

Handbook of Florida Agricultural Laws: Environmental and Conservation Regulations¹

Michael T. Olexa and Vanessa Fernandez²

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decisions on which this handbook is based are subject to constant revision, portions of this handbook could become outdated at any time.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

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Agricultural and Natural Resource Law, 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.

A Brief Note on Florida Laws and Rulemaking

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 (DACCS). 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

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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 to find the topic:

1. Find “Animal Husbandry” in the Table of Contents ([FE113](#)).
2. Within the Animal Husbandry area locate “Livestock—Exotic Animals” and 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” to 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 to find the topic:

1. 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.
2. 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 does 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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Table 1. Florida agricultural laws: Environmental and conservation regulations in Florida.

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 Water Management Districts (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 provide 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 373.227, requiring WMDs and other stakeholders to formulate a comprehensive statewide water conservation program, which may impact consumptive use permits. See 2009-243, section 19, requiring WMDs and other stakeholders to develop “landscape irrigation and Florida-friendly landscaping design standards for new construction” for improved water efficiency (373.228).	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 should be consulted for well placement. Pollution of aquifer with hazardous waste through wells involves federal CERCLA/Superfund laws for environmental cleanup. See 2009-243, section 9, updating licensure requirements for water well contractors (373.323).	DEP WMD
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 stormwater or other discharge permits, such as MSSW (Management and Storage of Surface Water) permits.	DEP WMD

Statute / Law (description)	Florida Statute Number	General Description	Related References, Details, and Exceptions	Primary Contact Agencies
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 within the areas as defined by 373.4592(15) 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 (373.4597), Lake Apopka (373.461), and the Harris Chain of Lakes (373.468).	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, dams, or impoundments. 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 United States Army Corps of Engineers, DEP, and/or the appropriate WMD 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
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 1906.	DACS DEP
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 to groundwater or surface water beyond farm/forest operations are subject to regulation. Liability exists for discharges of pollution that damage wetlands (376.121).	DEP WMD

Statute / Law (description)	Florida Statute Number	General Description	Related References, Details, and Exceptions	Primary Contact Agencies
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. Landowners are presumed to be in compliance with state water quality standards (576.045(5)) as long as interim measures, best management practices, or other measures approved by DACS are followed. Requires landowners to keep accurate records for implementing program. See 373.4592 (Everglades) and 373.4595 (Lake Okeechobee) regarding specific listed areas.	DACs DEP WMD
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” (581.187).	DACs DPI
Florida Endangered and Threatened Species Act	379.2291	Provides for research and management to conserve and protect endangered and threatened species.	Federal Endangered Species Act of 1973 supersedes state law. 379.411 states it is a third degree felony to kill or wound any species that the FWC designates as threatened, endangered, or of special concern. 379.2292 establishes a program to reward informants of people violating this Act. 581.185–581.187 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 403.707(2) (e) 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

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 registration 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 on impervious surfaces other than secondary containment areas (such as asphalt or concrete driveways), provided the spill does not come into contact with 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. DOH requires permits for installation, repair, or abandonment of all onsite sewage systems.	Counties often require separate permits in addition to DOH permits. DEP may further regulate systems that process over 10,000 gallons of domestic sewage per day.	DEP DOH
C. Conservation of Soil, Water, Farmland, and Forests				
Laws regarding soil and water conservation	582.01 – 582.32	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 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
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>				

Table 2. Contact agencies

DACS	Department of Agriculture and Consumer Services
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
Florida Department of Agriculture and Consumer Services (DACS)	
Office of the Commissioner Plaza Level 10, The Capitol 400 South Monroe Street Tallahassee, FL 32399-0800 (800) 435-7352 [voice, toll-free, Florida residents] (850) 410-3800 [voice, non-Florida residents] http://www.freshfromflorida.com/	
Florida Department of Environmental Protection (DEP)	
3900 Commonwealth Boulevard, M.S. 49 Tallahassee, FL 32399 (850) 245-2118 [voice] (850) 245-2128 [fax] http://www.dep.state.fl.us/	
	Central District—Orlando District Management 3319 Maguire Boulevard, Suite 232 Orlando, FL 32803-3767 (407) 897-4100 [voice] DEP_CD@dep.state.fl.us http://www.dep.state.fl.us/central/
	Northeast District—Jacksonville District Management 8800 Baymeadows Way West, Suite 100 Jacksonville, FL 32256 (904) 256-1700 [voice] (904) 256-1588 [fax] http://www.dep.state.fl.us/northeast/
	Northwest District—Pensacola District Management 160 West Governmental Stree, Suite 308 Pensacola, FL 32502 (850) 595-8300 [voice] (850) 595-8417 [fax] http://www.dep.state.fl.us/northwest/
	South District—Fort Myers District Management 2295 Victoria Avenue, Suite 364 Fort Myers, FL 33902-2549 (239) 344-5600 [voice] (850) 412-0590 [fax] http://www/dep.state.fl.us/south/
	Southeast District—West Palm Beach District Management 400 North Congress Avenue, Third Floor West Palm Beach, FL 33401 (561) 681-6600 [voice] (561) 681-6755 [fax] http://www.dep.state.fl.us/southeast/

	<p>Southwest District—Tampa District Management 13051 North Telecom Parkway Temple Terrace, FL 33637 (813) 470-5700 [voice] http://www.dep.state.fl.us/southwest/</p>
	<p>Florida Department of Health (DOH) Bureau of Environmental Health 4052 Bald Cypress Way, Bin A08 Tallahassee, FL 32399-1709 (850) 245-4277 [voice] (850) 922-8473 [fax] http://www.floridahealth.gov/environmental-health/</p>
	<p>Division of Plant Industry (DPI) 1911 SW 34th Street Gainesville, FL 32608 (352) 395-4700 [voice] (352) 395-4610 [fax] (888) 397-1517 [helpline, toll-free, inside the United States] (352) 395-4600 [helpline, outside the United States] DPIHelpline@FreshFromFlorida.com http://www.freshfromflorida.com/Divisions-Offices/Plant-Industry</p>
	<p>Environmental Protection Agency Contacts for EPA National Offices http://www.epa.gov http://www.epa.gov/epahome/hotline.htm</p>
	<p>EPCRA & Superfund Call Center Provides information on Superfund and EPCRA questions (800) 424-9346 [voice, toll-free]</p>
	<p>Toxic Release Inventory—Community Right to Know – EPCRA Hotline Source of information concerning waste management activities and toxic chemicals (800) 424-9346 [voice, toll-free]</p>
	<p>Toxic Substances Control Act (TSCA) Hotline Provides technical assistance and information about toxic substances programs (202) 554-1404 [voice] (202) 554-5603 [fax] tsc-hotline@epa.gov</p>
	<p>National Pesticide Information Center Provides information on pesticides and pesticide poisonings (800) 858-7378 [voice, toll-free] (541) 737-0761 [fax] npic@ace.orst.edu</p>
	<p>Florida Administrator of EPA Pesticide Regulation Bureau of Pesticides / Division of Agriculture and Consumer Services 3125 Conner Boulevard, Bldg 6 Tallahassee, FL 32399-1650 (850) 617-7917 [voice] (850) 617-7949 [fax] http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Environmental-Services/Bureaus-and-Sections2/Bureau-of-Pesticides</p>
	<p>Environmental Protection Agency (EPA) Region 4 Contacts within EPA Region 4 (includes Florida)</p>
	<p>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] (800) 241-1754 [voice, toll-free] (404) 562-8174 [fax]</p>

	National Response Center (800) 424-8802 [voice, toll-free]
Florida Fish and Wildlife Conservation Commission (FWC)	
Farris Byrant Building 620 South Meridian Street Tallahassee, FL 32399-1600 (850) 488-4676 [voice] 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.nfwmd.state.fl.us/
	St. Johns River Water Management District Post Office Box 1429 Palatka, FL 32178-1429 (386) 329-4500 [voice] (800) 451-7106 [voice, toll-free] http://floridaswater.com /
	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 [voice, toll-free] http://www.sfwmd.gov/
	Southwest Florida Water Management District 2379 Broad Street Brooksville, FL 34606-6899 (352) 796-7211 [voice] (800) 423-1476 [voice, toll-free] 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 [voice, toll-free] http://www.srwmd.state.fl.us/