

Florida Laws and Rules Pertaining to Pesticide Sale and Distribution

Florida Department of Agriculture and Consumer Services
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Division of Agricultural Environmental Services Bureau of Compliance Monitoring

This is a summary of Florida laws and regulations that pertain to pesticide sale and distribution (Chapter 487, Florida Statutes, and Rule Chapters 5E-2 and 5E-9, Florida Administrative Code). Section numbers are not sequential because only certain parts of the law and rules have been extracted for this summary. For a complete copy of this law and these rules, see the web site <http://www.flaes.org> or contact the Pesticide Certification Section at (850) 488-3314.

Chapter 487, Part I, Florida Statutes - "Florida Pesticide Law"

487.031 Prohibited Acts. - It is unlawful:

- (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.
- (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 direct supervision.
- (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 such 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;
 - (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;
 - (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.

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 ¹s. 403.703(21).
- (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.

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

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.

5E-2.028 Restrictions on Use and Sale of Aldicarb; Reporting 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 additional restrictions:

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

(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.

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:

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| (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 a plant growth regulator 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.

5E-2.037 Prohibition of Alachlor Use.

(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.

Chapter 5E-9, Florida Administrative Code - "Licensed Pesticide Applicators and Dealers"

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.

(3) **Forms.** The following form is hereby incorporated by reference: Application for Restricted Use Pesticide Dealer License (DACs-13337, Rev. 05/04). This form may be downloaded from the web site <http://www.flaes.org> 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.

5E-9.028 License Fees.

(1) **Private and public pesticide applicator license.** The fee for either initial licensure or license renewal is \$60, with no additional fee for added categories.

(2) **Commercial pesticide applicator license.** The fee for either initial licensure or license renewal is \$160, with no additional fee for added categories.

(3) **Pesticide dealer license.** The fee for either initial licensure or license renewal is \$175.

(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.

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:

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| (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 (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 (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.