

NOTICE OF CHANGE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

DIVISION OF AGRICULTURAL ENVIRONMENTAL SERVICES

RULE CHAPTER TITLE: RULE CHAPTER NO.:

PESTICIDES 5E-2

RULE TITLE: RULE NUMBER:

Restrictions on Use and Sale of Aldicarb; 5E-2.028

Permit Requirements and Procedures;

Department Approval; Records; Penalties

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3) (d), F.S., published in Volume 32, No.32, August 11, 2006, issue of Florida Administrative Weekly.

**WHEN AMENDED THE PROPOSED RULE WILL READ AS FOLLOWS:**

5E-2.028 Restrictions on Use and Sale of Aldicarb; Permit Requirements and Procedures; Forms; Department Authorization-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 ~~is~~ issued by the department by means of an aldicarb permit.

(b) Aldicarb shall be applied only at ~~the sites~~ for which written or electronic authorization has been ~~is~~ 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).-

(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:—Aldicarb shall not be used on Florida citrus within 1000 feet of any well when any soil series within the intended site of application is identified by the U.S.D.A. Soil Conservation Service as highly permeable well drained sand, unless the applicator furnishes the department with construction documentation confirming that the well is properly cased to a depth of 100 feet below ground surface or a minimum of 30 feet below the water table. The 1000 foot setback requirement shall not apply to any wells that meet the provisions of paragraph (1)(e). Soils series which have been identified by the U.S.D.A. Soil Conservation Service as highly permeable well drained sand include, but are not limited to, the following:

Adamsville

Archbold

Astatula

Candler

Cassia

Lake

Neilhurst

Orsino

Palm Beach

Paola

Satellite

St. Lucie

Tavares

~~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 licensed well contractor.~~

(f)(e) 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 aldcarb 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)(e)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)(f)~~ Warning notices specified in ~~subparagraph (1)(f)2(e)~~ of this subsection 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)(g)~~ Citrus grove use is limited to one application per tree per use season-year. For purposes of this rule, the citrus use season is defined as the period November 15 – April 30. ~~Such application may be made only during the period January 1 – April 30.~~ Application shall not exceed the rate of 5 pounds active ingredient or 33 pounds of 15G formulation per acre.

~~(j)(h)~~ 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)~~(i) 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 Reporting~~ Requirements and Procedures.

(a) ~~At least 10 days P~~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.temikpermit.com> ~~www.temikintent.com~~ or in hard copy by delivery of a completed Application for Permit to Apply Aldicarb (Temik), Form DACS-13317, revised ~~9/06-1/02~~, 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, revised 5/04 ~~new 2/02~~, to the address listed on the form.

~~(b) Licensed applicators conducting research with aldicarb and making application to no more than 10 acres per site shall be exempt from the 10 day pre application requirement, provided a signed statement attesting the application is for research purposes is filed with the permit application and provided a permit is obtained before the application is made.~~

~~(b)~~(c) Each ~~intended~~ application site shall be listed on ~~as a separate entry on the~~ 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 ¼ of ¼ 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)(d) Forms.

(a) Form DACS-13317, Application for Permit to Apply Aldicarb (Temik), revised 9/06 4/02, hereby adopted and incorporated by reference, may be obtained from the web site [http://www.flaes.org-~~www.safepesticideuse.com~~](http://www.flaes.org-<del>www.safepesticideuse.com</del>) or from the Pesticide Certification Section, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399; telephone (850) 488-3314.

(b) Form DACS-13356, Request for Username and Password for Electronic Temik Permit Application, revised 5/04 ~~new 2/02~~, hereby adopted and incorporated by reference, may be obtained from the web sites [http://www.temikpermit.com-~~www.temikintent.com~~](http://www.temikpermit.com-<del>www.temikintent.com</del>) or [http://www.flaes.org-~~www.safepesticideuse.com~~](http://www.flaes.org-<del>www.safepesticideuse.com</del>) or from the Pesticide Certification Section, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building 8 (L29), Tallahassee, Florida 32399; telephone (850) 488-3314.

~~(4)(3)~~ Department Authorization; ~~Permit~~.

(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 for at least 10 days after an aldicarb permit has been approved for that site. ~~This subsection shall not apply to licensed applicators who apply aldicarb for research purposes to 10 acres or less per site and who otherwise meet the requirements set forth in this chapter.~~

(c) The department shall designate on the permit ~~application~~ the time period dates during which aldicarb is approved for application ~~in this state~~. 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)~~(4) 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>, ~~www.temikintert.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)~~(5) 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, \_\_\_\_\_.*