Preface

This handbook is designed to provide an accurate, current, and authoritative summary of the principal federal and state (Florida) laws that directly or indirectly relate to agriculture. This handbook provides a basic overview of the many rights and responsibilities that farmers and farmland owners have under both federal and state 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decisions on which this handbook is based are subject to constant revision, portions of this publication could become outdated at any time. Several 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, and the information contained herein should not be regarded as a substitute for professional advice. This handbook is not all inclusive in providing information to achieve compliance with the federal and state laws and regulations governing water protection. For these reasons, the use of these materials by any person constitutes an agreement to hold harmless the authors, the UF/IFAS Center for Agricultural and Natural Resource Law, the Florida Cooperative Extension Service, the Institute of Food and Agricultural Sciences, 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.

Consumptive Use Regulations

Who regulates consumptive use?

Consumptive use is any use of water that reduces water availability in the source from which the water is withdrawn or diverted. Both the Florida Department of Environmental Protection (FDEP) and the Florida water management districts (FWMD), which are charged with maintaining the state’s reserves of usable water at an acceptable level, are vested with the authority to require consumptive use permits and impose conditions on those permits. This is in accordance with Florida’s water use policy, which gives preference to desirable water uses to promote human, natural resource, fish, and wildlife preservation. This authority is delegated almost entirely to the FWMDs, which should be consulted before any consumptive use of water is undertaken (see FE616, Contact Agencies).

What permits are required for consumptive use?

When a party’s water usage reaches any of certain pre-determined threshold levels, the appropriate FWMD will require an individual consumptive water use permit. It is
highly recommended to consult the appropriate FWMD regarding the threshold levels that apply to specific operations. Two types of permits, individual and general, are relevant to water consumption:

1. **Individual permits** are required when withdrawal exceeds established daily limits that are measured in gallons per day or when withdrawal wells or surface intake facilities exceed certain specifications (such as intake diameter of six inches)

2. **General permits** apply where the amount of the withdrawal is minimal as defined in the regulations

All water withdrawals and uses must be permitted unless explicitly exempted in existing laws and regulations. There are no special exemptions for withdrawals from groundwater or surface water that existed before the consumptive permitting requirements became effective.

To receive a permit for a proposed water use, an applicant must establish that the use is reasonable-beneficial (Reasonable Use Doctrine), will not interfere with any existing legal water uses, and is consistent with public interests.

**What kind of water is permitted for consumptive use?**
For the most part, the water permitted for consumptive use is groundwater. Other sources of water permitted include surface water (such as in the Tampa Bay and Lake Okeechobee areas) and reclaimed water provided by domestic wastewater treatment plants (Chapter 373, Florida Statutes, Section 373.250). Reclaimed water is permitted by the FWMDS to promote and encourage water conservation. Contact your local FWMD to find out more about reclaimed water for consumptive use.

**What are the effects of consumptive use permits?**
Permits are only granted for fixed periods of time according to the reasonable assurances of the applicant that the conditions will not deteriorate. Except for municipalities, government bodies, public works, or public service corporations, they may not exceed twenty years and are usually granted for much shorter periods. When the nature of a proposed use is such that the permit application process may be lengthy, the appropriate FWMD may issue a temporary permit. Transfer of permits between activities identical in nature at the same location and for the same water source is usually allowed and conditions of the permit usually remain the same. There are different requirements for individual and general water permits.

**When is a consumptive use permit revoked?**
Any failure to continually observe the terms provided by a consumptive use permit may result in its revocation. Other grounds for revocation may include unsatisfactory mitigation (reduction or lessening) of environmental damage from the use.

**Source**
Chapter 373, Florida Statutes, Sections 373.203 to 373.250
Title 40, Florida Administrative Code (individual FWMD rules)

**Contact Information**
Consumptive Use (see FE616, Contact Agencies)
- S-1, Florida Water Management Districts

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