

# RI Department of Environmental Management

## System Suitability Requirements (Rule 17)

**17.4 OWTS Suitability Determination-** An OWTS Suitability Determination is a determination as to whether or not an existing OWTS is suitable for a proposed building construction, renovation or change of use so as to protect public health and the environment. An OWTS Suitability Determination Application may be submitted to the Department in order to determine the applicability of this Rule. OWTS suitability is determined by the following:

**17.4.1 Excluding holding tanks, for OWTSs where all components have been installed with state approval on or after April 9, 1968:**

(A) The OWTS is suitable and no application to the Department is necessary for any building construction, renovation or change in use, that, for residential uses, does not result in an increase in the number of bedrooms in a residential structure beyond the number in the original state approval; or, for all other uses, an increase in the wastewater flow greater than the OWTS approved design flow for any OWTS. However, the OWTS is unsuitable and an OWTS Application for New Building Construction or an OWTS Application for Alteration to a Structure, whichever is applicable, must be submitted when any of the following in (i)-(iii) apply, even if there is no increase in number of bedrooms or increase in flow:

- (i) Whenever the proposed construction or renovation changes the structure's footprint such that the OWTS is not in compliance with these Rules;
- (ii) If the proposed change of use is from a facility that does not prepare food to a restaurant or other facility that prepares food; or
- (iii) For a change in use, if the OWTS for the new use meets the definition of a large OWTS pursuant to Rule 35.1.

(B) **Prior to January 1, 2016**, the OWTS is unsuitable if the OWTS is located within the Salt Pond or Narrow River Critical Resource Area, includes any existing components permitted and installed prior to February 6, 2002, and does not utilize nitrogen reducing technology in accordance with Rule 39.2 at the time of application and the applicant proposes construction or renovation meeting any of the conditions listed below in Rule 17.4.1(B)(i)-(ii). In-kind (i.e. same number of bedrooms) replacement of mobile homes in a licensed mobile and manufactured home park is exempt from this provision (B).

- (i) Increasing the total enclosed area of the structure by more than six hundred (600) square feet. All construction on each floor conducted prior to November 1, 2004 shall be counted towards the six hundred (600) square foot total for the structure. Any change to the building footprint shall not encroach on the setback distances established in Rule 22 so as to require physical modification of the OWTS. Garages are exempt from this provision (i) provided they do not encroach on the setback distances established in Rule 22; or

(ii) Involving a substantial improvement to a structure located within a Federal Emergency Management Agency-designated Special Flood Hazard Area subject to inundation by the one percent (1%) annual chance flood (100-year flood). Substantial improvement to a structure is defined in RIGL § 23-27.3-106.1 to mean any construction, renovation, or improvements made within any twelve (12) month period and costing in excess of fifty percent (50%) of the physical value of the building prior to the start of construction. Determination of substantial improvement shall be made by the appropriate municipal or state building official.

**(C) On or After January 1, 2016**, the OWTS is unsuitable if the OWTS is located within the Salt Pond or Narrow River Critical Resource Areas and does not utilize nitrogen reducing technology in accordance with Rule 39.2 at the time of application and the applicant proposed construction or renovation meeting any of the conditions listed below in Rule 17.4.1(C)(i)-(iii). In-kind (i.e. same number of bedrooms) replacement of mobile homes in a licensed mobile and manufactured home park is exempt from this provision (C).

(i) Adding an additional floor level or portion of floor level to the structure;

(ii) Increasing the footprint of enclosed space of the structure. Garages are exempt from this Provision (ii) provided they do not encroach on the setback distances established in Rule 22; or

(iii) Involving a substantial improvement to a structure located within a Federal Emergency Management Agency-designated Special Flood Hazard Area subject to inundation by the one percent (1%) annual chance flood (100-year flood). Substantial improvement to a structure is defined in RIGL § 23-27.3-106.1 to mean any construction, renovation, or improvements made within any twelve (12) month period and costing in excess of fifty percent (50%) of the physical value of the building prior to the start of construction. Determination of substantial improvement shall be made by the appropriate municipal or state building official.

**(D)** The OWTS is unsuitable for any building construction, renovation or change of use, that results in an increase in the number of bedrooms in a residential structure beyond the number in the original state approval; or an increase in the wastewater flow greater than the OWTS approved design flow for any OWTS. An OWTS Application for New Building Construction or an OWTS Application for Alteration to a Structure shall be required in accordance with Rule 17.5 or Rule 17.6, respectively, whichever is applicable, before the proposed building construction, renovation or change of use may be allowed.

**17.4.2 For OWTSs where any existing components have been installed without state approval, holding tanks, cesspools, and OWTSs installed prior to April 9, 1968:** Whenever a person proposes any building construction, renovation, or change of use (as defined in Rule 7) of a structure served by such an OWTS, the OWTS is unsuitable and shall be upgraded to the standards herein. An OWTS Application for New Building Construction or an OWTS Application for Alteration to a Structure shall be required in accordance with Rule 17.5 or Rule 17.6, respectively, whichever is applicable. For the purposes of this Rule, the terms "building construction" and "building renovation" shall be defined as any addition, replacement, demolition and reconstruction, or modification of a structure on the subject property which:

**(A)** Results in any increase in wastewater flow into the OWTS, which for residential structures is equivalent to the addition of one (1) or more bedrooms;

- (B)** Involves demolition or replastering or replacement of interior wallboard, interior walls, ceilings, flooring, windows, plumbing fixtures, electrical wiring or kitchen cabinetry, which in total affects over fifty percent (50%) or more of the living area of the existing structure. In-kind (i.e. same number of bedrooms) replacement of mobile homes in a licensed mobile and manufactured home park is exempt from this provision (B);
- (C)** Involves adding an additional floor level or portion of floor level to the structure; or
- (D)** Increases the footprint of enclosed space of the structure. Garages are exempt from this provision (D) provided they do not encroach on the setback distances established in Rule 22. In-kind (i.e. same number of bedrooms) replacement of mobile homes in a licensed mobile and manufactured home park is exempt from this provision (D).