

NOTICE OF PROPOSED RULE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

DIVISION OF AGRICULTURAL ENVIRONMENTAL SERVICES

RULE CHAPTER:	RULE CHAPTER NO:
Seed	5E-4
RULE TITLE:	RULE NO.:
Noxious Weed Seed	5E-4.003
<u>Disposition of Seed Contaminated with Noxious Weed Seed</u>	<u>5E-4.0041</u>

PURPOSE, EFFECT AND SUMMARY: The purpose of the proposed actions is to amend Rules 5E4.003 and to add section 5E4.0041. The effect is to prohibit the sale and distribution of agricultural, vegetable, flower, and forest tree seed lots contaminated with seed of Tropical Soda Apple (*Solanum viarum*) and Benghal dayflower (*Commelina benghalensis*); and to address disposition of seed deemed worthless due to contamination with more noxious weed seed than shown in regulation 5E-4.003.

Rule 5E-4.0041 will be added to provide specific guidance regarding reprocessing or disposal of noxious seed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No SOERC has been prepared. Any person who wishes to provide information regarding SOERC, or to provide a proposal for a lower cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 578.11(2) F.S.

LAW IMPLEMENTED: 578.11(2) F.S.

A RULE HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: September 10, 2004, at 9:00 a.m.

PLACE: AES Conference Room, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Mr. Dale W. Dubberly, Chief, Bureau of Compliance Monitoring, Division of Agricultural Environmental Services, FDACS, L-29, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650; telephone (850) 488-8731.

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-4.003 Noxious Weed Seed.

(1) (a)-(c) No Change

(d) Tropical soda apple (Solanum viarum) None per pound

(e) Benghal dayflower (Commelina benghalensis) None per pound

(2) No change

(3) No change

Specific Authority 570.07(23), 578.11(2), F.S. Law Implemented 578.11(2), F.S. History-
Amended 5-30-63, 8-22-68, 9-29-83, Formerly 5E-4.03, Amended 8-6-89,_____.

5E-4.0041 Disposition of Seed Contaminated with Noxious Weed Seed

(1) Seed lots containing one or more of the noxious weed seeds listed in Section 5E-4.003, F.A.C., and found by the department to be in violation of Section 578.13, Florida Statutes, and which have been placed under stop-sale, stop-use, removal, or hold order, shall not be further subdivided or renumbered such that the integrity of the lot for identification and further inspection and testing is maintained. Within 30 days of receipt of the stop-sale, stop-use, removal, or hold order issued by the department, the owner of the seed lot shall arrange for the reprocessing, destruction through incineration, disposal in an approved solid waste landfill, or burial of the seed to a depth of at least 3 feet for a period of at least one year in accordance with state and federal disposal regulations.

(2) Seed lots which have been reprocessed shall be re-inspected and re-tested by the department to determine if the violation of Section 578.13, Florida Statutes, has been corrected. If the violation of Section 578.13, Florida Statutes, has not been corrected after two consecutive attempts to reprocess the seed lot, and the seed lot continues to contain

one or more of the noxious weed seeds listed in Section 5E-4.003, F.A.C., the seed lot under stop-sale, stop-use, removal, or hold order shall be disposed of in an approved solid waste landfill, incinerated, or buried to a depth of at least three feet for a period of at least 1 year in accordance with state and federal disposal regulations. If none of the noxious weed seeds listed in Section 5E-4.003, F.A.C., are detected during subsequent inspection and testing, the department shall issue a release for the lot under stop-sale, stop-use, removal, or hold order and the seed lot may be sold and distributed. Upon release of the stop-sale, stop-use, removal, or hold order, the seed lot may be further subdivided or assigned one or more new lot numbers.

SPECIFIC AUTHORITY: 578.11(2) F.S. Law Implemented 578.11(2) F.S. History – New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Dubberly, Chief, and Bureau of Compliance Monitoring.

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Steven J. Rutz, Director, Division of Agricultural Environmental Services.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 9, 2004.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2004.