

deducted from countable income during a period of eligibility. Medical expenses reimbursed by a state or local government not funded in full by federal funds, excluding Medicaid program payments, are allowable deductions. Any other expenses reimbursable by a third party are not allowable deductions. Examples of recognized medical expenses include:

1. Allowable health insurance costs such as medical premiums, other health insurance premiums, deductibles and co-insurance charges; and,

2. Allowable medical services such as the cost of public transportation to obtain allowable medical services; medical services provided or prescribed by a recognized member of the medical community; and personal care services in the home prescribed by a recognized member of the medical community.

(7) Copies of the forms and materials incorporated by reference in this rule may be obtained from the ACCESS Florida Headquarter’s Office at 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700. Forms are also available on the Department’s web site at <http://www.dcf.state.fl.us/DCFForms/Search/DCFFormsSearch.aspx>.

Rulemaking Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History–New 10-8-97, Amended 1-27-99, 4-1-03, 6-13-04, 8-10-06 (1), (4), 8-10-06 (1), 2-20-07, 10-16-07, 5-6-08,_____.

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Marketing and Development

RULE NOS.:	RULE TITLES:
5H-1.006	Definitions
5H-1.007	Content of Dealers Records
5H-1.008	Guidelines for Imposing Administrative Penalties
5H-1.009	Documents Incorporated by Reference

PURPOSE AND EFFECT: To provide a definition of tropical foliage, define contents of records to be kept by licensed dealers in agriculture products, to provide guidelines for imposing administrative penalties for violations, and to incorporate documents by reference.

SUMMARY: Defines tropical foliage, contents of records to be kept by licensed dealers in agriculture products, provides guidelines for imposing administrative penalties for violations, and incorporates documents by reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an impact on small business. An 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.

RULEMAKING AUTHORITY: 534.48, 535.02, 604.27 FS.

LAW IMPLEMENTED: 534.48, 535.01, 604.15, 604.16, 604.18, 604.20, 604.21, 604.22, 604.23, 604.27, 604.30, 604.33 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Christopher Green, Bureau Chief, 407 South Calhoun Street, M-38, Tallahassee, Florida 32399, (850)488-4101

THE FULL TEXT OF THE PROPOSED RULES IS:

5H-1.006 Definitions.

For the purpose of this chapter, the definitions in Section 604.15, F.S., and the following shall apply. Tropical Foliage means any kind of herbaceous plants, originally from tropical climates, that are grown and sold as potted plants, cut foliage or interiorscape primarily for the decorative value of their leaves. Excluded from this definition are woody temperate zone plants, such as trees, shrubs or woody vines.

Rulemaking Authority 604.27 FS. Law Implemented 604.15, 604.27 FS. History–New _____.

5H-1.007 Content of Dealers Records.

In accordance with Section 604.22, F.S., each licensed dealer shall preserve for at least eighteen (18) months a record of each transaction involving agricultural products. The preserved record may take the form of an invoice, bill of sale, manifest, or other written document showing the date of sale, the name and address of the seller, and the kind or common name and quantity of each agricultural product included in the transaction.

Rulemaking Authority 604.27 FS. Law Implemented 604.22, 604.27 FS. History–New _____.

5H-1.008 Guidelines for Imposing Administrative Penalties.

(1) This rule sets forth the guidelines the Department will follow in imposing the penalties authorized under Chapter 604, F.S. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$2,500 per violation. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty and will be grounds for enhancement of penalties.

(2) The Department will enforce compliance with Chapter 604, F.S., and this rule chapter by issuing an Administrative Complaint for violations.

(3) Aggravating and Mitigating Factors. The Department will consider aggravating and mitigating factors in determining the penalty to be imposed for violations of Chapter 604, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation.

(a) Aggravating Factors:

1. Whether a complaint(s) have been filed against the Respondent by a producer (or their agent) of agricultural products in Florida.

2. The violation caused or has the potential to cause harm to a Florida agricultural producer and the degree or extent of such harm.

3. Previous violations for the same or a similar offense that resulted in enforcement action.

4. The length of time the business has been in operation and the violation history over the past three years.

5. The violation existed for an extended period of time.

6. The violation was repeated within a short period of time.

7. The violator impeded, or otherwise failed to cooperate with, the Department's inspection and/or investigation.

8. Previous disciplinary action against the violator in this or any other jurisdiction and the deterrent effect of the penalty imposed.

9. Undue delay in initiating or completing, or failure to take, affirmative or corrective action after receipt of the Administrative Complaint.

10. Whether the violation resulted from negligence or an intentional act.

11. The cost of enforcement action.

12. The number of other violations proven in the same proceeding.

13. The economic benefit to the violator.

(b) Mitigating Factors:

1. Any documented efforts by the violator at corrective action.

2. Whether intentional actions of another party prevented the violator from complying with the applicable laws or rules.

3. Financial hardship.

4. Acts of God or nature that impairs the ability of the violator to comply with Chapter 604, F.S., and this rule chapter.

5. The violation has a low risk of, or did not result in, harm to a Florida agricultural producer.

6. The violator expeditiously took affirmative or corrective action after it received written notification of the violation.

7. The number and seriousness of the counts in the Administrative Complaint.

8. If a repeat violation, whether three years has passed since the prior violation.

(4) Penalties.

(a) Minor Violations. A violation of Chapter 604, F.S., or this rule chapter is a minor violation if it does not result in economic or physical harm to a Florida producer or create a significant threat of such harm. Minor violations shall result in the issuance of an Administrative Complaint and imposition of an administrative fine of \$500.00 per violation, for first time offenders. Aggravating factors, as defined in paragraph (3)(a) of this rule, shall warrant the adjustment of the fine upward, but no fine shall exceed the statutory maximum as outlined in Section 604.30(3)(a), F.S. Mitigating factors, as defined in paragraph (3)(b) of this rule, shall warrant the adjustment of the fine downward. For the purposes of this rule, the following violations shall be considered minor violations:

1. Failure to have a license pursuant to Section 604.17, F.S., where the surety bond or certificate of deposit required under Section 604.20(1), F.S., is less than \$15,000.

2. Failure to provide delivery tickets after delivery of grain, Section 604.32, F.S.

3. Failure to submit monthly grain dealer reports, Section 604.33, F.S.

(b) Major Violations. A violation of a Chapter 604, F.S., or this rule chapter is a major violation if it results in economic or physical harm to a Florida producer or creates a significant threat of such harm. Major violations shall result in the issuance of an Administrative Complaint and imposition of an administrative fine of \$1,000.00 per violation, for first time offenders, and \$2,500 per violation, for second-time or repeat offenders. Aggravating factors, as defined in paragraph (3)(a) of this rule, shall warrant the adjustment of the fine upward, but no fine shall exceed the statutory maxima as outlined in Section 604.30(3)(a), F.S. Mitigating factors, as defined in paragraph (3)(b) of this rule, shall warrant the adjustment of the fine downward. For the purposes of this rule, the following violations shall be considered major violations:

1. Failure to have a license pursuant to Section 604.17, F.S., where the surety bond or certificate of deposit required under Section 604.20(1), F.S., is equal to or greater than \$15,000.

2. Failure to have a license pursuant to Section 604.17, F.S., when a Florida producer has filed a claim against the Respondent under Section 604.21, F.S.

3. Failure to increase the amount of surety bond or certificate of deposit after receiving notice that such increase is required under Section 604.20(2), F.S.

4. Failure to produce records upon request pursuant to Sections 604.22 and 604.23, F.S.

5. Failure to maintain security requirements pursuant to Section 604.33, F.S.

6. Any violation of Chapter 604, F.S., or this rule chapter occurring within three years of the issuance of an Administrative Complaint or Final Order, or the date of entry of a settlement agreement or Satisfaction of Final Order.

(c) Willful Violations. Any willful and intentional violation of Chapter 604, F.S., this rule chapter, a Final Order, or the conditions stipulated in a settlement agreement shall result in the imposition of an administrative fine of \$2,500 per violation.

(5) A violator who fails to pay an administrative fine imposed by a Final Order for violations of Chapter 604, F.S., or this rule chapter within 15 days of the order's entry by the Department shall be subject to suspension or revocation of the dealer's license and an additional fine not to exceed \$100.00 per day while in violation of such order.

(6) In addition to the penalties established in this rule, the Department reserves the right to seek to recover any other costs, penalties, attorney's fees, court costs, service fees, collection costs, and damages allowed by law. Additionally, the Department reserves the right to seek to recover any costs, penalties, attorney's fees, court costs, service fees, collection costs, and costs resulting from a payment that is returned for insufficient funds to the Department.

(7) Resolution of Violations, Settlement, and Additional Enforcement Remedies.

(a) Nothing in this rule shall limit the ability of the Department to informally dispose of administrative actions by settlement agreement, consent order, or other lawful means.

(b) The Department and person charged with a violation may agree to resolve violations prior to an administrative hearing, or enter into settlement pursuant to Section 120.57(4), F.S. The penalties addressed in this rule shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department shall utilize all available remedies to ensure compliance including administrative action, civil actions, settlements, and referrals for criminal prosecution. The Department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120 or Chapter 604, F.S.

(c) Failure to respond to an Administrative Complaint shall result in the entry of a Final Order against the violator or entity responsible for the violation imposing an administrative fines not to exceed the statutory maximum allowable under Section 604.30(3)(a), F.S.

(d) A failure to comply with a Final Order of the Department shall result in any applicable license revocation and an administrative fine equal to the maximum amount as allowable under Section 604.30(3), F.S.

(e) The provisions of this rule shall not be construed so as to prohibit or limit any other civil action for enforcement of additional penalties or criminal prosecution that may be brought.

Rulemaking Authority 604.27 FS. Law Implemented 604.27, 604.30 FS History—New _____.

5H-1.009 Documents Incorporated By Reference.

The following documents are hereby incorporated by reference. Copies of these documents may be obtained from the Division of Marketing, Bureau of Agricultural Dealer's Licenses at 407 South Calhoun, M-38, Tallahassee, Florida 32399 or online as indicated.

(1) Assignment of Certificate of Deposit, DACS-06300 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(2) Affidavit of Exemption, DACS-06301 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(3) Application for Agricultural Products Dealer License, DACS-06302 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(4) Agricultural Products Dealer Bond, DACS-06303 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(5) Public Sale of Thoroughbred Horses Bond, DACS-06304 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(6) Application for Livestock Market License, DACS-06305 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(7) Grain Dealers Monthly Report, DACS-06306 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(8) Answer of Respondent, DACS-06314 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(9) Request For Accounting, DACS-06325 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(10) Public Sale of Thoroughbred Horses Application, DACS-06326 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

(11) Agricultural Products Dealer Claim Packet, DACS-06329 (Rev. 10/10), <http://www.flrules.org/Gateway/reference>.

Rulemaking Authority 534.48, 535.02, 604.27 FS. Law Implemented 534.48, 535.01, 604.16, 604.18, 604.20, 604.21, 604.23, 604.33 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Nelson Mongiovi, Director

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Adam H. Putnam, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 28, 2011

DATE NOTICES OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: September 17, 2010 and December 30,
2010

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Forestry

RULE NOS.:	RULE TITLES:
5I-4.002	Purpose and Definitions
5I-4.005	Protection of Managed Lands
5I-4.006	Recreational Activities and Facilities
5I-4.008	Vendors; Authorizations; Fees

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 52, December 30, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Forestry

RULE NOS.:	RULE TITLES:
5I-5.001	Purpose
5I-5.002	Definitions
5I-5.003	Use of Plant A Tree Trust Fund Monies
5I-5.004	Grant Application Process
5I-5.005	Reviewing and Processing of Grants
5I-5.006	Maintenance of Grant Award Projects
5I-5.007	Prioritization of Grant Applications
5I-5.008	Award of Grants
5I-5.009	Execution of Agreements and Documents
5I-5.010	Review of Projects in Progress and Upon Completion

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 47, November 24, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF TRANSPORTATION

RULE NO.:	RULE TITLE:
14-10.0052	Zoning Enacted Primarily to Permit Outdoor Advertising Signs

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 51, December 23, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF TRANSPORTATION

RULE NOS.:	RULE TITLES:
14-20.0025	Definitions
14-20.0032	Placement of Benches
14-20.005	Accessibility on Public Rights of Way

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 49, December 10, 2010 issue of the Florida Administrative Weekly has been withdrawn.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NOS.:	RULE TITLES:
59A-8.002	Definitions
59A-8.003	Licensure Requirements
59A-8.004	Licensure Procedure
59A-8.008	Scope of Services
59A-8.0086	Denial, Suspension, Revocation of License and Imposition of Fines
59A-8.0095	Personnel
59A-8.0185	Personnel Policies
59A-8.020	Acceptance of Patients or Clients
59A-8.022	Clinical Records
59A-8.0245	Advance Directives
59A-8.027	Emergency Management Plans

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 28, July 16, 2010 issue of the Florida Administrative Weekly has been withdrawn.

Section IV
Emergency Rules

NONE

Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver

DEPARTMENT OF LAW ENFORCEMENT

NOTICE IS HEREBY GIVEN that on February 24, 2011, the Criminal Justice Standards and Training Commission, received a petition for a waiver of subparagraph 11B-20.001(3)(a)2., F.A.C., by Mel Eakley. The rule requires instructors to complete an internship after successfully completing the general instructor techniques course. The Petitioner wishes to waive those portions of the rule requiring him to have completed all requirements to become certified as an instructor within four years of applying for instructor certification,