

(b) In the event that the applicant fails to obtain a passing score on either or both of the written or practical portion of the examination on the first attempt, the applicant shall not be eligible to practice under this rule until the applicant:

1. Applies to the Department for authorization to retake the failed portion(s) of the examination; and

2. Presents the holder of the license for the barbershop a copy of both the reexamination application and the examination scheduling authorization letter from the department or the testing vendor.

3. Upon completion of these conditions, the applicant is eligible to practice in a licensed barbershop subject to the provisions of paragraph (c) referenced below, provided that the applicant posts the examination results for both portions of the examination at the work station with a recent photograph affixed thereto. The applicant must discontinue practicing when 180 days have passed from the date the written or practical portion of the first examination was taken, whichever portion was taken earlier, if reexamination has not yet been completed. Under no circumstances shall the applicant be eligible to practice prior to having applied for reexamination and having obtained the examination scheduling authorization letter from the department or testing vendor.

(c) All barbering services performed by the applicant under this exception shall be performed under the supervision of a licensed barber. "Under the supervision of a licensed barber" shall mean that an individual who then holds a current, active Florida license as a barber shall be physically present at all times when the applicant is performing barbering services.

(2) In the event an applicant, who previously failed either or both portions of the examination on the first attempt, fails to obtain a passing score on either or both portions of the second licensure examination, the applicant is no longer eligible to practice as a barber under this exception and must immediately discontinue practicing barbering services until the applicant has been issued a license to practice by the Department.

Specific Authority 455.217, 476.064(4), 476.124, 476.144(7), 476.184(2), (10) FS. Law Implemented 455.217, 476.144(7), 476.184(2), (10) FS. History—New 12-9-98, Amended 11-12-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Barbers' Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Barbers' Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 25, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 13, 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**Section III
Notices of Changes, Corrections and
Withdrawals**

DEPARTMENT OF STATE

RULE NO.: 1-2.0031
RULE TITLE: Public Records Requests: Special Service Charge

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 27, July 3, 2008 issue of the Florida Administrative Weekly. The name of person originating proposed rule was incorrectly published as Lynn Hearn. The correct name is Kurt S. Browning, Secretary of State.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE NO.: 5B-3.0038
RULE TITLE: Quarantine Action

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 9, February 29, 2008 issue of the Florida Administrative Weekly.

(1) Plant pests not known to occur in the state of Florida. Proof of origin in the form of a certificate of origin or a legible way-bill that identifies the number and type of commodity and point of origin of the plant or plant product and a document showing compliance with a cooperative arrangement or a legible certificate of inspection, indicating pest freedom and compliance with applicable Florida entry requirements as established by law, rule, or order, shall accompany or be applied to each box, bundle or other container entering the state Florida. Plants and plant products which are not accompanied by proof of origin and a certificate of inspection documentation issued by a recognized state or country plant protection governmental agency indicating compliance with Florida regulations ~~Plants and plant products which do not meet Florida regulations~~ or are found to be infested or infected with, or exposed to a plant pest not known to be established in the state shall be subject to being refused entry, returned to the

owner, quarantined, treated, or destroyed as specified by the department, or destroyed or treated by an authorized representative of the department. The destruction, quarantine, treatment, or return of a shipment shall be under the direction of an authorized representative of the department and at the expense of the owner. Payment to the department for such expense shall be required before shipping can resume. Shippers shall be immediately suspended from shipping into Florida when shipments of plants and plant products are found to be infested or infected with a plant pest not known to be established in the state, and the pest is determined to be potentially damaging to Florida agriculture. This suspension shall remain in effect until the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, and the state of origin department of agriculture agree the problem has been resolved and that shipping may resume. An Agreement for Treatment, Destruction, Forfeiture, or Return of Plants and/or Plant Parts, DACS-08029, revised 04/08 8/02, will be completed on all shipments requiring regulatory action. An Agreement for Treatment, Destruction, Forfeiture, or Return of Plants and/or Plant Parts form, DACS-08029, revised 04/08 8/02, is supplied by the division for this purpose and is hereby adopted and incorporated herein by reference and. Copies of DACS-08003, revised 2/04 3/05, Report of Plant and Plant Material in Transit, and DACS-08029, revised 04/08, Agreement for Treatment, Destruction, Forfeiture, or Return of Plants and/or Plant Parts, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100. The following are examples of plant pests that would require immediate quarantine action:

(a) Insects.

1. *Aceria litchii* (currently in Hawaii (Litchi mite)).
2. *Anoplophora* spp. (Asian longhorned beetles).
3. *Biprorulus bibax* (spined orange bug).
4. *Bostrichidae* (Bostrichid beetles).
5. *Brevipalpus chilensis* (Chilean false red mite).
6. *Ceratovacuna lanigera* (sugarcane woolly aphid).
7. *Eutetranychus orinetalis* (Oriental red mite).
8. *Exophthalmus* spp. (Caribbean citrus weevils).
9. *Liriomyza huidobrensis* (pea leaf miner).

10. *Liriomyza langei* (pea leaf miner).11.40. *Maconellicoccus hirsutus* (pink mealybug).

12.44. *Metamasius* spp. (Neotropical palm and bromeliad weevils).

13.42. *Musgraveia sulciventris* (bronze orange bug).14.43. *Myllocerus* spp. (Asian weevils).15. *Nasonovia ribisnigri* (currant-lettuce aphid).16.44. *Nephotettix* spp. (Green leafhoppers on rice).17.45. *Nilaparvata lugens* (brown plant hopper).18.46. *Oxycarenus hyalinipennis* (dusky cottonseed bug).19.47. *Prymnotrypes* spp. (Andean potato weevils).20. *Rhagoletis mendax* (blueberry maggot fly).21. *Rhynchophorus ferrugineus* (red palm weevil).22. *Rhynchophorus palmarum* (giant palm weevil).23.48. *Russelliana solanicola* (a potato psyllid).24.49. *Siphoninus pluviale* (Ash whitefly).25.20. *Trioza anceps* (avocado psyllid).26.21. *Trioza perseae* (avocado psyllid).27.22. *Trioza erytrae* (African citrus psyllid).28.23. *Tropilaelaps clareae* (*Tropilaelaps* mite).

(b) Diseases.

1. Chilli leaf curl virus.2.4. Citrus chlorotic dwarf.3.2. Citrus leprosis virus.4.3. Citrus variegated chlorosis.5.4. Citrus yellow mosaic virus.6.5. Huanglongbing (citrus greening disease).7. *Phytophthora alni*.8. *Phytophthora europea*.9. *Phytophthora foliorum*.10. *Phytophthora hedriandra*.11. *Phytophthora kernoviae*.12. *Phytophthora nemarosa*.13. *Phytophthora pseudosyringae*.14. *Phytophthora siskyouensis*.15.6. *Phytophthora ramorum* (sudden oak death).16.7. *Puccinia horiana* (chrysanthemum white rust).17.8. *Septoria citri*.18.9. Sugarcane bacilliform badnavirus.19.40. Sugarcane yellowleaf syndrome.20. Tomato chlorosis virus.21. Tomato infectious chlorosis virus.22. Tomato leaf curl New Delhi virus.23. Tomato marchitez virus.24. Tomato severe leaf curl virus.25. Tomato torrado virus.26. Tomato yellow leaf curl virus-China, Seychelles, & Indonesia strains.27. Tomato yellow vein streak.28.44. *Xanthomonas axonopodis* pv. *citri* (citrus canker).

(c) Mollusks.

1. *Achatina* spp. (giant African snail and others).2. *Archachatina marginata* (banana rasp snail).3. *Cryptomphalus* spp. (brown garden snail and others).4. *Megalobulimus oblongus* (giant South American snail).5. *Theba pisana* (white garden snail).

(d) Nematodes.

1. *Anguina tritici* (wheat gall nematode).2. *Bursaphelenchus cocophilus* (red ring nematode).3. *Ditylenchus destructor* (potato rot nematode).4. *Ditylenchus dispaci* (bud and stem nematode).

5. *Globodera rostochiensis* and *G. Pallida* (potato cyst nematode).
6. *Hemicycliphora arenaria* (citrus sheath nematode).
7. *Heterodera carotae* (carrot cyst nematode).
8. *Heterodera cruciferae* (cabbage cyst nematode).
9. *Heterodera goettingiana* (pea cyst nematode).
10. *Heterodera zeae* (corn cyst nematode).
11. *Hoplolaimus columbus* (Columbia lance nematode).
12. *Longidorus africanus* (a needle nematode).
13. *Longidorus belondriodes* (a needle nematode).
14. *Meloidogyne chitwoodi* (Columbia root-knot nematode).
15. *Meloidogyne citri* (a citrus root-knot nematode).
16. *Meloidogyne fujianensis* (citrus root-knot nematode).
17. *Meloidogyne naasi* (cereal root-knot nematode).
18. *Nacobbus aberrans* (false root-knot nematode).
19. *Pratylenchus convallariae* (a lesion nematode).
20. *Pratylenchus crenatus* (a lesion nematode).
21. *Pratylenchus goodeyi* (a lesion nematode).
22. *Xiphinema brevicolle* (a dagger nematode).
23. *Xiphinema bricolensis* (a dagger nematode).
24. *Xiphinema californicum* (a dagger nematode).
25. *Xiphinema diversicaudatum* (a dagger nematode).
26. *Xiphinema index* (California dagger nematode).
27. *Xiphinema insigne* (a dagger nematode).
28. *Xiphinema vuittezezi* (a dagger nematode).
29. *Zygotylenchus* spp. (a lesion nematode).

(2) Plant pests of limited distribution in the state of Florida. Plants and plant products found infested or infected with or exposed to a plant pest of limited distribution in the state shall be subject to immediate quarantine action and will not be eligible for certification until treated as prescribed by the department and released from quarantine. An agreement for Chemical Treatment, DACS-08081, revised 04/08 ~~6/03~~, may be required for plants and plant products requiring treatment. Agreement for Chemical Treatment form, DACS-08081, revised 04/08 ~~6/03~~, is supplied by the division for this purpose and is hereby adopted and incorporated herein by reference and. Copies of DACS 08081, revised 10/04, Agreement for Chemical Treatment, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100. The following are examples of plant pests that would require immediate quarantine action:

(a) Insects.

1. Aulacaspis yasumatsui (Asian cycad scale).
- ~~2.1.~~ *Diaphorina citri* (Asian citrus psyllid).
- ~~3.2.~~ *Diaprepes abbreviatus* (diaprepes root weevil).
- ~~4.3.~~ *Maconellicoccus hirsutus* (pink mealybug).

- ~~5.4.~~ *Metamasius callizona* (bromeliad weevil).
- ~~6.5.~~ *Metamasius hemipterus* (palm and sugarcane weevil).
- ~~7.6.~~ *Morganella longispina* (scale insect) (plumose scale).
- ~~8.7.~~ *Myllocerus undatus* (weevil).
9. Oligonychus persae (avocado mite).
- ~~10.8.~~ *Opuntiaspis* spp. (scale insect).
- ~~11.9.~~ *Paratachardina lobata* (lobate lac scale).
- ~~12.10.~~ *Parlatoria ziziphi* (black parlatoria scale).
- ~~13.11.~~ *Philephedra* sp. (scale insect).
- ~~14.12.~~ *Phoenicococcus marlatti* (red date scale).
15. Raoiella indica (red palm mite).
16. Singhiella simplex (figus whitefly).
- ~~17.13.~~ *Vinsonia stellifera* (stellate scale).
18. Xyleborus glabratus (red bay ambrosia beetle).

(b) Diseases.

1. *Agrobacterium tumefaciens* (crown gall).
2. Cucumber green mottle mosaic virus.
3. Cucurbit leaf crumple begemovirus.
4. Cucurbit yellow stunting disorder crinivirus.
- ~~5.2.~~ Lethal yellowing of palms.
6. Pepino mosaic virus.
- ~~7.3.~~ *Phomopsis gardeniae* (gardenia canker).
8. Phytophthora tropicalis.
- ~~9.4.~~ *Puccinia pelargonii – zonalis* (geranium rust).
- ~~10.5.~~ *Sphaceloma poinsettiae* (poinsettia scab).
11. Texas phoenix palm decline phytoplasma.
- ~~12.6.~~ Tomato yellow leaf curl virus.

(c) Mollusks (snails).

1. *Otala lactea* (milk snail).
2. *Zachrysis provisoria* (Cuban land snail).

(d) Nematodes.

1. *Meloidogyne mayaguensis*.

(3) Common Plant Pests. All nursery stock and other plants and plant products found infested or infected with a common plant pest shall be subject to immediate quarantine action when the population of the plant pest is adversely affecting the plant or plant product. The plant or plant product will not be eligible for certification until treated as prescribed by the department and released from quarantine. An Agreement for Chemical Treatment, DACS-08081, revised 04/08 ~~6/03~~, may be required for plants and plant products requiring treatment.

Specific Authority 570.07(23), 581.031(4), 581.101 FS. Law Implemented 581.031(7), 581.083, 581.101 FS. History—New 4-1-97, Amended 6-12-00, 10-8-03,_____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE NO.: 5B-57.011
 RULE TITLE: Biomass Plantings
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 12, March 21, 2008 issue of the Florida Administrative Weekly.

5B-57.011 Biomass Plantings.

(1) Biomass Permit Requirements. It shall be unlawful to establish a biomass planting greater in size than two contiguous acres except under a biomass permit (Biomass Planting Permit, DACS-08382, revised 04/08 07/06) issued by the department for this purpose and is incorporated herein by reference. An application for new biomass permit will be required if the planting (contiguous or noncontiguous) will exceed five percent (5%) of the acreage of the original permit. No biomass permit shall be issued for any planting of plants on the state noxious weed list or the federal noxious weed list. No biomass permit shall be issued unless the applicant is the owner of the property or has written permission from the property owner to utilize the land for biomass plantings for the duration of the life of the permit. Applications for biomass permits shall be made on Biomass Planting Permit Application, DACS-08381, revised 06/08 08/06, and submitted to the Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100, for this purpose and is incorporated herein by reference. The application forms can be obtained from the same address or from the Division of Plant Industry website, <http://www.doacs.state.fl.us/onestop/plt/methods.html>. Separate applications for biomass permits shall be required for each noncontiguous growing location and must include a complete description of the nonnative plant to be grown and an estimated cost of removing and destroying the subject plant including the basis for calculating or determining that estimate. The applications must be submitted with the permit fee of \$50 and proof that a bond in the form as required in subsection (2), in the form approved by the department and issued by a surety company admitted to do business in Florida or a certificate of deposit has been obtained as described in Section 581.083(4), F.S. ~~The application forms can be obtained from the same address or from the Division of Plant Industry website, <http://www.doacs.state.fl.us/pi/>.~~ In evaluating the permit application, the department shall visit the proposed growing location and determine if feasible measures can be taken to prevent the spread of the plant into neighboring ecosystems. The permit will include the following requirements as a minimum:

(a) A system of traps or filters shall be required to prevent plants or plant parts from spreading through ditches, natural waterways or other drainage. A fallow area in excess of 25 feet may be considered as a trap.

(b) Measures will be required to prevent spread by seed.

(c) A fallow area, wide enough to prevent plant spread into adjacent areas, shall be required. The fallow area may be used singularly or in combination with a berm will be on both sides of a berm surrounding the biomass planting.

(d) Any equipment used on the site must be cleaned of all plant debris before being moved from the property.

(e) Wildfire protection measures will be required to mitigate fire risk and damages to surrounding areas.

(f) A compliance agreement (Compliance Agreement, Biomass, DACS-08383, revised 04/08 07/06) containing any additional requirements needed to prevent plant spread shall be signed and will be an addendum to the permit for this purpose and is incorporated herein by reference. Copies of Compliance Agreement, Biomass, DACS-08383, revised 04/08 07/06, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100, or <http://www.doacs.state.fl.us/onestop/plt/methods.html>. Failure to abide by the permit stipulations or the compliance agreement is considered to be a violation of these rules.

(2) Bonds or Certificates of Deposit. Each permit holder shall maintain for each separate growing location a bond or a certificate of deposit in an amount of not less than 150 percent of the estimated cost of removing and destroying the plants as described in Section 581.083(4), F.S. The bond or certificate of deposit may not exceed \$5,000 per acre except as allowed by subsection 581.083(4)(e), F.S. statute. The Bond or CD assignment or agreement must be on forms DACS-08439, revised 05/08, Biomass Plantings Bond or DACS-08440, revised 05/08, Assignment of Certificate of Deposit, incorporated herein by reference. These forms are available from the Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100 or <http://www.doacs.state.fl.us/onestop/plt/methods.html>.

(3) Abandoned Biomass Plantings. It shall be unlawful for any person to abandon a biomass planting. It is the responsibility of the property owner or permit holder to completely destroy the planting prior to vacating the property or stopping commercial production. If the department determines that the permit holder is no longer maintaining or cultivating the plants subject to the special permit and has not removed and destroyed the plants authorized by the special permit or has exceeded the conditions of the biomass permit, the department shall take action to initiate the removal of the plants through the issuance of an immediate final order and execution of the bond or certificate of deposit as described in Section 581.083(4), F.S.

(4) Exemptions. A biomass permit is not required for plants produced for purposes of agriculture as defined in Section 570.02(1), F.S., or if the department in consultation with the University of Florida, Institute of Food and Agricultural Sciences has determined that the nonnative plant is not invasive and specifically exempts it in this rule. The following plants or groups of plants are exempt:

- (a) Any plant that is produced for purposes of human food consumption.
- (b) Any plant that is commonly grown for commercial feed, feedstuff or forage for livestock.
- (c) Pinus spp.

Specific Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (5), (6), 581.083, 581.091 FS. History–New 10-1-06, Amended _____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

| RULE NOS.: | RULE TITLES: |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 5E-14.102 | Definitions |
| 5E-14.105 | Contractual Agreements in Public’s Interest – Control and Preventive Treatment for Wood-Destroying Organisms |
| 5E-14.110 | Fumigation Requirements – Notices |
| 5E-14.111 | Fumigation Requirements – Application; Restrictions and Precautions |
| 5E-14.112 | Fumigation Requirements – Prefumigation Inspections, Evacuation, Warning Notices (Signs), Special Safety Precautions and Responsibilities |
| 5E-14.142 | Responsibilities and Duties – Records, Reports, Advertising, Applications |

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 14, April 4, 2008 issue of the Florida Administrative Weekly.

5E-14.102 Definitions.

(1) through (16) No change.

(17) “Connected Structure” is defined as any structure physically connected with the structure to be fumigated by construction elements that contain voids (e.g. pipes, conduits, drains, ducts, etc.) which may allow transfer of fumigant between the structures.

Specific Authority 482.051 FS. Law Implemented 482.051(1) FS. History–New 1-1-77, Amended 6-27-79, 6-22-83, Formerly 10D-55.102, Amended 8-11-93, 6-12-02, 4-17-03, _____.

5E-14.105 Contractual Agreements in Public’s Interest – Control and Preventive Treatment for Wood-Destroying Organisms.

(1) through (8) No change.

(9) A licensee acting as a primary contractor who may subcontract the performance of the work to another licensee shall notify the customer that the performance of the work may be assigned to another licensee other than the primary contractor. This written notification shall be part of the contract as a separate statement itself or attached to the contract as a separate document, and must be signed or initialed by the consumer.

Specific Authority 482.051 FS. Law Implemented 482.051(3) FS. History–New 1-1-77, ~~Joint Administrative Procedures Committee Objection Withdrawn~~ See FAW Vol. 3, No. 30, July 29, 1977, Amended 6-27-79, 10-25-90, Formerly 10D-55.105, Amended 8-11-93, 4-17-03, 6-1-06, _____.

5E-14.110 Fumigation Requirement – Notices.

Each licensee, before performing general fumigation, shall in advance notify in writing the department inspector having jurisdiction over the location where the fumigation operation is to be performed. Notification shall be made on DACS Form 13667, Notification of Fumigation, rev. 05/08, which is hereby adopted and incorporated by reference and available from the department’s website at <http://www.doacs.state.fl.us/onestop/aes/pestcont.html>. Such notices shall be received by the department inspector at least twenty four (24) hours in advance of the fumigation period. The notice shall state the following:

(1) through (2) No change.

(3) Name of certified operator in charge and/or his designated certified operator(s) and special fumigation identification card holder(s) together with his day and night telephone numbers.

(4) (Location (address) and type of structure (residential, commercial, multi-unit, single family/business or other) to be fumigated.

~~(5) Date of and, as nearly as possible, the approximate time of release of fumigant, and the approximate length of fumigation period. Any change(s) in information required in written notices by this regulation shall be reported in writing in advance of the fumigation period.~~

(6) Any change(s) in information required in written notices by this regulation shall be reported in writing in advance of the fumigation period.

(a) Exceptions: In authentic and verifiable emergencies only, when twenty-four (24) hours advance notification is not possible, advance telephone or facsimile telegraph notice shall be given, and such notice immediately followed by written confirmation stating the required information.

Specific Authority 482.051 FS. Law Implemented 482.051(4) FS., ~~Section 1, Chapter 92-203, Laws of Florida~~ History–New 1-1-77, Amended 6-27-79, 6-22-83, 10-25-90, Formerly 10D-55.110, Amended 7-5-95, _____.

5E-14.111 Fumigation Requirements – Application; Restrictions and Precautions.

(1) No change.

(2) Neither the structure nor enclosed space to be fumigated nor any part or parts thereof shall be occupied by persons during the fumigation period. In addition, structures or enclosed spaces which are physically connected ~~joined to or in contact~~ with the structure to be fumigated shall not be occupied by persons during the fumigation period. (See subsections 5E-14.111(3) and (4), F.A.C.) ~~This requirement may be waived in the fumigation of commodities in industrial areas when it is determined upon prior inspection by the certified operator in charge that no danger to human life or health exists.~~

~~(3)(a) In the event one or more structures in a row of physically joined structures is to be fumigated, at least one additional complete building structure next to and on both sides of the structure to be fumigated must be vacated, provided there are no common drains, air ducts, conduits, attics or other means permitting escape or passage of the fumigant from the structure to be fumigated into the additional vacated building(s). If there are common means permitting passage of the fumigant into the additional vacated building(s) then one more building must be vacated and so on. If this set of conditions cannot be met, the entire row of structures must be vacated or the fumigation shall not be carried out.~~

(3) In the event one or more units in a multi-unit structure (see subsection 5E-14.102(9), F.A.C.) are to be fumigated, the entire multi-unit structure must be vacated prior to fumigation and individually tested for clearance in accordance with label instructions following fumigation. If these requirements cannot be met, the fumigation shall not be performed.

(4) It shall be the duty of the certified operator in charge or his designated special fumigation identification card holder to be present and personally to make a careful examination of all parts of the structure to be fumigated, such as including ~~including~~ locked rooms, compartments, closets, enclosed spaces and any connected structures, physically joined to or in contact with said structure to verify that no persons have remained therein.

(5) No change.

(6) When fumigating structures with methyl bromide, sulfuryl fluoride or any other relatively odorless gas, technical chloropicrin shall be used separately as a warning agent immediately prior to release of the relatively odorless gas at the rate of not less than one fluid ounce per 15,000 cubic feet of space to be fumigated or as otherwise directed by fumigant label. ~~Registered label mixtures of at least one fourth of one percent chloropicrin by net weight analysis may be used in lieu of the above.~~

(a) Exceptions: This section shall not apply to the fumigation of common carriers (trucks, box cars, refrigerator cars), the fumigation of tobacco warehouses and factories, the fumigation in tanks, vaults, or chambers, or the fumigation of commodities in industrial areas when it has been determined

by prior inspection by the certified operator in charge that no danger to human life or health exists unless required by the fumigant label.

(7) No change.

Specific Authority 482.051 FS. Law Implemented 482.051(1), 482.152, 482.241 FS., ~~Section 1, Chapter 92-203, Laws of Florida.~~ History–New 1-1-77, Amended 6-27-79, 6-22-83, Formerly 10D-55.111, Amended 8-11-93,_____.

5E-14.112 Fumigation Requirements – Prefumigation Inspections, Evacuation, Warning Notices (Signs), Special Safety Precautions and Responsibilities.

(1) through (2) No change.

(3) Warning signs shall conform in design and information set forth as follows:

| | | |
|-------------------------------|-----------------------------------------------------------------|-------------------------------|
| (Skull and Crossbones Symbol) | DANGER FUMIGATING WITH (Accepted common name of Fumigant) | (Skull and Crossbones Symbol) |
|-------------------------------|-----------------------------------------------------------------|-------------------------------|

DEADLY POISON
ALL PERSONS ARE WARNED TO

Keep away

Date and time fumigant was introduced ~~injected~~ _____

Company Name _____

Company Business Address _____

Certified Operator in Charge _____

~~(or designated Spec. Fum. Iden. Card Holder)~~

Fumigant Introduced by injected

Day Telephone _____

Night Telephone _____

(4) through (7) No change.

Specific Authority 482.051 FS. Law Implemented 482.051(1), 482.152 FS. History–New 1-1-77, Amended 6-27-79, Formerly 10D-55.112, Amended 4-17-03,_____.

5E-14.142 Responsibilities and Duties – Records, Reports, Advertising, Applications.

(1) Records: Pest Control records of the licensee pertaining to pest control activities and including contracts shall be kept at the licensed business location or at the exact Florida address specified in the application for business license for inspection by Department inspectors. Additionally, routine operational records shall be available for inspection by appropriate state officials during normal business hours at reasonable times there. ~~Routine operational records containing information on pesticides, amounts, uses, dates, and places of application shall be maintained for a period of at least two years routine operational records containing information on kinds (names), amounts, uses, dates, and places of application of restricted use pesticides.~~ Licensees operating in the category of fumigation shall record this information along with the individual fumigant cylinder identification number utilized to fumigate a structure.

(2) through (8) No change.

Specific Authority 482.051 FS. Law Implemented 482.071, 482.091, 482.161(1)(g), 482.226(1), (2), (4), (5), (6) FS. History—New 1-1-77, Amended 6-27-79, 6-22-83, 1-20-87, 10-25-90, Formerly 10D-55.142, Amended 8-11-93, 5-28-98, 4-29-02, 4-17-03, 6-2-04, 6-1-06, _____.

DEPARTMENT OF TRANSPORTATION

RULE NO.: 14-10.025
 RULE TITLE: Wall Murals

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 8, February 22, 2008 issue of the Florida Administrative Weekly.

SUMMARY OF CHANGE: Proposed Rule 14-10.025, F.A.C. is being amended, including new language not included in the notice of rulemaking, deletion of previously proposed language, renumbering of subsections, and addition of Law Implemented citations.

A rule hearing was conducted as scheduled in the notice of rulemaking. Challenges to the proposed rule have been filed with the Division of Administrative Hearings.

NOTE: Although this is a proposed new rule, which would be totally underlined, the newly proposed changes are shown with the traditional add and delete coding in order to highlight changes from the previously proposed language to the revised language.

The following text reflects the proposed changes:

14-10.025 Wall Murals.

(1) ~~Department approval of w~~Wall murals displaying commercial messages within 660 feet of the right of way of an interstate or federal aid primary highway may be obtained either by compliance with local sign control in municipalities or counties exercising such control pursuant to subsection (2) of this rule or by direct approval as set forth in subsection (3) of this rule must obtain Department approval prior to installation.

(2) In order to exercise local sign control over wall murals pursuant to 23 USC 131(d), 23 CFR 750.706(c) and the Agreement between the State of Florida and the United States Department of Transportation (Federal/State Agreement), a municipality or county must demonstrate to the Department that it has established and will enforce regulations with criteria governing the size, lighting, and spacing of signs consistent with the intent of the Highway Beautification Act of 1965 and with customary use. Customary use means the predominant, usual practice with regard to size, lighting, and spacing of signs existing in the municipality or county as of the date of the Federal/State Agreement, being January 27, 1972.

(a) Upon Department acceptance of a municipality or county’s exercise of local control, the Department will notify the Federal Highway Administration pursuant to 23 CFR 750.706(c). The Department will monitor the municipality or county for continuing effective local control.

(b) Exercise of local control will be disallowed if the municipality or county fails to enforce its regulations or if the Federal Highway Administration notifies the Department of an intent to impose the penalty provided for in 23 USC 131(b) because the exercise of local control by the municipality or county has resulted in a of loss of effective control of outdoor advertising.

(c) Wall murals maintained in violation of local control requirements are illegal signs subject to local enforcement and removal in accordance with Section 479.105, F.S.

(3)(2) In municipalities or counties which permit and regulate wall murals but which do not exercise local sign control as a described above, A application for approval of a wall mural is made by completing and submitting the form Application for Wall Mural Approval, Form 575-070-31, Rev. 09/07, incorporated herein by reference, to the address listed in subsection 14-10.003(2), F.A.C. The application form may be obtained from the State Outdoor Advertising License and Permit Office.

- (a) A separate application is required for each wall mural.
- (b) Priority of applications will be based upon the order of receipt of completed applications.

1. An application will be considered complete when all items on the application form have been filled in, and all required attachments received.

2. Incomplete applications will be returned to the applicant without Departmental action. Applications containing incorrect information will be returned to the applicant as denied.

3. Once an application form has been received by the Department, any change or addition to the application form as submitted must be initialed by the applicant on the original application document.

(c) Each application must include the following attachments:

1. A statement from the municipality or county local government within whose jurisdiction the mural is to be located that the property on which the mural is to be located is zoned for commercial or industrial use,

2. A statement from the municipality or county local government approving the placement of the wall mural as described in the Application,

3. A copy of the municipality or county local ordinance enacted in conformance with Section 479.156, F.S., allowing for the placement of wall murals,

4. A photograph of the building on which the mural will be displayed, and

5. Payment for the initial fee in the amount set forth in Rule 14-10.0043, F.A.C., for outdoor advertising permit fees.

~~(d)(3)~~ In order to be approved by the Department, all the following requirements must be met:

~~1.(a)~~ The property on which the wall mural is to be located must be zoned for commercial or industrial uses.

~~2.(b)~~ The height of the mural may not exceed 30 feet.

~~3.(c)~~ The width of the mural may not exceed 60 feet.

~~4.(d)~~ The total area of the mural may not exceed 1,200 square feet.

~~5.(e)~~ Wall murals must meet minimum spacing from any permitted outdoor advertising sign or previously approved wall mural. Minimum spacing is 500 feet on the federal aid primary highway system and 1,000 feet on the Interstate highway system. Measurements are taken from the midpoint of a mural placed parallel to the controlled roadway and from the point of the mural closest to the roadway for right or left read displays.

~~6.(f)~~ Wall murals may not be located within 500 feet of an interstate interchange outside an incorporated area.

~~(g) In lieu of the requirements set forth in paragraphs (3)2. through (3)6, the applicant must demonstrate that the wall mural constitutes a customary use which was a widespread, long standing and common general practice within the local jurisdiction on the date of enactment of the federal Highway Beautification Act of 1965, 23 U.S.C. Sec. 131, and the agreement between the State of Florida and the United States Department of Transportation which implements outdoor advertising control pursuant to the requirements of that Act.~~

~~7.(h)~~ An annual fee in the amount established in Rule 14-10.0043, F.A.C., for outdoor advertising permit fees must be paid.

~~8.(4)~~ The Department shall deny any application for a wall mural and will revoke any previously issued permit if the Department receives notification from the Federal Highway Administration that the wall mural is not approved under federal laws or regulations.

~~(e)(5)~~ The Department will approve or deny complete applications within 30 days of receipt by the Department.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.07, 479.15, 479.156 FS.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-4.070

RULE TITLE:
Durable Medical Equipment and Supplies

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 25, June 20, 2008 issue of the Florida Administrative Weekly.

These changes are in response to written material received before the date of the final public hearing.

The rule incorporates by reference the Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook, July 2008. The following revisions were made to the handbook.

Page 1-3, Provider Qualifications and Enrollment. We added the following: "Cost-Effective Purchasing of Health Care. According to Florida Statute 409.912, the Agency for Health Care Administration may competitively bid single-source-provider contracts if procurement of goods or services results in demonstrated cost savings to the state without limiting access to care. The agency may seek federal waivers necessary to administer these policies."

Page 1-4, Provider Qualifications and Enrollment. Due to the addition of new content on Page 1-3, we moved Qualification Requirements to Page 1-4.

Page 1-7, DME and Medical Supply Provider Qualifications for Enrollment and Re-enrollment. We deleted the fourth bullet, which read, "The provider must have a current physical DME and medical supply business location with substantial stock and not operating primarily as a mobile DME and medical supply business, as defined in this chapter; and"

Page 1-11, Mobile DME and Medical Supply Providers. We deleted this section, which read, "Medicaid will not enroll or maintain enrollment with a mobile DME and medical supply provider. The Medicaid DME and Medical Supply Services Program defines a mobile provider as: DME and medical supply provider located within the state or within fifty miles of the Florida state line that primarily furnishes DME and medical supply services out of a mobile shop(s) or vehicle(s), traveling 350 road miles or more round trip to serve more than 50 percent of its Florida customers; or DME and medical supply providers operating within the state or within fifty miles from the Florida state line that furnishes all its DME and medical supply services from a vehicle(s) and does not provide DME and medical supply services to the public from a stationary physical DME medical supply services business location. Customer percentage is determined through a records review."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 69O-144.007
 RULE TITLE: Credit for Reinsurance From Eligible Reinsurers

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 14, April 4, 2008 issue of the Florida Administrative Weekly.

These changes are being made in response to comments by JAPC.

Subsection (6) now reads as follows:

(6) In addition to the trust fund required under paragraph (3)(c) of Section 624.610, F.S., the commissioner shall permit an assuming insurer that maintains a trust fund in a qualified United States financial institution, as that term is defined in paragraph (5)(b) of Section 624.610, F.S., for the payment of the valid claims of its United States cedent insurers and their assigns and successors in interest to also maintain in a qualified United States financial institution a trust fund constituting a trustee amount at least equal to the collateral required in accordance with subsection (4) of this rule to secure the liabilities attributable to United States cedent insurers under reinsurance policies (contracts) entered into or renewed by such assuming insurer on or after the effective date of this rule or such other date as may be established in other states for cedent insurers domiciled in such states, but only when maintenance of such a trust fund serves to protect the interests of the public and the interests of insurer solvency.

Subparagraph (8)(a)3. now reads as follows:

3. A report that provides information to the office as to its ceded and ceding insurance; the information may be provided in the form of the NAIC Property and Casualty Annual Filing Blank Schedule F, or in any manner that provides the Office with the same information about its ceded and ceding insurance that is disclosed by the NAIC Property and Casualty Annual Filing Blank Schedule F;

Subsection (13) now reads as follows:

(13)(a) Upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer, pursuant to Chapter 631, Part I, F.A.C., or the equivalent law of another jurisdiction, an eligible reinsurer, within 30 days of the order, shall fund the entire amount that the ceding insurer has taken, as an asset or deduction from reserves, for reinsurance recoverable from the eligible reinsurer. The insurer may request a variance and waiver from this provision as provided by Section 120.542, F.S.

(b) If an eligible reinsurer fails to comply on a timely basis with paragraph (a) of this subsection, the Commissioner shall withdraw the reinsurer’s eligibility under this rule.

The remainder of the rule reads as previously published.

**Section IV
 Emergency Rules**

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.: 12DER08-19
 RULE TITLE: Repeal of Rule 12DER07-06 Relating to 2007 Millage Levy Compliance

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2007-321, Laws of Florida, authorized the Department of Revenue to adopt emergency rules that could remain in effect for 18 months and that could be renewed. This act further provided that all conditions imposed by Chapter 120, Florida Statutes were deemed to be met.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the Department of Revenue to adopt emergency rules that implement the provisions of Chapter 2007-321, Laws of Florida. The law provides that these emergency rules remain in effect for a period of 18 months and that they may be renewed. Emergency Rule 12DER07-06, Information for Municipal Service Taxing Units and Special Districts Dependent to a County, the Predominant Function of Which is the Provision of Emergency Medical or Fire Rescue Services (effective June 29, 2007), is being repealed because it was applicable only for year 2007, and is not applicable to years past 2007. New requirements of Chapter 2008-173 (Senate Bill 1588), Laws of Florida, as passed by the 2008 Legislature, have replaced the provisions applicable in previous years.

SUMMARY: The purpose of Rule 12DER08-19 is to repeal Rule 12DER07-06, Information for Municipal Service Taxing Units and Special Districts Dependent to a County, the Predominant Function of Which is the Provision of Emergency Medical or Fire Rescue Services, (effective June 29, 2007) relates to 2007 millage levy compliance.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Renee Harkins, Department of Revenue, Property Tax Technical Unit, 725 S. Calhoun Street, Tallahassee, Florida 32399-0100; telephone (850)414-6104; Fax (850)488-9482; email address: harkinre@dor.state.fl.us

THE FULL TEXT OF THE EMERGENCY RULE IS:

12DER08-19 Repeal of Rule 12DER07-06 Relating to 2007 Millage Levy Compliance.

The following rule is hereby repealed: Rule 12DER07-06, Information for Municipal Service Taxing Units and Special Districts Dependent to a County, the Predominant Function of Which is the Provision of Emergency Medical or Fire Rescue Services (effective June 29, 2007).