

# Statutory Exemptions and Transportation Laws for Agriculture

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FLORIDA FARM BUREAU FEDERATION

## **INTRODUCTION**

The Florida Farm Bureau Federation has compiled this Statutory Exemptions and Transportation Laws for Agriculture guide for use by our members. The guide contains excerpts from sections of Florida Statutes pertaining to: Definition of Development, Farm Buildings, Right-to-Farm, Duplication of Regulation, Transportation and others.

The purpose of this guide is to serve as a quick reference. The exemptions listed should not be taken as stand alone or out of context. For a better understanding of the listed exemptions, it is often necessary to refer to the actual statute referenced in the exemption and the statutory chapter.

The information provided in this guide is intended for informational purposes only and shall not be construed as legal advice or a legal opinion of Florida Farm Bureau Federation

Note: Information in the Statutory Exemptions and Transportation Laws for Agriculture guide is subject to change.

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# DEFINITION OF AGRICULTURE, ETC.

## Chapter 570 – Department of Agriculture and Consumer Services

Definitions; [570.02](#), Florida Statutes

The following words and phrases as used in this chapter and in the agricultural laws of this state, unless the context otherwise requires, shall have the meanings respectively ascribed to them in this section:

(1) “**Agriculture**” means the science and art of production of plants and animals useful to humans, including to a variable extent the preparation of these products for human use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production. For the purposes of marketing and promotional activities, seafood shall also be included in this definition.

(2) “**Agricultural business products**” means non-consumable products used in the producing, processing, distribution, and marketing of consumable farm products, including, but not limited to, machinery, equipment, and supplies.

# DEFINITION OF AGRICULTURAL PURPOSES

## Chapter 193 – Assessments

Agricultural lands; classification and assessment; [193.461](#), Florida Statutes

(5) For the purpose of this section, “**agricultural purposes**” includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products as defined in s. 823.14(3) and farm production.

# DEFINITION OF FARM, ETC.

## Chapter 823 – Florida Right to Farm Act

*The following definitions can be found in Chapter 823 of the Florida Right to Farm Act.*

Definitions; [823.14\(3\)](#), Florida Statutes

(a) “**Farm**” means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

(b) **“Farm operation”** means all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm, honeybee, or apiculture products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

(c) **“Farm product”** means any plant, as defined in s. 581.011, or animal or insect useful to humans and includes, but is not limited to, any product derived there from.

(d) **“Established date of operation”** means the date the farm operation commenced. If the farm operation is subsequently expanded within the original boundaries of the farm land, the established date of operation of the expansion shall also be considered as the date the original farm operation commenced. If the land boundaries of the farm are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent established date of operation. The expanded operation shall not divest the farm operation of a previous established date of operation.

## **GREENBELT ASSESSMENT**

### **Chapter 193 - Assessments**

*The following section describes how agricultural lands are subject to the Greenbelt assessment and ways that assessment can be removed.*

#### **Agricultural lands; classification and assessment; mandated eradication or quarantine program; [193.461](#), Florida Statutes**

(3)(b) Subject to the restrictions specified in this section, only lands that are used primarily for bona fide agricultural purposes shall be classified agricultural. The term “bona fide agricultural purposes” means good faith commercial agricultural use of the land.

1. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- a. The length of time the land has been so used
- b. Whether the use has been continuous

- c. The purchase price paid
- d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment
- e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
- f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- g. Such other factors as may become applicable.

(4)(c) Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land shall create a presumption that such land is not used primarily for bona fide agricultural purposes. Upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture, this presumption may be rebutted.

(5) For the purpose of this section, “**agricultural purposes**” includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products as defined in s. 823.14(3) and farm production.

## **Greenbelt Staff Analysis – State Legislative Affairs**

Protecting and strengthening Florida’s “Greenbelt Law” has been one of Florida Farm Bureau’s top priorities for many years. By ensuring that agricultural land is taxed based on its actual use rather than its development value, the Greenbelt Law effectively keeps agriculture as a viable option in a state with so much development potential.

- Bona fide agricultural operations are taxed according to the “use” value of those operations, rather than the development value. Generally, tax assessments for qualifying land are lower than those for other uses.
- It is not a tax “exemption” all owners of such property pay taxes.
- For property to qualify for agricultural classification, land must be used in good faith for commercial agricultural purposes.

- When determining whether or not a property qualifies. The county property appraiser considers these factors:
  - The length of time the land has been utilized for agriculture;
  - Whether the use has been continuous;
  - The purchase price paid;
  - Size, as it relates to specific agricultural uses (no minimum requirement);
  - What commonly accepted agricultural practices are being conducted
  - Whether there has been any true effort to have property contribute to the agricultural economy of the county on either a short or long term basis;
  - Whether such land is under lease, and, if so, the effective length, terms and conditions of the lease, and
  - Such other factors as may from time to time become applicable.
- An official application must be completed and submitted to your county tax assessor on or before March 1 of the year an owner first applies for the classification. January 1 is the statutory assessment date; the property must be in use on this date. Notification of approval or denial should be received on or before July 1.
- Each property maybe physically inspected before the classification is approved or denied.
- If property is leased, the lease must be in effect as of January 1. A copy of the lease may be necessary to prove that is is in effect. The owner is responsible for making sure the lessee is in compliance with all laws governing the greenbelt classification. If the lessee is not in compliance, the greenbelt classification may be revoked.
- Once you have received the greenbelt classification, notification card will be sent in late December. You should keep this card as a receipt of the ag classification.
- Agricultural purposes do not include the wholesaling, retailing or processing of farm products.

**Recent changes to the law:**

In 2013, the Florida Legislature passed HB 1193, a bill that strengthened the greenbelt law by removing from statute several situations where property appraisers could reclassify land as non agricultural.

In 2014, a “grace period” of 25 days was added for landowners who miss the application deadline due to extenuating circumstances.

# FARM NOT TO BE OR BECOME A NUISANCE

## Chapter 823 – Florida Right to Farm Act

*Florida’s farmers have a right to farm their land, as defined in the Florida Right to Farm Act. This chapter outlines the rights and protections of Florida’s farmers from citizen efforts to take any action against a farm by considering it a “nuisance.”*

### **Farm operation not to be or become a nuisance; [823.14\(4\)](#), Florida Statutes**

- (a) No farm operation which has been in operation for 1 year or more since its established date of operation and which was not a nuisance at the time of its established date of operation shall be a public or private nuisance if the farm operation conforms to generally accepted agricultural and management practices, except that the following conditions shall constitute evidence of a nuisance:
1. The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life.
  2. The presence of improperly built or improperly maintained septic tanks, water closets, or privies.
  3. The keeping of diseased animals which are dangerous to human health, unless such animals are kept in accordance with a current state or federal disease control program.
  4. The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.
- (b) 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 Best Management Practices adopted by local, state, or federal agencies if such farm has been in operation for 1 year or more since its established date of operation and if it was not a nuisance at the time of its established date of operation.
- (5) **WHEN EXPANSION OF OPERATION NOT PERMITTED.**—This act shall not be construed to permit an existing farm operation to change to a more excessive farm operation with regard to noise, odor, dust, or fumes where the existing farm operation is adjacent to an established homestead or business on March 15, 1982.
- (6) **LIMITATION ON DUPLICATION OF GOVERNMENT REGULATION.**—It is the intent of the Legislature to eliminate duplication of regulatory authority over farm operations as expressed in this subsection. Except as otherwise provided for in this section and s. 487.051(2), and notwithstanding any other provision of law, a local government may not adopt any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or other-

wise limit an 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 best management practices or interim measures developed by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or water management districts and adopted under chapter 120 as part of a statewide or regional program. When an activity of a farm operation takes place within a wellfield protection area as defined in any wellfield protection ordinance adopted by a local government, and the adopted best management practice or interim measure does not specifically address wellfield protection, a local government may regulate that activity pursuant to such ordinance. This subsection does not limit the powers and duties provided for in s. 373.4592 or limit the powers and duties of any local government to address an emergency as provided for in chapter 252.

## **Right to Farm Staff Analysis – State Legislative Affairs**

Florida Farmers strive to be good neighbors, but it is undeniable that farms necessarily produce smells, noises, dust and other things that could bother members of the public in close proximity. The Florida Right to Farm Law generally protects farms that have been in operation for more than a year from being considered a nuisance. This gives existing farmers peace of mind, knowing they are protected from lawsuits from neighbors who may move in nearby and be turned off by the smells and noises of a farm.

The Florida Right to Farm Law also protects farmers from duplicative local regulations. For the most part, local governments may not regulate activities on farms that are otherwise regulated through implemented best management practices or interim measures developed by state agencies.

These provisions play an important role in providing certainty for Florida’s farms and ranches.

# **AGRICULTURAL LAND ACKNOWLEDGMENT ACT**

## **Chapter 163 – Intergovernmental Programs**

*The following section describes the process to ensure that generally accepted agricultural practices will not be subject to interference by residential use of land contiguous to sustainable agricultural land.*

**Applications for development permits; disclosure and acknowledgment of contiguous sustainable agricultural land; [163.3163](#), Florida Statutes**

(1) This section may be cited as the “Agricultural Land Acknowledgment Act.”

(2) The Legislature finds that nonagricultural land which neighbors agricultural land may adversely affect agricultural production and farm operations on the agricultural land and may lead to the agricultural land’s conversion to urban, suburban, or other nonagricultural uses. The Legislature intends to reduce the occurrence of conflicts between agricultural and nonagricultural land uses and encourage sustainable agricultural land use. The purpose of this section is to ensure that generally accepted agricultural practices will not be subject to interference by residential use of land contiguous to sustainable agricultural land.

(3) As used in this section, the term:

(a) “Contiguous” means touching, bordering, or adjoining along a boundary. For purposes of this section, properties that would be contiguous if not separated by a roadway, railroad, or other public easement are considered contiguous.

(b) “Farm operation” has the same meaning as defined in s. [823.14](#).

(c) “Sustainable agricultural land” means land classified as agricultural land pursuant to s. [193.461](#) which is used for a farm operation that uses current technology, based on science or research and demonstrated measurable increases in productivity, to meet future food, feed, fiber, and energy needs, while considering the environmental impacts and the social and economic benefits to the rural communities.

(4)(a) Before a political subdivision issues a local land use permit, building permit, or certificate of occupancy for nonagricultural land contiguous to sustainable agricultural land, the political subdivision shall require that, as a condition of issuing the permit or certificate, the applicant for the permit or certificate sign and submit to the political subdivision, in a format that is recordable in the official records of the county in which the political subdivision is located, a written acknowledgment of contiguous sustainable agricultural land in the following form:

### **ACKNOWLEDGMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND**

I, (name of applicant), understand that my property located at (address of nonagricultural land), as further described in the attached legal description, is contiguous to sustainable agricultural land located at (address of agricultural land), as further described in the attached legal description.

I acknowledge and understand that the farm operation on the contiguous sustainable agricultural land identified herein will be conducted according to generally accepted

agricultural practices as provided in the Florida Right to Farm Act, s. 823.14, Florida Statutes.

Signature: (signature of applicant)

Date: (date)

(b) An acknowledgment submitted to a political subdivision under paragraph (a) shall be recorded in the official records of the county in which the political subdivision is located.

(c) The Department of Agriculture and Consumer Services, in cooperation with the Department of Revenue, may adopt rules to administer this section.

## **AGRICULTURAL LANDS AND PRACTICES ACT**

### **Chapter 163 – Intergovernmental Programs**

*The Agricultural Lands and Practices Act was passed in 2003 to prohibit duplicative and burdensome regulations placed on farmers and agricultural lands by governmental entities. In 2013, the Agricultural Lands and Practices Act of 2003 was amended to prohibit local governments from adopting regulations and rules already regulated by any other government entity.*

#### **Definitions; [163.3164](#), Florida Statutes**

(21) “Governmental agency” means:

- (a) The United States or any department, commission, agency, or other instrumentality thereof.
- (b) This state or any department, commission, agency, or other instrumentality thereof.
- (c) Any local government, as defined in this section, or any department, commission, agency, or other instrumentality thereof.
- (d) Any school board or other special district, authority, or governmental entity.

#### **Agricultural lands and practices; [163.3162](#), Florida Statutes**

(2)(d) “**Governmental entity**” has the same meaning as provided in s.164.1031. The term does not include a water control district established under chapter 298 or a special district created by special act for water management purposes.

- (c) Any local government, as defined in this section, or any department, commission, agency,  
or other instrumentality thereof.
- (d) Any school board or other special district, authority, or governmental entity.

(3) DUPLICATION OF REGULATION.—Except as otherwise provided in this section and s. 487.051, and notwithstanding any other law, including any provision of chapter 125 or this chapter:

(b) A governmental entity may not charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if the farm operation has a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit or implements best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program.

(c) A governmental entity may not charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if the farm operation has a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit or implements best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program.

(d) For each governmental entity that, before March 1, 2009, adopted a stormwater utility ordinance or resolution, adopted an ordinance or resolution establishing a municipal services benefit unit, or adopted a resolution stating the governmental entity's intent to use the uniform method of collection pursuant to s. 197.3632 for such stormwater ordinances, the governmental entity may continue to charge an assessment or fee for stormwater management on a bona fide farm operation on land classified as agricultural pursuant to s. 193.461, if the ordinance or resolution provides credits against the assessment or fee on a bona fide farm operation for the water quality or flood control benefit of:

1. The implementation of best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program;
2. The stormwater quality and quantity measures required as part of a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit; or
3. The implementation of best management practices or alternative measures which the landowner demonstrates to the governmental entity to be of equivalent or greater stormwater benefit than those provided by implementation of best management practices adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program, or stormwater quality and quantity measures required as part of a National Pollutant Discharge Elimination System permit, environmental resource permit, or works-of-the-district permit.

The provisions of this subsection that limit a governmental entity's authority to adopt or enforce any ordinance, regulation, rule, or policy, or to charge any assessment or fee for stormwater management, apply only to a bona fide farm operation as described in this subsection.

## **Ag Lands and Practices Staff Analysis – Government and Community Affairs**

Air and water know no boundaries, but as federal, state and local governments work to protect environmental resources through regulation, their boundaries become the source of multiple layers of duplicative regulation.

The Florida Agriculture Lands and Practices Act was passed in 2002 in an effort to reduce the amount of sources on regulation of farms. Generally, this law prevents local governments from adopting rules for practices on farms that are otherwise regulated by Department of Environmental Protection, Florida Department of Agriculture and Consumer Services or Water Management Districts.

# ENVIRONMENTAL RESOURCE PERMIT/WETLANDS

## Chapter 373 – Water Resources

Exemptions; [373.406](#), Florida Statutes

The following exemptions shall apply:

(1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.

(2) Notwithstanding s. 403.927, 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, including, but not limited to, activities that may impede or divert the flow of surface waters or adversely impact wetlands, for purposes consistent with the normal and customary practice of such occupation in the area. However, such alteration or activity may not be for the sole or predominant purpose of impeding or diverting the flow of surface waters or adversely impacting wetlands. This exemption applies to lands classified as agricultural pursuant to s. 193.461 and to activities requiring an environmental resource permit pursuant to this part. This exemption does not apply to any activities previously authorized by an environmental resource permit or a management and storage of surface water permit issued pursuant to this part or a dredge and fill permit issued pursuant to chapter 403. This exemption has retroactive application to July 1, 1984.

(3) 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.

(4) All rights and restrictions set forth in this section shall be enforced by the governing board or the Department of Environmental Protection or its successor agency, and nothing contained herein shall be construed to establish a basis for a cause of action for private litigants.

5) The department or the governing board may by rule establish general permits for stormwater management systems which have, either singularly or cumulatively, minimal environmental impact. The department or the governing board also may establish by rule exemptions or general permits that implement interagency agreements entered into pursuant to s. 373.046, s. 378.202, s. 378.205, or s. 378.402.

(6) 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. Requests to qualify for this exemption shall be submitted in writing to the district or department, and such activities shall not be commenced without a written determination from the district or department confirming that the activity qualifies for the exemption.

(7) Nothing in this part, or in any rule or order adopted under this part, may be construed to require a permit for mining activities for which an operator receives a life-of-the-mine permit under s. 378.901.

(8) Certified aquaculture activities which apply appropriate best management practices adopted pursuant to s. 597.004 are exempt from this part.

(9) 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. The district or department shall provide written notification as to whether the proposed activity qualifies for the exemption within 30 days after receipt of a written notice requesting the exemption. No activity under this exemption shall commence until the district or department has provided written notice that the activity qualifies for the exemption.

(10) 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.

# EXEMPTION OF AGRICULTURE AS DEVELOPMENT

## Chapter 380 – Land and Water Management

### Definition of development; [380.04](#), Florida Statutes

(1) The term “**development**” means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.

(3) The following operations or uses shall not be taken for the purpose of this chapter to involve “development” as defined in this section:

(e) The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

## PROHIBITED SIGNS

### Chapter 479 – Outdoor Advertising

*This section describes the type of signs that may be prohibited in certain areas.*

### Specified signs prohibited; [479.11](#), Florida Statutes

No sign shall be erected, used, operated, or maintained:

(4) Within 100 feet of any church, school, cemetery, public park, public reservation, public playground, or state or national forest, when such facility is located outside of an incorporated area, except as provided in s. 479.16.

(5)(a) Which displays intermittent lights not embodied in the sign, or any rotating or flashing light within 100 feet of the outside boundary of the right-of-way of any highway on the State Highway System, interstate highway system, or federal-aid primary highway system or which is illuminated in such a manner so as to cause glare or to impair the vision of motorists or otherwise distract motorists so as to interfere with the motorists' ability to safely operate their vehicles.

(b) If the sign is on the premises of an establishment as provided in s. 479.16(1), the local government authority with jurisdiction over the location of the sign shall enforce the provisions of this section as provided in chapter 162 and this section.

(6) Which uses the word “stop” or “danger,” or presents or implies the need or requirement of stopping or the existence of danger, or which is a copy or imitation of official signs, and which is adjacent to the right-of-way of any highway on the State Highway System, interstate highway system, or federal-aid primary highway system.

(7) Which is placed on the inside of a curve or in any manner that may prevent persons using the highway from obtaining an unobstructed view of approaching vehicles and which is adjacent to the right-of-way of any highway on the State Highway System, interstate highway system, or federal-aid primary highway system.

(8) Which is located upon the right-of-way of any highway on the State Highway System, interstate highway system, or federal-aid primary highway system.

## **FARM BUILDINGS PERMIT EXEMPTION**

### **Chapter 604 – General Agriculture Laws**

**Non-residential farm buildings, and farm fences; farm signs; [604.50](#), Florida Statutes**

Notwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. A farm sign located on a public road may not be erected, used, operated, or maintained in a manner that violates any of the standards provided in s. 479.11(4), (5)(a), and (6)-(8).

(2)As used in this section, the term:

(a)“**Farm**” has the same meaning as provided in s. 823.14.

(b) “**Farm sign**” means a sign erected, used, or maintained on a farm by the owner or lessee of the farm which relates solely to farm produce, merchandise, or services sold, produced, manufactured, or furnished on the farm.

(c) “**Nonresidential farm building**” means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(9)(c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

## **FARM EQUIPMENT STORAGE, MAINTENANCE, AND REPAIR**

### **Chapter 604 – General Agricultural Laws**

**Farm equipment; [604.40](#), Florida Statutes**

Notwithstanding any other law, ordinance, rule, or policy to the contrary, all power-drawn, power-driven, or self-propelled equipment used on a farm may be stored, maintained, or repaired by the owner within the boundaries of the owner’s farm and at least 50 feet away from any public road without limitation

## **EXEMPTION FROM BUILDING CODE**

### **Chapter 553 – Building and Construction Standards**

*The buildings and structures describes in this section are exempt from the Florida Building Code.*

**Florida building code; [553.73](#), Florida Statutes**

(10) The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(c) Nonresidential farm buildings on farms.

(h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code. In addition, such buildings that are 400 square feet or less and that are intended for use in conjunction with

one- and two-family residences are not subject to the door height and width requirements of the Florida Building Code.

(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term “chickee” means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

k) A building or structure having less than 1,000 square feet which is constructed and owned by a natural person for hunting and which is repaired or reconstructed to the same dimension and condition as existed on January 1, 2011, if the building or structure:

1. Is not rented or leased or used as a principal residence;
2. Is not located within the 100-year floodplain according to the Federal Emergency Management Agency’s current Flood Insurance Rate Map; and
3. Is not connected to an off-site electric power or water supply.

(j) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law. The Florida Building Code does not apply to temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

# FLORIDA FIRE CODE AND NONRESIDENTIAL FARM BUILDINGS

## Chapter 633 – Fire Prevention and Control

### Definition of Agricultural Pole Barn, Pole Barn Exemption from Fire Code, Nonresidential Farm Building Uses and Fire Code Regulatory Structure; [633.202](#), Florida Statutes

- (16)(a) As used in this subsection, the term:
1. “Agricultural pole barn” means a nonresidential farm building in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.
  2. “Nonresidential farm building” has the same meaning as provided in s. [604.50](#).
- (b) Notwithstanding any other provision of law:
1. A nonresidential farm building in which the occupancy is limited by the property owner to no more than 35 persons is exempt from the Florida Fire Prevention Code, including the national codes and Life Safety Code incorporated by reference.
  2. An agricultural pole barn is exempt from the Florida Fire Prevention Code, including the national codes and the Life Safety Code incorporated by reference.
  3. Except for an agricultural pole barn, a structure on a farm, as defined in s. [823.14](#)(3)(a), which is used by an owner for agritourism activity, as defined in s. [570.86](#), for which the owner receives consideration must be classified in one of the following classes:
    - a. Class 1: A nonresidential farm building that is used by the owner 12 or fewer times per year for agritourism activity with up to 100 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal pursuant to this section.
    - b. Class 2: A nonresidential farm building that is used by the owner for agritourism activity with up to 300 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is

not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal pursuant to this section.

- c. Class 3: A structure or facility that is used primarily for housing, sheltering, or otherwise accommodating members of the general public. A structure or facility in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is subject to the Florida Fire Prevention Code.

(c) The State Fire Marshal shall adopt rules to administer this section, including, but not limited to:

1. The use of alternative life safety and fire prevention standards for structures in Classes 1 and 2;
2. Notification and inspection requirements for structures in Classes 1 and 2;
3. The application of the Florida Fire Prevention Code for structures in Class 3; and
4. Any other standards or rules deemed necessary in order to facilitate the use of structures for agritourism activities.

## **WATER USE**

### **Chapter 403 – Environmental Control**

#### **Use of water in farming and forestry activities; [403.927](#), Florida Statutes**

(1) The Legislature recognizes the great value of farming and forestry to this state and that continued agricultural activity is compatible with wetlands protection. In order to avoid unnecessary expense and delay from duplicative programs, it is the intent of the Legislature to provide for the construction and operation of agricultural water management systems under authority granted to water management districts and to control, by the department or by delegation of authority to water management districts, the ultimate discharge from agricultural water management systems.

(2) Agricultural activities and agricultural water management systems are authorized by this section and are not subject to the provisions of s. 403.087 or <sup>1</sup>ss. 403.91-403.929. 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.

(4) As used in this section, the term:

(a) **“Agricultural activities”** includes all necessary farming and forestry operations which are normal and customary for the area, such as site preparation, clearing, fencing, contouring to prevent soil erosion, soil preparation, plowing, planting, cultivating, harvesting, fallowing, leveling, construction of access roads, placement of bridges and culverts, and implementation of best management practices adopted by the Department of Agriculture and Consumer Services or practice standards adopted by the United States Department of Agriculture’s Natural Resources Conservation Service, provided such operations are not for the sole or predominant purpose of impeding or diverting the flow of surface waters or adversely impacting wetlands.

(b) **“Agricultural water management systems”** means farming and forestry water management or irrigation systems and farm ponds which are permitted pursuant to chapter 373 or which are exempt from the permitting provisions of that chapter.

(c) **“Farm pond”** means a pond located on a farm, used for farm purposes, as determined by water management district rule.

**Permits; general issuance; denial; revocation; prohibition; penalty; [403.087](#), Florida Statutes**

(1) A stationary installation that is reasonably expected to be a source of air or water pollution must not be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the department, unless exempted by department rule. In no event shall a permit for a water pollution source be issued for a term of more than 10 years, nor may an operation permit issued after July 1, 1992, for a major source of air pollution have a fixed term of more than 5 years. However, upon expiration, a new permit may be issued by the department in accordance with this chapter and the rules of the department.

- (7) A permit issued pursuant to this section does not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permit-holder has:
- (a) Submitted false or inaccurate information in the application for the permit;
  - (b) Violated law, department orders, rules, or conditions which directly relate to the permits
  - (c) Failed to submit operational reports or other information required by department rule which directly relate to the permit and has refused to correct or cure such violations when requested to do so; or
  - (d) Refused lawful inspection under s. 403.091 at the facility authorized by the permit.

## **Water Use Staff Analysis – Government and Community Affairs**

Water is the basic ingredient for the success of the economy of Florida. Whether its tourism seeking the beaches and water parks, development needing a consistent supply of water for residents, or the daily needs of water for growing an agricultural crop; all are dependent on a sustainable source of water.

Florida Farm Bureau supports sound science in the development of water policy and works closely with the Florida Department of Environmental Protection, the five Water Management Districts, and the Florida Department of Agriculture and Consumer Service/ Office of Agricultural Water Policy to ensure that agriculture has access to an adequate quantity of water of sufficient quality to remain competitive in a dynamic global marketplace.

# POLLUTANT DISCHARGE

## Chapter 376 – Pollutant Discharge Prevention and Removal

### **Water quality assurance trust fund; [376.307](#), Florida Statutes**

(5) Except as otherwise provided by law, the department shall recover to the use of the fund from a person or persons at any time causing or having caused the discharge or from the Federal Government, jointly and severally, all sums owed or expended from the fund, pursuant to s. 376.308, except that the department may decline to pursue such recovery if it finds the amount involved too small or the likelihood of recovery too uncertain. Sums recovered as a result of damage due to discharge of a pollutant or other similar disaster shall be apportioned between the fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed there from as a result of such disaster. Any request for reimbursement to the fund for such costs, if not paid within 30 days of demand, shall be turned over to the department for collection.

## PRESUMPTION OF COMPLIANCE

### Chapter 403 – Environmental Control

### **Establishment and implementation of total maximum daily loads; [403.067](#), Florida Statutes**

#### **(6) Calculation and Allocation:**

##### *(a) Calculation of total maximum daily load.*

1. Prior to developing a total maximum daily load calculation for each water body or water body segment on the list specified in subsection (4), the department shall coordinate with applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources to determine the information required, accepted methods of data collection and analysis, and quality control/quality assurance requirements. The analysis may include mathematical water quality modeling using approved procedures and methods.

2. The department shall develop total maximum daily load calculations for each water body or water body segment on the list described in subsection (4) according to the priority ranking and schedule unless the impairment of such waters is due solely to activities other than point and nonpoint sources of pollution. For waters determined to be impaired due solely to factors other than point and nonpoint sources of pollution, no total maximum daily load will be required. A total maximum daily load may be required for those waters that are impaired predominantly due to activities other than point and nonpoint sources. The total maximum daily load calculation shall establish the amount of a pollutant that a water body or water body segment may receive from all sources without exceeding water quality standards, and shall account for seasonal variations and include a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. The total maximum daily load may be based on a pollutant load reduction goal developed by a water management district, provided that such pollutant load reduction goal is promulgated by the department in accordance with the procedural and substantive requirements of this subsection.

*b) Allocation of total maximum daily loads.* The total maximum daily loads shall include establishment of reasonable and equitable allocations of the total maximum daily load between or among point and nonpoint sources that will alone, or in conjunction with other management and restoration activities, provide for the attainment of the pollutant reductions established pursuant to paragraph (a) to achieve water quality standards for the pollutant causing impairment.

(The allocations may establish the maximum amount of the water pollutant that may be discharged or released into the water body or water body segment in combination with other discharges or releases. Allocations may also be made to individual basins and sources or as a whole to all basins and sources or categories of sources of inflow to the water body or water body segments. An initial allocation of allowable pollutant loads among point and nonpoint sources may be developed as part of the total maximum daily load. However, in such cases, the detailed allocation to specific point sources and specific categories of nonpoint sources shall be established in the basin management action plan pursuant to subsection (7). The initial and detailed allocations shall be designed to attain the pollutant reductions established pursuant to paragraph (a) and shall be based on consideration of the following:

1. Existing treatment levels and management practices;
2. Best management practices established and implemented pursuant to paragraph (7)(c);
3. Enforceable treatment levels established pursuant to state or local law or permit;
4. Differing impacts pollutant sources and forms of pollutant may have on water quality;
5. The availability of treatment technologies, management practices, or other pollutant reduction measures;
6. Environmental, economic, and technological feasibility of achieving the allocation;
7. The cost benefit associated with achieving the allocation;
8. Reasonable timeframes for implementation;
9. Potential applicability of any moderating provisions such as variances, exemptions, and mixing zones; and
10. The extent to which nonattainment of water quality standards is caused by pollution sources outside of Florida, discharges that have ceased, or alterations to water bodies prior to the date of this act.

*(c) Adoption of rules.* The total maximum daily load calculations and allocations established under this subsection for each water body or water body segment shall be adopted by rule by the secretary pursuant to ss. 120.536(1), 120.54, and 403.805. Where additional data collection and analysis are needed to increase the scientific precision and accuracy of the total maximum daily load, the department is authorized to adopt phased total maximum daily loads that are subject to change as additional data becomes available. Where phased total maximum daily loads are proposed, the department shall, in the detailed statement of facts and circumstances justifying the rule, explain why the data are inadequate so as to justify a phased total maximum daily load. The rules adopted pursuant to this paragraph shall not be subject to approval by the Environmental Regulation Commission. As part of the rule development process, the department shall hold at least one public workshop in the vicinity of the water body or water body segment for which the total maximum daily load is being developed. Notice of the public workshop shall be published not less than 5 days nor more than 15 days before the public workshop in a newspaper of general circulation in the county or counties containing the water bodies or water body segments for which the total maximum daily load calculation and allocation are being developed.

## **(7) Development of Basin Management Plans and Implementation of Total Maximum Daily Loads.**

### *a) Basin management action plans.—*

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such a plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule for implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies.

The management strategies may include regional treatment systems or other public works, where appropriate, and, in the basin listed in subsection (10) for which a basin management action plan has been adopted, voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6)(b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). Where appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, prior to the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and

7. The provisions of the department's rule relating to the equitable abatement of pollutants into surface waters shall not be applied to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities or discharges has been adopted under this section.

*(b) Total maximum daily load implementation (TMDL).—*

1. The department shall be the lead agency in coordinating the implementation of the total maximum daily loads through existing water quality protection programs. Application of a total maximum daily load by a water management district must be consistent with this section and shall not require the issuance of an order or a separate action pursuant to s. 120.536(1) or s. 120.54 for the adoption of the calculation and allocation previously established by the department. Such programs may include, but are not limited to:

a. Permitting and other existing regulatory programs, including water-quality-based effluent limitations;

b. Non-regulatory and incentive-based programs, including best management practices, cost sharing, waste minimization, pollution prevention, agreements established pursuant to s. 403.061(21), and public education;

c. Other water quality management and restoration activities, for example surface water improvement and management plans approved by water management districts or basin management action plans developed pursuant to this subsection;

d. Trading of water quality credits or other equitable economically based agreements;

e. Public works including capital facilities; or

f. Land acquisition.

water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies

not less than 5 days nor more than 15 days before the public meeting. A basin management action plan shall not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement the provisions of this section.

5. The basin management action plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures set forth in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 4.

6. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum load or waste-load allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

2. For a basin management action plan adopted pursuant to paragraph (a), any management strategies and pollutant reduction requirements associated with a pollutant of concern for which a total maximum daily load has been developed, including effluent limits set forth for a discharger subject to NPDES permitting, if any, must be included in a timely manner in subsequent NPDES permits or permit modifications for that discharger.

The department shall not impose limits or conditions implementing an adopted total maximum daily load in an NPDES permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted basin management action plan.

a. Absent a detailed allocation, total maximum daily loads shall be implemented through NPDES permit conditions that provide for a compliance schedule. In such instances, a facility's NPDES permit must allow time for the issuance of an order adopting the basin management action plan. The time allowed for the issuance of an order adopting the plan shall not exceed 5 years. Upon issuance of an order adopting the plan, the permit must be reopened or renewed, as necessary, and permit conditions consistent with the plan must be established. Notwithstanding the other provisions of this subparagraph, upon request by an NPDES permittee, the department as part of a permit issuance, renewal, or modification may establish individual allocations prior to the adoption of a basin management action plan.

b. For holders of NPDES municipal separate storm sewer system permits and other stormwater sources, implementation of a total maximum daily load or basin management action plan must be achieved, to the maximum extent practicable, through the use of best management practices or other management measures.

c. The basin management action plan does not relieve the discharger from any requirement to obtain, renew, or modify an NPDES permit or to abide by other requirements of the permit.

d. Management strategies set forth in a basin management action plan to be implemented by a discharger subject to permitting by the department must be completed pursuant to the schedule set forth in the basin management action plan. This implementation schedule may extend beyond the 5-year term of an NPDES permit.

e. Management strategies and pollution reduction requirements set forth in a basin management action plan for a specific pollutant of concern shall not be subject to challenge under chapter 120 at the time they are incorporated, in an identical form, into a subsequent NPDES permit or permit modification.

f. For nonagricultural pollutant sources not subject to NPDES permitting but permitted pursuant to other state, regional, or local water quality programs, the pollutant reduction actions adopted in a basin management action plan shall be implemented to the maximum extent practicable as part of those permitting programs.

g. A nonpoint source discharger included in a basin management action plan must demonstrate compliance with the pollutant reductions established under subsection (6) by either implementing (c) or conducting water quality monitoring prescribed by the department or a water management district. A nonpoint source discharger may, in accordance with department rules, supplement the implementation of best management practices with water quality credit trades in order to demonstrate compliance with the pollutant reductions established under subsection (6).

h. A nonpoint source discharger included in a basin management action plan may be subject to enforcement action by the department or a water management district based upon a failure to implement the responsibilities set forth in sub-subparagraph g.

i. A landowner, discharger, or other responsible person who is implementing applicable management strategies specified in an adopted basin management action plan shall not be required by permit, enforcement action, or otherwise to implement additional management strategies to reduce pollutant loads to attain the pollutant reductions established pursuant to subsection (6) and shall be deemed to be in compliance with this section. This subparagraph does not limit the authority of the department to amend a basin management action plan as specified in subparagraph (a)5.

*(c) Best management practices.—*

1. The department, in cooperation with the water management districts and other interested parties, as appropriate, may develop suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for nonagricultural nonpoint pollutant sources in allocations developed pursuant to subsection (6) and this subsection. These practices and measures may be adopted by rule by the department and the water management districts and, where adopted by rule, shall be implemented by those parties responsible for nonagricultural nonpoint source pollution.

2. The Department of Agriculture and Consumer Services may develop and adopt by rule pursuant to ss. 120.536(1) and 120.54 suitable interim measures, best management practices, or other measures necessary to achieve the level of pollution reduction established by the department for agricultural pollutant sources in allocations developed pursuant to subsection (6) and this subsection or for programs implemented pursuant to paragraph (13)(b).

These practices and measures may be implemented by those parties responsible for agricultural pollutant sources and the department, the water management districts, and the Department of Agriculture and Consumer Services shall assist with implementation. In the process of developing and adopting rules for interim measures, best management practices, or other measures, the Department of Agriculture and Consumer Services shall consult with the department, the Department of Health, the water management districts, representatives from affected farming groups, and environmental group representatives. Such rules must also incorporate provisions for a notice of intent to implement the practices and a system to assure the implementation of the practices, including recordkeeping requirements.

3. Where interim measures, best management practices, or other measures are adopted by rule, the effectiveness of such practices in achieving the levels of pollution reduction established in allocations developed by the department pursuant to subsection (6) and this subsection or in programs implemented pursuant to paragraph (13)(b) must be verified at representative sites by the department. The department shall use best professional judgment in making the initial verification that the best management practices are reasonably expected to be effective and, where applicable, must notify the appropriate water management district or the Department of Agriculture and Consumer Services of its initial verification before the adoption of a rule proposed pursuant to this paragraph.

Implementation, in accordance with rules adopted under this paragraph, of practices that have been initially verified to be effective, or verified to be effective by monitoring at representative sites, by the department, shall provide a presumption of compliance with state water quality standards and release from the provisions of s. 376.307(5) for those pollutants addressed by the practices, and the department is not authorized to institute proceedings against the owner of the source of pollution to recover costs or damages associated with the contamination of surface water or groundwater caused by those pollutants. Research projects funded by the department, a water management

district, or the Department of Agriculture and Consumer Services to develop or demonstrate interim measures or best management practices shall be granted a presumption of compliance with state water quality standards and a release from the provisions of s. 376.307(5). The presumption of compliance and release is limited to the research site and only for those pollutants addressed by the interim measures or best management practices. Eligibility for the presumption of compliance and release is limited to research projects on sites where the owner or operator of the research site and the department, a water management district, or the Department of Agriculture and Consumer Services have entered into a contract or other agreement that, at a minimum, specifies the research objectives, the cost-share responsibilities of the parties, and a schedule that details the beginning and ending dates of the project.

4. Where water quality problems are demonstrated, despite the appropriate implementation, operation, and maintenance of best management practices and other measures required by rules adopted under this paragraph, the department, a water management district, or the Department of Agriculture and Consumer Services, in consultation with the department, shall institute a reevaluation of the best management practice or other measure. Should the reevaluation determine that the best management practice or other measure requires modification, the department, a water management district, or the Department of Agriculture and Consumer Services, as appropriate, shall revise the rule to require implementation of the modified practice within a reasonable time period as specified in the rule.

5. Agricultural records relating to processes or methods of production, costs of production, profits, or other financial information held by the Department of Agriculture and Consumer Services pursuant to subparagraphs 3. and 4. or pursuant to any rule adopted pursuant to subparagraph 2. are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Upon request, records made confidential and exempt pursuant to this subparagraph shall be released to the department or any water management district provided that the confidentiality specified by this subparagraph for such records is maintained.

6. The provisions of subparagraphs 1. and 2. do not preclude the department or water management district from requiring compliance with water quality standards or with current best management practice requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally,

subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules adopted by the department that are necessary to maintain a federally delegated or approved program.

## **Environmental Control/Presumption of Compliance Staff Analysis – Government and Community Affairs**

The State of Florida is aggressively addressing water bodies where Total Maximum Daily Load (TMDL) pollutant levels have been exceeded. The primary method used is to develop a Basin management Action Plan (BMAP) of the water basin where the TMDL has been exceeded. This is a public process where all water user groups develop consensus on a five-year plan to address the exceedance. The Florida Department of Environmental Protections (FDEP) approves the plan and then through monitoring, determines the success of the plan at the end of the first iteration. FDEP in conjunction with the water user groups then develop a plan for the second five-years if the TMDL is not met.

Florida agriculture is key to the success of TMDL compliance and farmers are required to either adopt state approved Best Management Practices (BMPs) or monitor water quality to demonstrate they are not a contributor to the non-compliance of a TMDL. Florida Farm Bureau is aggressively promoting BMPs to all farmers as a means to improve water use, decrease nutrient movement away from the targeted crop, and lower input costs, thus increasing the efficiency of the overall operation. Additionally, implementing state approved BMPs provides a presumption of compliance and a release of liability per 376.307(5), Florida Statutes for those pollutants address by the practices.

## **SALES TAX EXEMPTIONS**

### **Chapter 212 – Tax on Sales, Use, and Other Transactions**

*Florida's farmers and ranchers that are engaged in bona fide agricultural production are exempt from paying a sales tax on the following transactions.*

#### **Tax on rental or license fee for use of real property; [212.031](#), Florida Statutes**

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

**Tax on diesel fuel for business purposes; purchase, storage, and use; [212.0501](#), Florida Statutes**

(1) It is declared to be the legislative intent that every person is exercising a taxable privilege who purchases any diesel fuel as defined in chapter 206 for use by that person in a trade or business.

(2) Each person who purchases diesel fuel for consumption, use, or storage by a trade or business shall register as a dealer and remit a use tax, at the rate of 6 percent, on the total cost price of diesel fuel consumed.

(3) For purposes of this section, “consumption, use, or storage by a trade or business” does not include those uses of diesel fuel specifically exempt on account of residential purposes; or in any tractor, vehicle, or other equipment used exclusively on a farm or for processing farm products on the farm, no part of which diesel fuel is used in any licensed motor vehicle on the public highways of this state; or the purchase or storage of diesel fuel held for resale.

(5) Diesel fuel upon which the fuel taxes pursuant to chapter 206 have been paid is exempt from the tax imposed by this chapter. Liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised is exempt from the tax imposed by this chapter; however, such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the fuel to be exempted is for the exclusive use designated herein.

**State taxes imposed on motor fuel; [206.41](#), Florida Statutes**

(4)(c)1. Any person who uses any motor fuel for agricultural, aquacultural, commercial fishing, or commercial aviation purposes on which fuel the tax imposed by paragraph (1)(e), paragraph (1)(f), or paragraph (1)(g) has been paid is entitled to a refund of such tax.

2. For the purposes of this paragraph, “agricultural and aquacultural purposes” means motor fuel used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm, and no part of which fuel

is used in any vehicle or equipment driven or operated upon the public highways of this state. This restriction does not apply to the movement of a farm vehicle, or farm equipment, citrus harvesting equipment, or citrus fruit loaders between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper shall be also deemed an agricultural purpose.

**Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions;**[212.07](#), Florida Statutes

(5)(a) The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by this chapter provided such sales are made directly by the producers. The producers shall be entitled to such exemptions although the livestock so sold in this state may have been registered with a breeders' or registry association prior to the sale and although the sale takes place at a livestock show or race meeting, so long as the sale is made by the original producer and within this state. When sales of livestock, poultry, or other farm products are made to consumers by any person, as defined herein, other than a producer, they are not exempt from the tax imposed by this chapter. The foregoing exemption does not apply to ornamental nursery stock offered for retail sale by the producer.

(b) Sales of race horses at claiming races are taxable; however, if sufficient information is provided by race track officials to properly administer the tax, sales tax is due only on the maximum single amount for which a horse is sold at all races at which it is claimed during an entire racing season.

(6) It is specifically provided that the use tax as defined herein does not apply to livestock and livestock products, to poultry and poultry products, or to farm and agricultural products, when produced by the farmer and used by him or her and members of the farmer's family and his or her employees on the farm.

(7) Provided, however, that each and every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or for sale in the process of preparing, finishing, or manufacturing such agricultural commodity for the ultimate retail consumer trade shall be and is exempted from any and all provisions of this chapter, including payment of the tax applicable to the sale, storage, use, or transfer, or any other utilization or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer; in no case shall more than one tax be exacted.

**Sales, rental, use, consumption, distribution, and storage tax; specified exemptions; [212.08](#), Florida Statutes**

The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

*(3) Exemptions; Certain Farm Equipment -*

There shall be no tax on the sale, rental, lease, use, consumption, or storage for use in this state of power farm equipment used exclusively on a farm or in a forest in the agricultural production of crops or products as produced by those agricultural industries included in s. 570.02(1), or for fire prevention and suppression work with respect to such crops or products. Harvesting may not be construed to include processing activities. This exemption is not forfeited by moving farm equipment between farms or forests. However, this exemption shall not be allowed unless the purchaser, renter, or lessee signs a certificate stating that the farm equipment is to be used exclusively on a farm or in a forest for agricultural production or for fire prevention and suppression, as required by this subsection. Possession by a seller, lessor, or other dealer of a written certification by the purchaser, renter, or lessee certifying the purchaser's, renter's, or lessee's entitlement to an exemption permitted by this subsection relieves the seller from the responsibility of collecting the tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption.

*(5) Exemptions; Account of Use.—*

(a) **Items in agricultural use and certain nets.**—There are exempt from the tax imposed by this chapter nets designed and used exclusively by commercial fisheries; disinfectants, fertilizers, insecticides, pesticides, herbicides, fungicides, and weed killers used for application on crops or groves, including commercial nurseries and home vegetable gardens, used in dairy barns or on poultry farms for the purpose of protecting poultry or livestock, or used directly on poultry or livestock; animal health products that are administered to, applied to, or consumed by livestock or poultry to alleviate pain or cure or prevent sickness, disease, or suffering, including, but not limited to, antiseptics, absorbent cotton, gauze for bandages, lotions, vaccines, vitamins, and worm remedies; aquaculture health products that are used by aquaculture producers, as defined in s. [597.0015](#), to prevent or treat fungi, bacteria, and parasitic diseases; portable containers

or movable receptacles in which portable containers are placed, used for processing farm products; field and garden seeds, including flower seeds; nursery stock, seedlings, cuttings, or other propagative material purchased for growing stock; seeds, seedlings, cuttings, and plants used to produce food for human consumption; cloth, plastic, and other similar materials used for shade, mulch, or protection from frost or insects on a farm; generators used on poultry farms; and liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised; however, such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein. Also exempt are cellophane wrappers, glue for tin and glass (apiarists), mailing cases for honey, shipping cases, window cartons, and baling wire and twine used for baling hay, when used by a farmer to contain, produce, or process an agricultural commodity.

**(e) Gas or electricity used for certain agricultural purposes**

1. Butane gas, propane gas, natural gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is also deemed an exempt use.

2. Electricity used directly or indirectly for production, packing, or processing of agricultural products on the farm, or used directly or indirectly in a packinghouse, is exempt from the tax imposed by this chapter. As used in this subsection, the term “packinghouse” means any building or structure where fruits, vegetables, or meat from cattle or hogs are packed or otherwise prepared for market or shipment in fresh form for wholesale distribution. The exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail. This exemption applies only if the electricity used for the exempt purposes is separately metered. If the electricity is not separately metered, it is conclusively presumed that some portion of the electricity is used for a nonexempt purpose, and all of the electricity used for such purposes is taxable.

(1) **Growth enhancers or performance enhancers for cattle.**—There is exempt from the tax imposed by this chapter the sale of performance-enhancing or growth-enhancing products for cattle.

(7) ***Miscellaneous Exemptions.***— Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(7)(d) ***Feeds.***—Feeds for poultry, ostriches, and livestock, including racehorses and dairy cows, are exempt.

### **Exemption for Farm Trailers Weighing 12,000 Pounds or Less; [212.08 \(3\)\(b\)](#), Florida Statutes**

**Effective July 1, 2015**, sales tax may not be imposed on that portion of the sales price below \$20,000 for a trailer weighing 12,000 pounds or less purchased by a farmer for exclusive use in agricultural production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm products to another. The exemption is not forfeited by using a trailer to transport the farmer's farm equipment. The exemption does not apply to the lease or rental of a trailer. The exemption will apply whether or not the trailer is licensed under Chapter 320, Florida Statutes (F.S.), for highway use.

**Example:** Farmer purchases a cattle trailer weighing less than 12,000 pounds for a purchase price of \$26,000.00 for exclusive use in agricultural production or to transport cattle from his or her farm to a place where the cattle are sold. Sales tax will be imposed only on the purchase price that exceeds \$20,000.00, which in this example is \$6,000.00.

The exemption will not be allowed unless the purchaser furnishes the seller a written certificate that the purchased items qualify for the exemption under Section (s.) 212.08 (3), F.S.

**Sales of Stakes Used to Support Plants During Agricultural Production; [212.08 \(5\)\(a\)](#), Florida Statutes**

**Effective July 1, 2015**, the sale of stakes used by a farmer to support plants during agricultural production is exempt from sales tax.

The term "agricultural production" means the production of plants and animals useful to humans, including the preparation, planting, cultivating, and harvesting of these products or any other practices necessary to accomplish production of these products through the harvest phase, including storage of raw products on a farm. The term includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and all forms of farm products and farm production.

The exemption is not permitted unless the purchaser signs a certificate stating that the stakes are purchased to support plants during agricultural production.

**Qualifying Power Farm Equipment Exemption Expanded to Include Replacement Parts, Accessories, Repairs, and Power Farm Equipment Used Through the Storage Phase of Production; [212.08 \(3\)\(a\)](#), Florida Statutes**

**Effective July 1, 2015**, the sale, rental, lease, use, consumption, repair, and storage for use in Florida of power farm equipment or irrigation equipment, including replacement parts and accessories for power farm equipment or irrigation equipment are exempt from sales tax. The exemption includes power farm equipment used in the storage of raw products on a farm.

Examples of qualifying "power farm equipment" include, but are not limited to: augers, combines, conveyors, disks, dozers, feeding systems, forklifts, generators, harrows, hay balers, irrigation motors, mowers, plows, power units, pumps, refrigeration equipment, skidders, and tractors.

Examples of qualifying parts and accessories include, but are not limited to: tires, batteries, radios, global positioning systems, replacement parts, blades, disks, hoses, pumps, sprinkler heads, conveyor belts, lubricants, and gauges.

In order for the exemption to apply, the power farm equipment must be used exclusively on a farm or in a forest in the agricultural production of crops or products as produced by agricultural industries included in Section (s.) 570.02(1), Florida Statutes (F.S.), or for fire prevention and suppression work with respect to such crops or products.

The exemption will not be allowed unless the purchaser furnishes the seller a written certificate that the purchased items qualify for the exemption under s. 212.08(3), F.S.

# Sales Tax Exemptions Staff Analysis – State Legislative Affairs

## What is currently exempt in Florida?

**Tax on rental or license fee for use of real property;** [212.031](#), Florida Statutes

**Diesel in ag production;** Statutory Reference; [212.0501](#), Florida Statutes

◦ Fuel used in any tractor, vehicle, or other equipment used exclusively on a farm or for processing farm products on the farm

**Poultry Heating fuel;** [212.0501 \(5\)](#), Florida Statutes

◦ Fuel used to heat a structure where started pullets or broilers are raised.

**Power farm equipment used exclusively for agricultural purpose;** [212.08\(3\)](#), Florida Statutes

◦ Includes sale, rental, lease, use, consumption, or storage.

◦ Covers production and fire suppression.

◦ Processing is not included.

◦ Requires possession of a written certification by the buyer to relieve seller responsibility.

**Items in agricultural use and certain nets;** [212.08\(5\)\(a\)](#), Florida Statutes

◦ **nets** designed and used exclusively by commercial fisheries;

◦ **disinfectants, fertilizers, insecticides, pesticides, herbicides, fungicides, and weed killers** used for application on crops or groves, including commercial nurseries and home vegetable gardens, used in dairy barns or on poultry farms for the purpose of protecting poultry or livestock, or used directly on poultry or livestock;

◦ portable **containers** or movable receptacles in which portable containers are placed, used for **processing** farm products;

◦ **generators** used on poultry farms;

◦ liquefied petroleum **gas** or other fuel used to heat a structure in which started pullets or broilers are raised;

- o cellophane wrappers, glue for tin and glass (apiarists), mailing cases for **honey**, shipping cases, window cartons;
- o **baling wire** and twine used for baling hay, when used by a farmer to contain, produce, or process an agricultural commodities;
- o field and garden **seeds**, including flower seeds; nursery stock, seedlings, cuttings, or other propagative material purchased for growing stock; seeds, seedlings, cuttings, and plants used to produce food for human consumption;
- o cloth, plastic, and other similar materials used for shade, mulch, or **protection from frost or insects** on a farm;
- o such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein

**Gas or electricity used for certain agricultural purposes; [212.08\(5\)\(e\)](#), Florida Statutes**

- o Butane gas, propane gas, natural gas, and all other forms of liquefied petroleum gases are exempt
  - ✦ Must be used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products
  - ✦ Can't be used for operating on highways except for farm to farm Electricity used directly or indirectly for production, packing, or processing of agricultural products on the farm, or used directly or indirectly in a packinghouse
  - ✦ "packinghouse" means any building or structure where fruits, vegetables, or meat from cattle or hogs are packed or otherwise prepared for market or shipment in fresh form for wholesale distribution.
  - ✦ Does not include structures with retail
  - ✦ Must be separately metered

**Growth enhancers or performance enhancers for cattle; [212.08\(5\)\(l\)](#), Florida Statutes**

- o The sale of performance-enhancing or growth-enhancing products for cattle are exempt.

**Miscellaneous Exemptions; [212.08\(7\)\(d\)](#), Florida Statutes**

Feeds.—Feeds for poultry, ostriches, and livestock, including racehorses and dairy cows, are exempt.

**Tax exemptions passed in the 2105 Legislative session may require submitting an exemption certificate at the time of purchase.**

◦ Farm trailers weighing 12,000 pounds or less Exemption certificate can be found at <http://dor.myflorida.com/dor/tips/tip15a01-10.html>

◦ Stakes used to support plants during agricultural production Exemption certificate can be found at <http://dor.myflorida.com/dor/tips/tip15a01-15.html>

◦ Qualifying farm equipment expanded to include replacement parts, accessories, repairs, and power farm equipment used through the storage phase of production Exemption certificate can be found at <http://dor.myflorida.com/dor/tips/tip15a01-11.html>

**\*NOTE: For more specific information, please contact the Department of Revenue.**

## **DEPARTMENT ACCESS TO BUSINESSES AND VEHICLES**

### **Chapter 570 – Department of Agriculture and Consumer Services**

*The Florida Department of Agriculture and Consumer Services (FDACS) has the ability to regulate, oversee and enforce certain statutes and laws regarding farm practices.*

#### **Access to Places of Business and Vehicles; [570.15](#), Florida Statutes**

(1)(a) Any duly authorized employee of the department shall have full access at all reasonable hours to inspect:

1. All:
  - a. Places of business;
  - b. Factories;
  - c. Farm buildings;
  - d. Carriages;
  - e. Railroad cars;
  - f. Trucks;

g. Motor vehicles, except private passenger automobiles with no trailer in tow, travel trailers, camping trailers, van conversions, and motor homes as defined in s. 320.01(1)(b), or pickup trucks not carrying agricultural, horticultural, or livestock products and which have visible access to the entire cargo area, or city, county, state, or federal vehicles;

h. Truck and motor vehicle trailers; and

i. Vessels which are used or could be used in the production, manufacture, storage, sale, or transportation within the state of any food product; any agricultural, horticultural, or livestock product; or any article or product with respect to which any authority is conferred by law on the department; and

2. All records or documents pertaining thereto.

(b) The department may examine and open any package or container of any kind containing or believed to contain any article or product which may be transported, manufactured, sold, or offered for sale in violation of the provisions of this chapter, the rules of the department, or the laws which the department enforces and may inspect the contents and take samples for analysis.

(c) If access is refused by the owner, agent, manager, or other person in charge of any premises, or by the owner, driver, operator, or other person in charge of any vehicle, the department employee may apply for, obtain, and execute a search warrant for regulatory inspection under the provisions of this section and ss. 933.20-933.30. The provisions of chapter 933 relating to probable cause do not apply to regulatory inspections under this section. Routine inspections of vehicles shall be conducted in accordance with the administrative standards, including neutral criteria, for conducting these inspections set forth by rules of the department.

(2) It is unlawful for the driver of any vehicle, other than one exempted in sub-subparagraph (1)(a)1.g. or one authorized pursuant to subsection (5), to pass any official agricultural inspection station without first stopping and submitting the vehicle for inspection. A violation of this subsection constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Every law enforcement officer is authorized to assist employees of the department in the enforcement of this section. Every law enforcement officer is authorized to stop and detain any vehicle and its driver if the driver has failed to comply with this section until an employee of the department arrives to conduct the inspection required or permitted by law. The law enforcement officer may require the driver to return with the

vehicle to the agricultural inspection station where the driver failed to stop the vehicle for inspection.

(4) No civil or criminal liability shall be imposed upon any person who is authorized to enforce or assist in enforcement of the provisions of this section and who is lawfully engaged in such activity.

(5) The department shall establish by rule conditions and criteria by which nonagricultural laden vehicles may pass an agricultural inspection station without stopping for inspection.

## TRANSPORTATION

### Chapter 316 – State Uniform Traffic Control

*The following section describes the various transportation laws that impact agriculture. These laws include several exemptions from transportation law to streamline efficiency and the ability of producers to transport crops and equipment as noted. The exemptions also allow equipment beyond the size limitations as noted.*

**Definitions; [316.003](#), Florida Statutes** The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(12) Farm Tractor — Any motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry

(16) Implement of Husbandry — Any vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.

(61) Migrant or Seasonal Farm Worker — Any person employed in hand labor operations in planting, cultivation, or harvesting agricultural crops.

(62) Farm Labor Vehicle — Any vehicle equipped and used for the transportation of nine or more migrant or seasonal farm workers, in addition to the driver, to or from a place of employment or employment-related activities. The term does not include:

- (a) Any vehicle carrying only members of the immediate family of the owner or driver.
- (b) Any vehicle being operated by a common carrier of passengers.
- (c) Any carpool as defined in s. 450.28(3).

**Lamps, reflectors and emblems on farm tractors, farm equipment and implements of husbandry; [316.2295](#), Florida Statutes**

(1) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1972, shall be equipped with vehicular hazard-warning lights visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

(2) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1972, shall at all times, and every other such motor vehicle shall at all times mentioned in s. 316.217, be equipped with lamps and reflectors as follows:

- (a) At least two headlamps meeting the requirements of ss. 316.237 and 316.239.
- (b) At least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear mounted as far to the left of the center of the vehicle as practicable.
- (c) At least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps.

(3) Every combination of farm tractor and towed farm equipment or towed implement of husbandry shall at all times mentioned in s. 316.217 be equipped with lamps and reflectors as follows:

- (a) The farm tractor shall be equipped as required in subsections (1) and (2).
- (b) If the towed unit or its load extends more than 4 feet to the rear of the tractor or obscures any light thereon, the unit shall be equipped on the rear with at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps.
- (c) If the towed unit of such combination extends more than 4 feet to the left of the centerline of the tractor, the unit shall be equipped on the front with an amber reflector visible from all distances within 600 feet to 100 feet to the front when directly in front of lawful lower beams of headlamps. This reflector shall be so posi-

(4) The two red reflectors required in the foregoing subsections shall be so positioned as to show from the rear, as nearly as practicable, the extreme width of the vehicle or combination carrying them. If all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required by subsection (3).

(5) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry designed for operation at speeds not in excess of 25 miles per hour shall at all times be equipped with a slow moving vehicle emblem mounted on the rear except as provided in subsection (6).

(6) Every combination of farm tractor and towed farm equipment or towed implement of husbandry normally operating at speeds not in excess of 25 miles per hour shall at all times be equipped with a slow moving vehicle emblem as follows:

(a) When the towed unit or any load thereon obscures the slow moving vehicle emblem on the farm tractor, the towed unit shall be equipped with a slow moving vehicle emblem. In such cases, the towing vehicle need not display the emblem.

(b) When the slow moving vehicle emblem on the farm tractor unit is not obscured by the towed unit or its load, then either or both may be equipped with the required emblem, but it shall be sufficient if either has it.

(c) The emblem required by subsections (5) and (6) shall comply with current standards and specifications of the American Society of Agricultural Engineers approved by the department.

(7) Except during the periods of time stated in s. 316.217(1), an agricultural product trailer which is less than 10 feet in length and narrower than the hauling vehicle is not required to have taillamps, stop lamps, and turn signals and may use the hauling vehicle's lighting apparatus to meet the requirements of ss. 316.221 and 316.222. However, the load of the agricultural product trailer must be contained within the trailer and must not in any way obstruct the hauling vehicle's lighting apparatus.

(8) A violation of this section is a noncriminal traffic infraction, punishable as a non-moving violation as provided in chapter 318.

### **Motor vehicle noise; [316.293](#), Florida Statutes**

(2) Operating Noise Limits — No person shall operate or be permitted to operate a vehicle at any time or under any condition of roadway grade, load, acceleration, or

deceleration in such a manner as to generate a sound level in excess of the following limit for the category of motor vehicle and applicable speed limit at a distance of 50 feet from the center of the lane of travel under measurement procedures established under subsection (3).

(6) Exempt Vehicles — The following are exempt from the operation of this act:

(d) Construction or agricultural equipment either on a job site or traveling on the highways.

**Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement; [316.302](#), Florida Statutes**

(c) Except as provided in 49 C.F.R. s. 395.1, a person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 may not drive after having been on duty more than 70 hours in any period of 7 consecutive days or more than 80 hours in any period of 8 consecutive days if the motor carrier operates every day of the week. Thirty-four consecutive hours off duty shall constitute the end of any such period of 7 or 8 consecutive days. This weekly limit does not apply to a person who operates a commercial motor vehicle solely within this state while transporting, during harvest periods, any unprocessed agricultural products or unprocessed food or fiber that is subject to seasonal harvesting from place of harvest to the first place of processing or storage or from place of harvest directly to market or while transporting livestock, livestock feed, or farm supplies directly related to growing or harvesting agricultural products. Upon request of the Department of Highway Safety and Motor Vehicles, motor carriers shall furnish time records or other written verification to that department so that the Department of Highway Safety and Motor Vehicles can determine compliance with this subsection. These time records must be furnished to the Department of Highway Safety and Motor Vehicles within 2 days after receipt of that department's request. Falsification of such information is subject to a civil penalty not to exceed \$100. The provisions of this paragraph do not apply to operators of farm labor vehicles operated during a state of emergency declared by the Governor or operated pursuant to s. 570.07(21), and do not apply to drivers of utility service vehicles as defined in 49 C.F.R. s. 395.2.

(e) A person who operates a commercial motor vehicle solely in intrastate commerce is exempt from subsection (1) while transporting agricultural products, including horticultural or forestry products, from farm or harvest place to the first place of processing or storage, or from farm or harvest place directly to market. However, such person must

comply with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9. A vehicle or combination of vehicles operated pursuant to this paragraph having a gross vehicle weight of 26,001 pounds or more or having three or more axles on the power unit, regardless of weight, must display the name of the vehicle owner or motor carrier and the municipality or town where the vehicle is based on each side of the power unit in letters that contrast with the background and that are readable from a distance of 50 feet. A person who violates this vehicle identification requirement may be assessed a penalty as provided in s. 316.3025(3)(a).

(3) A person who has not attained 18 years of age may not operate a commercial motor vehicle, except that a person who has not attained 18 years of age may operate a commercial motor vehicle which has a gross vehicle weight of less than 26,001 pounds while transporting agricultural products, including horticultural or forestry products, from farm or harvest place to storage or market.

**Maximum width, height, length; [316.515](#), Florida Statutes**

(5) Implements of Husbandry and Farm Equipment; Agricultural Trailers; Forestry Equipment; Safety Requirements

(a) Notwithstanding any other provisions of law, straight trucks, agricultural tractors, citrus harvesting equipment, citrus fruit loaders, and cotton module movers, not exceeding 50 feet in length, or any combination of up to and including three implements of husbandry, including the towing power unit, and any single agricultural trailer with a load thereon or any agricultural implements attached to a towing power unit, or a self-propelled agricultural implement or an agricultural tractor, is authorized for the purpose of transporting peanuts, grains, soybeans, citrus, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage, and for the purpose of returning to such point of production, or for the purpose of moving such tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler, if such vehicle or combination of vehicles otherwise complies with this section. The Department of Transportation may issue overlength permits for cotton module movers greater than 50 feet but not more than 55 feet in overall length. Such vehicles shall be operated in accordance with all safety requirements prescribed by law and rules of the Department of Transportation.

(b) Notwithstanding any other provision of law, equipment not exceeding 136

inches in width and not capable of speeds exceeding 20 miles per hour which is used exclusively for harvesting forestry products is authorized for the purpose of transporting equipment from one point of harvest to another point of harvest, not to exceed 10 miles, by a person engaged in the harvesting of forestry products. Such vehicles must be operated during daylight hours only, in accordance with all safety requirements prescribed by s. 316.2295(5) and (6).

(c) The width and height limitations of this section do not apply to farming or agricultural equipment, whether self-propelled, pulled, or hauled, when temporarily operated during daylight hours upon a public road that is not a limited access facility as defined in s. 334.03(12), and the width and height limitations may be exceeded by such equipment without a permit. To be eligible for this exemption, the equipment shall be operated within a radius of 50 miles of the real property owned, rented, managed, harvested, or leased by the equipment owner. However, equipment being delivered by a dealer to a purchaser is not subject to the 50-mile limitation. Farming or agricultural equipment greater than 174 inches in width must have one warning lamp mounted on each side of the equipment to denote the width and must have a slow-moving vehicle sign. Warning lamps required by this paragraph must be visible from the front and rear of the vehicle and must be visible from a distance of at least 1,000 feet.

(d) The operator of equipment operated under this subsection is responsible for verifying that the route used has adequate clearance for the equipment.

### **Loads on vehicles; [316.520](#), Florida Statutes**

(1) A vehicle may not be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped only for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) It is the duty of every owner and driver, severally, of any vehicle hauling, upon any public road or highway open to the public, dirt, sand, lime rock, gravel, silica, or other similar aggregate or trash, garbage, any inanimate object or objects, or any similar material that could fall or blow from such vehicle, to prevent such materials from falling, blowing, or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover or a load securing device meeting the

requirements of 49 C.F.R. s. 393.100 or a device designed to reasonably ensure that cargo will not shift upon or fall from the vehicle is required and shall constitute compliance with this section.

(3)(a) Except as provided in paragraph (b), a violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

(b) Any person who willfully violates the provisions of this section which offense results in serious bodily injury or death to an individual and which offense occurs as a result of failing to comply with subsections (1) and (2) commits a criminal traffic offense and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) The provision of subsection (2) requiring covering and securing the load with a close-fitting tarpaulin or other appropriate cover does not apply to vehicles carrying agricultural products locally from a harvest site or to or from a farm on roads where the posted speed limit is 65 miles per hour or less and the distance driven on public roads is less than 20 miles.

#### **Towing requirements; [316.530](#), Florida Statutes**

(2) When a vehicle is towing a trailer or semitrailer on a public road or highway by means of a trailer hitch to the rear of the vehicle, there shall be attached in addition thereto safety chains, cables, or other safety devices that comply with 49 C.F.R. subpart F, ss. 393.71(g)(2)(1) and 393.71(h)(10) from the trailer or semitrailer to the vehicle. These safety chains, cables, or other safety devices shall be of sufficient strength to maintain connection of the trailer or semitrailer to the pulling vehicle under all conditions while the trailer or semitrailer is being towed by the vehicle. The provisions of this subsection shall not apply to trailers or semitrailers using a hitch known as a fifth wheel nor to farm equipment traveling less than 20 miles per hour.

#### **Farm labor vehicles; [316.622](#), Florida Statutes**

(1) Each owner or operator of a farm labor vehicle that is operated on the public highways of this state shall ensure that such vehicle conforms to vehicle safety standards prescribed by the Secretary of Labor under s. 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. s. 1841(b), and other applicable federal and state safety standards.

(2) On or after January 1, 2008, a farm labor vehicle having a gross vehicle weight rating of 10,000 pounds or less must be equipped at each passenger position with a seat

belt assembly that meets the requirements established under Federal Motor Vehicle Safety Standard No. 208, 49 C.F.R. s. 571.208.

(3) A farm labor contractor may not transport migrant or seasonal farm workers in a farm labor vehicle unless the display sticker described in s. 450.33 is clearly displayed on the vehicle.

(4) The owner or operator of a farm labor vehicle must prominently display in the vehicle standardized notification instructions requiring passengers to fasten their seat belts. The Department of Highway Safety and Motor Vehicles shall create standard notification instructions.

(5) Failure of any migrant or seasonal farm worker to use a seat belt provided by the owner of a farm labor vehicle under this section does not constitute negligence per se, and such failure may not be used as prima facie evidence of negligence or be considered in mitigation of damages, but such failure may be considered as evidence of comparative negligence in a civil action.

(6) Failure of any owner or operator of a farm labor vehicle to require that all passengers be restrained by a safety belt when the vehicle is in motion may not be considered as evidence of negligence in any civil action, if such vehicle is otherwise in compliance with this section.

(7) A violation of this section is a noncriminal traffic infraction, punishable as provided in s. 318.18(16).

(8) The department shall provide to the Department of Business and Professional Regulation each quarter a copy of each accident report involving a farm labor vehicle, as defined in s. 316.003(62), commencing with the first quarter of the 2006-2007 fiscal year.

## **MOTOR VEHICLE**

### **Chapter 320 – Motor Vehicle Licenses**

*The following section describes farm vehicles that are either exempt from motor vehicle licenses (vehicle tag) or are primarily harvest vehicles that have a set fee per vehicle for a motor vehicle license.*

#### **Definitions, general; [320.01](#), Florida Statutes**

As used in the Florida Statutes, except as otherwise provided, the term:

(1) "Motor vehicle" means:

(a) An automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semi-trailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, special mobile equipment as defined in s. 316.003(48), vehicles that run only upon a track, bicycles, swamp buggies, or mopeds.

(42) "Utility vehicle" means a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of persons or property on a street or highway, or a golf cart, or an all-terrain vehicle as defined in s. 316.2074.

### **License taxes; [320.08](#), Florida Statutes**

Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), tri-vehicles as defined in s. 316.003, and mobile homes, as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

#### **(3) Trucks —**

(d) A truck defined as a "goat," or other vehicle if used in the field by a farmer or in the woods for the purpose of harvesting a crop, including naval stores, during such harvesting operations, and which is not principally operated upon the roads of the state: \$7.50 flat. The term "goat" means a motor vehicle designed, constructed, and used principally for the transportation of citrus fruit within citrus groves or for the transportation of crops on farms, and which can also be used for hauling associated equipment or supplies, including required sanitary equipment, and the towing of farm trailers.

#### **(4) Heavy Trucks, Truck Tractors, Fees According to Gross Vehicle Weight —**

(a) Gross vehicle weight of 5,001 pounds or more, but less than 6,000 pounds: \$60.75 flat, of which \$15.75 shall be deposited into the General Revenue Fund.

(n) A truck tractor or heavy truck, not operated as a for-hire vehicle, which

is engaged exclusively in transporting raw, unprocessed, and nonmanufactured agricultural or horticultural products within the state or within a 150-mile radius of its home address, is eligible for a restricted license plate for a fee of:

1. If such vehicle's declared gross vehicle weight is less than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be deposited into the General Revenue Fund.
2. If such vehicle's declared gross vehicle weight is 44,000 pounds or more and such vehicle only transports from the point of production to the point of primary manufacture; to the point of assembling the same; or to a shipping point of a rail, water, or motor transportation company, \$324 flat, of which \$84 shall be deposited into the General Revenue Fund.

Such not-for-hire truck tractors and heavy trucks used exclusively in transporting raw, unprocessed, and non-manufactured agricultural or horticultural products may be incidentally used to haul farm implements and fertilizers delivered direct to the growers. The department may require any documentation deemed necessary to determine eligibility prior to issuance of this license plate. For the purpose of this paragraph, "not-for-hire" means the owner of the motor vehicle must also be the owner of the raw, unprocessed, and non-manufactured agricultural or horticultural product, or the user of the farm implements and fertilizer being delivered.

### **Farm tractors and farm trailers exempt; [320.51](#), Florida Statutes**

The following are exempt from the provisions of this chapter which require the registration of motor vehicles, the payment of license taxes, and the display of license plates:

- (1) A motor vehicle which is operated principally on a farm, grove, or orchard in agricultural or horticultural pursuits and which is operated on the roads of this state only incidentally in going from the owner's or operator's headquarters to such farm, grove, or orchard and returning therefrom or in going from one farm, grove, or orchard to another; and
- (2) A vehicle without motive power which is used principally for the purpose of transporting plows, harrows, fertilizer distributors, spray machines, and other farm or grove equipment and which uses the roads of this state only incidentally. Nothing in this section shall be construed as exempting such farm tractors and farm trailers from laws relating to the tires to be used when operating on the roads of this state.

# COVERED FARM VEHICLES

## Chapters 316 and 322 – Motor Vehicles

### Definition of a “Covered Farm Vehicle,” Registration and Operation Guidelines; [316.003](#), Florida Statutes

(14) COVERED FARM VEHICLE.—A straight truck, or an articulated vehicle, which is all of the following:

- (a) Registered in a state with a license plate, or any other designation issued by that state, which allows law enforcement officers to identify it as a farm vehicle.
- (b) Operated by the owner or operator of a farm or ranch or by an employee or a family member of an owner or operator of a farm or ranch in accordance with s. 316.302(3).
- (c) Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch.
- (d) Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of paragraphs (a)-(c) by a tenant pursuant to a crop-share farm lease agreement to transport the landlord's portion of the crops under that agreement.

### Covered Farm Vehicle Operator Exemptions from CDL Requirements, Weight Requirements and Transportation Rules; [316.302](#), Florida Statutes

(3) Notwithstanding any contrary provision in subsections (1) and (2), a covered farm vehicle, as defined in s. 316.003, and the operator of such vehicle are exempt from the requirements relating to controlled substances and alcohol use and testing in 49 C.F.R. part 382; commercial driver licenses in 49 C.F.R. part 383; physical qualifications and examinations in 49 C.F.R. part 391, subpart E; hours of service of drivers in 49 C.F.R. part 395; and inspection, repair, and maintenance in 49 C.F.R. part 396, when operating:

- (a) Anywhere in this state if the covered farm vehicle has a gross vehicle weight or gross vehicle weight rating, whichever is greater, of 26,001 pounds or less.
- (b) Anywhere in the state of registration, or across state lines within 150 air miles of the farm or ranch with respect to which the vehicle is being operated, if the covered farm vehicle has a gross vehicle weight or gross vehicle weight rating, whichever is greater, of more than 26,001 pounds.

## **Covered Farm Vehicle Operator Exemptions from CDL; [322.53](#), Florida Statutes**

- 2) The following persons are exempt from the requirement to obtain a commercial driver license:
- (a) Drivers of authorized emergency vehicles.
  - (b) Military personnel driving vehicles operated for military purposes.
  - (c) 1. Farmers transporting agricultural products, farm supplies, or farm machinery to or from their farms and within 150 miles of their farms, if the vehicle operated under this exemption is not used in the operations of a common or contract motor carrier.
  - 2. Drivers of covered farm vehicles, as defined in s. 316.003, if the vehicles are operated in accordance with s. 316.302(3).

# **DRIVER LICENSES**

## **Chapter 322 – Driver Licenses**

*The following section describes various exemptions that drivers have from driver's license requirements if they are operating farm machinery.*

### **Definitions; [322.01](#), Florida Statutes**

As used in this chapter:

(19) "Farmer" means a person who grows agricultural products, including aquacultural, horticultural, and forestry products, and, except as provided herein, employees of such persons. The term does not include employees whose primary purpose of employment is the operation of motor vehicles.

(20) "Farm tractor" means a motor vehicle that is:

(a) Operated principally on a farm, grove, or orchard in agricultural or horticultural pursuits and that is operated on the roads of this state only incidentally for transportation between the owner's or operator's headquarters and the farm, grove, or orchard or between one farm, grove, or orchard and another; or

(b) Designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

**Persons exempt from obtaining driver license; [322.04](#), Florida Statutes**

(1) The following persons are exempt from obtaining a driver license:

(b) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway.

**License required; exemptions; [322.53](#), Florida Statutes**

(1) Except as provided in subsection (2), every person who drives a commercial motor vehicle in this state is required to possess a valid commercial driver license issued in accordance with the requirements of this chapter.

(2) The following persons are exempt from the requirement to obtain a commercial driver license:

(c) Farmers transporting agricultural products, farm supplies, or farm machinery to or from their farms and within 150 miles of their farms, if the vehicle operated under this exemption is not used in the operations of a common or contract motor carrier.

## **AG PRODUCT LABELING**

### **Chapter 504 – Specialized Agriculture Product Labeling**

**Label marking permitted; Removal prohibited; [504.012](#), Florida Statutes**

(1) All producers, growers, and shippers of fresh fruits and vegetables and bee pollen and honey in this state shall be permitted to mark each individual fruit or vegetable, package of bee pollen, or package of honey in a conspicuous place as legibly, indelibly, and permanently as the nature of the fruit or vegetable, package of bee pollen, or package of honey will permit, in such manner as to indicate to an ultimate purchaser that the product was produced in Florida. Any fresh fruit or vegetable, package of bee pollen, or package of honey, including any package containing foreign honey blended with domestic honey, produced in any country other than the United States and offered for retail sale in Florida shall be marked individually in a conspicuous place as legibly, indelibly, and permanently as the nature of the fruit or vegetable, package of bee pollen, or package of honey will permit, in such manner as to indicate to an ultimate purchaser the country of origin. Markings shall be done prior to delivery into Florida.

2) All retail vendors engaged in the business of selling products labeled or identified as to origin shall be prohibited from willfully and knowingly removing such labels or identifying marks.



# Important contact numbers

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**\$10.00**