

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

STATE BOARD OF ADMINISTRATION

RULE NO.: 19-8.010
 RULE TITLE: Reimbursement Contract

PURPOSE AND EFFECT: The State Board of Administration of Florida, Florida Hurricane Catastrophe Fund (FHCF), seeks to amend the rule listed above to implement Section 215.555, F.S., as amended by the 2011 Legislature.

SUBJECT AREA TO BE ADDRESSED: Implementation of 2011 legislative changes to Section 215.555, F.S., in CS/CS/CS/SB 408, which became law on May 17, 2011. This law necessitates changes to the 2011/2012 Reimbursement Contract to redefine losses reimbursable by the FHCF and to clarify exclusions from coverage. The only change to the rule is the revision date for the Reimbursement Contract. The legislative changes are implemented through an Addendum Number Four to the 2011/2012 Reimbursement Contract. The proposed changes to the rule and a draft of the Addendum are available on the FHCF website at www.sbafla.com/fhcf under FHCF Rules.

RULEMAKING AUTHORITY: 215.555(3) FS.

LAW IMPLEMENTED: 215.555 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Tracy Allen, 1801 Hermitage Blvd, Tallahassee, FL 32308, (850)413-1341, tracy.allen@sbafla.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-210.101
 RULE TITLE: Routine Mail

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify mailing and possession limits associated with enclosures in routine incoming mail.

SUBJECT AREA TO BE ADDRESSED: Routine inmate mail.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kendra Lee Jowers, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-210.101 Routine Mail.

(1) No change.

(2) Inmates will be permitted to receive only the following types of materials through routine mail:

(a) through (c) No change.

~~(d) Self-addressed stamped envelopes. These items do not count toward the 15 page limitation for additional materials, but cannot exceed the equivalent of 20 (1 oz.) first class stamps.~~

~~(d)(e) Up to ten each of the following: unused Unused greeting cards (no larger than 8" x 10") with matching envelopes, stationery or other blank writing paper (lined or unlined), or envelopes (stamped or unstamped). These items do not count toward the 15 page limitation for additional materials, but cannot exceed 10 each in number. Card stock, sketch paper, and other types of craft paper may not be included.~~

~~(e)(f) U.S. postage stamps. The value of the stamps cannot exceed the equivalent of 20 (1 oz.) first class stamps. These items do not count toward the 15 page limitation for additional materials. Inmates shall not possess more than the maximum number of stamps permitted by Rule 33-602.201, F.A.C. Due care shall be exercised in processing mail; however, the department shall not be responsible for any postage stamps sent through the mail.~~

(3) through (22) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 10-8-76, Amended 10-11-77, 4-19-79, 11-19-81, 3-12-84, 10-15-84, Formerly 33-3.04, Amended 7-8-86, 9-4-88, 3-9-89, 9-1-93, 9-30-96, 5-25-97, 6-1-97, 10-7-97, 5-10-98, Formerly 33-3.004, Amended 12-20-99, Formerly 33-602.401, Amended 12-4-02, 8-5-03, 10-27-03, 9-20-04, 3-23-08, 7-2-09, 5-9-10, _____.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-210.200
 RULE TITLE: Definitions

PURPOSE AND EFFECT: The proposed rule development (OGC No. 11-0614) involves amendments to Chapter 62-210, F.A.C., to amend two definitions in the department's air permitting rules to exclude ethanol fuel production facilities

from the definition of “chemical process plant,” thereby raising the emission threshold for applicability of the state’s major source permitting rules for such facilities from 100 tons per year (TPY) of any regulated air pollutant to 250 TPY. The proposed rule amendments are consistent with U.S. Environmental Protection Agency (EPA) regulations amended May 1, 2007. The department announces that a workshop will be held at the date, time and place given below. This workshop will also serve as a State Implementation Plan (SIP) public hearing pursuant to the requirements of 40 CFR 51.102. Anyone who wishes to submit written comments on the department’s proposal to submit the proposed rule amendments, if ultimately adopted, to EPA as proposed SIP revision should do so prior to July 27, 2011, by letter or e-mail to Ms. Lynn Searce, Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Mail Station 5500, Tallahassee, Florida 32399-2400 or lynn.searce@dep.state.fl.us.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendments involve the department’s EPA-approved air permitting program.

RULEMAKING AUTHORITY: 403.061 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.087, 403.0872, 403.814 FS.

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

DATE AND TIME: Wednesday, July 27, 2011, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, Division of Air Resource Management, 111 South Magnolia Drive, Suite 23, Director’s Conference Room, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Ms. Lynn Searce at (850)717-9025 or lynn.searce@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Ms. Lynn Searce at (850)717-9025 or lynn.searce@dep.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

62-210.200 Definitions.

The following words and phrases when used in this chapter and in Chapters 62-212, 62-213, 62-214, 62-296, and 62-297, F.A.C., shall, unless the context clearly indicates otherwise, have the following meanings:

(1) through (187) No change.

(188) “Major Source of Air Pollution” or “Title V Source” – A facility containing an emissions unit, or any group of emissions units, which is or includes any of the following:

(a) No change.

(b) An emissions unit or group of emissions units, all belonging to the same two-digit Major Group as described in the Standard Industrial Classification Manual, 1987, that directly emits or has the potential to emit, 100 tons per year or more of any regulated air pollutant. The fugitive emissions of an emissions unit or group of emissions units shall not be considered in determining whether it is a Title V source for purposes of this paragraph unless the emissions unit or group of emissions units belongs to one of the following categories:

1. through 19. No change.

20. Chemical process plants (the term “chemical process plants” shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140);

21. through 27. No change.

(c) through (h) No change.

(189) “Major Stationary Source” –

(a) A major stationary source is:

1. Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any PSD pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (the term “chemical process plants” shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140), fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

2. through 3. No change.

(b) No change.

(c) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this definition whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

1. through 19. No change.

20. Chemical process plants (the term “chemical process plants” shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140);

21. through 27. No change.

(d) No change.

(190) through (331) No change.

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872, 403.8055 FS. History—Formerly 17-2.100, Amended 2-9-93, 11-28-93, Formerly 17-210.200, Amended 11-23-94, 4-18-95, 1-2-96, 3-13-96, 3-21-96, 8-15-96, 10-7-96, 10-15-96, 5-20-97, 11-13-97, 2-5-98, 2-11-99, 4-16-01, 2-19-03, 4-1-05, 7-6-05, 2-2-06, 4-1-06, 9-4-06, 9-6-06, 1-10-07, 5-9-07, 7-16-07, 3-16-08, 10-12-08, 6-29-09, 3-11-10, 6-29-11,_____.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:
62-212.400 Prevention of Significant
 Deterioration (PSD)

PURPOSE AND EFFECT: The proposed rule development (OGC No. 11-0786) involves an amendment to Chapter 62-212, F.A.C., to exclude some facilities that produce ethanol by natural fermentation, including some ethanol fuel production facilities, from being considered a “chemical process plant” for purposes of qualifying for an exemption from the state’s “prevention of significant deterioration” air permitting rules. The proposed rule amendment is consistent with U.S. Environmental Protection Agency (EPA) regulations amended May 1, 2007. The department announces that a workshop will be held at the date, time and place given below. This workshop will also serve as a State Implementation Plan (SIP) public hearing pursuant to the requirements of 40 CFR 51.102. Anyone who wishes to submit written comments on the department’s proposal to submit the proposed rule amendments, if ultimately adopted, to EPA as proposed SIP revision should do so prior to July 27, 2011, by letter or e-mail to Ms. Lynn Searce, Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Mail Station 5500, Tallahassee, Florida 32399-2400 or lynn.searce@dep.state.fl.us.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendments involve the department’s EPA-approved air permitting program.

RULEMAKING AUTHORITY: 403.061 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.087, 403.0872, 403.814 FS.

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

DATE AND TIME: Wednesday, July 27, 2011, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, Division of Air Resource Management, 111 South Magnolia Drive, Suite 23, Director’s Conference Room, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Ms. Lynn Searce at (850)717-9025 or lynn.searce@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Ms. Lynn Searce at (850)717-9025 or lynn.searce@dep.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

62-212.400 Prevention of Significant Deterioration (PSD). The provisions of this rule generally apply to the construction or modification of air pollutant emitting facilities in those parts of the state in which the state ambient air quality standards are being met. The provisions of this rule also establish various requirements for existing emissions units and facilities in such areas, including specific construction/operation permit requirements.

(1) through (2) No change.

(3) Exemptions.

(a) No change.

(b) The requirements of subsections 62-212.400(4) through (12), F.A.C., shall not apply to a major stationary source or major modification if the source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

1. through 19. No change.

20. Chemical process plants (the term “chemical process plants” shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140);

21. through 27. No change.

(c) through (e) No change.

(4) through (13) No change.

Rulemaking Specific Authority 403.061 FS. Law Implemented 403.031, 403.061, 403.087 FS. History-Formerly 17-2.500, Amended 2-2-93, Formerly 17-212.400, Amended 11-23-94, 1-1-96, 3-13-96, 2-5-98, 8-15-99, 2-2-06, 7-16-07, 10-6-08,_____.

DEPARTMENT OF HEALTH

Board of Psychology

RULE NOS.: RULE TITLES:
64B19-12.005 Biennial Active Renewal Fee
64B19-12.007 Biennial Inactive Renewal Fee

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address reduction in the active and inactive renewal fees.

SUBJECT AREA TO BE ADDRESSED: Reduction of the active and inactive renewal fees from \$400 to \$340.

RULEMAKING AUTHORITY: 456.015(1),(4), 456.025(1), 456.036(3), 490.004(4), 490.007(1) FS.

LAW IMPLEMENTED: 456.015, 456.025(1), (4), 456.036(3), 490.007(1) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Allen Hall, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

RULE NO.: RULE TITLE:
65-29.001 Financial Penalties for a Provider’s Failure to Comply With a Requirement for Corrective Action (Contracts Not Subject to Rule 65-29.002, F.A.C.)
65-29.002 Financial Penalties for a Provider’s Failure to Comply With a Requirement for Corrective Action (Contracts Executed or amended after_____, 2011)

PURPOSE AND EFFECT: The purpose of this rulemaking is to revise the Department’s rule provisions for including incremental penalty provisions in Department contracts to simplify and streamline the process and to expressly provide for Chapter 120, F.S., remedies.

SUBJECT AREA TO BE ADDRESSED: Financial Penalties for a Provider’s Failure to Comply With a Requirement for Corrective Action.

RULEMAKING AUTHORITY: 402.73(1) FS.

LAW IMPLEMENTED: 402.73(1) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Paul Sexton, Deputy General Counsel, Office of General Counsel, 1314 Winewood Boulevard, Building 2, Suite 204K, Tallahassee, Florida 32399, paul_sexton@dcf.state.fl.us, (850)922-5216

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65-29.001 Financial Penalties for a Provider’s Failure to Comply With a Requirement for Corrective Action (Contracts Not Subject to Rule 65-29.002, F.A.C.).

(1) through (10) “No change.”

(11) This rule shall not be applicable to any contract to which Rule 65-29.002, F.A.C., applies.

Rulemaking Specific Authority 402.73(1) FS. Law Implemented 402.73(1) FS. History-New 4-14-02, Amended_____.

65-29.002 Financial Penalties for a Provider’s Failure to Comply With a Requirement for Corrective Action (Contracts Executed or amended after_____, 2011).

(1) The Department may impose incremental penalties on a provider for any failure to comply with a requirement for corrective action associated with a Department contract.

(a) The Department may issue a written Notice of Requirement for Corrective Action to a Provider, which will advise the Provider of its noncompliance with the contract terms, identify the specific terms affected, the acts or omissions that constitute noncompliance, the nature of the corrective action required, the time limit by which the provider shall accomplish the corrective action, and state that failure to comply with a requirement for corrective action may result in a penalty being imposed pursuant to this Rule.

(b) Upon the Provider’s failure to comply with the requirement for corrective action, the Department may issue a written Notice of Penalty for Failure to Comply with a Requirement for Corrective Action (Notice of Penalty), which will advise the Provider that it has failed to comply with a requirement for corrective action and state that the Department intends to impose a penalty pursuant to this Rule, and state the incremental penalty to be imposed on the amount that otherwise would be due to the provider for the period of noncompliance. The Notice of Penalty shall provide notice in

accordance with the Uniform Rules of Procedure. The penalty shall become due under the terms of the Notice of Penalty or a Final Order issued pursuant to the Uniform Rules of Procedure, whichever applies.

1. A failure to comply that is determined to have a direct effect on client health, welfare or safety shall result in the imposition of an incremental penalty of ten percent (10%) of the total contract payments otherwise due to the provider during the period of noncompliance.

2. A failure to comply involving the provision of service not having a direct effect on client health, welfare or safety shall result in the imposition of an incremental penalty of five percent (5%) of the total contract payments otherwise due to the provider during the period of noncompliance.

3. A failure to comply involving performance of administrative tasks shall result in the imposition of an incremental penalty of two percent (2%) of the total contract payments otherwise due to the provider during the period of noncompliance.

(c) The imposition of a penalty pursuant to this Rule is in addition to other relief that may be available to the Department to address a provider's failure to provide satisfactory performance and shall not, in any way, prevent the Department from seeking or applying other remedies available to it through law or equity.

(2) All contracts entered into by the Department on and after _____, 2011, (the effective date of this rule) and all amendments to Department contracts executed on and after _____, 2011, (the effective date of this rule) shall contain the following provision:

Financial Penalties for Failure to Comply With a Requirement for Corrective Action.

Section 402.73(1), Florida Statutes, requires Department contracts to include provisions for incremental penalties to be imposed by its contract managers on a service provider due to the provider's failure to comply with a requirement for corrective action. The Department has adopted Rule 65-29.002, F.A.C., entitled "Financial Penalties for a Provider's Failure to Comply With a Requirement for Corrective Action," which rule is incorporated herein by reference and made a part hereof as if fully recited herein. Additional terms governing the imposition and collection of the penalty are set forth in Section 402.73, Florida Statutes. The remedies identified in Section 402.73, Florida Statutes, do not limit or restrict the Department's application of any other remedy available to it in this contract or under law.

(3) The Department will deduct the financial penalty from funds that would otherwise be due to the provider, not to exceed 10 percent of the amount that otherwise would be due to the provider for the period of noncompliance. For purposes of this Rule, the funds that would otherwise be due to the provider shall be those payments that would be due to the provider for full performance of all services in compliance

with all contract terms. Termination or expiration of the contract shall not end the provider's obligation to pay the penalty nor the Department's authority to obtain payment.

Rulemaking Authority 402.73(1) FS. Law Implemented 402.73(1) FS. History--New _____.

Section II Proposed Rules

DEPARTMENT OF TRANSPORTATION

RULE NO.:	RULE TITLE:
14-43.001	Regulation of Overhanging Encroachments

PURPOSE AND EFFECT: Rule 14-43.001, F.A.C., is being amended to define the term "official markers," establish requirements for official markers and overhanging encroachments, and incorporate a new application form and updated horizontal clear zone requirements.

SUMMARY: Official markers and overhanging encroachments are addressed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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. 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: 334.044(2), 337.407 FS.

LAW IMPLEMENTED: 337.406, 337.407, 479.01, 479.16 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Friday, July 15, 2011, 10:30 a.m.

PLACE: Department of Transportation, Haydon Burns Building, Room 479, 605 Suwannee Street, Tallahassee, Florida 32399-0458

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458. If