

# Handbook of Florida Water Regulation: Florida Water Bill<sup>1</sup>

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## Preface

This handbook is designed to provide an accurate, current, and authoritative summary of the principal federal and state (Florida) laws that directly or indirectly relate to agriculture. This handbook provides a basic overview of the many rights and responsibilities that farmers and farmland owners have under both federal and state laws as well as the appropriate contact information to obtain more detailed information. However, the reader should be aware that because the laws, administrative rulings, and court decisions on which this handbook is based are subject to constant revision, portions of this publication could become outdated at any time. Several details of cited laws are also left out due to space limitations.

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## Florida Water Bill: Overview

The Florida Water Bill, a comprehensive water policy that addresses Florida's critical water supply and quality issues, became effective on July 1, 2016. The Florida Water Bill created the Florida Springs and Aquifer Protection Act, codified the Central Florida Initiative, and revised the Northern Everglades and Estuaries Act. Additionally, the Florida Water Bill

- Increases public awareness of recreational opportunities on conservation lands (the bill requires the Florida Department of Environmental Protection to publish an online, publicly accessible database of conservation lands).
- Directs the Florida Department of Environmental Protection to create a mobile application to locate state lands available for public access using the user's current location or activity of interest.
- Modifies water supply and resource planning and processes to make them more stringent.

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- Requires the Office of Economic and Demographic Research to conduct an annual assessment of water resources and conservation lands.
- Mandates a new emphasis on Best Management Practices (BMP) implementation by requiring producers within Basin Management Action Plan areas to provide documentation of BMP implementation.

## Consumptive Water Use Permits and Water Conservation

All entities withdrawing surface water or groundwater are required to have consumptive use permits (for more information on the permits, see *Consumptive Use* [FE604]). According to the Florida Water Bill, new consumptive use permits for groundwater withdrawals and the renewal or modification of permits will require monitoring of water withdrawals if the permit authorizes 100,000 gallons or more per day from a well with an inside diameter of eight inches or more.

To create incentives for water conservation, the Florida Water Bill states that the implementation of water conservation measures (e.g., BMP implementations) will not lead to the revision of consumptive use permits *during the terms of the permits* (i.e., the permit length, specific agricultural use types, etc.). Note, however, that if government agency cost-share funding is used to implement conservation measures, it is recommended to check with the agency providing the cost-share funding about potential implications, if any, of the funding for the consumptive use permit (volume of water permitted or permit length). The Florida Water Management Districts shall adopt rules incentivizing water conservation (e.g., permit extensions).

For agricultural producers specifically, reduction in irrigation water use due to weather, crop disease, or changes in crops should not lead to revisions of water use permits *during the term of the permit*.

## Surface Water Improvement and Management Act

The Surface Water Improvement and Management Act was passed in 1987 with the intent to improve and manage surface waters (such as lakes, rivers, and streams) and associated natural systems impacted by pollution. According to this Act, the Florida Water Management Districts, in cooperation with state agencies, local governments, and others, may develop surface water improvement and management plans and programs for the priority surface waters

to restore and protect them. Funding for implementation of surface water improvement and management activities shall be provided by the state. The Surface Water Improvement and Management Act encourages public-private partnerships to store water and achieve water quality improvements on private agricultural lands. The Florida Water Bill changed the language of the Surface Water Improvement and Management Act to specify that priority considerations should be given to the partnerships that store or treat water on private lands to improve water quality or assist water supply, provide critical groundwater recharge, or change land use to minimize nutrient loads and maximize water conservation.

## Florida Springs and Aquifer Protection Act

The Florida Water Bill creates the Florida Springs and Aquifer Protection Act, which is aimed at protecting springs fed by the Floridan aquifer.

The Florida Springs and Aquifer Protection Act requires the Florida Department of Environmental Protection, in coordination with the Florida Water Management Districts, to delineate priority focus areas for all 33 of Florida's historic first magnitude springs referred to as Outstanding Florida Springs; their associated spring runs; and lesser magnitude springs along the Floridan aquifer, including De Leon, Peacock, Poe, Rock, Wekiwa, and Gemini Springs. A Priority Focus Area is an area or areas of a basin where the Floridan aquifer is generally most vulnerable to pollutant inputs and where there is a known connectivity between groundwater pathways and Outstanding Florida Springs. The delineation of Priority Focus Areas must be completed by July 1, 2018.

The Florida Water Recourses Act requires the Florida Water Management Districts to develop a priority list of water bodies for which they will establish minimum water flows and water levels. The purpose of minimum flows and water levels is to prevent significant harm to the water resources or ecology of an area from water withdrawals. The minimum flow for a given watercourse is the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area. The minimum water level is the level of groundwater in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

Under the Florida Springs and Aquifer Protection Act, the Florida Department of Environmental Protection is authorized to make emergency rules if a Florida Water Management District fails to adopt minimum flows and levels for an Outstanding Florida Springs by July 2017 (2026 for northwest Florida). If an Outstanding Florida Springs falls below the minimum flow or water level or is projected within twenty years to fall below the minimum flow or water level, a Florida Water Management District or the Florida Department of Environmental Protection must take immediate action to adopt a recovery or prevention strategy.

The Florida Springs and Aquifer Protection Act requires an assessment of Outstanding Florida Springs (for which nutrient impairment assessment has not been completed) to be finished by July 2018. A total maximum daily load (TMDL) and basin management action plan (BMAP) should be established any time Outstanding Florida Springs are found to be under the numeric nutrient standard. Government agencies must develop an onsite sewage treatment and disposal systems remediation plan in cases where at least twenty percent of the nonpoint source pollution within a basin is caused by onsite sewage treatment and disposal systems (commonly called septic tanks). Additionally, local governments within a Priority Focus Area are required to adopt ordinances to reduce the use of pollution-causing fertilizers.

The Florida Springs and Aquifer Protection Act prohibits the following activities within a Priority Focus Area in effect for Outstanding Florida Springs:

- New large domestic wastewater facilities that do not meet the advanced wastewater treatment standard of 3 mg/L total nitrogen (or more stringent standards if deemed appropriate).
- New onsite sewage treatment and disposal systems (commonly called septic tanks) on lots of less than one acre (if this conflicts with BMAP plans).
- New hazardous waste disposal facilities.
- Land application of wastewater biosolids not in accordance with a Florida Department of Environmental Protection approved plan.
- New agricultural operations that do not implement BMPs or groundwater monitoring plans.

For more information about the Florida Springs and Aquifer Protection Act, see *Florida Springs and Aquifer Protection Act* [FE1019]).

## Alternative Water Supply Development

Restricted allocation areas are defined as the areas where the Florida Water Management Districts have determined that existing sources of water are inadequate to supply existing and future uses, as well as sustain water resources and natural systems, and where the Florida Water Management Districts have put restrictions on the use of specific sources of water as follows:

- The Central Florida Water Initiative area (i.e., Orange, Osceola, Polk, Seminole, and southern Lake Counties).
- The Southwestern Water Use Caution Area (i.e., Desoto, Hardee, Manatee, and Sarasota Counties and parts of Charlotte, Highlands, Hillsborough, and Polk Counties).
- The Lower East Coast and Upper East Coast Regional Water Supply Planning Areas (i.e., the areas withdrawing surface water and groundwater from freshwater portions of the Everglades National Park, Loxahatchee River, and selected other sources in the jurisdiction of the South Florida Water Management District, see the complete definition in Section 373.037 of the Florida Statutes).

According to the Florida Water Bill, in these areas, “local governments, regional water supply authorities, and government-owned and privately-owned water utilities face challenges in securing funds for implementing large-scale alternative water supply projects ... due to a variety of factors, such as the magnitude of the water resource challenges, the large number of water users, and the difficulty of developing multijurisdictional solutions.” To assist the alternative water supply project implementation, no later than July 1, 2017, the Southwest Florida Water Management District, the South Florida Water Management District, and the St. Johns River Water Management District can designate a (new or existing) project as a pilot alternative water supply development project and provide up to fifty percent of the funding to implement it. A report on the project effectiveness should be submitted to the Florida Governor, President of the Senate, and Speaker of the House of Representatives by July 1, 2020.

## Central Florida Water Initiative

The Florida Water Bill codifies the Central Florida Water Initiative which is a collaborative water-planning body authorized to develop strategies to meet the current and long-term water needs in central Florida (Orange, Osceola, Polk, and Seminole Counties, and southern portion of Lake County) where water quantity from the traditional source (Floridan aquifer) is approaching a limit of sustainable use.

The Florida Water Bill calls for closer coordination among government agencies in developing the water supply plan for the area. The Florida Department of Agriculture and Consumer Services, the Florida Department of Environmental Protection, the St. Johns River Water Management District, the South Florida Water Management District, and the Southwest Florida Water Management District shall provide for a single hydrologic planning model to assess the availability of groundwater in the area. The agencies should also

- Build upon the work already completed by Central Florida Initiative participants.
- Consider limitations on groundwater use together with opportunities for new, increased, or redistributed groundwater uses.
- Establish a coordinated process for the identification of water resources requiring new or revised conditions, and consider existing recovery or prevention strategies.
- Include a list of water supply options sufficient to meet the water needs of all existing and future reasonable beneficial uses.
- Identify, as necessary, which of the water supply sources are preferred.

The Florida Department of Environmental Protection shall adopt uniform rules for application within the Area that include

- A single, uniform definition of the term “harmful to the water resources”.
- A single method for calculating residential per capita water use.
- A single process for permit reviews.
- A single, consistent process, as appropriate, to set minimum flows and minimum water levels and water reservations.
- A goal for residential per-capita water use for each consumptive use permit.
- An annual conservation goal for each consumptive use permit consistent with the regional water supply plan.

## Northern Everglades and Estuaries Program

The Florida Water Bill updates and restructures the Northern Everglades and Estuaries Program (NEEP) to reflect and build upon the Florida Department of Environmental

Protection’s completion of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee Estuary, and the St. Lucie River and Estuary. The changes in land uses, the construction of the Central and Southern Florida Project, and the loss of surface water storage have resulted in adverse changes to the hydrology and water quality in these watersheds. The plans developed under NEEPP for each of the three Northern Everglades watersheds identify actions to help achieve water quality and water quantity objectives for the watersheds and to restore habitat (see [FE610] for more information on NEEP).

The Florida Water Bill requires that the Lake Okeechobee Watershed Research and Water Quality Monitoring Program be implemented and that the resulting data be used to modify the Lake Okeechobee Basin Management Action Plan (the plan to restore Lake Okeechobee to meet water quality standards). The program involves data collection, development of a model to represent phosphorus dynamics in Lake Okeechobee, determination of the phosphorus loading from all sources, assessment of current management practices, evaluation of alternative nutrient management practices, and assessment of the water volumes and timing from the Lake Okeechobee watershed and related releases to the estuaries.

The Florida Water Bill replaced the Lake Okeechobee Watershed Phosphorus Control Program with the Lake Okeechobee Basin Management Action Plan.

Additional requirements are specified for the Lake Okeechobee Basin Management Action Plan, including periodic assessment of the progress made (every five years) and setting specific milestones for five-year, ten-year, and fifteen-year periods.

Similarly, the St. Lucie and Caloosahatchee River Watershed Research and Water Quality Monitoring Programs should be implemented to support the St. Lucie and Caloosahatchee River Watershed Basin Management Action Plans development.

## Sources

Chapter 259, Florida Statutes

Chapter 373, Florida Statutes

Chapter 403, Florida Statutes

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