**5E-2.0105 Definitions.**

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

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

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

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

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

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

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

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

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

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

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

**5E-2.011 General Labeling Requirements for Pesticides.**

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

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

**5E-2.014 Sampling of Pesticides.**

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

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

**5E-2.015 Methods of Analyses.**

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

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

**5E-2.016 Pesticide Deficiency Tolerances.**

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

From 10% thru 100% 3.0% of guarantee

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

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

**5E-2.021 Specifications for Citrus Spray Oils.**

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

(2) Specifications.

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

(3) Labeling.

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

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

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

**5E-2.022 Storage of Restricted Use Pesticides.**

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

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

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

**5E-2.027 Nonagricultural Chemicals Subject to Penalty.**

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

(1) Chlorine and chlorine compounds,
(2) Iodine and iodine compounds,
(3) Phenolic compounds,
(4) Bis-phenols,
(5) Salicylanilides and carbanilides,
(6) Alcohols,
(7) Acid-anionic surface-active sanitizers,
(8) Quaternary ammonium disinfectants,
(9) Amphoteric surfactant disinfectants,
(10) Mercurials – inorganic and organic,
(11) Silver and its compounds, and
(12) Any other compound presently registered with antimicrobial claims by the United States Environmental Protection Agency or the department.

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

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

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

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

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

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

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

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

Adamsville
Archbold
Astatula
Candler
Cassia
Lake
Neilhurst
Orsino
Palm Beach

Paola
Satellite
St. Lucie
Tavares

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

1. The well is not used for human consumption;

2. The well has been posted with a conspicuous warning notice stating “NOT FOR HUMAN CONSUMPTION”; and

3. If the well is situated on property under different ownership from the property where the aldicarb application is to be made, a signed statement has been obtained from the well owner authorizing the posting of the warning notice specified in subparagraph (1)(f)2.

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

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

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

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

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

(2) Permit Requirements and Procedures.

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

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

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

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

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

(3) Forms.

(a) Form DACS-13317, Rev. 06/08, Application for Permit to Apply Aldicarb (Temik), hereby adopted and incorporated by reference, may be obtained from the web site http://www.doacs.state.fl.us/onestop/aes/temik.html or from the Pesticide Certification Section, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399; telephone (850) 617-7870.

(b) Form DACS-13356, Rev. 04/08, Request for Username and Password for Electronic Temik Permit Application, hereby adopted and incorporated by reference, may be obtained from the web site http://www.doacs.state.fl.us/onestop/aes/temik.html or from the Pesticide Certification Section, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399; telephone (850) 617-7870.

(4) Department Authorization.

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

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

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

(d) Department authorization is not transferable.

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

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

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

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

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

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

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

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

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

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

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

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

(2) Applications for Registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Fully approve the registration; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) For soil applied residual treatments:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Building Monitoring.

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

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

(c) For pesticides applied to wood.

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

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

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

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

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

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

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

(a) For soil applied residual treatments:

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

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

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

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

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

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

c. Conducted in accordance with Department approved protocols.

(b) For Stand-Alone Bait Systems:

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

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

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

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

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

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

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

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

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

6. For tests conducted after the effective date of the rule:

a. Building tests with existing infestations must be documented with collection of termites from the test site and preservation for identification.

b. Building test inspections must include a combination of visual and research inspection methods including bath trap inspection ports, moisture meters, acoustic detection, chemical detection, microwave technology, canine detection, fiber optics or infrared technology.

c. Data from field plot and building tests must be developed under Good Laboratory Practices Standards (40 CFR Part 160, revised 2001), a United States Environmental Protection Agency quality assurance agreement, or using a Department approved protocol.

7. Building tests must use the bait as formulated for registration and must follow directions for use on the registered label or the label proposed for registration.

(c) For pesticides applied to wood:

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

2. Field plot tests shall have been conducted with at least ten (10) replications of the treatment tested. If more replications have been used, the results of all the replications shall have been reported.

3. Field plot tests shall include at least one untreated control for each ten (10) replications.

4. Wood used in building and field plot tests that is treated shall be treated in accordance with the directions for use on the registered label or label proposed for registration.

5. Wood used in the tests shall be a species commonly used in wood frame construction in Florida.

6. For field plot tests, test units shall incorporate untreated wood placed on top of the treated wood to demonstrate that the treatment will protect untreated building components from attack by subterranean termites that require ground-soil contact.

7. For building tests conducted after the effective date of the rule, building test inspections must include bath trap inspection ports, moisture meters, acoustic detection, chemical detection, microwave technology, canine detection, fiber optics, or infrared technology.

8. Field plot tests or building test data shall be collected from tests:

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

b. Conducted in accordance with Department approved protocols.

9. Building tests prior to the date of the rule, shall be on a minimum of twenty-five (25) buildings with wood framed exterior walls and treatment shall have been applied according to the label or proposed label directions for use with documented annual inspections.

10. Building tests after the date of the rule shall be on a minimum of twenty-five (25) buildings with wood framed exterior walls and a minimum of ten (10) of the buildings shall have demonstrated termite activity within ten (10) feet of the structure, and treatment shall be applied according to the label or proposed label directions for use.

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

1. Systems registered after the date of the rule claiming to protect structures by affecting termite populations shall conduct field plot tests and building tests that meet the acceptable test conditions specified in paragraph (2)(b) above.

2. Systems registered prior to the effective date of the rule claiming to protect structures by affecting termite populations shall conduct building tests that meet the acceptable test conditions specified in paragraph (2)(b) above.

3. All other systems shall meet the acceptable test conditions specified in paragraph (2)(c) above.

(3) DEPARTMENT REVIEW OF DATA SUBMISSIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Table 1: Minimum Distance From Susceptible Crops

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

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

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

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

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

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

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

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

(c) Date and time of application.

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

(e) Total acreage and crop or site treated.

(f) Average hourly wind speed and direction.

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

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

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

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

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

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

(1) Each application for registration of pesticide products containing organotin labeled for use as an antifouling paint must be accompanied by documentation demonstrating that such products do not exceed the long-term average release rate of 4.0 ug (micrograms)/$cm^2$ (square centimeter)/day.

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

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

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

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

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

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

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

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

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

(1) DEFINITIONS:

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

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

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

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

(2) EFFECTIVE DATES:

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

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

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

(3) APPLICATOR REQUIREMENTS:

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

(4) APPLICATION EQUIPMENT:

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

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

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

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

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

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

(5) SAFETY EQUIPMENT:

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

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

(6) EXEMPTIONS:

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

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

* DuPont Registered Trademark.

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

**5E-2.037 Prohibition of Alachlor Use.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**5E-2.039 Worker Protection Standard.**

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

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