

FLORIDA

We have characterized Florida as a state with wetland water quality standards because of its broad water classification system which applies to wetlands and other waters and because of the detailed criteria and procedures dealing with wetlands and stormwater and wetlands and waste waters. See Florida Administrative Code Section 62-611.700. However, the state has not adopted broad scale wetland-specific water quality standards.

Wetland Definition

Wetlands are considered “waters of the State,” and are included in the five classes of waters. See below. Most water bodies in Florida, including wetlands, are classified as Class III waters. Florida Statutes Annotated, Section 373.019(25) defines wetlands as

“Those areas that are inundated or saturated by surface or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils...Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, tidal marshes, mangrove swamps, and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.”

Wetland Water Quality Standards

Florida Statutes, Section 373.414 requires compliance by permit applicants with applicable water quality standards:

“(1) As part of an applicant's demonstration that an activity regulated under this part will not be harmful to the water resources or will not be inconsistent with the overall objectives of the district, the governing board or the department shall require the applicant to provide reasonable assurance that state water quality standards applicable to waters as defined in s. 403.031(13) will not be violated and reasonable assurance that such activity in, on, or over surface waters or wetlands, as delineated in s. 373.421(1), is not contrary to the public interest. However, if such an activity significantly degrades or is within an Outstanding Florida Water, as provided by department rule, the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest.”

However, to date, no broader wetland-specific rules governing the water quality in wetlands have been adopted other than the general rules for surface waters described below.

Designated (Beneficial) Uses

For a listing of beneficial uses in Florida, see antidegradation policy below. In addition, all surface waters in Florida including all wetlands fall into one of five classifications based upon their present and future most beneficial use (designated use). The five classifications include:

“Class	Designated Use
33I	Potable Water Supplies
33II	Shellfish Propagation or Harvesting
33III	Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife
33IV	Agricultural Water Supplies
33V	Navigation, Utility and Industrial Use”

Narrative and/or Numeric Criteria¹

Narrative and numeric water quality criteria are listed in Chapter 62-302, Florida Administrative Code. They are designed to support the designated uses. More stringent criteria apply to waters in a “higher” classification (e.g., Class I waters have more stringent criteria than Class III waters). There are a number of biological water quality criteria contained in Chapter 62-302, Florida Administrative Code, including bacteriological quality, biological integrity, nuisance species, and nutrients.

Florida statutes Section 373.414 provide broad criteria for activities in surface waters and wetlands (note, these criteria are not limited to pollution considerations):

- a) In determining whether an activity, which is in, on, or over surface waters or wetlands, as delineated in s. [373.421](#)(1), and is regulated under this part, is not contrary to the public interest or is clearly in the public interest, the governing board or the department shall consider and balance the following criteria:
1. Whether the activity will adversely affect the public health, safety, or 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 Section. [267.061](#); and
 7. The current condition and relative value of functions being performed by areas affected by the proposed activity.

Antidegradation Policy

Florida’s antidegradation policy (DEP 62-302.300) is general and provides, in part:

¹Id.

“(1) Article 11, Section 7 of the Florida Constitution requires abatement of water pollution and conservation and protection of Florida’s natural resources and scenic beauty.”

Florida’s rules adopted to implement this policy require permit applicants to demonstrate that lowering of water quality is necessary or desirable under federal standards and under circumstances that are in the public interest. Certain portions of Chapter 62-611, Florida Administrative Code pertain to discharges of waste water to wetlands and discharges from such wetlands into other waters. This chapter allows for the use of some wetlands for treatment of wastewater in controlled circumstances. See <http://www.dep.state.fl.us/water/wastewater/dom/wetrule.htm>. See also Florida Administrative Code, 62-25.042 (Permit requirements for wetland stormwater discharge facilities.)