

State Regulatory Powers¹

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State law fills the gaps and supplements federal law. State law also often duplicates federal law. In many instances, however, state law standards are more strict than federal standards. Consequently, compliance with state law often assures compliance with federal laws as well.

In a nutshell, state law takes two forms -- statutes and administrative rules.

Statutes are passed by the state legislature and set out the basic goals of the legislature and the procedures it wants applied to accomplish these goals. Although statutes often provide fairly specific directions or prohibitions, many details of regulating an area of business or an aspect of the environment are frequently too technical and minute for the legislature to address.

Administrative Rules: The legislature will generally rely on administrative agencies to carry out the specific goals of the legislature. To do so the legislature empowers administrative agencies to adopt rules (which have the force of law) within the narrow bounds of their directive from the legislature.

For example, if the legislature decided there was a state interest in regulating the use of certain pesticides, it might pass a statute that broadly outlines pesticide uses or prohibitions, then leave it to an agency, in this instance the Department of Agriculture & Consumer Services, to make rules about when, by whom, and in what quantities the pesticide must be applied. In most instances, agencies also have the power to enforce their rules through

both criminal and civil penalties as well as through permitting/licensing regulations.

HOW ARE STATE GOVERNMENT ACTIONS RESTRICTED?

To ensure that agencies deal fairly with those who are subject to their regulation, Florida has passed the following laws.

Florida Administrative Procedures Act, Chapter 120, Florida Statutes. This Act establishes many procedural rights such as:

- * the right to be heard by the agency,
- * the right to receive notice of agency actions,
- * and a guaranteed opportunity for those who are most affected to use those rights. This Act provides the chief mechanism for private input into agency actions and rulemaking.

Florida Public Records Law, Chapter 119, Florida Statutes. Chapter 119 provides that all agency records, with a few statutory exceptions, are available for public inspection and copying. Exceptions arise where the confidentiality of the information is necessary for efficient government administration or where disclosure would adversely affect law enforcement.

Florida Sunshine Law, Chapter 286, Florida Statutes, declares that all meetings of any governmental body where any official action is taken must be open to the public and the minutes must be recorded. This

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statute, like Chapter 119, is not an unconditional guarantee of access to government, but goes a long way toward keeping administrative bodies accountable to the public.

WHAT IS THE STRUCTURE OF FLORIDA REGULATORY AGENCIES?

The majority of state agencies have similar structures. Most maintain their headquarters in Tallahassee and have regional offices throughout the state. Within each agency, there may be various divisions, each with their own set of duties, such as permitting, enforcement or public information. Many

agencies are headed by a secretary who keeps in close touch with the Governor. Other agencies are headed by a cabinet officer or appointed commissioner. All keep in close touch with the legislature to keep abreast of policy changes and to maintain accurate, up-to-date rules.

The structure of city and county government varies from government to government, but each has its own divisions from minimum sized rural areas to populous urban areas. Counties and cities are headed by an elected commission. Some rely on professional managers to run the day to day aspects of government, while others rely on elected officials.