

**Florida-Friendly FAQs
for FDEP, FDACS, and UF-IFAS on
2009 legislative bills SB494 and SB2080**

SB494

Ordinances

GI-BMP Training

FDACS Certification

SB2080

Florida Friendly Landscaping

SB494

Ordinances

Q: Can the law requiring moisture sensing devices on automatic irrigation systems be enforced if the local government of jurisdiction has not adopted a local ordinance to implement the law?

A: Yes. Section 373.62(1), Florida Statutes, requires the owner of an automatic irrigation system to install and maintain operational moisture sensors. Section 373.62(2) requires irrigation contractors installing or repairing such systems to ensure that moisture sensors are operating properly prior to completing work. Section 373.62 (7) creates a process for a variance from water management district watering restrictions under certain conditions. These three sections of the law do not require a local ordinance to be enforceable.

Q: What about the provisions in the law requiring irrigation contractors to report irrigation systems that are out of compliance?

A: Sections 373.62(3) through (6) of the statute direct the Department of Environmental Protection to develop a model ordinance that may be used by local governments to enforce reporting requirements and impose penalties for irrigation contractors who do not report irrigation systems that are not in compliance. These provisions are enforceable only when the local government adopts them by local ordinance.

Q. Where can language be found for the model ordinance described in 403.9337(1)?

A. <http://www.dep.state.fl.us/water/nonpoint/docs/nonpoint/ffl-mo-ccr-1-09.pdf>

Q. How does a local government determine if it has impaired waters within its boundaries?

A. Check the Verified Lists of Impaired Waters at the following web site:
<http://www.dep.state.fl.us/water/watersheds/assessment/index.htm>

Q. When do local governments with impaired waters have to adopt the provisions put forth in the model ordinance as described in 403.9337(2)?

A. The statute did not cite a deadline for either currently impaired watersheds, or those declared impaired in the future. However, the law became effective July 1, 2009. Compliance would be expected within a reasonable timeframe. However, note that the FDACS certificate is not required until 2014, and that adequate training opportunities in the area must be available.

Q. How does a local government demonstrate the need for additional or more stringent measures and what process must they use to document their considerations?

A. A starting point would be to demonstrate, through monitoring, that the implementation of a comprehensive Florida-Friendly Landscaping model ordinance has not led to adequate reductions in total nitrogen or total phosphorus in either stormwater runoff or in receiving waters. Documentation would need to be made available to the public and to state agencies and be preserved in the public record.

Q. Will DEP enforce the law against communities that create more stringent ordinances than the model without approved justification?

A. DEP is not required, nor enabled by law, to review and approve or disapprove local ordinances. Staff may provide courtesy reviews as time permits. Enforcement would be by third parties taking action against a local government at which time the department could be asked to provide input.

Q. Will the local fertilizer ordinances go away now?

A. No, if anything they will increase, but many will be modified and new ones will be more consistent so that crossing the street will not mean a completely different set of laws to follow.

GI-BMP Training

Q. Where can I take the BMP training? Is the training available online?

A. All scheduled training is listed on the official website, under “**Professionals**”, at <http://fyn.ifas.ufl.edu>. Online training will be available on this site in late 2009 or early 2010.

Q. Is the class offered in Spanish?

A. Yes, classes offered in Spanish are identified on the web site.

Q. What is required to get the Certificate of Completion?

A. Take the GIBMP course and pass the examination with a score of 75% or higher.

Q. If I take the BMP class now and get my Certificate of Completion, will it still be valid in Jan 2014? How long before I will need CEU updates?

A. The BMP Certificate of Completion merely states that you passed the class on a given date. The FDACS certificate renewal is required every 4 years for Commercial Fertilizer Applicators; see the FDACS section below for more details. Local governments may require more frequent refreshers or CEUs under their own ordinances.

Q. If I have taken the BMP training locally and have my Certificate of Completion, will I have to retake the class now that the state law has passed?

A. If you have the GIBMP Certificate of Completion from UF-IFAS you may apply to FDACS for the Limited Commercial Fertilizer Applicator Certificate. (LCFAC) If your original certificate is of the old style, (not sealed, no wallet card) contact C. J. Bain at (352) 392-1831 ext. 243 or email: gi.bmp@ifas.ufl.edu for a duplicate.

Q. Is everyone in the landscape industry required to have a GI-BMP certificate of Completion?

A. This depends on local ordinances – state law will require it for anyone who applies fertilizer commercially. DEP recommends that all landscape workers be trained, but recognizes that not all workers have the literacy skills to pass the written examination. The Florida-Friendly Landscaping model ordinance guidance suggests that only supervisors and those whose duties include application of fertilizer or other chemicals be required to have a certificate of completion in order to work.

Q. Are fertilizer applicators at golf courses or who care for parks, schools, or athletic fields required to have the GI-BMP training and the FDACS certification?

A. The model ordinance, and most local ordinances of this type, requires all who apply fertilizer professionally to successfully complete the BMP training. However, only those who apply fertilizers commercially, that is, for hire, to property not owned by themselves, their firm, or their employer, need to have the FDACS certificate.

For instance, an employee of a stadium, school board, golf course or apartment complex would be exempt, but an employee of a landscape contractor hired to fertilize the property would be required to hold a valid FDACS certificate.

Q. What does the BMP training cover?

A. There are five modules, plus introductions, testing, etc. Module 2 is 80 minutes, the others are 50 minutes each.

1. Overview of nonpoint source pollution, laws, effects on water quality; effects on business, economy, and quality of life; and best management practices as both good business and environmental benefit.
2. Florida turfgrass species, landscape plants and characteristics, and BMPs for cultural practices including: fertilizer requirements and the effects of landscape design, mowing, pruning, irrigation, shade, wear, pest, disease, cold and heat stresses on fertilizer materials, amounts and timing; and conversely, the effects of fertilization on these cultural aspects in addition to direct effects on water quality, including nutrient pollution, erosion and sedimentation, and water usage rates.
3. Irrigation systems and the effects of irrigation on volatilization, leaching, runoff, water conservation and water quality issues; effects of over or under irrigation on plants and fertilizer needs; effects of irrigation water quality and reclaimed water issues; Recognizing of irrigation problems; and importance of proper repair to maintain distribution uniformity to prevent spot leaching and runoff of fertilizers, which may result in more fertilizer use and more pollution.
4. Fertilizer characteristics and selection, including physical and chemical properties; soil type, pH, temperature, and moisture effects on release rates; calculation of application rates; spreader calibration; materials handling, and spills.
5. Pesticide licensing law, including fertilizer-pesticide mixtures; integrated pest management, environmental effects, and safety; effects of fertilizer application on pesticide use; and effects of some pesticides on fertilization requirements.

Q. How does an entity get training and testing programs approved as equivalent to the DEP program?

A. A formal policy on this must be developed and a memorandum of understanding or other agreement developed between DEP and IFAS, and possibly DACS. At a minimum, such a course would include all aspects laid out in the DEP Green Industries instructor-training program manual (see question above), and testing at least as rigorous (minimum 40 questions on the BMPs, 8 per topic area).

DEP's GI-BMP Trainer policy prohibits trainers from being paid specifically to teach the course, but does allow those regularly employed as trainers or supervisors to draw their normal salary while presenting the class as part of their duties, such as extension agents, not for profit industry trade association staff, company managers or training officers, community college teachers, etc. Those who would take advantage of this option are expected to have far more comprehensive programs in landscape or horticultural sciences or management than the GIBMP program itself, such as degree programs or professional certification programs for which they may charge significant fees. Such a program may wish to include the GIBMP material into their existing courses. The entire program will be reviewed to ensure no material is taught that is counter to the BMP practices.

FDACS Certification

Q. What must I do to receive the LCFAC certificate from DACS?

A. Individuals applying for the LCFAC certificate must provide a copy of the training certificate demonstrating successful completion of the IFAS Green Industry BMP training; a completed DACS application form; and remit a \$25 fee for the cost of the certificate. For more information contact the Bureau of Entomology and Pest Control at (850) 921-4177 or visit the web site at <http://www.flaes.org/aes-ent/index.html>.

Q. Does every commercial fertilizer applicator have to have a Certificate of Completion in the BMPs, or just a supervisor?

A. By law, every Commercial Fertilizer Applicator must have the FDACS LCFAC Certificate by 2014. The GIBMP Certificate of Completion may also be required by local governments for institutional applicators and others that are not required to have the FDACS LCFAC Certificate.

Q. When will DACS begin issuing the LCFAC certificate for fertilizer applicators?

A. The Bureau of Entomology and Pest Control has created an application form and designed the LCFAC certificate that will be issued to those individuals that qualify following successful completion of the Green Industry BMP training provided by IFAS or other approved trainers. The Bureau must adopt rules prior to the issuance of the LCFAC. Rule language will be posted in the Florida Administrative Weekly by mid August for comments. Questions related to the rule language should be addressed to Mr. Michael Page at pagem@doacs.state.fl.us.

Q. How long are the certificates valid?

A. The LCFAC certificate issued by DACS is valid for four (4) years from the date it is issued.

Q. What does an individual need to do to renew the LCFAC certificate?

A. Recertification requires the completion of four (4) Continuing Education Units (CEU) during the 4 year period. At least two (2) of the four hours must address fertilizer best management practices.

Q. Will I be required to obtain additional training to apply fertilizers as a result of a local ordinance?

A. No. The law specifically states that a local municipality cannot require additional testing once an individual has obtained the LCFAC certificate issued by DACS.

Q. What will the LCFAC certificate authorize me to do?

A. The LCFAC certificate provides the certificate holder the authority to apply only fertilizers in urban landscapes for commercial gain. The LCFAC certificate **does not** authorize the following:

1. the application of pesticides to turf or ornamental plants, including pesticide-fertilizer mixes such as “weed and feed” products,
2. the operation of a pest control business, or
3. the application of pesticides or fertilizers by unlicensed or uncertified individuals under the supervision of a certified person.

SB2080

Florida Friendly Landscaping

Q. Are Home Owners Associations (HOAs) powerless to prevent people from removing their lawns?

A. The law does not invalidate architectural control committees or landscaping committees. It merely states that covenants, restrictions, and ordinances may not prohibit Florida-Friendly Landscaping practices.

- US Supreme Court: Police powers of the States to protect public health and welfare may trump private contracts.
- Does not invalidate Landscape Committees or Architectural Control Committees – It does apply reasonable limits.
- Does prohibit mandates that require:
 - water-wasting practices such as overwatering of plants or inappropriate site design;
 - inappropriate placement of plants such that regular irrigation is required to keep the plants healthy or prohibitions on attractive, well suited plants in the landscape in favor of other plants that are less well suited to the site (wrong plant, wrong place);
 - excessive or improper fertilization;
 - excessive use of pesticides.
- Does prohibit any watering mandates that are in violation of Water Management District water use restrictions.
- Does forbid prohibitions on

- reasonable and appropriate use of mulch,
 - plants attractive to wildlife such as butterfly or hummingbird gardens or other non-nuisance wildlife,
 - swales or rain gardens, waterfront buffers or other protective practices,
 - composting bins or rain barrels, etc.,
- However, it does not prohibit reasonable limits such as to be well maintained or limited to a backyard, side area or screened, where feasible.

Q. How can HOAs learn about Florida-Friendly Landscaping™ principles that will fit in with their desired lifestyles?

A. You may hire a landscape architect with experience in this area, or you may contact the local [Cooperative Extension Service](#) office and ask for the Florida Yards and Neighborhoods agent, or the Master Gardener supervisor. You may be able to arrange a presentation to your association's architectural control committee detailing the appropriate styles of Florida-friendly yards that would work well in your neighborhood. The Florida-Friendly Landscaping web site is at <http://fyn.ifas.ufl.edu/index.html>."

Q. Are model Covenants available?

A. Model Florida-Friendly Covenants are available in "[Florida Friendly Guidance Models for Ordinances, Covenants, and Restrictions](#)" available from DEP at <http://www.dep.state.fl.us/water/nonpoint/pubs.htm>.