

## Rules Affecting Agriculture

| WMD   | Rule #                          | Title   | Summary  | Comments  |
|-------|---------------------------------|---|--|---|
| SFWMD | Ch. 40E-2                       | Consumptive Use   | Provides the parameters for water use permits. Generally, the same criteria apply to all consumptive water users. Several sections contain more detailed requirements for agricultural crops.  | Effective 10/14/08 with newly adopted LOSA Rule.        |
| SFWMD | Ch. 40 E-20                     | General Water Use Permits   | Provides the parameters for water use permits. Generally, the same criteria apply to all consumptive water users. Several sections contain more detailed requirements for agricultural crops.  | Effective 10/14/08 with newly adopted LOSA Rule.        |
| SFWMD | Incorporated by rule into 40E-2 | Water Use Basis of Review   | Contains the specific evaluation criteria for water use applications. Several sections address agricultural operations.  | Effective 10/14/08 with newly adopted LOSA Rule.        |
| SFWMD | Ch. 40 E-10                     | Water Reservations  | Defines the quantity, location and timing of waters reserved from consumptive use allocation for the protection of fish and wildlife.  | New being developed to support the Picayune Reservation |
| SFWMD | Ch. 40E-3                       | Water Wells   | Rule regulating the construction of wells that apply to all users  |   |
| SFWMD | Ch 40 E-30                      | General Permits for Water Wells   | Rule regulating the construction of wells that apply to all users  |   |
| SFWMD | Ch. 40E-4                       | Environmental Resource Permits  | Provides the parameters for environmental resource permits. Generally, the same criteria apply to all users. Several sections contain more detailed requirements for agricultural crops. Some limited exemptions from permitting criteria can be found in 40E-4  | Some ERP Permits now have BMP requirements.             |
| SFWMD | Ch. 40E-40                      | Environmental Resource Standard General Permits   | Provides the parameters for environmental resource permits. Generally, the same criteria apply to all users. Several sections contain more detailed requirements for agricultural crops.   |   |
| SFWMD | Ch. 40E-400                     | No Notice and Noticed General Environmental Resource permits  | A project must meet the specific criteria set fourth in either Section 40E-400.315 or Section 40E-400.316 to qualify for a No Notice General Environmental Resource Permit. No permit application or other documents or fees are required to be submitted. A project which meets the specified criteria is bound by the conditions set forth in Section 40E-400.215. Criteria for agricultural land uses are included. |   |
| SFWMD | Incorporated by rule into 40E 4 | Environmental Resource Permitting Basis of Review   | Contains the specific evaluation criteria for environmental resource permit applications. Several sections address agricultural operations.  |   |
| SFWMD | Ch. 40E-21                      | Water Shortage Plan   | Provides specific provisions for agriculture during a declared water shortage.   |   |
| SFWMD | Ch 40E-22                       | Regional Water Shortage Plans   | Provides specific geographic restrictions for areas of large agricultural communities during a declared water shortage   |   |
| SFWMD |                                 | <b>WORKS OF THE DISTRICT PERMITS–WATER QUALITY</b><br>These are the rules that most interact or overlap with FDACS BMPs | <i>Contains specific requirements for discharges into Lake Okeechobee or the Everglades. The majority of the criteria in both rules below apply to agriculture even though all land uses are covered in the rules.</i>   |   |

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| SFWMD  | Ch 40E-61            | Works of the District Basins       | All lands identified as within the Works of the District Lake Okeechobee Drainage Basin must comply with the provisions of this rule and comply with applicable permitting criteria and water quality performance limitations. The FDACS BMP Program is part of addressing the reduction goals for phosphorus from agricultural land uses.   | Rule Development Underway - Phosphorus Source Control Programs                                    |
| SFWMD  | CH 40E-63            | Everglades Regulatory Program      | Establishes regulatory BMP source control programs to meet SFWMD's Everglades Construction Project (ECP) FDEP permit requirements for phosphorus discharges tributary to the Everglades Protection Area (EPA). The ECP permit requires the SFWMD operate the ECP Stormwater Treatment Areas in the EAA and C-139 Basins.   | Rule Development Underway – C-139 BMP Regulatory Program  |
| SFWMD  | Ch 40E-6             | Works or Lands of the District     | <i>Regulates how structures from adjacent land uses connect to SFWMD features or works.</i> Applicable to all land uses including agricultural projects. Contains the SFWMD right-of way provisions.   |   |
| SFWWMD | 40D-2 F.A.C.         | Consumptive Use of Water           | Rules governing water use permitting   |   |
| SFWWMD | 40D-2.041            | Permits Required                   | Delineates thresholds for requiring a water use permit   |   |
| SFWWMD | 40D-2.101            | Content of Application             | Specifies information required for permit application  |   |
| SFWWMD | 40D-2.301            | Conditions for Issuance of Permits | Identifies 13 specific conditions which must be met in order to obtain a permit  |   |
| SFWWMD | 40D-2.331            | Modification of Permits            | Delineates thresholds for modifying existing permits   |   |
| SFWWMD | 40D-2.351            | Transfer of Permits                | Identifies requirements for transferring a permit  |   |
| SFWWMD | 40D-2.361            | Renewal of Permits                 | Identifies timeframes for renewal eligibility  |   |
| SFWWMD | 40D-2.381            | Standard Permit Conditions         | Identifies permit requirements for maintaining permit compliance   |   |
| SFWWMD |                      | Basis of Review of Permits         | Incorporated by Rule into 40D-2 / Provides comprehensive explanations and criteria as set forth in 40D-2 including Agricultural Supplemental form for water use permits, special conditions for permit reporting including pumpage data, crop types, acreage cultivated, irrigation application rates per crop type, soil types, irrigation methods, planting dates, season length, etc. |   |
| SFWWMD | <b>40D-4, F.A.C.</b> | <b>Surface Water Regulations</b>   | In general, new (post October 1, 1984) or expanded agricultural operations that do not qualify for SFWWMD's Agricultural Ground and Surface Water Management (AGSWM) exemption program described below must obtain an Environmental Resource Permit (ERP) under Chapter 40D-4, F.A.C. The current processing fees range from \$1600 (General ERP) to \$2500 (Individual ERP).            | There is currently no differentiation between agriculture and urban development within this rule. |
| SFWWMD |                      | Water Quality                      | Recognizes the use of three systems that provide reasonable assurance that water quality discharge standards have been met: (a) wet detention; (b) dry retention; and (c) detention with effluent filtration. <ul style="list-style-type: none"> <li>▪ Wet Detention treats the first inch of runoff from the contributing</li> </ul>  |   |

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|        |                 |  | <p>area and the pond is designed to utilize biological filtration through a littoral zone surrounding the outfall structure. These systems must be recertified every 24 months in perpetuity.</p> <ul style="list-style-type: none"> <li>▪ Dry Retention treats the first 1/2 inch of runoff OR the runoff from the first inch of rainfall. These systems must be recertified every 24 months in perpetuity.</li> <li>▪ Detention with Effluent Filtration treats the first 1/2 inch of runoff OR the runoff from the first inch of rainfall. These systems must be recertified every 18 months in perpetuity.</li> </ul>   |  |
| SWFWMD |                 | Water Quantity   | Surface water flows entering the property from offsite upgradient areas must be accepted and then conveyed separately to the historical point of discharge or allowed to commingle with the project onsite runoff and included in the treatment calculations.   |  |
| SWFWMD |                 | Wetlands Protection  | All wetlands except those isolated and less than 1/2 acre in size that are not utilized by threatened or endangered species are protected. Any proposed impacts to protected wetlands require initial scoring of the existing wetland (UMAM score) and mitigation - usually at higher than 1:1 ratios.  |  |
| SWFWMD |                 | AGSWM Alternative  | As an option for more passive alterations, the SWFWMD has adopted an AGSWM exemption program for the growers to meet ERP water resource objectives in a whole farm style approach. In general, this program works well for operations that do not propose: wetland impacts, drainage pumps, water table controlling perforated drain tile, or new ditches greater than 24 inches. Program addresses water quantity, water quality, and wetlands protection.   | <ul style="list-style-type: none"> <li>• Program unique to SWFWMD.</li> <li>• \$100 statutorily imposed exemption fee (applies to all WMDs)</li> </ul> |
| SJRWMD | Rule 40C-44.041 | Agricultural Surface Water Management Systems – Permits Required | <p>(1) Unless expressly exempt by Section 373.406, F.S., or Rules 40C-4.051 or 40C-44.051, F.A.C., requires a permit for the maintenance and operation of existing agricultural surface water management systems which serve an agricultural operation that has specified pumped discharges, or that causes or contributes to a violation of state water quality standards.</p> <p>(2) Unless expressly exempt by Section 373.406 F.S., or Rules 40C-4.051 or 40C-44.051, F.A.C., requires an environmental resource agricultural system permit for the construction, maintenance and operation of new agricultural surface water management systems, or alteration of existing systems, which drain an agricultural area greater than 2 acres and are not required to obtain a permit pursuant to Chapters 40C-4 or 40C-40, F.A.C.</p> |  |

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| SJRWMD | <b>s. 3.2</b>            | Rule 40C-44 Applicant's Handbook - Permits required             | A permit must be obtained for any stormwater management system, dam, impoundment, reservoir, appurtenant work or works which exceed the thresholds listed in section 3.3 of the Handbook.  |  |
|        | <b>s. 3.3.</b>           | Rule 40C-44 Applicant's Handbook - Thresholds                   | <b>3.3.1</b> A permit is required prior to the undertaking of any activity described in section 3.2 if the activity exceeds specified thresholds.  |  |
| SJRWMD | <b>s. 3.4</b>            | Rule 40C-44 Applicant's Handbook - Exemptions                   | Specifies the conditions for qualifying for a permitting exemption under subsection 373.406(2), F.S.   |  |
| SJRWMD | <b>40C-42.022</b>        | <b>Permits Required. (Nurseries and greenhouses)</b>            | Requires a permit is required for construction (including operation and maintenance) of a stormwater management system which serves a project that exceeds specified thresholds for impervious surfaces.   |  |
| SRWMD  |                          |   | The following types of permits are required for the corresponding agricultural or silvicultural activities:  |  |
| SRWMD  | <b><u>40B-400</u></b>    | <b>Environmental Resource Permits</b>                           | Construction of roads, low-water crossings<br>Culvert installation<br>Borrow pits<br>Barns, out-buildings, sheds<br>Poultry operations<br>Construction of docks, piers, seawalls, boat ramps, bridges, ponds<br>Alteration to drainage such as ditches, dikes, and dams<br>Repair, addition, or modification to the above<br>Dredge and fill in, on, or over a wetland, lake or stream | MFLs ( <u>40B-8</u> ) and the water shortage rule ( <u>40B-21</u> ) also affect agriculture but do not require a permit. |
| SRWMD  | <b><u>40B-4</u></b>      | <b>Environmental Resource and Works of the District Permits</b> | Any of the above-mentioned activities within the floodways of the following rivers: Suwannee, Santa Fe, Alapaha, Aucilla, Withlacoochee  |  |
| SRWMD  | <b><u>40B-3</u></b>      | <b>Permitting of Well Construction</b>                          | Construction of water wells  |  |
| SRWMD  | <b><u>40B-2</u></b>      | <b>Permitting of Water Use</b>                                  | All water uses other than residential or domestic  |  |
| NWFWMD | 40A-44, F.A.C.           | Surface Water Regulations                                       | <a href="http://www.nwfwmd.state.fl.us/permits/ruleform.htm">http://www.nwfwmd.state.fl.us/permits/ruleform.htm</a>  |  |
| NWFWMD | 40A-2, F.A.C.            | Consumptive Uses of Water                                       | <a href="http://www.nwfwmd.state.fl.us/permits/ruleform.htm">http://www.nwfwmd.state.fl.us/permits/ruleform.htm</a>  |  |
| NWFWMD | 40A-3, F.A.C.            | Regulation of Wells   | <a href="http://www.nwfwmd.state.fl.us/permits/ruleform.htm">http://www.nwfwmd.state.fl.us/permits/ruleform.htm</a>  |  |
| NWFWMD | 40A-21, F.A.C.           | Water Shortage Plan   | <a href="http://www.nwfwmd.state.fl.us/permits/ruleform.htm">http://www.nwfwmd.state.fl.us/permits/ruleform.htm</a>  |  |
| DEP    | 62-620, 621, 670, F.A.C. | AFO/CAFO  | <a href="http://www.dep.state.fl.us/water/rules_dr.htm#waste">http://www.dep.state.fl.us/water/rules_dr.htm#waste</a>  | See table below  |
| DEP    | 62-640, F.A.C.           | Bio-Solids  | <a href="http://www.dep.state.fl.us/water/wastewater/dom/docs/workshop_6-12-08_presentation.pdf">http://www.dep.state.fl.us/water/wastewater/dom/docs/workshop_6-12-08_presentation.pdf</a>  | See table below  |
| DEP    | 62-520, 522, 524, F.A.C. | Ground Water  | <a href="http://www.dep.state.fl.us/water/rules_dr.htm#waste">http://www.dep.state.fl.us/water/rules_dr.htm#waste</a><br><a href="http://www.dep.state.fl.us/water/groundwater/rule_development.htm">http://www.dep.state.fl.us/water/groundwater/rule_development.htm</a>   | See table below  |

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### Water and Wastewater Draft Rules (selected)

| Rule Title   | Description  | Status  |
|--|--|---|
| <b>62-520/522</b><br>GW Classes, Standards, and Exemptions/GW Permitting and Monitoring Requirements | Phase I – Combine rules, clean up, address ground water monitor plan procedures. Phase II - Address minimum criteria and site clean closure. | <b>Last Updated: 6/27/08</b>  |
| <b>62-524</b><br>New Potable Water Well Permitting in Delineated Areas                               | Adopt new and existing areas of ground water contamination.  | Anticipated rule development within the next 12 months.   |
| <b>62-550</b><br>PWS Standards and Monitoring  | Adopt rule to address federal Surface Water Treatment Rule – Long Term 2   | Rulemaking initiated June 15, 2007. Anticipate draft rule by March 2009. <b>Last Updated: 9/29/08</b> |
| <b>62-555</b><br>PWS Permitting  | Adopt rule to address federal Surface Water Treatment Rule – Long Term 2   | Rulemaking initiated June 15, 2007. Anticipate draft rule by March 2009. <b>Last Updated: 9/29/08</b> |
| <b>62-560</b><br>Requirements for PWS Systems Out of Compliance                                      | Adopt rule to address federal Surface Water Treatment Rule – Long Term 2   | Rulemaking initiated June 15, 2007. Anticipate draft rule by March 2009. <b>Last Updated: 9/29/08</b> |
| <b>62-620</b><br>Wastewater Facility and Activities Permitting                                       | Changes related to Animal Feeding Operations (non-NPDES).  | Anticipate ERC briefing and adoption hearings 2nd or 3rd quarter 2008. <b>Last Updated: 6/19/08</b>   |
| <b>62-621.500(3)</b><br>Generic Permit for Medium Dairies  | Develop generic permit for animal feeding operations that authorizes ground water discharges.  | Rulemaking being conducted with revisions to 62-620 FAC above. <b>Last Updated: 6/19/08</b>           |
| <b>62-621.500(3)(a)</b><br>DEP Document Generic Permit for Medium Dairies Document (Permit Document) | Develop generic permit for animal feeding operations that authorizes ground water discharges.  | Rulemaking being conducted with revisions to 62-620 FAC above. <b>Last Updated: 6/19/08</b>           |
| <b>62-640</b><br>Domestic Wastewater Residuals   | Adopt revisions to address public concerns associated with land application of residuals.  | <b>Last Updated: 6/18/08</b>  |
| <b>62-670</b><br>Wastewater Permitting Requirements for Animal Feeding Operations                    | Changes related to Animal Feeding Operations (non-NPDES).  | Rulemaking being conducted with revisions to 62-620 FAC above. <b>Last Updated: 6/19/08</b>           |

## ***Rules Affecting Agriculture***

**EPA's "Agriculture Regulatory Matrix"** <http://www.epa.gov/agriculture/agmatrix.pdf>

EPA has created a regulatory matrix titled, "[Major Existing EPA Laws and Programs That Could Affect Agricultural Producers](#)" that provides a succinct, general description of EPA's requirements for both regulatory and voluntary programs. This compliance assistance tool should be used by agricultural producers, federal and state regulators, and third party information providers who provide information and services to agricultural producers.

For assistance in obtaining the content of the above PDF document, please contact the agriculture contact at 1-888-663-2155.

### **Major Statutes**

Below is a list of major statutes containing the most important environmental requirements that affect agriculture:

- ❖ [Clean Air Act](#)
- ❖ [Clean Water Act](#)
- ❖ [Comprehensive Environmental Response, Compensation, and Liability Act](#)
- ❖ [Coastal Zone Act Reauthorization Amendments of 1990](#)
- ❖ [Emergency Planning and Community Right-To-Know Act](#)
- ❖ [Federal Insecticide, Fungicide, and Rodenticide Act](#)
- ❖ [Food Quality Protection Act](#)
- ❖ [Oil Pollution Act](#)
- ❖ [Regulatory Flexibility Act \(RFA\) and Small Business Regulatory Enforcement Fairness Act](#)
- ❖ [Resource Conservation and Recovery Act](#)
- ❖ [Safe Drinking Water Act](#)
- ❖ [Toxic Substances Control Act](#)