



UNIVERSITY OF  
FLORIDA

FRE 177

EXTENSION

Institute of Food and Agricultural Sciences

## Florida Solid and Hazardous Waste Regulation: Introduction<sup>1</sup>

M.T. Olexa and A. Leviten<sup>2</sup>

### Introduction

Current solid and hazardous waste law is a maze of statutes, regulations, and potential liabilities. This handbook is designed to act as your guide. It is designed as a first step in helping you recognize which agricultural and household activities may involve solid and hazardous wastes. It also provides an introduction to the agencies and statutes which govern solid and hazardous waste disposal.

Solid and hazardous waste law is evolving rapidly as concern for the environment increases. Because the specific goals of current environmental statutes vary, the law as a whole can be very confusing. Legal definitions are provided where needed. Always check the glossary section for the definition of terms because statutes and regulations may define many words more broadly or narrowly than you might expect. For example, the statutory definition of solid waste includes not only solid materials, but semi-solids, liquids, and even gases.

Any word that is not defined or explained should be understood as normal everyday language. Of overlapping, unclear, and occasionally even contradictory waste management rules, this area of law is often difficult for both lawyers and laypersons to determine their exact rights and responsibilities. Persistence in attempting to understand the system is important, though, as penalties or liabilities for failure to comply, in some instances may be quite substantial.

This work should not be considered the final word on any topic. Instead, use this handbook to determine when you might need to seek more information, and as a brief directory of agencies which can help answer specific questions. State and federal agencies are unquestionably the best sources for information. These agencies can provide more information on a topic, answer specific questions and often supply free literature. Consequently, we have included the addresses and/or phone numbers of the

- 
1. This document is FRE 177, one of a series of fact sheets of the Food and Resource Economics Department Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida. This information is included in the Farm and Ranch Handbook of Florida Solid and Hazardous Waste Regulation, Circular 1139. First published: April 1997. Revised: November 1999. Please visit the EDIS Web site at <http://edis.ifas.ufl.edu>.
  2. **Michael T. Olexa**, Professor, Department of Food and Resource Economics, Institute of Food and Agricultural Sciences (IFAS), University of Florida, and Director of the UF/IFAS Agricultural Law Center. **Aaron Leviten** is a third year law student in the University of Florida College of Law. Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida, Gainesville, 32611.

This publication is designed to provide accurate, current and authoritative information on the subject. However, since the laws, administrative rulings, and court decisions of which it is based are subject to constant revision, portions of this publication could become outdated at any time. This publication is distributed with the understanding that the authors are not engaged in rendering legal or other professional advice, and the information contained herein should not be regarded, or relied upon, as a substitute for professional advice. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, the Institute of Food and Agricultural Sciences and the University of Florida for any liability, claims, damages, or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this fact sheet.

The Institute of Food and Agricultural Sciences is an equal opportunity/affirmative action employer authorized to provide research, educational information and other services only to individuals and institutions that function without regard to race, color, sex, age, handicap, or national origin. For information on obtaining other extension publications, contact your county Cooperative Extension Service office. Florida Cooperative Extension Service/Institute of Food and Agricultural Sciences/University of Florida/Christine Taylor Waddill, Dean.

relevant state and federal agencies and divisions in Appendix C.

This publication can be improved by your ideas and suggestions. Comments you have regarding any areas which may have been omitted, but deserve inclusion, would be particularly valued. Reader feedback is a necessary ingredient to complete any successful future editions. Please send your comments or suggestions to:

Michael T. Olexa

Agricultural Law Center

Food and Resource Economics Department

G-155E McCarty Hall

University of Florida

Gainesville, FL 32611-0141

## Handbook Overview

Federal law regulating the management of solid and hazardous wastes can be found in several different acts of Congress. The Resource Conservation and Recovery Act (RCRA) affects waste management as does the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), and several other laws. No single comprehensive federal law for solid and hazardous waste management exists, although RCRA touches on most of the major issues.

Neither is state law comprehensive, rather it typically fills in the gaps and supplements federal law. In some cases, as in RCRA, the federal government delegates the responsibility for administering the statute to a state agency. In many instances, state law standards are more strict than federal standards. Consequently, although compliance with state law **may** ensure compliance with federal laws, the reverse is not necessarily true. Since state and federal laws often have different purposes, the specific regulations may vary. An example might be where the federal government is regulating pesticides to protect consumers, while the

state is regulating pesticides to protect farm workers. Both statutes regulate pesticides but for different reasons. Therefore compliance with state regulations is not always sufficient to ensure compliance with federal regulations.

Local regulations may be stricter still. Counties and cities in Florida are becoming increasingly aware of the dangers posed by mismanagement of wastes, and are concerned about having to bear a disproportionate share of the costs of such mismanagement. Local regulations are not covered in detail in this handbook due to the number and diversity of those regulations throughout the state. We strongly recommend that you contact your local county and city commissions, as well as the local waste planning agency, for detailed information about local waste management regulations.

If you have questions about whether you have complied with all applicable regulations, **always** ask, as it is well recognized in the American legal system that ignorance of the law is not an excuse. It is best to prevent a potential problem entirely. Next best is to find out about and correct a problem early. The worst option is to allow a problem to get out of control and to suffer the penalties. Not knowing or understanding the rules will not protect you from these penalties.

## Section 1 -- Federal Regulation

This section discusses the important federal laws and regulations that impact solid waste management. Each particular statute is explained as it would probably apply to you. This section also includes a brief description of the federal agencies responsible for implementing and enforcing these statutes. First and foremost is the Environmental Protection Agency (EPA). Other federal agencies may be involved as well. The Department of Agriculture, the Army Corps of Engineers, and the U.S. Coast Guard may become involved in the disposal of solid and hazardous wastes.

### Legal Overview

Federal regulation consists of two parts: statutes and administrative rules.

**Statutes** -- These are passed by the legislature (Congress) and outline basic goals and the general procedures to accomplish these goals. Although statutes often provide fairly specific directions or prohibitions, the details of regulation are frequently too technical and detailed for the legislature. Therefore the legislature delegates these technical details to administrative agencies (such as EPA) which, in turn, develop administrative rules and regulations.

**Administrative Rules** -- The legislature generally relies on administrative agencies to actually carry out the basic goals of the statutes. The legislature has delegated the authority to adopt rules (which have the force of law) to administrative agencies. The authority of the administrative agencies is limited by the legislature.

As an example, the legislature might decide to regulate the use of certain pesticides. It might pass a statute that broadly outlines acceptable pesticide uses or prohibitions on pesticide use. Then an agency, in this case, the Environmental Protection Agency, would make rules about when, by whom, and in what quantities the pesticide may be applied.

Agencies typically enforce their rules by requiring permits or licenses. They enforce their rules through both criminal and civil penalties. If an agency discovers someone violating a statute or a rule, that person could be fined or charged with a crime. Criminal penalties are considered very harsh, and are seldom used, except as a last resort for repeated or flagrant violations.

### **What are the important laws and regulations?**

The most important federal statute dealing with waste management is the Resource Conservation and Recovery Act (RCRA). This statute regulates solid waste from "cradle to grave". The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) regulates the disposal of hazardous waste and the clean-up of improperly disposed hazardous waste. Other federal statutes affect management of specific wastes or types of disposal. Examples of these include the Federal Insecticide, Fungicide and Rodenticide Act

(FIFRA), Toxic Substances Control Act (TSCA), Clean Air Act (CAA), Clean Water Act (CWA), and the Occupational Safety and Health Act (OSHA). Each of these statutes, as well as a few others, is discussed below.