

An exemption from the notification requirement applies for digging confined to one acre or less in a given year, not to exceed five acres over the life of the mine or the party who extracts. On a similar note, fuller's clay, heavy minerals, limestone and phosphate are covered separately by permitting requirements.

What about mangroves?

The cutting or removing of mangroves is only allowed when authorized by dredge and fill permits. The penalty for unauthorized destruction of mangroves is the cost of restoration. To avoid such a penalty, permits should be obtained, and a variance exemption may be granted where unique and unnecessary hardship will otherwise result to the applicant. Permits of this type are issued by DER or the Army Corps of Engineers, and such cutting or removing is allowed where the environmental impact is minimal. In some cases, selective trimming may be permitted to facilitate enjoyment or riparian rights.

Applications to cut or remove mangroves are transferred to county or municipal offices having jurisdiction over the area for which the permit is being requested. Applicants should be aware that there are department-approved dredge and fill regulatory programs to advise applicants on this concern.

What is the Everglades Act?

The Everglades Act empowers the South Florida Water Management District to do the following:

- adopt the Surface Water Improvement Management plan;
- acquire land by eminent domain for treatment and storage of water prior to its release into the Everglades Protection Area;
- create and administer a stormwater management system.

What are the penalties?

Civil liability exists for damage caused to water from unlawful dredging, filling or destruction of wetlands. Fines may run as high as \$10,000 per offense and liability may be joint and several. (See "Private Regulation" Section for discussion of joint and several liability.)

Criminal sanctions apply for willful pollution or contamination, making these violations third-degree felonies. Fines up to \$50,000 per offense and imprisonment up to 5 years may be imposed. Further, each day of non-compliance may create a separate violation. Reckless indifference or disregard of the probability of harm to the state's water resources is a second-degree felony. Failure to obtain a permit, failure to comply with regulations, or making false statements to the permitting authorities are all first-degree felonies.

Sources: Fla. Stat. § 403.91 - .938.

Contact Information: S-1, S-2, L-1

Solid Waste Management

Who regulates solid waste management?

Both Florida and the federal governments have enacted Resource Conservation and Recovery (RCRA) legislation to deal with the disposal of solid wastes. The state rules are administered by the DER, and the federal rules by the EPA.

Both RCRA's are aimed at protecting health and the environment and at recycling or reclaiming solid wastes to the greatest extent practicable. Because improperly handled solid waste represents such a grave threat to water quality, it also falls within the scope of other federal regulations, most notably the National Pollutant Discharge