

# The Florida Handbook of Solid and Hazardous Waste Regulation: State Regulation<sup>1</sup>

Michael T. Olexa and Christopher Hill<sup>2</sup>

## Legal overview

State law is similar to federal law. It consists of statutes and administrative rules (regulations). In addition to federal regulations, the management of solid and hazardous waste is also regulated under state law. Wastes regulated under state law include:

- mechanical wastes associated with the maintenance of machinery, equipment, and boats
- chemical wastes, particularly pesticides, and common household chemical and hazardous wastes
- underground storage tanks
- biological wastes, primarily the disposal of animal carcasses and by-products
- composting
- residuals (sludge), including the restrictions on application to agricultural land
- on-site sewage disposal

## Does federal law or state law take precedence?

If there is federal law on an issue, that law sets the minimum standard that always applies. While state laws may be stricter than federal laws, they cannot be inconsistent with the federal laws. While local governments may have even stricter rules than the state, the state may decide not to allow local governments to be stricter by passing a statute that explicitly prevents the local governments from making and enforcing regulations that are stricter than those of the state. Persons breaking federal and state laws can be fined under both.

## How are state government actions restricted?

To be sure that agencies deal fairly with you, Florida has passed laws that restrict the power of the state government. Three of these laws are:

- The Florida Administrative Procedure Act (FAPA)

1. This is EDIS document FE772, a publication of the Department of Food and Resource Economics, UF/IFAS Extension. Original publication date November 2008. Revised March 2023. Please visit the EDIS website at <https://edis.ifas.ufl.edu> for the currently supported version of this publication.

2. Michael T. Olexa, professor, Department of Food and Resource Economics; director, Center for Agricultural and Natural Resource Law, UF/IFAS Extension, Gainesville, FL; and member, The Florida Bar. Christopher Hill, law student, Levin College of Law, University of Florida, Gainesville, FL.

This handbook is distributed with the understanding that the authors are not engaged in rendering legal or other professional advice and that the information contained herein should not be regarded or relied on as a substitute for professional advice. This handbook is not all-inclusive in providing information to achieve compliance with laws and regulations governing the practice of agriculture.

For these reasons, using these materials constitutes an agreement to hold harmless the authors, the Center for Agricultural and Natural Resource Law, 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 or party as a result of reference to or reliance on the information contained in this handbook.

The Institute of Food and Agricultural Sciences (IFAS) is an Equal Opportunity Institution authorized to provide research, educational information and other services only to individuals and institutions that function with non-discrimination with respect to race, creed, color, religion, age, disability, sex, sexual orientation, marital status, national origin, political opinions or affiliations. For more information on obtaining other UF/IFAS Extension publications, contact your county's UF/IFAS Extension office. U.S. Department of Agriculture, UF/IFAS Extension Service, University of Florida, IFAS, Florida A & M University Cooperative Extension Program, and Boards of County Commissioners Cooperating. Andra Johnson, dean for UF/IFAS Extension.

- The Florida Sunshine Law (FSL)
- The Florida Public Records Law (FPRL)

## How do I tell my side of the story (FAPA)?

The Florida Administrative Procedure Act (Chapter 120, Florida Statutes) establishes your procedural rights:

1. the right to be heard by the agency
2. the right to receive notice of agency actions and meetings
3. the right to challenge an administrative rule's validity if substantially affected by agency actions
4. a guaranteed opportunity for those who are most affected by agency actions to use those rights

This statute allows you to have input into agency actions and rulemaking.

## How do I find out what happens at agency meetings (FSL)?

The Florida Sunshine Law (Chapter 286, Florida Statutes) declares that all meetings of any governmental body taking official action must be open to the public and the minutes must be recorded. Additionally, the public records must be made available. While this statute is not a guarantee of unconditional access to the government, it goes a long way toward keeping administrative bodies accountable to you.

## How do I find out what has happened in the past (FPRL)?

The Florida Public Records Law (Chapter 119, Florida Statutes) provides that all agency records, with a few exceptions, are available for you to inspect and copy. The exceptions apply when confidential information is necessary for an efficient government or when disclosing the information would have a negative effect on law enforcement.

## Acknowledgment

The authors are indebted to the personnel of both state and federal agencies who gave of their time and advice in the preparation of this handbook. The authors are also indebted to the O. R. and Shirley Minton and the James S. and Dorothy F. Wershow Endowments for funding assistance in the development of this handbook, and Andra Johnson, Ph.D., dean and professor, Office of Dean for Extension and the Florida Cooperative Extension Service.