



Florida Pesticide Laws and Rules

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CHARLES H. BRONSON, Commissioner

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CHAPTER 487 PESTICIDE REGULATION AND SAFETY

PART I FLORIDA PESTICIDE LAW (ss. 487.011-487.175)

PART II FLORIDA AGRICULTURAL WORKER SAFETY ACT (ss. 487.2011-487.2071)

PART I FLORIDA PESTICIDE LAW

Part I

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487.011 Popular name; administration.--This part shall be known by the popular name the "Florida Pesticide Law" and shall be administered by the Department of Agriculture and Consumer Services.

History.--s. 1, ch. 65-457; ss. 1, 37, ch. 92-115; s. 2, ch. 94-233; s. 8, ch. 2000-154; s. 21, ch. 2004-64.

487.012 Declaration of purpose.--The purpose of this part is to regulate the distribution, sale, and use of pesticides, except as provided in chapters 388 and 482, and to protect people and the environment from the adverse effects of pesticides.

History.--s. 3, ch. 74-247; s. 8, ch. 79-210; s. 2, ch. 81-318; ss. 14, 15, ch. 82-167; ss. 2, 37, ch. 92-115; s. 3, ch. 94-233; s. 9, ch. 2000-154; s. 22, ch. 2004-64.

Note.--Former s. 487.152.

487.021 Definitions.--For the purpose of this part:

(1) "Acceptable release rate" means a measured release rate not exceeding 4.0 micrograms per square centimeter per day at steady state conditions as determined in accordance with a United States Environmental Protection Agency testing data call-in notice of July 29, 1986, on tributyltin in antifouling paints under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. s. 136, or at a rate established by the department.

(2) "Active ingredient" means:

(a) In the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests.

(b) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation, or otherwise alter the behavior, of ornamental or crop plants or the produce thereof.

(c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.

(d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(3) "Added ingredient" means any plant nutrient or plant regulator added to the mixture which is not an active pesticidal ingredient, but which the manufacturer wishes to show on the label.

(4) "Adulterated" applies to any pesticide if its strength or purity falls below or is in excess of the professed standard of quality as expressed on labeling or under which it is sold, if any substance has been substituted wholly or in part for the pesticide or if any valuable constituent of the pesticide has been wholly or in part abstracted.

(5) "Advertisement" means all representations disseminated in any manner or by any means other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of pesticides.

(6) "Age of majority" means any natural person 18 years of age or older, or an emancipated minor.

(7) "Aircraft" means any machine designed for flight and for use in applying pesticides.

(8) "Animal" means all vertebrate and invertebrate species, including, but not limited to, humans and other mammals, birds, fish, and shellfish.

(9) "Antidote" means the most practical immediate treatment for poisoning and includes first aid treatment.

- (10) "Antifouling paint" means a coating, paint, or treatment that is intended for use as a pesticide, as defined in this section, to control freshwater or marine fouling organisms.
- (11) "Antisiphon device" means a safety device used to prevent the backflow of a mixture of water and chemicals into the water supply.
- (12) "Batch" or "lot" means a quantity of pesticide produced or packaged and readily identified by numbers, letters, or other symbols.
- (13) "Brand" means the name, number, trademark, or any other designation which distinguishes one pesticide product from another.
- (14) "Certification" means the recognition by the department that an individual is a competent pesticide applicator and, thus, is eligible for licensure in one or more of the designated license types and categories.
- (15) "Certified applicator" means any individual who has been recognized by the department as a competent pesticide applicator and, thus, is eligible to apply for licensure in one or more of the designated license types and categories.
- (16) "Commercial applicator" means an individual who has reached the age of majority and is licensed by the department to use or supervise the use of any restricted-use pesticide for any purpose on any property other than as provided by the definitions of "private applicator," "product specific applicator," or "public applicator," whether or not the individual is a private applicator with respect to some uses.
- (17) "Dealer" means any person, other than the manufacturer or distributor, who offers for sale, sells, barter, or otherwise supplies pesticides to the ultimate user or consumer.
- (18) "Deficiency" means the amount of an active ingredient of a pesticide by which it fails to come up to its guaranteed analysis when analyzed.
- (19) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
- (20) "Department" means the Department of Agriculture and Consumer Services or its authorized representative.
- (21) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.
- (22) "Device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating, any pest or other form of plant or animal life (other than human and other than bacteria, virus, or other microorganism on or in living humans or other living animals); but not including equipment used for the application of pesticides when sold separately.
- (23) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.
- (24) "Distributor" means any person who offers for sale, holds for sale, sells, barter, or supplies pesticides in this state.
- (25) "Emergency exemption" means an exemption as authorized in s. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.
- (26) "Environment" means all water, air, land, plants, and animals, and their relationships with one another.

(27) "Equipment" means any type of ground, aquatic, or aerial device used to apply any pesticide on land, and on anything that may be growing, habituating, or stored on or in the land. Equipment does not include any pressurized hand-size household device used to apply any pesticide, or any other device where the person applying the pesticide is the source of power for applying the pesticide.

(28) "Excess" means the amount of an active ingredient of a pesticide found by analysis to be over the guaranteed amount.

(29) "Experimental use permit" means a permit issued by the department or by the United States Environmental Protection Agency as authorized in s. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act.

(30) "Fungi" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts), as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living humans or other animals.

(31) "Highly toxic" means any highly poisonous pesticide as determined by the rules promulgated pursuant to this part.

(32) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered.

(33) "Ineffective" means that pesticides such as bacteriostats, disinfectants, germicides, sanitizers, and like products fail to meet microbiological claims when tested in the laboratory utilizing the officially approved procedures of the Association of Official Analytical Chemists or other methods or procedures as the department may find necessary.

(34) "Inert ingredient" means an ingredient which is not an active ingredient.

(35) "Ingredient statement" means a statement of the name and percentage by weight of each active ingredient, together with the total percentage of the inert ingredients in the pesticides.

(36) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six legs, usually in winged form (as, for example, beetles, bugs, bees, and flies) and to other allied classes and arthropods whose members are wingless and usually have more than six legs (as, for example, spiders, mites, ticks, centipedes, and wood lice).

(37) "Irrigation system" means any device or combination of devices having a hose, pipe, or other conduit which connects directly to any source of ground or surface water, through which device or combination of devices water or a mixture of water and chemicals is drawn and applied for agricultural purposes. The term does not include any handheld hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

(38) "Label" means the written, printed, or graphic matter on or attached to a pesticide, device, or immediate and outside container or wrappers of such pesticide or device.

(39) "Labeling" means all labels and other written, printed, or graphic matter referencing the pesticide or device or upon any of its containers or wrappers, or accompanying the pesticide or device at any time, but does not include accurate, nonmisleading reference to current official publications of the United States Departments of Agriculture or Interior, the Environmental Protection Agency, the United States Public Health Service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

(40) "Land" means all land and water areas, including airspace.

(41) "Licensed applicator" means an individual who has reached the age of majority and is authorized by license from the department to use or supervise the use of any restricted-use pesticide covered by the license.

(42) "Manufacturer" means a person engaged in the business of importing, producing, preparing, mixing, formulating, or reformulating pesticides for the purpose of distribution.

(43) "Mixer-loader" means any individual who handles open containers or otherwise prepares, processes, or dilutes pesticides in preparation for final application.

(44) "Nematode" means invertebrate animals of the phylum Nematelminthes and class Nematoda (that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle and inhabiting soil, water, plants, or plant parts), and may also be known as nemas or eelworms.

(45) "Official sample" means any sample of a pesticide taken by the department in accordance with the provisions of this part or rules adopted under this part, and designated as official by the department.

(46) "Organotin compound" means any compound of tin used as a biocide in an antifouling paint.

(47) "Percent" means one one-hundredth part by weight or volume.

(48) "Pest" means:

(a) Any insect, rodent, nematode, fungus, weed; or

(b) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living humans or other living animals, which is declared to be a pest by the administrator of the United States Environmental Protection Agency or which may be declared to be a pest by the department by rule.

(49) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the department by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; however, the term "pesticide" does not include any article that:

(a) Is a "new animal drug" within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act;

(b) Has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or

(c) Is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act bearing or containing an article covered in this subsection.

(50) "Plant nutrient" means any ingredient that furnishes nourishment to the plant or promotes its growth in a normal manner.

(51) "Plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or maturation, or for otherwise altering the behavior, of ornamental or crop plants or the produce thereof; but does not include substances intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(52) "Private applicator" means an individual who has reached the age of majority and is licensed by the department to use or supervise the use of any restricted-use pesticide for purposes of producing any agricultural commodity on property owned or rented by his or her employer, or, if applied without

compensation other than the trading of personal services between producers of agricultural commodities, on the property of another person.

(53) "Product" means a unique pesticide and label as distinguished by its individually assigned United States Environmental Protection Agency registration number, special local need registration number, or experimental use permit number.

(54) "Protect health and the environment" means protection against any unreasonable adverse effects on people or the environment.

(55) "Public applicator" means an individual who has reached the age of majority and is licensed by the department to use or supervise the use of restricted-use pesticides as an employee of a state agency, municipal corporation, or other governmental agency.

(56) "Product specific applicator" means an individual who has reached the age of majority and is licensed by the department to use or supervise the use of a particular restricted-use pesticide product that is identified on the license by the United States Environmental Protection Agency registration number, as well as any Florida special local need registration number and any specific identifying information as deemed appropriate for nonfederally registered products exempt under s. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, provided that the restricted-use pesticide product is used for the purpose of producing agricultural commodities on property owned or rented by the licensee or the licensee's employer, or is applied on the property of another person without compensation other than trading of personal services between producers of agricultural commodities.

(57) "Registrant" means the person registering any pesticide pursuant to the provisions of this part.

(58) "Restricted-use pesticide" means a pesticide which, when applied in accordance with its directions for use, warnings, and cautions and for uses for which it is registered or for one or more such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, or injury to the applicator or other persons, and which has been classified as a restricted-use pesticide by the department or the administrator of the United States Environmental Protection Agency.

(59) "Sell or sale" includes exchanges.

(60) "Special local need registration" means a state registration issued by the department as authorized in s. 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act.

(61) "Special review" is a process for reviewing selected pesticides based upon information that the pesticides have been found to present environmental or health concerns not considered in the registration process or that data submitted in support of registration are inadequate or outdated.

(62) "Tolerance" means the deviation from the guaranteed analysis permitted by law.

(63) "Transportation of pesticides in bulk" means the movement of a pesticide which is held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight.

(64) "Under the direct supervision of a licensed applicator" means, unless otherwise prescribed by its labeling, a pesticide that must be applied by a competent person acting under the instruction and control of a licensed applicator who is available if and when needed, even though the licensed applicator is not physically present when the pesticide is applied.

(65) "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(66) "Vessel" means any type of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(67) "Weed" means any plant which grows where not wanted.

History.--s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; s. 1, ch. 69-376; s. 1, ch. 70-52; s. 178, ch. 71-377; s. 1, ch. 73-63; s. 1, ch. 79-210; s. 1, ch. 82-106; s. 1, ch. 82-167; s. 15, ch. 84-338; s. 1, ch. 88-304; ss. 3, 37, ch. 92-115; s. 4, ch. 94-233; s. 474, ch. 97-103; s. 10, ch. 2000-154; s. 23, ch. 2004-64.

487.025 Misbranding.--

(1) A pesticide or device is misbranded if its labeling bears any statement, design, or graphic representation which is false or misleading in any particular.

(2) A pesticide is misbranded if:

(a) It is an imitation of, or is offered for sale under the name of, another pesticide.

(b) Its labeling bears any reference to registration under this part.

(c) The labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public.

(d) The label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living humans and other vertebrate animals.

(e) The label does not bear an ingredient statement on that part of the immediate container, and on the outside container or wrapper, if there is one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase.

(f) Any word, statement, or other information required by or under authority of this part to appear on the labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) It is injurious to living humans or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such pesticide as directed or in accordance with commonly recognized practice.

(h) In the case of a plant regulator, defoliant, or desiccant, when used as directed, it is injurious to living humans or other vertebrate animals, or vegetation, to which it is applied, or to the person applying such pesticide. However, physical or physiological effects on plants or parts thereof shall not be deemed to be injury when this is the purpose for which the plant regulator, defoliant, or desiccant was applied in accordance with the label claims and recommendations.

(i) Any ingredient which is present in amounts which are not likely to be effective when used according to directions is given undue prominence or conspicuousness, as compared with ingredients which are present in effective amounts, in its labeling. Such ingredient shall appear only in the ingredient statement.

(j) It is found to be ineffective when tested in the laboratory.

(k) It is found by the department to be of short measure.

History.--s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; s. 1, ch. 73-63; s. 1, ch. 79-210; s. 1, ch. 82-106; s. 1, ch. 82-167; s. 15, ch. 84-338; ss. 3, 37, ch. 92-115; s. 5, ch. 94-233; s. 475, ch. 97-103; s. 11, ch. 2000-154; s. 24, ch. 2004-64.

Note.--Former s. 487.021(37).

487.031 Prohibited acts.--It is unlawful:

(1) For any person to engage in the application of restricted-use pesticides, except as defined in chapters 388 and 482, without a certified applicator's license issued by the department unless such person is doing so under the direct supervision of a licensee. However, all aerial applicators applying any pesticide shall be licensed by the department in the appropriate category or categories, and provisions for direct supervision shall not be held to apply to aerial applicators.

(2) To distribute, sell, or offer for sale within this state any pesticide or product which has not been registered pursuant to the provisions of this part, except pesticides distributed, sold, offered for sale, or used in accordance with the provisions of federal or state restriction, supervision, or cancellation orders or other existing stock agreements.

(3) To distribute, sell, offer for sale, or use within the state any pesticide which is adulterated or misbranded, or any device which is misbranded.

(4) To detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this part or rules promulgated under this part, or to add any substance to, or take any substance from, any pesticide in a manner that may defeat the purpose of this part.

(5) For any person to use for his or her own advantage or to reveal any information relative to formulas of products acquired by authority of this part, other than to: the department, proper officials, or employees of the state; the courts of this state in response to a subpoena; physicians, pharmacists, and other qualified persons, in an emergency, for use in the preparation of antidotes. The information relative to formulas of products is confidential and exempt from the provisions of s. 119.07(1).

(6) To disseminate any false advertisement.

(7) For any person to dispose of a pesticide that has been placed under stop-sale, stop-use, removal, or hold order issued by the department without a written release order from the department or to remove stop-sale, stop-use, removal, or hold order from article so detained.

(8) To hold or offer for sale, sell, or distribute in this state restricted-use pesticides without a dealer's license and unless the person to whom the sale is made holds a valid applicator's license to purchase and use such restricted-use pesticides or holds a valid purchase authorization card, in which case the use of the restricted-use pesticide shall be by a licensed applicator or an employee under his or her direct supervision.

(9) For any person to purchase any restricted-use pesticide unless the person is the holder of a valid dealer's license, applicator's license, or purchase authorization card or to use a restricted-use pesticide unless the person is the holder of a valid applicator's license or unless he or she is using the restricted-use pesticide under the direct supervision of a licensed applicator.

(10) For any person to use any pesticide, including a restricted-use pesticide, or to dispose of any pesticide containers in a manner other than as stated in the labeling or on the label or as specified by the department or the United States Environmental Protection Agency. However, it shall not be unlawful to:

(a) Apply a pesticide at any dosage, concentration, or frequency less than that specified on the label or labeling, provided that the efficacy of the pesticide is maintained; further, provided that when a pesticide is applied by a commercial applicator, any deviation from label recommendations must be with the consent of the purchaser of the pesticide application services;

(b) Apply a pesticide against any target pest not specified in the labeling if the application is to a crop, animal, or site specified on the label or labeling, provided that the label or labeling does not specifically prohibit the use on pests other than those listed on the label or labeling;

(c) Employ any method of application not prohibited by the labeling;

(d) Mix a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the label or labeling; or

(e) Use in a manner determined by rule not to be an unlawful act.

(11) For any person to handle, transport, store, display, or distribute pesticides in such a manner as to endanger human beings or the environment or to endanger food, feed, or any other products that may be transported, stored, displayed, or distributed with such pesticides.

(12) For any person to dispose of, discard, or store any pesticides or pesticide containers in a manner which causes injury to humans, vegetation, crops, livestock, wildlife, or pollinating insects or to pollute any water supply or waterway.

(13) For any person to:

(a) Make a false or fraudulent claim through any medium, misrepresenting the effect of materials or methods used;

(b) Make a pesticide recommendation or application not in accordance with the label, except as provided in this section, or not in accordance with recommendations of the United States Environmental Protection Agency or not in accordance with the specifications of a special local need registration;

(c) Operate faulty or unsafe equipment;

(d) Operate in a faulty, careless, or negligent manner;

(e) Apply any pesticide directly to, or in any manner cause any pesticide to drift onto, any person or area not intended to receive the pesticide;

(f) Fail to disclose to an agricultural crop grower, prior to the time pesticides are applied to a crop, full information regarding the possible harmful effects to human beings or animals and the earliest safe time for workers or animals to reenter the treated field;

(g) Refuse or, after notice, neglect to comply with the provisions of this part, the rules adopted under this part, or any lawful order of the department;

(h) Refuse or neglect to keep and maintain the records required by this part or to submit reports when and as required;

(i) Make false or fraudulent records, invoices, or reports;

(j) Use fraud or misrepresentation in making an application for a license or license renewal;

(k) Refuse or neglect to comply with any limitations or restrictions on or in a duly issued license;

(l) Aid or abet a licensed or unlicensed person to evade the provisions of this part, or combine or conspire with a licensed or unlicensed person to evade the provisions of this part, or allow a license to be used by an unlicensed person;

- (m) Make false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;
- (n) Make false or misleading statements, or fail to report, pursuant to this part, any suspected or known damage to property or illness or injury to persons caused by the application of pesticides;
- (o) Impersonate any state, county, or city inspector or official;
- (p) Fail to maintain a current liability insurance policy or surety bond as provided for in this part;
- (q) Fail to adequately train, as provided for in this part, unlicensed applicators or mixer-loaders applying restricted-use pesticides under the direct supervision of a licensed applicator; or
- (r) Fail to provide authorized representatives of the department with records required by this part or with free access for inspection and sampling of any pesticide, areas treated with or impacted by these materials, and equipment used in their application.

History.--s. 1, ch. 65-457; s. 1, ch. 69-19; ss. 14, 35, ch. 69-106; s. 2, ch. 69-376; s. 2, ch. 70-52; s. 1, ch. 70-439; s. 2, ch. 71-137; s. 1, ch. 72-166; ss. 2, 3, ch. 73-63; s. 9, ch. 74-247; s. 183, ch. 77-104; s. 412, ch. 77-147; s. 6, ch. 78-95; s. 1, ch. 78-154; s. 88, ch. 79-65; s. 137, ch. 79-164; s. 2, ch. 79-210; s. 2, ch. 81-318; ss. 8, 14, 15, ch. 82-167; s. 101, ch. 83-218; s. 3, ch. 86-116; s. 1, ch. 91-20; ss. 4, 37, ch. 92-115; s. 6, ch. 94-233; s. 322, ch. 96-406; s. 1122, ch. 97-103; s. 12, ch. 2000-154; s. 25, ch. 2004-64.

Note.--Subsection (13) former s. 487.158(1).

487.041 Registration.--

(1)(a) Each brand of pesticide, as defined in s. 487.021, that is distributed, sold, or offered for sale, except as provided in this subsection, within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state must be registered in the office of the department, and such registration shall be renewed annually. Emergency exemptions from registration may be authorized in accordance with the rules of the department. The registrant shall file with the department a statement including:

1. The name, business mailing address, and street address of the registrant.
2. The name of the brand of pesticide.
3. An ingredient statement and a complete copy of the labeling accompanying the brand of the pesticide, which must conform to the registration, and a statement of all claims to be made for it, including directions for use and a guaranteed analysis showing the names and percentages by weight of each active ingredient, the total percentage of inert ingredients, and the names and percentages by weight of each "added ingredient."

(b) For the purpose of defraying expenses of the department in connection with carrying out the provisions of this part, each person shall pay an annual registration fee of \$350 for each registered brand of pesticide. The annual registration fee for each special local need label and experimental use permit is \$100. All registrations expire on December 31 of each year. If the renewal of a brand of pesticide, including the special local need label and experimental use permit, is not filed by January 31 of the renewal year, an additional fee of \$25 per brand of pesticide shall be assessed per month and added to the original fee. This additional fee may not exceed \$250 per brand of pesticide. The additional fee must be paid by the registrant before the renewal certificate for the registration of the brand of pesticide is issued.

(c) This subsection does not apply to distributors or retail dealers selling brands of pesticide if such brands of pesticide are registered by another person.

(d) This subsection expires at midnight, December 31, 2008.

(2)(a) Effective January 1, 2009, each brand of pesticide, as defined in s. 487.021, which is distributed, sold, or offered for sale, except as provided in this section, within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state must be registered in the office of the department, and such registration shall be renewed biennially. Emergency exemptions from registration may be authorized in accordance with the rules of the department. The registrant shall file with the department a statement including:

1. The name, business mailing address, and street address of the registrant.
2. The name of the brand of pesticide.
3. An ingredient statement and a complete copy of the labeling accompanying the brand of the pesticide, which must conform to the registration, and a statement of all claims to be made for it, including directions for use and a guaranteed analysis showing the names and percentages by weight of each active ingredient, the total percentage of inert ingredients, and the names and percentages by weight of each "added ingredient."

(b) Effective January 1, 2009, for the purpose of defraying expenses of the department in connection with carrying out the provisions of this part, each person shall pay a biennial registration fee for each registered brand of pesticide. The registration of each brand of pesticide shall cover a designated 2-year period beginning on January 1 of each odd-numbered year and expiring on December 31 of the following year.

(c) Each registration issued by the department to a registrant for a period beginning in an odd-numbered year shall be assessed a fee of \$700 per brand of pesticide and a fee of \$200 for each special local need label and experimental use permit, and the registration shall expire on December 31 of the following year. Each registration issued by the department to a registrant for a period beginning in an even-numbered year shall be assessed a fee of \$350 per brand of pesticide and fee of \$100 for each special local need label and experimental use permit, and the registration shall expire on December 31 of that year.

(d) All revenues collected, less those costs determined by the department to be nonrecurring or one-time costs, shall be deferred over the 2-year registration period, deposited in the General Inspection Trust Fund, and used by the department in carrying out the provisions of this chapter.

(e) If the renewal of a brand of pesticide, including the special local need label and experimental use permit, is not filed by January 31 of the renewal year, an additional fee of \$25 per brand of pesticide shall be assessed per month and added to the original fee. This additional fee may not exceed \$250 per brand of pesticide. The additional fee must be paid by the registrant before the renewal certificate for the registration of the brand of pesticide is issued. The additional fee shall be deposited into the General Inspection Trust Fund.

(f) This subsection does not apply to distributors or retail dealers selling brands of pesticide if such brands of pesticide are registered by another person.

(3) The department shall adopt rules governing the procedures for the registration of a brand of pesticide and for the review of data submitted by an applicant for registration of the brand of pesticide. The department shall determine whether the brand of pesticide should be registered, registered with conditions, or tested under field conditions in this state. The department shall determine whether each request for registration of a brand of pesticide meets the requirements of current state and federal law. The department, whenever it deems it necessary in the administration of this part, may require the manufacturer or registrant to submit the complete formula, quantities shipped into or manufactured in the state for distribution and sale, evidence of the efficacy and the safety of any pesticide, and other relevant data. The department may review and evaluate a registered pesticide if new information is made available that indicates that use of the pesticide has caused an unreasonable adverse effect on public health or the environment. Such review shall be conducted upon the request of the State Surgeon General in the event of an unreasonable adverse effect on public health or the Secretary of

Environmental Protection in the event of an unreasonable adverse effect on the environment. Such review may result in modifications, revocation, cancellation, or suspension of the registration of a brand of pesticide. The department, for reasons of adulteration, misbranding, or other good cause, may refuse or revoke the registration of the brand of any pesticide after notice to the applicant or registrant giving the reason for the decision. The applicant may then request a hearing, pursuant to chapter 120, on the intention of the department to refuse or revoke registration, and, upon his or her failure to do so, the refusal or revocation shall become final without further procedure. The registration of a brand of pesticide may not be construed as a defense for the commission of any offense prohibited under this part.

(4) The department, in addition to its other duties under this section, has the power to:

(a) Review data of the United States Environmental Protection Agency on any pesticide.

(b) Formally request the United States Environmental Protection Agency to require registrants of pesticides to provide the department with environmental test data generated in this state or generated by simulating environmental conditions in this state.

(c) Request information from the United States Environmental Protection Agency relating to the findings upon which that agency based its registration determinations for pesticides registered in this state.

(d) Require a registrant who discontinues the distribution of a brand of pesticide in this state to continue the registration of the brand of the pesticide for a minimum of 2 years or until no more remains on retailers' shelves if such continued registration or sale is not specifically prohibited by the department or the United States Environmental Protection Agency.

(e) Require data demonstrating the efficacy of pesticide products containing label statements that include directions for use as preventive treatments for termites for new construction. The department shall review the data and determine if the data supports label claims of termite prevention or protection from termite damage. Label claims for protection from damage must be supported by data that shows the product will prevent damage to a structure and its contents for a minimum of 5 years under Florida conditions. If the data does not support such label claims, then the product cannot be registered or reregistered. The department shall adopt rules specifying performance standards and acceptable test conditions for data submitted in support of an efficacy claim, or may reference such performance standards and test conditions established by the United States Environmental Protection Agency.

(5) Each application for a special local need registration must be supported by evidence of efficacy and safety which shall be submitted with the application for registration. This evidence, in whole or part, shall be examined by any other governmental agency designated by the department, which shall make recommendations to the department as to whether the application shall be accepted or rejected. The department may then issue an acceptance or rejection.

(6) The department shall provide summary information to the Pesticide Review Council regarding applications for registration of those pesticides for which data received in the registration process indicate that the pesticide, when used according to label instructions and precautions, may have a significant potential for adverse effects on human health or the environment. The council shall be kept apprised of the status of these applications while under review and of the final action by the Commissioner of Agriculture regarding the registration of these pesticides.

(7) In the discharge of duties under this section, the department shall seek the review and comment of other appropriate agencies. The procedures for obtaining review and comment shall be established through memoranda of understanding or cooperative agreements. Confidential data received by such governmental agencies from the department shall be confidential and exempt from the provisions of s. 119.07(1); and it is unlawful for any member of such agency or of the department to use the data for his or her own advantage or to reveal the data to the public.

(8) This section does not affect the authority of the department to administer the pesticide registration program under this part or the authority of the Commissioner of Agriculture to approve the registration of a brand of pesticide.

(9) Pesticides used in accordance with provisions under federal or state restriction, suspension, or cancellation orders, or other existing stock agreements, are exempt from this section.

History.--s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; s. 4, ch. 73-63; s. 2, ch. 78-154; s. 3, ch. 79-210; s. 16, ch. 84-338; s. 85, ch. 85-81; s. 1, ch. 85-172; s. 2, ch. 88-304; s. 2, ch. 91-20; ss. 5, 37, ch. 92-115; s. 7, ch. 94-233; s. 323, ch. 96-406; s. 1123, ch. 97-103; s. 13, ch. 2000-154; s. 13, ch. 2000-308; s. 9, ch. 2001-279; s. 25, ch. 2002-295; s. 26, ch. 2004-64; s. 1, ch. 2007-67; s. 101, ch. 2008-6; s. 4, ch. 2008-107.

487.0435 License classification.--The department shall issue certified applicator licenses in the following classifications: certified public applicator; certified private applicator; and certified commercial applicator. In addition, separate classifications and subclassifications may be specified by the department in rule as deemed necessary to carry out the provisions of this part. Each classification shall be subject to requirements or testing procedures to be set forth by rule of the department and shall be restricted to the activities within the scope of the respective classification as established in statute or by rule. In specifying classifications, the department may consider, but is not limited to, the following:

- (1) Whether the license sought is for commercial, public, or private applicator status.
- (2) The method of applying the restricted-use pesticide.
- (3) The specific crops upon which restricted-use pesticides are applied.
- (4) The proximity of populated areas to the land upon which restricted-use pesticides are applied.
- (5) The acreage under the control of the licensee.
- (6) The pounds of technical restricted toxicant applied per acre per year by the licensee.

History.--ss. 7, 37, ch. 92-115; s. 8, ch. 94-233; s. 14, ch. 2000-154; s. 27, ch. 2004-64.

487.0437 Direct infusion of chlorine gas.--The department shall create, within the commercial applicator classification, a category for the direct infusion of chlorine gas in residential swimming pools by a portable system which dispenses chlorine gas registered with the United States Environmental Protection Agency and the Florida Department of Agriculture and Consumer Services for use as a disinfectant and algicide in residential swimming pools. It is the intention of the Legislature that the regulation of applicators doing chlorine gas infusion for treatment of algae in residential swimming pools as described herein is preempted to the department and not the Department of Business and Professional Regulation under chapter 489.

History.--ss. 9, 37, ch. 92-115; s. 183, ch. 94-218.

487.044 Certification; examination.--

(1) The department may independently, or through the Institute of Food and Agricultural Sciences, develop a certification program, including an optional training session of at least 4 hours, designed to ensure the competency of those persons to whom the department issues licenses. A standard core examination shall be developed which shall be administered to all applicants for licensure.

(2) The department shall require each applicant for a certified applicator's license to demonstrate competence by a written or oral examination in which the applicant must demonstrate adequate knowledge concerning the proper use and application of restricted-use pesticides in each classification for which application for license is made. The examination may be prepared, administered, and evaluated by the department. Each applicant for a certified applicator's license shall demonstrate minimum competence as to:

- (a) The proper use of the equipment.

- (b) The environmental hazards that may be involved in applying restricted-use pesticides.
- (c) Calculating the concentration of restricted-use pesticides to be used in particular circumstances.
- (d) Identification of common pests to be controlled and the damages caused by such pests.
- (e) Protective clothing and respiratory equipment required during the handling and application of restricted-use pesticides.
- (f) General precautions to be followed in the disposal of containers, as well as the cleaning and decontamination of the equipment which the applicant proposes to use.
- (g) Applicable state and federal pesticide laws, rules, and regulations.
- (h) General safety precautions.

History.--ss. 8, 37, ch. 92-115.

487.045 Fees.--

- (1) The department shall establish applicable fees by rule. The fees shall not exceed \$250 for commercial applicators or \$100 for private applicators and public applicators, for initial licensing and for each subsequent license renewal. The fees shall be determined annually and shall represent department costs associated with enforcement of the provisions of this part.
- (2) Fees collected under the provisions of this part shall be deposited into the General Inspection Trust Fund and shall be used to defray expenses in the administration of this part.

History.--ss. 11, 37, ch. 92-115; s. 9, ch. 94-233; s. 15, ch. 2000-154; s. 28, ch. 2004-64.

487.046 Application; licensure.--

- (1) Application for license shall be made in writing to the department on a form furnished by the department. Each application shall contain information regarding the applicant's qualifications, proposed operations, and license classification or subclassifications, as prescribed by rule.
- (2) If the department finds the applicant qualified in the classification for which the applicant has applied, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the Federal Aviation Administration and the Department of Transportation of this state to operate the equipment described in the application and has shown proof of liability insurance or posted a surety bond in an amount to be set forth by rule of the department, the department shall issue a certified applicator's license, limited to the classifications for which the applicant is qualified. The license shall expire as required by rules promulgated under this part, unless it has been revoked or suspended by the department prior to expiration, for cause as provided in this part. The license or authorization card issued by the department verifying licensure shall be kept on the person of the licensee while performing work as a licensed applicator.

History.--ss. 12, 37, ch. 92-115; s. 10, ch. 94-233; s. 16, ch. 2000-154; s. 82, ch. 2004-5; s. 29, ch. 2004-64.

487.047 Nonresident license; reciprocal agreement; authorized purchase.--

- (1) The department may waive all or part of the examination requirements provided for in this part on a reciprocal basis with any other state or agency, or an Indian tribe, that has substantially the same or better standards.

(2) Any nonresident applying for a license under this part to operate in the state shall file a Designation of Registered Agent naming the Secretary of State as the agent of the nonresident, upon whom process may be served in the event of any suit against the nonresident. The designation shall be prepared on a form provided by the department and shall render effective the jurisdiction of the courts of this state over the nonresident applicant. However, any nonresident who has a duly appointed registered agent upon whom process may be served as provided by law shall not be required to designate the Secretary of State as registered agent. The Secretary of State shall be allowed the registered-agent fees as provided by law for designating registered agents. The department shall be furnished with a copy of the designation of the Secretary of State or of a registered agent which is certified by the Secretary of State. The Secretary of State shall notify the department of any service of process it receives as registered agent for persons licensed under this part.

(3) Restricted-use pesticides may be purchased by any person who holds a valid applicator's license or who holds a valid purchase authorization card issued by the department or by a licensee under chapter 388 or chapter 482. A nonlicensed person may apply restricted-use pesticides under the direct supervision of a licensed applicator. An applicator's license shall be issued by the department on a form supplied by it in accordance with the requirements of this part.

History.--ss. 13, 37, ch. 92-115; s. 11, ch. 94-233; s. 17, ch. 2000-154; s. 30, ch. 2004-64.

487.048 Dealer's license; records.--

(1) Each person holding or offering for sale, selling, or distributing restricted-use pesticides shall obtain a dealer's license from the department. Application for the license shall be made on a form prescribed by the department. The license must be obtained before entering into business or transferring ownership of a business. The department may require examination or other proof of competency of individuals to whom licenses are issued or of individuals employed by persons to whom licenses are issued. Demonstration of continued competency may be required for license renewal, as set by rule. The license shall be renewed annually as provided by rule. An annual license fee not exceeding \$250 shall be established by rule. However, a user of a restricted-use pesticide may distribute unopened containers of a properly labeled pesticide to another user who is legally entitled to use that restricted-use pesticide without obtaining a pesticide dealer's license. The exclusive purpose of distribution of the restricted-use pesticide is to keep it from becoming a hazardous waste as defined in s. 403.703(13).

(2) A record of each sale of a restricted-use pesticide shall be maintained by the licensed dealer for a period of 2 years and shall be made available to the department upon request. The content of the record shall be established by department rule.

History.--ss. 14, 37, ch. 92-115; s. 18, ch. 2000-154; s. 129, ch. 2008-4.

487.049 Renewal; late fee; recertification.--

(1) The department shall require renewal of a certified applicator's license at 4-year intervals from the date of issuance. If the application for renewal of any license provided for in this part is not filed on time, a late fee shall be assessed not to exceed \$50. However, the penalty shall not apply if the renewal application is filed within 60 days after the renewal date, provided the applicant furnishes an affidavit certifying that he or she has not engaged in business subsequent to the expiration of the license for a period not exceeding 60 days. A license may be renewed without taking another examination unless the department determines that new knowledge related to the classification for which the applicant has applied makes a new examination necessary; however, the department may require the applicant to provide evidence of continued competency, as determined by rule. If the license is not renewed within 60 days after the expiration date, then the licensee may again be required to take another examination, unless there is some unavoidable circumstance which results in the delay of the renewal of any license issued under this part which was not under the applicant's control.

(2) The department shall require all certified applicators to provide evidence of continued competency through the implementation of a recertification program set forth by rule. Recertification options shall include at least one of the following: the attendance of training sessions with either a written or oral examination; or accumulation of a minimum number of recertification credits through attendance of

approved continuing education classes or seminars. If the licensee fails to renew the license within 60 days of the expiration date, reexamination shall be required.

History.--s. 8, ch. 74-247; s. 12, ch. 79-210; s. 2, ch. 81-318; ss. 7, 14, 15, ch. 82-167; s. 1, ch. 86-72; ss. 15, 37, ch. 92-115; s. 12, ch. 94-233; s. 476, ch. 97-103; s. 19, ch. 2000-154; s. 31, ch. 2004-64.

Note.--Former s. 487.157.

487.051 Administration; rules; procedure.--

(1) The department may by rule:

(a) Declare as a pest any form of plant or animal life or virus which is injurious to plants, humans, domestic animals, articles, or substances.

(b) Establish procedures for the taking and handling of samples and establish tolerances and deficiencies where not specifically provided for in this part; assess penalties; and prohibit the sale or use of pesticides or devices shown to be detrimental to human beings, the environment, or agriculture or to be otherwise of questionable value.

(c) Determine whether pesticides, and quantities of substances contained in pesticides, are injurious to the environment. The department shall be guided by the United States Environmental Protection Agency regulations in this determination.

(d) Establish requirements governing aircraft used for the aerial application of pesticides, including requirements for recordkeeping, annual aircraft registration, secure storage when not in use, area-of-application information, and reporting any sale, lease, purchase, rental, or transfer of such aircraft to another person.

(e) Establish requirements governing the secure storage of pesticides used by aerial pesticide applicators.

(2) The department is authorized to adopt by rule the primary standards established by the United States Environmental Protection Agency with respect to pesticides. If the provisions of this part are preempted in part by federal law, those provisions not preempted shall apply. This part is intended as comprehensive and exclusive regulation of pesticides in this state. Except as provided in chapters 373, 376, 388, 403, and 482, or as otherwise provided by law, no agency, commission, department, county, municipality, or other political subdivision of the state may adopt laws, regulations, rules, or policies pertaining to pesticides, including their registration, packaging, labeling, distribution, sale, or use, except that local jurisdictions may adopt or enforce an ordinance pertaining to pesticides if that ordinance is in the area of occupational license taxes, building and zoning regulations, disposal or spillage of pesticides within a water well zone, or pesticide safety regulations relating to containment at the storage site.

History.--s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; s. 179, ch. 71-377; ss. 5, 6, ch. 73-63; s. 6, ch. 78-95; s. 2, ch. 82-106; ss. 16, 37, ch. 92-115; s. 13, ch. 94-233; s. 477, ch. 97-103; s. 20, ch. 2000-154; s. 1, ch. 2001-360; s. 32, ch. 2004-64.

487.0615 Pesticide Review Council.--

(1)(a) There is created within the department the Pesticide Review Council. The purpose of the council is to advise the Commissioner of Agriculture regarding the sale, use, and registration of pesticides and to advise government agencies, including the State University System, with respect to those activities related to their responsibilities regarding pesticides. The council shall serve as the statewide forum for the coordination of pesticide-related activities to eliminate duplication of effort and maximize protection of the environment of the state and the health of the public.

(b) The council shall consist of 11 scientific members as follows: a scientific representative from the Department of Agriculture and Consumer Services, a scientific representative from the Department of Environmental Protection, a scientific representative from the Department of Health, and a scientific representative from the Fish and Wildlife Conservation Commission, each to be appointed by the respective agency; the dean of research of the Institute of Food and Agricultural Sciences of the University of Florida; and six members to be appointed by the Governor. The six members to be appointed by the Governor must be a pesticide industry representative, a representative of an environmental group, a hydrologist, a toxicologist, a scientific representative from one of the five water management districts rotated among the five districts, and a grower representative from a list of three persons nominated by the statewide grower associations. Each member shall be appointed for a term of 4 years and shall serve until a successor is appointed. A vacancy shall be filled for the remainder of the unexpired term.

(c) In conducting its meetings, the council shall use accepted rules of procedure. A majority of the members of the council constitutes a quorum for all purposes, and an act by a majority of such quorum at any meeting constitutes an official act of the council. The secretary shall keep a complete record of each meeting which must show the names of members present and the actions taken. These records must be kept on file with the department, and these records and other documents about matters within the jurisdiction of the council are subject to inspection by members of the council.

(d) The members of the council shall meet and organize by electing a chair, a vice chair, and a secretary whose terms shall be for 1 year each. Council officers may not serve consecutive terms.

(e) The council shall meet at the call of its chair, at the request of a majority of its members, at the request of the department, or at such time as a public health or environmental emergency arises.

(2) The council shall have the power and duty to:

(a) Recommend, based upon review of state pesticide program needs, appropriate scientific studies on any registered pesticide when substantive preliminary data indicate that the pesticide could pose an unreasonably adverse effect on the environment or human health. The recommendations may include using available services of state agencies or of the State University System to conduct such scientific studies or may recommend that these agencies seek funding for this purpose. When the council recommends a study, it must support legislative budget requests for funding needed to conduct the study. The council may also conduct scientific studies if specific funding is provided to the department or other governmental agency by the Legislature.

(b) Make recommendations, subject to a majority vote, directly to the Commissioner of Agriculture for actions to be taken with respect to the sale or use of a pesticide which the council has reviewed. When such review is performed in conjunction with the registration of a pesticide, the council shall comply with the time framework of the registration process pursuant to chapter 120 and as implemented by department rules.

(c) Provide advice or information to appropriate governmental agencies, including the State University System, with respect to those activities related to their responsibilities regarding pesticides. However, confidential data received from the United States Environmental Protection Agency or the registrant shall be confidential and exempt from the provisions of s. 119.07(1); and it is unlawful for any member of the council to use the data for his or her own advantage or to reveal the data to the general public.

(d) Review biological and alternate controls to replace or reduce the use of pesticides.

(e) Consider, at the request of any member, the development of appropriate advice or recommendations on a pesticide when substantive preliminary data indicate that the pesticide could pose an unreasonably adverse effect on the environment or human health.

(f) Assist the department in the review of registered pesticides which are selected for special review based upon potential environmental or human health effects. The department shall consult with the council in the special review process. This process must include, but need not be limited to, selecting pesticides for special review, providing periodic updates to the council on preliminary findings as a special

review progresses, and formulating final recommendations on any pesticide on which a special review has been conducted.

(3) The council shall submit an annual report, no later than November 1 of each year, to the Commissioner of Agriculture, the Speaker of the House of Representatives, and the President of the Senate, containing a record of the council's activities, recommendations regarding any pesticide reviewed by the council, and recommendations related to any other duty of the council and its purpose.

(4) The council is defined as a "substantially interested person" and has standing under chapter 120 in any proceeding conducted by the department relating to the registration of a pesticide under this part. The standing of the council shall in no way prevent individual members of the council from exercising standing in these matters.

(5) Members of the council shall receive no compensation for their services, but are entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061.

History.--ss. 9, 11, ch. 83-310; s. 18, ch. 84-338; s. 1, ch. 86-116; ss. 4, 6, 7, ch. 88-304; s. 3, ch. 91-20; s. 5, ch. 91-429; ss. 17, 37, 38, ch. 92-115; s. 14, ch. 94-233; s. 14, ch. 94-356; s. 324, ch. 96-406; s. 1124, ch. 97-103; s. 232, ch. 99-8; s. 222, ch. 99-245; s. 21, ch. 2000-154; s. 33, ch. 2004-64.

487.064 Antisiphon requirements for irrigation systems.--

(1) Any irrigation system used for the application of pesticides must be equipped with an antisiphon device adequate to protect against contamination of the water supply. The requirements of this section shall also apply to water supply lines to pesticide mixing-loading equipment other than those systems which incorporate a physical gap between the water source and the application equipment.

(2) It is unlawful for any person to apply chemicals through an irrigation system which is not equipped with an antisiphon device as required by this section, or to mix and load pesticides for application unless there is a physical gap or its equivalent between the line from the water source and the application equipment.

(3) The department may establish by rule specific requirements for antisiphon devices and for sites where pesticide mixing-loading occurs.

(4) Any governmental agency which requires antisiphon devices on irrigation systems used for the application of chemicals shall use the specific antisiphon device requirements adopted by the department.

History.--s. 17, ch. 84-338; ss. 18, 37, ch. 92-115.

487.071 Enforcement, inspection, sampling, and analysis.--

(1) The department is authorized to enter upon any public or private premises or carrier where pesticides are known or thought to be distributed, sold, offered for sale, held, stored, or applied, during regular business hours in the performance of its duties relating to pesticides and records pertaining to pesticides. No person shall deny or refuse access to the department when it seeks to enter upon any public or private premises or carrier during business hours in performance of its duties under this part.

(2) The department is authorized and directed to sample, test, inspect, and make analyses of pesticides sold, offered for sale, distributed, or used within this state, at a time and place and to such an extent as it may deem necessary, to determine whether the pesticides or persons exercising control over the pesticides are in compliance with the provisions of this part, the rules adopted under this part, and the provisions of the pesticide label or labeling.

(3) The official analysis shall be made from the official sample. A sealed and identified sample, herein called "official check sample" shall be kept until the analysis on the official sample is completed. However, the registrant may obtain upon request a portion of the official sample. Upon completion of the analysis

of the official sample, a true copy of the certificate of analysis shall be mailed to the registrant of the pesticide from whom the official sample was taken and also to the dealer or agent, if any, and consumer, if known. If the official analysis conforms with the provisions of this part, the official check sample may be destroyed. If the official analysis does not conform with the provisions of this part, the rules adopted under this part, and the provisions of the pesticide label or labeling, the official check sample shall be retained for a period of 90 days from the date of the certificate of analysis of the official sample. If within that time the registrant of the pesticide from whom the official sample was taken makes demand for analysis by a referee chemist, a portion of the official check sample sufficient for analysis shall be sent to a referee chemist who is mutually acceptable to the department and the registrant for analysis at the expense of the registrant. Upon completion of the analysis, the referee chemist shall forward to the department and to the registrant a certificate of analysis bearing a proper identification mark or number; and such certificate of analysis shall be verified by an affidavit of the person or laboratory making the analysis. If the certificate of analysis checks within 3 percent of the department's analysis on each active ingredient for which analysis was made, the mean average of the two analyses shall be accepted as final and binding on all concerned. However, if the referee's certificate of analysis shows a variation of greater than 3 percent from the department's analysis in any one or more of the active ingredients for which an analysis was made, upon demand of either the department or the registrant from whom the official sample was taken, a portion of the official check sample sufficient for analysis shall be submitted to a second referee chemist who is mutually acceptable to the department and the registrant, at the expense of the party or parties requesting the referee analysis. Upon completion of the analysis, the second referee chemist shall make a certificate and report as provided in this subsection for the first referee chemist. The mean average of the two analyses nearest in conformity shall be accepted as final and binding on all concerned. If no demand is made for an analysis by a second referee chemist, the department's certificate of analysis shall be accepted as final and binding on all concerned.

(4) If a pesticide or device fails to comply with the provisions of this part with reference to the ingredient statement reflecting the composition of the product, as required on the registration and labeling, and the department contemplates possible criminal proceedings against the person responsible because of this violation, the department shall, after due notice, accord the person an informal hearing or an opportunity to present evidence and opinions, either orally or in writing, with regard to such contemplated proceedings. If in the opinion of the department the facts warrant, the department may refer the facts to the state attorney for the county in which the violation occurred, with a copy of the results of the analysis or the examination of such article; provided that nothing in this part shall be construed as requiring the department to report for prosecution minor violations whenever it believes that the public interest will be subserved by a suitable notice of warning in writing.

(5) It shall be the duty of each state attorney to whom any such violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(6) The department shall, by publication in such manner as it may prescribe, give notice of all judgments entered in actions instituted under the authority of this part.

(7)(a) The department may analyze pesticide samples upon request in a manner consistent with this part.

(b) The department shall establish by rule a fee schedule for pesticide samples analyzed upon request. The fees shall be sufficient to cover the costs to the department for taking the samples and performing the analysis. However, no fee shall exceed \$400 per test.

(c) The department shall keep separate records with respect to requested pesticide analyses, including the pesticide analyzed, tests performed, fees collected, the name and address of the person who requested the analysis, and the name and address of the registrant.

(d) All fees collected pursuant to this subsection shall be deposited into the General Inspection Trust Fund and shall be used by the department to implement this subsection.

(e) In addition to any other penalty provided by this part, the registrant of any pesticide found to be adulterated, misbranded, or otherwise deficient shall reimburse the person requesting the pesticide analysis under this subsection for all fees assessed by and paid to the department.

History.--s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; s. 26, ch. 73-334; s. 5, ch. 79-210; s. 3, ch. 82-106; s. 19, ch. 84-338; ss. 19, 37, ch. 92-115; s. 15, ch. 94-233; s. 22, ch. 2000-154; s. 34, ch. 2004-64.

487.081 Exemptions.--

(1) The penalties provided for violations of s. 487.031(2) shall not apply to:

(a) Any carrier while lawfully engaged in transporting a pesticide within this state, if such carrier, upon request, permits the department or its designated agent to copy all records showing the transactions in and movement of the articles;

(b) Public officials of this state and the Federal Government engaged in the performance of their official duties;

(c) The manufacturer or shipper of a pesticide intended for experimental use, if the use is conducted by or under the supervision of a state or federal agency authorized to conduct pesticide research or by a person who has obtained a permit in accordance with department rules prior to shipment.

(2) No article shall be deemed in violation of this part when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser.

(3) Notwithstanding any other provision of this part, registration required under this part is not required in the case of a pesticide stored or shipped from one manufacturing plant within this state to another manufacturing plant within this state operated by the same person.

(4) Nothing in this part shall be construed to apply to persons duly licensed or certified under chapter 388 or chapter 482 performing any pest control or other operation for which they are licensed or certified under those chapters.

(5) The agricultural employer may provide coveralls, chemical-resistant gloves, and chemical-resistant footwear, instead of the personal protective equipment specified on the label, for any worker doing irrigation work for which the only contact with treated surfaces is to the feet, lower legs, hands, and arms.

(6) The Department of Environmental Protection is not authorized to institute proceedings against any property owner or leaseholder of property under the provisions of s. 376.307(5) to recover any costs or damages associated with pesticide contamination of soil or water, or the evaluation, assessment, or remediation of pesticide contamination of soil or water, including sampling, analysis, and restoration of soil or potable water supplies, subject to the following conditions:

(a) The pesticide contamination of soil or water is determined to be the result of the use of pesticides by the property owner or leaseholder, in accordance with state and federal law, applicable registered labels, and rules on property classified as agricultural land pursuant to s. 193.461;

(b) The property owner or leaseholder maintains records of such pesticide applications and such records are provided to the department upon request;

(c) In the event of pesticide contamination of soil or water, the department, upon request, shall make such records available to the Department of Environmental Protection;

(d) This subsection does not limit regulatory authority under a federally delegated or approved program; and

(e) This subsection is remedial in nature and shall apply retroactively.

The department, in consultation with the secretary of the Department of Environmental Protection, may adopt rules prescribing the format, content, and retention time for records to be maintained under this subsection.

History.--s. 1, ch. 65-457; s. 4, ch. 65-295; ss. 14, 35, ch. 69-106; s. 6, ch. 79-210; s. 2, ch. 86-116; ss. 20, 37, ch. 92-115; s. 16, ch. 94-233; s. 23, ch. 2000-154; s. 14, ch. 2000-308; s. 35, ch. 2004-64.

487.091 Tolerances, deficiencies, and penalties.--

(1) No deficiency will exist in connection with the analysis or report on the analysis of any sample of a pesticide unless the deficiency is greater than 3 percent of the amount guaranteed of one or more of the active ingredients or added ingredients claimed, except as provided by the department by rule.

(2) If a pesticide is found by analysis to be deficient in an active ingredient beyond the tolerance as provided in this part, the registrant is subject to a penalty for the deficiency, not to exceed \$10,000 per violation. However, no penalty shall be assessed when the official sample was taken from a pesticide that was in the possession of a consumer for more than 45 days from the date of purchase by that consumer, or when the product label specifies that the product should be used by an expiration date that has passed. Procedures for assessing penalties shall be established by rule, based on the degree of the deficiency. Penalties assessed shall be paid to the consumer or, in the absence of a known consumer, the department. If the penalty is not paid within the prescribed period of time as established by rule, the department may deny, suspend, or revoke the registration of any pesticide.

(3) If a pesticide is found to be ineffective, it shall be deemed to be misbranded and subject to a penalty as established by rule, not to exceed \$10,000 per violation.

(4) If a pesticide is found by the department to be of short measure while in the possession of the consumer, the registrant shall make payment in full to the consumer in an amount consistent with procedures to be established by rule.

History.--s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; s. 439, ch. 71-136; s. 4, ch. 82-106; s. 100, ch. 83-218; s. 20, ch. 84-338; s. 5, ch. 90-65; ss. 21, 37, ch. 92-115; s. 17, ch. 94-233; s. 24, ch. 2000-154; s. 36, ch. 2004-64.

487.101 Stop-sale, stop-use, removal, or hold orders.--

(1) When a pesticide or device is being offered or exposed for sale, used, or held in violation of any of the provisions of this part, the department may issue and enforce a stop-sale, stop-use, removal, or hold order, in writing, to the owner or custodian of the pesticide or device, ordering that the pesticide or device be held at a designated place until the part has been complied with and the pesticide or device is released, in writing, by the department or the violation has been disposed of by court order.

(2) The written notice is warning to all persons, including, but not limited to, the owner or custodian of the pesticide or the owner's or custodian's agents or employees, to scrupulously refrain from moving, bothering, altering, or interfering with the pesticide or device or from altering, defacing, or in any way interfering with the written notice or permitting the same to be done. The willful violation of these provisions is a misdemeanor, subjecting the violator to the penalty provisions of this part.

(3) The department shall release the pesticide or device under a stop-sale, stop-use, removal, or hold order when the owner or custodian complies with the provisions of this part.

(4) The owner or custodian, with authorization and supervision of the department, may relabel the pesticide or device so that the label will conform to the product, or transfer and return the product to the manufacturer or supplier for the purpose of bringing the product in compliance with the provisions of this part.

History.--s. 1, ch. 65-457; s. 1, ch. 67-527; s. 1, ch. 69-12; ss. 14, 35, ch. 69-106; s. 440, ch. 71-136; s. 7, ch. 73-63; s. 7, ch. 79-210; s. 1, ch. 90-65; ss. 22, 37, ch. 92-115; s. 18, ch. 94-233; s. 25, ch. 2000-154; s. 37, ch. 2004-64.

487.111 Seizure, condemnation, and sale.--

(1) Any lot of pesticide or device not in compliance with the provisions of this part is subject to seizure on complaint of the department to the circuit court in the county in which the pesticide or device is located. In the event the court finds the pesticide or device in violation of this part and orders it condemned, it shall be disposed of as the court may direct; provided that in no instance shall the disposition of the pesticide or device be ordered by the court without first giving the owner or custodian an opportunity to apply to the court for release of the pesticide or device or for permission to process or relabel it to bring it into compliance with this part.

(2) If the court finds that a condemned pesticide or device may be disposed of by sale, the proceeds, less legal costs, shall be paid to the General Inspection Trust Fund.

(3) When a decree of condemnation is entered against the pesticide or device, court costs, fees and storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

History.--s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; s. 8, ch. 73-63; ss. 23, 37, ch. 92-115; s. 19, ch. 94-233; s. 26, ch. 2000-154; s. 38, ch. 2004-64.

487.13 Cooperation.--The department is authorized and empowered to cooperate with and enter into agreements with any other agency of this state, the United States Department of Agriculture, the United States Environmental Protection Agency, and any other state or federal agency for the purpose of carrying out the provisions of this part and securing uniformity of regulations.

History.--s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; s. 10, ch. 73-63; ss. 24, 37, ch. 92-115; s. 20, ch. 94-233; s. 27, ch. 2000-154; s. 39, ch. 2004-64.

487.15 Reclamation, reimbursement, and disposal.--

(1) When the use of any pesticide registered or otherwise approved for use in this state is suspended or canceled to prevent harm to the public or the environment, the registrant, at its own expense, shall reclaim and provide reimbursement for that pesticide from any distributor, dealer, user, or other party possessing it in this state and provide for the proper removal or disposal of the pesticide in accordance with federal and state law.

(2) The registrant shall comply with the requirements of subsection (1) within 90 days of issuance of the order of suspension or cancellation.

History.--s. 22, ch. 84-338; ss. 25, 37, ch. 92-115.

487.156 Governmental agencies.--All governmental agencies shall be subject to the provisions of this part and rules adopted under this part. Public applicators using or supervising the use of restricted-use pesticides shall be subject to examination as provided in s. 487.044.

History.--s. 7, ch. 74-247; s. 11, ch. 79-210; s. 2, ch. 81-318; ss. 6, 14, 15, ch. 82-167; ss. 26, 37, ch. 92-115; s. 21, ch. 94-233; s. 28, ch. 2000-154; s. 40, ch. 2004-64.

487.1585 Duties of licensee with respect to unlicensed applicators and mixer-loaders and field workers.--

(1) Each licensed applicator shall provide to each unlicensed applicator or mixer-loader working under his or her direct supervision adequate instruction and training so that the applicator or mixer-loader

understands the safety procedures required for the pesticides that will be used. The applicator or mixer-loader shall be given this training before handling restricted-use pesticides. This training shall be set forth by the department by rule and shall include, but not be limited to, the safety procedures to be followed as specified on the label; the safety clothing and equipment to be worn; the common symptoms of pesticide poisoning; the dangers of eating, drinking, or smoking while handling pesticides; and where to obtain emergency medical treatment. No licensee shall be permitted to provide direct supervision to more than 15 unlicensed applicators or mixer-loaders at any given time.

(2) Prior to the entry of workers into a field, it shall be the responsibility of the licensed applicator to assure that the workers' direct supervisor provides an oral statement to the workers, in language understood by the workers, of the warning contained on the pesticide label with respect to any pesticides that have been used within a 48-hour period.

History.--ss. 5, 15, ch. 82-167; ss. 27, 37, ch. 92-115; s. 478, ch. 97-103.

487.159 Damage or injury to property, animal, or person; mandatory report of damage or injury; time for filing; failure to file.--

(1) The person claiming damage or injury to property, animal, or human beings from application of a pesticide shall file with the department a written statement claiming damages, on a form prescribed by the department, within 48 hours after the damage or injury becomes apparent. The statement shall contain, but shall not be limited to, the name of the person responsible for the application of the pesticide, the name of the owner or lessee of the land on which the crop is grown and for which the damages are claimed, and the date on which it is alleged that the damages occurred. The department shall investigate the alleged damages and notify all concerned parties of its findings. If the findings reveal a violation of the provisions of this part, the department shall determine an appropriate penalty, as provided in this part. The filing of a statement or the failure to file such a statement need not be alleged in any complaint which might be filed in a court of law, and the failure to file the statement shall not be considered any bar to the maintenance of any criminal or civil action.

(2) It is the duty of any licensee to report unreasonable adverse effects on the environment or damage to property or injury to a person as the result of the application of a restricted-use pesticide by the licensee or by an applicator or mixer-loader under the licensee's direct supervision, if and when the licensee has knowledge of such damage or injury. It is also the express intent of this section to require all physicians to report all pesticide-related illnesses or injuries to the nearest county health department, which will notify the department so that the department may establish a pesticide incident monitoring system within the Division of Agricultural Environmental Services.

(3) When damage to human beings, animals, plants, or other property is alleged to have been done, the claimant shall permit the licensee and the licensee's representatives to observe within reasonable hours the alleged damage in order that the damage may be examined. The failure of the claimant to permit observation and examination of the alleged damage shall automatically bar the claim against the licensee.

History.--s. 10, ch. 74-247; s. 6, ch. 78-95; s. 2, ch. 81-318; ss. 9, 14, 15, ch. 82-167; s. 2, ch. 84-165; s. 3, ch. 90-65; ss. 28, 37, ch. 92-115; s. 4, ch. 92-291; s. 22, ch. 94-233; s. 29, ch. 2000-154; s. 41, ch. 2004-64.

487.160 Records; report.--Licensed private applicators supervising 15 or more unlicensed applicators or mixer-loaders and licensed public applicators and licensed commercial applicators shall maintain records as the department may determine by rule with respect to the application of restricted pesticides, including, but not limited to, the type and quantity of pesticide, method of application, crop treated, and dates and location of application. Other licensed private applicators shall maintain records as the department may determine by rule with respect to the date, type, and quantity of restricted-use pesticides used. Licensees shall keep records for a period of 2 years from date of the application of the pesticide to which the records refer, and shall furnish to the department a copy of the records upon written request by the department. Every third year, the department shall conduct a survey and compile a report on restricted-use pesticides in this state. This report shall include, but not be limited to, types

and quantities of pesticides, methods of application, crops treated, and dates and locations of application; records of persons working under direct supervision; and reports of misuse, damage, or injury.

History.--s. 11, ch. 74-247; s. 4, ch. 78-154; s. 2, ch. 81-318; ss. 10, 14, 15, ch. 82-167; s. 4, ch. 91-20; ss. 29, 37, ch. 92-115; s. 325, ch. 96-406.

487.161 Exemptions, nonagricultural pest control and research.--

(1) Any person duly licensed or certified under chapter 482, or under the supervision of chapter 388, is exempted from the licensing provisions of this part.

(2) The use of the antibiotic oxytetracycline hydrochloride for the purpose of controlling lethal yellowing is exempted from the licensing provisions of this part.

(3) The personnel of governmental, university, or industrial research agencies are exempted from the provisions of this part when doing applied research within a laboratory, but shall comply with all the provisions of this part when applying restricted-use pesticides to experimental or demonstration plots.

History.--s. 12, ch. 74-247; s. 6, ch. 75-178; s. 1, ch. 77-174; s. 14, ch. 79-210; s. 2, ch. 81-318; ss. 14, 15, ch. 82-167; ss. 30, 37, ch. 92-115; s. 23, ch. 94-233; s. 30, ch. 2000-154; s. 42, ch. 2004-64.

487.163 Information; interagency cooperation.--

(1) The department may, in cooperation with the University of Florida or other agencies of government, publish information and conduct short courses of instruction in the safe use and application of pesticides for the purpose of carrying out the provisions of this part.

(2) The department may cooperate or enter into formal agreements with any other agency or educational institution of this state or its subdivisions or with any agency of any other state or of the Federal Government for the purpose of carrying out the provisions of this part and of securing uniformity of regulations.

History.--ss. 14, 15, ch. 74-247; s. 2, ch. 81-318; ss. 14, 15, ch. 82-167; ss. 31, 37, ch. 92-115; s. 24, ch. 94-233; s. 31, ch. 2000-154; s. 43, ch. 2004-64.

487.171 Classification of antifouling paint containing organotin compounds as restricted-use pesticides; prohibition of distribution and sale.--

(1) The department shall classify antifouling paints containing organotin compounds having an acceptable release rate as restricted-use pesticides subject to the requirements of this part. Antifouling paints containing organotin having acceptable release rates and sold in spray cans of 16 ounces avoirdupois weight or less for outboard motor or lower unit use are exempt from the restricted-use pesticide classification requirement.

(2) The department shall initiate action under chapter 120, to deny or cancel the registration of antifouling paints containing organotin compounds which do not have an acceptable release rate or do not meet other criteria established by the department in accordance with this part.

(3) Distribution, sale, and use of antifouling paints containing organotin compounds with acceptable release rates shall be limited to dealers and applicators licensed by the department in accordance with this part, to distribute, sell, or use restricted-use pesticides. Such paint may be applied only by licensed applicators and may be applied only to vessels which exceed 25 meters in length or which have aluminum hulls.

(4) A person other than a paint manufacturer may not sell or deliver to, or purchase or receive from, another person at retail or wholesale any substance containing tin compounds for the purpose of adding such substance to paint to create an antifouling paint.

History.--s. 2, ch. 88-194; s. 1, ch. 89-296; ss. 32, 37, ch. 92-115; s. 25, ch. 94-233; s. 32, ch. 2000-154; s. 44, ch. 2004-64.

487.172 Educational program.--The department shall develop a program to educate and inform antifouling paint applicators, vessel owners, and interstate and intrastate paint manufacturers and distributors in the state as to the characteristics and hazards associated with organotin compounds in antifouling paints and of state laws restricting their use.

History.--s. 3, ch. 88-194; s. 1, ch. 89-296; ss. 33, 37, ch. 92-115.

487.175 Penalties; administrative fine; injunction.--

(1) In addition to any other penalty provided in this part, when the department finds any person, applicant, or licensee has violated any provision of this part or rule adopted under this part, it may enter an order imposing any one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Issuance of a warning letter.

(d) Placement of the licensee on probation for a specified period of time and subject to conditions the department may specify by rule, including requiring the licensee to attend continuing education courses, to demonstrate competency through a written or practical examination, or to work under the direct supervision of another licensee.

(e) Imposition of an administrative fine not to exceed \$10,000 for each violation. When imposing any fine under this paragraph, the department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator benefited from by noncompliance, whether the violation was committed willfully, and the compliance record of the violator.

(2) Any person who violates any provision of this part or rules adopted pursuant thereto commits a misdemeanor of the second degree and upon conviction is punishable as provided in s. 775.082 or s. 775.083. For a subsequent violation, such person commits a misdemeanor of the first degree and upon conviction is punishable as provided in s. 775.082 or s. 775.083.

(3) In addition to the remedies provided in this part and notwithstanding the existence of any adequate remedy at law, the department may bring an action to enjoin the violation or threatened violation of any provision of this part, or rule adopted under this part, in the circuit court of the county in which the violation occurred or is about to occur. Upon the department's presentation of competent and substantial evidence to the court of the violation or threatened violation, the court shall immediately issue the temporary or permanent injunction sought by the department. The injunction shall be issued without bond. A single act in violation of any provision of this part shall be sufficient to authorize the issuance of an injunction.

History.--s. 1, ch. 65-457; ss. 14, 35, ch. 69-106; ss. 9, 18, ch. 74-247; s. 64, ch. 74-383; s. 1, ch. 77-174; s. 6, ch. 78-95; s. 13, ch. 79-210; s. 2, ch. 81-318; ss. 8, 14, 15, ch. 82-167; ss. 2, 4, ch. 90-65; ss. 34, 37, ch. 92-115; s. 26, ch. 94-233; s. 33, ch. 2000-154; s. 45, ch. 2004-64.

Note.--Former ss. 487.14, 487.158(2), 487.165.

PART II
FLORIDA AGRICULTURAL WORKER
SAFETY ACT (ss. 487.2011-487.2071)

487.2011 Popular name; administration.

- 487.2021 Legislative intent.
- 487.2031 Definitions.
- 487.2041 Enforcement of federal worker protection regulations.
- 487.2042 Submission and investigation of complaints.
- 487.2051 Availability of agricultural pesticide information to workers and medical personnel.
- 487.2061 Prohibited acts.
- 487.2071 Penalties against violators; worker relief; monitoring complaints of retaliation.

487.2011 Popular name; administration.--This part may be known by the popular name the "Florida Agricultural Worker Safety Act" and shall be administered by the Department of Agriculture and Consumer Services.

History.--s. 47, ch. 2004-64.

487.2021 Legislative intent.--It is the intent of the Legislature to ensure that agricultural workers employed in the state receive protection from agricultural pesticides. The Legislature intends to ensure that agricultural workers be given information concerning agricultural pesticides.

History.--s. 48, ch. 2004-64.

487.2031 Definitions.--For the purposes of this part, the term:

(1) "Agricultural employer" means any person who hires or contracts for the services of workers to perform activities related to the production of agricultural plants or any person who is an owner of, or responsible for, the management or condition of an agricultural establishment that uses such workers.

(2) "Agricultural establishment" means any farm, forest, nursery, or greenhouse.

(3) "Agricultural plant" means any plant grown or maintained for commercial or research purposes and includes, but is not limited to, food, feed, fiber plants, trees, turfgrass, flowers, shrubs, ornamentals, and seedlings.

(4) "Department" means the Department of Agriculture and Consumer Services.

(5) "Designated representative" means any organization or person to whom a worker gives written authorization to exercise the right to request the agricultural pesticide information pursuant to this part.

(6) "Fact sheet" means an agricultural pesticide fact sheet approved by the state or Federal Government that provides information about the impacts of the use of an agricultural pesticide.

(7) "Material safety data sheet" means written, electronic, or printed material concerning an agricultural pesticide that sets forth the following information:

(a) The chemical name and the common name of the agricultural pesticide.

(b) The hazards or other risks in the use of the agricultural pesticide, including:

1. The potential for fire, explosions, corrosivity, and reactivity.

2. The known acute health effects and chronic health effects of exposure to the agricultural pesticide, including those medical conditions that are generally recognized as being aggravated by exposure to the agricultural pesticide.

3. The primary routes of entry and symptoms of overexposure.

(c) The proper handling practices, necessary personal protective equipment, and other proper or necessary safety precautions in circumstances that involve the use of or exposure to the agricultural pesticide, including appropriate emergency treatment in case of overexposure.

(d) The emergency procedures for spills, fire, disposal, and first aid.

(e) A description of the known specific potential health risks posed by the agricultural pesticide, which is written in lay terms and is intended to alert any person who reads the information.

(f) The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

(8) "Retaliatory action" means an action, such as dismissal, demotion, harassment, blacklisting with other employers, reducing pay or work hours, or taking away company housing, that is taken by any agricultural employer against a worker who exercises any right under the provisions of the United States Environmental Protection Agency Worker Protection Standard, 40 C.F.R. s. 1707(b), or this part.

(9) "Trainer" means any person who is qualified to train workers under the pesticide safety training requirements of the United States Environmental Protection Agency Worker Protection Standard, 40 C.F.R. s. 170.130.

(10) "Worker" means any person, including a farmworker or a self-employed person, who receives any type of compensation for employment that involves tasks relating to the production of agricultural plants on an agricultural establishment. The term "worker" does not include any person employed by a commercial pesticide-handling establishment to perform tasks as a crop advisor.

History.--s. 49, ch. 2004-64; s. 6, ch. 2005-210.

487.2041 Enforcement of federal worker protection regulations.--The department shall, to the extent that resources are available, continue to operate under the United States Environmental Protection Agency regulations regarding the Labeling Requirement for Pesticides and Devices, 40 C.F.R. part 156, and the Worker Protection Standard, 40 C.F.R. part 170, which the department adopted by rule during the 1995-1996 fiscal year and published in the Florida Administrative Code. Any provision of this part not preempted by federal law shall continue to apply.

History.--s. 50, ch. 2004-64.

487.2042 Submission and investigation of complaints.--

(1) The department shall cause to be investigated any complaint which is filed under this part if the complaint is in writing, signed by the complainant, and is legally sufficient. A complaint is legally sufficient if it contains ultimate facts which show that a violation of this part, or the rules adopted under this part, may have occurred. In order to determine legal sufficiency, the department may require supporting information or documentation. The department may investigate an anonymous complaint or a complaint made by a confidential informant if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department has reason to believe, after preliminary inquiry, that the alleged violations in the complaint are true. The department may initiate an investigation if it has reasonable cause to believe that a person has violated this part or the rules adopted under this part.

(2) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this part, unless the complainant or witness acted in bad faith or with malice in providing such information.

(3) Whoever knowingly makes a false complaint in writing under this part commits a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 837.06.

History.--s. 7, ch. 2005-210.

487.2051 Availability of agricultural pesticide information to workers and medical personnel.--

(1) An agricultural employer shall make available agricultural pesticide information concerning any agricultural pesticide to any worker:

(a) Who enters an agricultural-pesticide-treated area on an agricultural establishment where:

1. An agricultural pesticide has been applied within 30 days of that entry; or
2. A restricted-entry interval has been in effect; or

(b) Who may be exposed to the agricultural pesticide during normal conditions of use or in a foreseeable emergency.

(2) The agricultural pesticide information provided pursuant to subsection (1) must be in the form of a fact sheet or a material safety data sheet. The agricultural employer shall provide a written copy of the information provided pursuant to subsection (1) within 2 working days after a request for the information by a worker or a designated representative. In the case of a pesticide-related medical emergency, the agricultural employer shall provide a written copy of the information promptly upon the request of the worker, the designated representative, or medical personnel treating the worker.

(3) Upon the initial purchase of a product and with the first purchase after the material safety data sheet is updated, the distributor, manufacturer, or importer of agricultural pesticides shall obtain or develop and provide each direct purchaser of an agricultural pesticide with a material safety data sheet. If the material safety data sheet or fact sheet for the agricultural pesticide is not available when the agricultural pesticide is purchased, the agricultural employer shall take appropriate and timely steps to obtain the material safety data sheet or fact sheet from the distributor, the manufacturer, the department, a federal agency, or another distribution source.

(4) The department shall produce and make available to a trainer a one-page general agricultural pesticide safety sheet. The safety sheet must be in a language understandable to the worker and must include, but need not be limited to, illustrated instructions on preventing agricultural pesticide exposure and toll-free telephone numbers to the Florida Poison Control Centers. The trainer shall provide the safety sheet to the worker pursuant to the United States Environmental Protection Agency Worker Protection Standard, 40 C.F.R. s. 170.130.

History.--s. 51, ch. 2004-64.

487.2061 Prohibited acts.--Any person covered by this part may not:

- (1) Fail to provide agricultural pesticide information as required in this part; or
- (2) Take retaliatory action.

History.--s. 52, ch. 2004-64.

487.2071 Penalties against violators; worker relief; monitoring complaints of retaliation.--

(1) Penalties set forth in this part shall be applied to any person who violates this part. A person who violates this part is subject to federal penalties as provided in the United States Environmental Protection Agency Worker Protection Standard, 40 C.F.R. s. 170.9(b).

(2) A worker who has been subject to retaliatory action and seeks relief under this section may file a complaint with the department.

(3) In any action brought pursuant to this section that involves retaliatory action, if the retaliatory action is predicated on the disclosure by a worker of an illegal action, policy, or practice of any person covered by this part to an appropriate governmental agency, the worker may not be required to show that the disclosure was under oath or in writing or that the worker notified the employer in writing of the illegal action, policy, or practice.

(4) The department shall monitor all complaints of retaliation that it receives and report its findings to the President of the Senate and the Speaker of the House of Representatives on or before October 1, 2008. The report shall include the number of such complaints received, the circumstances surrounding the complaints, and the actions taken concerning the complaints.

History.--s. 53, ch. 2004-64.

**Chapter 5E-2, Florida Administrative Code
"Pesticides"**

- 5E-2.001 Declaration of Pests. (Repealed)
- 5E-2.002 Pesticides Defines. (Repealed)
- 5E-2.003 Pesticides Highly Toxic to Man. (Repealed)
- 5E-2.0045 Requirement of a Tolerance or Exemption from a Tolerance for Pesticides Used on Food or Feed Crops. (Repealed)
- 5E-2.005 Registration of Pesticides Containing Parathion or Methyl Parathion. (Repealed)
- 5E-2.006 Registration of Discontinued Brands. (Repealed)
- 5E-2.007 Special Lots of Pesticides. (Repealed)
- 5E-2.008 Changes in Labeling or Registration. (Repealed)
- 5E-2.009 Pesticide Experimental Use. (Repealed)
- 5E-2.010 Interpretation with Respect to Advertising. (Repealed)
- 5E-2.0105 Definitions.
- 5E-2.011 General Labeling Requirements for Pesticides.
- 5E-2.012 Labeling Requirements for Household Pesticides. (Repealed)
- 5E-2.013 Term "Percent" in Brand Name. (Repealed)
- 5E-2.014 Sampling of Pesticides.
- 5E-2.015 Methods of Analyses.
- 5E-2.016 Pesticide Deficiency Tolerances.
- 5E-2.017 Weight or Measure Deficiencies in Pesticides. (Repealed)
- 5E-2.018 Disposal of Waste Pesticide Materials. (Repealed)
- 5E-2.019 Coloring or Discoloring Pesticides. (Repealed)
- 5E-2.020 Non-efficacious Pesticides; Registration Denied. (Repealed)
- 5E-2.021 Specifications for Citrus Spray Oils.
- 5E-2.022 Storage of Restricted Use Pesticides.
- 5E-2.023 Transportation of Pesticides in Bulk; Definition; Prohibitions; Permit; Termination of Permit; Withdrawal of Permit. (Repealed)
- 5E-2.024 "Persistent Pesticides"; Defined; Designated byname; Reports Required. (Repealed)
- 5E-2.025 Special Local Need Registration. (Repealed)
- 5E-2.026 Suspension of Use of Aldicarb Statewide; Exemptions; Reports of Intended Application of Aldicarb.
- 5E-2.027 Nonagricultural Chemicals Subject to Penalty.
- 5E-2.028 Restrictions on Use and Sale of Aldicarb; Permit Requirements and Procedures; Department Approval; Records; Penalties.
- 5E-2.029 Suspension of Ethylene Dibromide (EDB). (Repealed)
- 5E-2.030 Antisyphon Requirements for Irrigation Systems. (Repealed)
- 5E-2.031 Pesticide Registration; Exemptions from Registration; Experimental Use Permits.
- 5E-2.0311 Performance Standards and Acceptable Test Conditions for Preventive Termite Treatments for New Construction.
- 5E-2.032 Exemption from Pesticide Registration Requirements. (Repealed)
- 5E-2.033 Organo-Auxin Herbicides: Restrictions and Prohibitions.
- 5E-2.034 Confidential Business Information. (Repealed)
- 5E-2.035 Organotin Antifouling Paints; Restrictions and Prohibitions.
- 5E-2.036 Restrictions on the Use of Methyl Bromide as a Soil Fumigant; Application Equipment Requirements.
- 5E-2.037 Prohibition of Alachlor Use.
- 5E-2.038 Restrictions on Use of Bromacil in Citrus; Penalties.
- 5E-2.039 Worker Protection Standard.

5E-2.0105 Definitions.

(1) Building structure and its contents – For the purpose of the rule the term structure and its contents shall mean the building, both structural and nonstructural components, assembled as a part of the construction.

(2) Building test – A test conducted on a building as defined in Section 202 of the Florida Building Code (2001 edition, available from the Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399) with an area not less than 350 square feet.

(3) Field plot test – A test conducted at a research site other than a building and at which there are no termite preventative treatments other than the product being tested.

(4) Formulated Bait – A mixture of an active ingredient in the concentration proposed for registration and a material that can be fed upon by subterranean termites.

(5) Independent monitors – Cellulose available and palatable to the subterranean termite population that does not contain a termiticide and is used to assess treatment effects on the termite population.

(6) Infestation – Presence of living pests in, on, or under a structure, lawn, or ornamental.

(7) Inspection Ports – Devices or building modifications that provide access to visual inspection of an area of a structure.

(8) Randomly Selected – Each item in a population has an equal chance of being chosen.

(9) Re-infestation – An occurrence of an infestation in a building after a previous infestation has been eliminated.

(10) Stand-Alone – A product or device containing active ingredient pesticide or pesticides used to control a termite infestation without the required use of another pesticide or procedure.

Specific Authority 487.0419(4)(e) FS. Law Implemented 487.041(4)(e) FS. History–New 3-23-03.

5E-2.011 General Labeling Requirements for Pesticides.

Labeling requirements for pesticides as specified in 40 CFR 156 (7-1-94 Edition) are hereby adopted by reference. Copies of this regulation may be obtained from the Superintendent of Documents, Attn: New Orders, P. O. Box 371954, Pittsburgh, PA 15250-7954.

Specific Authority 487.051(2), 570.07(23) FS. Law Implemented 487.041(3), 487.051(2) FS. History–Revised 1-23-67, Amended 3-25-79, Formerly 5E-2.11, Amended 7-18-95.

5E-2.014 Sampling of Pesticides.

Methods of sampling pesticides shall be those adopted and published in 1 Official Methods of Analysis, Association of Official Analytical Chemists, 147-231 (15th Edition, 1990, & Supplements 1990-1994).

Specific Authority 487.051(1)(b), 487.051(2), 570.07(23) FS. Law Implemented 487.051(1)(b), 487.051(2), 487.071(2) FS. History–New 1-23-67, Amended 6-19-85, Formerly 5E-2.14, Amended 7-18-95.

5E-2.015 Methods of Analyses.

All methods of analyses for pesticide formulations shall be those adopted and published in 1 Official Methods of Analysis, Association of Official Analytical Chemists, 147-231 (15th Edition, 1990, & Supplements 1990-1994).

Specific Authority 487.051(2), 487.154, 570.07(23) FS. Law Implemented 487.051(2), 487.071(2) FS. History–New 1-23-67, Amended 5-5-80, 10-27-80, 10-18-81, 4-4-83, 11-16-83, 6-19-85, Formerly 5E-2.15, Amended 11-16-86, 10-12-87, 8-2-89, 7-18-95.

5E-2.016 Pesticide Deficiency Tolerances.

Percent guaranteed	Tolerance
From 0% thru 4.9%	0.2% (actual percent)
From 5% thru 9.9%	0.3% (actual percent)

From 10% thru 100% 3.0% of guarantee

In no case shall the tolerance exceed fifty percent of guarantee.

Specific Authority 487.051(1)(b), (2), 570.07(23) FS. Law Implemented 487.051(1)(b), 487.051(2), 487.091(1) FS. History–New 1-23-67, Formerly 5E-2.16, Amended 7-18-95.

5E-2.021 Specifications for Citrus Spray Oils.

(1) Purposes – Only petroleum oils with the specific properties designated by the Institute of Food and Agricultural Sciences and which meet the registration requirements of Chapter 487, F.S., are recommended for use in oil sprays for citrus. Spray oils containing such properties are designated as FC 435-66, FC 412-66 and FC 455-88. Based on research data, spray oil meeting FC 455-88 specifications has the greatest pesticidal action without excessive adverse effects on trees and fruit during midsummer. Oil meeting FC 412-66 specifications is a lighter oil and has the minimum adverse effects on trees and fruit consistent with adequate pesticidal effect. It is preferred when applications must be made close to harvest or when tree growth is less vigorous due to weather or season.

(2) Specifications.

	Citrus Spray	Citrus Spray	Citrus Spray
	Oil FC	Oil FC	Oil FC
Designation	435-66	412-66	455-88
Distillation Temperature at 10 mm Hg by ASTM D-1160, °F for 50% distilled	435 ± 8	412 ± 8	455 ± 8
Temperature spread for 10% to 90% distilled	Max 80	Max 80	Max 80
Unulfonated residue (UR) by ASTM D-483, % by vol.	Min 92	Min 92	Min 92
Gravity by ASTM D-287, ° API	Min 31	Min 33	Min 31
Pour Point by ASTM D-97, °F	Max + 20	Max + 20	Max + P20

(3) Labeling.

(a) Any petroleum oil which meets the specifications prescribed in subsection (2) may only use one of the following specification claims: "This product meets the specifications for Florida Citrus Spray Oil FC 435-66", or "This product meets the specifications for Florida Citrus Spray Oil FC 412-66", or "This product meets the specifications for Florida Citrus Spray Oil FC 455-88". Such label claim must be shown conspicuously on the front panel of the label.

(b) Any petroleum oil which does not meet the specifications of either FC 435-66, FC 412-66, or FC 455-88 shall bear no reference to these designations on the label or labeling.

Specific Authority 487.051(2) FS. Law Implemented 487.051(2) FS. History–New 6-24-69, Formerly 5E-2.21, Amended 8-31-88.

5E-2.022 Storage of Restricted Use Pesticides.

Restricted use pesticides shall be stored and maintained in a secure manner, such that they are not easily accessible to unauthorized persons.

Specific Authority 487.042, 487.051, 570.07(23) FS. Law Implemented 487.031(1), 487.031(11), 487.031(12) FS. History–New 1-1-70, Amended 7-1-70, 10-22-70, 2-26-71, 7-1-71, 10-29-71, 2-26-72, 10-26-72, 3-1-73, 11-6-73, 6-28-74, 5-11-75, 12-11-75, 12-2-76, 7-20-78, 3-25-79, 7-22-79, 11-25-79, 10-27-80, 10-18-81, 4-27-83,

Formerly 5E-2.22, Amended 2-9-93, 7-18-95.

5E-2.027 Nonagricultural Chemicals Subject to Penalty.

The pesticides subject to a penalty when found to be ineffective under the provisions of Section 487.091(3), F.S., shall be only those nonagricultural chemicals making specific antimicrobial label claims of effectiveness on inanimate surfaces against bacteria, fungi, and viruses. This shall include the following classes of antimicrobial products:

- (1) Chlorine and chlorine compounds,
- (2) Iodine and iodine compounds,
- (3) Phenolic compounds,
- (4) Bis-phenols,
- (5) Salicylanilides and carbanilides,
- (6) Alcohols,
- (7) Acid-anionic surface-active sanitizers,
- (8) Quaternary ammonium disinfectants,
- (9) Amphoteric surfactant disinfectants,
- (10) Mercurials – inorganic and organic,
- (11) Silver and its compounds, and

(12) Any other compound presently registered with antimicrobial claims by the United States Environmental Protection Agency or the department.

Specific Authority 487.051(1)(b), (2), 487.091(3), 570.07(23) FS. Law Implemented 487.051(1)(b), 487.051(2), 487.091(3) FS. History–New 5-25-83, Formerly 5E-2.27, Amended 7-18-95.

5E-2.028 Restrictions on Use and Sale of Aldicarb; Permit Requirements and Procedures; Department Approval; Records; Penalties.

(1) Use and Sale Restrictions. The use of aldicarb in accordance with label directions is authorized statewide, with the following restrictions:

(a) Aldicarb shall be applied only during the time period for which written or electronic authorization has been issued by the department by means of an aldicarb permit.

(b) Aldicarb shall be applied only at sites for which written or electronic authorization has been issued by the department by means of an aldicarb permit.

(c) Experimental use must be authorized by the United States Environmental Protection Agency or the department.

(d) Aldicarb shall not be applied within 300 feet of any well in this state, with the exception of wells that meet the provisions of paragraph (1)(f).

(e) Aldicarb shall not be used in Florida citrus on any soil series identified by the USDA Natural Resources Conservation Service as highly permeable well-drained soil within 1,000 feet of any well, with the exception of wells that meet the provisions of paragraph (1)(f) or (1)(g). Soil series which have been identified by the USDA Natural Resources Conservation Service as highly permeable well-drained soil include but are not limited to the following:

Adamsville
Archbold
Astatula
Candler
Cassia
Lake
Neillhurst
Orsino
Palm Beach

Paola
Satellite
St. Lucie
Tavares

(f) Any well that meets the following provisions is exempt from the 300-foot and 1,000-foot setback requirements specified in paragraphs (1)(d) and (1)(e):

1. The well is not used for human consumption;
2. The well has been posted with a conspicuous warning notice stating "NOT FOR HUMAN CONSUMPTION"; and
3. If the well is situated on property under different ownership from the property where the aldicarb application is to be made, a signed statement has been obtained from the well owner authorizing the posting of the warning notice specified in subparagraph (1)(f)2.

(g) The 1,000-foot setback requirement in paragraph (1)(e) shall not apply to wells for which the permit applicant has furnished the department well construction documentation confirming that the well is continuously cased to a depth of at least 100 feet below ground surface or at least to a minimum depth of 30 feet below the top of the shallowest water-producing zone recognized at the time of well construction. Well construction documentation shall consist of either a copy of the well completion report issued by the appropriate water management district or a statement certified as to accuracy by a Florida-licensed well contractor. Effective July 1, 2007, the well completion report or statement certified by a Florida-licensed well contractor must contain the following information: well location; casing depth; static water level at time of well completion if not continuously cased to a depth of 100 feet or greater; and name of water management district or Florida-licensed well contractor that issued the document. Well location must be identified by county, range, township, and section; and, effective July 1, 2007, Global Positioning System (GPS) latitude and longitude coordinates in decimal degrees. Latitude and longitude coordinates must be accurate to a minimum of five places after the decimal and must be in the format of this example: Latitude: 28.45874; Longitude: -82.08945.

(h) Warning notices specified in subparagraph (1)(f)2. shall remain in place subsequent to the aldicarb application until sampling and analysis of the well water performed or approved by the department indicate an aldicarb residue level in compliance with the standards established by the Florida Department of Environmental Protection in Chapter 62-550, F.A.C.

(i) Citrus grove use is limited to one application per tree per use season. For purposes of this rule, the citrus use season is defined as the period November 15 – April 30. Application shall not exceed the rate of 5 pounds active ingredient or 33 pounds of 15G formulation per acre.

(j) Any drinking water well found to contain aldicarb residues in excess of the standards established by the Florida Department of Environmental Protection in Chapter 62-550, F.A.C., shall have further use of the chemical within 1,000 feet of the well suspended immediately. The suspension shall remain in effect until the well has undergone remedial treatment in a manner acceptable to the department or until subsequent sampling and analyses of the well water performed or approved by the department indicate residue levels in compliance with standards established by the Florida Department of Environmental Protection.

(k) Sales documents from any person selling or distributing aldicarb in Florida shall state: "For use only as authorized by Rule 5E-2.028, F.A.C."

(2) Permit Requirements and Procedures.

(a) Prior to applying aldicarb in this state, the licensed applicator shall obtain a permit to apply aldicarb in Florida. Permits may be obtained by filing an application for permit with the department and meeting all permit requirements. Applications shall be filed either electronically on the web site <http://www.flpesticidepermit.org> or in hard copy by delivery of a completed Application for Permit to Apply Aldicarb (Temik), Form DACS-13317, Rev. 06/08, to the address listed on the form. For the purposes of this rule, filing means received by the department. Licensed pesticide applicators may obtain a username and password to use the electronic filing process by submitting a completed Request for

Username and Password for Electronic Temik Permit Application, Form DACS-13356, Rev. 04/08, to the address listed on the form.

(b) Each application site shall be listed on a separate permit application. Application sites situated in more than one township, range, and/or section must be submitted as multiple sites, with each site identified as one entry with a distinct township, range, and section.

(c) Each application site must be identified with county, range, township, and section; and, effective July 1, 2007, indication on a section diagram of all 1/4 of 1/4 sections in which any part of the application site is situated.

(d) With the exception of non-drinking wells that meet the provisions of paragraph (1)(f), well location must be provided for each well that determines an application setback at the application site based on the requirements of paragraph (1)(d) or (1)(e). Well location does not need to be provided for any well that meets the provisions of paragraph (1)(f), but the number of such wells within the application site must be provided. Well location must be identified by county, range, township, and section; and, effective July 1, 2007, Global Positioning System (GPS) latitude and longitude coordinates in decimal degrees. Latitude and longitude coordinates must be accurate to a minimum of five places after the decimal and must be in the format of this example: Latitude: 28.45874; Longitude: -82.08945.

(3) Forms.

(a) Form DACS-13317, Rev. 06/08, Application for Permit to Apply Aldicarb (Temik), hereby adopted and incorporated by reference, may be obtained from the web site <http://www.doacs.state.fl.us/onestop/aes/temik.html> or from the Pesticide Certification Section, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399; telephone (850) 488-3314.

(b) Form DACS-13356, Rev. 04/08, Request for Username and Password for Electronic Temik Permit Application, hereby adopted and incorporated by reference, may be obtained from the web site <http://www.doacs.state.fl.us/onestop/aes/temik.html> or from the Pesticide Certification Section, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399; telephone (850) 488-3314.

(4) Department Authorization.

(a) No person shall apply aldicarb in this state unless written or electronic authorization has been issued by the department by means of an aldicarb permit.

(b) No person shall apply aldicarb in this state to any site until an aldicarb permit has been approved for that site.

(c) The department shall designate on the permit the time period during which aldicarb is approved for application. The time period authorized for application shall not exceed six (6) months.

(d) Department authorization is not transferable.

(e) The department shall deny permit applications that list application sites in areas determined by the department to be unsuitable for aldicarb application. Areas unsuitable for aldicarb application are those geographic areas in which potable well water sampling has revealed a pattern of detections of aldicarb or aldicarb residues at concentrations exceeding water quality standards established by the Florida Department of Environmental Protection in Chapter 62-550, F.A.C. Petitions for the reversal of determinations of unsuitability for aldicarb application shall be submitted to the department for review and consideration. In reviewing such petitions, the department shall evaluate the adequacy of documentation submitted by the petitioner to demonstrate that proposed reintroduction of aldicarb use would not result in water quality violations in potable wells in the area. Pending approval of the submitted documentation, the department shall require the petitioner to provide written permission to reverse the unsuitability determination from all property owners affected by the proposed change.

(5) Records. Each applicator shall maintain a copy of all aldicarb permits approved by the department for that applicator, including all attachments, for a minimum of 2 years. These records shall be made available upon request by an authorized representative of the department. For permit approvals issued to the applicator via the web site <http://www.temikpermit.com>, upon request by an authorized

representative of the department, the applicator must either provide a printed copy of the permit information from the web site or make the permit information available by computer screen for review and printing by the department representative.

(6) Penalties. The use, sale, distribution or application of aldicarb by any person in a manner inconsistent with the provisions of this rule is a violation of Chapter 487, F.S., and subject to the penalties described therein.

Specific Authority 487.042, 487.051, 570.07(23) FS. Law Implemented 487.051, 487.160 FS. History—New 1-1-84, Amended 4-8-84, 5-8-85, Formerly 5E-2.28, Amended 2-9-93, 7-18-95, 9-21-98, 3-28-02, 11-8-06, 9-18-08.

5E-2.031 Pesticide Registration; Exemptions from Registration; Experimental Use Permits.

(1) For each application for any new, amended, or renewed pesticide registration, the department may require, in support of registration for sale and use in the State of Florida, summaries of data from pesticide efficacy studies and submission of scientific evidence that the pesticide will not cause any unreasonable adverse effects on public health or the environment.

(a) Material submitted to the department considered by the registrant to contain trade secrets or to be confidential shall be clearly marked "confidential" by the applicant or registrant. Confidential material shall not be distributed to any persons other than those specified by Chapter 487, F.S. Public disclosure of confidential data by any person to whom the data has been distributed shall be unlawful as provided in Section 487.031(5), F.S.

(b) Data considered confidential property of another registrant or manufacturer may be cited in an application to the department if written permission has been obtained from that registrant or manufacturer and is submitted to the department with the application.

(c) The department, upon finding that an applicant or registrant has withheld results or has submitted false or inaccurate data which precludes the department's ability to conduct valid risk assessments, shall initiate action to deny, cancel, or suspend registration pursuant to Section 487.041, F.S., and Chapter 120, F.S.

(d) Those registrants whose end-use product must be registered in Florida pursuant to Section 487.041(1), F.S., but which do not manufacture the federally registered basic technical grade material shall comply with the data requirements of this rule only as it pertains to the end-use product. Such registrants shall request the manufacturer supplying the basic technical grade material to provide the department with required data as it pertains to the technical grade material.

(e) The department will waive specific data requirement provisions of this rule for registration of products for which such data requirements are not pertinent to risk assessment procedures or for those applications for registration for which the department possesses a sufficient data base. The "exclusive use of data" provisions of section 3(c)(1)-(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) shall be recognized.

(2) Applications for Registration.

(a) Applications for Registration shall contain necessary scientific evidence in the form of data summaries accurately reflecting all scientific documents submitted to the U.S. Environmental Protection Agency (EPA) in support of federal registration under section 3, FIFRA.

(b) Upon determination that submitted data summaries are inadequate to complete public health and environmental assessments, the department shall require applicants or registrants to submit or generate additional data, as specified by the department, and by methods approved by the department. For standard tests, methods shall be those approved by the EPA.

(3) Review of applications for registration shall consider, where applicable, criteria in the data summaries including but not limited to:

(a) Product chemistry data, which shall provide information regarding key chemical properties that may influence a pesticide's relative susceptibility to leaching into groundwater and its relative stability in groundwater, shall describe the parent compound, degradation products, contaminants and impurities of

toxicological concern. Chemistry data shall include but is not limited to: water solubility, vapor pressure, and soil partition coefficient based on organic carbon (K_{oc}) and octanol/water (K_{ow}). The product material safety data sheet and confidential statement of formula shall also be included. Formulators shall declare, on their submitted confidential statement of formula, the name(s) of the manufacturer(s) supplying the basic technical grade material for their end-use products and the EPA registration number for each technical grade material.

(b) Toxicological data, which shall provide information for human risk assessment and for environmental impact assessment of the pesticide on non-target organisms (plants, wildlife, aquatic and soil organisms). Toxicological data shall describe effects of the parent compound and degradation products, contaminants and impurities of toxicological concern.

(c) Environmental fate data, which shall describe the pesticide's behavior under Florida conditions or under laboratory or field protocol which adequately represents and reflects actual Florida hydrogeologic conditions. Environmental chemistry data shall include, but is not limited to, information regarding physical and chemical degradation, metabolic transformation, persistence (half-life), bioaccumulation potential, and mobility of the pesticide. Degradation and metabolism data shall describe the behavior of the parent compound and degradation products, contaminants and impurities of toxicological concern in soil and water, under aerobic and anaerobic conditions.

(d) Residue chemistry data which adequately describes pesticide residues detected in or on applicable crops, processed foods and animal feed. Registrants shall, where applicable, submit methodology for determination of residues in soil and water (groundwater). Analytical methodology provided by the applicant for determination of residues must be acceptable to the department.

(e) Worker/applicator safety data, which shall provide evidence that use of the pesticide in accordance with the label does not pose any unreasonable risk to applicators or agricultural workers exposed to treated areas or commodities.

(4) The department shall consider data from authoritative sources in making determinations regarding a pesticide's impact on public health and the environment. Within the department, the Bureau of Pesticides shall identify those areas of concern for which further testing is needed.

(a) In those cases in which data are not available and require substantial time to generate (e.g., chronic toxicity data), the department shall either deny or conditionally approve registration pending generation of said data by the applicant, registrant or other sources, pursuant to paragraph (6)(c) of this rule. At such time as data become available, the department shall reevaluate any conditional registrations to which said data may pertain.

(b) When it is determined by the Pesticide Review Council that it is necessary that the applicant or registrant conduct Florida field testing of a restricted-use pesticide, that applicant or registrant shall apply to the department for an Experimental Use Permit pursuant to subsection (11) of this rule. During the period of experimentation, the department may deny, revoke, suspend or conditionally accept the registration.

(5) The department shall subject applications for registration to timely review and evaluation. Upon notification of the applicant or registrant by the Bureau of Pesticides of additional data requests, pursuant to Section 120.60(2), F.S., the department shall specify the amount of time that will be provided for response to the request. If, upon expiration of the time allocated for response, the department has not received a complete written response from the applicant or registrant, the department may deny, cancel or suspend registration, or for good cause as demonstrated by the applicant or registrant, grant an extension to the time allocated to submit the requested data.

(6) The department, upon preliminary review of application data shall promptly register products accepted by the EPA under FIFRA Section 3, provided submitted data are adequate to address Florida-specific concerns. The Bureau of Pesticides, within 90 days of receipt of complete data summaries, shall:

(a) Fully approve the registration; or

(b) Conditionally register the product subject to generation and submission of data designated by the

Bureau of Pesticides within the department or require that certain restrictions or limitations be placed on the use or sale of the pesticide in Florida. Such restrictions or limitations shall be described to the applicant or registrant by the department as part of this notification; or

(c) Notify the applicant or registrant of intent to deny registration, and the basis for denial, pursuant to Chapter 120, F.S.; and/or

(d) Submit registration application to the Pesticide Review Council for determinations by the Council relative to field testing of restricted-use pesticides or other concerns designated by the department.

(7) In cases where the department determines that restrictions, limitations, or conditions attached to registration are warranted, such restrictions, limitations or conditions shall be accomplished.

(a) By label: registrants may list restrictions, limitations or conditions as pertains to Florida on the product label; or

(b) By rule: restrictions, limitations or conditions may be promulgated into rules of the department which regulate the sale and use of the product. Registrants shall cooperate with the department to disseminate the contents of those rules which apply to their product.

(c) Registration of the product may be accepted or held in abeyance, as determined by the department, pending promulgation of such rules or amendments to labels.

(8) If during the registration process, or at any time after full or conditional registration is accepted, the registrant determines that there is preliminary or conclusive scientific evidence of any adverse effects or risk to public health or the environment from use of the pesticide, the registrant shall immediately submit to the department the data and conclusions made by the registrant with respect to said evidence.

(9) The department may, at any time, review and evaluate any registered pesticide, if new information is made available which indicates that use of a pesticide has caused or may cause any unreasonable adverse effect on public health or the environment. Such review and evaluation may result in revocation, cancellation or suspension of a pesticide registration, if risk assessment procedures deem such actions appropriate.

(10) As a result of review of a registered pesticide or application for registration, the department may require that the applicant or registrant design a groundwater and/or surface water and soil monitoring program which will monitor pesticide use locations for groundwater and/or surface water contamination, and accumulation of soil residues. Such monitoring programs shall be designed and implemented in coordination with appropriate state agencies.

(11) The department's "Procedural Guidelines and Standards for the Review of State Pesticide Registrations, Emergency Exemptions and Experimental Use Permits" (September 1991) are hereby adopted by reference. A copy of the guidelines may be obtained from the Pesticide Registration Section, 3125 Conner Boulevard, MD-2, Tallahassee, Florida 32399-1650.

Specific Authority 487.041, 487.051(2), 570.07(23) FS. Law Implemented 487.041, 487.042, 487.051(2), 487.0615 FS. History—New 2-20-85, Formerly 5E-2.31, Amended 8-2-89, 7-18-95.

5E-2.0311 Performance Standards and Acceptable Test Conditions for Preventive Termite Treatments for New Construction.

(1) PERFORMANCE STANDARDS FOR PREVENTIVE TERMITE TREATMENTS FOR NEW CONSTRUCTION. The registrant of any pesticide product containing a label statement that includes directions for use as a preventive treatment for subterranean termites for new construction shall provide data to the Department demonstrating that the product meets the performance standard specified for the type of pesticide product listed below. For products registered prior to the effective date of the rule, the registrant shall have one year from the effective date of the rule to provide the data required to meet the performance standards or the period of time specified to meet the test conditions herein, whichever is greater. When data generation requires more than one (1) year, the registrant shall provide annual reports to the Department. In the event that a performance standard is not met during the test period,

the provisions of Section 487.041(4)(e), F.S., shall apply.

(a) For soil applied residual treatments:

1. In field plot tests, subterranean termite damage to wood in the test must equal a rating of 9 or higher under the Standard Test Method of Evaluating Wood Preservatives by field tests with stakes, 1996, ASTM D1758-96 scale (available from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, Pennsylvania, USA 19428-2959), in at least 90% of test samples for a minimum of five years. For products registered before the effective date of this rule, the test must equal a scale rating of 1 or better using the United States Department of Agriculture Forest Service wood damage rating scale, (modified from Verrall, A.F. 1959. Preservative moisture-repellent treatments for wooden packing boxes. For. Prod. J. 9: 1-22, available from Wood Products Insect Research Unit, 201 Lincoln Green, Starkville, MS 39759) or an ASTM scale rating of 9 or higher using ASTM D1758-96 in at least 90% of test samples for a minimum of five years.

2. In field plot tests, if the data meets the conditions of subparagraph (1)(a)1. above, then the product tested shall be considered to meet the requirement that it protects the structure and its contents from subterranean termite damage.

3. For products with label directions that allow preventative treatments for new construction other than complete coverage under a foundation, the product shall meet the performance standard specified in subparagraph (1)(d)2., and data provided to demonstrate that the performance standard was met shall be developed in accordance with paragraph (2)(c).

(b) For products formulated for use in stand-alone bait systems:

1. General. Formulated bait products submitted for registration after the effective date of this rule must be tested in field plot tests and building tests that meet the acceptable test condition requirements of paragraph (2)(b) below, and must meet the performance standards for field plot tests specified in subparagraph (1)(b)2. below, and for building tests specified in either subparagraph (1)(b)3. or (1)(b)4. below. For products registered prior to the effective date of this rule, formulated bait products must be tested in building tests that meet the requirements of paragraph (2)(b) and must meet the performance standards in either subparagraph (1)(b)3. or (1)(b)4. below to be re-registered. For products registered after the effective date of the rule, the Department shall not grant permission in Florida for a building test until subparagraph (1)(b)2. below is met.

2. Field plot tests. Field plot tests must reduce each baited termite population by a minimum of 50% or reduce wood consumption by a minimum of 50% in at least 75% of baited population colonies within 12 months of initiation of feeding on bait active ingredient; and the minimum required reduction must be maintained for at least 6 months.

3. Building Tests with Existing Infestation. Building tests with existing infestation of the building by subterranean termites must show:

a. Independent Monitors. At least a 90% reduction of termite activity in at least 90% of the test buildings where independent monitors are used as measured by independent monitoring of termite populations within 12 months after initiation of feeding on a formulated bait; and

b. Building Monitoring. The cessation of the live termite activity in at least 90% of the test buildings within twelve months after initiation of feeding on the formulated bait and:

i. No re-infestation may occur within two years as verified by visual inspection, or

ii. No re-infestation may occur within 12 months as verified by the use of a combination of research and visual inspection techniques to delineate the location of infestation such as bath trap inspection ports, moisture meters, acoustic detection, chemical detection, microwave technology, canine detection, fiber optics or infrared technology, or

iii. For building tests conducted prior to the effective date of the rule, verification of no re-infestation within 12 months using a combination of the techniques set forth in sub-subparagraph (1)(b)3.ii. above is sufficient.

4. Building Tests with No Existing Infestation. Building tests where all buildings used in the test had

no existing infestation but demonstrated termite activity within 10 feet from the structure, must show:

a. Independent Monitors. At least a 90% reduction of termite activity in at least 90% of the test buildings as measured by independent monitoring of termite populations within 12 months after initiation of feeding on a formulated bait; and

b. Building Monitoring.

i. No infestation can occur in a minimum of 90% of test buildings within three years of initiation of feeding on baiting system, or

ii. Within 12 months if a 100% reduction of termite activity in the independent monitors at a minimum of 90% of the test buildings within 12 months after initiation of feeding on a formulated bait as documented using termite population delineation techniques such as mark/recapture, DNA analysis or cuticular hydrocarbon analysis and, no infestation in at least 98% of the test buildings is verified using a combination of research and visual inspection techniques to delineate the location of infestation such as bath trap inspection ports, moisture meters, acoustic detection, chemical detection, microwave technology, canine detection, fiber optics or infrared technology for 12 months after the elimination of the population.

(c) For pesticides applied to wood.

1. Field plot tests and building tests must be conducted.

2. In field plot tests, subterranean termite damage to both treated and untreated wood in the test must equal a rating of 9 or higher under the Standard Test Method of Evaluating Wood Preservatives by field tests with stakes, 1996, ASTM D1758-96 scale (available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania, USA 19428-2959), in at least 90% of test samples for a minimum of five years. For products registered before the effective date of this rule, the test must equal the USDA Forest Service scale rating of 1 or better using the United States Department of Agriculture Forest Service wood damage rating scale, (modified from Verrall, A.F. 1959. Preservative moisture-repellent treatments for wooden packing boxes. For. Prod. J. 9: 1-22, available from Wood Products Insect Research Unit, 201 Lincoln Green, Starkville, MS 39759) or a ASTM scale rating of 9 or higher using ASTM D1758-96 in at least 90% of test samples for a minimum of five years.

3. Building tests must show no infestation in a minimum of 90% of buildings in the test within five years of the treatment.

(d) For systems that use combinations of pesticides or application techniques otherwise not covered by sections above:

1. Systems registered after the date of the rule claiming to protect structures by affecting termite populations shall conduct field plot tests and building tests as specified in paragraph (2)(b) below and shall meet the performance standard for baits in field plot tests subparagraph (1)(b)2. and building tests subparagraph (1)(b)3. or (1)(b)4. above. Systems registered prior to the effective date of the rule claiming to protect structures by affecting termite populations shall conduct the building tests as specified in paragraph (2)(b) below and shall meet the performance standards in subparagraph (1)(b)3. or (1)(b)4. above.

2. Building tests must be conducted for all products other than those in subparagraph (1)(d)1. above. Building tests must show no infestation in at least 90% of buildings in the test within five years of treatment

(2) ACCEPTABLE TEST CONDITIONS FOR PREVENTIVE TERMITE TREATMENTS FOR NEW CONSTRUCTION. Acceptable test conditions for the development of data showing that the product meets the performance standard shall be as specified for the type of pesticide listed below:

(a) For soil applied residual treatments:

1. Field plot tests shall be conducted in conditions which approximate Florida conditions with respect to rainfall, temperature, soil types and termite species.

2. Field plot tests shall be conducted with at least ten replications of the treatment tested. If more replications have been used, the results of all the replications shall be reported.

3. Wood used in the tests shall not be treated to resist termite attack or shall not be wood resistant to termites as defined in Section 2304.1.1.1 of the Florida Building Code (2001 Edition, available from the Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399).

4. Field plot tests data shall be collected from tests:

a. Accepted by the United States Environmental Protection Agency (USEPA) as in compliance with USEPA's Product Performance Testing Guidelines for Structural Treatments (OPPTS 810.3600, EPA 712-C-98-424, March 1998, available from US EPA Office of Prevention, Pesticides, and Toxic Substances, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460); or

b. Conducted by the United States Department of Agriculture/Forest Service using the concrete slab method in their soil residual treatment testing protocol published February 11, 1994, RWU-4502-2-1994, available from the Wood Products Insect Research Unit, 201 Lincoln Green, Starkville, MS 39759; or

c. Conducted in accordance with Department approved protocols.

(b) For Stand-Alone Bait Systems:

1. Field plot tests evaluate the effect of the bait active ingredient on the population of termites. The existence of foraging population and feeding activity must be demonstrated prior to the introduction of the bait active ingredient. Field plot tests must evaluate a minimum of three (3) separate baited termite colonies and one (1) un-baited termite colony. Effect on foraging activity can be quantified by measuring consumption of foraging monitors, estimation of population size by mark/recapture techniques, or numbers of termite attacks on monitors.

2. Field plot tests and building tests shall be conducted in conditions which approximate Florida conditions with respect to rainfall, temperature, soil types and termite species.

3. For building tests conducted after the effective date of the rule, 10% of buildings with known existing infestations of subterranean termites or 10% of buildings known not to have existing infestations of subterranean termites, or ten (10) sites of each type (whichever is greater) must use independent monitors deployed in the same manner as the bait to quantify termite activity. A minimum of twenty (20) building tests must be conducted. Termite activity can be measured as wood consumption in the independent monitors, numbers of termite attacks on independent monitors, a population estimate using mark/recapture techniques, DNA analysis, or cuticular hydrocarbon analysis.

4. For all building tests initiated after the effective date of the rule, tests shall be conducted on buildings which have not been treated with a soil applied residual treatment within 5 years of the initiation of tests.

5. For building tests conducted prior to the effective date of the rule:

a. Building Tests with Existing Infestation. For building tests with existing infestation, 20% of buildings in the data set provided to the Department must have records for a minimum of two years of monitoring termite activity after the initiation of termite feeding on the formulated bait; or monitoring using a combination of research and visual inspection techniques to delineate the location of infestation such as bath trap inspection ports, moisture meters, acoustic detection, chemical detection, microwave technology, canine detection, fiber optics or infrared technology, for a minimum of 12 months after the initiation of feeding on the formulated bait.

b. Building Tests with No Existing Infestation. For building tests with no existing infestation, 20% of buildings in the data set provided to the Department must have either:

i. Records for a minimum of three years of monitoring of termite activity after the initiation of termite feeding on formulated bait; or

ii. Records using termite population delineation techniques such as mark/recapture, DNA analysis or cuticular hydrocarbon analysis for a minimum of 12 months after initiation of feeding on a formulated bait and monitoring using a combination of research and visual inspection techniques to delineate the location of infestation such as bath trap inspection ports, moisture meters, acoustic detection, chemical detection, microwave technology, canine detection, fiber optics or infrared technology, for a minimum of 12 months after the initiation of feeding on the formulated bait.

6. For tests conducted after the effective date of the rule:
 - a. Building tests with existing infestations must be documented with collection of termites from the test site and preservation for identification.
 - b. Building test inspections must include a combination of visual and research inspection methods including bath trap inspection ports, moisture meters, acoustic detection, chemical detection, microwave technology, canine detection, fiber optics or infrared technology.
 - c. Data from field plot and building tests must be developed under Good Laboratory Practices Standards (40 CFR Part 160, revised 2001), a United States Environmental Protection Agency quality assurance agreement, or using a Department approved protocol.
7. Building tests must use the bait as formulated for registration and must follow directions for use on the registered label or the label proposed for registration.
 - (c) For pesticides applied to wood:
 1. Field plot tests and building tests shall have been conducted in conditions which approximate Florida conditions with respect to rainfall, temperature, soil types and termite species.
 2. Field plot tests shall have been conducted with at least ten (10) replications of the treatment tested. If more replications have been used, the results of all the replications shall have been reported.
 3. Field plot tests shall include at least one untreated control for each ten (10) replications.
 4. Wood used in building and field plot tests that is treated shall be treated in accordance with the directions for use on the registered label or label proposed for registration.
 5. Wood used in the tests shall be a species commonly used in wood frame construction in Florida.
 6. For field plot tests, test units shall incorporate untreated wood placed on top of the treated wood to demonstrate that the treatment will protect untreated building components from attack by subterranean termites that require ground-soil contact.
 7. For building tests conducted after the effective date of the rule, building test inspections must include bath trap inspection ports, moisture meters, acoustic detection, chemical detection, microwave technology, canine detection, fiber optics, or infrared technology.
 8. Field plot tests or building test data shall be collected from tests:
 - a. Accepted by the United States Environmental Protection Agency (USEPA) as in compliance with USEPA's Product Performance Test Guidelines for Structural Treatments (OPPTS 810.3600, EPA 712-C-98-424, March 1998, available from US EPA Office of Prevention, Pesticides, and Toxic Substances, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460); or
 - b. Conducted in accordance with Department approved protocols.
 9. Building tests prior to the date of the rule, shall be on a minimum of twenty-five (25) buildings with wood framed exterior walls and treatment shall have been applied according to the label or proposed label directions for use with documented annual inspections.
 10. Building tests after the date of the rule shall be on a minimum of twenty-five (25) buildings with wood framed exterior walls and a minimum of ten (10) of the buildings shall have demonstrated termite activity within ten (10) feet of the structure, and treatment shall be applied according to the label or proposed label directions for use.
 - (d) For systems that use combinations of pesticides or application techniques otherwise not covered by sections above:
 1. Systems registered after the date of the rule claiming to protect structures by affecting termite populations shall conduct field plot tests and building tests that meet the acceptable test conditions specified in paragraph (2)(b) above.
 2. Systems registered prior to the effective date of the rule claiming to protect structures by affecting termite populations shall conduct building tests that meet the acceptable test conditions specified in paragraph (2)(b) above.
 3. All other systems shall meet the acceptable test conditions specified in paragraph (2)(c) above.

(3) DEPARTMENT REVIEW OF DATA SUBMISSIONS.

(a) Publication of Results. The Department shall publish the results of its review of data submitted to comply with this rule within 90 days of receipt of a complete set of data developed under the acceptable test conditions established in subsection (2) above. When the Department determines that the product tested does not meet the performance standard in subsection (1), the data submitter will be allowed 90 days to provide supplemental data and data interpretations for the Department's consideration. The Department shall review an earlier determination of failure to meet product performance standards based on this supplemental data only if additional data meets the conditions of subsection (2) above, or shall review an earlier determination based on a data interpretation only if that interpretation demonstrates that the data developed under subsection (2) above meets the performance standards established in subsection (1) above.

(b) Data from field plot tests or building tests conducted prior to the effective date of the rule. Data from field plot tests or building tests conducted prior to the effective date of the rule shall be acceptable for review by the Department if any of the following conditions are met:

1. Data and results reported are from all field plots or buildings in a study conducted in accordance with acceptable test conditions; or

2. Data and results reported are a subset of field plots or buildings with acceptable test conditions from the entire data set where all plots or buildings met acceptable test conditions, provided data were selected in a statistically random manner from the entire data set, represent a minimum of fifty (50) sites, and the method used for selection is reported and documented; or

3. Data and results reported are from all field plots or buildings with acceptable test conditions, however the entire study included plots or buildings that do not meet acceptable test conditions; or

4. Field plots or buildings reported were selected in a statistically random manner from the set of existing sites for which records that meet the acceptable test conditions requirements of subsection (2) above exist, and the results of fifty (50) sites are reported, and a description of the statistical method used is included in the data submission. Field plots or buildings reported that are a subset of field plots or buildings with acceptable test conditions from the entire data set where some plots or buildings do not meet acceptable test conditions, providing data were selected in a statistically random manner from the set of existing plots or buildings that meet acceptable conditions, represent a minimum of fifty (50) sites, and method used for selection is reported and documented.

(c) Use of Termiticide efficacy protocol review process. Termiticide efficacy protocol review process for field and building tests shall be reviewed by the Department using the Protocol Review Process for Efficacy Tests of Termiticides for Preventive Treatment for New Construction dated November 13, 2002 and hereby adopted by reference.

(d) Department Publication Following Grant of Registration. Upon granting of a registration, Department will publish the following information:

1. A description of the testing used to evaluate the product's efficacy, including test locations and who conducted the testing.

2. The results of the efficacy testing relative to the applicable performance standards.

3. Information about which test standards and methods were used to evaluate the registration.

4. Any potential limitations to evaluating product efficacy associated with using this test method and data.

5. Any additional information that would assist the public in evaluating the product's efficacy.

Specific Authority 487.041(4)(e) FS. Law Implemented 487.041(4)(e) FS. History—New 3-23-03, Amended 12-16-03.

5E-2.033 Organo-Auxin Herbicides: Restrictions and Prohibitions.

(1) SYNTHETIC ORGANO-AUXIN HERBICIDES: The synthetic organo-auxin herbicides are defined as herbicides which produce hormonal auxin type effects on plants similar to the effects of 2,4-D. These herbicides include:

- (a) 2,4-D, 2,4-Dichlorophenoxyacetic acid, in all forms;
- (b) 2,4,5-T, 2,4,5-Trichlorophenoxyacetic acid, in all forms;
- (c) Silvex, 2-(2,4,5-Trichlorophenoxy)propionic acid, in all forms;
- (d) MCPA, 4-chloro-2-methylphenoxyacetic acid, in all forms;
- (e) 2,4-DP, 2-(2,4-Dichlorophenoxy)propionic acid, in all forms;
- (f) MCPP, 2-(2-methyl-4-chlorophenoxy)propionic acid, in all forms;
- (g) MCPB, 4-(2-methyl-4-chlorophenoxy)butyric acid, in all forms;
- (h) Dicamba, 2-Methoxy-3, 6-dichlorobenzoic acid, in all forms;
- (i) Triclopyr, (3,5,6,-Trichloro-2-pyridinyl)oxyacetic acid, in all forms.

(2) Sale and use of highly volatile forms of organo-auxin herbicides in the state is prohibited except for those products labeled for use as plant growth regulators on citrus. Highly volatile organo-auxin herbicides include the methyl, ethyl, propyl, isopropyl, and butyl esters of 2,4-D and 2,4,5-T.

(3) Based upon wind speed and direction at the time of application, the distance which must separate the closest edge of the area to be sprayed from susceptible crops is listed in Table 1. Susceptible crops are defined as commercially produced plants or crops that may be damaged when exposed to low concentrations of organo-auxin herbicides. Examples of susceptible crops are tomatoes, peppers, watermelons, eggplants and ornamental broadleaf plants. Users of organo-auxin products on citrus as plant growth regulators are exempt from the wind speed restrictions below provided they adhere to the restrictions appearing on the product label.

Table 1: Minimum Distance From Susceptible Crops

Wind Speed	Aerial Equipment	Ground Equipment
0 – 3 mph	1/2 mile downwind	1/8 mile downwind
	1/2 mile crosswind	1/8 mile crosswind
	50 feet upwind	20 feet upwind
3 – 6 mph	1 mile downwind	1/4 mile downwind
	1/2 mile crosswind	1/8 mile crosswind
	50 feet upwind	5 feet upwind
6 – 10 mph	2 miles downwind	1/2 mile downwind
	1/2 mile crosswind	1/4 mile crosswind
	50 feet upwind	5 feet upwind
Above 10 mph	Prohibited	Prohibited

Note: "Crosswind" means wind from a direction 90 degrees (± 10 degrees) to a line drawn between the proposed treatment site and a susceptible commercial crop site.

(4) Wind speed will be measured at the treatment site or up to two miles away. Wind speed measurements will be taken at spray boom height for ground application and at least six feet above the ground for aerial and airblast applications. The measurement site will be located so that structures,

plants, or terrain features do not interfere with the accuracy of the reading. Wind direction will be estimated as accurately as possible by the person taking the wind speed readings. The applicator or his representative shall take and record wind speed and direction readings before spraying starts and once every hour during the spraying operation. A reading shall consist of an average of three measurements taken within a five-minute period. These measurements shall be taken by rotating and positioning the anemometer into the wind in such a manner so as to obtain the maximum wind velocity measurement which will be used to calculate the average reading. An anemometer accurate to within $\pm 10\%$ shall be used to take the wind speed measurements.

(5) Applicators should minimize the production of droplets with mean volume diameter less than 200 microns regardless of the spray equipment utilized. When utilizing boom application equipment on the ground, flat fan nozzles or their equivalent shall be used and application pressures shall not exceed 35 pounds per square inch. Applications of organo-auxin herbicides on citrus as a plant growth regulator utilizing airblast sprayers are exempt from the requirements of this section.

(6) Persons making spray applications of organo-auxin herbicides or plant growth regulators to cumulative land or water surface areas exceeding 5 acres per 24-hour period, shall maintain the following records for two years:

(a) Name and address of the owner, lessee or tenant in control of the land and the name and address of the applicator.

(b) Location of the site to be treated, location of the mixing and loading area and a description of application equipment used.

(c) Date and time of application.

(d) Trade name, manufacturer, formulation, total amount of product to be applied per acre and the amount of active ingredient of the product applied per acre.

(e) Total acreage and crop or site treated.

(f) Average hourly wind speed and direction.

(g) Nozzle type including gallons per minute rating at specified pressure (usually 40 psi) and angle of spray emission if applicable.

(7) Aerial application of organo-auxin herbicides by fixed wing aircraft from January 1 until May 1 of each year in Hendry, Palm Beach, Glades or Martin counties is prohibited. The use of rotary wing aircraft using Microfoil spray booms or their equivalent for right-of-way and aquatic spray applications is allowed provided the terms of subsections (2), (3), (4), (5), and (6) are met.

(8) Applicators who apply organo-auxin herbicides to ditches, canals, or the banks of similar waterways will assure that they are not treating water that will be directly used for irrigation of sensitive crops.

(9) The ground application of low volatility 2,4D products registered in the State of Florida for use as a growth regulator on red potatoes in small dosages substantially less than for herbicidal use is not subject to the use regulations and restrictions set forth in subsections (3) and (4) of this rule provided the product is not applied within 50 feet of susceptible crops, the spray boom height does not exceed 18 inches above the crop canopy and label instructions are followed.

Specific Authority 570.07(23) FS. Law Implemented 487.031(10), (13)(e) FS. History—New 2-4-86, Amended 7-10-89, 7-29-04.

5E-2.035 Organotin Antifouling Paints; Restrictions and Prohibitions.

(1) Each application for registration of pesticide products containing organotin labeled for use as an antifouling paint must be accompanied by documentation demonstrating that such products do not exceed the long-term average release rate of 4.0 ug (micrograms)/cm² (square centimeter)/day.

(2) Products exceeding the 4.0 ug/cm²/day rate or for which complete release rate documentation has not been submitted will be denied registration or, in the case of existing registrations, will be subject to registration revocation pursuant to Section 487.041, Florida Statutes.

(3) Organotin end-use product registrations which include directions for use as home or commercial paint additives to produce antifouling paints are revoked effective immediately. Registration applications for these products will no longer be accepted.

(4) The use of organotin antifouling paints registered in Florida is prohibited from use on vessels less than 82 feet (25 meters) in deck length unless the vessels are aluminum.

(5) Not later than March 1, 1990, all stocks of organotin antifouling paints in Florida channels of trade must be labeled as restricted use pesticides. Stocks not so labeled will be subject to the penalty provisions contained in Chapter 487, Florida Statutes, and must be reclaimed by the registrant in accordance with subsection (8).

(6) Organotin antifouling paints in aerosol cans of 16 ounces avoirdupois weight or less with directions for outboard motor or lower unit use only are exempt from classification and labeling as restricted use pesticides.

(7) As of March 1, 1990, organotin antifouling paints classified as restricted use pesticides may be used only by licensed restricted use pesticide applicators or persons working under the direct supervision of a licensed applicator in accordance with subsection (4). All applicable restrictions and precautions on the product label registered by the Department must be followed. The applicator's certification and license must be in the category "Organotin Antifouling Paint Pest Control".

(8) No existing stocks of organotin antifouling paints for which registration is denied or is subject to revocation for failure to meet the data submission or release rate requirements in subsection (1) may be sold, distributed or used in the State except in accordance with Federal Law. No existing stocks of organotin antifouling paints for which registration is denied or is subject to revocation for failure to meet the labeling requirements in subsection (5) may be sold, distributed or used in the State after March 1, 1990. Existing stocks identified to the registrant after this date must be reclaimed by the registrant who, at its own expense, must provide for the proper removal or disposal of the pesticide in accordance with state and federal laws.

Specific Authority 487.051(2), 487.154, 570.07(23) FS. Law Implemented 487.171 (1988 Supp.) FS. History—New 8-2-89.

5E-2.036 Restrictions on the Use of Methyl Bromide as a Soil Fumigant; Application Equipment Requirements.

(1) DEFINITIONS:

(a) The term "application site" means the specific field being treated with methyl bromide.

(b) The term "application equipment" means any purgeable equipment used for the application of methyl bromide as a soil fumigant.

(c) The term "designated agent" means a commercial applicator retained for the purpose of applying methyl bromide. The term may also apply to a grower or grower's employee who is a certified applicator.

(d) The term "operator" means any person on the application equipment during methyl bromide application.

(2) EFFECTIVE DATES:

(a) Effective January 31, 1991, any formulation of methyl bromide registered for distribution and sale in Florida for soil fumigation shall contain a minimum of 0.5% chloropicrin as a warning agent.

(b) Effective January 31, 1992, any formulation of methyl bromide in channels of trade in Florida registered for distribution and sale as a soil fumigant shall contain a minimum of 0.5% chloropicrin as a warning agent.

(c) All provisions of this rule except those contained in paragraph (2)(b) shall become effective January 31, 1991.

(3) APPLICATOR REQUIREMENTS:

A designated agent must be present at the application site during all phases of methyl bromide application or handling.

(4) APPLICATION EQUIPMENT:

(a) The use of any non-purgeable methyl bromide application apparatus is prohibited.

(b) Application equipment and methods for the use of methyl bromide as a soil fumigant shall meet the following requirements:

1. Teflon* hoses reinforced with stainless steel wire braid or its equivalent between any fumigant container and the flow divider. Lines from any flow divider to the point of injection shall be of materials approved by the manufacturer for methyl bromide service;

2. Injection apparatus of a length sufficient to insure an injection depth of not less than six inches below the soil surface unless amended product labeling approved by the Department states otherwise;

3. Soil shall be adequately sealed by rolling, tarping or packing to prevent escape of methyl bromide;

4. Operator seats located over injection apparatus shall be in such a position to prevent worker exposure.

(5) SAFETY EQUIPMENT:

(a) At least five gallons of potable water shall be kept on the application equipment clearly marked "Decontamination Water – Not To Be Used For Drinking". An additional supply of water, not less than five gallons, so marked, shall be kept at a separate location on the application site.

(b) A self-contained breathing apparatus shall be on site, but not located on the application equipment.

(6) EXEMPTIONS:

(a) Methyl bromide fumigation, by raised tarp method, of plant beds and other small areas; and

(b) Methyl bromide fumigation of potting mix, greenhouse soils, and sites treated specifically for control of ants.

* DuPont Registered Trademark.

Specific Authority 487.042, 487.051(1)(b), 487.051(2), 570.07(23) FS. Law Implemented 487.042, 487.051(1)(b), 487.051(2) FS. History–New 1-31-91, Amended 7-18-95.

5E-2.037 Prohibition of Alachlor Use.

(1) Effective February 25, 1991, the use of all pesticide products containing alachlor is prohibited within the state.

(2) All products containing alachlor in the possession of any person on or after February 25, 1991 are ordered withheld from use, sale, or further distribution within the state.

(3) This prohibition does not apply to use for experimental or research purposes authorized by the United States Environmental Protection Agency and by this department.

Specific Authority 487.051(1)(b), 570.07(23) FS. Law Implemented 487.051(1)(b), 487.051(2) FS. History–New 2-24-91, Amended 7-18-95.

5E-2.038 Restrictions on Use of Bromacil in Citrus; Penalties.

(1) Definitions. The following definitions shall apply to this rule:

(a) "Available water capacity" means the ability of the soil to hold water available for use by most plants and commonly expressed as inches of water per inch of soil.

(b) "Bedrock" means the solid rock that underlies the soil and other consolidated material or that is exposed at the surface.

(c) "Drainage class" refers to the frequency and duration of periods of saturation or partial saturation during soil formation.

(d) "Poorly drained" means that soil drainage class where water is removed so slowly that the soil is saturated periodically during the growing season or remains wet for long periods.

(e) "Horizon" means a layer of soil, approximately parallel to the surface, having distinct characteristics produced by soil forming processes.

(f) "Permeability" means the quality of the soil that enables water to move through the soil and is

measured as the number of inches per hour that water moves through the saturated soil.

(g) "Permeable, better drained soils" means those soils that are in a drainage class where water is removed more rapidly than in poorly drained soils, and have a permeability of six inches per hour or more, and an available water capacity of 0.10 inch per inch of soil or less, in all horizons to a depth of 80 inches or to bedrock if bedrock is within 80 inches of the surface.

(2) Use Restriction. The use of bromacil is prohibited for weed control in non-bedded citrus groves located on any permeable, better drained soil identified in the intended site of application. Permeable, better drained soils which occur in citrus producing areas of the state include soils unnamed and characteristic of quartzipsamments, and the following soil series classifications:

Adamsville	Archbold	Astatula
Bahiahonda	Broward	Canaveral
Candler	Cocoa	Dade
Florahome	Fort Meade	Gainesville
Lake	Lakewood	Neilhurst
Orlando	Orsino	Palm Beach
Paola	Satellite	St. Augustine
St. Lucie	Tavares	

(3) Penalties. The use of application of bromacil by any person in a manner inconsistent with the provisions of this rule is a violation of Chapter 487, Florida Statutes, and such person shall be subject to the penalty provisions of Section 487.175, Florida Statutes.

Specific Authority 570.07(23) FS. Law Implemented 487.031(10), 487.031(13)(g), 487.051(1) FS. History—New 2-20-94, Amended 7-18-95.

5E-2.039 Worker Protection Standard.

The worker protection standard for agricultural pesticides as specified in 40 CFR 170, revised as of July 1, 1993, and amended in 59 FR 30264, published June 10, 1994, is hereby adopted by reference. Copies of this regulation may be obtained from the Superintendent of Documents, Attn: New Orders, P. O. Box 371954, Pittsburgh, PA 15250-7954. Charge orders may be telephoned to the Government Printing Office order desk at (202) 783-3238.

Specific Authority 487.051, 570.07(23) FS. Law Implemented 487.051(2) FS. History—New 4-5-94, Amended 7-18-95.

Chapter 5E-9, Florida Administrative Code
“Licensed Pesticides Applicators and Dealers”

5E-9.001	Licensing and Exemptions. (Repealed)
5E-9.002	License Certification. (Repealed)
5E-9.003	Commercial and Public Applicator Classifications or Categories of Certification. (Repealed)
5E-9.004	Private Applicators. (Repealed)
5E-9.005	Public Applicators. (Repealed)
5E-9.006	Certification Standards for Private Applicators. (Repealed)
5E-9.007	Certification Standards for Commercial and Public Applicators. (Repealed)
5E-9.008	Examination and Certification for Commercial and Public Applicators. (Repealed)
5E-9.009	License Fee; Renewal Fee. (Repealed)
5E-9.010	License Renewal, Renewal Schedule, License Penalty, and Recertification. (Repealed)
5E-9.011	Reexamination. (Repealed)
5E-9.012	License Penalty. (Repealed)
5E-5.0121	Continuing Education Unit (CEU) Program. (Repealed)
5E-9.013	Non-resident Licensee Requirements. (Repealed)
5E-9.014	Records. (Repealed)
5E-9.015	Direct Supervision of Unlicensed Applicators or Mixed-Loaders, Instructions and Training; Warning. (Repealed)
5E-9.016	Financial Responsibility. (Repealed)
5E-9.017	Definitions
5E-9.018	Scope of Licensure Requirements. (Repealed)
5E-9.019	Pesticide Applicator Licenses
5E-9.020	Pesticide Dealer License. (Repealed)
5E-9.021	Categories of Licensure for Pesticide Applicators
5E-9.022	Description of Categories. (Repealed)
5E-9.023	General Certification Standards for All Licensed Applicators
5E-9.024	Category Certification Standards
5E-9.025	Eligibility for Licensure. (Repealed)
5E-9.026	Procedures for Pesticide Applicator Certification, Licensure, and License Renewal
5E-9.027	Procedures for Pesticide Dealer Licensure and License Renewal
5E-9.028	License Fees
5E-9.029	Procedures for Pesticide Applicator Recertification
5E-9.030	Continuing Education Unit (CEU) Program. (Repealed)
5E-9.031	Non-resident Licensee Requirements. (Repealed)
5E-9.032	Pesticide Applicator Records
5E-9.033	Pesticide Dealer Records
5E-9.034	Direct Supervision
5E-9.035	Warnings. (Repealed)
5E-9.036	Pesticide Aircraft Registration, Liability Insurance/Surety Bond, Security, Inspection, Storage, Recordkeeping, Area-of-Application Information, Transactions, and Forms

5E-9.017 Definitions.

(1) "Agricultural commodity" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

(2) "Fumigant" means any pesticide product that is a vapor or gas, or forms a vapor or gas on application, and whose method of pesticidal action is through the gaseous state.

(3) "Licensed health care professional" means a physician, nurse, emergency medical technician, or other qualified individual, licensed or certified by a State to provide medical treatment.

(4) "Medical emergency" means a situation that requires immediate medical treatment or first aid to treat possible symptoms of pesticide poisoning or exposure.

(5) "Opened container" means any pesticide product container which has had the manufacturer's seal broken, regardless of whether the container has been resealed.

(6) "Primary category" means a license classification that is valid by itself, without the need for additional licensure in any other category.

(7) "Secondary category" means a license classification that is valid only in combination with an applicable primary category.

(8) "Use" means performance of the following pesticide related activities: application, mixing, loading, or transferring pesticide product from one container to another; handling opened containers; cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that contain pesticide formulations or mixtures; or disposing of pesticides or pesticide containers. The term does not include handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been triple rinsed or equivalent. The term also does not include handling pesticide mixing, loading, or application equipment that has been emptied or cleaned in a manner comparable to labeling instructions for cleaning the containers of pesticides which have been contained within or otherwise in direct contact with that equipment.

Specific Authority 487.051, 570.07(23) FS. Law Implemented 487.0435, 487.051 FS. History--New 6-9-94, Amended 7-2-95.

5E-9.019 Pesticide Applicator Licenses.

(1) License types. Each individual licensed as a pesticide applicator must be licensed in one of three license types and must be licensed in a minimum of one primary category. License types are:

(a) Private applicator license. A private applicator license is valid for use by private applicators as defined in Section 487.021(52), F.S.

(b) Public applicator license. A public applicator license is valid for use by public applicators as defined in Section 487.021(55), F.S.

(c) Commercial applicator license. A commercial applicator license is valid for use by commercial applicators as defined in Section 487.021(16), F.S. A commercial applicator shall not be required to have a private applicator license to function as a private applicator; nor shall a commercial applicator be required to have a public applicator license to function as a public applicator; provided the commercial categories in which the applicator is licensed are the appropriate categories for the applications to be made.

(2) Restrictions on license types.

(a) Aerial application. No license type is valid for aerial application of pesticides unless the license includes the aerial category. The aerial category is available only to commercial and public applicators.

(b) Fumigation. With the exception of the regulatory pest control category, the public and commercial license types are not valid for fumigation using restricted use fumigants unless the license includes the appropriate fumigation category.

(c) Demonstration and Research. The private license type is not valid for demonstration or research use of restricted use pesticides. The public and commercial license types are not valid for demonstration or research use of restricted use pesticides unless the license includes the demonstration and research category.

Specific Authority 487.0435, 570.07(23) FS. Law Implemented 487.0435 FS. History—New 6-9-94, Amended 7-2-95, 2-21-02, 9-16-04.

5E-9.021 Categories of Licensure for Pesticide Applicators.

(1) Description of primary categories.

(a) Category 1A1 – Agricultural Row Crop Pest Control. This category is applicable to individuals using or supervising the use of restricted use pesticides, or other pesticides requiring licensure, in the production of agricultural crops other than tree crops, including but not limited to tobacco; peanuts; cotton; feed grains; soybeans and forage crops; vegetables; small fruits not produced on trees; grasslands; or non-crop agricultural lands; but not including the use or supervision of restricted use fumigant pesticides. This category is valid for licensure of commercial and public applicators.

(b) Category 1A2 – Agricultural Tree Crop Pest Control. This category is applicable to individuals using or supervising the use of restricted use pesticides, or other pesticides requiring licensure, in the production of agricultural tree crops, including but not limited to citrus; pecans; or other fruits, nuts, or agricultural crops grown on trees; but not including the use or supervision of restricted use fumigant pesticides. This category is valid for licensure of commercial and public applicators.

(c) Category 1B – Agricultural Animal Pest Control. This category is applicable to individuals using or supervising the use of restricted use pesticides, or other pesticides requiring licensure, in the production of agricultural animals, including but not limited to beef or dairy cattle, swine, sheep, horses, goats, poultry, fish, or other agricultural livestock. Use in the production of agricultural animals means applications of pesticides on or to the animals themselves or in or on places where such animals are kept or confined or places such animals are likely to be kept or confined. Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides, must be licensed in this category. This category is valid for licensure of commercial and public applicators.

(d) Category 1C – Private Applicator Agricultural Pest Control. This category includes individuals using or supervising the use of restricted use pesticides, or other pesticides requiring licensure, in the production of agricultural plants, including but not limited to tobacco, peanuts, cotton, feed grains, soybeans, forage, vegetables, fruits, nuts, forests, ornamental trees, shrubs, flowers, or turf; or in the fumigation of soil, agricultural structures, or raw agricultural commodities; or in the production of agricultural animals, including but not limited to beef or dairy cattle, swine, sheep, horses, goats, poultry, fish, or other agricultural livestock, and including places on or in which animals are kept or confined or places where such animals are likely to be kept or confined; and on grasslands and non-crop agricultural lands. This category is valid solely for licensure of private applicators.

(e) Category 1D – Soil and Greenhouse Fumigation. This category is applicable to

individuals using or supervising the use of any restricted use fumigant pesticide injected or applied to field soils; to the soils of seed or transplant beds or containerized plants; to potting soil; to lawns, turf, and ornamentals not associated with structures; or within enclosed agricultural structures such as greenhouses where agricultural production is in progress. This category is valid for licensure of public and commercial applicators.

(f) Category 1E – Raw Agricultural Commodity Fumigation. This category is applicable to individuals using or supervising the use of any restricted use fumigant pesticide injected or otherwise applied to any post-harvest raw agricultural commodity within any storage facility, during processing or manufacturing procedures, or applied to or within a storage facility prior to the facility receiving a raw agricultural commodity for storage or after a raw agricultural commodity has been removed from such a facility. Storage facilities include but are not limited to corn cribs, grain elevators, tobacco barns, produce trailers, farm vehicles used to store agricultural commodities, processing plant bins or storage rooms for raw commodities, and any other enclosed structure used to contain a harvested raw agricultural commodity. This category is valid for licensure of public and commercial applicators.

(g) Category 2 – Forest Pest Control. This category is applicable to individuals using or supervising the use of restricted use pesticides, or other pesticides requiring licensure, in forests, forest nurseries, and forest seed orchards; but not including the use or supervision of restricted use fumigant pesticides. This category is valid for licensure of public and commercial applicators.

(h) Category 3 – Ornamental and Turf Pest Control. This category is applicable to individuals using or supervising the use of restricted use pesticides, or other pesticides requiring licensure, in the production of ornamental trees, shrubs, flowers, or turf; or for the maintenance of any such ornamental plants or turf grasses growing in or on cemeteries, golf courses, parks, or athletic fields; but not including the use or supervision of restricted use fumigant pesticides. This category is valid for licensure of commercial and public applicators.

(i) Category 4 – Seed Treatment. This category is applicable to individuals using or supervising the use of restricted use pesticides, or other pesticides designated by the Department as requiring licensure, on seeds; but not including the use or supervision of restricted use fumigant pesticides. This category is valid for licensure of commercial and public applicators.

(j) Category 5A – Aquatic Pest Control. This category is applicable to individuals using or supervising the use of any restricted use pesticide, or other pesticide requiring licensure, used or applied to any standing or running water, including banks or shorelines, excluding infusion of chlorine gas as described in Category 7B and applicators engaged in public health related activities as defined in Chapter 388, Florida Statutes, and the rules thereunder. This category is valid for licensure of commercial and public applicators.

(k) Category 5B – Organotin Antifouling Paint Pest Control. This category is applicable to individuals using or supervising the use of organotin antifouling paints classified as restricted use pesticides, or other pesticides requiring licensure, to control or prevent the growth of aquatic or marine organisms on submerged portions of aquatic or marine objects, structures or vessels. This category is valid for licensure of commercial and public applicators.

(l) Category 6 – Right-of-Way Pest Control. This category is applicable to individuals using or supervising the use of restricted use pesticides, or other pesticides requiring licensure, in the maintenance of right-of-way areas associated with public roads, electric power lines, pipelines, railroads, and other similar areas; but not including the use or supervision of restricted use fumigant pesticides. This category is valid for licensure of commercial and public applicators.

(m) Category 7A – Wood Treatment. This category is applicable to individuals using or supervising the use of restricted use wood preservative pesticides, or other pesticides requiring licensure, in wood treatment facilities in the production of treated wood products; but not including the use or supervision of restricted use fumigant pesticides. This category is valid for licensure of commercial and public applicators.

(n) Category 7B – Chlorine Gas Infusion. This category is applicable to individuals using or supervising the use of chlorine gas to treat water in residential swimming pools by means of a portable system. Persons licensed in this category are authorized to use only those chlorine gas products specifically registered by the U.S. Environmental Protection Agency and the department with label directions for application to residential swimming pools. Individuals who conduct or supervise water treatment through the use of machinery permanently attached to all pools are exempt from this licensure requirement. This category is valid for licensure of commercial applicators.

(o) Category 7C – Sewer Root Control. This category is applicable to individuals using or supervising the use of restricted use pesticides to control or prevent the growth of roots in sewer lines or pipes. This category is valid for licensure of commercial and public applicators.

(p) Category 9 – Regulatory Pest Control. This category is applicable to state, federal, and other government employees who use or supervise the use of restricted use pesticides, or other pesticides requiring licensure, in the control of regulated pests, including the use or supervision of restricted use fumigant pesticides. This category is valid for licensure of public applicators.

(q) Category 11 – Aerial Application. This category is applicable to individuals who apply any pesticide from an aircraft. This category is valid for licensure of public and commercial applicators for treatment sites that may legally (according to product label direction) be treated by aerial application under Chapter 487, F.S.

(r) Category 20 – Regulatory Inspection and Sampling. This category is applicable to government employees who collect regulatory samples of restricted use pesticides or conduct inspections involving the handling of opened containers of restricted use pesticides to determine compliance with applicable laws and regulations. Licensure in this category shall not be required of government inspection or sampling employees licensed in another public or commercial pesticide applicator category in accordance with this chapter, Chapter 388 or 482, F.S. This category is valid solely for licensure of public applicators. Licensure in this category does not authorize the application of restricted use pesticides.

(s) Category 21 – Natural Areas Weed Management. This category is applicable to individuals who use or supervise the use of restricted use herbicides to control unwanted vegetation to protect natural communities of conservation and recreation lands and natural areas. This category is valid for licensure of commercial and public applicators. Applicators acting under the authority of another license category prior to this category being established may continue activities under the alternate category until license renewal or expiration.

(2) Description of secondary category.

Category 10 – Demonstration and Research. This category is applicable to the following: 1) individuals who publicly demonstrate or supervise the demonstration of the proper use and application techniques of restricted use pesticides or other pesticides requiring licensure. Such individuals may include but are not limited to extension specialists, county agents, commercial industry representatives, and other individuals who demonstrate pesticide handling procedures used in public programs; and 2) individuals who conduct or supervise field research that utilizes restricted use pesticides or other pesticides requiring licensure.

Licensure in this category authorizes pesticide demonstration and research only in accordance with other categories in which licensure is held. This category is valid for licensure of commercial and public applicators.

(3) Requirements and restrictions on category licensure.

(a) Private applicators who apply restricted use pesticides by ground application must be licensed in Category 1C – Private Applicator Agricultural Pest Control. No other primary or secondary categories are available for licensure of private applicators.

(b) Public and commercial applicators must be licensed in a minimum of one primary category, exclusive of Category 1C – Private Applicator Agricultural Pest Control. The latter category is not valid for licensure of public or commercial applicators.

(c) Public and commercial applicators must be licensed in all primary and secondary categories applicable to the types of pesticide applications to be made. Exceptions: 1) Category 1C does not apply to public or commercial applicators; 2) Individuals licensed in Category 9 need not be licensed in Category 1D or 1E; 3) Aerial applicators who make no ground applications and no pest management decisions, but only apply pesticides aerially at the request of another party who has made the necessary determinations regarding pest management and pesticide application, do not need to be licensed in any category except Category 11. Aerial applicators who make determinations regarding pest management and pesticide application must be licensed in the aerial category and all other categories applicable to the treatment site(s).

Specific Authority 487.0435, 570.07(23) FS. Law Implemented 487.0435 FS. History–New 6-9-94, Amended 7-2-95, 9-24-98, 6-27-99, 2-21-02, 9-16-04.

5E-9.023 General Certification Standards for All Licensed Applicators.

All individuals seeking licensure must demonstrate knowledge of the safe use and handling of pesticide products. Possession of such knowledge shall include having a working knowledge of the following areas of competency as they apply to the specific categories in which licensure is sought:

(1) Pesticide labels and labeling comprehension, including:

(a) The general format and terminology of pesticide labels and labeling;

(b) The understanding of instructions, warnings, terms, symbols, and other information appearing on pesticide labels;

(c) Classification of the product (unclassified or restricted use); and

(d) Necessity for use consistent with the label.

(2) Pesticide safety, including:

(a) Pesticide toxicity, hazards to man, and common exposure routes;

(b) Common types and causes of pesticide accidents;

(c) Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;

(d) Need for and use of protective clothing and personal protective equipment;

(e) Signs and symptoms of pesticide poisoning;

(f) First aid and other procedures to be followed in case of a pesticide accident; and

(g) Proper identification, storage, transport, handling, mixing and loading procedures and disposal methods for pesticides and empty pesticide containers, including management actions and precautions to be taken to prevent children or other individuals from having access to pesticides or pesticide containers.

(3) Environmental – The potential environmental consequences of the use and misuse of pesticides as may be influenced by factors such as:

(a) Weather and climate;

- (b) Terrain, geological features, and soil type;
- (c) Presence of fish or other wildlife, and other non-target organisms; and
- (d) Wetlands, other bodies of water, and soil drainage patterns.
- (4) Pest features, including:
 - (a) Common features of pest organisms and characteristics of damage needed for pest recognition;
 - (b) Identifying features of relevant pests; and
 - (c) Pest development and biology relevant to problem identification or pest control.
- (5) Pesticide factors, including:
 - (a) Types of pesticides;
 - (b) Types of formulations;
 - (c) Compatibility, synergism, persistence, and animal or plant toxicity of pesticide formulations;
 - (d) Hazards and residues associated with use;
 - (e) Factors which may influence effectiveness or lead to pesticide resistance; and
 - (f) Pesticide mixing, loading, dilution, or other preparation procedures.
- (6) Pesticide application equipment, including:
 - (a) Types and components of equipment and advantages and limitations of each; and
 - (b) Equipment use, maintenance and calibration.
- (7) Application methodology, including:
 - (a) Methods used to apply various formulations of pesticides, and the knowledge of which formulation and application method should be used in a given situation;
 - (b) Characteristics that distinguish between proper and improper pesticide applications; and
 - (c) Methods of minimizing or preventing pesticide drift into the environment.
- (8) Laws and regulations – applicable state and federal laws and regulations.

Specific Authority 487.0435, 570.07(23) FS. Law Implemented 487.0435, 487.044 FS. History–New 6-9-94.

5E-9.024 Category Certification Standards.

- (1) Primary categories.
 - (a) Category 1A1 – Agricultural Row Crop Pest Control. Applicators seeking licensure in this category shall demonstrate practical knowledge of agricultural row crops and associated pests, the chemical control measures that pertain to the prevention or control of such pests, the equipment or methodologies used to safely and effectively implement such measures, the potential for pesticide residues on such crops, preharvest application intervals, post-application reentry interval restrictions, phytotoxicity, pesticide-related soil or water problems, potential for pesticide-induced environmental contamination, and non-target injury and community problems that may result from the improper use of pesticides in agricultural row crop production. Applicators in this category shall also demonstrate practical knowledge of the procedures and equipment used to apply pesticides with irrigation water through an irrigation system. This knowledge shall include equipment calibration; proper design, use, and maintenance of anti-siphon devices and check valves to prevent pesticide contamination of water supplies; proper interpretation of pesticide label or labeling requirements for products registered for chemigation; and appropriate use of personal protective equipment associated with this type of application.
 - (b) Category 1A2 – Agricultural Tree Crop Pest Control. Applicators seeking licensure in this category shall demonstrate practical knowledge of the agricultural tree crops and associated pests, the chemical control measures that pertain to the prevention or control of

such pests, the equipment or methodologies required to safely and effectively implement such measures, the potential for pesticide residues on food crops, preharvest application intervals, post-application reentry interval restrictions, phytotoxicity, pesticide-related soil or water problems, potential for pesticide-induced environmental contamination, and non-target injury or community problems that may result from the improper use of pesticides in agricultural tree crop production. Applicators in this category shall also demonstrate practical knowledge of the procedures and equipment used to apply pesticides with irrigation water through an irrigation system. This knowledge shall include equipment calibration; proper design, use, and maintenance of anti-siphon devices and check valves to prevent pesticide contamination of water supplies; proper interpretation of pesticide label or labeling requirements for products registered for chemigation; and appropriate use of personal protective equipment associated with this type of application.

(c) Category 1B – Agricultural Animal Pest Control. Applicators seeking licensure in this category shall demonstrate practical knowledge of agricultural animal production and associated pests, the chemical control measures that pertain to the prevention or control of such pests, the equipment or methodologies required to safely and effectively implement such measures, the specific toxicity of such pesticides and associated residue potential, and the potential for animal injury associated with pesticide formulation, application techniques, animal age or stress, and extent of treatment.

(d) Category 1C – Private Applicator Agricultural Pest Control. Applicators seeking licensure in this category shall demonstrate practical knowledge of agricultural plant and animal production, associated pests, the chemical control measures that pertain to the prevention or control of such pests, the equipment or methodologies required to safely and effectively implement such measures, preharvest application intervals, post-application reentry interval restrictions, specific pesticide toxicity, and the potential for: pesticide residues in agricultural commodities; phytotoxicity; pesticide-related soil or water impacts; pesticide-induced environmental contamination; non-target injury; off-site problems that may result from the improper use of pesticides in agricultural production; and animal injury associated with pesticide formulation, application techniques, animal age or stress, or extent of treatment. Applicators in this category shall also demonstrate practical knowledge of the procedures and equipment used to apply pesticides with irrigation water through an irrigation system. This knowledge shall include equipment calibration; proper design, use, and maintenance of anti-siphon devices and check valves to prevent pesticide contamination of water supplies; proper interpretation of pesticide label or labeling requirements for products registered for chemigation; and appropriate use of personal protective equipment associated with this type of application. Applicators seeking licensure in this category shall also demonstrate practical knowledge of soil-inhabiting pests and pests of stored raw agricultural commodities, the fumigant pesticides that may be used to control such pests, and the equipment or methodologies required to safely implement fumigation measures to control such pests. This knowledge shall include the basics of fumigant pesticide toxicology; application methodologies for applying soil and commodity fumigants; techniques and procedures for monitoring the concentration of a fumigant pesticide in soil, storage facilities, air or water; use and maintenance of personal protective equipment and clothing; and specific safety procedures for handling pressurized chemicals and for avoiding non-target exposure to a fumigant pesticide.

(e) Category 1D – Soil and Greenhouse Fumigation. Applicators seeking licensure in this category shall demonstrate practical knowledge of soil-inhabiting pests and pests of agricultural crops grown inside structures such as greenhouses, the fumigant pesticides that may be used to control such pests, and the equipment or methodologies required to safely

implement fumigation measures to control such pests. This knowledge shall include the basics of fumigant pesticide toxicology; application methodologies for applying soil and structural fumigants; techniques and procedures for monitoring the concentration of a fumigant pesticide in soil, air or water; use and maintenance of personal protective equipment and clothing; and specific safety procedures for handling pressurized chemicals and for avoiding non-target exposure to a fumigant pesticide.

(f) Category 1E – Raw Agricultural Commodity Fumigation. Applicants seeking licensure in this category shall demonstrate practical knowledge of pests of stored raw agricultural commodities, the fumigant pesticides that may be used to control such pests, and the equipment or methodologies required to safely implement fumigation measures to control such pests. This knowledge shall include the basics of fumigant pesticide toxicology; application methodology for fumigating stored agricultural commodities; techniques and procedures for monitoring the concentration of a fumigant pesticide in a storage facility or in air or water; use and maintenance of personal protective equipment and clothing; and specific safety procedures for handling pressurized chemicals and for avoiding non-target exposure to a fumigant pesticide.

(g) Category 2 – Forest Pest Control. Applicators seeking licensure in this category shall demonstrate practical knowledge of the types of forests, forest nurseries and seed orchards in Florida and associated pests, forest population dynamics, relative biotic agents and vulnerability to pesticides, the chemical control measures that pertain to the prevention or control of forest pests, and the equipment or methodologies required to safely and effectively implement such measures while avoiding adverse effects on wildlife, ground or surface water, and recreational areas visited by the general public.

(h) Category 3 – Ornamental and Turf Pest Control. Applicators seeking licensure in this category shall demonstrate practical knowledge and recognition of pesticide problems associated with the production and maintenance of ornamental plants and turfgrasses, the chemical control measures that pertain to the prevention or control of such pests and the equipment or methodologies required to safely and effectively implement such measures. This knowledge shall encompass an understanding of potential non-target injury due to drift and implementation of application methods to minimize exposure to humans, pets, or other domestic animals.

(i) Category 4 – Seed Treatment. Applicators seeking licensure in this category shall demonstrate practical knowledge of the types of seeds that require chemical protection against pests, the chemical control measures that pertain to the control of such pests, and the equipment or methodologies required to safely and effectively implement such pest control measures. This knowledge shall include understanding the significance of coloring treated seed; the effects of carriers and surface active agents which influence pesticide binding and may affect germination; the hazards associated with handling, sorting and mixing, packaging and labeling treated seed; misuse of treated seed, such as introduction of treated seed into food and feed channels; and proper disposal of unused treated seeds.

(j) Category 5A – Aquatic Pest Control. Applicators seeking licensure in this category shall demonstrate practical knowledge of pest organisms in aquatic environments, the chemical control measures that pertain to the control of such pests, and the equipment or methodologies required to safely and effectively implement such pest control measures. This knowledge shall include understanding calculation of volume of water to be treated; application rates; pH; potential secondary effects; various water use situations and the potential of downstream effects; potential pesticide effects on non-target organisms; and the principles of limited area application.

(k) Category 5B – Organotin Antifouling Paint Pest Control. Applicators seeking licensure

in this category shall demonstrate practical knowledge of the principles and practices of using antifouling paints, including toxicity to humans and non-target organisms via common exposure routes; proper cleaning, disposal and containment techniques; climatic factors that may influence environmental hazards; common types and features of target and non-target aquatic/marine organisms; proper handling, mixing and application procedures; and, the laws and regulations governing pesticides and antifouling paints.

(l) Category 6 – Right-of-Way Pest Control. Applicators seeking licensure in this category shall demonstrate practical knowledge of pests that occur in right-of-way areas accompanying roads, electric lines and substations, pipelines, railroads, and similar situations and measures for control. This knowledge shall include types of herbicides used on right-of-way areas; chemical control measures that pertain to the prevention and control of right-of-way pests; equipment or methodologies required to safely and effectively implement such measures; pesticide runoff and drift prevention; recognition of target organisms; actions necessary to prevent excessive foliage destruction; and potential effects on non-target and off-site organisms.

(m) Category 7A – Wood Treatment. Applicators seeking licensure in this category shall demonstrate practical knowledge in using wood preservatives, air monitoring procedures, personal protective clothing and equipment, hygiene, related health and safety measures, emergency procedures, and practices necessary to prevent environmental contamination.

(n) Category 7B – Chlorine Gas Infusion. Applicators seeking licensure in this category shall demonstrate practical knowledge of the safe handling and application of liquefied chlorine gas for treatment of swimming pools, hot tubs and spas. This will include a knowledge of the toxicology of liquefied chlorine gas, the dispersion properties and other characteristics of gaseous chemicals, equipment types, calibration procedures, application techniques, air and water monitoring procedures, use and maintenance of personal protective equipment and clothing, and factors that may lead to a hazardous condition, including handling of pressurized chemicals and direct or continuous exposure to chlorine gas.

(o) Category 7C – Sewer Root Control. Applicators seeking licensure in this category shall demonstrate practical knowledge of the safe handling and proper application of sewer root control chemicals, including practical knowledge of root growth and biology; equipment types and calibration procedures; proper pesticide handling, mixing and application procedures; proper use and maintenance of personal protective equipment; toxicity of root control pesticides to humans and non-target organisms via common exposure routes; proper cleaning, disposal and containment techniques; effects of root control pesticides on ground water, sewage treatment plants, septic tanks, holding tanks, lift stations, and other sewage treating, conveying, or handling equipment; environmental effects; factors that may lead to a hazardous condition; and the laws and regulations governing pesticide use.

(p) Category 9 – Regulatory Pest Control. Applicators seeking licensure in this category shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulatory measures, environmental impact of pesticides used in suppression and eradication programs, and factors that may influence the introduction, spread, or population dynamics of regulated pests. Such knowledge shall extend beyond that relevant to Florida situations because of the necessity to assist periodically throughout the U.S. with regulated pests. Applicators shall also demonstrate practical knowledge of soil-inhabiting pests and pests of agricultural crops grown inside structures such as greenhouses, the fumigant pesticides that may be used to control such pests, and the equipment or methodologies required to safely implement fumigation measures to control such pests. This knowledge shall include the basics of fumigant pesticide toxicology;

application methodologies for applying soil and space fumigants; techniques and procedures for monitoring the concentration of a fumigant pesticide in soil, air or water; use and maintenance of personal protective equipment and clothing; and specific safety procedures for handling pressurized chemicals and for avoiding non-target exposure to a fumigant pesticide. Applicants seeking licensure in this category shall demonstrate practical knowledge of pests of stored raw agricultural commodities, the fumigant pesticides that may be used to control such pests, and the equipment or methodologies required to safely implement fumigation measures to control such pests. This knowledge shall include the basics of fumigant pesticide toxicology and application methodology for fumigating stored agricultural commodities.

(q) Category 11 – Aerial Application. Applicators seeking licensure in this category shall demonstrate a practical knowledge of the principles and practices of aerial pest control and the safe application of pesticides by aerial delivery means.

(r) Category 20 – Regulatory Inspection and Sampling. There are no specific certification standards for this category. The general certification standards listed in Rule 5E-9.023, F.A.C., are all that is required for licensees in this category.

(s) Category 21 – Natural Areas Weed Management. Applicators seeking licensure in this category shall demonstrate practical knowledge of pest plants that invade natural communities in Florida, the chemical control measures that pertain to such pests, and the equipment or methodologies required to safely implement such pest control measures. This knowledge shall include special techniques and proper herbicide selection to effectively control target species and minimize adverse effects to the natural community. Knowledge of herbicide characteristics including toxicity to wildlife, behavior in plants, behavior in soil, persistence, and environmental fate, as well as methods for herbicide dilution and rate calculations will be demonstrated.

(2) Secondary category.

Category 10 – Demonstration and Research. Applicators seeking licensure in this category shall demonstrate practical knowledge of pesticide compatibility, pH, and solubility; proper pesticide use and handling; equipment types and calibration conversions for small plots; principles of integrated pest management; pesticide resistance; safety procedures for pesticide transport, storage, and disposal; interpretation of Material Safety Data Sheets for pesticide products; environmental effects of pesticide use; laws and regulations governing pesticide use and experimental use; biotechnology as it relates to pest control; and liability associated with pesticide use.

Specific Authority 487.0435, 570.07(23) FS. Law Implemented 487.0435, 487.044 FS. History–New 6-9-94, Amended 7-2-95, 9-24-98, 6-27-99, 2-21-02.

5E-9.026 Procedures for Pesticide Applicator Certification, Licensure, and License Renewal.

(1) Certification. All individuals seeking pesticide applicator licensure shall demonstrate competency in the responsible use of pesticides by successfully completing the appropriate pesticide applicator examination(s) specified in this chapter for each classification of licensure. All examinations shall be written in the English language and administered by the department or its authorized agents as written, closed-book examinations. Examinations will not be translated into other languages orally, in writing, or in any other form. Examinations shall be undertaken and completed by the examinee without assistance from other individuals. The department shall set passing scores and determine if the certification standards have been met for the desired licensure. Examination scores shall be valid for 12 months after the date of examination.

(2) Licensure. If the certification standards have been met, the department shall provide the appropriate license application, form DACS-13312, Rev. 05/04, for a private applicator license, form DACS-13313, Rev. 05/04, for a public applicator license, or form DACS-13310, Rev. 05/04, for a commercial applicator license, to the individual. The following materials must be received by the department before a pesticide applicator license shall be issued: documentation of certification earned within the previous 12 months; completed application; completed designation of registered agent, form INHSE-30, Eff. 6/92, if applicable; copy of pilot's license (aerial category licensure only); proof of age, if requested; and appropriate fee. License applicants may designate one or more authorized purchasing agents by submitting a completed Authorized Purchasing Agent Designation, DACS-13352, Rev. 05/04, along with the license application. Materials shall be submitted to the Pesticide Certification Office, P.O. Box 6710, Tallahassee, Florida 32314-6710. Pesticide applicator licenses shall expire at the end of the month no more than four (4) years from issue date.

(3) License Renewal. It shall be the responsibility of each licensee to renew the license at the time of expiration. Requests for renewal of pesticide applicator licenses shall be made by submitting to the department the following materials: a signed request for license renewal; documentation of recertification; completed designation of registered agent, form INHSE-30, Eff. 6/92, if applicable; proof of age, if requested; and payment of the appropriate license fee. Materials shall be submitted to the Pesticide Certification Office at the above address and must be received no later than the license expiration date for the license to be renewed with continual licensure. Renewed pesticide applicator licenses shall expire no more than four (4) years from the previous expiration date.

(4) Forms. The following forms are hereby incorporated by reference. Forms DACS-13312, Rev. 05/04, DACS-13310, Rev. 05/04, DACS-13313, Rev. 05/04, and DACS-13352, Rev. 05/04 may be downloaded from the web site <http://www.safepesticideuse.com> or obtained from the Florida Department of Agriculture and Consumer Services, Pesticide Certification Office, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399-1650, telephone (850) 488-3314. Form INHSE-30, Eff. 6/92, may be obtained from the Florida Department of State, Division of Corporations, 409 East Gaines Street, Tallahassee, Florida 32399, telephone (850) 487-6051.

(a) Application for Private Applicator License (DACS-13312, Rev. 05/04), Florida Department of Agriculture and Consumer Services.

(b) Application for Public Applicator License (DACS-13313, Rev. 05/04), Florida Department of Agriculture and Consumer Services.

(c) Application for Commercial Applicator License (DACS-13310, Rev. 05/04), Florida Department of Agriculture and Consumer Services.

(d) Authorized Purchasing Agent Designation (DACS-13352), Rev, 05/04, Florida

Department of Agriculture and Consumer Services.

(e) Designation of Registered Agent and Registered Office for a Nonresident Restricted – Use Pesticides Licensee (INHSE-30, Eff. 6/92), Florida Department of State.

Specific Authority 487.0435, 487.046, 570.07(23) FS. Law Implemented 487.044, 487.046, 487.049 FS. History–New 6-9-94, Amended 7-2-95, 9-24-98, 9-16-04.

5E-9.027 Procedures for Pesticide Dealer Licensure and License Renewal.

(1) Licensure. Requests for pesticide dealer licensure shall be made by submitting a completed pesticide dealer license application, form DACS-13337, Rev. 05/04, and the appropriate license fee to the Pesticide Certification Office, P. O. Box 6710, Tallahassee, Florida 32314-6710. Pesticide dealer licenses shall expire at the end of the month one (1) year from issue date.

(2) License Renewal. It shall be the responsibility of the pesticide dealer to renew the license at the time of expiration. Request for renewal of a pesticide dealer license shall be made by submitting a signed request for renewal and the appropriate license fee to the Pesticide Certification Office at the above address. Renewed pesticide dealer licenses shall expire one (1) year from the previous expiration date. Licenses that have not been renewed by the expiration date cannot be renewed.

(3) Forms. The following form is hereby incorporated by reference: Application for Pesticide Dealer License (DACS-13337, Rev. 05/04). This form may be downloaded from the web site <http://www.safepesticideuse.com> or obtained from the Florida Department of Agriculture and Consumer Services, Pesticide Certification Office, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399-1650, telephone (850) 488-3314.

Specific Authority 487.048(1), 570.07(23) FS. Law Implemented 487.048(1) FS. History–New 6-9-94, Amended 7-2-95, 9-24-98, 2-21-02, 9-16-04.

5E-9.028 License Fees.

(1) Private and public pesticide applicator license. The fee for either initial licensure or license renewal is \$100, with no additional fee for added categories.

(2) Commercial pesticide applicator license. The fee for either initial licensure or license renewal is \$250, with no additional fee for added categories.

(3) Pesticide dealer license. The fee for either initial licensure or license renewal is \$250.

(4) Fee submission. All fees shall be submitted to the Pesticide Certification Office, P. O. Box 6710, Tallahassee, Florida 32314-6710. Checks or money orders shall be payable to the Florida Department of Agriculture and Consumer Services.

Specific Authority 487.045, 487.048(1), 570.07(23) FS. Law Implemented 487.045, 487.048(1) FS. History–New 6-9-94, Amended 7-2-95, 9-24-98, 2-21-02, 7-9-08.

5E-9.029 Procedures for Pesticide Applicator Recertification.

(1) Reexamination shall be required for pesticide applicator recertification in the following circumstances:

(a) The license was revoked or suspended for 6 months or longer; or

(b) It is deemed by the department that new information makes reexamination essential for continued certification. In the latter case, the department shall give adequate notice to all applicators affected.

(2) In all other circumstances, applicators shall have two options for recertification as follows:

(a) Reexamination. An applicator may become recertified by successfully retaking the examination(s) required for initial certification as specified in this chapter.

(b) Continuing Education Units (CEUs). An applicator may become recertified by accumulating a specified number of Continuing Education Units (CEUs) during the four (4) year licensure period. CEUs shall be earned by attending department approved professional training meetings and seminars or by completing and receiving passing scores on department approved educational modules.

(3) Effective January 1, 2005, all applicators recertifying by means of CEUs must earn 4 CEUs approved for the general standards of pesticide use and safety (core material) plus the following number of CEUs approved for each specific license category to be renewed:

PRIMARY CATEGORIES	CEU'S REQUIRED
Category 1A1 – Agricultural Row Crop Pest Control	8
Category 1A2 – Agricultural Tree Crop Pest Control	8
Category 1B – Agricultural Animal Pest Control	4
Category 1C – Private Applicator Agricultural Pest Control	4
Category 1D – Soil and Greenhouse Fumigation	4
Category 1E – Raw Agricultural Commodity Fumigation	4
Category 2 – Forest Pest Control	8
Category 3 – Ornamental and Turf Pest Control	12
Category 4 – Seed Treatment	4
Category 5A – Aquatic Pest Control	16
Category 5B – Organotin Antifouling Paint Pest Control	4
Category 6 – Right-of-Way Pest Control	8
Category 7A – Wood Treatment	4
Category 7B – Chlorine Gas Infusion	4
Category 7C – Sewer Root Control	4
Category 9 – Regulatory Pest Control	12
Category 11 – Aerial Application	16
Category 20 – Regulatory Inspection and Sampling	4
Category 21 – Natural Areas Weed Management	16
SECONDARY CATEGORIES	CEU'S REQUIRED
Category 10 – Demonstration and Research	4

(4) Applicators seeking recertification in more than one category by means of CEUs must accumulate the sum of the number of CEUs required for each category in which they hold licensure and seek recertification. As of January 1, 2005, this number of CEUs is in addition to the general standard (core) CEUs required.

(5) Until January 1, 2005, for each primary category renewed by means of CEUs, a minimum of 2 CEUs earned must consist of CEUs approved for general core competency standards and a minimum of half the CEUs earned must consist of CEUs approved specifically for that category. The remainder of the total number of CEUs earned must consist of CEUs approved either for general core competency standards or for that specific category.

(6) For each secondary category renewed by means of CEUs, all CEUs earned must consist of CEUs approved for that specific category.

(7) Categories added to a license after the initial license issue date may be renewed with fewer CEUs per category than stated in subsection (3) above if the category was added less than two (2) full years before the license expiration date. In this case, the applicator may become recertified in the added category by earning half the required number of CEUs

shown for that category above, provided the CEUs were earned between issuance of licensure in the additional category and one year after license expiration. If a licensee adds a category during the last 12 months of licensure, recertification is not required to renew licensure in that category.

(8) CEU program approval. The department shall approve professional meetings or seminars for granting of continuing education units (CEUs) in pesticide use and safety through execution of an agreement between the department and the education provider and provided the seminar or meeting and sponsor comply with the criteria set forth below. The agreement shall clearly stipulate the education provider's responsibilities and the department's authority to withhold credits for any seminar or meeting determined not to be in compliance with the approved criteria or the points specified in the agreement. Criteria for allocation of CEUs and procedures for program approval and granting of CEUs to individual licenses are specified below.

(9) CEU program criteria. The following specifications shall be met before a meeting or seminar shall be considered for approval:

(a) The education provider shall submit a written or electronic request for approval to grant CEUs on form DACS-13326, Rev. 05/04, or in an electronic format prescribed by the department. The completed form or electronic request must be received by the department no later than two (2) weeks prior to the date of the program, unless a different time frame is approved by the department on a case by case basis, based on circumstances beyond the control of the education provider.

(b) A program agenda indicating the start time, duration, instructor or speaker, and description of each program segment for which CEU approval is requested shall be submitted with form DACS-13326, Rev. 05/04. The description of each program segment must be sufficient for verification of content and applicability.

(c) The subject matter presented for CEU credit shall relate directly to the certification standards outlined in this chapter for the appropriate licensure types and categories.

(d) Documentation attesting that the instructors or speakers possess the expertise required to impart the specified information to the attendees shall be submitted with form DACS-13326, Rev. 05/04.

(e) The education provider or an authorized designee shall distribute an official record of attendance, form DACS-13325, Rev. 05/04, provided by the department, to each licensee in attendance and shall monitor attendance to ensure these records are accurate. The education provider or an authorized designee shall sign the record of attendance forms to verify each licensee's attendance.

(f) Authorized department agents may attend any approved CEU session unannounced and without paying any associated registration fee. If such agents desire to earn CEU credit while monitoring approved training programs, they must follow the same protocol as other attendees for registering and paying fees, if applicable.

(10) Allocation of CEUs. Each 50 minutes of applicable lecture time will be allocated 1 CEU. Program segments consisting of only field trips, demonstrations, and other non-lecture instruction will be assigned 0.5 CEUs per 50 minutes of applicable non-lecture instruction. Each applicable program segment or combination of segments will be designated as an approved CEU session and assigned a distinct number of CEUs, with a minimum of 0.5 CEUs assigned per approved CEU session. Program segments of less than 30 minutes duration will not be assigned individual CEUs, but will be combined with other approved segments into approved CEU sessions with assigned CEUs. A program segment shall be approved for CEU credit only in the areas of licensure to which it is directly germane.

(11) Procedure for determining CEUs.

(a) The department shall review CEU program requests and determine the number of CEUs approved.

(b) A written or electronic copy of the program request shall be returned to the education provider with notification of CEU credit approval.

(12) Procedure for granting CEUs to licensees.

(a) A licensee may earn CEUs for license renewal only after the license has been issued and no later than one year after license expiration.

(b) The licensee must complete and sign the appropriate section of the record of attendance form prescribed and furnished by the department for each CEU session for which credit is sought.

(c) The education provider or an authorized designee shall complete and sign the appropriate section of the record of attendance form to verify each licensee's attendance.

(d) Completed and signed record of attendance forms must be received by the department no later than one year after license expiration.

(e) Record of attendance forms will be reviewed by the department and incomplete forms returned to the licensee. Corrected forms may be resubmitted to the department for reevaluation provided resubmissions are received by the department no later than one year after license expiration.

(f) Licensees must attend an entire approved CEU session to be granted full CEU credit and will be granted CEUs for only those sessions or portions of a session attended. CEUs shall be granted only in multiples of 0.5 credits.

(g) The licensee is responsible for ensuring that the CEUs required for license renewal are earned according to guidelines specified in this chapter. The licensee is also responsible for maintaining the completed record of attendance forms (form DACS-13325, Rev. 05/04) and submitting these records to the department at the time of request for license renewal.

(13) Forms. The following forms are hereby incorporated by reference. These forms may be downloaded from the web site <http://www.safepesticideuse.com> or obtained from the Florida Department of Agriculture and Consumer Services, Pesticide Certification Office, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399-1650, telephone (850) 488-3314.

(a) Request for Granting Continuing Education Units (CEUs) for Renewal of Pesticide Applicator Licenses and Certificates (DACs-13326, Rev. 05/04).

(b) Record of Attendance for Continuing Education Units (CEUs) (DACs-13325, Rev. 05/04).

Specific Authority 487.049, 570.07(23) FS. Law Implemented 487.049 FS. History—New 6-9-94, Amended 7-2-95, 9-24-98, 6-27-99, 2-21-02, 9-16-04.

5E-9.032 Pesticide Applicator Records.

(1) Licensed pesticide applicators shall maintain records relating to the application of all restricted use pesticides. Such records shall consist of the following information for each application:

(a) Name and license number of the licensee responsible for the pesticide application;

(b) Name of the person who actually applied the pesticide;

(c) Date, start time, and end time of treatment;

(d) Location of treatment site, which may be recorded using any of the following designations:

1. County, range, township, and section;

2. An identification system utilizing maps and/or written descriptions which accurately identify the location and distinguish the treatment site from other sites;

3. The identification system established by the United States Department of Agriculture found at 7 CFR § 110 (1994) which utilizes maps and a numbering system to identify field locations;

4. The legal property description; or

5. Global Positioning System (GPS) coordinates or longitude/latitude points that delineate the treated area.

(e) Crop, commodity, or type of target site treated;

(f) Total size (in acres, square feet, acre-feet, number of animals treated, or other appropriate units) of the treatment site;

(g) Brand name and EPA registration number of the pesticide product applied;

(h) Total amount (pounds, gallons, etc.) of formulated product applied;

(i) Application method; and

(j) Name of the person requesting or authorizing the application, or a statement of authority to make such application, if the application was made to property not owned or leased by the licensee.

(2) The required information shall be recorded no later than two (2) working days after the date of application and may be incorporated into other business transaction records.

(3) All records shall be retained for a period of two (2) years and shall be maintained in a manner that is accessible by authorized representatives.

(4) It is not necessary to record repetitive information that applies to all records, provided the required information is recorded one time and there is a written record indicating that this information applies to other designated applications recorded.

(5) A licensed applicator who has made or supervised for another person an application of restricted use pesticide shall, within 30 days of pesticide application, provide a copy of the application records required under this rule for each application of any pesticide requiring licensure to the person for whom the pesticide application was made. This section shall not apply to private applicators if the person for whom the application was made is the licensee's full time employer and the licensee maintains the original application records at the place of employment. However, if the private applicator terminates employment with said employer, a copy of the records for all applications of restricted use pesticides made or supervised by the private applicator within the scope of employment for said employer in the previous two (2) years shall be provided to the employer within 30 days of termination.

(6) Upon written request by an authorized department representative, a licensed applicator shall make available the records required to be maintained under this rule and shall permit the authorized representative to copy or photograph any of the records. The original records shall be maintained by the licensed applicator.

(7) When the attending licensed health care professional, or an individual acting under the direction of the attending licensed health care professional, determines that any record of the application of a pesticide for which records are required under this rule is necessary to provide medical treatment or first aid to an individual who may have been exposed to the pesticide for which the record is maintained, the licensed applicator required to maintain the record shall promptly provide the record information and any available label information. If it is determined by the attending licensed health care professional, or an individual acting under the direction of the attending licensed health care professional, to be a medical emergency, the record information of the pesticide relating to the medical emergency shall be provided immediately.

(8) The attending licensed health care professional, or an individual acting under the direction of the attending licensed health care professional, may utilize and release the record or record information obtained under subsection (7) of this rule when necessary to

provide medical treatment or first aid to an individual who may have been exposed to the pesticide for which the record is maintained.

(9) The attending licensed health care professional may release the record or record information to appropriate federal or state agencies that deal with pesticide use or any health issue related to the use of pesticides when necessary to prevent further injury or illness.

(10) A licensed health care professional may release the record or record information to submit pesticide poisoning incident reports to appropriate federal or state agencies.

(11) To meet the requirements of Section 487.081(6)(b), F.S., individuals must keep the same record information required in subsection (1). Such records must be maintained in a manner accessible by department representatives and shall be maintained indefinitely by the property owner or leaseholder.

Specific Authority 487.160, 570.07(23) FS. Law Implemented 487.160 FS. History—New 6-9-94, Amended 7-2-95, 9-24-98, 9-16-04.

5E-9.033 Pesticide Dealer Records.

(1) Licensed pesticide dealers shall maintain the following records relating to the sale or exchange of restricted use pesticides:

(a) Date of sale;

(b) Name and license number of licensed applicator making or authorizing the purchase;

(c) Name of authorized purchase agent purchasing the pesticide product, if applicable;

(d) Brand name and EPA registration number of each product sold or exchanged;

(e) Size and number of containers of each product sold or exchanged; and

(f) Date and location where delivery was made if the pesticide dealer delivered the product to a location not on the premises of the dealership.

(2) The information listed in paragraphs (1)(a) through (1)(e) shall be recorded immediately at the time of sale or exchange and may be incorporated into billing invoices or other business transaction records.

(3) The information required in paragraph (1)(f) shall be recorded immediately after product delivery, when applicable, and may be incorporated into billing invoices or other business transaction records.

(4) All required information shall be retained for a period of two (2) years from the date of sale or exchange in a manner that is accessible by authorized department representatives.

(5) Upon written request by an authorized department representative, a licensed dealer shall make available the records required to be maintained under this rule and shall permit the authorized representative to copy or photograph any of the records. The original records shall be maintained by the licensed dealer.

Specific Authority 487.048(2), 570.07(23) FS. Law Implemented 487.048(2) FS. History—New 6-9-94, Amended 7-2-95, 3-21-02.

5E-9.034 Direct Supervision.

(1) Licensed applicators are responsible for the pesticide use activities and actions of individuals under their direct supervision and shall be in a location from which they can physically arrive on site before or during pesticide use, if and when their presence is needed. The licensed applicator must be immediately available for verbal communication with persons under his or her immediate supervision to provide direction and instruction during all times pesticides are being used.

(2) The following instruction and training shall be provided by the licensed applicator to

each unlicensed individual prior to such individual engaging in the use of any pesticide for which pesticide applicator licensure is required:

- (a) The safety procedures and precautions to be followed in using the product;
- (b) The need to properly wear and maintain any personal protective equipment required;
- (c) The common signs and symptoms of pesticide poisoning;
- (d) The dangers of eating, drinking or smoking while using pesticides;
- (e) The need to wash clothing and bathe after working with pesticides;
- (f) The name and location of a nearby medical facility that can provide emergency treatment for pesticide poisoning; and
- (g) How and under what circumstances to contact the licensed applicator under whose direct supervision the unlicensed individual is working.

(3) Subsection 5E-9.034(2), F.A.C., does not apply to pesticide use subject to regulation under the worker protection standard referenced in Rule 5E-2.039, F.A.C.

Specific Authority 487.1585(1), 570.07(23) FS. Law Implemented 487.1585(1) FS. History—New 6-9-94, Amended 7-2-95, 2-21-02.

5E-9.036 Pesticide Aircraft Registration, Liability Insurance/Surety Bond, Security, Inspection, Storage, Recordkeeping, Area-of-Application Information, Transactions, and Forms.

(1) Registration. Each aircraft used for aerial application of any pesticide must be annually registered with the department with proof of insurance or surety bond. Application for registration shall be on form DACS-13354, Rev. 05/04, provided by the department. The completed registration form and proof of insurance or surety bond shall be submitted to the Pesticide Certification Office, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399-1650. The registration form shall be submitted to the department on or before June 30 of each year and shall not exceed the time period covered by proof of insurance or surety bond.

(2) Proof of Insurance or Surety Bond. Proof of insurance or surety bond shall consist of:

(a) The deposit with the department of a surety bond in favor of any person or persons who may suffer damage or injury as the result of the aerial application of any pesticide made from the registered aircraft. Said surety bond shall be a minimum of \$100,000 and shall be executed by a corporate surety company authorized to conduct business in Florida. The department shall evaluate and determine the adequacy of all such bonds before acceptance. When the aircraft is removed from aerial application operation, a said bond shall be returned after a period of six months following date of notice of withdrawal, provided such withdrawal shall not release said surety from liability existing hereunder during the time of aerial application at the time of the effective date of such withdrawal; or

(b) The filing of a certificate of insurance, verifying insurance in an amount of not less than \$100,000 property damage and \$300,000 bodily injury coverage per occurrence, insuring the registered aircraft against liability for any damage, loss, or injury, including chemical drift or trespass, suffered by any person or persons, resulting from the aerial application of any pesticide made from the registered aircraft. A deductible clause of \$1,000 shall be acceptable. A current certificate of insurance must be filed with each initial and subsequent renewal registration. Current certificates of insurance or copies thereof shall be maintained in the aircraft registrant's possession from the date the aircraft is registered, until two (2) years after the certificate expires or two (2) years after the registration is withdrawn.

(3) Inspection. Authorized department representatives may inspect aircraft required to

be registered with the department as to equipment relating to aerial pesticide application under this rule during normal working hours without prior notification or as determined necessary when an emergency has been declared as contained in subsection (8) herein.

(4) Security. Each aircraft used for aerial application of any pesticide shall be secured when not in use. Secured storage shall include the aircraft being: within a locked building, locked in place securely, mechanically disabled from flying, or any other reasonable method which prevents or deters theft or unauthorized use.

(5) Storage. All pesticides on the premises owned or controlled by any aerial applicator shall be stored and maintained in a manner such that they are not accessible to unauthorized persons. Secured storage shall include: fences with a minimum 6 feet height; door locks; valve locks; electronic security systems; disabling of mobile storage units; blocking of access, ingress or egress; or any other reasonable method which prevents or deters theft or unauthorized use. Buildings used to store pesticides must be of rigid construction so unauthorized entry can not be achieved without the use of heavy machinery or equipment. If a portable building is used for storage of pesticides, the building must be secured in place so it can not be towed or otherwise removed by unauthorized persons.

(6) Transactions. Any person who buys, sells, rents, leases, or transfers ownership of an aircraft that is registered or required to be registered with the department pursuant to subsection (1) above shall report the transaction to the department within 24 hours of the transaction using one of the following forms: (1) Report of Aircraft Transaction, Form DACS-13355, Rev. 05/04; (2) Ownership Declaration and Sales and Use Tax Report on Aircraft, Form DR-42A, Rev. 03/02; or (3) Aircraft Bill of Sale, Form AC 8050-2 (09/92).

(7) Recordkeeping. Aerial applicators shall maintain records relating to the application of each pesticide during a declared emergency. Such records generated during the emergency shall be retained for a period of two (2) years and shall be maintained in a manner that is accessible by the department upon request. Records shall consist of the following information for each application:

(a) Name, FDACS pesticide applicator license number, and FAA license number of the licensee responsible for the pesticide application;

(b) Date, start time and end time of treatment;

(c) Location of treatment site, which may be recorded using any of the following designations:

1. County, range, township and section;

2. An identification system utilizing maps and/or written descriptions which accurately identify the location and distinguish the treatment site from other sites;

3. The legal property description; or

4. Global Positioning Satellite (GPS) coordinates or Longitude/Latitude points which delineate the treated area;

(d) Name of the person requesting or authorizing the application;

(e) Aircraft manufacturer, make and model;

(f) FAA aircraft registration number; and

(g) Originating airport/airstrip.

(8) Area-of-Application Information. The information listed in paragraphs (7)(a) through (7)(g) is required only when a declaration of an Executive Order pursuant to the emergency powers granted to the Governor or the Commissioner of Agriculture is made, declaring an emergency in the State of Florida. Such information shall be provided and filed with the department in a manner determined by the department.

(9) Forms. The following forms are hereby incorporated by reference. These forms may be downloaded from the web site <http://www.safepesticideuse.com> or obtained from the

Florida Department of Agriculture and Consumer Services, Pesticide Certification Office, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399-1650, telephone (850) 488-3314.

(a) Application for Aircraft Registration (DACS-13354), Rev. 05/04, Florida Department of Agriculture and Consumer Services.

(b) Ownership Declaration and Sales and Use Tax Report on Aircraft (DR-42A), Rev. 03/02, Florida Department of Revenue.

(c) Aircraft Bill of Sale, Form AC 8050-2, (09/92), U.S. Department of Transportation, Federal Aviation Administration.

(d) Report of Aircraft Transaction (DACS-13355), Rev. 05/04, Florida Department of Agriculture and Consumer Services.

(10) Upon written request by an authorized department representative, an aircraft registrant who has aerial insurance as the selected form of financial responsibility shall make available the certificates of insurance or copies thereof required to be maintained under this rule for periods of time when aerial applications are made and shall permit the authorized representative to copy or photograph the documents. The original documents shall be maintained by the aircraft registrant.

Specific Authority 487.046, 570.07(23) FS., Chapter 2001-360, Laws of Florida. Law Implemented 487.046 FS., Chapter 2001-360, Laws of Florida. History—New 6-9-94, Amended 7-2-95, 9-24-98, 6-9-02, 9-16-04.