

Handbook of Florida Water Regulation: Florida Everglades Forever Act¹

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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decisions on which this handbook is based are subject to constant revision, portions of this publication could become outdated at any time.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 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.

FEFA Overview

The Florida Everglades Forever Act (FEFA) was passed in 1994; it outlines the state government's commitment to restore the Everglades ecosystem in cooperation with the federal government's multi-billion-dollar, multi-decade Comprehensive Everglades Restoration Program (CERP, <http://www.evergladesplan.org/>). The primary goals of FEFA are to improve water quality by reducing the level of phosphorus that enters the Everglades ecosystem, to increase the quantity of water in the Everglades by restoring the hydrology of the ecosystem, and to restore and protect the native plants and animals of the Everglades by stemming the invasion of exotic species of plants and animals into the ecosystem. The secondary goals of FEFA include water resource development and supply, better public land management and maintenance, and acquisition of conservation easements.

Nonpoint source pollution, especially from agricultural nonpoint sources, is a major contributor of the phosphorus contamination of the Everglades, and is addressed by FEFA through Best Management Practices (BMPs) and stormwater treatment areas (STAs).

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Who Enforces FEFA?

Under FEFA, both the Florida Department of Environmental Protection (FDEP) and the South Florida Water Management District (SFWMD) are given enforcement power and duties on the issues that include the Everglades Construction Project, water supply improvement and restoration, the Everglades research and monitoring program, evaluation of water quality standards, implementation of BMPs against phosphorus runoff in the Everglades Agricultural Area (EAA); monitoring and controlling exotic species; and assessing and collecting taxes and special assessments. A major goal is to decrease the levels of phosphorus in the Everglades to acceptable levels that will improve the overall health of the Everglades Ecosystem and surrounding vicinities.

What Are the Duties of FDEP and SFWMD under FEFA?

Under FEFA, SFWMD is charged with implementing the Everglades Construction Project (ECP), whereby the state or the SFWMD purchases land (e.g., the Rotenberger property, <http://myfwc.com/viewing/recreation/wmas/lead/rotenberger/>) to build storwater treatment facilities in STAs to treat and improve the quality of waters coming from EAA. Public lands are also included in ECP with the goal to treat and improve the quality of waters *not* coming from EAA. SFWMD must obtain FDEP permits to build stormwater treatment facilities to participate in ECP. Under FEFA, SFWMD cannot levy ad valorem taxes in excess of 0.1 mills within the Okeechobee River Basin to fund ECP. Once stormwater treatment facilities are built in STAs, SFWMD must allow these areas to be used by the public for recreation, unless the SFWMD governing board can show that recreational use of STAs are incompatible with the restoration goal of ECP.

Concerning the improvement and restoration of the Everglades water supply, SFWMD uses STAs to increase the quantity of water in the Everglades ecosystem. SFWMD must coordinate its water supply program with the federal government, and along with FDEP, push for amendments to the federal restoration program.

Concerning the research and monitoring of the Everglades, FDEP and SFWMD head a research and monitoring program to generate water quality data for the Everglades and to evaluate the effectiveness of BMPs and STAs in reducing the levels of phosphorus in the Everglades and EAA. FDEP and SFWMD use the data generated to evaluate water quality standards and to implement Total Maximum Daily

Load (TMDL) standards and BMPs in the Everglades and EAA.

In addition to water quality, the monitoring and controlling of exotic species is the exclusive duty of SFWMD. FEFA requires that SFWMD establish a biological monitoring network throughout the Everglades and perform a survey of exotic species at least every two years. SFWMD is also required to coordinate with federal, state, and/or other governmental entities the control of exotic species in the Everglades and EAA.

It is also the exclusive duty of SFWMD to assess and collect agricultural privilege taxes on agricultural land in EAA and “C-139 basin” (the name of the actual basin) for the privilege, granted by SFWMD, of using these lands for agricultural purposes. SFWMD may also levy a special assessment on all areas that benefit from STAs. All money generated by these taxes and special assessment will be used to fund SFWMD’s enforcement and implementation of FEFA.

For more information on FEFA, including state acquisition of land, and the criteria for the agricultural privilege taxes on agricultural land in EAA and C-139 basin, contact FDEP or SFWMD.

Additional information about the Everglades restoration program can be found at the FDEP website at <http://dep.state.fl.us/water/wqssp/everglades/index.htm>.

Source

Chapter 373, Florida Statutes, Section 373.4592

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