

Rulemaking Specific Authority 497.103(1)(u), (5)(a) FS. Law Implemented 497.273 FS. History—New 11-2-78, Formerly 3D-30.23, 3D-30.023, Amended 7-27-99, Formerly 3F-6.003, Amended _____.

69K-6.0052 Examination Work Papers.

(1) through (3) No change.

(4) Work papers that are not substantially similar in form to Examination Workpapers, Form DFS-EW-1, effective January 1, 1999, which is hereby incorporated by reference in Rule 69K-1.001, F.A.C., shall be submitted for approval to the ~~Bureau Chief~~ of the Division of Funeral, Cemetery, and Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361. Such format shall have a reasonable audit trail that can be followed.

(5) through (6) No change.

Rulemaking Specific Authority 497.103(1)(u), (5)(a), 497.276(3) FS. Law Implemented 497.268, 497.272, 497.276, 497.458, 497.464 FS. History—New 8-16-98, Amended 1-1-99, Formerly 3F-6.0052, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Doug Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 2, 2011

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

| RULE NOS.: | RULE TITLES: |
|------------|--|
| 5B-66.002 | Purpose |
| 5B-66.003 | Quarantine Area |
| 5B-66.004 | Movement or Procession of Hosts or Other Regulated Articles; Conditions of Certification |
| 5B-66.006 | Treatment Areas, Treatment Procedures and Mitigative Measures and Declaration of Eradication |

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. 37, No. 28, July 15, 2011 issue of the Florida Administrative Weekly.

The Statement of Estimated Regulatory Costs is amended to read:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency. Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

If adopted, the proposed rule is not expected to require legislative rule ratification under Section 120.541(3), Florida Statutes (or any other statute) before becoming effective for the following reasons: 1) none of the requirements in Section 120.541(1), Florida Statutes, for preparing a Statement of Economic Regulatory Costs (SERC) were triggered and 2) based on past experiences with invasive pest eradication activities and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), Florida Statutes.

5B-66.001 Definitions.

No change.

5B-66.002 Purpose.

The purpose of ~~these rules~~ ~~this rule~~ is to establish procedures for conducting a program to eradicate fruit flies defined in subsection 5B-66.001(2), F.A.C., upon their detection in the State of Florida. This rule chapter designates the size of quarantine areas and the requirements for the movement and certification of hosts and regulated articles. It also designates the size of treatment areas and the procedures for conducting treatments, outlines program mitigative measures and sets forth the requirements for declaring eradication.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New _____.

5B-66.003 Quarantine Area.

(1) No change.

(2) The geographical boundaries of a quarantine area shall be published in a major newspaper of general distribution in the quarantine area, ~~provided on the Department's website, and~~ provided to affected industry groups, and published on the Department's website at <http://www.freshfromflorida.com/PI>.

(3) No change.

(4) A list of hosts most likely to be present in a quarantine area shall be published in a major newspaper of general distribution in the quarantine area, ~~provided on the Department's website, and~~ provided to affected industry groups, and published on the Department's website at <http://www.freshfromflorida.com/PI>.

(5) No change.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New _____.

5B-66.004 Movement or Possession of Hosts or Regulated Articles; Conditions of Certification.

(1) Compliance agreements. The certification of handling, processing, treatment, and moving of hosts and regulated articles may be accomplished through the use of a compliance agreement. The form Compliance Agreement Cooperative Fruit Fly Eradication Project, DACS 08468, Rev. 05/11, and Compliance Agreement Cooperative Fruit Fly Eradication Project, Aerial Applicator, DACS-08469, Rev. 05/11, are incorporated herein by reference and may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, by writing to P. O. Box 147100, Gainesville, FL 32614-7100 or on at <http://www.flrules.org/Gateway/reference> <http://www.freshfromflorida.com/onestop/plr/plantinsp.html>.

(2) No change.

(3) Hosts or regulated articles may be moved out of a quarantine area if processed with a post harvest treatment (fumigation or irradiation); or application of a bait spray treatment and fruit fly trap placement 30 days prior to harvest and monitoring throughout the harvest season with negative results. Hosts or regulated articles shall be certified by the Department for movement out of a quarantine area for commercial or distribution purposes following confirmation based on negative trapping, post harvest treatments, or treatments applied to production areas which are approved by the Department of either method above by issuing a Temporary Certificate of Inspection (DACs-08010), Rev. 10/08, as incorporated in Rule 5B-2.010, F.A.C. After confirmation, the Department shall issue a Temporary Certificate of Inspection (DACs-08010), Rev. 10/08, as incorporated in Rule 5B-2.010, F.A.C. Prior to movement of hosts or regulated articles, the method of treatment and location of the treatment facility must be documented in the “Additional Declarations” section of DACS-08010. Interstate movement of hosts or regulated articles shall be governed by 7 CFR §301.32 – Subpart – Fruit Flies (§301.32 and §301.32-1 to §301.32-10, effective June 9, 2008) which is hereby incorporated by reference and may be obtained from www.gpo.gov.

(4) through (5) No change.

(6) Soil and plants with soil attached:

(a) No change.

(b) Soil and plants with soil attached under the canopy of a plant which is bearing hosts or was capable of bearing hosts within the previous 60 days, shall be certified provided:

1. All such soil and plants with soil attached are removed to an area clear of plants bearing or capable of bearing hosts and the soil is treated with an EPA-registered pesticide, an Emergency Exempted product as authorized by Federal Insecticide Fungicide and Rodenticide Act (FIFRA), Section 18 [7 U.S.C. 136p, effective December 13, 1991], or a Special

Local Need product as authorized by FIFRA, Section 24(c) [(7 U.S.C. 136 v, effective October 25, 1988)] that are labeled as effective for fruit fly control that are labeled as effective for fruit fly control. The sections of the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) referenced above are hereby incorporated by reference and copies may be obtained from www.gpo.gov.

2. No change.

(c) Plants bearing hosts or which were capable of bearing hosts within the previous 60 days, shall be certified for movement only if an authorized representative of the Department or USDA-APHIS-PPQ has conducted an inspection and certified that all hosts have been removed in accordance with paragraph 5B-66.006(1)(c), F.A.C., and that any soil attached to the host is treated with an EPA-registered pesticide, an Emergency Exempted product as authorized by Federal Insecticide Fungicide and Rodenticide Act (FIFRA), Section 18 [7 U.S.C. 136p, effective December 13, 1991], or a Special Local Need product as authorized by FIFRA, Section 24(c) [(7 U.S.C. 136 v, effective October 25, 1988)] that are labeled as effective for fruit fly control. The sections of the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) referenced above are hereby incorporated by reference and copies may be obtained from www.gpo.gov. All treatments must be conducted under the supervision of an authorized representative of the Department or USDA-APHIS-PPQ or pursuant to a compliance agreement as provided in subsection 5B-66.004(1), F.A.C.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New _____.

5B-66.005 Confiscation and Disposal of Hosts.

No change.

5B-66.006 Treatment Areas, Treatment Procedures, Mitigative Measures and Declaration of Eradication.

(1) Treatment areas and treatment procedures to eradicate a fruit fly infestation will be dependent on the species, life-stages and numbers of fruit flies detected and the geographical area affected by the fruit fly infestation. Treatment areas shall be treated under the direction of the Department or the USDA-APHIS-PPQ. All pesticide applications will be applied in accordance with applicable federal and state regulations, implementing mitigative measures to reduce environmental and public impact as described in ~~this~~ subsection 5B-66.006(4), F.A.C. The Department or other parties acting in concert with the Department through a compliance agreement shall use the following treatment activities or combination thereof:

(a) Ground or aerial applications of an EPA-registered pesticide, an Emergency Exempted product as authorized by Federal Insecticide Fungicide and Rodenticide Act (FIFRA), Section 18 [7 U.S.C. 136p, effective December 13, 1991], or a

Special Local Need product as authorized by FIFRA, Section 24(c) [(7 U.S.C. 136 v, effective October 25, 1988)] that are labeled as effective for fruit fly control. The sections of the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) referenced above are hereby incorporated by reference and copies may be obtained from www.gpo.gov.

(b) through (f) No change.

(2) Delimitation area and Treatment areas. The geographical boundaries of treatment areas shall be published in a major newspaper of general distribution in the treatment area, ~~provided on the Department's website, and~~ provided to affected industry groups, and published on the Department's website at <http://www.freshfromflorida.com/PI>.

(a) through (b) No change.

(c) If a larva is detected, in addition to paragraph 5B-66.006(1)(b) above, the soil under the canopy of all host plants on the property and each adjacent property shall be drenched with an EPA-registered pesticide, an Emergency Exempted product as authorized by Federal Insecticide Fungicide and Rodenticide Act (FIFRA), Section 18 [7 U.S.C. 136p, effective December 13, 1991], or a Special Local Need product as authorized by FIFRA, Section 24(c) [(7 U.S.C. 136 v, effective October 25, 1988)] that are labeled as effective for fruit fly control. The sections of the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) referenced above are hereby incorporated by reference and copies may be obtained from www.gpo.gov. All hosts shall be removed within a 660-foot radius of the positive site by the Department or the USDA-APHIS-PPQ.

(3) No change.

(4) Program Mitigative Measures. The following mitigative measures will be taken to reduce public and environmental impact:

(a) Residents in treatment areas shall be notified in person or by publication in a major newspaper of general distribution in the treatment area at least 24 hours in advance of the date and time of planned pesticide treatments, ~~on the Department's website, and~~ notice will be provided to affected industry groups, and published on the Department's website at <http://www.freshfromflorida.com/PI>. Notifications will be in English or other languages as necessary based on the ethnic structure of the community. The notification shall include basic information about the program, the geographical boundaries of the treatment area, treatment procedures and measures to be taken to avoid exposure and reduce damage.

(b) through (f) No change.

(5) Declaration of Eradication. Following the completion of all treatments, eradication shall be declared when no fruit fly is detected after a period of a minimum of two fruit fly life cycles. The Department shall publish notice of the Declaration of Eradication in a major newspaper of general distribution in the quarantine area, ~~provided on the Department's website, and~~ provided to affected industry groups, and published on the Department's website at <http://www.freshfromflorida.com/PI>.

(6) No change.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History--New_____.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.09022
 RULE TITLE: Extension of Services in English for Speakers of Other Languages Program

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. 37, No. 20, May 20, 2011 issue of the Florida Administrative Weekly.

Based on public input at the September 20, 2011, meeting of the State Board of Education, the State Board approved the rule with the following change to subsection (2):

(2) Any student being considered for extension of services shall be assessed on at least one (1) Department-approved assessment instrument. The assessment shall be administered no earlier than thirty (30) school days prior to the student's anniversary date. If the student's anniversary date falls between the administration of the Comprehensive English Language Learner Assessment (CELLA) a given school year and October 1 of the following school year, within the first two (2) weeks of the school year, the student's CELLA and applicable Florida Comprehensive Assessment Test (FCAT) scores from the prior school year will suffice, and a more recent assessment is not required. The assessment may be any Department-approved assessment that must covers all four (4) domains, of listening, speaking, reading, and writing.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.077
 RULE TITLE: Preapprenticeship Programs

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 37, September 16, 2011 issue of the Florida Administrative Weekly. The notice of proposed rulemaking omitted reference to the need for legislative ratification. The repeal of this proposed rule is not expected to require legislative ratification. This rule was last amended in 1994 and is now outdated and inconsistent with current governing statute.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-10.0371
 RULE TITLE: Model Noninstructional Adult Literacy Centers

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-27.001
 RULE TITLE: Definitions

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 38, September 23, 2011 issue of the Florida Administrative Weekly.

The notice of proposed rule did not state what information was relied upon in determining that the proposed rule is not expected to require legislative ratification. The information expressly relied upon is: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-42.007
 RULE TITLE: Gear Specifications and Prohibited Gear

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 38, September 23, 2011 issue of the Florida Administrative Weekly.

The notice of proposed rule did not state what information was relied upon in determining that the proposed rule is not expected to require legislative ratification. The information expressly relied upon is: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

**Section IV
 Emergency Rules**

DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER11-51
 RULE TITLE: Extension of MONOPOLY™ ADVANCE TO GO Second Chance Promotion

SUMMARY: The Department of the Lottery will extend the end date of the MONOPOLY™ ADVANCE TO GO Second Chance Promotion described in Rule 53ER11-32 from September 20, 2011, to September 22, 2011.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER11-51 Extension of MONOPOLY™ ADVANCE TO GO Second Chance Promotion.

(1) The end date of the MONOPOLY™ ADVANCE TO GO Second Chance Promotion, described in Rule 53ER11-32, F.A.C., is extended from September 20, 2011, to September 22, 2011. During the extension period, players can enter their non-winning MONOPOLY™ Florida Lottery Scratch-Off tickets on the Florida Lottery website commencing at 1:00 p.m. ET on September 21, 2011, through 1:00 p.m. ET on September 22, 2011.

(2) The fourth drawing set forth in Rule 53ER11-32, F.A.C., is rescheduled to take place on Friday, September 23, 2011, and will include entries received during the periods of August 31, 2011, through midnight on September 20, 2011, and 1:00 p.m. ET on September 21, 2011, through 1:00 p.m. ET on September 22, 2011.

(3) Except as provided in subsections (1) and (2) above, all other provisions set forth in Rule 53ER11-32, F.A.C., shall remain in effect.

Rulemaking Authority 24.105(9), 24.109(1), FS. Law Implemented 24.105(9), 24.115(1) FS. History—New 9-21-11.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.
EFFECTIVE DATE: September 21, 2011

**Section V
 Petitions and Dispositions Regarding Rule Variance or Waiver**

DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN that on September 21, 2011, the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of subsection 11B-27.00212(14), F.A.C., from Atlantis Police Department on behalf of one officer for the 2008-2010 (7/1/2008 – 6/30/2010) reporting period subsection 11B-27.00212(14), F.A.C., requires officers to requalify with a firearm every two years on a course of fire mandated by Commission rule. The petition supports the requested waiver by stating that the officer at issue is a CJSTC-certified firearms instructor and that he did successfully complete the course of fire, however, he signed his own CJSTC form 86A. Petitioner states that the officer will suffer a substantial hardship if his certification is rendered inactive as a result of this situation. Petitioner further states that it would violate the principles of fairness to fail to recognize that the officer did successfully complete the requirement simply because he signed his own CJSTC form 86A for the 2010 reporting cycle.