



Florida Department of Environmental Protection

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FACTSHEET ABOUT OUTSTANDING FLORIDA WATERS (OFW)

Authority: Section 403.061(27), Florida Statutes, grants the Department of Environmental Protection (DEP) the power to establish rules that provide for a special category of waterbodies within the state, to be referred to as "Outstanding Florida Waters," which shall be worthy of special protection because of their natural attributes.

Implementing Agency: DEP is the agency that designates a waterbody as an OFW; however, each OFW must be approved by an arm of DEP known as the Environmental Regulation Commission (ERC). The ERC is a seven member citizen's body appointed by the Governor.

Regulatory Significance: Projects regulated by the Department or a Water Management District (WMD) that are proposed within an OFW must not lower existing ambient water quality, which is defined for purposes of an OFW designation as the water quality at the time of OFW designation or the year before applying for a permit, whichever water quality is better. In general, DEP cannot issue permits for *direct* discharges to OFWs that would lower ambient (existing) water quality. In most cases, this deters new wastewater discharges directly into an OFW, and requires increased treatment for stormwater discharging directly into an OFW. DEP also may not issue permits for *indirect* discharges that would significantly degrade a nearby waterbody designated as an OFW.

In addition, activities or discharges within an OFW, or which significantly degrade an OFW, must meet a more stringent public interest test. The activity or discharge must be "clearly in the public interest." For example, activities requiring an Environmental Resource Permit (ERP), such as dredging or filling within a wetland or other surface water or construction/operation of a stormwater system, must be clearly in the public interest instead of not contrary to the public interest.

In determining whether an activity or discharge that requires an ERP permit is not contrary to the public interest or is clearly in the public interest, DEP or the a WMD must consider and balance the following factors:

1. Whether the activity will adversely affect the public health, safety, welfare or the property of others;
2. Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
3. Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
4. Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
5. Whether the activity will be of a temporary or permanent nature;
6. Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of S. 267.061; and
7. The current condition and relative value of functions being performed by areas affected by the proposed activity.

See § 373.414(1)(a), Fla. Stat. (2010).

Activities or Discharges Not Affected by an OFW Designation:

Some activities are not impacted by an OFW designation simply because they do not require a permit from DEP or a WMD (exempt activities). Additionally, other activities are grandfathered under the OFW rule. Below are several examples of both scenarios.

1. Permitted activities or discharges existing on the date of designation and activities with a complete application on the date of designation, which are “grandfathered.”
2. Activities **not** regulated by DEP for water quality protection purposes, such as fishing regulations, setback ordinances, restrictions on boat motor types, and boat speeds.
3. Restoration of seawalls at previous locations.
4. Construction of non-commercial boat docks, on pilings, of less than 500 square feet.
5. Temporary lowering of water quality during construction activities (with special restrictions).
6. Activities to allow or enhance public use, or to maintain pre-existing activities (with certain safeguards required by Rule 62-4.242(2)(b), F.A.C.).

List of OFWs: A complete listing of Outstanding Florida Waters is provided in Rule 62-302.700 (9), Florida Administrative Code. Outstanding Florida Waters *generally* include surface waters in the following areas:

- National Parks
- National Wildlife Refuges
- National Seashores
- National Preserves
- National Marine Sanctuaries and Estuarine Research Reserves
- National Forests (certain waters)
- State Parks & Recreation Areas
- State Preserves and Reserves
- State Ornamental Gardens and Botanical Sites
- Environmentally Endangered Lands Program, Conservation and Recreational Lands Program, and Save Our Coast Program Acquisitions
- State Aquatic Preserves
- Scenic and Wild Rivers (both National and State)
- "Special Waters"

| "Special Waters" OFWs include 41 of Florida's 1700 rivers, several lakes and lake chains, several estuarine areas, and the Florida Keys: | |
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| Apalachicola River | Myakka River (lower part) |
| Aucilla River | Ochlocknee River |
| Blackwater River | Oklawaha River |
| Butler Chain of Lakes | Orange Lake, River Styx, and Cross Creek |
| Chassahowitzka River System | Perdido River |
| Chipola River | Rainbow River |
| Choctawhatchee River | St. Marks River |
| Clermont Chain of Lakes | Santa Fe River System |
| Crooked Lake | Sarasota Bay Estuarine System |
| Crystal River | Shoal River |
| Econlockhatchee River System | Silver River |
| Estero Bay Tributaries | Spruce Creek |
| Florida Keys | Suwannee River |
| Hillsborough River | Tomoka River |
| Homosassa River System | Wacissa River |
| Kingsley Lake & Black Creek (North Fork) | Wakulla River |

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| Lake Disston | Weekiwachee Riverine System |
| Lake Powell | Wekiva River |
| Lemon Bay Estuarine System | Wiggins Pass Estuarine System |
| Little Manatee River | Withlacoochee Riverine and Lake System |
| Lochloosa Lake | |

Note: The rule language describing the above “Special Water” OFWs is more detailed. For further information, refer to Rule 62-302.700(9)(i), Florida Administrative Code.

**Requirements
For a “Special
Water” OFW
Designation:**

1. Rulemaking procedures pursuant to Chapter 120, F.S., must be followed;
2. At least one fact-finding workshop must be held in the affected area;
3. All local county or municipal governments and state legislators whose districts or jurisdictions include all or part of a water body proposed for Special Water designation must be notified at least 60 days prior to the workshop in writing by the Secretary of DEP;
4. A prominent public notice must be placed in a newspaper of general circulation in the area of the proposed Special Water at least 60 days prior to the workshop;
5. An economic impact analysis, consistent with Chapter 120, must be prepared that provides a general analysis of the effect of OFW designation on local growth and real estate development, including such factors as impacts on planned or potential residential, industrial, agricultural or other development or expansion; and
6. The Environmental Regulation Commission may designate a water of the state as a Special Water after making a finding that the waters are of exceptional recreational or ecological significance and a finding that the environmental, social, and economic benefits of the designation outweigh the environmental, social, and economic costs (Rule 62-302.700(5), F.A.C.).

For More Information Contact: Department of Environmental Protection, Standards and Assessment Section at (850) 245-8064 or view the Water Quality Standards website: <http://www.dep.state.fl.us/water/wqssp>.

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