

NOTICE OF RULE DEVELOPMENT

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

DIVISION OF AGRICULTURAL ENVIRONMENTAL SERVICES

RULE NO.: 5E-14.149

RULE TITLE: ENFORCEMENT AND PENALTIES

PURPOSE AND EFFECT: Classify and clarify violations of ss. 482.121 and 482.163, Florida Statutes, as major violations and revising criteria for the issuance of Department credentials to felons.

SUBJECT AREA TO BE ADDRESSED: Enforcement and penalties for violations of Chapter 482, F.S.

RULEMAKING AUTHORITY: 482.051, 570.07(23), F.S.

LAW IMPLEMENTED: 112.011, 482.161, 482.163, F.S.

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

DATE AND TIME: November 18, 2011; 9:00 A.M. – 5:00 P.M.

PLACE: Florida Atlantic University, Davie West Campus; 3233 College Avenue, Room 103, Davie, Florida 33314; (954) 236-1283. Please park in the IFAS Extension office parking lot.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE

DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS

Mr. Michael J. Page, Chief of Entomology and Pest Control; 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961; (850) 617-7997.

PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(1) through (2) – No Change

(3) Category of Violations. Minor violations are all violations other than those classified as

major violations. Major violations are violations where:

(a) through (l) – No Change.

(m) A licensee or certified operator fails to comply with the provisions of Section 482.121,

F.S.

(n) A licensee fails to comply with the provisions of Section 482.163, F.S.

(4) through (5) – No Change.

(6) Denial. The Department will deny application for licensure if:

(a) A person fails to comply with the licensing and/or permit requirements of Chapter 482, F.S., or Chapter 5E-14, F.A.C., or

(b) All outstanding fines owed to the Department are not paid in full unless the person seeking licensure has entered into a written settlement agreement with the Department to pay the fine, which has been filed with the agency clerk, and the person has made the payments timely as provided in the settlement agreement, or

(c) A person has been convicted of a crime ~~any felony~~ under state or federal law that is directly related to standards determined by the Department, for which denial of licensure is necessary and reasonably related to the protection of the public health, safety, and welfare for the structural pest control business, including the following: ~~involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault that inflicts grievous bodily injury, kidnapping, prostitution, child abuse, child pornography, sexual assault or indecent exposure. If civil rights have been restored, the Department will not deny licensure based on conviction for these crimes.~~

1. A felony or first degree misdemeanor under any state or federal law involving dishonesty, violence, destruction of property or sexual misconduct within the past three years.

2. A felony or first degree misdemeanor under any state or federal law, which is more than three (3) years old, involving dishonesty, violence, destruction of property or sexual misconduct and has not completed any sentence imposed by the court, unless the person has been released on probation and has complied with all the terms and conditions of probation.

3. A felony or first degree misdemeanor at any time under any state or federal law involving sexual misconduct with a minor child under the age of fourteen (14) years and the person has been classified as a sexual offender as defined in Section 943.0435, Florida Statutes.

4. A felony or first degree misdemeanor at any time under state or federal law and the person has been classified as a sexual predator pursuant to Section 775.21, Florida Statutes.

(7) through (8) – No Change.

(9) Suspension and Revocation.

(a) Suspension will be imposed when:

1. through 4. – No Change.

5. A person has obtained licensure of any kind ~~The licensee, certificate holder, permit holder or applicator has obtained licensure~~ under Chapter 482, F.S., and the Department subsequently determines that the person that is the holder of the licensure falls into any of the categories set forth in subsection 6(c) above that would be cause for denying licensure. ~~Licensee, certificate holder, permit holder or applicator is or has been convicted in any state or federal court of a felony involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault that inflicts grievous bodily injury, kidnapping, prostitution, child abuse, child pornography, sexual assault or indecent exposure, unless civil rights have been restored.~~

6. A licensee or certificate holder has been found by the Department to be in violation of

Section 482.121, F.S., and has had no prior violations of this statute within the previous three (3) years.

7. – No Change.

8. A licensee or certificate holder has been found by the Department to be in violation of Section 482.163, F.S.

(b) ~~Revocation will be imposed when: a violator does not comply with a suspension order, or if a licensee or certificate holder has been suspended twice in three years.~~

1. A violator does not comply with a suspension order, or if a licensee or certificate holder has been suspended twice in three years.

2. There are two or more violations of the provisions of Section 482.121 by a licensee or certified operator within a three (3) year period.

3. There are two or more violations of the provisions of Section 482.163 by a licensee or certified operator within a three (3) year period.

4. A person has obtained licensure of any kind and the Department subsequently determines that the person that is the holder of the licensure falls into any of the categories set forth in subsection 6 (c) above that would be grounds for denying licensure but suspension would not be an adequate remedy because the grounds for denying licensure could not be corrected or removed within a period of two years.

(10) through (14) – No Change.

Rulemaking Specific Authority 482.051, 570.07(23) FS. Law Implemented 112.011, 482.161, 482.163 FS. History–New 7-13-06, Amended 7-11-07, 8-4-08, _____.