



# Florida Department of Environmental Protection

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## VIA Electronic Mail

**TO:** Air Regulatory Projects Distribution List

**FROM:** Chad Stevens, Administrator  
Division of Air Resource Management  
Office of Business Planning  
Regulatory Reform and Legislative Coordination Section

**DATE:** January 5, 2012

**SUBJECT:** Air Regulatory Projects Update No. 2012-01

## Distribution of Updates

To keep regulatory staff and other interested persons informed of regulatory development and reform activities undertaken by the Department of Environmental Protection (DEP), Division of Air Resource Management, an Air Regulatory Projects Update is transmitted via e-mail upon publication in the Florida Administrative Weekly (FAW) of a notice of rule development, notice of rule workshop, notice of proposed rulemaking, notice of change, or notice of rule repeal; or upon the adoption of a new or amended air rule into the Florida Administrative Code (F.A.C.). It is also transmitted upon publication in the FAW of a notice of opportunity to request a public hearing or submit written comments on a proposed revision to Florida's State Implementation Plan (SIP) or Designated Facilities Plan (111(d) Plan) under the Clean Air Act. The FAW and F.A.C. are available online at <https://www.flrules.org/default.asp>.

Each Air Regulatory Projects Update also lists all air rules adopted or repealed, all guidance memoranda issued, and all Clean Air Act plan revisions submitted to the U.S. Environmental Protection Agency (EPA) by DEP within the past six months, along with all air regulatory projects currently underway. For additional information on current and recently completed air regulatory projects, including workshop materials and other project-related documents, visit the DARM Regulatory Projects web page at <http://www.dep.state.fl.us/air/rules/regulatory.htm> and click on the links to individual projects of interest.

Please contact Marnie Brynes at 850-717-9029 or [marnie.brynes@dep.state.fl.us](mailto:marnie.brynes@dep.state.fl.us) to add, remove or update any e-mail address for future distribution of Air Regulatory Projects Updates.

## This Update

**Air/Noise Rule Repeals Pursuant to Executive Order 11-72.** On April 8, 2011, Governor Rick Scott issued Executive Order 11-72 (reaffirming EO11-01) requiring each executive agency to pursue the repeal or amendment of any rule that the agency identified as "duplicative, unnecessarily burdensome, or no longer necessary." In response, DEP proposed the repeal of 40 air rules and 24 motor vehicle noise-related rules. The proposed repeals were divided into two groups: those that would require approval by the Environmental Regulation Commission (ERC) and those that would not. Ten proposed air rule repeals were noticed in the FAW on November 10, 2011, and approved by the ERC at its December 8, 2011, public hearing. DEP's remaining proposed rule repeals were noticed in the FAW on November 23, 2011, with a Secretarial rule repeal hearing, if requested, to be held on January 5, 2012. No hearing was requested. DEP is now moving forward to complete the process by filing the repeals with the Florida

Secretary of State. **Note: the previous Air Regulatory Projects Update (No. 2011-06) erroneously listed five rule sections in the Secretarial/Non-ERC group of repeals that were not among the proposed repeals noticed on November 23, 2011. This was a typographical error, and we apologize for any confusion it may have caused.**

**PM2.5 New Source Review (NSR) – Rule Development and Proposed SIP Revision.** DEP is proposing amendments to two rule chapters to incorporate into Florida’s air construction permitting program several elements related to the review and control of fine particulate matter (PM<sub>2.5</sub>) emissions. DEP is also proposing to submit an associated SIP revision to EPA. The proposed amendments to Chapter 62-210, F.A.C., include several new and revised definitions at Rule 62-210.200, F.A.C. One such revision would establish PM<sub>2.5</sub> as a pollutant with a significant emissions rate, thereby potentially making some facilities that propose to increase their PM<sub>2.5</sub> emissions subject to the major-source permitting requirements of Chapter 62-212, F.A.C. The proposed amendments to Chapter 62-212, F.A.C., incorporate PM2.5 into the state's “prevention-of-significant-deterioration (PSD)” permitting program. The proposed amendments are consistent with federal regulation, policy, and guidance, and do not impose any requirements beyond or in addition to the federal program. If the rule amendments are adopted, DEP is proposing to submit them to EPA for approval and incorporation into Florida's SIP. The notice of proposed SIP revision was published in the FAW on November 23, 2011, with a SIP hearing, if requested, to be held on January 4, 2012. No hearing was requested. The notices of proposed rulemaking were published in the FAW on December 16, 2011. Materials related to both the rulemaking project and the associated proposed SIP revision are posted on the [DARM Regulatory Projects](#) web page. **Note: the January 19, 2012, ERC rule adoption hearing, as noticed in the FAW, has been postponed. The new hearing date will be February 16, 2012, in Tallahassee. This change will be noticed in the FAW January 13.**

**Repeal of Regional Haze-Reasonable Progress Rule.** DEP is proposing to repeal Rule 62-296.341, F.A.C., Regional Haze–Reasonable Progress Control Technology. The rule contains permitting requirements for sources that contribute to regional haze in federal Class I areas. These requirements have been rendered unnecessary by changes made to Florida’s Regional Haze Plan. The notice of proposed repeal was published in the FAW on December 16, 2011, and is also posted on the [DARM Regulatory Projects](#) web page. **Note: the January 19, 2012, ERC rule repeal hearing, as noticed in the FAW, has been postponed. The new hearing date will be February 16, 2012, in Tallahassee. This change will be noticed in the FAW January 13.**

**Ethanol Plant Permitting – Rule Development and Proposed SIP Revision.** DEP has amended Rule 62-212.400, F.A.C., as well as the definitions of "major source of air pollution" (Title V source) and "major stationary source" at Rule 62-210.200, F.A.C., so as to exclude ethanol fuel production facilities in two North American Industry Classification System (NAICS) categories from the definition of “chemical process plant.” The adopted rule amendments became effective December 4, 2011. The associated proposed SIP revision was submitted to EPA on December 12, 2011. Materials related to this project are posted on the [DARM Regulatory Projects](#) web page.

### **Air Regulatory Projects Currently Active**

#### **1. Air Rule Repeals Pursuant to Executive Order 11-72 – ERC Group**

Rules to be repealed: 62-204.240, .260 (OGC 11-1085)  
62-212.600, .710 (OGC 11-1088)  
62-252.500, .900 (OGC 11-1093)  
62-285.420 (OGC 11-1097)

62-296.407, .411, .413 (OGC 11-1098)

- 12/8/11 ERC rule repeals hearing (all proposed repeals approved) – Tallahassee
  - 11/10/11 Notices of proposed rule repeals published
  - 11/3/11 ERC briefing – Tallahassee
  - 10/21/11 Notice of ERC briefing published
- Contacts: Kelly Stevens, 850-717-9017 or [kelly.stevens@dep.state.fl.us](mailto:kelly.stevens@dep.state.fl.us) re: 62-204  
Cindy Phillips, 850-717-9098 or [cindy.phillips@dep.state.fl.us](mailto:cindy.phillips@dep.state.fl.us) re: 62-212, 62-296  
Terri Long, 850-717-9023 or [terri.long@dep.state.fl.us](mailto:terri.long@dep.state.fl.us) re: 62-252  
Jim Pennington, 850-717-9102 or [jim.pennington@dep.state.fl.us](mailto:jim.pennington@dep.state.fl.us) re: 62-285

## 2. Air/Noise Rule Repeals Pursuant to Executive Order 11-72 – Secretarial Group

- Rules to be repealed: 62-18.001, .020, .030, .040, .050, .080, .090, .500, .510, .530, .580, .700, .710, .720, .730, .740, .750, .760, .770, .780, .790, .800, .810, .820 (OGC 11-1083)  
62-204.100, .200, .220, .320, .360, .400 (OGC 11-1084)  
62-210.100, .340 (OGC 11-1086)  
62-212.100 (OGC 11-1087)  
62-213.100 (OGC 11-1089)  
62-242.100, .200, .400, .500, .600, .700, .800, .900 (OGC 11-1090)  
62-243.100, .200, .400, .600 (OGC 11-1091)  
62-252.100, .200, .400 (OGC 11-1092)  
62-257.100 (OGC 11-1094)  
62-281.100 (OGC 11-1095)  
62-285.400 (OGC 11-1096)  
62-297.100, .520 (OGC 11-1099)
- 11/23/11 Notices of proposed rule repeals published (no hearings requested)
- Contacts: Terri Long, 850-717-9023 or [terri.long@dep.state.fl.us](mailto:terri.long@dep.state.fl.us) re: 62-18, 62-243, 62-252  
Kelly Stevens, 850-717-9017 or [kelly.stevens@dep.state.fl.us](mailto:kelly.stevens@dep.state.fl.us) re: 62-204  
Jim Pennington, 850-717-9102 or [jim.pennington@dep.state.fl.us](mailto:jim.pennington@dep.state.fl.us) re: 62-210, 62-242, 62-285  
Tiffany Lanh, 850-717-9015 or [tiffany.lanh@dep.state.fl.us](mailto:tiffany.lanh@dep.state.fl.us) re: 62-212, 62-213, 62-257, 62-281  
Cindy Phillips, 850-717-9098 or [cindy.phillips@dep.state.fl.us](mailto:cindy.phillips@dep.state.fl.us) re: 62-297

## 3. PM2.5 New Source Review (NSR) – Rule Development

(Project addresses PM2.5 provisions, split out from initial combined nonattainment area (NAA) and PM2.5 NSR reform project)

- Rules to be amended: 62-210.200 (OGC 10-0877)  
62-212.300, .400 (OGC 10-0878)
- 2/16/12 ERC rule adoption hearing (postponed from 1/19/12) – Tallahassee
  - 12/16/11 Notices of proposed rulemaking published (PM2.5 NSR only)
  - 12/8/11 ERC briefing – Tallahassee
  - 11/23/11 Notice of ERC briefing published (PM2.5 NSR only)
  - 10/20/10 Workshop – Tallahassee
  - 9/17/10 Notices of rule development published (NAA and PM2.5 NSR)
- Contact: Kelly Stevens, 850-717-9017 or [kelly.stevens@dep.state.fl.us](mailto:kelly.stevens@dep.state.fl.us)

## 4. Repeal of Regional Haze-Reasonable Progress Control Technology Rule

- Rule to be repealed: 62-296.341 (OGC 11-1598)

2/16/12 ERC rule repeal hearing (postponed from 1/19/12) – Tallahassee  
12/16/11 Notice of proposed rule repeal published  
12/8/11 ERC briefing – Tallahassee  
11/23/11 Notice of ERC briefing published  
Contact: Will Sexton, 850-717-9016 or [will.sexton@dep.state.fl.us](mailto:will.sexton@dep.state.fl.us)

**5. Removal of Sulfur Handling Rules from SIP – Proposed SIP Revision 2012-01**

TBA Proposed SIP revision to be submitted to EPA (under development)  
10/14/11 Notice of proposed SIP revision published (no hearing requested)  
Contact: Cindy Phillips, 850-717-9098 or [cindy.phillips@dep.state.fl.us](mailto:cindy.phillips@dep.state.fl.us)

**6. PM2.5 New Source Review (NSR) – Proposed SIP Revision**

TBA Proposed SIP revision to be submitted to EPA (after rule adoption)  
11/23/11 Notice of proposed SIP revision published (no hearing requested)  
Contact: Kelly Stevens, 850-717-9017 or [kelly.stevens@dep.state.fl.us](mailto:kelly.stevens@dep.state.fl.us)

**7. Air General Permits and Exemptions – Proposed SIP Revision**

TBA Notice of proposed SIP revision to be published (under development)  
Contact: Larry George, 850-717-9021 or [larry.george@dep.state.fl.us](mailto:larry.george@dep.state.fl.us)

**Recently Completed Air Regulatory Projects**

**1. Ethanol Plant Permitting – Proposed SIP Revision 2011-02**

12/12/11 Proposed SIP revision submitted to EPA  
7/27/11 SIP hearing (concurrent with rule development workshop) – Tallahassee  
6/24/11 SIP hearing notice published (within the notices of rule development)

**2. Ethanol Plant Permitting Rule**

Rules amended: 62-210.200 (OGC 11-0614)  
62-212.400 (OGC 11-0786)  
12/4/11 Rule amendments adopted 11/14/11, effective 12/4/11  
9/16/11 Notices of proposed rulemaking published (no hearing requested)  
7/27/11 Workshop – Tallahassee  
6/24/11 Notices of rule development published  
Related EPA Submittal: Proposed SIP Revision 2011-02

**3. Adoption by Reference of EPA Regulations – Sulfur Dioxide NAAQS, PM2.5 Increments, and Condensable PM Emissions Test Procedures**

(Updates to 40 CFR Parts 50, 51, 52, 53 and 58)  
Rule amended: 62-204.800, fast-track (OGC 10-3444)  
12/1/11 Rule amendments adopted 11/17/11, effective 12/1/11  
10/21/11 Notice of fast-track rulemaking published

**4. SIP Infrastructure Confirmation for 2008 Revision of Ozone (O<sub>3</sub>) NAAQS**

10/31/11 Letter confirming SIP infrastructure adequacy submitted to EPA

**5. SIP Infrastructure Confirmation for 2008 Revision of Lead (Pb) NAAQS**

10/14/11 Letter confirming SIP infrastructure adequacy submitted to EPA  
9/9/11 Notice of proposed confirmation of SIP adequacy published