

Handbook of Florida Water Regulation: Florida Springs and Aquifer Protection Act¹

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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decisions on which this handbook is based are subject to constant revision, portions of this publication could become outdated at any time.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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of Florida for any liability claims, damages, or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this handbook.

Florida Springs and Aquifer Protection Act: Overview

Springs are extremely important for the state of Florida, providing vast natural, recreational, and economic values. They provide scientific value and offer critical habitats for plants and animals (including endangered or threatened species). Springs also serve as indicators of the conditions of the Floridan aquifer, the underground freshwater reserve that is the source of drinking water for the majority of Floridians.

Many of the springs are affected by pollution, declining flows, and ecological imbalances, and are directly influenced by activities within surrounding areas (such as agricultural and urban landscape practices, leaking septic systems, or inadequate stormwater management). Without effective corrective actions, further declines in water quality and water flow in the springs may occur, and such remedial actions are urgently needed. Additional data should also be collected to better understand the aquifer and springs system function and delineate springshed boundaries (i.e., the boundaries of the area that contributes to the spring flow).

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The Florida Water Bill, a comprehensive water policy that addresses Florida's critical water supply and quality issues, became effective on July 1, 2016. It created the Florida Springs and Aquifer Protection Act, which is aimed at protecting springs fed by the Floridan aquifer.

Priority Focus Areas

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 thirty-three of Florida's historic first magnitude springs, referred to as Outstanding Florida Springs, and their associated spring runs, plus De Leon, Peacock, Poe, Rock, Wekiwa, and Gemini Springs. A Priority Focus Area is an area of a basin where the Floridan aquifer is most vulnerable to pollutant inputs and where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring. In determining primary focus areas, the Florida Department of Environmental Protection may consider groundwater travel time to the spring, hydrogeology, nutrient load, and any other factors that may lead to degradation of Outstanding Florida Springs. The delineation of Priority Focus Areas must be completed by July 1, 2018.

Protection of Water Quantity for Outstanding Florida Springs

The Florida Water Recourses Act requires the five Florida Water Management Districts to develop a priority list of water bodies for which they will establish minimum water flows and water levels. The districts annually update and submit their lists to the Florida Department of Environmental Protection for review and approval. The purpose of minimum flows and water levels is to prevent significant harm to the water resources or ecology 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.

The Florida Department of Environmental Protection is authorized to make emergency rulemaking if a Florida Water Management District fails to adopt minimum flows and water levels for an Outstanding Florida Spring by July 2017 (2026 for northwest Florida). For an Outstanding Florida Spring below or 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 adopt a recovery or prevention strategy that includes

- A prioritized list of specific projects.
- The estimated benefits and costs of projects.
- The estimated dates of completion of projects.
- Financial assistance by the Florida Water Management District (generally, at least twenty-five percent of the total project cost, excluding the Northwest Florida Water Management District and the Suwannee River Water Management District).

The strategy should have the target of achieving minimum flows or minimum levels within 20 years after the adoption of the strategy. The milestones to be achieved within five-year intervals should also be developed (with possible single five-year or ten-year extensions granted to local governments for specific projects).

Protection of Water Quality in Outstanding Florida Springs

The Florida Springs and Aquifer Protection Act requires an assessment of Outstanding Florida Springs for which nutrient (nitrogen and/or phosphorus) impairment assessment has not been completed. This assessment should be finished by July 2018. A total maximum daily load (TMDL) and Basin Management Action Plan (BMAP) should be established any time an Outstanding Florida Spring is found to be violating nutrient water quality standards. Simply put, TMDL is a total limit on nutrient pollution that can be put into a spring, and BMAP is a plan of actions to reduce the total pollution to the amount below or equal to this limit.

An onsite sewage treatment and disposal system remediation plan should be developed in the areas where onsite sewage treatment and disposal systems (commonly called septic tanks) are determined to contribute at least twenty percent of nonpoint source nitrogen pollution. The remediation plan should also be developed if the Florida Department of Environmental Protection determines that such a plan is necessary to reduce pollution to meet the total maximum daily load pollution cap.

Basin Management Action Plans

A BMAP for Outstanding Florida Springs must be adopted two years after its initiation, and it must include, at a minimum:

- A list of all specific projects and programs identified in the BMAP to implement a nutrient total maximum daily load.
- A priority ranking for each project.
- The nutrient pollution point or nonpoint sources (including, but not limited to urban turf fertilizer, sports turf fertilizer, agricultural fertilizer, and onsite sewage treatment and disposal systems).
- An estimated cost and completion date for each project.
- The source and amount of financial assistance to be made available by the Florida Department of Environmental Protection, a Florida Water Management District, or other entity for each listed project.
- An implementation plan designed with a target to achieve the nutrient total maximum daily load no more than twenty years after the adoption of a BMAP.

The target for achieving the nutrient TMDL should be no more than twenty years after the adoption of a BMAP, with targets established for five-year, ten-year, and fifteen-year intervals, which will be used to determine planning and funding. A single five-year or ten-year extension can be granted to local governments for specific projects.

Onsite Sewage Treatment and Disposal Systems Remediation Plan

As part of a BMAP in basins with Outstanding Florida Springs where at least twenty percent of the nonpoint source (diffuse) nitrogen pollution is caused by onsite sewage treatment and disposal systems (such as septic tanks), the Florida Department of Environmental Protection must develop an onsite sewage treatment and disposal remediation plan. The remediation plan should identify projects to reduce nutrient pollution from the systems, including such options as repair, upgrade (e.g., addition of a new advanced nitrogen-removing technology), or replacement of the systems; connection to a central sewerage system; or other actions. Priority ranking of the systems that require remediation should be developed, and the Florida Department of Environmental Protection should provide (all or part of) the funding required to implement the remediation actions.

No new onsite sewage treatment and disposal system can be placed on lots of less than one acre unless the system is allowed in the BMAP because the system is recognized to have advanced nitrogen-removing capability.

In addition, a public education plan must also be developed to provide local residents with information about springs and onsite sewage treatment and disposal systems.

Fertilizer Ordinances

Local governments within a Priority Focus Area are required to adopt ordinances to regulate the use of pollution-causing fertilizers. By July 1, 2017, any local government that has not adopted an ordinance modeled after the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes is required to develop, enact, and implement an ordinance that meets the necessary requirements. Local governments may adopt additional or more stringent requirements, if necessary, to adequately address urban fertilizer contributions to nonpoint source nutrient loading to a water body. For more information on the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes, see <http://www.dep.state.fl.us/water/nonpoint/docs/nonpoint/dep-fert-modelord.pdf>.

Prohibited Activities

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

- 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 septic tanks on lots of less than one acre (unless the system is allowed in the BMAP because the system is recognized to have advanced nitrogen-removing capability).
- New hazardous waste disposal facilities.
- Land application of wastewater biosolids not in accordance with the Florida Department of Environmental Protection approved plan.
- New agricultural operations that do not implement BMPs or groundwater monitoring plans.

Implementation of Florida Springs and Aquifer Protection Act

The following agencies should coordinate activities to restore and maintain spring water quality and quantity: the Florida Department of Agriculture and Consumer Services (responsible for the development and implementation of agricultural best management practices), the Florida Department of Environmental Protection (focusing on water quality protection), the Florida Water Management Districts (focusing on water quantity regulations), and local governments (working on domestic wastewater and stormwater management).

Implications of Florida Springs and Aquifer Protection Act for Agriculture

Fertilizer and irrigation water are important inputs into agricultural production, so it is important to follow the best practices to minimize potential adverse impact of agricultural production on water resources. Agricultural operations in areas with adopted BMAP plans (including BMAPs for Outstanding Florida Springs) are required to implement best management practices (BMPs) from the manuals adopted by the Florida Department of Agriculture and Consumer Services or monitor water quality at their own expense (<http://www.freshfromflorida.com/Business-Services/Water/Agricultural-Best-Management-Practices>).

Furthermore, in areas with minimum flows and water levels, the Florida Water Management Districts will use the minimum flows and water levels to evaluate the applications for consumptive use permits to make sure the permits would not cause significant harm to the environment. This may change the requirements for the consumptive use permit applications (including permits to withdraw water for agricultural irrigation).

Finally, agricultural producers using septic tanks need to follow the discussions related to the contribution of septic tanks to water quality issues in the Priority Focus Areas. As part of a BMAP in basins with Outstanding Florida Springs where at least twenty percent of the nonpoint source (diffuse) nitrogen pollution is caused by onsite sewage treatment and disposal systems (such as septic tanks), the Florida Department of Environmental Protection must develop an onsite sewage treatment and disposal remediation plan. The remediation plan should identify projects to reduce nutrient pollution from the systems, including such options as repair, upgrade (e.g., addition of a new advanced nitrogen-removing technology), or replacement of the systems; connection to a central sewerage system; or other actions.

Source

Chapter 373, Florida Statutes, Sections 373.801-373.813

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