

STATUTORY ENVIRONMENTAL POLICIES, PRE-EMPTIONS, AND EXEMPTIONS RELATED TO AGRICULTURE

Statute	Entity	Title/Subject	Summary
403.021, F.S.			Public policy to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife and fish and other aquatic life, and for domestic, <u>agricultural</u> , industrial, recreational, and other beneficial uses and to provide that no wastes be discharged into any waters of the state without first being given the degree of treatment necessary to protect the beneficial uses of such water.
582.02, F.S.	DACS/SWCDs	Lands a Basic Asset of State/ Soil and Water Conservation	Farm, forest, and grazing lands are among the basic assets of the state, and preserving these lands is necessary to protect and promote the health, safety, and general welfare of its people – improper land use practices are causing serious erosion of farm and grazing lands...
604.006, F.S. (84-225)	DCA	Mapping and Monitoring of Agricultural Lands Act	<p>604.006 Mapping and monitoring of agricultural lands.—</p> <ul style="list-style-type: none"> ▪ It is the intent of the Legislature that current and continuously updated information on the state's agricultural land base be available to all governmental bodies in the state, so that it may be established whether a net decline in the amount of available agricultural land is occurring. ▪ The Department of Community Affairs shall develop a program for mapping and monitoring the agricultural lands in the state. The department has the power to adopt rules necessary to carry out the purposes of this section, and it may contract with other agencies for the provision of necessary mapping and information services. ▪ In compiling the information specified in this section, the department shall use (specified data). ▪ The department shall encourage all state, regional, and local agencies and units of government to use the in planning and other activities in order to minimize the impact of governmental decisions and actions on the continued use and availability of land for agriculture. The department shall provide technical assistance to any such agency or unit of government in using the information.
163.3162, F.S.	Counties	Agricultural Lands and Practices Act / Pre-emption of county in regulating agricultural activity	<ul style="list-style-type: none"> ▪ The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state ▪ A county may not adopt an ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit any activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if such activity is regulated through implemented BMPs, interim measures, or regulations developed by DEP, DACS, or a WMD and adopted under chapter 120 as part of a statewide or regional program; or if such activity is expressly regulated by the USDA, USCOE, or USEPA. (see specified exceptions)
823.14, F.S.	Local Government	Florida Right to Farm Act / Nuisance provisions; Pre-emption of local government in regulating agricultural activity	<ul style="list-style-type: none"> ▪ The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state ▪ No farm operation shall become a public or private nuisance as a result of a change in ownership, a change in the type of farm product being produced, a change in conditions in or around the locality of the farm, or a change brought about to comply with BMPs adopted by local, state, or federal agencies if such farm has been in operation for 1 year or more since its established date of

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			<p>operation and if it was not a nuisance at the time of its established date of operation. (does not permit excessive increase in noise, odor, dust, fumes in operation adjacent to established homestead or business as of 3/15/82.)</p> <ul style="list-style-type: none"> ▪ A local government may not adopt an ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit any activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, where such activity is regulated through implemented BMPs or interim measures developed by DEP, DACS, or WMDs and adopted under chapter 120 as part of a statewide or regional program. (see specified exceptions)
576.045, F.S.	DEP/DACS	Nitrogen and Phosphorus / provides for research, BMPs, waiver of liability, presumption of compliance	<p>(4) WAIVER OF LIABILITY.—Provides for a waiver of liability /costs associated with nitrogen or phosphorus contamination of groundwater or surface water, where the contamination of groundwater or surface water is the result of fertilizer application or other soil-applied nutritional materials containing nitrogen or phosphorus, provided the property owner or leaseholder:</p> <ul style="list-style-type: none"> ▪ Provides DACS with a notice of intent to implement applicable interim measures, BMPs, or other measures adopted by DACS which have been verified by DEP to be effective; and ▪ Implements the measures as soon as practicable according to DACS rules or no longer applies fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus; or ▪ No longer applies fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus as of the effective date of this section. <p>(5) COMPLIANCE.- If the property owner or leaseholder implements DACS-adopted measures that have been verified by DEP to be effective and complies with the following, there is a presumption of compliance with state water quality standards for such criteria with respect to the application of fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus:</p> <ul style="list-style-type: none"> ▪ Provides DACS with a notice of intent to implement applicable adopted measures, and ▪ Implements the applicable measures as soon as practicable according to DACS or no longer applies fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus; or ▪ No longer applies fertilizers or other soil-applied nutritional materials containing nitrogen or phosphorus as of the effective date of this section.
373.406, F.S.	WMDs	MSSW Exemptions	<p>373.406 Exemptions.--The following exemptions shall apply:</p> <ul style="list-style-type: none"> ▪ Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, floriculture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters. ▪ Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such agricultural closed system. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, dikes, or levees.

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			<ul style="list-style-type: none"> ▪ Any district or the department may exempt from regulation under this part those activities that the district or department determines will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the district. The district and the department are authorized to determine, on a case-by-case basis, whether a specific activity comes within this exemption. ▪ Implementation of measures having the primary purpose of environmental restoration or water quality improvement on agricultural lands are exempt from regulation under this part where these measures or practices are determined by the district or department, on a case-by-case basis, to have minimal or insignificant individual and cumulative adverse impact on the water resources of the state. ▪ Implementation of interim measures or best management practices adopted pursuant to s. 403.067 that are by rule designated as having minimal individual or cumulative adverse impacts to the water resources of the state are exempt from regulation under this part.
373.407, F.S.	DACS/WMDs	MOA for an agricultural-related exemption	DACS shall enter into memoranda of understanding with the water management districts (WMDs) regarding assistance on determinations of exemptions pursuant to s. 373.406(2).
403.927, F.S.	WMDs	Use of water in farming and forestry activities	<ul style="list-style-type: none"> ▪ The Legislature recognizes the great value of farming and forestry to the state and that continued agricultural activity is compatible with wetlands protection. ▪ Agricultural activities and agricultural water management systems are authorized and are not subject to the provisions of s. 403.087 or ss. 403.91-403.929 (<i>repealed</i>). Except for aquaculture water management systems located within waters of the state, the department shall not enforce water quality standards within an agricultural water management system. The department may require a stormwater permit or appropriate discharge permit at the ultimate point of discharge from an agricultural water management system or a group of connected agricultural water management systems. Impacts of agricultural activities and agricultural water management systems on groundwater quality shall be regulated by water management districts.
403.067, F.S.	DEP/WMDs	Florida Watershed Restoration Act / Presumption of compliance with state water quality standards	<ul style="list-style-type: none"> ▪ Implementation, in accordance with FDACS-adopted BMPs that have been verified effective by DEP provides a presumption of compliance with state water quality standards and release from the provisions of s.376.307(5), for the pollutants addressed by the practices – DEP is not authorized to recover costs or damages associated with contamination of surface or ground water caused by those pollutants. Presumption of compliance for certain BMP research sites. ▪ A nonpoint source discharger included in a BMAP shall demonstrate compliance with the TMDL pollutant reductions by either implementing the appropriate BMPs or conducting water quality monitoring prescribed by DEP or a WMD. Otherwise, the discharger may be subject to enforcement action by DEP or the WMD. ▪ Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by DACS for purposes of BMP implementation are confidential, but shall be released to DEP or a WMD provided confidentiality is maintained.