

Handbook of Florida Water Regulation: Water Wells¹

Michael T. Olexa and Zachary Broome²

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decisions on which this handbook is based are subject to constant revision, portions of this publication could become outdated at any time.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

Who Regulates Water Wells?

Federal law does not directly regulate the construction of water wells. However, because there is potential for groundwater pollution and other environmental damage through well structures, some of the broad federal environmental protection statutes might come into play. For example, seepage of hazardous waste from a polluted well that contaminated one of Florida's many aquifers would come under the Comprehensive Environmental Response, Compensation, and Liability Act's (CERCLA) cleanup provisions (see [FE584](#), Comprehensive Environmental Response, Compensation, and Liability Act).

At the state level, the Florida Department of Environmental Protection (FDEP), through Chapter 373, Florida Statutes, Section 373.308, has delegated most of its statutory authority to regulate water wells to the individual Florida water management districts (FWMDs), and therefore the appropriate FWMD should always be contacted before taking any action involving water wells. The statutes and rules are designed to safeguard both the quality of water extracted from the wells and the quality of the aquifer water, both of which could potentially be polluted by intruding wells. FWMDs also regulate the amount of water extracted from a well by setting specific requirements according to well diameter and consumptive use permits. The consumptive use permits are described in more detail (see [FE604](#), Consumptive Use).

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2. Michael T. Olexa, professor, Food and Resource Economics Department, and director, Agricultural Law Center, University of Florida, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida, Gainesville, FL, and chair, Agricultural Law Committee, The Florida Bar, and Zachary Broome, student, Levin College of Law, University of Florida, Gainesville, FL 32611.

What Are the Well Construction Requirements?

A “well” is defined basically as any excavation to acquire, locate, or artificially recharge groundwater. Under the statutes, only licensed contractors may perform the construction, repair, or abandonment of wells. FWMDs provide testing and other licensing procedures for contractors. There are, however, a few important exceptions to the requirement to hire licensed contractors. In some cases, individuals can excavate wells as long as they comply with all other local or state laws. No license is required for the following:

- Homeowners (or renters) who construct a well two inches or less in diameter on their property
- Wells intended only for use for a single-family house that is the residence of the applicant, or is for use for farming purposes on the farm and not for use by the public or any residence other than that of the applicant
- Homeowners (or renters) who comply with all local and state rules and regulations for the actual construction of the well
- In situations where the governing FWMD determines that compliance with the rules would result in unnecessary hardship for the applicant

To qualify for the undue hardship exemption, a written request must be made to the governing FWMD. Regardless of exemption qualification, FDEP must be notified of a well once it comes into existence.

Construction of a well greater than two inches in diameter (such as a four-inch diameter well) must be performed only by licensed contractors. Homeowners constructing a well need to get a permit from both FDEP and their governing FWMD and FDEP. Since permitting requirements vary among the five FWMDs, homeowners should consult their governing FWMD for its specific permitting requirements. You can identify your governing FWMD and learn more about its permitting requirements online at the FWMD permitting portals at <http://flwaterpermits.com/>.

The construction, repair, or abandonment of a well will require a well permit from the appropriate FWMD. The primary exceptions to this rule include the following:

- Construction permits need not be obtained retroactively for wells constructed before 1972 (although permits are

required to repair or abandon these wells, and if the well is determined by FDEP to be a hazard to the groundwater resources)

- Construction permits need not be obtained when one wants to temporarily operate equipment for dewatering
- Construction permits need not be obtained where the district determines that requiring a permit would result in unnecessary hardship for the applicant
- Construction permits need not be obtained before construction, repair, or abandonment of any well exempted by Chapter 373, Florida Statutes, Sections 373.303(7) and 373.326 (such as for wells drilled for the purpose of obtaining oil, natural gas, minerals, or products of mining or quarrying, or for wells for inserting media to re-pressure oil or natural gas-bearing formations).

Remember that FWMDs also require a consumptive use permit for many withdrawals or diversions of water regardless of applicable well permitting exemptions. Also, imprudent pesticide use near wells may result in contamination of groundwater in the underlying aquifer, causing widespread pollution. Consequently, farmers should be familiar with all regulations designed to prevent water contamination before taking any action involving water wells. For more information about pesticide regulation, see [FE588](#), Federal Insecticide, Fungicide, and Rodenticide Act; [FE589](#), Florida Quality Protection Act; and [FE590](#), Florida Pesticide Law).

Where Must Wells Be Placed?

All proposed well sites must be pre-approved by the appropriate FWMD. Pre-approval protects against the possibility that a well will unknowingly be drilled in an area of existing groundwater contamination. FDEP provides continually updated maps of contaminated sections of the aquifer to FWMDs and pertinent county health departments. This information is available on request to applicants. FWMDs and county health departments also prescribe the minimum distances from the contaminated areas at which wells may be constructed. FWMDs are also responsible for advising applicants on the minimum well placement distances from septic tanks, drain fields, chemical storage areas, and other potential pollution sources.

What Are the Well Standards and Specifications under State Law?

FDEP publishes basic requirements for drilling techniques and materials, grouting and sealing, identification and

labeling of well heads, etc. These standards must be observed even where it is not necessary to obtain a permit or license. Again, FWMD rules supplement FDEP requirements and should be consulted.

What Are the Well Permits and Fees under State Law?

Each FWMD sets permit application fees depending primarily on the nature of the activity and the size of the well. The fees may be as little as \$1 for activities such as abandonment, but may not exceed \$100 for private residential wells or \$500 for public supply wells. No fee will be assessed for amendments of existing permits.

Construction permits are valid for a period of one year. If the construction or repair cannot be finished within one year, FWMDs have two options. FWMDs can either extend the limit or require a new permit. Most FWMDs require a consumptive use permit before a well construction permit will be approved. Some FWMDs require an artificial recharge permit to put water into the ground. Some basic aspects of consumptive use permits, which are also regulated by the individual districts, are outlined in [FE604](#), Consumptive Use Permits.

What Are the Penalties under State Law?

FDEP, FWMDs, or other governmental bodies may bring both civil and criminal penalties against violators of the statutes or rules. Constructing, repairing, or abandoning wells without a license or in violation of the other requirements is a second-degree misdemeanor punishable by a fine of up to \$500 and/or up to 60 days' imprisonment. Each agency is also authorized to bring civil suit for damages up to \$10,000 per violation. FWMDs also have the authority to impose administrative fines not to exceed \$10,000 for each offense.

Misemeanors are crimes that are punishable by imprisonment of one year or less, and felonies are crimes that are punishable by imprisonment of more than one year. Misdemeanors and felonies are further classified by degrees according to the level of severity, with first degree being the most serious crimes.

Source

Chapter 373, Florida Statutes, Sections 302 to 342

Chapter 62, Florida Administrative Code, Section 531 to 532

Title 40, Florida Administrative Code

Contact Information

Water Well Regulations (see [FE616](#), Contact Agencies)

- S-1, Florida Water Management Districts
- F-2, RCRA/CERCLA (Superfund) Hotline
- L-3, Groundwater Section

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