

# Handbook of Florida Water Regulation: Resource Conservation and Recovery Act<sup>1</sup>

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## Preface

This handbook is designed to provide an accurate, current, and authoritative summary of the principle Federal and Florida laws that directly or indirectly relate to agriculture. This handbook should provide a basic overview of the many rights and responsibilities that farmers and farmland owners have under both Federal and Florida 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decisions on which this handbook is based are subject to constant revision, portions of this publication could become outdated at anytime. Several details of cited laws are also left out due to space limitations.

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## Overview

The Resource Conservation and Recovery Act (RCRA) is a comprehensive authority for all aspects of managing hazardous wastes. It creates separate requirements for its categories of generators; transporters; and facilities for treatment, storage, or disposal of hazardous waste. These requirements, which include permitting for many facilities and exhaustive record keeping for all phases of management, are intended to track the movement and handling of the waste until it reaches its final point of

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disposal. This is known as the cradle-to-grave approach to monitoring wastes.

The RCRA also sets out standards for the disposal of *solid* wastes, which includes the following:

- Trash, garbage, and sludge.
- Liquid, semi-solid waste, and contained gases.
- Wastes resulting from industrial, commercial, mining, and agricultural operations.

### **What Is Exempt from RCRA Disposal Standards?**

Domestic sewage, irrigation return flow, or pollutants covered under the NPDES permits of the Clean Water Act as point sources are not considered solid wastes and are therefore not subject to RCRA's disposal standard. Source material, special nuclear material, or byproduct material as defined by the Atomic Energy Act of 1954 are also not considered solid wastes and are therefore not subject to RCRA's disposal standard.

### **Who Enforces RCRA?**

The Environmental Protection Agency (EPA) is responsible for implementing and enforcing the RCRA, for establishing the criteria for classifying "hazardous wastes", and for listing those wastes to which the RCRA automatically applies.

The RCRA also permits states to enact and enforce their own hazardous waste programs. In order for a state to act in lieu of the EPA, state acts must be at least as strict as the EPA regulations and must be approved by the EPA. Florida is authorized to administer all aspects of RCRA's "base program" (i.e., most facets of the RCRA that were passed before 1986).

### **How Is RCRA Enforced?**

Permits are required under RCRA for anyone who owns or operates a facility for the treatment, storage, or disposal of hazardous wastes. Generators and transporters may operate without an EPA permit, but must obtain an identification number and may be

required to file reports with the EPA at regular intervals depending upon the quantity and type of wastes they handle.

The EPA retains broad authority to require tests, inspections, or additional monitoring when it determines there is an enhanced danger to health or the environment from the facility. This is especially true with regard to permitted hazardous waste facilities. No federal permits are required for solid-waste disposal although there are federal regulations on the subject.

### **What Are the Penalties?**

The EPA may issue its own administrative rulings to collect the expenses it incurs by monitoring or testing. The EPA is also empowered to initiate civil actions to enforce its orders or rules.

The RCRA authorizes private citizens to bring civil suits to enforce its provisions against offenders, in addition to allowing citizen suits against the EPA or state administrator to compel enforcement of the RCRA.

The RCRA provides for civil penalties for up to \$25,000 per day for noncompliance for each violation of a requirement of RCRA. The extent of criminal penalties will depend upon whether violators knew they were violating RCRA at the time of the offense (\$50,000 per day and two-years imprisonment, or \$50,000 per day and five-years imprisonment if a violator knowingly transported, caused to be transported any hazardous waste to a facility which did not have a permit, or knowingly treated, stored, or disposed of any hazardous waste without a permit, or in knowing of a violation of any material condition or requirement of the permit, applicable temporary standing regulations, or standards), or knowingly placed others in danger (\$250,000 per day and 15-years imprisonment). The organization that is in non-compliance can be subject to up to a million dollar fine upon conviction of individuals associated with it.

### **Source**

42 United States Code, Sections 6901 to 6987

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