

## RI Department of Environmental Management System Suitability Requirements

### 6.18 OWTS Applications

- A. Applicant's Responsibilities** - The applicant shall be responsible for providing all information required by these rules in a complete, accurate, clear and legible manner. The applicant for an OWTS must be the owner or owners of the property or easement that is the subject of the application, or it must be the person who holds a valid purchase and sales agreement for said property.
- B. Designer's Responsibility** - Class I, II and III Licensed Designers shall design an OWTS for a site that is in compliance with these rules. The design shall be based on the information provided in the soil evaluation report. This design shall be submitted to the Director in accordance with §§ 6.18 and 6.19 of this Part.
- C. Local Ordinances** - It is the applicant's responsibility to ensure that the OWTS application to the Department is in compliance with local ordinances regarding the location, design, construction and maintenance of an OWTS prior to submission to the Department. City or Town Councils may petition the Department to require municipal review for compliance with local ordinances prior to DEM initiating its review. The petition must state the local standard(s), as embodied in local ordinance, that is more stringent than the standard(s) in these rules and the municipal official responsible for local review. In municipalities where the petition has been approved, applicants must submit documentation to DEM on forms approved by DEM that the municipality has certified that the application is in compliance with all local ordinances.
- D. 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. For OWTS with no available records, a Class II or Class III Licensed Designer may prepare an engineering analysis that must show the OWTS complies with current rules. 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:
- 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 §§ 6.18(D)(1)(a)((1)) through ((3)) of this Part apply, even if there is no increase in number of bedrooms or increase in flow:
      - (1) Whenever the proposed construction or renovation changes the structure's footprint such that the OWTS is not in compliance with these rules;
      - (2) 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
      - (3) For a change in use, if the OWTS for the new use meets the definition of a large OWTS pursuant to § 6.39(A) of this Part.
    - b.** The OWTS is unsuitable if the OWTS is located within the Salt Pond or Narrow River Critical Resource Areas, includes any existing components permitted and installed prior to February 6, 2002, and does not utilize

nitrogen reducing technology in accordance with § 6.43(B) of this Part at the time of application and the applicant proposes building construction or renovation meeting any of the conditions listed below in § 6.18(D)(1)(b)((1)) and ((2)) of this Part. 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 § 6.18(D)(1)(b) of this Part.

- (1) Increasing the total enclosed area of the structure by more than six hundred (600) square feet. All construction on each floor 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 § 6.23 of this Part so as to require physical modification of the OWTS. Garages are exempt from this provision § 6.18(D)(1)(b)((1)) of this Part provided they do not encroach on the setback distances established in § 6.23 of this Part; or
  - (2) 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.
- c. 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 § 6.18(E) or (F) of this Part, respectively, whichever is applicable, before the proposed building construction, renovation or change of use may be allowed.

**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 § 6.8 of this Part) 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 § 6.18(E) or (F) of this Part, 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 § 6.18(D)(2)(b) of this Part;
- 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 § 6.18(D)(2)(d) of this Part provided they do not encroach on the setback distances established in § 6.23 of this Part. 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 § 6.18(D)(2)(d) of this Part.