



UNIVERSITY OF
FLORIDA

Florida Cooperative Extension Service

Fact Sheet FRE-78

November 1991

The Relationship of Federal, State and Local Law¹

Michael T. Olexa²

Until relatively recently in the nation's history, pollution and health regulation have been local concerns. While the nation was small and rural, activities of a member of the community that offended or endangered others could usually be satisfactorily resolved through a lawsuit for nuisance or trespass. As large population concentrations and heavy industry appeared, local governments developed land use regulations to segregate residential areas from the noises and pollution of industrial and other commercial activity. Many agricultural activities, notably feedlots and dairies, were subjected to similar controls.

Agriculture has since undergone its own industrial revolution, with greatly increased use of agricultural chemicals and farm machinery allowing for far greater production. At first, pesticide regulation was largely for consumer protection. The laws focused upon the pesticide performing as promised. In this sense, federal regulation of pesticides was enacted to prevent abuses in the nationwide distribution of pesticides. Later, the discovery that use of agricultural chemicals could cause adverse environmental and health effects led to an enormous expansion in the scope of regulation.

In the "environmental decade" of the 1970s, a series of comprehensive federal laws were passed to address pressing, nationwide environmental problems. These new environmental laws are so broad and so

complex that many facets of them are still far from full implementation or interpretation. Recognizing the will and capacity of state governments to address environmental problems, and in order to facilitate implementation and ease the burden on federal agencies, Congress allowed the EPA to approve state implementation and administration of the federal laws and encouraged states to pass substitute legislation to meet or exceed the demands of federal law. In recent years, many states have gone forward with their own pollution control legislation, some of which is far more strict than federal law. Further, state and local governments have contributed to the trend towards stricter environmental regulation by enacting extensive land use legislation. Land use regulations may specify locations where certain pesticides may not be used.

The result of these developments is a pyramidal mass of federal, state, and local laws and regulations. Federal law must be followed, but often it provides only a regulatory "floor" to which state and local governments may add further requirements. Because of the multi-layered structure of regulations, users of agricultural chemicals should approach the area of government regulation carefully, being certain to learn local and state legal requirements. Although federal legal demands are often met by compliance with state and local laws, familiarity with the federal regulatory scheme is also essential for all agricultural chemical users and applicators.

1. This document was published 11/91 as Fact Sheet FRE-78, Florida Cooperative Extension Service. For more information, contact your county Cooperative Extension Service office.
2. Associate Professor and Agricultural Law Specialist, Food and Resource Economics Department, Institute of Food and Agricultural Sciences, (IFAS), University of Florida, Gainesville, Florida.

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 / John T. Woeste, Dean