



# Alachua County Wetland Protection

EPAC

March 4, 2014



# Alachua County Wetland Policies and Practices

## Chapter 406, Article 6, Alachua County ULDC

- All wetlands are protected and regulated
- Strong wetland avoidance policies
- No alteration or development activities in wetlands and wetland buffers without county approval
- Some minimal impact activities are allowed
- If unavoidable, impacts are mitigated per State rules





# Alachua County Wetland Buffer Requirements

**Table 406.43.1  
Surface Water and Wetland Buffers**

<b>Protected Resource</b>	<b>Buffer Distance (feet)*</b>
Surface waters and wetlands less than or equal to 0.5 acre that do not include Outstanding Florida Waters or listed animal species as described elsewhere in this table	50 average, 35 minimum
Surface waters and wetlands greater than 0.5 acre that do not include Outstanding Florida Waters or listed animal species as described elsewhere in this table	75 average, 50 minimum
Areas where federally and/or state regulated vertebrate wetland/aquatic dependent animal species have been documented within 300 feet of a surface water or wetland	100 average, 75 minimum
Outstanding Florida Waters (OFWs)	150 average, 100 minimum



# Alachua County Exemptions

- Silvicultural activities following BMPs
- Bona fide agricultural activities following BMPs that were in existence prior to Oct. 29, 1992
- Minor trails, docks, and boardwalks
- Maintenance dredging (surface waters)
- Projects that are determined to have no significant adverse impacts







# Alachua County Exemptions

Examples of farm activities that were in existence  
prior to 1992





# State Legislation

Section 823.14, F.S. - [Florida Right to Farm Act](#)

Section 163.3162, F.S. - [Agriculture Lands and Practices Act](#)

“A county may not... regulate or otherwise limit an activity of a *bona fide farm operations* on *land classified as agricultural* ...if such activity is regulated through *implemented best management practices...*”





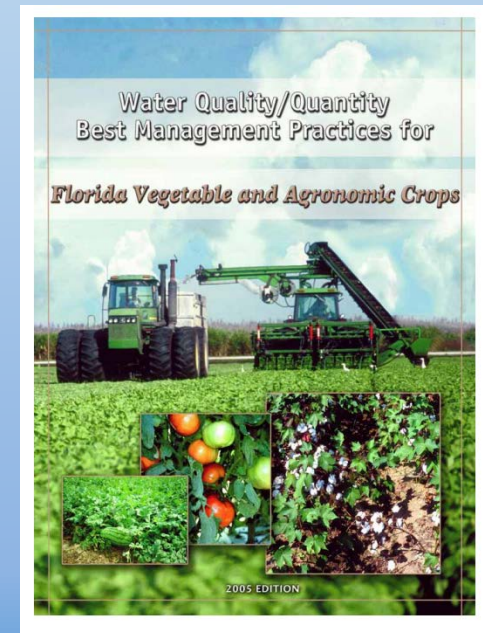
# State Legislation

## Agriculture Lands and Practices Act\*

***retains*** local government home rule authority for wetland policies and codes in effect prior to July 1, 2003

***preempts*** the county from enforcing:

- Upland protection policies (significant habitat, listed species habitat, strategic ecosystems)
- More stringent wetland protection policies adopted as part of the 2005 Unified Land Development Code carry forward and revisions



\*Proposed [HB703](#) – if passed, would preempt all county wetland protection policies





# Statutory Exemptions for Agricultural Activities

## **Subsection Section 373.406(2), F.S. - [Exemptions](#)**

Under subsection 373.406(2), F.S., any person engaged in the occupation of agriculture may alter the topography of any tract of land for purposes consistent with the practice of agriculture. These activities may not be for the sole or predominant purpose of impounding or obstructing surface waters. Agricultural activities that meet these criteria may qualify for a statutory exemption from an Environmental Resource Permit (ERP).

No State permit is required to impact wetlands, if those impacts are due to “normal and customary” agricultural practices and not for the sole purpose of impeding or diverting the flow of water.





# Statutory Exemptions for Agricultural Activities

Examples of “normal and customary” agricultural activities:

- Construction of unpaved access roads, placement of bridges and culverts
- Site preparation and land clearing
- Fencing
- Plowing and/or chopping
- Planting and harvesting
- Brush management and burning
- Land leveling
- Conservation tillage

...provided such operations are not for the sole or predominant purpose of impeding or diverting the flow of surface waters or adversely impacting wetlands.



# Alachua County code and Agricultural Operations

Activities	EXEMPT from Alachua County Code	Pre 2003 Regulations (35' buffers)	Current Alachua County Code
Bona fide farm activities in existence prior to Oct. 29, 1992	X		
Silvicultural activities following BMPs	X		
Bona fide farm activities on lands classified as ag and implementing BMPs		X	
Bona fide farm activities not implementing BMPs			X
“Ag-like” activities on ag zoned property (not bona fide)			X
Silvicultural activities not following BMPs			X
Other alterations or development activities in or adjacent to wetlands and wetland buffers			X

Alachua county code **does not exempt** the majority of what are considered “normal and customary” agricultural activities which result in impacts to wetlands

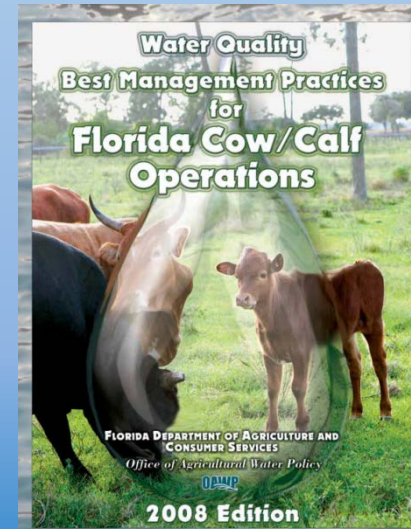


# Looking Ahead

FDACS and agricultural interests ask that Alachua County exempt ALL agricultural operations enrolled in BMPs

## **Sections 403.067(7)(b)g and 403.067(7)(c), F.S.**

In watersheds with adopted Basin Management Action Plans (BMAPs) and in some other areas, agricultural producers are statutorily required either to implement FDACS-adopted BMPs or conduct water quality monitoring prescribed by FDEP or the water management district.





# BMPs and Wetlands

- BMP program was created to **improve water quality** in agricultural discharges
- No recognition of wetland structure and function other than water quality
- Voluntary, implement through checklist

BMP #	BMP Group (See body of manual for full description)	In Use/Off	Planned	Will not implement (check reason below)			
		Check/ or AMU	Month/ Year	NA	TNF	ENF	Other
<b>3.3. Level I – Middles Management</b>							
1. As practicable, maintain vegetative cover in row middles.							
<b>4.0 Stormwater Management</b>							
<b>4.1. Level I – Stormwater Management</b>							
1. Operate and maintain all stormwater management conveyances (swales, ditches, and canals) to ensure they perform their intended function.							
<b>2. Level II – Stormwater Management Plan</b>							
Does your operation have flooding issues that have not been addressed by an ERP or other WMD surface water management permit?							
Develop and implement a written stormwater management plan that specifically addresses various levels of rainfall, with the goal of reducing the volume of off-site discharge. Include guidelines for regular inspection of BMPs, and steps to implement operation and maintenance provisions.							
3. Evaluate the plan's effectiveness, and make adjustments as needed.							
<b>5.0 Water Resources Protection</b>							
<b>5.1. Level I – Wetlands Protection</b>							
1. Install and/or maintain a minimum 25-foot non-fertilized vegetated buffer upland of the landward boundary of all wetlands, unless you have an existing water management district permit (ERP, MSSW) that specifies a different buffer.							
2. For existing operations without an ERP that are unable to meet the 25-foot vegetated buffer, submit to FDACS a written description of the alternative measures you will take to protect the wetlands from water quality impacts (see Comments Section at the end of this BMP checklist).							
<b>3. Level II – Channelized Discharge to Wetlands</b>							
Do you have ditches that discharge directly into wetlands?							
Use spreader swales (or other means as needed) to intercept water discharging from the ditch(es), in order to reduce flow velocities and provide sheetflow through vegetative buffers prior to reaching the wetlands. Provide to FDACS a written description of the means you will use (see Comments Section at the end of this BMP checklist).							
<b>5.2. Level I – Streams Protection</b>							
1. Install and/or maintain a riparian buffer along perennial streams on production areas that exceed 1-percent slope and discharge directly to the streams. Contact FDACS, NRCS, or a Technical Service Provider for assistance in properly designing the riparian buffer in accordance with USDA-NRCS Codes 390 and/or 391 in Reference (1) below.							





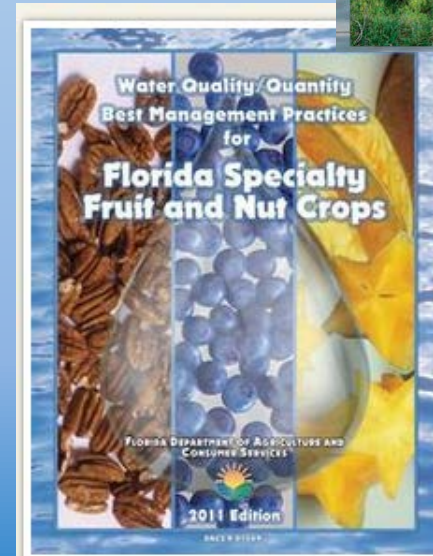
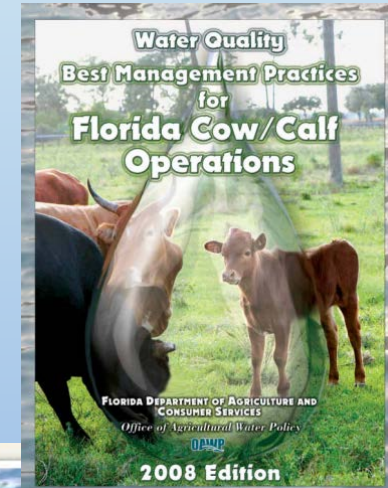
# Proposed legislature

- [HB 703](#) – SB 1464 – Environmental Regulations
- [HB 395](#) – SB 1314 Property Rights
- [HB 1077](#) – SB 1310 Development Exactions



# Summary

- Statutory exemptions and State laws allow impacts to wetlands
- BMPs are not protective of the wetland structure and function
- BMPs are non-regulatory (voluntary, checklist based)
- As of 2013, FDEP had not begun the compliance process
- After-the-fact BMP enrollment to evade county protection requirements





# Staff Recommendations

The Board of County Commissioners reaffirm Alachua County's current wetland policies and protection practices relating to agricultural operations.