

NOTICE OF RULE DEVELOPMENT

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 AND EFFECT: 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.

SUBJECT AREA TO BE ADDRESSED: Rule 5E-4.003 will be updated to include Tropical Soda Apple (*Solanum viarum*) and Benghal dayflower (*Commelina benghalensis*) as prohibited noxious weed seeds under the Florida Seed Law. Rule 5E-4.0041 will be added to provide specific guidance regarding reprocessing or disposal of noxious seed.

SPECIFIC AUTHORITY: 578.11(2) F.S.

LAW IMPLEMENTED: 578.11(2) F.S.

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

TIME AND DATE: August 9, 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 PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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

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