effect
28-19.200	Comprehensive Plan (Repealed)
28-19.310	Comprehensive Plan

28-19.100 Purpose and Effect.

(1) The purpose of this Chapter is to amend the Transitional Comprehensive Plan of Islamorada, Village of Islands, within the Florida Keys Area of Critical State Concern, pursuant to Section 380.0552(9), F.S.

(2) In order to provide an accurate record of the amendments approved by this chapter, each set of amendments is set forth in a separate rule section. If any provision of the comprehensive plan is amended by two rule sections, the latest amendment shall control.

(3) As provided in Sections 380.05(10) and 380.0552(7), F.S., the Transitional Comprehensive Plan of the Village adopted herein shall be superseded by amendments which are proposed by the Village and approved by the Department of Community Affairs pursuant to Sections 380.05(6) and 380.0552(9), F.S. The Village Transitional Comprehensive Plan shall be superseded by the new Village Comprehensive Plan upon approval by the Department of Community Affairs pursuant to Sections 380.05(6) and 380.0552(9), F.S.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 7-26-99.

28-19.200 Comprehensive Plan.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 7-26-99, Repealed 1-12-14.

28-19.310 Comprehensive Plan.

(1) The Comprehensive Plan of Islamorada, Village of Islands, as the same exists on January 1, 2011, is hereby amended to read as follows:

(2) Policy 1-3.1.1 Islamorada Work Program Conditions and Objectives.

(a) The number of permits issued annually for residential development under the Residential Building Permit Allocation System (BPAS) shall not exceed a total annual unit cap of 22 market rate units and 6 affordable housing units, plus any available unused BPAS allocations from the previous BPAS year. Unused BPAS allocations may be retained and made available only for affordable housing and Administrative Relief from BPAS year to BPAS year. Unused market rate allocations shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. This BPAS allocation represents the total number of allocations for development that may be issued during a year. A BPAS year means the twelve-month period beginning on July 13.

(b) Beginning November 30, 2011, the Village and the Department of Community Affairs shall annually report to the Administration Commission documenting the degree to which the work program objectives for the work program year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether progress has been achieved toward accomplishing the tasks of the work program. If the Commission determines that progress has not been made, the unit cap for residential development shall be reduced by 20 percent for the following year.

(3) Policy 2-1. 2.10 Hurricane Modeling.

For hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for the permanent population for a hurricane that is classified as a Category 3-5 wind event or Category C-E surge event. The termination point shall be the intersection of U.S. Highway One and the Florida Turnpike in Homestead/Florida City.

(4) Reporting and Oversight.

(a) Through the Permit Allocation Systems, Islamorada shall direct new growth and redevelopment to areas served by or that would be served a central sewer system by December 2015, that has committed funding or planned funding sources. Committed or planned funding is funding that is financially feasible and reflected in a Capital Improvements Element approved by the Department

of Community Affairs. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures, the Village of Islamorada shall coordinate with the central wastewater facility provider and shall increase an applicant's score by two points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of Sections 381.0065(4)(1) and 403.086(10), F.S., and where treatment capacity is available. The points shall only be awarded if a construction permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.

(b) If the Commission determines that progress has been made for the work program year, then the Commission shall restore the unit cap for residential development for the following year up to a maximum of 28 allocations per BPAS year.

(c) Wastewater treatment and disposal in Islamorada is governed by the requirements of Sections 381.0065(4)(1) and 403.086(10), F.S. Nothing in this rule shall be construed to limit the authority of the Department of Environmental Protection or Department of Health to enforce Sections 381.0065(4)(1) and 403.086(10), F.S.

(d) Notwithstanding any other date set forth in this plan, the dates set forth in the work program shall control where conflicts exist.

(5) WORK PROGRAM.

(a) Carrying Capacity Implementation.

1. By July 1, 2011 and each July 1 thereafter, Islamorada shall evaluate its land acquisition needs and state and federal funding opportunities and apply to at least one state or federal land acquisition grant program.

2. By July 1, 2012, Islamorada shall enter into a memorandum of understanding with the Department of Community Affairs, Division of Emergency Management, Marathon, Monroe, Key West, Key Colony Beach, and Layton after a notice, public workshop and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the Department to accurately depict evacuation clearance times for the population of the Florida Keys.

3. By July 1, 2012, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding. Islamorada and the Department of Community Affairs shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Business and Economic Research, and other studies). Islamorada shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.

4. By July 1, 2012, Islamorada shall complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the Department of Community Affairs, Monroe County and each municipality in the Keys.

5. By July 1, 2012, the Department of Community Affairs shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The Department will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24-hour evacuation clearance time. If necessary, Department of Community Affairs shall work with each local government to amend the Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.

6. By July 1, 2013, based on the Department of Community Affairs' recommendations, Islamorada shall amend the current building permit allocation system (BPAS in the Comprehensive Plan and Land Development Regulations) based on infrastructure availability, level of service standards, environmental carrying capacity constraints, and hurricane evacuation clearance time.

(b) Wastewater Implementation.

1. Beginning July 1, 2011 and each July 1 thereafter, Islamorada shall identify any funding for wastewater implementation. Islamorada shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By December 1, 2013, Islamorada shall provide a final determination of non-service areas requiring upgrade to meet Sections 381.0065(4)(1) and 403.086(10), F.S., wastewater treatment and disposal standards. This shall be in the form of a resolution including a map of the non-service areas.

3. By December 1, 2013, Islamorada shall work with the owners of wastewater facilities and on site systems throughout the Village and the Department of Environmental Protection (DEP) and the Department of Health (DOH) to fulfill the requirements of

Sections 381.0065(3)(h) and (4)(l) and 403.086(10), F.S., regarding implementation of wastewater treatment and disposal systems. This will include coordination of actions with DOH and DEP to notify owners regarding systems that will not meet 2015 treatment and disposal standards.

4. By July 1, 2011 and by July 1 of each year thereafter, Islamorada shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal grant program for wastewater projects and connections.

5. By September 1, 2011, Islamorada shall develop and implement local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement of facilities.

6. By July 1, 2011 and each July 1 thereafter through 2013, Islamorada shall annually draft a resolution requesting the issuance of a portion of the \$200 million of bonds authorized under Section 215.619, F.S., and an appropriation of sufficient debt service for those bonds, for the construction of wastewater projects within the Florida Keys.

7. By July 1, 2011 and each July 1 thereafter through 2013, Islamorada shall develop a mechanism to provide accurate and timely information and establish Islamorada's annual funding allocations necessary to provide unmet funding needs to support the issuance of bonds authorized under Section 215.619, F.S., and to assure the timely completion of work as necessary to fulfill any terms and conditions associated with bonds.

8. By December 1, 2013, Islamorada shall provide a report of addresses and the property appraiser's parcel numbers of any property owner that fails or refuses to connect to the central sewer facility within the required timeframe to the Monroe County Health Department, Department of Environmental Protection and the Department of Community Affairs. This report shall describe the status of Islamorada's enforcement action and provide the circumstances of why enforcement may or may not have been initiated.

(c) Wastewater Project Implementation.

1. By June 1, 2011, Islamorada shall provide a wastewater financing plan to the Department of Community Affairs and Administration Commission.

2. By July 1, 2011, Islamorada shall conclude negotiations with Key Largo Wastewater Treatment District for treatment capacity.

3. By July 1, 2011, Islamorada shall advertise for proposal for design build operate finance construction of Village-wide wastewater system.

4. By July 1, 2011 submit a copy of contract agreement with Key Largo Wastewater District documenting acceptance of effluent or alternative plan with construction of wastewater treatment plants in Village that ensures completion and connection of customers by December 2015.

5. By July 1, 2011, Islamorada shall make available to its customers an additional 700 connections (Phase II) to the North Plantation Key Wastewater Treatment Plant (WWTP).

6. By September 1, 2011, Islamorada shall select the design build operate finance contractor for the Village-wide wastewater system.

7. By October 1, 2011, Islamorada shall submit a wastewater construction status report to the Department of Community Affairs and the Administration Commission which includes substantial completion of construction prior to January 1, 2015 and final completion prior to July 1, 2015.

8. By September 1, 2013, Islamorada shall complete final design of the Village-wide wastewater system.

9. By December 1, 2013, Islamorada shall commence construction of the Village-wide wastewater system.

10. By June 1, 2014, Islamorada shall make available to its customers 25% of the Equivalent Dwelling Unit (EDU) connections to the Village-wide wastewater system.

11. By December 1, 2014, Islamorada shall make available to its customers 50% of the Equivalent Dwelling Unit (EDU) connections to the Village-wide wastewater system.

12. By June 1, 2015, Islamorada shall make available to its customers 75% of the Equivalent Dwelling Unit (EDU) connections to the Village-wide wastewater system.

13. By December 1, 2015, Islamorada shall make available to its customers 100% of the Equivalent Dwelling Unit (EDU) connections to the Village-wide wastewater system.

Chapter 28-20, Florida Administrative Code

CHAPTER 28-20
LAND PLANNING REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN –
MONROE COUNTY

28-20.019	Purpose and Effect
28-20.020	Comprehensive Plan (Repealed)
28-20.021	Land Development Regulations (Repealed)
28-20.022	Second Administration Commission Amendments to the Comprehensive Plan (Repealed)
28-20.023	Second Administration Commission Amendments to Land Development Regulations (Repealed)
28-20.024	Third Administration Commission Amendments to Land Development Regulations (Repealed)
28-20.025	Land Development Regulations (Repealed)
28-20.100	Comprehensive Plan (Repealed)
28-20.110	Comprehensive Plan (Repealed)
28-20.120	Land Development Regulations (Repealed)
28-20.140	Comprehensive Plan

28-20.019 Purpose and Effect.

(1) The purpose of this Chapter is to establish land development regulations and a local comprehensive plan applicable within the Florida Keys Area of Critical State Concern, pursuant to Section 380.05(8), F.S. It is the intent of the Administration Commission that this rule shall supplement those land development regulations and those portions of the comprehensive plan approved by the Department of Community Affairs in Chapter 9J-14, F.A.C. This chapter and Chapter 9J-14, F.A.C., comprise the comprehensive plan and land development regulations for the Florida Keys Area of Critical State Concern. To the extent that existing ordinances are not adopted in this rule or approved in Chapter 9J-14, F.A.C., such ordinances are not deemed to be “land development regulations” within the definition of Section 380.031(8), F.S.

(2) In order to provide an accurate record of the amendments approved by this chapter, each set of amendments is set forth in a separate rule section. If any provision of the comprehensive plan or the land development regulations is amended by two rule sections, the latest amendment shall control.

(3) As provided in Section 380.05(10), F.S., the comprehensive plan and land development regulations adopted herein shall be superseded by regulations or amendments which are proposed by Monroe County and approved by the Department of Community Affairs under the procedures found in Section 380.05(6), F.S.

(4) Land Development Regulations, including Official Land Use District Maps, shall be construed to implement the provisions of Chapter 163, F.S. (1985) and Chapter 86-170, Laws of Florida (1986).

(5) All development, in addition to being consistent with the provisions of these land development regulations which include the official land use district maps, shall be consistent with the goals, policies and objectives of the comprehensive plan. All land use decisions based upon the map designations must be consistent with the text of volumes I and II.

(6) The purpose of Part II of this chapter is to adopt amendments to the Monroe County Comprehensive Plan adopted by Monroe County Ordinance No. 016-1993, and approved by the Department of Community Affairs in Rules 9J-14.020-.023, F.A.C., including maps, consistent with the Principles for Guiding Development for the Florida Keys Area of Critical State Concern, pursuant to Sections 380.0552(7) and (9), F.S. The Monroe County Comprehensive Plan adopted by Ordinance 016-1993 and approved by the Department of Community Affairs in Rules 9J-14.020-.023, F.A.C., supersedes the Comprehensive Plan addressed in Part I of this chapter.

Rulemaking Authority 380.05(8), 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 9-15-86, Amended 10-5-89, 1-2-96.

28-20.020 Comprehensive Plan.

Rulemaking Authority 380.05(8) FS. Law Implemented 380.05(8), 380.0552(4) FS. History—New 9-15-86, Repealed 1-12-14.

28-20.021 Land Development Regulations.

Rulemaking Authority 380.05(8) FS. Law Implemented 380.05(8), 380.0552(4) FS. History—New 9-15-86, Repealed 1-12-14.

28-20.022 Second Administration Commission Amendments to the Comprehensive Plan.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 10-5-89, Repealed 1-12-14.

28-20.023 Second Administration Commission Amendments to Land Development Regulations.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 10-5-89, Repealed 1-12-14.

28-20.024 Third Administration Commission Amendments to Land Development Regulations.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 8-12-92, Repealed 1-12-14.

28-20.025 Land Development Regulations.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 1-2-96, Repealed 1-12-14.

28-20.100 Comprehensive Plan.

Rulemaking Authority 380.05(8), 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 1-2-96, Amended 7-17-97, 7-26-99, 10-29-02, Repealed 1-12-14.

28-20.110 Comprehensive Plan.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 9-27-05, Repealed 1-12-14.

28-20.120 Land Development Regulations.

Rulemaking Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New 9-27-05, Repealed 1-12-14.

28-20.140 Comprehensive Plan.

(1) The Monroe County Comprehensive Plan Policy Document, as the same exists on January 1, 2011, is hereby amended to read as follows:

(2) Policy 101.2.13 Monroe County Work Program Conditions and Objectives.

(a) Monroe County shall establish and maintain a Permit Allocation System for new residential development. The Permit Allocation System shall supersede Policy 101.2.1.

(b) The number of permits issued annually for residential development under the Rate of Growth Ordinance shall not exceed a total annual unit cap of 197, plus any available unused ROGO allocations from a previous ROGO year. Each year's ROGO allocation of 197 units shall be split with a minimum of 71 units allocated for affordable housing in perpetuity and market rate allocations not to exceed 126 residential units per year. Unused ROGO allocations may be retained and made available only for affordable housing and Administrative Relief from ROGO year to ROGO year. Unused allocations for market rate shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. A ROGO year means the twelve-month period beginning on July 13.

(c) This allocation represents the total number of allocations for development that may be issued during a ROGO year. No exemptions or increases in the number of allocations may be allowed, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement as of September 27, 2005, for affordable housing between the Department and the local government in the critical areas.

(d) Through the Permit Allocation Systems, Monroe County shall direct new growth and redevelopment to areas served or that would be served by a central sewer system by December 2015 that has committed or planned funding. Committed or planned funding is funding that is financially feasible and reflected in a Capital Improvements Element approved by the Department of Community Affairs. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures, Monroe County, shall coordinate with the central wastewater facility provider and shall increase an applicant's score by four points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of Section 403.086(10), F.S., and where treatment capacity

is available. The points shall only be awarded if a construction permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.

(3) Reporting and Oversight.

(a) Beginning November 30, 2011, Monroe County and the Department of Community Affairs shall annually report to the Administration Commission documenting the degree to which the work program objectives for the work program year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether progress has been achieved. If the Commission determines that progress has not been made, the unit cap for residential development shall be reduced by 20 percent for the following ROGO year.

(b) If the Commission determines that progress has been made for the work program year, then the Commission may restore the unit cap for residential development for the following year up to a maximum of 197 allocations per ROGO year.

(c) Notwithstanding any other date set forth in this plan, the dates set forth in the work program shall control where conflicts exist.

(d) Wastewater treatment and disposal in Monroe County is governed by the requirements of Sections 381.0065(4) and 403.086(10), F.S. Nothing in this rule shall be construed to limit the authority of the Department of Environmental Protection or the Department of Health to enforce Sections 381.0065(4) and 403.086(10), F.S.

(4) Policy 216.1.19. Hurricane Modeling.

For the purposes of hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for permanent residents for a hurricane that is classified as a Category 3-5 wind event or Category C-E surge event. The termination point shall be U.S. Highway One and the Florida Turnpike in Homestead/Florida City.

(5) WORK PROGRAM.

(a) Carrying Capacity Study Implementation.

1. By July 1, 2012, Monroe County shall adopt the conservation planning mapping (the Tier Zoning Overlay Maps and System) into the Comprehensive Plan based upon the recommendations of the Tier Designation Review Committee with the adjusted Tier boundaries.

2. By July 1, 2012, Monroe County shall adjust the Tier I and Tier IIIA (SPA) boundaries to more accurately reflect the criteria for that Tier as amended by Final Order DCA07-GM166 and implement the Florida Keys Carrying Capacity Study, utilizing the updated habitat data, and based upon the recommendations of the Tier Designation Review Committee Work Group.

3. By July 1, 2012, Monroe County shall create Goal 106 to complete the 10 Year Work Program found in Rule 28-20.110, F.A.C., and to establish objectives to develop a build-out horizon in the Florida Keys and adopt conservation planning mapping into the Comprehensive Plan.

4. By July 1, 2012, Monroe County shall create Objective 106.2 to adopt conservation planning mapping (Tier Maps) into the Monroe Comprehensive Plan based upon the recommendations of the Tier Designation Review Committee Work Group.

5. By July 1, 2012, Monroe County shall adopt Policy 106.2.1 to require the preparation of updated habitat data and establish a regular schedule for continued update to coincide with evaluation and appraisal report timelines.

6. By July 1, 2012, Monroe County shall adopt Policy 106.2.2 to establish the Tier Designation Work Group Review Committee to consist of representatives selected by the Florida Department of Community Affairs from Monroe County, Florida Fish & Wildlife Conservation Commission, United States Fish & Wildlife Service, Department of Environmental Protection and environmental and other relevant interests. This Committee shall be tasked with the responsibility of Tier designation review utilizing the criteria for Tier placement and best available data to recommend amendments to ensure implementation of and adherence to the Florida Keys Carrying Capacity Study. These proposed amendments shall be recommended during 2009 and subsequently coincide with the Evaluation and Appraisal report timelines beginning with the second Evaluation and Appraisal review which follows the adoption of the revised Tier System and Maps as required above adopted in 2011. Each evaluation and appraisal report submitted following the 2011 evaluation and appraisal report shall also include an analysis and recommendations based upon the process described above.

7. By July 1, 2012 and each July thereafter, Monroe County and the Monroe County Land Authority shall submit a report annually to the Administration Commission on the land acquisition funding and efforts in the Florida Keys to purchase Tier I and Big Pine Key Tier II lands and the purchase of parcels where a Monroe County building permit allocation has been denied for four

(4) years or more. The report shall include an identification of all sources of funds and assessment of fund balances within those sources available to the County and the Monroe County Land Authority.

8. By July 1, 2012, Monroe County shall adopt Land Development Regulations to require that administrative relief in the form of the issuance of a building permit is not allowed for lands within the Florida Forever targeted acquisition areas or Tier I lands unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel will not be purchased by any county, state, federal or any private entity. The County shall develop a mechanism to routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least 6 months prior to the deadline for administrative relief.

9. By July 1, 2012, in order to implement the Florida Keys Carrying Capacity Study, Monroe County shall adopt a Comprehensive Plan Policy to discourage private applications for future land use changes which increase allowable density/intensity.

10. By July 1, 2011, Monroe County shall evaluate its land acquisition needs and state and federal funding opportunities and apply annually to at least one state or federal land acquisition grant program.

11. By July 1, 2012, Monroe County shall enter into a memorandum of understanding with the Department of Community Affairs, Division of Emergency Management, Marathon, Islamorada, Key West, Key Colony Beach and Layton after a notice and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the Department to accurately depict evacuation clearance times for the population of the Florida Keys.

12. By July 1, 2012, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding to complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the Department of Community Affairs and each municipality in the Keys.

13. By July 1, 2012, the County and the Department of Community Affairs shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Economic and Business Research, and other studies). The County shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.

14. By July 1, 2012, the Department of Community Affairs shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The Department will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24 hour evacuation clearance time. If necessary, the Department of Community Affairs shall work with each local government to amend the Comprehensive Plans to reflect revised allocation rates and distributions or propose rulemaking to the Administration Commission.

15. By July 1, 2013, if necessary, the Department of Community Affairs shall work with each local government to amend the Comprehensive Plan to reflect revised allocation rates and distribution or propose rule making to the Administration Commission.

(b) Wastewater Implementation.

1. By July 1, 2011, Monroe County shall annually evaluate and allocate funding for wastewater implementation. Monroe County shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By December 1, 2013, Monroe County shall work with the owners of wastewater facilities and onsite systems throughout the County and the Department of Health (DOH) and the Department of Environmental Protection (DEP) to fulfill the requirements of Sections 403.086(10) and 381.0065(3)(h) and (4)(I), F.S., regarding implementation of wastewater treatment and disposal. This will include coordination of actions with DOH and DEP to notify owners regarding systems that will not meet the 2015 treatment and disposal standards.

3. By July 1, 2011, Monroe County shall annually draft a resolution requesting the issuance of \$50 million of the \$200 million of bonds authorized under Section 215.619, F.S., and an appropriation of sufficient debt service for those bonds, for the construction of wastewater projects within the Florida Keys.

4. By July 1, 2011, Monroe County shall develop a mechanism to provide accurate and timely information and establish the County's annual funding allocations necessary to provide evidence of unmet funding needs to support the issuance of bonds

authorized under Section 215.619, F.S., and to assure the timely completion of work as necessary to fulfill any terms and conditions associated with bonds.

5. By July 1, 2011, Monroe County shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal grant program for wastewater projects and connections.

6. By July 1, 2011, Monroe County shall develop and implement local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement of facilities.

7. By December 1, 2013, the County shall provide a report of addresses and the property appraiser's parcel numbers of any property owner that fails or refuses to connect to the central sewer facility within the required timeframe to the Monroe County Health Department, Department of Environmental Protection and the Department of Community Affairs. This report shall describe the status of the County's enforcement action.

(c) Wastewater Project Implementation.

1. Key Largo Wastewater Treatment Facility. Key Largo Wastewater Treatment District is responsible for wastewater treatment in its service area and the completion of the Key Largo Wastewater Treatment Facility.

- a. By July 1, 2012, Monroe County shall complete construction of the South Transmission Line;
- b. By July 1, 2013, Monroe County shall complete design of Collection basin C, E, F, G, H, I, J and K;
- c. By July 1, 2012, Monroe County shall complete construction of Collection basins E-H;
- d. By December 1, 2011, Monroe County shall schedule construction of Collection basins I-K;
- e. By July 1, 2011, Monroe County shall complete construction of Collection basins I-K;
- f. By July 1, 2011, Monroe County shall complete 50% of hook-ups to Key Largo Regional WWTP;
- g. By July 1, 2012, Monroe County shall complete 75% of hook-ups to Key Largo Regional WWTP;
- h. By July 1, 2013, Monroe County shall complete all remaining connections to Key Largo Regional WWTP.

2. Hawk's Cay, Duck Key and Conch Key Wastewater Treatment Facility.

a. By July 1, 2012, Monroe County shall complete construction of Hawk's Cay WWTP upgrade/expansion, transmission and collection system;

- b. By July 1, 2013, Monroe County shall complete construction of Duck Key collection system;
- c. By July 1, 2012, Monroe County shall initiate property connections to Hawk's Cay WWTP;
- d. By December 1, 2012, Monroe County shall complete 50% of hook-ups to Hawk's Cay WWTP;
- e. By July 1, 2013, Monroe County shall complete 75% of hook-ups to Hawk's Cay WWTP; and
- f. By July 1, 2014, Monroe County shall complete all remaining connections to Hawk's Cay WWTP.

3. South Lower Keys Wastewater Treatment Facility (Big Coppitt Regional System).

- a. By July 1, 2012, Monroe County shall complete 75% hookups to South Lower Keys WWTP; and
- b. By July 1, 2013, Monroe County shall complete all remaining connections to the South Lower Keys WWTP.

4. Cudjoe Regional Wastewater Treatment Facility.

a. By July 1, 2011, Monroe County shall complete planning and design documents for the Cudjoe Regional Wastewater Treatment Facility, the Central Area (Cudjoe, Summerland, Upper Sugarloaf) collection system and the Central Area Transmission Main;

b. By October 1, 2012, Monroe County shall initiate construction of Wastewater Treatment Facility, Central Area Collection System and Central Area Transmission Main;

c. By July 1, 2014, Monroe County shall initiate construction of Wastewater Treatment Facility, Central Area Collection System and Central Area Transmission Main;

d. By February 1, 2012, Monroe County shall complete construction of Wastewater Treatment, Outer Area Collection System and Transmission Main;

e. By February 1, 2015, Monroe County shall complete construction of Outer Area collection and transmission main;

f. By July 1, 2014, Monroe County shall initiate property connections – complete 25% of hook-ups to Cudjoe Regional WWTP;

g. By July 1, 2015, Monroe County shall complete 50% of hook-ups to Cudjoe Regional WWTP; and

h. By December 1, 2015, Monroe County shall complete remaining hook-ups to Cudjoe Regional WWTP.

(d) Stormwater Treatment Facilities.

1. By July 1, 2011, Monroe County shall evaluate and allocate funding for stormwater implementation. Monroe County shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By July 1, 2011, Monroe County shall apply for stormwater grants from the South Florida Water Management District.
3. By July 1, 2011, Monroe County shall complete Card Sound Road stormwater improvements.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History—New 6-17-11.

TAB 5

Department of Environmental Protection Report



Florida Department of Environmental Protection

South District Branch Office
 2796 Overseas Highway, Suite 221
 Marathon, Florida 33050

Rick Scott
 Governor

Carlos Lopez-Cantera
 Lt. Governor

Jonathan P. Steverson
 Secretary

SENT VIA ELECTRONIC MAIL

September 01, 2016

Rebecca Jetton, Administrator
 Areas of Critical State Concerns
 Florida Department of Economic Opportunity
 Caldwell Building, 107 E. Madison Street
 Tallahassee, Florida 32399
 e-mail: rebecca.jetton@deo.myflorida.com

Re: Monroe County – Domestic Wastewater
 Florida Keys Area of Critical State Concern Annual Report

Dear Mrs. Jetton:

This is in response to your letter, dated July 25, 2016, requesting a report on the status of the ongoing wastewater treatment plant upgrades in Monroe County pursuant to Section 403.086(10) of the Florida Statutes (F.S.). This Law requires all sewage treatment and disposal facilities in Monroe County to meet the wastewater treatment standards shown in Table 1 below by January 1, 2016.

Table 1 – Wastewater treatment standards in the Florida Keys: Best Available Treatment (BAT) and Advanced Wastewater Treatment (AWT)

Effluent (treated wastewater) concentration in milligrams per liter (mg/L) as an annual average (mg/l is equal to 1 part per million)	BOD	TSS	TN	TP
BAT standards apply to facilities with design capacities less than 100,000 gallons/day (generally, septic tanks and "package plants").	10	10	10	1
AWT standards apply to facilities with design capacities equal to or greater than 100,000 gallons/day (central wastewater treatment systems)	5	5	3	1

BOD = Biochemical Oxygen Demand; TSS = Total suspended solids; TN = Total nitrogen; TP = Total phosphorus.

The above referenced Law also states that the only practical and cost-effective way to improve wastewater management in the Florida Keys is for the local governments in Monroe County, including those special districts and wastewater utilities established for the purpose of collection, transmission, treatment, or disposal of sewage, to timely complete the wastewater or sewage treatment and disposal facilities initiated under the work program of

Administration Commission rule 28-20, Florida Administrative Code, and the Monroe County Sanitary Wastewater Master Plan, dated June 2000.

Before the implementation of the original Law, 99-395 Laws of Florida, and its subsequent amendment in July 1, 2010, Section 403.086(10), F.S., there were approximately 250 wastewater treatment plants permitted by the Florida Department of Environmental Protection (FDEP) in the Florida Keys. These facilities provided secondary treatment and minimum disinfection but were not designed to achieve the new treatment standards established by the above-referenced legislation. Most property owners with small wastewater facilities ("package plants") rely on connecting to the centralized wastewater utilities as their means of complying with the new wastewater treatment standards. However, there are also a few areas where centralized sewer service is not available and package plants and onsite systems in these areas must be upgraded in order to comply with the new standards. These areas were identified as "cold spots" in the County's Sanitary Wastewater Master Plan.

A recent review of our records showed that the majority of the FDEP-permitted wastewater facilities have either connected to the centralized wastewater utilities, such as the Key Largo Wastewater Treatment District and Marathon, or upgraded to meet the new standards. However, as of the date of this report, there are 70 FDEP-permitted wastewater facilities that have not completed their sewer connection to the centralized AWT facilities. The majority of these, or 44, are located in the Village of Islamorada; 19 are located in the Lower Keys, within the Cudjoe Key Regional Wastewater System; and 3 are located in Marathon. In addition, there are 4 facilities located in areas previously considered as "cold spots", but recently the County and the FKAA have decided to connect these areas to the central sewers. These 4 facilities include 2 condos located in Long Key, which will be connecting to the City of Layton centralized system; the Key West Naval Air Station at Boca Chica Key, which will be connected to the Big Coppitt Key AWT facility; and the Key Haven Subdivision. The FKAA recently informed the Department that it is negotiating an agreement with the City of Key West in order to connect the Key Haven Subdivision to the City of Key West municipal AWT facility. The Key Haven subdivision WWTP will be abandoned after the FKAA completes the sewer connection to the City of Key West.

In addition to the 70 facilities that will be connected to the central wastewater utilities, there are also 2 package plants located to the North of the Key Largo Wastewater Treatment District that must be upgraded or abandoned. One of these, Manatee Bay Club, has been taken out of service under a consent order and the other, Creekside Restaurant, is currently working to replace the old package plant with an upgraded facility.

The attached Excel Workbook contains an inventory of all the FDEP-permitted wastewater facilities in Monroe County broken down by their respective centralized sewer service areas. All these facilities have received compliance notifications from the Department and many of them are currently working to complete their connection to the centralized AWT facilities. In some areas, such as Long Key and some portions of the Lower Keys and Big Pine, the central sewer connections are not available yet, and the

Department is issuing administrative orders (AO's), with enforceable sewer connection schedules, to those facilities that need additional time to achieve compliance. The attached tracking sheet identifies those facilities that are operating with an AO. These actions are coordinated closely with the local governments and the FKAA.

The Department is also providing compliance assistance to facility owners who have already received connection notices from the local governments and the FKAA, but who have not yet completed their sewer connections or upgraded their package plants. Many of these facility owners are working diligently to secure the necessary permits and complete the required sewer connections or upgrades. The Department will continue monitoring the progress of these facilities, and will take appropriate action to ensure compliance with all applicable requirements of the above referenced legislation.

Please do not hesitate to contact me at (305) 289-7081 if you have questions or if you need additional information.



Gus Rios
Environmental
Administrator

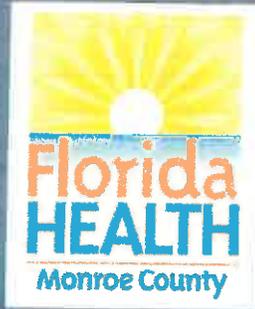
Enclosures: Facility Connection and Abandonment Tracking Sheet

Ec: Jon Iglehart, FDEP – Jon.Iglehart@dep.state.fl.us
Tim Banks, FDEP – Tim.Banks@dep.state.fl.us

Department of Health Report



Accredited Health Department
Public Health Accreditation Board



Central sewer availability is progressing rapidly in the Florida Keys. What progress have the properties outside the wastewater service areas made as of July 2016 to comply with statutory mandates?

Submitted to
Rebecca Jetton
Administrator
Areas of Critical State Concern

Florida Department of Economic Opportunity

MONROE COUNTY PROPERTIES NOT SERVED BY CENTRAL SEWER

Updated July 2016

William Brookman
Director
Community Health Services
Florida Department of Health in Monroe

MONROE COUNTY PROPERTIES NOT SERVED BY CENTRAL SEWER

EXECUTIVE SUMMARY

1. As of the date of this report, more than 19,000¹ developed properties in the Florida Keys formerly in Florida Department of Health jurisdiction have connected to a central sewer system. Approximately 80%² of Florida Keys properties formerly in FDOH-Monroe jurisdiction have completed their connection to the central sewer system. This includes properties from Ocean Reef in the North, to the City of Key West in the South. Sewer construction in all areas of Monroe County and its municipalities nears completion. Connections to the existing sewer system continue at a brisk pace. The Florida Department of Health in Monroe County is actively monitoring compliance with the December 31, 2015 mandate for all wastewater systems not meeting the Florida Keys standard imposed by the Florida Legislature to cease discharge or install compliant wastewater technology on their property.
2. Due to the phasing of sewer projects, the areas north of the 7-Mile bridge are somewhat further along in the process and therefore the delineation of properties not-served by a central sewer system is more clearly defined. Letters notifying these property owners of the sewer upgrade requirement were sent in July 2014 and September 2015. To date, property owners are in general responding to the requirement; some proceeding with the permitting of a compliant FDOH system, some seeking legal counsel and some have ignored or have indicated their intention to oppose the requirement. FDOH-Monroe estimates 34 properties from the Dade County line to the 7-Mile Bridge are non-compliant as of this writing.
3. For properties below the 7-Mile Bridge, the Cudjoe Regional Wastewater District, administered by the Florida Keys Aqueduct Authority (FKAA) is the sewer utility for Monroe County. As of the date of this writing, FKAA is anticipating sending 30-day notices to connect to property owners on big Pine Key. This will be the last area to be connected to a central sewer. FDOH-Monroe relies on FKAA to provide a listing of properties that will be outside their service area. This is a dynamic process as many of the properties are in outlying wilderness type areas. FKAA estimates 30 properties will be outside their service area when the project is complete. Additionally, FKAA is administering an EPA sponsored demonstration grant that assists willing property owners to install compliant wastewater technology.

BACKGROUND

4. Section 381.0065(4)(l)(3) of the Florida Statutes states, "In areas not scheduled to be served by a central sewer, onsite sewage treatment and disposal systems must, by December 31, 2015, comply with department rules and provide the level of treatment described in subparagraph 2." The level of treatment herein described can only be achieved by a performance-based treatment system with sufficient nutrient-reducing capacity. The cost of these wastewater systems for a single family residence can range from \$18,000.00 to \$30,000.00. The cost is prohibitive for low income property owners.
5. Of the approximately 100 properties throughout the Florida Keys that are expected not to be served by a central sewer, about 75 remain non-compliant. Additionally, not all are under the same jurisdiction. In the upper keys, the North Key Largo Utility (Ocean Reef Club), the Key Largo Wastewater Treatment District (Key Largo and Islamorada), the Florida Keys Aqueduct Authority (Layton and Duck Key) and the City of Marathon (Marathon & Grassy Key) are the respective sewer utilities.

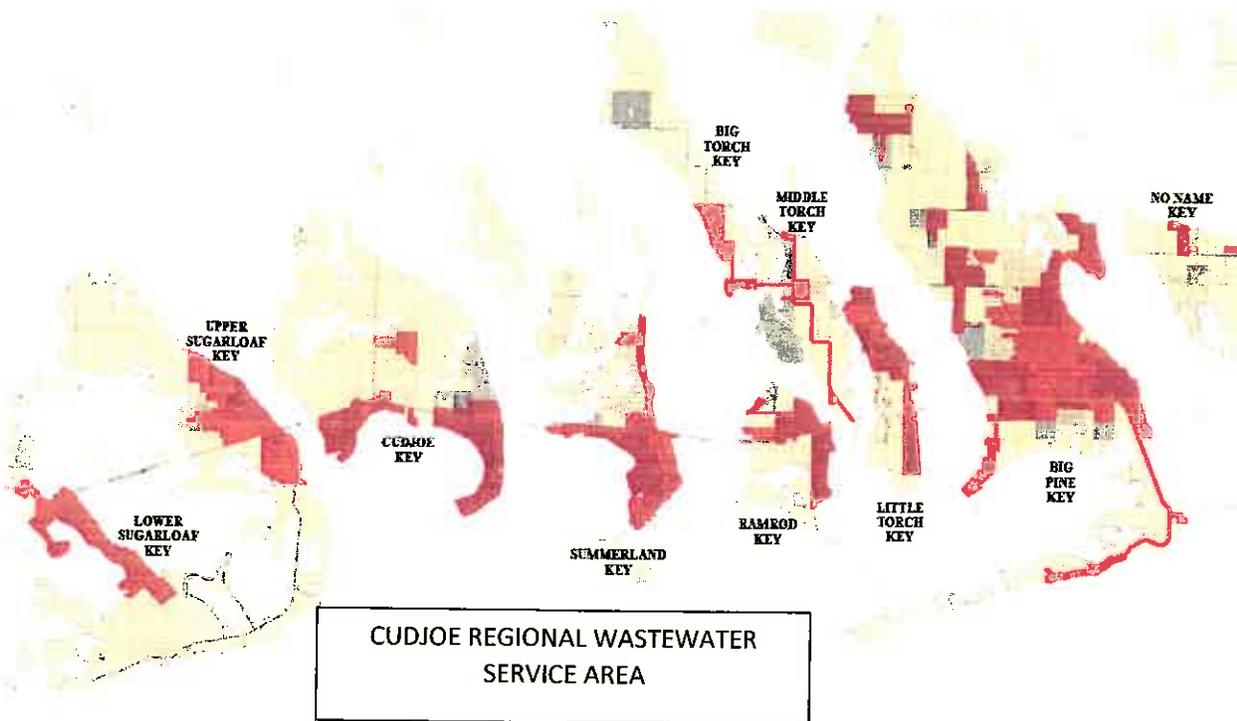
1. Estimate based on 10,289 abandonment final approvals issued by FDOH-Monroe through 6/30/2016 (EHD) and an additional 9,540 abandonment approvals issued by the City of Marathon who are acting as the sewer utility. (64E-6.011 FAC) – personal conversation with Dan Saus.
2. Estimate based on 2002 FDOH-Monroe onsite system inventory compiled for the Governor's Report. The report indicated a total of 24,834 properties in FDOH-Monroe jurisdiction in 2002.

MONROE COUNTY PROPERTIES NOT SERVED BY CENTRAL SEWER

North Key Largo Utility	0	non-served properties	
Key Largo Wastewater Treatment District	32	non-served properties	(3 pursuing compliance)
Village of Islamorada (KLWTD)	1	non-served property	(compliance imminent)
Florida Keys Aqueduct Authority	0	non-served properties	(some potential properties in Long Key)
City of Key Colony Beach	0	non-served properties	
City of Marathon	3	non-served properties	(2 on Boot Key do not need wastewater)
TOTAL	36	potential non-served/non-compliant properties	

6. For the lower keys, the Florida Keys Aqueduct Authority (<http://fkaa.com/wastewater.htm>), Key West Resort Utilities (<http://kwresortutilitiescorp.com/>) and the City of Key West (<http://www.cityofkeywest-fl.gov/departments/division.php?structureid=164>) are the wastewater utilities. The Cudjoe Regional Wastewater Treatment system has been plagued by litigation. However, progress toward completion of the plant, deep wells and the collection system is progressing well. The FCAA administers a demonstration grant in this area which assists homeowners with the financing, design, installation and maintenance of their performance-based treatment systems. Property owners have the option to "opt in" to the program or pursue compliance on their own.

Key West Resort Utilities	?	non-served properties	(potential properties, number unknown)
City of Key West (OMI)	0	non-served properties	
Florida Keys Aqueduct Authority	39	non-served properties	(21 properties opt-in to grant)
TOTAL	39	potential non-served/non-compliant properties	



MONROE COUNTY PROPERTIES NOT SERVED BY CENTRAL SEWER

SITUATION ANALYSIS OF NON-SERVED PROPERTIES BY AREA

MONROE PARK / CROSS KEY

(19 properties)

7. The situation in the area of Monroe Park, also known as Cross Key, is very complicated. Over the years, this area has been scheduled for central sewers and then not scheduled for central sewers. At the time of this writing, the Key Largo Wastewater Treatment District is disinclined to provide service to this island. There is newer single-family home construction that has been built with interim wastewater systems and several have installed compliant performance-based systems. There are 3 marinas on the island. FDOH-Monroe is working with them to solve the issue of boat waste disposal. There is an RV Park and apartment building also on the island. Both have compliant systems, although the RV Park has been given a Notice of Non-compliance for failure to maintain their wastewater system properly. Non-compliant property owners were notified in July of 2014 and in September of 2015 of the requirements of Section 381.0065 Florida Statutes that directly pertain to them. A copy of the letters sent appears in the appendix of this report. Also, a map of Cross Key / Monroe Park with wastewater status is included. Litigation is expected.



STATE ROAD 905

(8-10 properties)

8. The Key Largo Wastewater Treatment district has extended service to property owners in Gulfstream shores and Knowlson colony using grinder pumps. This has left 8 properties from Knowlson colony to the Ocean Reef Club that will not be served by a central sewer. One of these properties has applied for a Performance Based Treatment System (PBTS) and is in the process of installing it. Another property is a shrimp farm in a very remote location. FDOH-Monroe is exploring the possibility of categorizing this as a remote location and allowing a holding tank to serve the minimal needs of the one staff restroom.

MONROE COUNTY PROPERTIES NOT SERVED BY CENTRAL SEWER

KEY LARGO MISCELLANEOUS PROPERTIES

(5 properties)

9. According to the KLWTD, the miscellaneous properties in Key Largo are located in areas that are difficult to serve. Four are located in the rear of the treatment plant and therefore making them difficult to connect. One property is located in an area difficult to serve. However, this property is pursuing compliance with FDOH-Monroe. We expect compliance from this one of the five noted.

ISLAMORADA

(1 property)

10. The American Caribbean property has installed a compliant PBTS. Final approval is imminent and we expect full compliance within weeks of this writing.

CITY OF MARATHON

(3 properties)

11. Properties in the jurisdiction of the City of Marathon have received notices, as have the other properties mentioned. Two of the properties identified do not have plumbing in the structures. (Radio tower and transmission facility). Therefore, there is no need for a wastewater system. Three properties remain non-compliant and will receive further correspondence from FDOH-Monroe.

CUDJOE REGIONAL AREA (Saddle Bunch Keys to Big Pine Key) (40 properties but 20 pending)

12. Of the estimated 40 properties that will not be served by the Cudjoe Regional Wastewater system, about 20 have agreed to "opt-in" to the grant provisions extended to them from the U.S. EPA through FCAA.

SEPTIC TANK ABANDONMENT PROGRESS: A MEASURE OF SEWER CONNECTIONS

13. The pace of sewer connections is accelerating. Since January of 2015, over 8 abandonment applications were received every day of the week on average. Also, almost 5 sewer connections were completed every day since the same time period, and the pace is quickening.



MONROE COUNTY PROPERTIES NOT SERVED BY CENTRAL SEWER

FDOH-MONROE ENFORCEMENT OPTIONS AND COMPLIANCE STRATEGY

14. Achieving compliance with the agency's rules and statutes through amicable means is always preferred, and this option is being implemented before proceeding with enforcement. Notices have been sent to impacted property owners in 2014 and 2015 long before the deadline. The agency has received a response from most. The FDOH-Monroe environmental Manager has met informally several times with a Monroe Park/Cross Key citizens group. Technical assistance has been provided to engineers and property owners and in one instance, FDOH-Monroe is working closely with Monroe County Code Compliance on one individual property. (8 Jones Street, Key Largo) Unfortunately, compliance cannot always be achieved using only education. When enforcement is the best tool for achieving compliance, it should be used.
15. Due to the complexities of each situation and the lack of subsidies available to low income property owners, forward momentum is stalled. In most, if not all cases, property owners are investigating their options and developing a strategy to deal with the 2015 mandate.
15. The procedure and process for enforcement of Section 381.0065(4)(l)(3) of the Florida Statutes will inevitably be time consuming and expensive for State resources (staff time, legal fees). In prior year meetings, Monroe County Code Compliance has shown no interest in enforcing what they see as a State regulation. They add that their case load for connection violations to the existing sewer is overwhelming their process.
16. In the future, certainly the nature of the violation and the history of the case(s) will determine which enforcement option is best suited for each. For the properties not being served by central sewers that remain non-compliant some questions about culpability, risk and mitigation are important to the development of the enforcement strategy.
17. As enforcement will inevitably proceed case by case, answers to the following questions will be necessary as the State makes its case: (1) How long have the property owners known of the requirement to upgrade their wastewater systems? (2) What is the cost of the upgrades and is that cost equitable with properties being connected to the central sewer? (3) Is there an imminent threat to public health from the non-compliant discharges? (4) What is the actual wastewater nutrient contribution of the sum total of non-compliant single-family residences dispersed along 100 miles of the Florida Keys?

TAB 6

Sewer Connections by Wastewater Treatment Facility

Information below describes the number of potential parcel connections or equivalent dwelling unit (EDU) connections and the percent connected as of September 2016 for the City of Marathon, unincorporated Monroe County, and Village of Islamorada.

Marathon Wastewater Treatment Facilities by Sub-Basin			
Sub-Basin Number	Total Parcels	Parcels Connected	Percent Connected
Sub-Basin 1	33	33	100%
Sub-Basin 2	Eliminated	N/A	N/A
Sub-Basin 3	664	664	100%
Sub-Basin 4	1,378	1,374	99%
Sub-Basin 5	2,365	2,298	97%
Sub-Basin 6	993	992	99%
Sub-Basin 7	398	379	95%
Total	5,812	5,740	98%

Monroe County Wastewater Treatment Facilities and Regional Facilities			
Facility Name	Potential EDUs	Connected EDUs	Percent Connected
Big Coppitt Regional Facility	1,733	1,560	90%
Bay Point Facility	438	423	97%
Cudjoe Regional Facility	9,190	2,083	23%
Duck Key Regional Facility	1,471	1,382	94%
Key Largo Regional Facility	14,811	14,144	95%
Total	27,643	19,592	71%

Islamorada Sub-basins Connected to the Key Largo Wastewater Treatment Facility			
Sub-Basin Name	Total Parcels	Parcels Connected	Percent Connected
North Plantation Key	1,161	1,119	96%
Middle Plantation Key	663	404	61%
South Plantation Key/Windley Key	790	472	60%
Upper Matecumbe Key	564	205	37%
Lower Matecumbe Key	924	371	40%
Total	4,102	2,571	63%

TAB 7

CHAPTER 2016-225

Committee Substitute for Committee Substitute for House Bill No. 447

An act relating to local government environmental financing; providing a short title; amending s. 212.055, F.S.; expanding the uses of local government infrastructure surtaxes to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; revising definitions for purposes of using surtax proceeds; amending s. 215.619, F.S.; expanding the use of Everglades restoration bonds to include the City of Key West Area of Critical State Concern; expanding the types of water management projects eligible for funding; revising the date for the maturity of Everglades restoration bonds; authorizing bond proceeds to be spent on the City of Key West Area of Critical State Concern; expanding projects that may be funded by bond proceeds; specifying procedures to be followed for certain lands that are no longer needed for certain restoration purposes; amending s. 259.045, F.S.; requiring the Department of Environmental Protection to annually consider certain recommendations to buy specific lands within and outside an area of critical state concern; authorizing certain local governments and special districts to recommend additional lands for purchase; amending s. 259.105, F.S.; requiring specific Florida Forever appropriations to be used for the purchase of lands in the Florida Keys Area of Critical State Concern; providing an appropriation; amending s. 380.0552, F.S.; revising legislative intent regarding the Florida Keys Area of Critical State Concern; specifying that plan amendments in the Florida Keys must also be consistent with protecting and improving specified water quality and water supply projects; amending s. 380.0666, F.S.; expanding powers of a land authority to include acquiring lands to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern and contribute funds for certain land purchases by the department; providing limitations relating to acquiring or contributing lands to improve public transportation facilities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the “Florida Keys Stewardship Act.”

Section 2. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the

levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term “infrastructure” means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, ~~and any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service.~~ For purposes of this sub-subparagraph, the term “public facilities” means facilities as defined in s. 163.3164(38), s. 163.3221(13), or s. 189.012(5), regardless of whether the facilities are owned by the local taxing authority or another governmental entity.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and

the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

2. For the purposes of this paragraph, the term “energy efficiency improvement” means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. 206.9951; and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county’s accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives

related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

Section 3. Subsection (1) of section 215.619, Florida Statutes, is amended, subsections (7) and (8) are renumbered as subsections (8) and (9), respectively, and a new subsection (7) is added to that section, to read:

215.619 Bonds for Everglades restoration.—

(1) The issuance of Everglades restoration bonds to finance or refinance the cost of the acquisition and improvement of land, water areas, and related property interests and resources for the purpose of implementing the Comprehensive Everglades Restoration Plan under s. 373.470, the Lake Okeechobee Watershed Protection Plan under s. 373.4595, the Caloosahatchee River Watershed Protection Plan under s. 373.4595, the St. Lucie River Watershed Protection Plan under s. 373.4595, the City of Key West Area of Critical State Concern as designated by the Administration Commission under s. 380.05, and the Florida Keys Area of Critical State Concern protection program under ss. 380.05 and 380.0552 in order to restore and conserve natural systems through the implementation of water management projects, including projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects, projects to protect water resources available to the Florida Keys, including wastewater management projects identified in the Keys Wastewater Plan, dated November 2007, and submitted to the Florida House of Representatives on December 4, 2007, is authorized in accordance with s. 11(e), Art. VII of the State Constitution.

(a) Everglades restoration bonds, except refunding bonds, may be issued only in fiscal years 2002-2003 through 2019-2020 and may not be issued in an amount exceeding \$100 million per fiscal year unless:

1. The Department of Environmental Protection has requested additional amounts in order to achieve cost savings or accelerate the purchase of land; or

2. The Legislature authorizes an additional amount of bonds not to exceed \$200 million, and limited to \$50 million per fiscal year, specifically for the purpose of funding the Florida Keys Area of Critical State Concern protection program and the City of Key West Area of Critical State Concern. Proceeds from the bonds shall be managed by the Department of Environmental Protection for the purpose of entering into financial assistance agreements with local governments located in the Florida Keys Area of Critical State Concern or the City of Key West Area of Critical State Concern to finance or refinance the cost of constructing sewage collection, treatment, and disposal facilities or building projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects and projects to protect water resources available to the Florida Keys.

(b) The duration of Everglades restoration bonds may not exceed 20 annual maturities and must mature by December 31, ~~2047~~ 2040. Except for refunding bonds, a series of bonds may not be issued unless an amount equal to the debt service coming due in the year of issuance has been appropriated by the Legislature. Not more than 58.25 percent of documentary stamp taxes collected may be taken into account for the purpose of satisfying an additional bonds test set forth in any authorizing resolution for bonds issued on or after July 1, 2015. Beginning July 1, 2010, the Legislature shall analyze the ratio of the state's debt to projected revenues before authorizing the issuance of bonds under this section.

(7) If the South Florida Water Management District and the Department of Environmental Protection determine that lands purchased using bond proceeds within the Florida Keys Area of Critical State Concern, the City of Key West Area of Critical State Concern, or outside the Florida Keys Area of Critical State Concern but which were purchased to preserve and protect the potable water supply to the Florida Keys, are no longer needed for the purpose for which they were purchased, the entity owning the lands may dispose of them. However, before the lands can be disposed of, each general purpose local government within the boundaries of which a portion of the land lies must agree to the disposal of lands within its boundaries and must be offered the first right to purchase those lands.

Section 4. Section 259.045, Florida Statutes, is amended to read:

259.045 Purchase of lands in areas of critical state concern; recommendations by department and land authorities.—Within 45 days after ~~of the designation by the Administration Commission designates~~ of an area as an area of critical state concern under s. 380.05, and annually thereafter, the Department of Environmental Protection shall consider the recommendations of the state land planning agency pursuant to s. 380.05(1)(a) relating to purchase of lands within an area of critical state concern or lands outside an area of critical state concern that directly impact an area of critical state concern, which may include lands used to preserve and protect water supply, ~~the proposed area~~ and shall make recommendations to the board with respect to the purchase of the fee or any lesser interest in any such lands that are: situated in such area of critical state concern as

- (1) Environmentally endangered lands; ~~or~~
- (2) Outdoor recreation lands;
- (3) Lands that conserve sensitive habitat;
- (4) Lands that protect, restore, or enhance nearshore water quality and fisheries;
- (5) Lands used to protect and enhance water supply to the Florida Keys, including alternative water supplies such as reverse osmosis and reclaimed water systems; or

(6) Lands used to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern if the acquisition of such lands fulfills a public purpose listed in s. 259.032(2).

The department, a local government, a special district, or and a land authority within an area of critical state concern ~~as authorized in chapter 380~~, may make recommendations with respect to additional purchases which were not included in the state land planning agency recommendations.

Section 5. Paragraph (b) of subsection (3) of section 259.105, Florida Statutes, is amended to read:

259.105 The Florida Forever Act.—

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(b) Thirty-five percent to the Department of Environmental Protection for the acquisition of lands and capital project expenditures described in this section. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge. At a minimum, 3 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access. Beginning in the 2017-2018 fiscal year and continuing through the 2026-2027 fiscal year, at least \$5 million of the funds allocated pursuant to this paragraph shall be spent on land acquisition within the Florida Keys Area of Critical State Concern as authorized pursuant to s. 259.045.

Section 6. For the 2016-2017 fiscal year, the sum of \$5 million in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Environmental Protection to be distributed in accordance with the existing interlocal agreement among the Village of Islamorada, the Key Largo Wastewater Treatment District, the City of Marathon, the Monroe County/Florida Keys Aqueduct Authority, the City of Key West, and Key Colony Beach, for the purposes of constructing sewage collection, treatment, and disposal facilities; implementing stormwater collection and treatment systems; canal restoration and muck remediation projects; and projects that protect and enhance water supply in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern; or, for the purposes of land acquisition within the Florida Keys Area of Critical Concern as authorized pursuant to s. 259.045, Florida

Statutes, with increased priority given to those acquisitions that achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge. A local government requesting disbursement pursuant to this appropriation shall provide the Department of Environmental Protection with such documentation as the department deems necessary to verify that the costs are properly incurred and work has been performed.

Section 7. Paragraph (i) of subsection (2) and paragraph (i) of subsection (7) of section 380.0552, Florida Statutes, are amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(1) and 403.086(10), as applicable.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; ~~and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems; and other water quality and water supply projects, including direct and indirect potable reuse.~~

Section 8. Subsection (3) of section 380.0666, Florida Statutes, is amended to read:

380.0666 Powers of land authority.—The land authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers, which are in addition to all other powers granted by other provisions of this act:

(3) To acquire and dispose of real and personal property or any interest therein when such acquisition is necessary or appropriate to protect the natural environment, provide public access or public recreational facilities, preserve wildlife habitat areas, provide affordable housing to families whose income does not exceed 160 percent of the median family income for the area, prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern, or provide access to management of acquired lands; to acquire interests in land by means of land exchanges; to contribute tourist impact tax revenues received pursuant to s. 125.0108 to its most populous municipality or the housing authority of such municipality, at the request of the commission or council of such municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality; to contribute funds to the Department of Environmental Protection for the purchase of lands by the department; and to enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback arrangements. However, the land authority shall make an such acquisition or contribution only if:

(a) Such acquisition or contribution is consistent with land development regulations and local comprehensive plans adopted and approved pursuant to this chapter;

(b) The property acquired is within an area designated as an area of critical state concern at the time of acquisition or is within an area that was designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation; and

(c) The property to be acquired has not been selected for purchase through another local, regional, state, or federal public land acquisition program. Such restriction shall not apply if the land authority cooperates with the other public land acquisition programs which listed the lands for acquisition, to coordinate the acquisition and disposition of such lands. In such cases, the land authority may enter into contractual or other agreements to acquire lands jointly or for eventual resale to other public land acquisition programs; and

(d) The acquisition or contribution is not used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

Section 9. This act shall take effect July 1, 2016.

Approved by the Governor April 14, 2016.

Filed in Office Secretary of State April 14, 2016.

TAB 8

Draft Rule 27-001
Hotel Unit Allocation Program

1 **Rule 28-17.001. Hotel Unit Allocation Program for the Florida Keys and City**
2 **of Key West Areas of Critical State Concern.**

3 (1) **Purpose.** This rule establishes a program to award to Florida Keys local governments
4 Hotel Unit Allocations for hotel development in exchange for extinguishment of
5 residential development rights on vacant buildable environmentally sensitive lots. The
6 purpose of the program is to reduce residential development entitlements and increase
7 acquisition of vacant buildable environmentally sensitive platted lots, reduce state and
8 local government exposure to potential takings claims, and ensure the safe evacuation of
9 residents of the Florida Keys and City of Key West Areas of Critical State Concern
10 during tropical hurricane events.

11
12 (2) **Definitions.** As used in this rule the following terms have the following meanings:

13 (a) “Florida Keys” means the Florida Keys Area of Critical State Concern and the City
14 of Key West Area of Critical State Concern.

15 (b) A “Hotel Unit Allocation” means an allocation for development of one Hotel Unit
16 consisting of one bedroom and up to two bathrooms.

17 (c) “Recipient(s)” means a non-government entity or an individual who receives a
18 Hotel Unit Allocation award from a local government.

19 (d) Department and DEO means the State Land Planning Agency

20 (e) “Environmentally Sensitive” means lands targeted for acquisition by the Florida
21 Department of Environmental Protection, lands designated Tier I and Tier II under
22 the Monroe County comprehensive plan, or wetlands scoring 4 to 5 on the Keys
23 Wetland Evaluation Program (KEYWEP)
24

25 (3) **Communities; Local Government Hotel Unit Allocation Awards; Expiration.** The
26 Department of Economic Opportunity may designate up to three local governments in the
27 Florida Keys as communities under this rule. The Department shall issue a Hotel Unit
28 Allocation Award Letter to the community or communities awarding a combined total of
29 up to 300 Hotel Unit Allocations. If more than one community is designated, the
30 Department may award all Hotel Unit Allocations simultaneously or may stagger the
31 Hotel Unit Allocation awards.

32 (4) **Use of Hotel Unit Allocations for Development.**

33 (a) **Local Hotel Unit Allocation Program.** A local government in possession of
34 Hotel Unit Allocations may award those Hotel Unit Allocations to a Recipient for
35 development of hotel units. Prior to any award to a Recipient, the local
36 government shall establish a Hotel Unit Allocation Program that:

37 1. includes application, award, tracking, and record-keeping requirements,

- 2. requires development of affordable housing units or, if authorized by the local government’s comprehensive plan or land development regulations, contribution of a fee for each hotel unit built, and
- 3. requires the extinguishment of residential development rights as provided in this rule.

(b) **Conditional Use Approval; Expiration of Hotel Unit Allocation to a Recipient.**

Hotel Unit Allocations shall be awarded pursuant to a conditional use approval conditioning the award on the Recipient extinguishing development rights on three vacant buildable environmentally sensitive platted residential lots for each one Hotel Unit Allocation awarded. For the purpose of this rule, an environmentally sensitive platted residential lot is a platted lot designated as Tier I or II, targeted for acquisition by the Florida Department of Environmental Protection, or a lot that scores between 4.0 and 5.0 under the Florida Keys Wetland Identification Program and must have been platted on or before the effective date of this rule. The lots on which development rights are extinguished must be located within unincorporated Monroe County, Islamorada, or Marathon exclusive of offshore islands and Mainland Monroe. Residential development rights shall be extinguished within two years after the date of the conditional use approval or the Hotel Unit Allocation award shall automatically expire. Upon expiration, the Hotel Unit Allocations shall revert to the Department for further award pursuant to its adopted Hotel Unit Allocation program. Once the required residential development rights are extinguished in a manner consistent with this rule, the Hotel Unit Allocations are the sole property of the Recipient.

(c) **Extinguishing Residential Development Rights.** Residential development rights shall be extinguished by the Recipient recording a written instrument in the public records of Monroe County, Florida, extinguishing such development rights. The instrument shall be in a form acceptable to the local government in which the lots are located. The Recipient shall provide a copy of the recorded instrument to the Department and to the local government in which the lots are located no later than 10 days after the recording information is made available to the Recipient by the Clerk’s Office. The Recipient shall not be entitled to receive a building permit for hotel units to be developed pursuant to a Hotel Unit Allocation award until the required residential development rights have been extinguished.

(d) **Plan Amendment Designating Lots as Conservation.** The local government in whose jurisdiction the lots on which development rights have been extinguished are located shall amend its comprehensive plan to designate the lots as “Conservation” on its Future Land Use Map within six months after the receipt of the recorded written instrument extinguishing such development rights. The local government in whose jurisdiction the lots are located may require the Recipient to apply for the plan amendment required by this section.

78 (e) **Land Management.** For the purpose of land management, the Recipient may
79 convey the lots on which development rights have been extinguished to the
80 Monroe County Land Authority or to the local government in which they are
81 located to manage the lots.
82

83 (5) **Evaluation and Report to the Administration Commission.** Local governments
84 participating in the program shall provide DEO an annual Report by July 30 of each year
85 indicating the status of the program and reporting the number of units that have been
86 transferred or acquired. Adjustments to the ten year building permit allocation shall be
87 reflected in a plan amendment by the donor and receiver local governments within 12
88 months of adoption of a resolution to transfer units to another local government.
89 Department of Economic Opportunity shall include in its Florida Keys annual report an
90 assessment of the success or failure of the program and a recommendation whether the
91 program should be expanded.
92

93 *Rulemaking Authority: 380.05(22) (b), FS; Law Implemented: 380.05, 380.0552, FS; New.*

**Hotel Opportunity Program
Workshop Minutes**

Vacant Lot reduction and Hotel Opportunity Program

Workshop Summary

In early February, the Department of Economic Opportunity conducted a series of workshops in the Florida Keys to gauge interest and solicit feedback on a proposed rule that would award up to 300 hotel rooms in exchange for the retirement of development rights on 900 lots. The following workshops were included in the schedule:

- **Key Largo, FL** - February 3, 2016 from 10:00 a.m. to 11:30 a.m.
- **Village of Islamorada, FL** – February 3, 2016 from 3:00 p.m. to 4:30 p.m. and 5:30 p.m. to 7:00 p.m.
- **Marathon, FL** – February 4, 2016 from 10:00 a.m. to 11:30 a.m.
- **Sugarloaf, FL** – February 4, 2016 from 3:00 p.m. to 4:30 p.m.

There was an over-arching response by participants and three neighborhood groups indicating that the creation of 300 hotel rooms under the Hotel Opportunity would drive up the demand for at least 150 employees. The employees will need affordable housing, which is not readily available. Approximately 44% of those providing comments opposed the rule due to perceived adverse impacts to affordable housing, additional stress on infrastructure, and a degradation of quality of life. Approximately 30% of those speaking were in favor of the rule with modifications. Another 26% of those speaking did not favor or oppose the rule.

There also was an overall desire for DEO to maintain open dialogue with the local governments regarding the reduction of vacant lots in the Florida Keys, developing strategies for 2023, and assistance in developing additional affordable housing.

Below is a summary of comments and feedback received from individuals present at the workshops:

KEY LARGO WORKSHOP

Ron Miller, Upper Keys Citizen Association:

- This rule is not in the public interest. Tier I lots are already protected through a limit on permits of six per year. If a rule goes through, the target lot reduction should be Tier III. Not being able to build on Tier I is defensible. Tier III lands are more at risk and vulnerable to taking. An evaluation is needed regarding what is and isn't defensible in a takings lawsuit.

Bill Hunter, Sugarloaf Homeowner's Association:

- The cost of takings exposure is greater with Tier III; the rule is exchanging future development for development now.

- Could you revise the concept to create a donor/recipient government where the County has the most lots and is the most vulnerable, but the cities may be the recipient of the hotels?
- There are about 700 affordable units in the ROGO allocation pool.
- We need a better affordable linkage between RV spaces converting to hotels rooms. RV spaces don't require as many employees as that required to support the same number of hotel units.
- A proposal to develop 200 affordable units near Big Coppitt will set aside 70% of the units for moderate income recipients. There needs to be a better match between the type of employee that is generated and the type of housing produced.
- The rule should include sanctions/consequences if the hotels don't evacuate when an evacuation is called.
- The value of a transient unit may be \$100,000.

Mitch Harvey, Consultant:

- Strike the words "buildable environmentally sensitive platted residential lots" and insert "lots with entitlements."

Note: Please see Clause B of the proposed rule.

- Add specific language regarding affordable housing.
- We should address the conversion of RV spaces to market rate units.
- What happens after the 900 vacant lots are purchased?

Dottie Moses, Key Largo Federation of Homeowners:

- Will we still pursue this concept if the FL Keys Stewardship Bill passes?

Note: House Bill 447, the Florida Keys Steward Ship Act, sponsored by Representative Raschein passed during the 2016 Legislative Session and will take effect on July 1, 2016.

- The rule would cause more development in the Keys and increase the number of low income residents that draw on services.
- Tourism has too much impact now without paying its fair share; tourism impacts potable water, hurricane evacuation, quality of life, with traffic being a big obstacle.
- The rule should limit the hotel allocation to redevelopment.

ISLAMORADA WORKSHOPS

Alecia Lazaro, Citizen:

- The formula should include a mix of Tier parcels. For example: two Tier III and one Tier I instead of retiring the rights on three Tier I lots.

Laura Leil, Citizen:

- You can buy a transient allocation for \$100,000.
- Should these hotel rooms be for new hotels or expansion/redevelopment of existing hotels?
- The concern is over-density hotels that are non-conforming to the density set in the comprehensive plan. Marathon allowed over-density redevelopment by not imposing the traditional policy of not allowing nonconforming parcels to expand development.

Cheryl Cioffari, Islamorada Planning Director:

- Islamorada has a strong policy on inclusionary housing for development/redevelopment. 30% of the “employee need” that a development generates must be mitigated with housing.

Claire Johnson, Citizen:

- Will the vacant lots come from one location and the hotel rooms can be located in another location?

Councilman Mike Forster, Village of Islamorada:

- The proposed rule should limit the number of allocations to one developer.
- The Village should be a donor city for vacant lots with hotel development somewhere else. Most hotels in the Village are over the density set by the plan, and there are already too many cars in the Village.

Jim Rhyne, Hotelier:

- The Smith-Travel occupancy rates used by DEO are not correct and are not representative of reality and do not include the rates of small motels which do not provide the data.

Note: The data presented by DEO was best available and represents an average of what is presented by hotel owners. Not all hotel owners report occupancy.

- The built hotel units in Marathon sold for just over \$200,000 not \$500,000. Marathon just completed an affordable housing study at a cost of \$40,000. Redevelopment since 1992 has created an incredible need for affordable housing. We are behind on affordable housing and will get more behind as we do more redevelopment. Things are good and it's not the right time to spur the economy.
- The requirement for affordable housing won't stop building.
- We don't owe every property owner a building permit.
- Are we stepping out ahead of ourselves? Will we have a say in this hotel rule?
- There is no support in Marathon for this. Hotel allocations sell for \$150,000. Locals may not have a choice but the Administration Commission or the Florida Legislature will take into account what locals want.
- Small hotels need about 3.5 employees, and 4-5 employees per room for larger hotels with more services. The Hyatt has 125 rooms and 65 employees (approximate ½ employee per room). In many small hotels, the manager is the owner and all employees are low-wage earners. In big hotels, there's a ring of management that might make \$100,000 per year, but approximately 80% of employees are low wage earners. I've bought an apartment to house eight of my employees. 85% of the workers live in the Keys. I have 54 units, 15 employees (1/4 of an employee per room).
- No one is concerned about takings but we are worried about the impact of the tourism; I don't agree with the defeatist attitude that this is not solvable.
- The Carrying Capacity has been reached. Cheeca Lodge can't find employees and we don't have to suffer affordable housing getting worse.
- Extend ROGO, slow it down; 300 hotel rooms in Marathon is too much. Marathon may not be sustainable at the current growth rate with the lack of affordable housing.
- Marathon has 450 units that just got redeveloped in the last three or four years. Half are new hotel rooms or rooms that have been offline for a long time.

Mayor Deb Gillis, Village of Islamorada:

- If the Village doesn't want to increase the hotel units, can the vacant lots in the Village be retired through the program?
- Are there other incentives that can be used to retire development rights on lots?
- Could you consider other scenarios such as the award of vacation rentals as an incentive?

- Could other businesses utilize the land area of vacant lots where the rights have been retired?
- At first blush this is great, but the consequences of more hotels on affordable housing, traffic, water, etc. limits what a small developer would spend or is viable. Maybe there are other incentives that could be offered to retire the lots.

Councilman Jim Mooney, Village of Islamorada:

- No one is in favor of this concept. We have 9,000 vacant lots. This program reduces the number by only 900 vacant lots, but adds 300 hotel rooms, 300 more cars, and drives up the demand for 300 or more affordable housing units. It costs a lot to build cheap rental units that would rent for \$500 per month. What do we do with the other 6,000 lots?
- What kind of incentives can we offer? This seems to benefit a small group of people, but we still get additional traffic, water, and wastewater impacts. Increasing the affordable housing problem just to retire 10% of the vacant lots doesn't make sense. Lots being bought elsewhere doesn't solve the Village takings.
- Mattson and Tobin proved that we do have to buy the lots. Must be a better way to resolve extinguishment of the lots.
- We're built out, we're done. If we extend ROGO 20-50 years we are still in gridlock and no housing. The state imposed ROGO in order to save the environment. We are at the point of diminishing return. The Village can't absorb the cost of \$30,000 each for 829 parcels remaining. To extend the problem doesn't solve the problem.
- It is a quality of life issue. Tourists will stop coming if the traffic is any worse.
- Small and cheap housing won't be inexpensive, employees need to make more money; Islamorada's liability is around \$41 million, we have to get creative.

Councilman Mike Forster, Village of Islamorada:

- We are facing as much as \$500 Million in takings. The value of the vacant lots goes up while we wait, at a rate of about 15% a year. We need to do something soon or it's too late. This is a minuscule amount; there are many negatives.
- The program should be for redevelopment, not new development.
- There is a holiday coming up and there are profits from tourism, but there is a point where the quality of life is negatively affected.
- This concept will be miniscule in the scheme of things; this is for the two or three developers who have their checkbook out.

- We're worried about the quality of life; we've hit our limits. You should make sure this program goes through 10 or 15 brokers, not just a few brokers in the county.
- We will have a deeper problem in 2023, and each year the cost of acquisition is going up by 15% a year.
- We know that the state will control this process. Will this be a consensus of the whole county, or do we get to modify the proposed rule and allow fair trade with selling allocations?

Diane Gable, General Manager Cheeca Lodge:

- I am keenly aware of the housing issues; recruiting is a continual challenge with 214 hotel units and 300 employees (1.4 employees per room).
- This year the hotel started the season with 50 vacant positions and \$60,000 in arrears for housing costs incurred in Homestead that didn't work out due to transportation issues. Cheeca carries a deficit because bus transportation from Dade County was reduced. Transportation and recruiting employees from Homestead needs more focus.
- Cheeca Lodge has allocations and building permits, but doesn't want to go forward because of the employee shortage. Cheeca Lodge has 20 units at 400-450 square feet each with one bathroom for four people. People can sustain themselves with multiple people in units. The Cheeca Lodge has 16 units in Homestead. Cheeca Lodge is spending 3,000 per month per house.

Dion Gayle, Citizen:

- We need grants for resident retention; dormitories are not living when you are an adult.
- The use of deed restrictions may be better than to extinguish all the rights.
- Focus on high income affordable housing.
- The hotel units should be used for redevelopment.
- We should be looking at other states for solutions.
- You can't keep charging tourists \$400 a night and have them sit in traffic for four hours.

Councilman Chris Sante, Village of Islamorada:

- The Village needs more affordable housing deed restricted in perpetuity.
- We need to be creative. Allocations cost \$85,000-100,000; lots cost \$30,000. Three vacant lots would be \$90,000 and that reduces vacant lots.

- Affordable housing is part of the cost of doing business. I buy houses for my employees; and for those that I don't house, I pay them for their time on the bus.

MARATHON WORKSHOP

Mayor Jerry Ellis, Key Colony Beach:

- The proposed rule is for three local governments and participation is voluntary.

Lott Panskyy, Hotelier:

- Things are more profitable now.
- You could make them build one affordable housing unit for every two hotel rooms.
- The price of lots will rise artificially from Key Largo to Key West.
- The hotel rooms would build 150 affordable units.
- The rule should give some credit to 50-60 acre parcels that could be subdivided. Large lots that can be subdivided and platted need to be acquired. In season you can't go to Publix at dinner now.
- My wife goes to Publix at 7 a.m. because they run out of things if you wait till the end of the day. We have quality of life issues. Increase the formula to require one affordable unit for every two hotel units

Pritam Singh, Hotelier:

- The concept should be used as a redevelopment stimulus. For example, a 50-unit hotel needs the same top layer as a 150 room hotel.
- There is an economic revival in Marathon because of the new hotel units they received. The product is better. Upscale clients can spend more.
- My company sent 2,000 letters to parcel owner attempting to purchase the lots or development rights without a response from a single willing seller. We didn't lose affordable units. We already had some affordable units so the impact of the additional need was somewhat limited.
- The concept, if approved, should add hotel units slowly. They should be spread out geographically to existing hotels. This increase in hotel units could upset the economy.
- The occupancy rate is more sensitive than it appears. Market value has been set by the County Land Authority at \$16,000 per parcel.

- The county should consider eminent domain and offer \$20,000 for each lot at a cost of \$25 Million.
- The Keys are considered a “high barrier to entry” market resulting in the units being sold at a higher price and then when the units go to foreclosure, there is blight.
- There is inventory that has not been released to the market. Several hundred units have been bought by hedge funds and are currently closed. No units are needed in the lower keys below Marathon to Key West. Construction costs in the lower keys is higher than can be made in operating income.
- The program should start in Islamorada. For example, a room renting for \$220 a night with 77% occupancy provides a RevPAR (revenue per available room) of \$206. There has been a lot of inventory added with 1,300 units recently redeveloped in Key West. Resort hotel sales skew the number.

Daniel Samess, Chamber of Commerce:

- Shift the concept to affordable housing, staffing is a huge problem.

Brian Schmidt, Realtor:

- The hotel units must be released slowly.
- This concept shifts the burden to developer.
- ROGO will not exist in 2023.
- The cost to acquire land could be \$500 million. 4,000 vacant lots times \$30,000 each in 30 years.

Commissioner David Rice, Monroe County:

- Need to change the Monroe County land authority requirement to offer the 1986 value of the land by the land authority.

Alicia Putney, Big Pine Key Deer Association:

- Will this concept cause more traffic?
- Demand will increase on infrastructure and police; residents pay for infrastructure.

George Garrett, Marathon Planning Director:

- Add offshore islands as part of the acquisition area.

Frank Greenman, Marathon Attorney and former City Councilman:

- This is a political tool.
- The concept will drive up the cost of lots.
- Marathon retail is strong.
- This program is counterproductive.
- We should improve retail and allow second homes.

Marlene Conaway:

- Hotels should only be allowed in Tier III or on scarified land, not on Sombrero Golf Course.

SUGARLOAF KEY WORKSHOP

Joyce Newman, Last Stand Neighborhood Group:

- Opposes concept based upon increase demand on infrastructure and reduced quality of life; increases demand on evacuation in the case of a fast developing hurricane; drives up demand for more affordable workers and rooms.
- Supports attempt to reduce vacant lots.

Deb Curley, Key Largo Federation of Homeowners Association:

- We already have scarcity of long term rental housing.
- The concept undermines quality of life.

Owen Trepanier, Trepainer and Associates Consulting Firm:

- Recommends removal of time limit to build units.
- Once development rights to vacant lots are reduced, there should be no time constraint.
- Should establish a minimum lot price for the vacant lots.

Jim Hendrick, Land Use Consultant:

- Increase time to build hotel units, require deed restriction recordation and don't involve government approval through conditional use as part of concept.
- We don't need the increased demand for employees.
- Prices are unsustainable; Casa Marina is not workable long term; hotel valuation will begin a decline.
- Concept should focus on transfer of development rights; TDRs don't require land management.
- Special allocation should go to affordable housing; consider coupling high income housing development with low income housing. The numbers work for median income affordable housing.
- Revise concept to not allow the purchase of red flag wetlands or submerged lands and beef up affordable housing component.

Ed Swift, Historic Tours of America:

- Will this work financially? Lots may be too expensive; the county will never buy the lots and ROGO will be extended; no one evacuates anyway.
- Consider a tax to subsidize medium income housing.

Kevin Sullivan, Trepanier and Associates Consulting Firm:

- The concept should include a provision that eliminates lots for acquisition that are subject to anticipated sea level rise of 6-10 inches by 2030.

Commissioner Heather Carruthers, Monroe County:

- The formula should require acquisition of five Tier I lots, three Tier III lots, or one Tier I lot and two Tier III lots.
- Local government should offer a waiver of cost for comprehensive plan amendments.

Nick Beatty, Citizen:

- A huge factor is the cost of the affordable unit.
- The concept should encourage construction on hotel site and not count affordable units toward density.

Unidentified audience members:

- Who will own/maintain the vacant lot once the rights have been retired? Who will remove the refrigerator and old tires that may be abandoned?
- The housing that is needed is for the low wage workers and should cost \$500-\$600 for rent; not roommates in a shared three-bedroom situation. Recreational vehicles charge \$850 a month. We need grants for resident retention.
- Upset about paying for sewer connection on vacant lot, now more hotels.