

**Florida Department of
Environmental Protection**

Memorandum

TO: District Waste Program Administrators
District Solid Waste Engineers

FROM: Richard B. Tedder, Program Administrator
Solid Waste Section

Chris McGuire, Senior Assistant General Counsel
Office of General Counsel

DATE: October 14, 2003

SUBJECT: Manure Management at Animal Feeding Operations
Memo # SWM-18.3

Solid waste rules exempt normal farming operations from having to obtain a solid waste permit for disposal under Chapter 62-701, Florida Administrative Code (F.A.C.), or composting under Chapter 62-709, F.A.C., of manure generated on-site. Rule 62-701.200, F.A.C., defines the term as follows:

(83) "Normal farming operations" means the customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in during the production and preparation for market of poultry, livestock, and associated farm products; and in the production, harvesting, or packaging of agricultural crops which include agronomic, horticultural, and silvicultural crops. Included are the management, collection, storage, composting, transportation, and utilization of organic agricultural waste, manure, and materials solely derived from agricultural crops.

The question has been raised, however, as to what constitutes a "farm" for purposes of the normal farming exemption. Generally speaking, this determination is done on a case-by-case basis and is based on the definition of "normal farming operations." For example, to be considered a farmer, a person would generally have to engage in the production or preparation for market of poultry, livestock, and associated farm products, or in the production, harvesting, or packaging of agricultural crops that include agronomic, horticultural, and silvicultural crops.

A facility at which livestock is produced or prepared for market may be considered a farm and thus eligible for the exemption. However, a facility at which livestock are merely housed or trained might not be considered a farm. For example, a facility which raises horses might be considered a farm, while other facilities such as riding stables, training facilities and racetracks might not be considered farms, even though we would expect the environmental impacts from the on-site management of manure to be identical. Even these distinctions are not always clear; the Commissioner of Agriculture has on at least one occasion opined that a horse training facility should be considered a bona fide farm (see attachment).

Trying to distinguish between farms and other similar operations where animals are kept may not be necessary. Chapter 62-670, F.A.C., creates feedlot and dairy wastewater treatment and management requirements which are not limited to "farms." In creating this rule, the Department considered the potential impacts on the environment from animal feeding operations (AFO), including the impacts from the on-site management of manure, and imposed requirements that are considered adequate to protect the environment while not being overly burdensome on the regulated community. These operations are overseen by the Department's Industrial Wastewater Section.

Under Chapters 62-620, 62-660, and 62-670, F.A.C., which include both federal and state requirements, a concentrated AFO (CAFO) must get an industrial wastewater permit. In addition, a facility with fewer than the specified animal units can be designated by the Department as a CAFO. While federal requirements address only the impact to surface waters, the state requirements address potential impacts on all state waters, including ground water. It is our understanding that Industrial Wastewater staff work with the smaller facilities that impact state waters to modify their operations where possible, thereby eliminating any water quality concerns rather than automatically designating them as CAFOs. The result is the same – protection of state waters.

The Department's Solid Waste Section intends to interpret its rules to be consistent with the letter and the spirit of Chapters 62-620, 62-660, and 62-670, F.A.C. It is therefore our interpretation that any facility that meets the definition of an "animal feeding operation" pursuant to Department rules will be treated as though it is a normal farming operation and will thus be exempt from having to obtain a solid waste facility permit for the on-site management of manure. Therefore, in the example noted above, both a horse raising facility and a horse training facility would be treated the same under solid waste rules. Of course, if the manure is sent off-site, it would still have to go to either a permitted or exempt facility regardless of the status of the generator. It is our intent to incorporate this interpretation into our solid waste rules at the earliest opportunity.

Questions have also arisen regarding circus animals and zoos. Determining which program (i.e., Solid Waste or Industrial Wastewater) manure management falls under is subject to several variables. Therefore, the decision regarding which program has oversight needs to be handled on a case-by-case basis with a joint determination made by the Solid Waste Program and the Industrial Wastewater Program.

Attachment

cc: Vince Seibold

10/03/2002 THU 02:40 FAX



Florida Department of Agriculture and Consumer Services
CHARLES H. BRONSON, Commissioner
The Capitol • Tallahassee, FL 32399-0800

Please Respond to:

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July 18, 2001

James R. Brindell
Günster, Yoakley & Stewart, P.A.
Phillips Point
777 South Flagler Drive, Suite 500 East
West Palm Beach, Florida 33401-6194

Dear Mr. Brindell:

I have received and reviewed your letter dated March 22, 2001 regarding the development of a horse training facility to be located in Palm Beach County, Florida. Based on the information you have provided, it is my opinion that your client's proposed horse training facility is a bona fide farm operation and that the training and care of the horses at such facility constitutes the "production of animals."

The equestrian industry in Florida is a vital part of both Florida's tradition and economy and I support it with great enthusiasm. I wish you and your client much success in this new endeavor.

Should I be able to be of any further assistance to you, please feel free to contact me.

Sincerely,

Handwritten signature of Charles H. Bronson in cursive script.

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE

CHB/JVM:ta



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