

**Memorandum of Understanding Between
The U.S. Environmental Protection Agency Region 4 and
The U.S. Department of Housing and Urban Development Region 4
Regarding the EPA Review of HUD Financial-Assisted Projects Within Sole Source Aquifers**

Introduction

This memorandum of understanding (MOU) is intended to memorialize an understanding between the U.S. Environmental Protection Agency Region 4 (EPA) and the U.S. Department of Housing and Urban Development Region 4 (HUD) concerning the review of proposed Federal financially-assisted projects located in whole or in part in the designated sole source aquifers ("SSAs") in the EPA Region 4 (Alabama, Florida, Georgia, Kentucky Mississippi, North Carolina, South Carolina, and Tennessee), which include any recharge zone, streamflow source area, or artesian zone of such SSAs. The most current delineations of these SSAs and their recharge zones are described and depicted on the Region 4 Sole Source Aquifer Webpage, included in **Attachment A** (attached hereto and incorporated herein), and demonstrative maps current as of the signing of this MOU are also included in **Attachment A**.

This MOU is a voluntary agreement that expresses the good-faith intentions of the EPA and HUD, is not intended to be legally binding, does not create any contractual obligations, and is not enforceable by any party. This MOU does not obligate and will not result in an exchange of funds, personnel, property, services, or any kind of financial commitment. This MOU outlines procedures to be followed by HUD in determining which projects should be forwarded to the EPA for review. It also outlines the procedures to be followed and the general criteria the EPA will use in such review.

This MOU does not create any claim, remedy, right, or benefit, substantive or procedural, enforceable by law or equity, by persons who are not a party to this agreement, against HUD or the EPA, their officers or employees, or any other person. This MOU does not apply to any person outside of the EPA and HUD, except that when the environmental review is performed by a Responsible Entity (RE) pursuant to 24 C.F.R. Part 58, HUD will instruct the RE to follow the procedures under this MOU (and any modification thereof by EPA and HUD) during the term of the MOU, unless otherwise instructed by the EPA.

Background

Pursuant to Section 1424(e) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-3(e), the EPA designated several aquifers located within Region 4 as SSAs because they are the sole or principal drinking water source for their areas and contamination of any of them would create a significant hazard to public health. As such, no commitment for Federal financial assistance may be entered into for any project which the EPA determines may contaminate any of these SSAs so as to create a significant hazard to public health. "Federal financial assistance" includes any financial benefits provided directly as aid to a project by a department, agency, or instrumentality of the Federal government in any form including contracts, grants, and loan guarantees.

HUD administers financial assistance under programs subject to its National Environmental Policy Act (NEPA) implementing regulations in 24 C.F.R. Part 50 (Part 50), Protection and Enhancement of Environmental Quality. HUD is the responsible federal agency for NEPA purposes for these regulations. 24 C.F.R. § 50.4(d) of these regulations requires compliance with Section 1424(e) of the SDWA.

HUD regulations at 24 C.F.R. Part 58 (Part 58), Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities, set out environmental review procedures that apply when HUD program legislation authorizes the assumption of authority to perform the environmental reviews by REs, which are units of general local government, such as a town, city, or county, or a tribe or state (see 24 C.F.R. 58.1(b) for a list of programs authorized under Part 58). The RE is responsible for the scope and content of the review and making the environmental finding. The certifying officer of the RE, usually the mayor, signs the review and takes legal responsibility for the review. Local governments must assume environmental review responsibility for grants made directly to the local government when legislation permits. They are encouraged to be responsible for the environmental review in cases where the grants are made to other entities, such as nonprofit organizations and public housing authorities; however, HUD will perform the environmental review under 24 C.F.R. Part 50 in such situations if the local government refuses to do so. As in Part 50, 24 C.F.R. § 58.5(d) requires compliance with Section 1424(e) of the SDWA.

Goals

The goals of this MOU are to ensure that each project receiving Federal financial assistance is designed and constructed in a manner that will not contaminate a SSA so as to create a significant hazard to public health, and to formalize the process by which review of Federal financially-assisted projects for impacts to the SSAs is to be coordinated between the EPA and HUD.

HUD Responsibilities for Projects Subject to Part 50

HUD will review projects requesting Federal financial assistance that are subject to the Part 50 regulation to assure that each project located in whole or in part in the SSAs, as depicted on the Region 4 Sole Source Aquifer Webpage, is referred to the EPA Ground Water/UIC/GIS Section for review, as follows:

The EPA and HUD agree that projects of the type listed in **Attachment B**, except those that are also of the type listed in **Attachment C** (attached hereto and incorporated herein), would not normally pose a significant hazard to public health through contamination of a SSA, and generally need not be referred to the EPA for review prior to funding or other HUD assistance.

HUD agrees to refer to the EPA for review the types of projects listed in **Attachment C**, which are located in whole or in part within a SSA and/or its recharge zone. For any of the proposed projects which are of the types listed in **Attachment C**, HUD will ensure that the following information is submitted to the EPA:

1. A copy of appropriate project application documents, such as plans and specifications. Financial documents such as underwriting and credit check should only be included if requested.
2. Project location and its relationship to the SSAs.
3. Description and objective of project or activity, including project design, materials to be used, and any alteration of natural topography.
4. The contact information, including name, address, email address, and telephone number, of the project lead, for any city or county, state, other federal agency involved in the project.
5. Responses to the "Sole Source Aquifer Project Review Information" questions found in **Attachment D** (attached hereto and incorporated herein).

For any projects receiving Federal financial assistance that are located in whole or in part in a SSA and/or its recharge zone and are of a type not listed in either **Attachment B** or **Attachment C**, HUD agrees to contact the Region 4 Sole Source Aquifer Program Coordinator to allow EPA to determine whether a review is required.

Projects Subject to Part 58

For projects located in whole or in part within a SSA and/or its recharge zone, as depicted on the Region 4 Sole Source Aquifer Webpage, it is agreed that projects of the types listed in **Attachment B**, except those that are also of the type listed in **Attachment C**, would not normally pose a significant hazard to public health through contamination of a SSA, and generally need not be referred by REs to the EPA for review prior to receiving funding or other HUD financial assistance.

HUD will inform its Part 58 REs in SSA areas of the exclusions in **Attachment B** and the requirement to seek the EPA's review for the projects of the types listed in **Attachment C** that are located in whole or in part within a SSA or its recharge zone. For projects listed in **Attachment C**, REs will submit the same materials to the EPA that are listed in the section entitled HUD Responsibilities for Projects Subject to Part 50. HUD will also inform its Part 58 REs of the requirement to contact the EPA Region 4 Sole Source Aquifer Program Coordinator to allow the EPA to determine whether a review is required for any projects receiving Federal financial assistance that are located in whole or in part in a SSA and/or its recharge zone and are of a type not listed in either **Attachment B** or **Attachment C**.

EPA Responsibilities

The EPA intends to respond to all projects submitted by HUD or REs for review purposes within 30 calendar days. The EPA reserves the right to seek additional information during the review period, and may request, in writing and orally, additional information and/or additional time for completing its review. If the EPA requests additional information, it intends to review and respond to the project within thirty (30) calendar days of receiving the requested information.

If HUD or the RE does not receive a response within thirty (30) calendar days of submitting the project or the additional information to the EPA, HUD or the RE may send written notice to the designated EPA liaison officer (or its successor) explaining that HUD or the RE has not received a response. If HUD does not receive a written request for additional time or information from the EPA within fourteen (14) calendar days of sending such written notice, HUD may elect to proceed with funding and/or approval of the project. HUD will not commit funds to a project before notifying the EPA that the initial thirty (30) day review period has concluded.

The EPA will notify the HUD liaison officer within thirty (30) days of designating any additional SSAs.

General Procedural Matters

Materials submitted to the EPA under this MOU will be furnished through the EPA Sole Source Aquifer project review website. If unavailable, materials should be furnished either by mail to: ATTN: Region 4 Sole Source Aquifer Program Coordinator, U.S. Environmental Protection Agency Region 4, Water Division, Ground Water, UIC & GIS Section, 61 Forsyth St. SW, Atlanta, Georgia 30303-8960, or by any other means directed by the EPA.

The EPA and HUD will each assign a liaison officer to serve as a central contact point and to be responsible for maintaining communications as to procedures and activities of their respective agency. The liaison officers are:

HUD: Regional Environmental Officer, U.S. Department of Housing and Urban Development, Office of Energy and Environment, 40 Marietta Street, Atlanta, Georgia 30303-2806

EPA: Sole Source Aquifer Program Coordinator, U.S. Environmental Protection Agency Region 4, Water Division, Ground Water, UIC & GIS Section, 61 Forsyth St. SW, Atlanta, Georgia 30303-8960

The liaison officers, accompanied by appropriate staff, will hold meetings as needed to discuss matters of concern related to the SSAs and this MOU. Liaison officers will work together to prioritize and expeditiously resolve outstanding questions and conduct reviews.

Expenses and No Financial Commitment

The EPA and HUD will each bear its own expenses in connection with the preparation, negotiation, and execution of this MOU, and neither party shall be liable to the other party for such expenses. This MOU does not obligate funds, personnel, services, or other resources of any party. Each party acts as an independent party with respect to the performance of duties under this MOU and is not an employee or agent of another party to the MOU.

Publicity

The parties will coordinate all press releases, websites, or other public facing documents with regard to this MOU. Neither party may engage in any such publicity regarding the MOU unless the parties consult in advance on the form, timing, and contents of the publicity.

Modification and Duration

This MOU is to take effect upon signature and remain in effect for a period of five (5) years and may be extended or modified at any time through the mutual written consent of the EPA and HUD. Additionally, either party may terminate its participation in this MOU at any time by providing written notice to the other, at least thirty (30) days in advance of the desired termination date.

Compliance with Applicable Laws

It is understood and agreed by the EPA and HUD, that changes in local, state, and federal rules, regulations or laws applicable hereto, may occur during the term of this MOU and that any such changes are automatically incorporated as of the effective date of the rule, regulation, or law into this MOU without written amendment hereto. The EPA and HUD expressly agree to comply with all applicable federal, state, and local laws.

Confidential Business Information

To carry out the joint activities described in the MOU, HUD, and Part 58 REs may need to disclose proprietary information to the EPA. Proprietary information is defined as information that an affected business claims to be confidential and is not otherwise available to the public. HUD agrees to clearly identify confidential business information disclosed to the EPA in writing, and to clearly memorialize in writing, within a reasonable time, any confidential information initially disclosed orally. The EPA agrees not to disclose, copy, reproduce, or otherwise make available in any form whatsoever to any other person, firm, corporation, partnership association, or other entity information designated as proprietary or confidential information without proper consent, except as such information may be subject to disclosure under the Freedom of Information Act, 5 U.S.C. § 552, and the EPA's regulations at 40 C.F.R. Part 2, or as otherwise authorized by law.

Counterparts and Facsimile Signatures

This MOU may be executed in two or more counterparts, which together shall constitute a single agreement. This MOU may be executed and transmitted to any other party by facsimile, which facsimile shall be deemed to be, and utilized in all respects as, an original executed document.

Entire MOU

This MOU constitutes the complete and entire MOU between the EPA Region 4 and HUD Region 4 regarding EPA review of HUD's proposed Federal financially assisted projects located in whole or in part in the SSAs in the EPA Region 4 and replaces all prior agreements or understandings between the EPA and HUD regarding this subject. The EPA and HUD are not bound by any statement, promise, condition, or stipulation not specifically set forth in this MOU. No representative of HUD or the EPA has the authority to make any oral statements that modify or change the terms and conditions of this MOU.

Signature Page for:

**Memorandum of Understanding Between
The U.S. Environmental Protection Agency Region 4 and
The U.S. Department of Housing and Urban Development Region 4
Regarding the EPA Review of HUD Financed Projects Within Sole Source Aquifers**



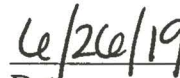
Danielle Schopp
Departmental Environmental Clearance Officer
U.S. Department of Housing and Urban Development



Date



Mary S. Walker
Regional Administrator
U.S. Environmental Protection Agency Region 4



Date

ATTACHMENT A

DESIGNATED SOLE SOURCE AQUIFERS IN EPA REGION 4

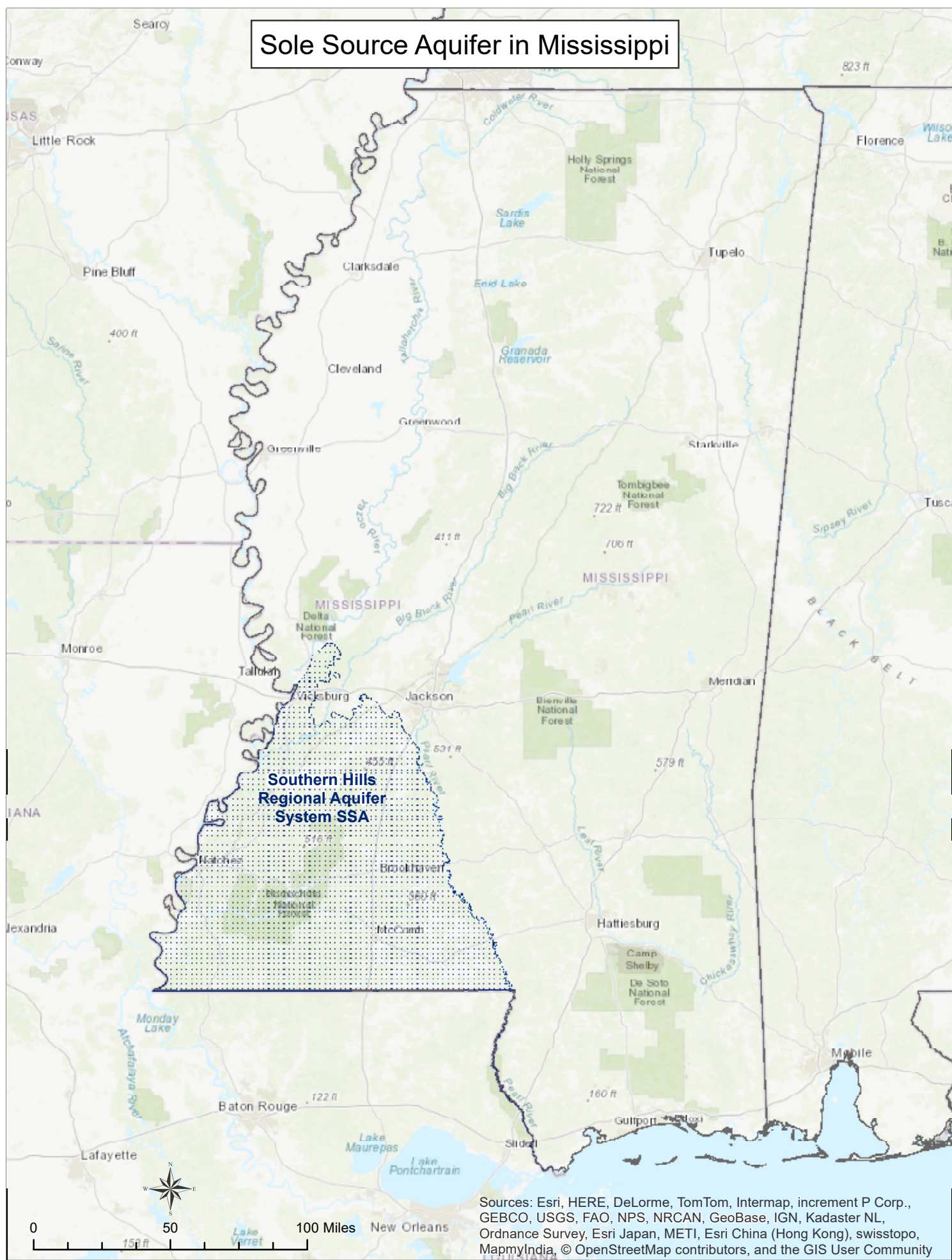
<u>ALABAMA:</u>	NONE
<u>FLORIDA:</u>	1. Biscayne Aquifer 2. Volusia-Floridan Aquifer
<u>GEORGIA:</u>	NONE
<u>KENTUCKY:</u>	NONE
<u>MISSISSIPPI:</u>	1. Southern Hills Regional Aquifer System
<u>NORTH CAROLINA:</u>	NONE
<u>SOUTH CAROLINA:</u>	NONE
<u>TENNESSEE:</u>	NONE

The following maps are for demonstrative purposes only and may not reflect the most updated delineation of the Sole Source Aquifers and their recharge zones. For current maps, please see the EPA Sole Source Aquifer Webpage, located at <https://www.epa.gov/dwssa>

Sole Source Aquifers in EPA Region 4

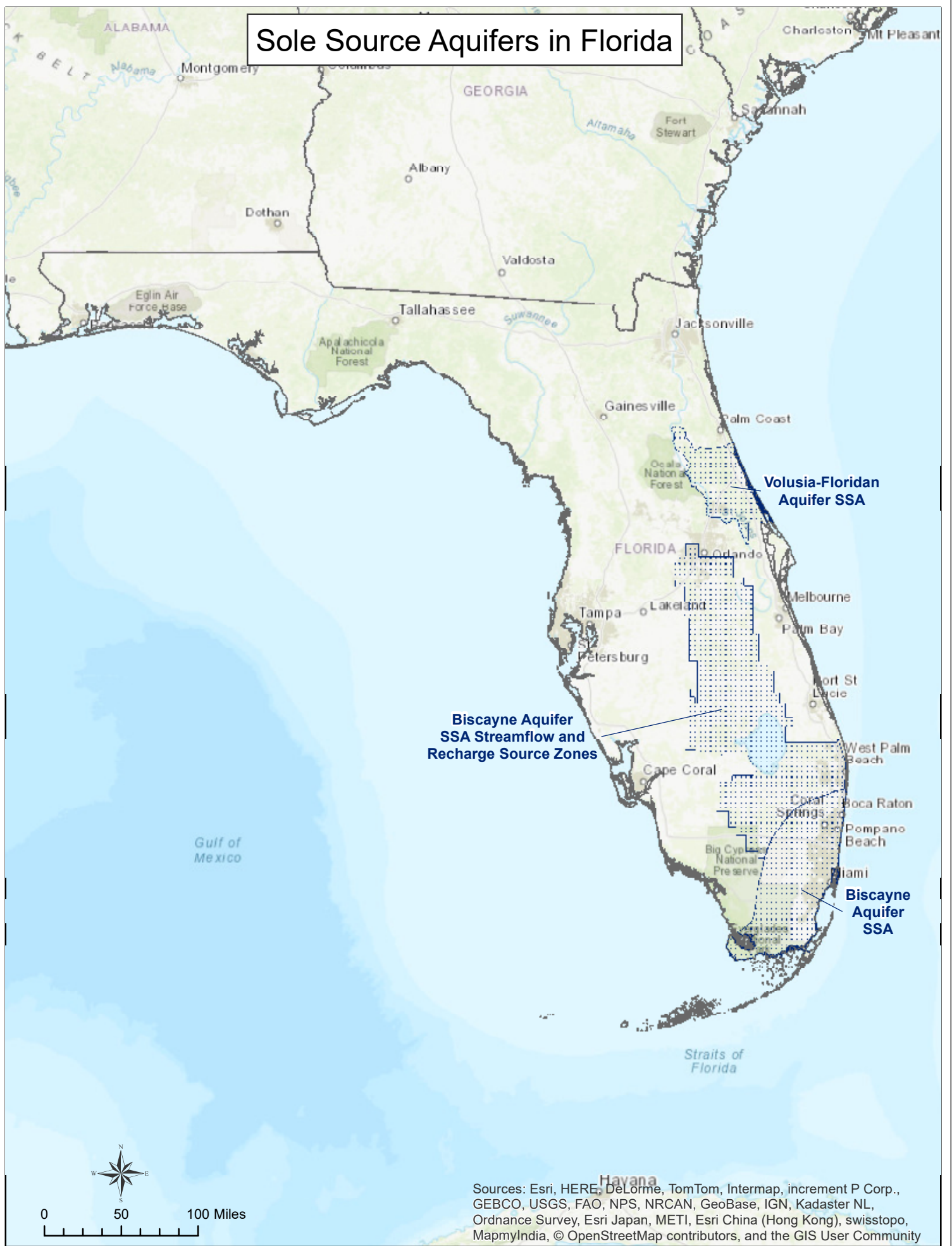


Sole Source Aquifer in Mississippi



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

Sole Source Aquifers in Florida



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

ATTACHMENT B

PROJECTS GENERALLY ASSUMED NOT TO POSE A SIGNIFICANT HAZARD TO PUBLIC HEALTH WHICH DO NOT REQUIRE REFERRAL TO THE EPA FOR REVIEW

Listed below are the types of projects which are assumed not to pose a significant hazard to public health through contamination of a SSA, and which will NOT be referred to the EPA for review, unless such projects involve activities listed in **Attachment C** and are not specifically excluded in **Attachment C** from referral to the EPA for review. Notwithstanding the below list, the EPA may determine that any project for which it makes a written request requires review.

1. All projects whose legal boundaries of the subject property are located wholly outside the SSAs and their recharge zones.
2. New construction, acquisition, or rehabilitation of residential housing that involves no more than four dwelling units.
3. Construction, rehabilitation, or modernization of, or additions to, residential, commercial, or industrial projects, public facilities, or land developments that are or will be served by a municipally or publicly owned and/or operated sanitary sewage treatment plant which is operating in compliance with all applicable permits, is within the capacity for which it was designed and is not subject to any local, state, or EPA imposed moratorium.
4. Acquisition of, or financial assistance, including refinancing and providing mortgage insurance and rental assistance for, existing projects, properties, buildings or developments where no alterations, additions, or expansions are to take place, and all expenses listed as operating costs in 24 C.F.R. §§ 50.19(b)(13) and 58.35(b)(3).
5. Funding of public services, planning activities, technical assistance, or training, or payment, repayment, or reimbursement of loans or interest.
6. Sites for which consultation with US Fish & Wildlife Service under the Endangered Species Act, Section 7, has yielded mitigation measures to avoid impacts to karst-dwelling species.

ATTACHMENT C

PROJECTS REQUIRING REFERRAL TO THE EPA FOR REVIEW

- A. The following projects located in whole or in part within the SSAs and/or their discharge zones will be referred to the EPA for review/comment prior to any commitment of Federal financial assistance:
1. Construction or rehabilitation of residential (with the exception of single one-to-four family structures excluded under Attachment B), commercial, or industrial projects, public facilities, or land developments whose sanitation facilities will consist of individual disposal systems such as cesspools, septic tanks with leach fields or seepage areas, pit toilets, or privately-owned sewerage systems including, those owned by a homeowners' association.
 2. Any project or activity for an existing or proposed industrial or recreational facility that manufactures, stores, transports, spreads, or disposes of toxic, noxious, or hazardous chemicals or radioactive materials, including insecticides, fungicides, and fertilizers.
 3. Acquisition, disposition, rehabilitation, or new construction of a site intended as a landfill or other waste storage, transfer, disposal, or treatment facility.
 4. Acquisition, disposition, rehabilitation, or new construction of any facility or operation which disposes of its waste water into dry wells, retention ponds, or methods other than a treatment plant.
 5. Acquisition, disposition, rehabilitation, or new construction of storm water drainage facilities that might contaminate a SSA, significant modifications to existing wetlands, or significant modifications or new construction of shallow injection wells (i.e., dry wells, french drains, sumps, and drain fields).
 6. Any project or activity involved in agricultural activities or related operations employed in the production, raising, processing, and marketing of crops or livestock.
 7. Projects that involve the storage or handling of hazardous or toxic materials or petroleum products, including, but not limited to, aboveground or underground storage tanks, and oil and gas pipelines (other than service lateral extensions for four (4) or fewer residential units, or service lateral extensions where trenching and excavation is no deeper than ten (10) feet below ground surface).
 8. Projects for which a NEPA Environmental Impact Statement (EIS) is required within the SSA and/or its recharge zone.

9. Projects that involve domestic waste not connected to a public sanitary sewer system.
 10. Any other project or activity which HUD determines could be a potential source of contamination to a SSA.
- B. Any project located in whole or in part within the SSAs for which the EPA makes a written request for information will be referred to the EPA for review prior to any commitment of Federal financial assistance.

ATTACHMENT D

SOLE SOURCE AQUIFER PROJECT REVIEW INFORMATION

HUD or the RE will provide the information below at the time of submittal of the project to the EPA in order to assist the EPA's Sole Source Aquifer Program in timely evaluating whether proposed projects have the potential to contaminate a SSA. The EPA may request additional information as necessary.

1. Confirm a SSA project review is needed by answering the following:
 - a. Is any portion of the project or the property(ies) involved located within a designated SSA project review area? A searchable interactive map of designated SSA project review areas is available at <https://www.epa.gov/dwssa>. **If the answer to this question is no, the EPA does not need to review the project under the SSA program.**
 - b. What Federal funding source or Federal financial assistance is being sought or proposed? **If no Federal financial assistance is sought or proposed, the EPA does not need to review the project under the SSA program.**
2. Provide the location of the project, a map of the project, and the name of the SSA(s) within which the project is located. Descriptions and/or maps with the information below would be helpful if available and applicable:
 - a. What is known about local hydrogeology in the project review area (e.g., soil types, depth to groundwater, and groundwater flow direction)?
 - b. Are there any known wells in the project review area (including groundwater wells; shallow injection wells; and oil, geothermal, and mineral exploration wells) and how close are they to the project?
 - c. Are there any wetlands within the project review area? If applicable, describe any discharge to, loss of, or creation of wetlands by the project.
3. Provide a description of the project, including, but not limited to, answers to the applicable questions below:
 - a. Will the project result in any increase of impervious surface (e.g., concrete, asphalt)? If so, what is the area (e.g., square feet or acres)?
 - b. What is the depth of excavation?
 - c. Will any wells be installed or modified as part of the project (of any use type, including groundwater wells; shallow injection wells; and oil, geothermal, and mineral exploration wells)? For new/proposed wells, indicate depth of wells, depth of casing, casing diameter, and, for water wells, the anticipated average and maximum water demand from the wells during normal operation (gallons per minute).
 - d. Are there any deep pilings or foundations (e.g., greater than 10 feet below land surface) that will be installed, modified, or disturbed during the project?

4. Describe storm water management for the project area, including, but not limited to, answers to the applicable questions below:
 - a. Will the project require the use of shallow injection wells (i.e., dry wells, french drains, sumps, and drainfields)? **If the answer to this question is yes, please provide EPA with an explanation as to why these shallow injection wells are required.**
 - b. How will storm water be managed on this site during construction and after the project is complete, including treatment if applicable?
5. Describe chemical use and storage associated with the project, including, but not limited to, answers to the applicable questions below:
 - a. Will quantities of hazardous chemicals or petroleum above routine household quantities be used or stored in the project review area?
 - b. Are there any above ground storage tanks or underground storage tanks present or to be installed? Fuel tanks are often involved in projects that include generators and/or pump stations. If applicable, include details of such tanks, including spill containment and spill response plans.
6. Describe waste management related to the project, including, but not limited to, answers to the applicable questions below:
 - a. Will any liquid or solid waste be generated during construction (e.g., construction/drilling fluids, excavation dewatering fluids, or demolition debris)? If so, how will it be managed?
 - b. How will liquid or solid waste be managed after project completion, other than routine quantities of household wastes to a permitted sanitary landfill or publicly-owned treatment works (e.g., describe any on-site treatment/disposal, industrial wastewater, or other waste generation)? If applicable, provide details about any individual disposal systems such as cesspools, septic tanks with leach fields or seepage areas, pit toilets, or privately-owned sewerage systems, including those owned by a homeowners' association.
 - c. Are there any known brownfield or hazardous waste sites in close proximity to the project review area (e.g., sites listed on the EPA National Priorities List [i.e., Superfund sites], state-designated brownfield or clean-up sites)? Do any such contaminated sites have underground contamination plumes, monitoring wells, or soil contamination that may be disturbed by the project? Include details such as the name(s) and location(s) of the brownfield or hazardous waste site(s).
 - d. For agricultural projects involving animals, how will animal wastes be managed?
 - e. For burial of flocks or disposal of animals, what Best Management Practices ("BMPs") are planned to protect the SSA from contamination?

7. Provide any other available information that could be helpful in determining if this project may potentially create a significant hazard to public health through contamination of a SSA, including, but not limited to, answers to the applicable questions below:
- a. Are BMPs planned to address any possible risks or concerns? If so, which BMPs will be used?
 - b. Does the project include any improvements that may be beneficial to any SSA, such as improvements to the publicly-owned treatment works?
 - c. Are any previous environmental assessments available regarding the project or project area?