

Chapter 21.

Pesticide Provisions of the Florida Agricultural Worker Safety Act (FAWSA)

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The purpose of this guide is to provide a summary of the pesticide provisions of the recently enacted Florida Agricultural Worker Safety Act (FAWSA) and the definitions that are used in its language.

The pesticide provisions of FAWSA, which became effective on July 1, 2004, are designed to ensure that information is made available to farm workers about specific hazards associated with the use of agricultural pesticides. The law was implemented and will be enforced by the Florida Department of Agriculture and Consumer Services (FDACS), also known as “the Department.”

The provisions of FAWSA that concern pesticides and modify Chapter 487, F.S., are as follows:

- Pesticide dealers, distributors, manufacturers, and importers selling agricultural pesticides must provide a Material Safety Data Sheet (MSDS) in printed or written format to the purchaser upon initial purchase of each agricultural product and upon first purchase after an MSDS has been updated. Providing purchasers with a CD, floppy disk, website address, or email that contains an MSDS does not meet the legal requirement for a printed or written format. Subsequent purchases of the same product from the same dealer do not require an MSDS to be provided to the purchaser unless the MSDS has been updated.
- Agricultural employers must make available to farm workers upon request either an MSDS or fact sheet approved by the state or federal government in written format which provides information about the impacts of the use of the agricultural pesticide. The required pesticide safety information must be made available to any worker who:
 1. enters an agricultural area where an agricultural pesticide has been applied or a restricted entry interval (REI) has been in effect within the past 30 days, or
 2. may be exposed to an agricultural pesticide during normal conditions of use or in a foreseeable emergency.

The language in the FAWSA regarding the time period of the REI is not clear; therefore, the language in the federal Worker Protection Standard (WPS) for Agricultural Workers (“within the last 30 days”) has been adopted. The MSDS or fact sheet must be made available to the worker within 2 working days of request by a worker or designated representative. In the case of a pesticide-related medical emergency, the MSDS or fact sheet must be provided in written format promptly upon request by a worker, a designated representative, or medical personnel treating a worker. If no MSDS was provided at the time an agricultural product was purchased, or if for any reason the agricultural employer does not have the appropriate fact sheet, the agricultural employer must take timely steps to obtain an MSDS or fact sheet. Most agricultural pesticide MSDS’s are available from the website <http://www.cdms.net>. Other possible sources are pesticide manufacturers, FDACS’s Pesticide Registration Section (850-487-2130), EPA, and pesticide distributors and dealers.

- FDACS must make available to trainers a one page general agricultural safety sheet. The safety sheet must be in a language understood by the worker and must include illustrated instructions on preventing pesticide exposure and toll free telephone numbers to the Florida Poison Control Centers. The safety sheet is available from FDACS in English, Spanish and Creole/Haitian and is provided to trainers upon request to distribute to workers during training pursuant to the WPS.
- FAWSA prohibits the agricultural employer from taking any retaliatory action against employees who attempt to exercise their rights under this bill. Agricultural workers who have been subject to retaliatory action may file a complaint with FDACS. In any action brought forth that involves retaliatory action, if the retaliatory action is predicated on the disclosure by a worker of an illegal action, policy, or practice, 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. FDACS is required to monitor all complaints of retaliation received and report its findings to the Legislature on or before

October 1, 2008. The report will include descriptions and summaries of the circumstances surrounding the complaints and subsequent actions taken.

FAWSA Definitions

- **Agricultural employer:** 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.
- **Agricultural establishment:** any farm, nursery or greenhouse.
- **Agricultural plant:** 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.
- **Department:** the Florida Department of Agriculture and Consumer Services.
- **Designated representative:** 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.
- **Fact sheet:** an agricultural pesticide fact sheet approved by the state or federal government that provides information about the impacts or the use of an agricultural pesticide.
- **Material Safety Data Sheet (MSDS):** written or printed material concerning an agricultural pesticide that sets forth the following information:
 - The chemical name and the common name of the agricultural pesticide.
 - 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.
- 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.
- The emergency procedures for spills, fire, disposal, and first aid.
- 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.
- 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.
- **Retaliatory action:** 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 U.S. EPA Worker Protection Standard 49 CFR 170(7)(b), or this part.
- **Trainer:** any person who is qualified to train workers under the pesticide safety training requirements of the U.S. EPA Worker Protection Standard, 40 CFR 170.180.
- **Worker:** any person, including a farmworker or 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.

Additional Information

To view the entire bill, see the following website:
<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1307e2.pdf>