

Handbook of Florida Agricultural Laws: Environmental and Conservation Regulations¹

Michael T. Olexa, Ian Alperstein, and Joseph Fischer²

Preface

This handbook is designed to provide an accurate, current, and authoritative summary of the principal Florida laws that directly or indirectly relate to agriculture. It provides a basic overview of the many rights and responsibilities that farmers and farm land owners have under Florida laws. Many readers may value this handbook because it informs them about these rights and responsibilities, and it provides them with good contacts for 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decisions on which this handbook is based are subject to constant revision, portions of this handbook could become outdated at any time. Many details of cited laws are also left out due to space limitations.

This handbook is distributed with the understanding that the authors are not engaged in rendering legal or other professional advice. It is not all-inclusive in providing information to achieve compliance with laws and regulations governing the practice of agriculture. For these reasons, the use of these materials by any person constitutes an agreement to hold harmless the authors, UF/IFAS, the Agricultural Law Center, and the University 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.

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- This publication is designed to provide accurate, current and authoritative information on the subject. However, since the laws, administrative rulings, and court decisions on which it is based are subject to constant revision, portions of this publication could become outdated at any time. This publication is distributed with the understanding that the authors are not engaged in rendering legal or other professional advice, and the information contained herein should not be regarded, or relied upon, as a substitute for professional advice. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, UF/IFAS, and the University 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 document.
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A Brief Note on Florida Laws and Rule Making

The Florida laws described in this handbook were passed by the state legislature and have become valid state laws. The appropriate state agency then wrote specific rules based on each law. These rules are what the state agencies use to enforce the law. For most laws in this handbook, that agency is the Department of Agriculture and Consumer Services (DACS). Florida legislated laws, also called *statutes*, are organized into chapters. A chapter is divided even further into specific statutes. For example, Chapter 601 (Florida Citrus Code) contains dozens of sections covering topics ranging from marketing, inspection standards, and processing to prohibitions on the use of certain chemicals for citrus fruit. Other chapters may deal with a narrower subject and have far fewer sections. As noted above, the specific rules for each of these sections are written by a designated state agency, and generally go into greater detail. You can view the Florida Statutes online at <http://www.flsenate.gov/statutes>.

Introduction

This handbook can be used to learn which Florida laws apply to a particular agricultural project or subject, and to find the name, address, and telephone number of a state office that can provide more specific information or services. Created for readers with no prior experience in the law, the handbook is designed as a necessary first step in recognizing which agricultural activities merit special attention because of their implications to agriculture. The handbook also provides an introduction to the crucial agencies and statutes which govern agricultural law.

The online handbook is divided into a Table of Contents, Index, and six fact sheets. The Table of Contents gives general and specific areas of Florida laws related to agriculture and the number of the fact sheet where that topic can be found. The six fact sheets are as follows: FE114, General Agriculture-Related Laws; FE115, Animal Husbandry; FE116, Crops and Products; FE117, Related Non-Crop or Product Agricultural Topics; FE118, Environmental and Conservation Regulations;

and FE119, Taxation and Property Rights Related to Agricultural Land. The user can find the specific laws by using either the Table of Contents (FE113) or the Index (FE122).

Below is an example of using the handbook if your area of interest is farming exotic animals such as ostriches.

To use the Table of Contents:

1. Find "Animal Husbandry" in the Table of Contents (FE113).
2. Within the Animal Husbandry area locate "Livestock—Exotic Animals". Follow the link to FE115: Animal Husbandry.
3. In FE115, read the "General Descriptions" and "Related References, Details, and Exceptions" columns for both laws under "Livestock—Exotic Animals". Determine if the information answers the questions or if more information is needed.
4. If the user wants more information regarding the general farming or inspection and slaughter of an exotic animal (e.g., ostriches), locate the appropriate state office telephone number and address. The primary contact agency information is listed at the end of the fact sheet, along with abbreviation information.

To use the Index:

Look up "ostriches" in the Index (FE122). The index leads the reader to the location for information about the culture and inspection/slaughter of ostriches. Follow steps 3 and 4 above to find the contact information.

Division of the Tables

The table in each fact sheet has five columns of information. The first column, "Statute / Law (description)," either provides the law's name or a general description when no name is available. The second column, "Florida Statute Number", lists either a chapter number when an entire chapter relates to a particular topic, a range of sections, or a single

specific section. At times, a single chapter number may have many more laws than a range. For example, sections 593.101 to 593.117 cover a narrower field, the control of cotton boll weevil, than the larger Chapter 601 on citrus fruit. The chapter and section number in all columns are presented without the typical abbreviations or symbols.

Columns 3 and 4 provide brief descriptions and related references, details, and exceptions. This information is highly condensed. As such, not all information is provided. The authors have attempted to include the most relevant aspects of each listed law. Additional information can be obtained by contacting the offices noted in the final column, "Primary Contact Agencies." As noted above, the primary contact information is listed at the end of the fact sheet. The reader will find that the state and federal agencies are unquestionably the best targets for specific questions, as they are in close touch with both the formal and practical considerations of the areas that they regulate.

This publication can be improved with your ideas and suggestions. Comments regarding any areas which may have been omitted, but deserve inclusion, are particularly valuable. Reader feedback is a necessary ingredient to complete any successful future editions. Please send your comments or suggestions to:

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V. Florida Agricultural Laws: Environmental and Conservation Regulations				
Statute / Law (description)	Florida Statute Number	General Description	Related References, Details, and Exceptions	Primary Contact Agencies
A. Uses and Storage of Water				
General law regarding permitting the consumptive uses of water	373.203 – 373.250	Requires permits for water uses above specified amounts from wells and surface waters. Specific requirements/permitting are responsibility of WMDs.	DEP or WMD can formulate plans for periods of water shortage, which may modify permitted consumption by a water user (373.246). During water shortages, applies to withdrawals from surface waters and aquifers. See 2004-381, section 4, establishing 373.2234, requiring WMDs to identify "preferred water supply sources for consumptive uses" that provides substantial new water supplies without adverse impact. Consumptive use permits for use of such water sources must be granted for a 20-year period if all other obligations are met. See 2004-381, section 8, establishing 373.277, requiring WMDs and other stakeholders to formulate a comprehensive statewide water conservation program, which may impact consumptive use permits. See 2004-381, section 6, establishing 373.228, requiring WMDs and other stakeholders to develop "landscape irrigation and xeriscape design standards for new construction" for improved water efficiency.	DEP WMD
Law regarding construction, repair, and abandonment of wells	373.302 – 373.342	Regulates well construction, repair, and abandonment, and requires certification of well contractors.	Permits are not required for domestic consumption by individual users for private shallow wells and for certain other uses, but wells must comply with local and state well construction requirements (373.326). County health departments (25) should be consulted for well placement. Pollution of aquifer with hazardous waste through wells involves federal CERCLA/Superfund laws for environmental cleanup.	DEP WMD

V. Florida Agricultural Laws: Environmental and Conservation Regulations				
Statute / Law (description)	Florida Statute Number	General Description	Related References, Details, and Exceptions	Primary Contact Agencies
Law excluding agricultural activities from DEP dredge and fill permits	403.927	Recognizes the value of farming and forestry, and excludes agricultural activities and agricultural water management systems from typical DEP dredge and fill permit requirements required under 403.087.	Exempts farming operations from one type of permitting, and authorizes WMDs to regulate water discharge from agricultural operations by way of MSSW (Management and Storage of Surface Water) permits.	DEP WMD
Laws regarding management and storage of surface waters (MSSW)	373.403 – 373.468	Gives rule-making authority to protect water resources. Requires MSSW permit for structures that can connect to, draw water from, or drain water into bodies of surface water (e.g., impoundments, dams, reservoirs, and stormwater systems). Need special permits for wetlands generally (373.414), Miami-Dade County Lake Belt (373.41942), the Everglades (373.4592) [note: lands used for agricultural purposes without the areas as defined by 373.4592 may be subject to an agricultural privilege tax, such as the Everglades Agricultural privilege tax, 373.4592(6)], Florida Bay (373.4593), Lake Okeechobee (373.4595), Geneva Freshwater Lens (373.4595), Lake Apopka (373.461), Lake Panasofkee (373.465), and the Harris Chain of Lakes (373.467).	These laws do not apply to the normal practices of agriculture, forestry, floriculture, or horticulture that merely alter the contour of the land (373.406(2)), or to certain aspects of agricultural closed systems (373.406(3)). Permits are needed for structures that impact surface waters, such as dredging or filling canals. Authorizes the DEP or WMDs to require headgates, valves, and measuring devices to regulate and to measure water flow being discharged or diverted, and prohibits tampering with the devices (373.409). Allows for mitigation and mitigation banking to offset activities that degrade surface waters (373.4135). Permits for wetland activities are obtained from the U.S. Army Corps of Engineers and DEP and are required. Following best management practices (BMP) generally assures compliance after issuance of permit. Requires permit from WMD to abandon most water management structures (373.426). 373.4143–373.4144 requires consolidation of federal and state permitting procedures/plans dealing with wetlands and navigable waters.	DEP WMD
Law regarding wastewater use for spray irrigation	403.135	Relieves good faith user of wastewater from liability due to damages from proper application of wastewater that was permitted and intended for spray irrigation use.	Does not limit the liability due to negligent or reckless activities. Owners of wastewater treatment plants remain liable. See 403.064 about reuse of reclaimed waters. See also "Laws regarding solid waste management" and the use of sludge (residuals) on farmland.	DEP

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B. Activities on Farmland				
Law releasing property owners from liability for cattle-dipping vats	376.306	Relieves private owners of liability for costs, damages, or penalties resulting from participation in cattle fever tick eradication program and related cattle-dipping vats.	Applies retroactively for activities beginning in the year 1909.	DACS
Law excluding farming and forestry activities from certain environmental standards	403.927	While DEP will not enforce water quality standards within an agricultural water management system, it may require stormwater permit at the point of discharge from system. WMD will regulate impact of agricultural activity and agricultural water management system on groundwater quality.	Exempts farm and forestry operations that comply with other regulations from complying with water quality standards within their operations. Impacts beyond farm activity, to groundwater or surface water beyond farm/forest, are subject to regulation. Liability exists for discharges of pollution that damage wetlands (376.121).	DEP WMD
Nonpoint source pollution (NPS) management [Note: Occurs when rainfall or irrigation runs over or through the ground, picking up pollutants (fertilizers and pesticides) throughout watershed, and depositing them in lakes, rivers, coastal waters, or groundwater.]	403.067(7)(d) 576.045	Implements and develops a total maximum daily load program as required by 303(d) of the Federal Clean Water Act. Intended to provide improved coordination and cooperation among various departments and private interests to achieve restoration of listed water bodies impaired by point and nonpoint sources of pollution.	Allows DACS to develop and adopt by rule, interim measures, best management practices, or other measures necessary to achieve reductions in agricultural pollution in listed water bodies. Land owners are released from penalty provisions (375.307(5)) as long as interim measures, best management practices, or other measures approved by DACS are followed. Requires land owners to keep accurate records for implementing program. See 373.4592 (Everglades) and 373.45959 (Lake Okeechobee) regarding specific listed areas.	DACS DEP WMD

V. Florida Agricultural Laws: Environmental and Conservation Regulations				
Statute / Law (description)	Florida Statute Number	General Description	Related References, Details, and Exceptions	Primary Contact Agencies
Law promoting preservation of native flora	581.185 – 581.187	Prohibits willful destruction or harvesting of endangered or commercially exploited plants without land owner's written permission and permit from DPI. Prohibits willful destruction/harvesting of threatened plants without private land owner's written permission.	Any activity regarding endangered or threatened plants must be consistent with federal Endangered Species Act of 1973. Taking an endangered plant species without appropriate permit is prohibited. "All Florida Indians, as defined in Florida Statute 285.11, are exempt from prohibitions and penalties of 585.185."	DACS DPI
Florida Endangered and Threatened Species Act of 1977	372.072	Provides for research and management to conserve and protect endangered and threatened species.	Federal Endangered Species Act of 1973 supersedes state law. 372.0725 states it is a third degree felony to kill or wound any species that the FWC designates as threatened, endangered, or of special concern. 372.073 establishes a program to reward informants of people violating this Act. 585.185–585.187 deal with endangered plants. 373.414 considers adverse effects on endangered, threatened, and special concern species or their habitats as one factor in permitting changes in surface waters or wetlands (subject to exemptions and mitigation).	DPI EPA FWC
Laws regarding solid waste management	403.702 – 403.7721	Regulates wastes, including agricultural waste, municipal waste, sludge, compost, recyclable materials, used motor oil, and yard waste. Regulates waste handling, classification, disposal and recycling.	<i>Burning vegetative waste:</i> Section 403.702(2)(f) allows burning of plant and other material, but must comply with local restrictions, which are often stricter. Compost Law allows normal composting of farm wastes produced in normal farming operations when applied to land where waste was generated, but DEP prohibits using compost to fill any surface water body or applying a compost that would endanger public health or the environment. <i>Wastewater Plant Residuals (Sludge):</i> DEP and local governments regulate types of residuals that can be applied. <i>Hazardous Waste:</i> Hazardous waste is also regulated by more restrictive state and federal laws such as RCRA.	DEP EPA

V. Florida Agricultural Laws: Environmental and Conservation Regulations				
Statute / Law (description)	Florida Statute Number	General Description	Related References, Details, and Exceptions	Primary Contact Agencies
Laws regarding pollutant storage tank systems	376.303	Authorizes DEP to establish rules regarding construction, permitting, registration, and record keeping for tanks that hold pollutants such as oil, gasoline, pesticide, chlorine, and ammonia compounds. Requires a procedure for abandonment of pollutant storage tanks.	County regulations may be stricter than state rules and should be consulted. State rules do not require DEP permit for above or below ground tanks with a capacity of 550 gallons or less that are used for agriculture related storage. However, all tanks are subject to spill reporting requirements for spills over 100 gallons to pervious surfaces. 376.3071–376.3072 pertain to contamination from leaks and spills from tanks, cleanup of contaminated area, and liability for cleanup costs.	DEP DOH
Laws regarding onsite sewage disposal	381.0065	Authorizes DOH to set regulations for small onsite sewage disposal systems. DCF requires permits for installation, repair, or abandonment of all onsite sewage systems.	Counties often require separate permits in addition to DCF permits. DEP may further regulate systems that process over 10,000 gallons of domestic sewage per day.	DCF DEP DOH
C. Conservation of Soil, Water, Farmland, and Forests				
Laws regarding soil and water conservation	582.01 – 582.49	Authorizes DACS to adopt rules and implement programs to control and prevent soil erosion, thereby preserving soils and other natural resources.	Provides for creation of a soil and water conservation district (582.10–582.14). A district may conduct surveys, investigations, and demonstrations, and may take certain actions to control or prevent soil erosion (582.20). A public referendum must be held to approve any land use regulation proposed by a district (581.21–581.22). Provides for discontinuance of a district by petition and referendum (582.30). See 2003-97, amending 582.10, 582.30, changing the number of of land owners from 25 to 10% within a territory as needed to petition the formation or closure of a soil and water conservation district.	DACS

V. Florida Agricultural Laws: Environmental and Conservation Regulations				
Statute / Law (description)	Florida Statute Number	General Description	Related References, Details, and Exceptions	Primary Contact Agencies
Law regarding conservation easement	704.06	Defines and establishes rights and duties regarding conservation easements.	Conservation easements are perpetual restrictions against changing use of property from an existing use, such as forest or farm, to protect natural resources. A land owner and a governmental or charitable organization may agree for the easement to provide for a perpetual use of land that conserves natural resources.	DACS
<p><i>NOTE:</i> Environmental and conservation laws and regulations often are complex and controlled at the federal, state, regional, and local levels. Penalties for violations of the law can be severe. This table gives an extremely brief review of the major state laws that relate to agriculture. Farmers should check with the proper contact agencies or with local extension agents to determine the requirements for complying with the law in a particular situation.</p>				

Contact Agencies	
DACS	Department of Agriculture and Consumer Services
DCF	Department of Children and Families
DEP	Department of Environmental Protection
DOH	Department of Health
DPI	Division of Plant Industry
EPA	Environmental Protection Agency
FWC	Fish and Wildlife Conservation Commission
WMD	Water Management Districts
<p>Florida Department of Agriculture and Consumer Services (DACS) Office of the Commissioner The Capitol Tallahassee, FL 32399-0800 (850) 488-3022 [voice] (850) 488-7585 [fax] commissioner@doacs.state.fl.us http://doacs.state.fl.us/</p>	
<p>Department of Children and Families (DCF) Office of the Secretary 1317 Winewood Boulevard, Building 1, Room 202 Tallahassee, FL 32399-0700 (850) 487-1111 [voice] (850) 922-2993 [fax] http://www.dcf.state.fl.us/</p>	

Contact Agencies

Florida Department of Environmental Protection (DEP)
Office of Citizen Services
3900 Commonwealth Boulevard
Tallahassee, FL 32399
(850) 245-2118 [voice]
(850) 245-2128 [fax]
<http://www.dep.state.fl.us/mainpage/default.htm>

Central District
District Management
3319 Maguire Boulevard, Suite 232
Orlando, FL 32803-3767
(407) 895-7555 [voice]
(407) 897-2966 [fax]

Northeast District
District Management
7825 Baymeadows Way, Suite 200B
Jacksonville, FL 32256-7590
(904) 807-3300 [voice]
(904) 448-4319 [fax]

Northwest District
District Management
160 Governmental Center
Pensacola, FL 32502-5794
(850) 595-8300 [voice]
(850) 595-8417 [fax]

South District
District Management
2295 Victoria Avenue, Suite 364
Fort Myers, FL 33902-2549
(239) 332-6975 [voice]
(239) 332-6969 [fax]

Southeast District
District Management
400 North Congress Avenue, Suite 200
West Palm Beach, FL 33401
(561) 681-6600 [voice]
(561) 681-6755 [fax]

Southwest District
District Management
3804 Coconut Palm Drive
Tampa, FL 33619-8318
(813) 744-6100 [voice]
(813) 744-6084 [fax]

Florida Department of Health (DOH)
Communications
4052 Bald Cypress Way, Bin A04
Tallahassee, FL 32399-1705
(850) 245-4111 [voice]
(850) 488-6495 [fax]

Contact Agencies

Division of Plant Industry (DPI)
 Post Office Box 147100
 Gainesville, FL 32614-7100
 (352) 3505 x106 [voice]
<http://www.doacs.state.fl.us/pi/>

Environmental Protection Agency
 Contacts for EPA National Offices
<http://www.epa.gov>
<http://www.epa.gov/epahome/hotline.htm>

EPCRA & Superfund Call Center
 Provides information on Superfund and EPCRA questions
 (800) 424-9346 [toll-free voice]

Toxic Release Inventory – Community Right to Know – EPCRA Hotline
 Source of information concerning waste management activities and toxic chemicals
 (800) 424-9346 [toll-free voice]
tri.us@epa.gov

Toxic Substances Control Act (TSCA) Hotline
 Provides technical assistance and information about toxic substances programs
 (202) 554-1404 [voice]
 (202) 554-5603 [fax]
tsca-hotline@epa.gov

National Pesticide Information Center
 Provides information on pesticides and pesticide poisonings
 (800) 858-7378 [toll-free voice]
 (541) 737-0761 [fax]
npic@ace.orst.edu

Florida Administrator of EPA Pesticide Regulation
 Bureau of Pesticides / Division and Consumer Services
 3125 Conner Boulevard
 Tallahassee, FL 32399-1650
 (850) 487-0532 [voice]
<http://www.flaes.org/pesticide/index.html>

Environmental Protection Agency (EPA) Region 4
 Contacts within EPA Region 4 (includes Florida)

General Information for Region 4:
 United States EPA Region 4
 Sam Nunn Atlanta Federal Center
 61 Forsyth Street, SW
 Atlanta, GA 30303-8960
 (404) 562-9900 [voice]
 (404) 562-8174 [fax]

Region 4 Emergency Response & Removal
 (800) 564-7577 [toll-free voice] — Monday–Friday, 8am–5pm EST

Contact Agencies

Florida Fish and Wildlife Conservation Commission (FWC)
Farris Byrant Building
620 South Meridian Street
Tallahassee, FL 32399-1600
(850) 488-4676 [voice]
(850) 921-7793 [fax]
<http://myfwc.com/>

Florida Water Management Districts (WMD)

Northwest Florida Water Management District
81 Water Management Drive
Havana, FL 32333
(850) 539-5999 [voice]
(850) 539-2777 [fax]
<http://www.nwfwmd.state.fl.us/>

St. Johns River Water Management District
Post Office Box 1429
Palatka, FL 32178-1429
(386) 329-4500 [voice]
(800) 451-7106 [toll-free voice]
<http://sjr.state.fl.us/>

South Florida Water Management District
3301 Gun Club Road
Post Office Box 24680
West Palm Beach, FL 33416-4680
(561) 686-8800 [voice]
(800) 432-2045
<http://www.sfwmd.gov/>

Southwest Florida Water Management District
2379 Broad Street
Brooksville, FL 34606-6899
(352) 796-7211 [voice]
(800) 423-1476 [toll-free voice]
<http://www.swfwmd.state.fl.us/>

Suwannee River Water Management District
9225 County Road 49
Live Oak, FL 32060
(386) 362-1001 [voice]
(800) 226-1066 [toll-free voice]
(386) 362-1056 [fax]
district@srwmd.org
<http://www.srwmd.state.fl.us/>