2021 Handbook of Florida Water Regulation: Florida Department of Environmental Protection[1]

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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decisions on which this handbook is based are subject to constant revision, portions of this publication could become outdated at any time.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 provided as an educational text for those interested in water use and water resource issues in Florida.

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, and UF/IFAS Extension 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. Note: UF/IFAS is the acronym for University of Florida, Institute of Food and Agricultural Sciences.

FDEP Overview

The Florida Department of Environmental Protection (FDEP) was created by the Florida Environmental Reorganization Act of 1993 to protect, conserve, and manage Florida's natural resources and enforce the state's environmental laws. Its primary responsibility is to preserve the environmental integrity of Florida's physical environment, especially air and water. Although this includes a large number of duties, only those duties relevant to the scope of this handbook are discussed. These include the following:

- The permitting of dredging and filling in waters of the state
- Review of water management districts
- Regulation of air, water, and noise pollution
- Solid and hazardous waste management
- Public drinking water supplies
- Controlling noxious aquatic weeds
- Regulation of injection wells and wells related to oil exploration

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- The prevention or cleanup of pollutant spills or discharges into inland waters or lands of the state
- Administering the Water Resources Act of 1972, Chapter 373, Florida Statutes, including the amendments by the 2016 Water Bill
- Administration of such federal acts as the Clean Water Act and the Safe Drinking Water Act in Florida

More information about the FDEP can be found at: https://floridadep.gov/.

To whom has FDEP delegated powers?

The FDEP has specifically delegated to the Florida Water Management Districts (FWMD) the power to administer and enforce the provisions of Chapter 373, Florida Statutes, also known as the Florida Water Resources Act of 1972. These provisions largely relate to permitting of water use, well regulations, management and storage of surface water, water supply planning, and other functions related to water use and allocation. The FDEP has also given authority to the Florida Department of Agriculture and Consumer Services (FDACS), which implements agricultural water pollution reduction practices and regulates certain open-burning activities through the Division of Forestry.

How does FDEP enforce compliance?

The FDEP monitors and enforces compliance with environmental laws and regulations. In order to be "in compliance", there must be proper written authorization to conduct an activity, if specific permission is required, and there must be adherence to the conditions of that authorization and other applicable laws. For example, the FDEP issues permits with compliance standards to factories with air emissions, these factories must adhere to the set standards or they will be found to be not "in compliance." In cases where authorization is not required, such as littering or dumping pollution into a pond, being "in compliance" means abiding by the law.

The FDEP uses enforcement mechanisms to deter non-compliance. The penalty for non-compliance may be requiring compensation for damages or implementation of "in kind" projects that prevent pollution or otherwise enhance the environment. The FDEP's primary goal is to ensure the violator corrects the problem and returns to compliance.

How is FDEP structured?

The FDEP is the state agency for environmental management and stewardship. The agency is divided into three primary areas: regulatory programs, land and recreation, and ecosystem restoration. The FDEP is responsible for overseeing programs that regulate safe drinking water; groundwater and surface water quality; reclaiming lands that have been mined for phosphate and other materials; solid and hazardous waste management, including the cleanup of hazardous waste and pollutant spill sites; and environmental resource permitting for the protection of wetlands aquatic plants.

The FDEP has six district offices located regionally throughout the state that contain their own structure, which is usually similar to the one at the Tallahassee headquarters. Collectively, the districts are responsible for policy, planning, and rulemaking activities. Each district is headed by a Director of District Management. Responsibilities for permitting, compliance monitoring, and enforcement activities are split between headquarters and the district offices.

More information about the FDEP district offices can be found at: https://floridadep.gov/districts.

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