TOWN OF PALM BEACH

Town Manager's Office

TENTATIVE - SUBJECT TO REVISION

ORDINANCES, RULES AND STANDARDS COMMITTEE MEETING

AGENDA

TOWN HALL
COUNCIL CHAMBERS - SECOND FLOOR
360 SOUTH COUNTY ROAD

Thursday, May 30, 2019
9:30 a.m.

I. CALL TO ORDER AND ROLL CALL
Julie Araskog, Committee Chair
Lew Crampton, Committee Member

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

IV. COMMUNICATIONS FROM CITIZENS

V. REGULAR AGENDA

A. Old Business

1. Further Discussion Regarding Ordinance 23-2019, Prohibiting Single-Use Plastic Straws
Jay Boodheshwar, Deputy Town Manager

B New Business

1. Discussion Regarding Truck Traffic Solutions for Local Streets in the North End
Jay Boodheshwar, Deputy Town Manager

2. Discussion Regarding Enforcement of Safe Pesticides Application
Ben Alma, Support Services Manager

Post Office Box 2029 * 360 South County Road * Palm Beach, Florida 33480
Telephone (561) 838-5410 * Facsimile (561) 838-5411 * townmanager@townofpalmbeach.com

II. ANY OTHER MATTERS

III. ADJOURNMENT

PLEASE TAKE NOTE:

The progress of this meeting may be monitored by visiting the Town's website (www.townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Technology (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.

Disabled persons who need an accommodation in order to participate in the meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.

TOWN OF PALM BEACH

Information for ORS Meeting on: May 30, 2019

To: Ordinances, Standards and Rules Committee

From: Jay Boodheshwar, Deputy Town Manager

Re: Further Discussion Regarding an Ordinance Prohibiting Single-Use Plastic Straws

Date: May 28, 2019

STAFF RECOMMENDATION

Staff recommends the Ordinance, Rules and Standards Committee review the proposed revisions to Ordinance No. 23-2019, prohibiting single-use plastic straws and provide direction to staff.

GENERAL INFORMATION

The first reading of Ordinance No. 23-2019 was tabled and remanded back to ORS by the Town Council at its May 14, 2019, meeting. Subsequent to the Council meeting, staff worked with ORS Chair, Julie Araskog, to determine ways to strengthen said ordinance by including language used by a variety of other communities who have already implemented prohibitions.

The attached includes revisions of Ordinance No. 23-2019 originally considered by Town Council and now includes additional/substitute language from communities such as Bal Harbour, Ft. Lauderdale, Surfside, Coral Gables, and Miami Beach.

Attachments

cc: Kirk Blouin, Town Manager
John C. Randolph, Town Attorney

ORDINANCE NO. 23-2019

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY , FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 42, ENVIRONMENT, TO INCLUDE A NEW ARTICLE IX, TITLED PROHIBITION OF PLASTIC STRAWS WITHIN THE CORPORATE LIMITS OF THE TOWN; PROVIDING FOR DEFINITIONS; PROHIBITING THE SALE, DISTRIBUTION OR USE OF SINGLE USE PLASTIC STRAWS; PROVIDING FOR EXEMPTIONS; PROVIDING PENALTIES FOR ANY SUCH DISTRIBUTION; AMENDING SECTION 2-439 OF THE TOWN CODE RELATING TO CITATION FINE SCHEDULE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Palm Beach (hereinafter referred to as the "Town") is committed to environmental conscientiousness, and declares that it is in the interest of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants on the lands and in the waters of the Town, and along its shores and beaches; and

WHEREAS, the Town is located on an island surrounded by the Atlantic Ocean and Lake Worth Lagoon, all of which support a wide variety of flora and fauna; and

WHEREAS, discarded Single-Use Plastic Straws threaten wildlife and marine life and degrade and litter the beaches and waters off of Florida's coast, which include areas within the Town; and

WHEREAS, Single-Use Plastic Straws are neither readily recyclable nor biodegradable, and take hundreds of years to degrade; and

WHEREAS, Single-Use Plastic Straws constitute a portion of the litter in the Town's streets, parks, public places, and waterfront areas; and

WHEREAS, Single-Use Plastic Straws contribute to overburdened landfills,

threaten wildlife and marine life, and degrade and litter drainage and sewage systems, as well as the beaches and waters off the Florida coast, which include areas within the Town; and

WHEREAS, Single-Use Plastic Straws are photo-biodegradable and break down into smaller pieces which can make their way into the food chain via such animals as jellyfish and endangered sea turtles; and

WHEREAS, the sale and distribution of Single-Use Plastic Straws has a detrimental effect on the Town's environment, and that of surrounding jurisdictions; and

WHEREAS, several companies have announced plans to phase out and discontinue the use of plastic straws in their establishments worldwide; various municipalities have adopted their own plastic straw prohibitions; and members of the media and public have expressed their satisfaction and concerns with plastic straw prohibitions; and

WHEREAS, the Town Council finds that there are reasonable, environmentally- friendly alternatives to Single-Use Plastic Straws; and

~~WHEREAS, the Town Council of the Town of Palm Beach (hereinafter referred to as the "Town") finds that single-use plastic straws pose an environmental hazard to the health, safety, and welfare of the residents and visitors of Palm Beach, Florida, as well as negatively impact water quality and surrounding wildlife; and~~

~~WHEREAS, while certain plastics can be recycled, the vast majority of single-use plastic straws cannot be recycled due to their lack of resin code and small size, making them a nuisance on the environment; and~~

~~WHEREAS, Palm Beach has a vibrant and growing hospitality business community, much of which is located adjacent to and within a half a mile of the Town's~~

~~beaches and marine waterways, which use or distribute single-use plastic straws that are lightweight and easily blow out of trash bins and recycle containers leaving them to accumulate in storm runoff and waterways, making them a common type of pollutant found in the Town's beaches and marine waterways; and~~

~~WHEREAS, single-use plastic straws are non-biodegradable and take hundreds of years to decompose. Even then, the plastic merely breaks down into micro-plastic pieces which marine life ingest, decreasing their life span; and~~

~~WHEREAS, the public at large is becoming increasingly aware of the negative environmental consequences from using single-use food service items which are non-biodegradable; and~~

~~WHEREAS, non-plastic straws such as those made of paper, plant, vegetable, and other natural products, are readily available and are a more environmentally responsible alternative to plastic straws; and~~

WHEREAS, this Ordinance provides for an implementation period to December 12, 2019, allowing for an extensive education campaign and for ~~restaurant and beverage~~commercial establishments to expend their current stock of plastic straws; and

WHEREAS, the Town Council of the Town of Palm Beach find adoption of this Ordinance is in the best interest and promotes the health, safety, and welfare of the citizens, residents, and businesses of the Town of Palm Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY FLORIDA AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance as if fully restated herein.

Section 2. Chapter 42 of the Town Code of Ordinances is hereby amended to include a new Article IX, titled Prohibition of Plastic Straws, to read as follows:

"Article IX - Prohibition of Plastic Straws;

Section 43-363 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(A) *Definitions.* For the purpose of this Chapter:

(1) "Person" means any person, business, corporation, public nonprofit entity, agency of institution, partnership, or other organization or group, however organized.

(2) "Natural products" means an item containing nothing artificial or synthetic in its compounds while it remains a while item and throughout its decomposition process.

(3) "Single-use" is defined as an item that is intended to be used one time in its same form by the customer, food vendor, or entity.

(B) "Single Use Plastic Straw" means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, ~~such as~~including polymers derived from either corn or other plant sources, for transferring a beverage from it container to the mouth of the drinker. Single-use plastic straw includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials. Plastic stirrers are considered straws for purposes of this ordinance.

~~(4)~~(1) "Single use plastic stirrer" means a device that is used to mix beverages, intended for only one-time use, and made predominantly of plastic derived from either petroleum or a biologically based polymer, including polymers derived from corn or other plant sources. Single-use plastic stirrers includes compostable and biodegradable petroleum or biologically based polymer stirrers and lid plugs (splash sticks), but does not include stirrers that are made

fro non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials. (from Coral Gables)

~~(5)~~(2) "Marine degradable" means products that will biodegrade under the marine environmental conditions of aerobic marine waters or anaerobic marine sediments in less than 120 days. Products predominately made with plastics, either petroleum or biologically based, shall not be considered marine degradable.

~~(6)~~(3) "Distribution" or to "distribute" means the vending, sale, giving, deployment or delivering of a straw for any purpose, other than as defined herein, whether or not incident to the sale, vending, provision of any kind of beverage in a container.

(4) ~~"Restaurant and beverage establishments" means any establishment within the Town of Palm Beach, Palm Beach, Florida, that sells prepared food or beverages for consumption on, near, or off its premises by customers including dine-in and take-out public eating places (whether food is served in connection with or separate from other business), bars and night clubs, bakeries, coffee shops, delis, catering halls, hotel-based restaurants, cafes and bars, ice cream shops , and convenience stores with fountain beverage dispensers.~~"Commercial establishment" means an establishment used for commercial purposes, such as restaurants, hotels, bars, night clubs, bakeries, delis, catering halls, ice cream shops, private offices, fitness clubs, retail stores, banks and financial institutions, supermarkets, and other establishments with common business areas, or similar uses located in a multi- family residential buildings whether or not the use is open to the public, where customers can directly purchase goods and materials.. (From fort Lauderdale and Bal Harbour)

(5) "Town contractor" means a contractor, vendor, concessionaire of the Town, or operator of a Town facility or property. (same Municipalities as in (9))

(6) "Town facility" includes, but is not limited to, any building, structure, park, beach, road, street, right-of-way, or other facility owned , operated or managed by the Town. (Ft. Lauderdale, Surfside, Sanibel, Dania Beach,

Deerfield Beach and others)

(7) "Town Property" includes, but is not limited to, any land, water or air rights owned, operated or managed by the Town.

~~(7)~~(8) "Special event permitee" means any person or entity, and their subcontractor (s), issued a special event permit by the Town for a special event on Town property or in a Town facility. (FT. Lauderdale and others)

Sec. 43-364. *Distribution of Plastic Straws Prohibited*

~~Restaurant and beverage establishments~~Commercial establishments, town contractors and special event permitees located within the corporate limits of the Town are prohibited from distributing plastic straws.

A single-use plastic straw or stirrer shall not be used, sold, distributed in any commercial establishment, or at any town facility or town property or by any special event permittee. (included in Sanibel, Ft. Lauderdale, Surfside, Miami Beach,

Town contractors and special event permittees shall not sell, use, provide beverages with, or offer the use of single-use plastic beverage straws or single-use plastic stirrers in town facilities or on town property. Any town contract, lease or concession agreement entered into before the signing of this ordinance and any special event issues before the signing of this ordinance shall not be subject to the requirements of this section, unless the town contractor or special event permittee voluntarily agrees thereto. This section shall not apply to contract extensions where the contractor has the option. If the Town has the option of extension, the Town Manager may consider whether the contractor is willing to comply with ____ subsection in determining whether to extend the contract. (Miami Beach, Coral Gables, Fort Lauderdale, Dania Beach, Sanibel,)

Exemptions

This prohibition shall not apply to:

1. Pre-packaged beverages with plastic straws sold or distributed within the Town provided that such beverages are prepared and packaged outside the Town and are not altered, packaged or repackaged within the Town.

2. Medical or dental facilities.

3. Hospitals

4. Land or facilities owned and managed by the Palm Beach County School Board, Palm Beach County, the State of Florida or the Federal Government.

5. The use of a straw by any disabled person that requires or relies on the use of a straw to consume beverages and/or food supplements.

6. Use during a locally declared emergency.

~~(1) Single-use plastic straws can be distributed to a customer when based upon a medical or physical condition for which non-plastic straws would be unsuitable.~~

~~(2) Single-use plastic straws can be distributed for use on private property use as a residence, by the School Board of Palm Beach County, by beverage prepared and packaged outside of the Town, provided such beverage is not altered, packaged, or repackaged within the Town, by supermarkets and convenience retailers.~~

Sec. 43-365 . *Enforcement, Penalties, Injunctive Relief*

The Town may enforce this article by civil citation in accordance with Chapter 2, Article V, Section 2-439. In addition, persons who are not in conformity with these requirements shall be subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief."

Section 3. Section 2-439 of the Town of Palm Beach Code of Ordinances is hereby amended as set forth below. Except as amended herein, the remainder of 2-439 remains in full force and effect.

Sec. 2-439. - Applicable codes and ordinances.

The following ordinances are enforceable by procedures described in this section.

Section 4. Severability.

Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 5. Repeal of Ordinances in Conflict.

That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby replaced.

Section 6. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 7. Effective Date.

This ordinance shall become effectively immediately upon adoption; however, to allow time for restaurant and beverage establishments to expend their current stock –of plastic straws and transition to natural, marine degradable alternatives, the Town will not commence enforcement of this Ordinance until 8:00 a.m. on December 12, 2019.

Upon adoption of this ordinance, the Town shall engage in public education efforts deemed appropriate by the Town to inform commercial establishments and the general public of the provisions of this new article and to provide assistance in identifying alternatives to plastic straws.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this _____day of _____, 2019, and for second and final reading on this _____day of, _____2019.

Gail L. Coniglio, Mayor

Danielle H. Moore, Town Council President

Margaret A. Zeidman, Council President Pro Tem

Julie Araskog, Town Council Member

Lewis S.W. Crampton, Town Council Member

Bobbie Lindsay, Town Council Member

ATTEST:

Kathleen Dominguez, Town Clerk

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: May 30, 2019

TO: Ordinances, Rules and Standards Committee

FROM: Jay Boodheshwar, Deputy Town Manager

RE: Discussion Regarding Truck Traffic Solutions for Local Streets in the North End

DATE: May 28, 2019

STAFF RECOMMENDATION

Staff recommends the Ordinance, Rules and Standards Committee review the attached information, related to truck traffic concerns, and provide direction to staff.

GENERAL INFORMATION

At the Town Council meeting held on May 14, 2019, the topic of truck traffic, specifically in the north end was discussed. The attached memo from Paul Brazil and related back-up material previously considered by the Public Works Committee has been provided as historical information, as well at the attached memo from Wayne Bergman regarding recent actions taken by the Planning, Zoning and Building Department.

Attachments

cc: Kirk Blouin, Town Manager
Paul Brazil, Director of Public Works
Nicholas Caristo, Chief of Police
Josh Martin, Director of Planning, Zoning and Building
Wayne Bergman, Assistant Director of Planning, Zoning and Building
Eric Brown, Assistant Director of Public Works
Benjamin Alma, Support Services Manager
John C. Randolph, Town Attorney

TOWN OF PALM BEACH

To: Jay Boodheshwar, Deputy Town Manager

Via: Josh Martin, Director of Planning, Zoning & Building

From: Wayne Bergman, Asst. Director of Planning, Zoning & Building

Cc: Paul Brazil, Director of Public Works

Re: Truck Parking and Construction Deliveries

Date: May 22, 2019

Construction Truck Traffic & Parking Matters

As you know, the Town Council recently adopted Ordinances 12-2019 and 14-2019. These two ordinances require applicants that submit to Arcom or to the Landmark Preservation Commission (LPC), a separate "construction screening plan" along with their normal applications. Both Arcom and the LPC will review the construction screening plan as part of their review of the application, and directly approve the plan when the project is approved. The goal of the construction screening plan is to have owners and/or their contractors to screen the subject property before demolition begins and before a new project begins. The construction screening plan further requires the site developer / designer to identify locations on the subject property for the placement of dumpsters, portable toilets, material laydown areas, contractor parking, office trailer, etc. With these approved plans, the Town building inspectors, Public Works staff, and Code Enforcement staff can better assist the contractors in screening the construction sites from neighboring properties and public right of ways.

This new concept can be further developed into a "construction screening / staging / logistics plan". The expanded concept would be to require the designer, or GC, to first identify specific locations on and adjacent to the project site for parking, material storage, deliveries, dumpster, portable toilets, tire cleaning area, silt fence, etc. Second, the concept could require a plan for truck traffic to best ingress and egress the property depending upon its location on the Island, including the roads and bridges used. We could ask them to identify the larger vehicles that might be used for construction or deliveries, the estimate of the number of trucks, and a rough schedule of construction listing some of the major construction benchmarks (foundation, block deliveries, concrete pours, roof truss deliveries and truss setting, window & door deliveries and installation, final landscape installation, etc.). This could be in the form of a simple critical path method (CPM) chart, placed on the plan page.

Since the construction screening / staging / logistics plan would be part of the plan set reviewed and approved by the Town Council and/or the Arcom or LPC, a paper copy would be kept on

site along with approved construction plans, and available to any Town staff responding to a vehicle or screening problem.

We could begin by changing the various department policies and application forms, but the best way to add this requirement, and give it some teeth, is to have the Town Council amend the Town Code of Ordinances via a new Ordinance. Simple language added to Chapter 18 - Building & Building Regulations (Arcom); Chapter 54 - Historic Preservation (LPC); and Chapter 118 –Traffic & Vehicles, would make the new plan a Town requirement.

It will be difficult for an owner, architect, engineer, or builder to know the actual construction timeline and know of every truck size that would serve the project. Nevertheless, they could propose a plan, and getting them engaged early in the project development, before actual problems occur, would help make them aware of the issues with inadequate screening, truck traffic and parking. This would also signify to them the importance of the issues for the Town.

This new requirement would dovetail nicely with our goal of limiting the total number of permits per project, and could consolidate all of the necessary Public Works permits into one permit with this new approach. We could also review, with Town Council, future amendments to the parking and right of way permits and their associated fees to consolidate the permits and fees into one per project, while still generating the same, or slightly increased, revenue.

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: May 30, 2019

TO: Ordinances, Rules and Standards Committee

VIA: Jay Boodheshwar, Deputy Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Truck Traffic Update

DATE: May 20, 2019

STAFF RECOMMENDATION

Town staff is providing a history of previous efforts on the issue of large truck traffic. Staff recommends that the Police Department and the Planning, Zoning and Building (PZB) Department obtain necessary consultant advice on adopting new regulations regarding large truck traffic to improve safety and minimize traffic impacts and property damage associated with those large trucks.

GENERAL INFORMATION

At the Town Council meeting held on May 14, 2019, the topic of large trucks causing traffic impacts was discussed, and staff received direction to refer the issue to the Ordinances, Rules and Standards (ORS) Committee for their review and consideration. In an effort to facilitate the review of this topic, the following summary of issues and actions by the Public Works (PW) Committee and staff is presented to provide some history and context.

Large trucks are challenged on many of the Town's roads to navigate safely and without causing negative traffic impacts or causing property damage. The problem was defined during PW Committee meetings in 2017, and a proposal was received from a traffic engineering consultant (American Consulting Engineers). Due to funding concerns at the time, the study was not undertaken, but staff was directed to install signs to warn large trucks of the narrow roads on the north end of the island. Subsequently, signs were installed south of Wells Road, for northbound traffic on both North County Road and Bradley Place.

The proposed scope of services for the consultant included several tasks that are identified in the attached memo dated November 13, 2017. ORS and staff may wish to review that previous scope of services and use it as a starting point for outlining future study needs. Staff also provided an overview to the PW Committee in early 2018 regarding the various Florida Statutes that relate to the regulation of traffic and large trucks. A copy of that memo dated January 4, 2018 is also attached.

Staff had suggested that a possible tool in managing large truck traffic was to use the existing permit process (right-of-way and building permit applications specifically). Some progress was made in compiling information that could be used in that regard, and an outline of those actions was summarized in the attached memo dated July 12, 2018. Staff also met with construction contractors during late summer of 2018 to seek their help in resolving the problem since most of the large trucks are related to construction projects. One of the outcomes of that meeting was to develop detailed site logistics plans and include truck delivery and traffic information (into building permit and development review applications) that would help to monitor and manage this truck traffic. A new permit process was recently implemented by the PZB Department to incorporate this requirement.

Town staff recommends that the ORS Committee review the information on this topic in order to make a recommendation to the Town Council on future actions, if desired, to implement new regulations regarding large truck traffic.

Attachments

cc: Kirk Blouin, Town Manager
John C. Randolph, Town
Attorney Nicholas
Caristo, Chief of Police
Joshua Martin, Director of Planning, Zoning and Building
Wayne Bergman, Assistant Director of Planning,
Zoning and Building Eric Brown, P.E., Assistant
Director of Public Works
Patricia Strayer, P.E., Town Engineer
Benjamin Alma, Support Services Manager (Police Department)

TOWN OF PALM BEACH

Information for Public Works Committee Meeting on May 5, 2017

TO: Public Works Committee

VIA: Thomas G. Bradford, Town Manager

FROM: Eric Brown, P.E., Assistant Director of Public Works

RE: Proposed Study for Regulating Oversized Vehicles on Town Roadways

DATE: April 26, 2017

STAFF RECOMMENDATION

Town staff requests that the Public Works Committee review the attached information and provide any direction deemed necessary. Specific staff recommendations for conducting this study are noted below.

GENERAL INFORMATION

There have been past incidents of damage to private and public property associated with large vehicular traffic (such as tractor trailers, delivery trucks, and construction equipment). Recently, residents on Onondaga Avenue reported incidents and damage from large trucks on more than one occasion. Since the Town's roadways are typically narrow and landscaping or other improvements are adjacent to the road, there is often a risk of damage due to large vehicles.

Although the initial request was just to add signs that limit large trucks, the numerous issues surrounding this topic are more comprehensive than that. The Town Manager and staff have met to discuss some of these issues that include but are not limited to the following:

- What streets or roads are to be regulated more strictly regarding large vehicles?
- How are these large or over-sized vehicles defined (weight, width, length, etc.)?
- What is the process to regulate them, and what new restrictions would be put in place beyond those already defined in State statutes?
- Would a new permitting process be needed, and how would that permit program be implemented?
- What signs or public notifications are required to restrict or permit vehicles on Town roadways?
- What Town departments are involved and how would they interact, and who would act as the program oversight for this new initiative?
- What funding does this new program require for start-up and how would ongoing costs be funded (via permit fees, etc.)?
- How would enforcement of these restrictions be handled and would new staff or personnel be required? What are the penalties for non-compliance?
- What are other municipalities doing in this regard and what lessons can we learn from them?

Due to the specialty nature of this and traffic engineering that may be required, it is Town staff's recommendation that a consultant be used to investigate these issues and to provide a feasibility study and implementation plan for accomplishing the goal of permitting or restricting over-sized vehicles that pose a safety or damage risk to people or property.

SPECIAL CONSIDERATIONS

The regulation of vehicular traffic on Town roadways is also made more complicated since the State roads and bridges managed by FDOT are a significant part of the overall roadway system. The establishment of a new program and regulatory requirements would likely only be enforceable on the Town roadways.

FUNDING/FISCAL IMPACT

There is no funding currently identified for the consultant study or implementation costs for a proposed new program. It is recommended that a proposal be sought from a consultant, and when the fee for that task is known, approval would be sought from the Town Council. Once identified, the anticipated program costs and potential fees would also be brought back for approval at a future date, after the consultant's task is completed.

TOWN ATTORNEY REVIEW

This item has been reviewed by the Town Attorney and any legal challenges or issues that may be relevant can be discussed at the PW Committee meeting.

cc: John Randolph, Town Attorney
Jay Boodheshwar, Deputy Town Manager
Kirk Blouin, Public Safety Director
Jeff Trylch, Deputy Police Chief
Eric B. Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Acting Town Engineer
Brett Madison, Facilities Maintenance Division Manager

TOWN OF PALM BEACH

Information for Public Works Committee Meeting on August 8, 2017

TO: Public Works Committee

VIA: Thomas G. Bradford, Town Manager

FROM: Eric Brown, P.E., Assistant Director of Public Works

RE: Study for Regulating Oversized Vehicles (Truck Traffic) on Town Roadways

DATE: August 1, 2017

STAFF RECOMMENDATION

Town staff requests that the Public Works Committee review the attached information and provide any direction deemed necessary. Specific staff recommendations for conducting this study are noted below.

GENERAL INFORMATION

The recommendation from the prior Public Works Committee meeting on May 5, 2017 was to utilize a consultant to investigate the issues associated with large truck traffic operating within the Town limits. A feasibility study and implementation plan would be pursued through that consultant. Since then, the Town Council has authorized at its July 12, 2017 meeting the use of a consultant for traffic engineering services. The consultant approved was American Consulting Engineers of Florida, and a professional services agreement is being processed to authorize work tasks through that consultant. Staff recommends this truck traffic study be negotiated with American Consulting Engineers. With the Public Works Committee's concurrence, staff will meet with the consultant to define the scope of services and obtain a proposal for those services.

A summary of the previously identified topics of interest would include the following:

- What streets or roads are to be regulated more strictly regarding large vehicles?
- How are these large or over-sized vehicles defined (weight, width, length, etc.)?
- What is the process to regulate them, and what new restrictions would be put in place beyond those already defined in State statutes?
- Would a new permitting process be needed, and how would that permit program be implemented?
- What signs or public notifications are required to restrict or permit vehicles on Town roadways?
- What Town departments are involved and how would they interact, and who would act as the program oversight for this new initiative?
- What funding does this new program require for start-up and how would ongoing costs be funded (via permit fees, etc.)?
- How would enforcement of these restrictions be handled and would new staff or personnel be required? What are the penalties for non-compliance?
- What are other municipalities doing in this regard and what lessons can we learn from them?

SPECIAL CONSIDERATIONS

The regulation of vehicular traffic on Town roadways is also made more complicated since the State roads and bridges managed by FDOT are a significant part of the overall roadway system. The establishment of a new program and regulatory requirements would likely only be enforceable on the Town roadways.

FUNDING/FISCAL IMPACT

There is no funding currently identified for the consultant study or implementation costs for a proposed new program. When the proposal is received from the consultant, and the fee for that task is known, approval would be sought from the Town Council as required.

cc: John Randolph, Town Attorney
Jay Boodheshwar, Deputy Town Manager
Kirk Blouin, Public Safety Director
Jeff Trylch, Deputy Police Chief
Eric B. Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Acting Town Engineer
Brett Madison, Facilities Maintenance Division Manager

TOWN OF PALM BEACH

Information for Public Works Committee Meeting on November 20, 2017

TO: Public Works Committee

VIA: Thomas G. Bradford, Town Manager

FROM: H. Paul Brazil, Director of Public Works

RE: Truck Traffic Study Update

DATE: November 13, 2017

STAFF RECOMMENDATION

Town staff recommends that the Public Works Committee review the attached scope of services for a proposed truck traffic study and provide any guidance on the final desired scope and to refer such scope to the Town Council if desired.

GENERAL INFORMATION

During previous Public Works Committee meetings on May 5, 2017 and August 8, 2017 the subject of large vehicles causing traffic problems and property damage was discussed. Staff was directed to obtain a proposal from a traffic consultant to study what the regulatory issues are, how other municipalities handle similar issues, and what the framework of a new regulatory program might look like. A proposal from American Consulting Engineers is attached, with a draft scope of services and an estimate of the costs to conduct such a study. The cost estimate of $31,118 is not included in the Town's FY2018 budget. Staff requests input and feedback on this proposal, and whether to recommend that the study be conducted and if funding for this task is to be appropriated by the Town Council.

Based on previous comments, there was a desire to install some signage on the major north-south roadways leading to the north end of the island (north of Wells Road). An example of signs that could be installed are also attached, showing a proof of what those signs would look like. If the Public Works Committee concurs with new signs, staff will pursue the installation via a new sign request through that normal process (via Police Department and Town Manager).

FUNDING/FISCAL IMPACT

There is no funding currently identified for the consultant study or implementation costs for a proposed new program. At the Public Works Committee's direction, approval would be sought from the Town Council for authorization of this task, as required.

cc: Eric B. Brown, P.E., Assistant Director of Public Works
Ann-Marie Taylor, Deputy Chief of Police
Brett Madison, Facilities Maintenance Division Manager

36X24

3.5" LETTERS

Truck Traffic Management Study – Scope of Services

1. The Consultant will identify the FHWA vehicle classifications by weight, width and length and compare these classifications to the State, County and Town classifications.
2. The consultant will collect, review and identify AASHTO, FDOT, Palm Beach County and Town l truck turning radii design standards. This will be used in the analysis of future truck management regulations in the Town.
3. The Consultant will conduct research of what other municipalities in Florida and/or nationally by internet or telephone calls are doing in regards to truck management or restrictions and what lessons they have learned. This research will include up to eight different municipalities.
4. The Consultant will develop an alternative truck management and/or restriction strategies for the Town consideration.
5. The Consultant will develop a Draft PowerPoint presentation for a Town Council Meeting and the public workshop.
6. The Consultant will coordination with the Town concerning what will be would be needed and what would be presented for a public workshop to solicit input and suggestion regarding the truck management strategies. The Draft PowerPoint presentation will be refined and workshop materials will developed and presented to the Town staff for comments before presenting to the public. The Town of Palm Beach will provide a public meeting place and advertise in the appropriate media venues for the public meeting. Two staff from the Consultant's team will set-up and participate in the public workshop.
7. After the public workshop is held the Consultant will summarize the results and sit down with the Town staff to review the public workshop comments. The Consultant will revise/update alternative truck management or restriction strategies accordingly.
8. The Consultant will document the process, findings, summary of conclusions and recommendations in a Technical Memorandum. This document will be easy to understand with graphics, tables and figures that help show the process and results.
9. After review and comments by the Town of Palm Beach staff the Consultant will update the PowerPoint presentation and present the results to the Town Council.

DRAFT Staff Hour and Cost Estimate

PROJECT NAME: Truck Traffic Management Study
Consultant: American Consulting Engineers of FL
PREPARED BY: David Bredahl

FROM: Town Wide

TO: Town Wide

DATE: October 16, 2017

Description	PRINCIPAL Staff Hours	SR. ENGINEER Staff Hours	CHIEF PLANNER Staff Hours	SR. PROJECT ENGINEER Staff Hours	ENGINEER Staff Hours	PLANNER Staff Hours	TOTAL Staff Hours	COST BY TASK
1. Identify the FHWA vehicle classifications by weight, width and length.				2			2	**$384**
2. Identify AASHTO, FDOT, Palm Beach County and local truck turning radii design standards.		2		2			4	**$838**
3. Conduct research of what other municipalities in Florida and/or nationally are doing in regards to truck management or restrictions and what lessons they have learned.			2	16	24		42	**$6,842**
4. Develop alternative truck management and/or restriction strategies for the Town.	2		4	6	8		20	**$3,936**
5. Develop PowerPoint presentation for a public workshop/Town Council.			2	2			4	**$890**
6. Conduct a public workshop to solicit input and suggestion regarding the strategies presented. Conduct at Town Hall.	4		8	16	16	6	50	**$9,294**
7. Revise/update alternative truck management or restriction strategies.	2		4	8		2	16	**$3,450**
8. Documentation of process, findings and summary of conclusions and recommendations.			2	8	8	2	20	**$3,348**
9. Update the PowerPoint presentation given at the public workshop and present the results to the Town Council.	4			4			8	**$2,136**
Total Staff Hours	**12**	**2**	**22**	**64**	**56**	**10**	**166**	
2017 Billing Rates	**$342**	**$227**	**$253**	**$192**	**$136**	**$109**		
Cost Estimate	**$4,104**	**$454**	**$5,566**	**$12,288**	**$7,616**	**$1,090**	**$31,118**	**$31,118**
TOTAL							**$31,118**	

Truck Traffic Management Study – Scope of Services

1. The Consultant will identify the FHWA vehicle classifications by weight, width and length and compare these classifications to the State, County and Town classifications.
2. The consultant will collect, review and identify AASHTO, FDOT, Palm Beach County and Town l truck turning radii design standards. This will be used in the analysis of future truck management regulations in the Town.
3. The Consultant will conduct research of what other municipalities in Florida and/or nationally by internet or telephone calls are doing in regards to truck management or restrictions and what lessons they have learned. This research will include between six to eight different municipalities.
4. The Consultant will develop an alternative truck management and/or restriction strategies for the Town consideration.
5. The Consultant will develop a Draft PowerPoint presentation for a Town Council Meeting (or public workshop is applicable).
6. This task will not be conducted at this time. Further coordination with the Town would be needed before conducting a public workshop to solicit input and suggestion regarding the truck management strategies presented.
7. This task will not be conducted at this time or until the public workshop is held. Revise/update alternative truck management or restriction strategies.
8. The Consultant will document the process, findings and a summary of conclusions and recommendations.
9. After review and comments by the Town of Palm Beach staff the Consultant will update the Draft PowerPoint presentation and present the results to the Town Council.

DRAFT Staff Hour and Cost Estimate DRAFT

PROJECT NAME: Town of Palm Beach Truck Circulation Study FROM: TO:
Consultant: American Consulting Engineers of FL
PREPARED BY: David Bredahl DATE: September 25, 2017

Description	PRINCIPAL Staff Hours	SR. ENGINEER Staff Hours	CHIEF PLANNER Staff Hours	SR. PROJECT ENGINEER Staff Hours	ENGINEER Staff Hours	PLANNER Staff Hours	TOTAL Staff Hours
1. Identify the FHWA vehicle classifications by weight, width and length.				2			2
2. Identify AASHTO, FDOT, Palm Beach County and local truck turning radii design standards.				2			2
3. Conduct research of what other municipalities in Florida and/or nationally are doing in regards to truck management or restrictions and what lessons they have learned.			2	8	24		34
4. Develop alternative truck management and/or restriction strategies for the Town.	2		4	6			12
5. Develop PowerPoint presentation for a public workshop/Town Council.			2		2		4
6. Conduct a public workshop to solicit input and suggestion regarding the strategies presented. NOT AT THIS TIME.							0
7. Revise/update alternative truck management or restriction strategies. NOT AT THIS TIME.							0
8. Documentation of process, findings and summary of conclusions and recommendations.			2	6		2	10
9. Update the PowerPoint presentation given at the public workshop and present the results to the Town Council.	4						4
Total Staff Hours	**6**	**0**	**10**	**24**	**26**	**2**	**68**
2017 Billing Rates	**$342**	**$227**	**$253**	**$192**	**$136**	**$109**	
Cost Estimate	**$2,052**	**$0**	**$2,530**	**$4,608**	**$3,536**	**$218**	**$12,944**
TOTAL							**$12,944**

Town of Palm Beach – DRAFT Truck Circulation Study

Truck Circulation Study – Scope of Services

Phase I:

1. Field data collection
    a. 48-hour traffic classification counts at (11 locations) with 32 lanes x $105 x 2 days
        i. Flagler Memorial Bridge – Royal (2 lanes)
        ii. SR 704 – Royal Palm Way Bridge (4 lanes)
        iii. SR 80 – Southern Boulevard Bridge (2 lanes)
        iv. Royal Poinciana Way between Cocoanut Row and N. County Road (4 lanes)
        v. N. County Road north of Royal Poinciana Way (4 lanes)
        vi. Bradley Place north of Royal Poinciana Way (2 lanes)
        vii. N. County Road north of Seabreeze Avenue (4 lanes)
        viii. Cocoanut Row north of Seabreeze Avenue (2 lanes)
        ix. Royal Palm Way between Cocoanut Row and N. County Road (4 lanes)
        x. S. County Road north of Via La Selva (2 lanes)
        xi. S. Ocean Blvd. Road north of Via La Selva (2 lanes)
    b. Existing truck related data inventory: truck loading zones, truck routes, truck signage, truck parking, truck restriction postings, etc. Any of this information the Town can provide will be used.
2. Identify the FHWA vehicle classifications by weight, width and length.
3. Analysis traffic data – traffic counts by roadway; average daily trucks volumes by roadway; type of truck by roadway; daily variation of truck volumes; truck volume by time of day.
4. Collect, identify and analyze the last 5-years of crash data available from FDOT for State Roads (A1A) and other Town roads where available.
5. Technical Memorandum – summarize the truck analysis and concerns within the Town of Palm Beach limits. Are there real or perceived truck circulation issues?
6. Make a determination with the Town of Palm Beach if continuing with Phase II is needed.

Phase II:

1. Conduct research of what are other municipalities in Florida and/or nationally are doing in regards to truck management and/or restrictions and what lessons they have learned.
2. Truck circulation Analysis.
3. Develop alternative truck management and/or restriction strategies.
4. Conduct a public workshop to solicit input and suggestion regarding the alternatives presented and receive any new alternative.
5. Revise/update alternative truck restriction strategies.
6. Documentation of process, analysis, findings and summary of conclusions.
7. Develop PowerPoint presentation and present to the Town Council.

DRAFT Staff Hour and Cost Estimate DRAFT

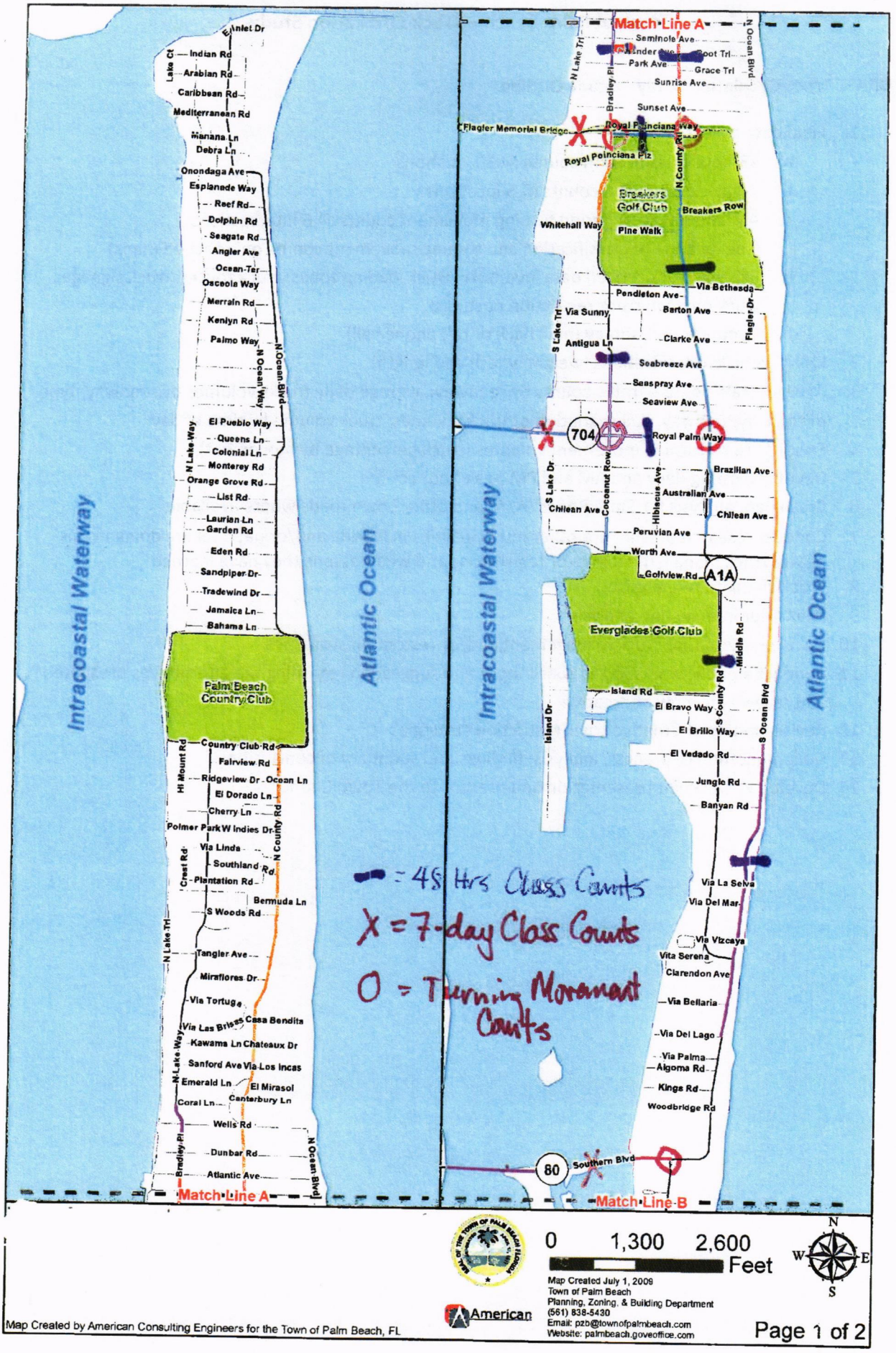
PROJECT NAME: Town of Palm Beach Truck Circulation Study FROM: Town of Palm Beach TO:
Consultant: American Consulting Engineers of FL
PREPARED BY: David Bredahl DATE: August 29, 2017

Description	PRINCIPAL Staff Hours	SR. ENGINEER Staff Hours	CHIEF PLANNER Staff Hours	SR. PROJECT ENGINEER Staff Hours	ENGINEER Staff Hours	PLANNER Staff Hours	TOTAL Staff Hours
TASK 1 - Field Data Collection							
1. 48-Hour Traffic Classification Counts at (11 locations) with 32 Lanes				2			2
2. Existing Truck Related Data Inventory (assuming Town has most of the data)		2		8			10
Subtotal	**0**	**2**	**0**	**10**	**0**	**0**	**12**
TASK 2 - FHWA Vehicle Classifications							
1. Define FHWA Vehicle Classification System		2	4	4			10
Subtotal	**0**	**2**	**4**	**4**	**0**	**0**	**10**
TASK 3 - Analysis of Traffic/Truck Data							
1. Analysis of Traffic/Truck Data		4	8	6	8	2	28
Subtotal	**0**	**4**	**8**	**6**	**8**	**2**	**28**
TASK 4 - Crash Data Analysis							0
1. Crash Data Analysis of A1A (Data from FDOT-4)		4		8			12
Subtotal	**0**	**4**	**0**	**8**	**0**	**0**	**12**
TASK 5 - Technical Memorandum							0
1. Draft and Final	4	4	8	4		4	24
Subtotal	**4**	**4**	**8**	**4**	**0**	**4**	**24**
Total Staff Hours	**4**	**16**	**20**	**32**	**8**	**6**	**86**
2017 Billing Rates	**$342**	**$227**	**$253**	**$192**	**$136**	**$109**	
Cost Estimate	**$1,368**	**$3,632**	**$5,060**	**$6,144**	**$1,088**	**$654**	**$17,946**
Sub Consultant - Traffic Counts							**$6,720**
						TOTAL	**$24,666**

Town of Palm Beach – Truck Circulation Study

DRAFT Truck Circulation Study – Scope Outline

1. Field data collection
    a. 48-hour classification counts @ 10 locations
    b. 7-day classification counts @ 5 locations
    c. AM and PM peak period turning movement counts @ 6 intersections
    (see location of classification and turning movement counts on attached maps)
    d. Existing truck related data inventory: truck loading zones; truck routes; truck signage; truck parking; truck restriction postings;
    e. Conduct truck survey (mail back or telephone call)
2. FHWA vehicle classifications (weight, width and length)
3. Analysis traffic data – traffic counts by roadway; average daily trucks volumes by roadway; type of truck by roadway; daily variation of truck volumes; truck volume by time of day
4. Existing traffic turning movement volumes (truck percentage by movement)
5. Develop existing daily and AM and PM peak hour counts
6. Crash data analysis for State Roads (A1A) and other Town roads where available
7. Conduct research of what are other municipalities in Florida and/or national are doing in this regard truck management and/or restrictions and what lessons they have learned
8. Truck circulation Analysis
9. Peak hour intersection analysis
10. Develop alternative truck management and/or restriction strategies
11. Conduct a public workshop to solicit input and suggestion regarding the alternatives presented and receive any new alternative
12. Revise/update alternative truck restriction strategies
13. Documentation of process, analysis, findings and summary of conclusions
14. Develop PowerPoint presentation and present to the Town Council


Match Line A
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Intracoastal Waterway
Atlantic Ocean
Intracoastal Waterway
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Inlet Dr
Indian Rd
Arabian Rd
Caribbean Rd
Mediterranean Rd
Manana Ln
Debra Ln
Onondaga Ave
Esplanade Way
Reef Rd
Dolphin Rd
Seagate Rd
Angler Ave
Ocean Ter
Osceola Way
Merrain Rd
Kenlyn Rd
Palmo Way
El Pueblo Way
Queens Ln
Colonial Ln
Monterey Rd
Orange Grove Rd
List Rd
Laurian Ln
Garden Rd
Eden Rd
Sandpiper Dr
Tradewind Dr
Jamaica Ln
Bahama Ln
Palm Beach Country Club
Country Club Rd
Fairview Rd
Ridgeview Dr
Ocean Ln
El Dorado Ln
Cherry Ln
Polmer Park
W Indies Dr
Via Linda
Southland Rd
Plantation Rd
Bermuda Ln
S Woods Rd
Tangier Ave
Miraflores Dr
Via Tortuga
Via Las Brisas
Casa Bendita
Kawama Ln
Chateaux Dr
Sanford Ave
Via Los Incas
Emerald Ln
El Mirasol
Coral Ln
Canterbury Ln
Wells Rd
Dunbar Rd
Atlantic Ave
Seminole Ave
Alexander Rd
Park Ave
Coot Trl
Grace Trl
Sunrise Ave
Sunset Ave
Flagler Memorial Bridge
Royal Poinciana Way
Royal Poinciana Plz
Breakers Golf Club
Breakers Row
Whitehall Way
Pine Walk
Pendleton Ave
Via Bethesda
Via Sunny
Barton Ave
Antigua Ln
Clarke Ave
Seabreeze Ave
Seaspray Ave
Seaview Ave
704
Royal Palm Way
Brazilian Ave
Australian Ave
Chilean Ave
Peruvian Ave
Worth Ave
Golfview Rd
A1A
Everglades Golf Club
Island Rd
El Bravo Way
El Brillo Way
El Vedado Rd
Jungle Rd
Banyan Rd
Via La Selva
Via Del Mar
Via Vizcaya
Vita Serena
Clarendon Ave
Via Bellaria
Via Del Lago
Via Palma
Algoma Rd
Kings Rd
Woodbridge Rd
80
Southern Blvd
N Ocean Blvd
S Ocean Blvd
N Lake Trl
S Lake Trl
N Lake Dr
S Lake Dr
N Lake Way
Bradley Pl
N County Rd
S County Rd
Hi Mount Rd
Crest Rd
Island Dr
Cocoanut Row
Hibiscus Ave
Middle Rd
Flagler Dr
= 48 Hrs Class Counts
X = 7-day Class Counts
O = Turning Movement Counts
0
1,300
2,600
Feet
N
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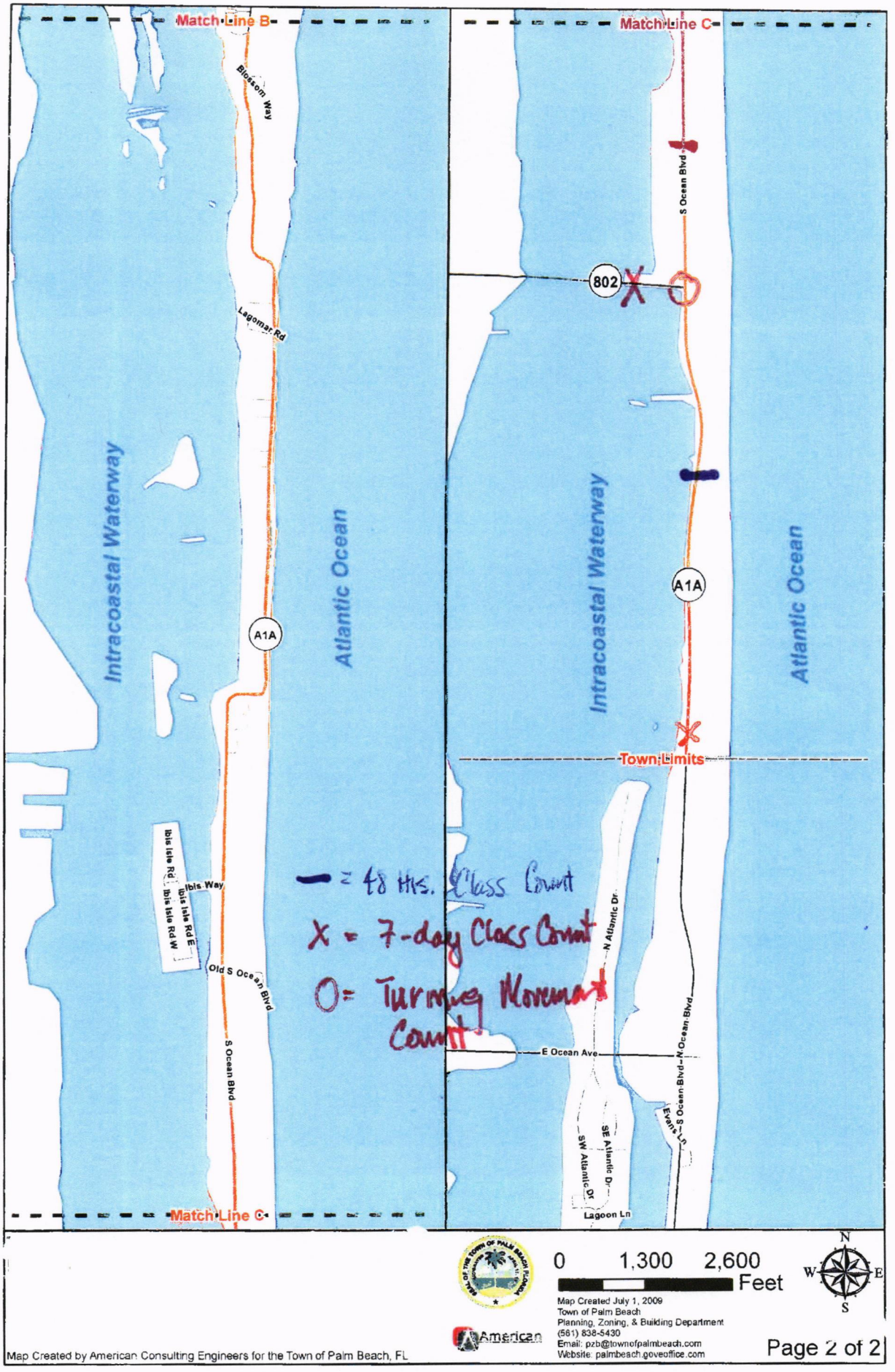
Map Created July 1, 2009
Town of Palm Beach
Planning, Zoning, & Building Department
(561) 838-5430
Email: pzb@townofpalmbeach.com
Website: palmbeach.goveoffice.com
American
Map Created by American Consulting Engineers for the Town of Palm Beach, FL
Page 1 of 2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Intracoastal Waterway
Atlantic Ocean
Intracoastal Waterway
Atlantic Ocean
Town Limits
Ibis Isle Rd
Ibis Isle Rd E
Ibis Isle Rd W
Ibis Way
Old S Ocean Blvd
S Ocean Blvd
N Atlantic Dr
E Ocean Ave
N Ocean Blvd
S Ocean Blvd
Evans Ln
SE Atlantic Dr
SW Atlantic Dr
Lagoon Ln
= 48 Hrs. Class Count
X = 7-day Class Count
O = Turning Movement Count
0
1,300
2,600
Feet
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S
Map Created July 1, 2009
Town of Palm Beach
Planning, Zoning, & Building Department
(561) 838-5430
Email: pzb@townofpalmbeach.com
Website: palmbeach.govoffice.com
American
Map Created by American Consulting Engineers for the Town of Palm Beach, FL
Page 2 of 2

TOWN OF PALM BEACH

Information for Public Works Committee Meeting on January 11, 2018

TO: Public Works Committee

VIA: H. Paul Brazil, Director of Public Works

FROM: Eric Brown, Assistant Director of Public Works

RE: Regulating Truck Traffic on Town Streets

DATE: January 4, 2018

STAFF RECOMMENDATION

Town staff recommends that the Public Works Committee review the attached scope of services for a proposed truck traffic study and the summary of current Florida Statutes related to vehicle traffic, and provide any guidance deemed necessary.

GENERAL INFORMATION

During the previous Town Council meeting on December 12, 2017 the Public Works Committee report was accepted with the comment that the Committee should revisit the subject of truck regulation.

A copy of the draft scope of services and proposal are included for reference, if the Committee wishes to review the proposed elements of the study or to discuss them. Also included for reference are several sections of the Florida Statutes that relate to vehicle size/weight restrictions and special permits for operation of oversize vehicles. These include:

- Chapter 316 of the Florida Statutes addresses vehicle/traffic control overall
- Section 316.008 covers the powers of local authorities
- Section 316.515 covers the maximum width, height and length of vehicles
- Section 316.535 covers the maximum weights of vehicles
- Section 316.550 covers the special permits and operation of oversize/overweight vehicles
- Section 316.555 covers the establishment of lower load, weight and speed limits than otherwise allowed by state law; and regulating or prohibiting certain classes or size of vehicles for the public safety

Based on guidance at the previous Public Works Committee meeting, staff has also obtained and installed the two new truck-warning signs that were to be placed on Bradley Place and North County Road.

FUNDING/FISCAL IMPACT

There is no funding currently identified for the consultant study or implementation costs for a proposed new program. At the Public Works Committee's direction, approval would be sought from the Town Council for authorization of this task, as required.

cc: Ann-Marie Taylor, Deputy Chief of Police
Brett Madison, Facilities Maintenance Division Manager

SUMMARY OF APPLICABLE FLORIDA STATUTES FOR VEHICLES & TRAFFIC CONTROL

Section 316.008 – Local authorities with respect to streets and highways under their jurisdiction may restrict the use of streets (316.008(1)(g)), and/or prohibit or regulate the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic (316.008(1)(n)). No local authority shall…regulate the traffic on any state road unless approval in writing has first been obtained from the FDOT.

Section 316.515 – The total width of any vehicle or load may not exceed 102 inches, except that use of public roads that do not have at least one through lane of 12 feet or more in width in each direction may be restricted to 96 inches by local jurisdictions. No vehicle may exceed a height of 13 feet, 6 inches. Length limitations vary depending on the type of vehicle, but typically must be less than 65 feet. There are many specific requirements and exceptions, but a few examples include: straight trucks shall not exceed 40 feet, and semi-trailers may not exceed 48 feet.

Section 316.535 – The total weight including the load (gross weight) shall not exceed 20,000 pounds per axle and depending upon the distance between the front and rear axles the total gross weight shall not exceed a range of 40,000 pounds to 66,610 pounds.

Section 316.550 – A local authority with respect to highways under its jurisdiction may upon application issue a special permit authorizing the operation of vehicles exceeding the maximum size or weight as otherwise specified by statute. The local authority is authorized to promulgate rules and regulations concerning the issuance of such permits and to charge a fee for the issuance thereof. Penalties are also prescribed for violation of the special permits.

Section 316.555 – Local authorities may prescribe loads, weights and speed limits lower than the limits otherwise allowed by statute, and may also regulate or prohibit the operation of any specified class or size of vehicles or trailers whenever in its judgement such regulation or prohibition is necessary to provide for the public safety and convenience.

TOWN OF PALM BEACH

Information for Public Works Committee Meeting on July 12, 2018

TO: Public Works Committee

VIA: Kirk W. Blouin, Town Manager

FROM: H. Paul Brazil, P.E., Director of Public Works

RE: Truck Traffic Update

DATE: June 28, 2018

STAFF RECOMMENDATION

Town staff requests that the Public Works Committee review the attached information and provide any direction deemed necessary.

GENERAL INFORMATION

Based upon the previous guidance provided, members of Town staff have focused on managing the presence of large trucks on Town roadways and the negative traffic and property issues that are associated with them. The basic premise is that the large trucks cannot be prohibited or excluded from Town roadways without significant revisions to existing statutory regulations. Instead, the expansion of current regulations for the use of the right-of-way (ROW) or for building permits may offer an opportunity to bring some attention and resolution to this problem. An outline of the actions that staff has investigated are provided below for further consideration:

Truck Traffic Advisory (Town website) – The starting point for improving the situation begins with identifying the challenges of having larger trucks transiting the Town's roadways, and to prevent or mitigate problems before they occur. This could be accomplished in a variety of ways but an initial recommendation is to raise awareness by posting a summary on the Town's website regarding large truck traffic information. A sample of such a summary is attached, and would have a link to other pertinent information such as the width of roadways in the north end of the Town. That information on the roadway widths and parking/traffic restrictions was updated from a previous study performed about ten years ago, and affords advance notice of those streets that are narrow, one-way or may have some constraints on parking, etc. That roadway listing is also attached for illustration purposes. The definition of a "large truck" is one that may be subjective but staff has also provided some criteria that could be used.

ROW Permits (Revised) – The current procedures require an application for a ROW permit due to various uses or circumstances. Those procedures could be revised to expand the requirement to those situations when a large truck is using or occupying the ROW. A sample of a revised permit application is attached to demonstrate how this requirement might be documented. The payment of a fee is required as part of any application, and the "new" categories of ROW permit associated with large trucks would be charged a fee. Staff has discussed whether such a fee should perhaps be greater for larger trucks (meeting the criteria noted), to incentivize the use of smaller vehicles for deliveries whenever possible. The establishment of fees is typically done by resolution (e.g., master fee schedule updates) and would require Town Council action. Failure to obtain a required permit or to violate permit conditions should be enforced and appropriate citations or fines could be assessed.

Building Permits (Revised) – Similar to the ROW permits, the existing building permit process could be modified to include the use of large trucks delivering materials or equipment to any property location within the established Town limits. An example of a proposed/revised building permit application will be developed. The same issues associated with fees or fines would be applicable for these permits as for the ROW permits mentioned above.

Enforcement Issues – The implementation of any revised permit process will need to be enforceable or the applicants may ignore it. Town staff currently has enforcement authority within the Police Department (code enforcement and patrol), the Public Works Department (ROW inspector), and the Building Department (building inspectors) for their respective areas of responsibility. Staff will need to be familiar with the proposed new guidelines for these revised permit processes associated with large trucks. Fines and penalties would need to be addressed – see Town Attorney Review section for further comment.

Public Workshop and Input – In order to obtain the input of residents, businesses, contractors, or delivery companies, staff recommends that a public workshop forum be used. There may be many unintended consequences or unknown challenges in adopting this new proposed permit process. This public workshop could be accomplished at a future Public Works Committee meeting, if so desired.

FUNDING/FISCAL IMPACT

The expanded permit applications for addressing large trucks could be implemented without additional resources and existing staff would handle the processing of more applications. There would likely be additional revenue generated if there is an increase in fees to be paid by larger trucks or if permit applications are a new requirement (beyond that required now). The fiscal impacts could be evaluated after an initial trial period to determine if the revenue and/or resources are appropriate.

TOWN ATTORNEY REVIEW

This proposed concept has been submitted to the Town Attorney for review and comment, to verify that the proposed actions can be adopted without significant legal controversy or challenge. It is anticipated that adoption of fees and/or fines would be addressed in a manner consistent with current permits. Such changes are typically adopted via Resolution, rather than by Ordinance. The participation of the Town Attorney at the PW Committee meeting on July 12 may be helpful if there are any legal questions or concerns.

Attachments

cc: Jay Boodheshwar, Deputy Town Manager
Ann-Marie Taylor, Deputy Chief of Police
Eric B. Brown, P.E., Assistant Director of Public Works
Patricia Strayer, P.E., Town Engineer
Bill Bucklew, Building Official

TRUCK TRAFFIC ADVISORY AND PERMIT REQUIREMENTS

General – The presence of large vehicles on roadways within the Town of Palm Beach limits is a concern for many reasons including but not limited to safety, traffic disruption, property damage, and lack of parking (on-street and off-street). For the purposes of determining which large vehicles require permit applications for delivery of goods or materials, the Town considers large trucks or vehicles to be those in Class 6 through Class 13 as defined by FHWA/DOT, and if the overall length exceeds ___(e.g., >42' ?). A right-of-way (ROW) permit application is required for use of the right-of-way, or for delivery of materials or equipment via the large trucks as defined above. A building permit application may also be required for similar deliveries to a project site even if the delivery can be made outside of the right-of-way (i.e., off-loaded or on-loaded from private property).

Route Planning – Many of the Town's streets are narrow and lack the necessary turning radius that many large trucks and vehicles require to travel safely without blocking roads or causing damage to property. Contractors, delivery companies, and truck drivers are cautioned to review the physical geometry of the Town's streets prior to delivering goods or materials. When possible or practical, the use of smaller delivery vehicles is encouraged to prevent the negative impacts of large trucks. When the nature of the delivery requires longer vehicles such as for construction materials (roof trusses, reinforcing steel, etc), then the appropriate application shall be submitted for ROW or building permit deliveries as applicable. Refer to the Town of Palm Beach website (www.townofpalmbeach.com) under "Doing Business" and then "Permits and Licenses". A summary of pavement width and travel/parking restrictions on those streets in the north end of the Town of Palm Beach is also available on the Town website (will add link here when available).

ROW and Building Permits – Vehicles meeting the size/length criteria are required to submit an application when traveling within the Town limits for the purpose of delivering construction materials or equipment, or other products/goods that require the use of the right-of-way for loading/unloading. Typically, the applicant shall provide the following information as part of the application process:

- Delivery location(s)
- Delivery time/date
- Explanation of why delivery cannot be accomplished via smaller vehicles
- Anticipated route
- Use of flaggers, spotters, escort vehicles or other measures deemed necessary for safe travel and preventing damage or disruption
- Maintenance of traffic plan as required

Failure to submit, obtain or comply with an approved permit application shall result in a fine as allowed. [Should there be a three-strike rule or something similar for non-compliance?]

TRUCK TRAFFIC PERMIT REQUIREMENTS

General – The presence of large vehicles on roadways within the Town of Palm Beach limits is a concern for many reasons including but not limited to safety, traffic disruption, property damage, and lack of parking (on-street and off-street). For the purposes of determining which large vehicles require permit applications for delivery of goods or materials, the Town considers large trucks or vehicles to be those in Class 6 through Class 13 as defined by FHWA/DOT, and if the overall length exceeds ___(e.g., >42' ?). A right-of-way (ROW) permit application is required for use of the right-of-way, or for delivery of materials or equipment via the large trucks as defined above. A building permit application may also be required for similar deliveries to a project site even if the delivery can be made outside of the right-of-way (i.e., off-loaded or on-loaded from private property).

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- Delivery location(s)
- Delivery time/date
- Explanation of why delivery cannot be accomplished via smaller vehicles
- Anticipated route
- Use of flaggers, spotters, escort vehicles or other measures deemed necessary for safe travel and preventing damage or disruption
- Maintenance of traffic plan as required

Failure to submit, obtain or comply with an approved permit application shall result in a fine as allowed. [Should there be a three-strike rule or something similar for non-compliance?]

NORTH END PAVEMENT WIDTH & TRAVEL AND PARKING RESTRICTIONS Updated 6/11/18		
ROAD NAME	**PAVEMENT WIDTH**	**CURRENT TRAVEL & PARKING DESIGNATION**
Adam Road	24'	Two-Way Travel, No Parking Restrictions
Angler Avenue	26' 3"	Two-Way Travel, No Parking South Side; No Parking Eastern One-Third of North Side
Arabian Road	19' 8"	Two-Way Travel, No Parking Both Sides
Bahama Lane	22' 4"	Two-Way Travel, No Parking Restrictions
Bermuda Lane	16'	Two-Way Travel (Cul-de-sac with median) No Parking Restrictions
Canterbury Lane (Private Road)	20'	Two-Way Travel, No Parking Restrictions
Caribbean Road	20' 4"	Two-Way Travel, No Parking Both Sides
Casa Bendita	22' 4"	Two-Way Travel, No Parking Restrictions
Chateaux Drive	26'4"	Two-Way Travel, Residential Permit Parking (No Parking in cul-de-sac)
Cherry Lane	16' 10"	Two-Way Travel, No Parking Restrictions
Colonial Lane	18' 6"	One-Way Travel Eastbound, No Parking Both Sides
Coral Lane	22'	Two-Way Travel, No Parking Restrictions
Country Club Road	20'	Two-Way Travel, No Parking North Side
Crescent Drive	23' 5"	Two-Way Travel, No Parking Restrictions
Crest Road	22' 3"	Two-Way Travel, No Parking Both Sides
Debra Lane	14' 6"	Two-Way Travel, No Parking North Side
Dolphin Road	22' 4"	Two-Way Travel, No Parking Both Sides
East Inlet Drive	21' 11"	One-Way Travel Eastbound, No Parking Both Sides
Eden Road	25' 8"	Two-Way Travel, No Parking Restrictions
El Dorado Lane	22' 2"	Two-Way Travel, No Parking South Side
El Mirasol	28' 2"	Two-Way Travel, No Parking Restrictions Except No Parking in Cul-de-sac
El Pueblo Way	18' 7"	Two-Way Travel, No Parking Both Sides
Emerald Lane	23' 2"	Two-Way Travel, No Parking Restrictions
Esplanade Way	19'	Two-Way Travel, No Parking Both Sides

Fairview Road	22' 2"	Two-Way Travel, No Parking Both Sides on East End (up to North County Road)
Garden Road	25' 10"	Two-Way Travel, No Parking Middle One-Third of North Side; No Parking on Eastern Two-Thirds of South Side
Hi-Mount Road	23' 9"	Two-Way Travel, No Parking Both Sides
Indian Road	20'	Two-Way Travel, No Parking Both Sides
Jamaica Lane	19' 11"	Two-Way Travel, No Parking Restrictions
Kawama Lane	23' 4"	Two-Way Travel, No Parking Restrictions
Kenlyn Road	20' 6"	Two-Way Travel, No Parking Both Sides (Appears western no parking sign is missing)
La Costa Way	24'	Two-Way Travel, No Parking Restrictions
Lake Court	20' 3"	Two-Way Travel, No Parking Restrictions
La Puerta Way	19'	Two-Way Travel, No Parking Both Sides
Laurian Lane	14'	Two-Way Travel, No Parking Restrictions
Laurie Lane	15" 1"	Two-Way Travel, No Parking West Side
List Road	22' 6"	Two-Way Travel, No Parking Both Sides
Maddock Way	23' 6"	Two-Way Travel, No Parking Restrictions
Manana Lane	15' 3"	Two-Way Travel, No Parking North Side
Mediterranean Road	19' 5"	Two-Way Travel, No Parking Both Sides
Merrain Road	19' 5"	Two-Way Travel, No Parking Both Sides
Miraflores Drive	26'	Two-Way Travel, No Parking Restrictions
Mockingbird Trail	24' 3"	Two-Way Travel, No Parking Both Sides
Monterey Road	19' 9"	Two-Way Travel, No Parking Eastern End of North Side; No Parking South Side
Nightingale Trail	23' 4"	Two-Way Travel, No Parking Both Sides
North Lake Way	17' 6"	Two-Way Travel, No Parking Both Sides
North Woods Road (incl East Woods Road)	22' 2"	Two-Way Travel, No Parking Restrictions
No. Ocean Way - Angler Ave to Osceola Way	18.5'	Two-Way Travel, No Parking Both Sides
No. Ocean Way - Merrain Rd to La Puerta Way	20.0'	Two-Way Travel, No Parking Both Sides

No. Ocean Way - Indian Rd to Mediterranean Rd	17.0'	Two-Way Travel, No Parking Both Sides
No. Ocean Way - Onondaga Ave to Esplanade Way	16.0'	Two-Way Travel, No Parking Both Sides
No. Ocean Way - La Puerta Way to Colonial Lane	18.4'	Two-Way Travel, No Parking Both Sides
Ocean Lane	17' 1"	Two-Way Travel, No Parking Restrictions Except No Parking in Cul-de-sac
Ocean Terrace	22' 8"	Two-Way Travel, No Parking Both Sides
Onondaga Avenue	18' 8"	One-Way Travel Eastbound, No Parking North Side
Orange Grove Road	24' 6"	Two-Way Travel, No Parking North Side
Osceola Way	22' 2"	Two-Way Travel, No Parking Both Sides
Palmo Way	19' 6"	One-Way Travel Eastbound, No Parking North Side from Approximately North Ocean Way to North Ocean Boulevard
Phipps Estate Road, Via Las Brisas, Via Tortuga (Private Roads)	24' 2"	Two-Way Travel, No Parking Restrictions
Plantation Road	21' 11"	Two-Way Travel, No Parking Restrictions East Side; No Parking West Side
Polmer Park Road	22'	Two-Way Travel, No Parking Restrictions
Queen's Lane	18' 8"	Two-Way Travel, No Parking North Side; No Parking One-Third of South Side
Reef Road	22' 4"	Two-Way Travel, No Parking Both Sides
Ridgeview Drive	22'	East - Two-Way Travel, No Parking Halfway to North Lake Way on North Side West - Two-Way Travel, No Parking Restrictions
Sandpiper Drive	28' 1"	Two-Way Travel, No Parking Restrictions
Sanford Avenue	20' 8"	Two-Way Travel, No Parking Restrictions
Seagate Road	22'	Two-Way Travel, No Parking Both Sides
South Woods Road	22'	Two-Way Travel, No Parking Restrictions Except No Parking at Intersection with North Lake Way
Southland Road	22'	Two-Way Travel, No Parking Restrictions
Tangier Avenue	27' 10"	Two-Way Travel, No Parking Restrictions

Tradewind Drive	28' 2"	Two-Way Travel, No Parking Middle of Road on North Side
Via Linda	21' 11"	East - Two-Way Travel, No Parking Restrictions West - Two-Way Travel, No Parking Restrictions Except No Parking in Cul-de-sa
Via Los Incas (Private Road)	21' 9"	Two-Way Travel, No Parking Both Sides
Via Manana (Private Road)	8' 6"	Cul-de-sac with Center Median at Entrance, No Parking Restrictions
Via Marila	22' 2"	Two-Way Travel, No Parking Both Sides
Wells Circle (Private Road)	17'	Two-Way Travel, No Parking Restrictions
Wells Road	20' 8"	Two-Way Travel, 100 Block - No Parking Both Sides; 200 Block - No Parking South Side; 300 Block - No Parking Restrictions Except No Parking in Cul-de-sac
West Indies Drive	33'	Two-Way Travel, No Parking Restrictions
Windsor Court (Private Road)	24' 2"	Two-Way Travel, No Parking Restrictions

TRUCK TRAFFIC UPDATE

Public Works Committee Meeting

November 8, 2018

ACTIONS SINCE PREVIOUS PW COMMITTEE MEETING

- Meeting with construction contractors coordinated by PZB and held on August 29
- Discussed truck traffic concerns and construction projects' impact
- Contractors invited that are involved in significant size/number of projects
- Contractors understand the concerns and want to assist in resolving it
- Described proposed changes for truck deliveries and permit application revisions
- Obtained feedback from contractors with suggestions
- Incorporate submission of a delivery plan into the site logistics information submitted on each permit; require traffic management and truck deliveries be included in that plan
- Delivery permit fee would be charged once per project (not for each delivery)
- All related deliveries for a project would be reportable but would not require separate individual permit applications
- Size and length of trucks to be affected by permit revisions was acceptable

NEXT STEPS AND ACTION ITEMS

- Identify necessary revisions to Building permit applications and provide draft for review (similar to ROW permit sample previously discussed)
- Provide draft of proposed changes to fees (revise master fee schedule)
- Provide draft of required resolutions to adopt revised permit applications and fees
- Consider use of performance bonds for deliveries and associated non-compliance or property damage (similar to existing process for ROW work bonds) – Town Attorney to advise on this topic
- Provide draft of website information and any necessary signage to assist in educating affected users (FDOT/FHWA vehicle silhouettes, etc)
- Involve Police Department and Code Enforcement in defining compliance monitoring and enforcement of any proposed revisions

Examples of large trucks having difficulty navigating north end streets.

TOWN OF PALM BEACH

Information for ORS Committee Meeting on: May 30, 2019

TO: Ordinances, Rules and Standards Committee

FROM: Jay Boodheshwar, Deputy Town Manager

RE: Discussion Regarding Enforcement of Safe Pesticides Application

DATE: May 28, 2019

STAFF RECOMMENDATION

Staff recommends the Ordinance, Rules and Standards Committee review the attached memo from Support Services Manager, Ben Alma, relating to the application of pesticides and provide direction to staff.

GENERAL INFORMATION

At the Town Council meeting held on May 14, 2019, the topic of pesticide spraying was discusses and referred to ORS, specifically the effects of over spraying on pedestrians on public paths, sidewalks, and neighboring private properties .

Attached is a memo regarding this matter from Support Services Manager, Ben Alma, as well as a copy of Chapter 487 of the Florida State Statues, which addresses pesticide application safety. Mr. Alma will be present at the May 30 ORS meeting to discuss his research and help guide the discussion.

Attachments

cc: Kirk Blouin, Town Manager
John C. Randolph, Town Attorney
Nicholas Caristo, Chief of Police
Benjamin Alma, Support Services Manager

TOWN OF PALM BEACH

MEMORANDUM

TO: Jay Boodheshwar, Deputy Town Manager

FROM: Benjamin Alma, Support Services Manager

DATE: 5/28/2019

SUBJECT: Alternative Pesticide Application Solution

Town Council requested that Staff research alternative solutions for enforcing safe and correct pesticide applications. The request for this research was a result of residents having chemicals sprayed on their property and the pesticides drift onto other properties causing alarm to neighboring residents.

This drift is called pesticide drift and is common. Steps can be taken to avoid this, such as using proper techniques and equipment, and by avoiding windy days; however, there is another type of drift called pesticide volatilization drift. This occurs when chemicals settle, then rise up again as a vapor well after the initial spraying is done.

In Florida, regulations of pesticide distribution, sale and use is accomplished through the Florida Pesticide Law (Chapter 487 of the Florida Statutes). This law and associated rules of the Florida Department of Agriculture and Consumer Services (FDACS) specifically address pesticide registration, labeling requirements, pesticide distribution, and applicator certification.

Jurisdictions do not have an ordinance outlining requirements when applying pesticides because it is regulated under Chapter 487 of the Florida Statutes; however, Delray Beach has an outdated ordinance from 1980 when pesticide use apparently fell under the State Health Department. Upon conferring with Delray Beach personnel, this is a dormant ordinance.

NEW BUSINESS #2

Select Year: 2018 Go

The 2018 Florida Statutes

Title XXXII
REGULATION OF PROFESSIONS AND OCCUPATIONS

Chapter 487
PESTICIDE REGULATION AND SAFETY

View Entire Chapter

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

487.011 Popular name; administration.
487.012 Declaration of purpose.
487.021 Definitions.
487.025 Misbranding.
487.031 Prohibited acts.
487.041 Registration.
487.042 Restricted-use pesticides; designation.
487.0435 License classification.
487.0437 Direct infusion of chlorine gas.
487.044 Certification; examination.
487.045 Fees.
487.046 Application; licensure.
487.047 Nonresident license; reciprocal agreement; authorized purchase.
487.048 Dealer's license; records.
487.049 Renewal; late fee; recertification.
487.051 Administration; rules; procedure.
487.064 Antisiphon requirements for irrigation systems.
487.071 Enforcement, inspection, sampling, and analysis.
487.081 Exemptions.
487.091 Tolerances, deficiencies, and penalties.
487.101 Stop-sale, stop-use, removal, or hold orders.

487.111 Seizure, condemnation, and sale.
487.13 Cooperation.
487.15 Reclamation, reimbursement, and disposal.
487.156 Governmental agencies.
487.1585 Duties of licensee with respect to unlicensed applicators and mixer-loaders and field workers.
487.159 Damage or injury to property, animal, or person; mandatory report of damage or injury.
487.160 Records.
487.161 Exemptions, nonagricultural pest control and research.
487.163 Information; interagency cooperation.
487.171 Classification of antifouling paint containing organotin compounds as restricted-use pesticides; prohibition of distribution and sale.
487.175 Penalties; administrative fine; injunction.

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, barters, 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, barters, 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 Nemathelminthes 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, 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 current copy of the labeling accompanying the brand of 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 registrant 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.

(g) All registration fees, including late fees, are nonrefundable.

(h) For any currently registered pesticide product brand that undergoes labeling revisions during the registration period, the registrant shall submit to the department a copy of the revised labeling along

with a cover letter detailing such revisions before the sale or distribution in this state of the product brand with the revised labeling. If the labeling revisions require notification of an amendment review by the United States Environmental Protection Agency, the registrant shall submit an additional copy of the labeling marked to identify those revisions.

(2) 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.

(3) 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 to continue the registration of a brand of pesticide that remains on retailers' shelves in the state unless the department receives the registrant's written notification that it is discontinuing the distribution of a brand of pesticide and the registrant then maintains the registration of that brand for a minimum of 2 years. The discontinued brand of pesticide may remain on retailers' shelves without further registration if the brand of pesticide is not distributed by the registrant in the state during or after the minimum 2-year period.

(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.

(4) 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.

(5) 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.

(6) 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.

(7) 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; s. 14, ch. 2009-20; s. 32, ch. 2009-66; s. 14, ch. 2011-206; s. 42, ch. 2013-226; s. 18, ch. 2014-150; s. 1, ch. 2017-158; s. 5, ch. 2018-84.

487.042 Restricted-use pesticides; designation.—The department may designate by rule a pesticide, or a pesticide applied under certain conditions or for a certain purpose, as a "restricted-use pesticide" if the pesticide, when applied in accordance with its directions for use, warnings, and cautions, 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.

History.—s. 3, ch. 69-376; ss. 14, 35, ch. 69-106; s. 3, ch. 78-154; ss. 2, 4, ch. 79-210; s. 3, ch. 88-304; ss. 6, 37, ch. 92-115.

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 filed with the department by using a form prescribed by the department or by using the department's website. 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; s. 19, ch. 2014-150.

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 a 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 pursuant to this part.

History.—ss. 13, 37, ch. 92-115; s. 11, ch. 94-233; s. 17, ch. 2000-154; s. 30, ch. 2004-64; s. 20, ch. 2014-150.

487.048 Dealer's license; records.—

(1) Each person holding or offering for sale, selling, or distributing restricted-use pesticides must obtain a dealer's license from the department. Application for the license shall be filed with the department by using a form prescribed by the department or by using the department's website. 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 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.

(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; s. 21, ch. 2014-150; s. 7, ch. 2017-167.

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.

(f) Establish conditions of registration or reregistration for structural fumigants which include requirements that registrants:

1. Train distributors and end users in safety measures and in proper use, safe storage, and management of fumigant materials.

2. Obtain continuing education program approval for stewardship training programs.

3. Conduct quality assurance reviews.

4. Report to the department any probation or stop-sale notice issued to end users. Under such circumstances, the department shall notify all other structural fumigant registrants of the reported probation or stop-sale notice.

5. Assist the department, upon request, with the removal of fumigant containers from distributors and end users for compliance with permanent or extended stop-sale notices.

(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; s. 2, ch. 2016-143.

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) 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; s. 1, ch. 2016-9.

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 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; s. 2, ch. 2016-9.

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 in the Class III category pursuant to s. 570.971 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 after 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 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 in the Class III category pursuant to s. 570.971 for each 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; s. 22, ch. 2014-150.

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.—

(1) A licensee shall report unreasonable adverse effects on the environment or damage or injury to human beings, animals, plants, or other property 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. Physicians shall report all pesticide-related illnesses or injuries to the nearest county health department, which shall notify the department so that the department may establish a pesticide incident monitoring system within the Division of Agricultural Environmental Services.

(2) When damage or injury to human beings, animals, plants, or other property as the result of the application of a restricted-use pesticide is alleged to have been done, the person claiming such damage or injury shall allow the licensee and the licensee's representatives to observe within reasonable hours the alleged damage or injury in order that the damage or injury may be examined. The failure of the person claiming such damage or injury to allow observation and examination of the alleged damage or injury 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; s. 23, ch. 2014-150.

487.160 Records.—Licensed private applicators, 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. Licensees shall keep records for 2 years from the 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.

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; s. 7, ch. 2013-226; s. 24, ch. 2014-150.

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.

(3) The department shall enter into an agreement with the Department of Environmental Protection to ensure that pesticides applied to waters of the state are regulated uniformly, including provisions for the coordination of agency staff and resources, through the implementation of permitting, compliance, and enforcement activities under ss. 403.088 and 403.0885.

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; ss. 5, 11, ch. 2010-277; HJR 5-A, 2010 Special Session A.

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.

487.175 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 in the Class III category pursuant to s. 570.971 for each violation. When imposing a 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; s. 26, ch. 2014-150.

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

PART II
FLORIDA AGRICULTURAL WORKER SAFETY ACT

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.

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) "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. 170.7(b), or this part.

(8) "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 a 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.

(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; s. 27, ch. 2014-150; s. 62, ch. 2015-2.

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 shall adopt by rule. Any provision of this part not preempted by federal law shall continue to apply.

History.—s. 50, ch. 2004-64; s. 9, ch. 2017-85.

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 a 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 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 fact sheet or 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 fact sheet or safety data sheet. If the fact sheet or safety data 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 fact sheet or safety data 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 pesticide 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 pesticide 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; s. 28, ch. 2014-150.

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.—

(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.

History.—s. 53, ch. 2004-64; s. 68, ch. 2018-110.

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