




Regulations for Backup Cooling in Florida Assisted Living Facilities

A Step-by-Step Guide



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You've probably heard about the newly issued rules for backup cooling and power in Florida nursing homes. And if you're the owner of one of those assisted living homes, I'm sure you're wondering: How exactly do I comply with these new regulations?

Well, you've come to the right place! We've done the research to create this step-by-step guide so you know exactly what is required in terms of backup power in Florida nursing homes. The following steps will explain what the new requirements are, what you'll need to comply with them, and how exactly you'll go about doing this. Just keep reading to find out more!

Before we get started, there are a few key points you should keep in mind. First off, you must be fulfilling each and every of the steps we are about to share with you by July 1, 2018. Yes, that's this summer! You could face fines up to \$1000 per day if your facility does not follow the new protocols. So use this handy guide and act now. However, if you are facing installation delays, don't panic. The state will provide installation extensions until January 1, 2019 if you find yourself in this position and apply for this time allowance.

In case you're wondering why this law was put in place, it was actually the result of an emergency situation in Hollywood, Florida. After the air conditioning was shut off due to Hurricane Irma last September, six residents of a nursing home died due to excessive heat exposure. For this reason, it is of the utmost importance that you make sure your facility is up-to-date with the necessary generators and equipment.

Now that you have the basic facts, here is the detailed procedure you need to follow precisely to make sure your facility is in accordance with state laws.



STEP 1

Setting Up an Alternate Power Source for Cooling



One of the key requirements written in this new set of regulations is that the temperature of your assisted living facility must always be kept at or below 81 degrees Fahrenheit for at least 96 hours (4 days). You also need either 20 square feet of cooled air per resident or 80 percent of the facility's capacity for area cooled. For this to be possible in the event of a power outage, you must install a competent alternate generator. So how do you pick the right generator for your facility? First of all, it is crucial to buy a commercial generator, as they are much more substantial than consumer models. Commercial generators have thicker steel, larger engines, and are liquid-cooled with better electrical components.

When choosing your generator, your first priority should be to determine the necessary voltage. The power for your facility is likely 3-phase at 120/208 or 277/480 volts. When the power is functioning normally, a step-down transformer will convert this voltage into 120/240 or 120/208 volts, depending on the original voltage, and an electrical panel will be utilized to distribute the electricity. You want to make sure the voltage of your generator is equal to the incoming utility voltage, which can be found written on your main electric panel.

You should also consider whether you want a 1-phase or 3-phase backup generator. This is largely dependent on the size of your facility. In general, 3-phase generators are best for nursing homes, but if yours is on the smaller side with less than 17 beds, a 1-phase one should be sufficient. Be sure to hire a professional to install your generator, as this is not something you should take on yourself.

STEP 2

Keeping Enough Fuel On-Site



If your facility has 16 or fewer beds, you only need enough fuel to power the generator for 48 hours, but if it contains 17 or more beds, it is a requirement for you to have sufficient on-site fuel to keep the facility running for 72 hours. These requirements must be met at all times, so here is how you accomplish this. First off, the best design for a fuel tank is an above ground storage tank. However, when installing one of these storage tanks, it is essential to make sure you are obeying all relevant laws and guidelines.

There are four options when choosing the type of fuel to fill your tank with: diesel, natural gas, LP liquid or vapor, and dual-fuel. Diesel fuel is commonly used and reliable, but can be expensive for smaller-kilowatt engines and due to maintenance costs. Natural gas is cost effective for smaller-kilowatt engines, provides a longer running time, and has reduced environmental impact, but there are still questions about its reliability as it is a new energy source. LP fuel has similar benefits to natural gas, but the disadvantage is that you may face challenges when dealing with the system design. Finally, a dual-fuel system is the one we most highly recommend, as it is cost-effective for smaller-kilowatt engines, runs for longer, and has a reduced environmental impact without the previously mentioned cons.

Once you have chosen the type of fuel you prefer and identified the necessary size of the tank based on the above regulations, hire a professional to install your system. There are some safety issues to consider regarding the installation. Be sure there are no flammable materials near the tanks and post “no smoking” and “flammable: keep fire and flame away” signs in a visible location near the fuel supply. Install the tanks in an east to west direction, so the amount of solar radiation is minimal, and be sure to have a secondary containment area with the capacity to hold more than the contents of the primary tank, in the event of a leak or spill. Fuel can be deadly to humans and the environment, so it is important to take these precautions.

STEP 3

Installing Carbon Monoxide Detectors



Carbon monoxide detectors are crucial for nursing homes, as carbon monoxide poisoning can lead to a rapid death. In fact, each year over 400 people in the U.S. die from carbon monoxide exposure not linked to a fire. There are four options when choosing a carbon monoxide detector for your facility. You can install a hard-wired carbon monoxide alarm, a battery-powered carbon monoxide alarm, a hard-wired combination carbon monoxide and smoke alarm, or a battery-powered combination carbon monoxide and smoke alarm. The hard-wired options will also contain back-up batteries and will be connected to the backup generator, so either is acceptable in the case of a power outage. We recommend the combination carbon monoxide and smoke detector option, as this will provide additional warning in the case of a fire.

A detector should be installed in every bedroom in the facility. Also, be sure to write the date of purchase on the back of the alarm and replace the batteries every 6 to 12 months, updating the written date when you do so. The detectors themselves should be replaced every 10 years and you should clean all detectors with a vacuum or canned air yearly. You can either mount the detector yourself or hire a professional to do so. If you are installing the alarm yourself, note that a carbon monoxide detector can be placed at any height, but if it is combined with a smoke detector, it should be placed on the ceiling, as smoke rises. The installation process itself will be described in detail on the back of the package, but it essentially consists of drilling holes where you want to mount the device and using a hammer and nails to secure it in place.



STEP 4

Wellness Checks and Emergency Medical Intervention




Now that you know how to install all necessary equipment, you must also ensure your staff is trained to care for the residents of your assisted living home. Specifically, in an emergency situation where the power is knocked out, this means checking for dehydration and injury due to heat exposure.

There are several ways to check for dehydration, and your staff should be trained in a majority of the methods mentioned below. First, dehydrated individuals are likely to have low blood pressure, a faster than usual heart rate, and reduced blood flow to extremities, so monitoring patients for each of these symptoms is an effective way to identify dehydration. Blood tests to check electrolyte levels (sodium and potassium) and kidney function are also used to check dehydration, as is urinalysis. However, these are generally not performed in an emergency situation, as access to a lab is necessary.

To treat dehydration, it is necessary to replenish both fluids and electrolytes that have been lost due to excessive heat exposure in most cases. Over-the-counter rehydration solutions should be kept in supply and administered to dehydrated residents if necessary. Sports drinks with electrolytes and electrolyte-fortified water can also be given to these individuals.

In addition to the checks administered by your staff at the assisted living facility, you must also have a way to reach emergency medical assistance. A comprehensive emergency management plan should be updated annually and must include provisions for evacuation transportation, post disaster supplies, and a way to contact your local emergency medical services if a resident's life is in danger. It is also a good idea to reach out to the local branch of the emergency management agency to ensure that you will be able to contact them in case of a disaster.



STEP 5

Submitting Your Plan



According to the new Florida Laws for assisted living homes in emergency situations, each facility must submit a comprehensive plan by April 25, 2018. To do this, you must be aware of all the steps that must be taken, as described previously, but you should submit the plan before enacting these steps. The plan should include the information described earlier in this article. It must explain how cooling devices and equipment will be installed and used, as well as how refrigerators and freezers will produce ice and maintain cold enough temperatures for medicine to be stored. It must also outline how wellness checks will be performed by the facility staff and contain a provision for contacting emergency medical services in case a resident's life is in danger.

Even if you did submit a plan previously under Emergency Rule 58AER1, you will still need to resubmit if there are any modifications to be made, which there likely will be to comply with the new set of legislation. You can contact your local emergency management office, which can be found at www.floridadisaster.org/counties if you are unsure about whether or not you should resubmit a plan. Additionally, even if you do choose to keep your old plan in place without changes, you are legally required to send a notice to the residents and legal representatives of the residents of your emergency plan.

There are strict time constraints to follow when submitting your emergency management plan. First, you must notify your residents and their legal representatives that you have filed your plan for approval within five days of originally sending your complete plan to your local emergency management agency. After emergency management approves the plan, it should then be submitted to the Agency for Health Care Administration in under two days. Be wary of this deadline, as it only allows for a very short period of time between steps. Finally, within five days of your approved plan being implemented, you must reach out to the residents and their legal representatives once again to notify them that the implementation has occurred.

To make the process as easy as possible for you, the following is a sample format you can use to create your plan for submission.



FACILITY INFORMATION

Facility Name:

Street Address:

City, County, Zip:

Administrator Name:

Contact Number(s):

License Number:

Number of Licensed Beds:

Is the facility:

- Located on a campus with other facilities under common ownership
- Located in a multistory building
- Stand-alone single story building
- Located in a mandatory evacuation zone (If so, provide details below).

Details of mandatory evacuation zone:

ALTERNATE POWER SOURCE

Description of onsite alternate power source:

- Portable generator
- Fixed generator
- Other

Provide:

- Make, Model, Size:
- Make, Model, Size:
- Make, Model, Size:

The alternate power source is capable of powering the following equipment:

- Entire Facility
- Lights
- Refrigeration
- Life Safety Systems
- Air Conditioning
- Heating Systems
- Other

Date implementation of the alternate power source will be complete:





FUEL INFORMATION

Type of Fuel:

- Diesel
- Propane
- Piped Gas
- Gasoline

Hours of runtime with onsite fuel:

Fuel Distributor:

Are there local restrictions on the amount of fuel stored onsite? Yes or No

If yes, list regulation and limitation:

Describe how your fuel will be stored onsite:

Describe how your facility will refuel before, during, and after an emergency:

COOLING METHOD

What kind of equipment will be used to cool the facility?

- Air Conditioner(s)
- Spot Cooler(s)
- Chiller Fan(s)
- Other:

Cooled Area: What area(s) of the facility do you plan to keep at or below 81 degrees?

- Entire Facility
- Living Room
- Dining Room
- Resident Room(s)
- Common Area(s)
- Hallways
- Other Area(s)

Net square footage of the area to be cooled:

Number of people (residents and staff) located in this cooled space:

(Please keep in mind the square footage requirements per person for your facility type)

- Will there be beds available in the cooled area? Yes or No
- If yes, are these beds currently onsite? Yes or No

Describe how you will ensure the facility does not exceed the required temperature and how the facility and residents will be monitored:

POLICIES AND PROCEDURES

Provide a training procedure to ensure staff members are aware of how to operate the emergency power to the facility. Describe:

Provide a maintenance and testing schedule for both the alternate power source and cooling system. Describe:





CARBON MONOXIDE ALARM

Where is the carbon monoxide alarm(s) located in the facility?

What is the maintenance schedule for the carbon monoxide alarm(s)?

SUPPORTING DOCUMENTATION

Submit the following documentation with the plan:

- Facility floor plan: Area(s) intended to be used as the “cooled area” identified in Section 5 should be outlined/highlighted on the facility floor plan.
- A letter attesting that the alternate power source is sufficient to operate the equipment necessary to maintain an indoor temperature in accordance with the rule. (May be provided by a professional electrical engineer or a licensed electrical contractor).
- If residents will be relocated to an area(s) of refuge, a letter attesting that the HVAC equipment serving the area is sufficient to maintain an indoor temperature, in accordance with the rule, for the number of residents served in the area(s). (May be provided by a professional mechanical engineer or a licensed mechanical contractor).
- Fuel agreement
- Once the plan is implemented (completed), submit documentation that the alternate power the source is installed and operable.

ATTESTATION


I attest that the facility is in compliance with all of the requirements and standards that are contained in Rule 58A-5.036, F.A.C. (Emergency Environmental Control for Assisted Living Facilities).

Signature of Licensee or Authorized Representative:

Title:

Date:

Now you know exactly how to follow the new Florida regulations for backup power in assisted-living facilities and how to submit your plan for approval. These steps will help you obey the law and save lives in the case of an emergency! If you have more questions about the specific regulations, click [here](#).



CONSUMER-FRIENDLY SUMMARY OF THE EMERGENCY ENVIRONMENTAL CONTROL PLAN

Facility Information		
Facility Name: _____		
Facility Type: <input type="checkbox"/> Nursing Home	<input type="checkbox"/> Assisted Living Facility	License # _____
Street Address: _____		
City: _____	County: _____	Zip: _____
Administrator Name: _____		
Contact Number(s): _____		
This Facility Is: <input type="checkbox"/> Located on a campus with other facilities under common ownership		
<input type="checkbox"/> Located in a multistory building		
<input type="checkbox"/> A stand-alone single story building		

Alternate Power Source		
Onsite Alternate Power Source:		
Portable generator	<input type="checkbox"/> Fixed generator	<input type="checkbox"/> Other: _____
Make: _____	Make: _____	Make: _____
Model: _____	Model: _____	Model: _____
Size: _____	Size: _____	Size: _____
The alternate power source is capable of powering the following equipment:		
<input type="checkbox"/> Entire Facility	<input type="checkbox"/> Lights	<input type="checkbox"/> Refrigeration
<input type="checkbox"/> Air Conditioning	<input type="checkbox"/> Heating Systems	<input type="checkbox"/> Life Safety Systems
<input type="checkbox"/> Other: _____		
Implementation of the alternate power source will be complete on _____		
(Date)		

Cooling Method
The following kind(s) of equipment will be used to cool the facility:
Air Conditioner(s) <input type="checkbox"/> Spot Cooler(s) <input type="checkbox"/> Chiller <input type="checkbox"/> Fan(s) <input type="checkbox"/>
Other: _____

Temperature Controlled Area(s)
The area(s) the facility plans to keep at 81 degrees or below using the emergency power source is:
<input type="checkbox"/> Within the licensed facility <input type="checkbox"/> In another location on the campus
The following area(s) will be cooled.
Entire Facility <input type="checkbox"/> Living Room <input type="checkbox"/> Dining Room <input type="checkbox"/> Resident Room(s) <input type="checkbox"/>
Common Area(s) <input type="checkbox"/> Hallways <input type="checkbox"/> Other Area(s): _____
The net square footage of the area to be cooled is _____ square feet.
How many people are planned to use this area? _____
Will there be beds available in the cooled area? Yes <input type="checkbox"/> No <input type="checkbox"/>



Nursing Home Rule 59A-4.1265, F.A.C. and Assisted Living Facility Rule 58A-5.036, F.A.C.

Questions and Answers – April 20, 2018

Please refer to the rules for specific requirements and compliance matters. These Q&As are provided in response to questions and intended to assist facilities with compliance with these important resident protections.

Power Source

Question 1: The generator requirement seems to be aimed at providing adequate cooling. Are there requirements for lighting and or operational items such as kitchens and laundry areas?


Answer: The intent of the rule is to provide adequate cooling and other services necessary to ensure the health, safety, welfare, and comfort of the residents. Life safety and critical systems must be designed to remain operational while the building is occupied. If the governing body determines that additional equipment is necessary to provide for the health, safety, welfare, and comfort of the residents, the alternate power source must be designed to accommodate these loads as well.


Question 2: Who approves the electrical (mechanical) information regarding generator or cooling source installation?

Answer: Nursing home building and fire safety requirements are regulated by AHCA, so information must be submitted to the AHCA Office of Plans and Construction for review and approval. Assisted living facility building and fire safety requirements are regulated by the local authority having jurisdiction, so information must be submitted to the appropriate local authority for approval – generally building code or fire department officials.

Question 3: The rule does not state that the generator(s) needs to run HVAC systems to cool. Are spot coolers considered in the rule?

Answer: The rule does not specify the method of cooling required to allow flexibility for each provider to determine the most appropriate equipment to meet their facility needs. These details should be specified in the plan submitted for review and approval.





As an aside, we have heard of issues with portable chillers being used. Remember that portable chillers must be vented to an outside source to prevent forcing the heat exhaust back into the facility. Bottom line – if a facility is using portable chillers, plan in advance for a means of exhaust. Providers should obtain the manufacturer’s instructions in advance to ensure they are prepared when the time comes for their use.

Question 4: What load should be used to calculate generator run time on, rated load, calculated load or actual load?

Answer: The actual demand load is to be used to calculate the amount of fuel needed to operate the generator for the 96 hours specified by the rules.

Climate Controlled Space

Question 5: What is meant by net square feet per resident?

Answer: Net square feet refers to occupiable space where temperatures are maintained in accordance with the rule, excluding accessory areas such as stairs, closets, restrooms, and mechanical rooms..

Question 6: In square foot space requirements do you need to include space for egress in the calculations?

Answer: The areas must conform with life safety requirements. This includes providing the required number of exits from the area, the required exit widths, and the required width of exit access (aisles) formed by furniture. It is not necessary to deduct area for the purpose of providing the required exit access (aisles), but the plan should demonstrate the ability to arrange furniture in a manner that provides code compliant egress.

Question 7: If a nursing home is on a campus with an assisted living facility (under common ownership), and their plan is to move the nursing home residents to a shared space in the assisted living facility, is the ALF space required to meet all code requirements applicable to SNF (FBC Section 450)?

Answer: Although the space does not have to be modified to meet different building code requirements, nursing home residents must have no less than 30 net square feet per resident. At all times, the health, safety, welfare, and comfort of the residents, must be maintained as required by this rule in all areas of the building where nursing home residents are relocated.

Question 8: For the purposes of sharing resources, what would be considered a single campus under common ownership?

Answer: This provision relates to facilities located on a single campus (property that is adjacent or connected) who have common ownership (the licensed entity has common ownership).





Fuel

Question 9: In order to meet the 96 hour fuel provision can the requirement be through an added above ground tank?

Answer: The rule does not require a specific fuel storage method to allow flexibility for each provider to determine the most appropriate method to meet their facility needs. These details should be specified in the plan submitted for review and approval.

Question 10: Ninety-six hours of fuel must be secured once a state of emergency has been declared and the facility's primary power delivery may be impacted. What is the trigger for determining an event that may impact primary power? At what point does the ALF have to acquire the additional fuel to equal 96 hours?

Answer: Depending on the specific situation that results in a declared state of emergency, the facility administration must reasonably determine if such a situation may potentially impact the facility's primary power. The expectation would be that facilities acquire the additional fuel once a state of emergency has been declared.

Question 11: What is meant by the phrase declared state of emergency?

Answer: A declared state of emergency refers to a state of emergency declared by executive order or proclamation of the Governor, pursuant to Section 252.36, F.S.


Question 12: What is meant by the phrase an event that "may impact primary power delivery"?


Answer: The phrase "may impact primary power delivery" is meant to distinguish from emergency events that would not typically be associated with loss of electrical power, such as a chemical spill or active shooter event. (This would be consistent with the potential hazards described in the "Hazard Analysis" section of the facility's overall CEMP.)

Emergency Power Plans

Question 13: Are there any specific items that the consumer-friendly version of the emergency power plan must have when submitted to AHCA?

Answer: The Agency has developed a format for submitting a consumer friendly summary of the emergency power plan, which can be accessed online at http://ahca.myflorida.com/MCHQ/Emergency_Activities/EPP.shtml





Question 14: The rules require that residents or their legal representatives must be notified after final implementation. Please confirm if final implementation is based on the State Fire Marshal review; or once the facility has finalized all their steps and awaiting the State Fire Marshal.

Answer: The notice is required upon final implementation of the plan by the facility following review by the State Fire Marshal or the Agency's Office of Plans and Construction.

Question 15: What is the deadline for a nursing home or ALF to submit revisions to a proposed plan after receiving notification from the local emergency management agency that the plan must be revised?


Answer: The nursing home rule requires the facility to respond within 10 days to deficiencies noted by the local emergency management agency; the assisted living rule does not include a specific deadline. Assisted living facilities are expected to act promptly to resolve any deficiencies. Efforts must be documented and unnecessary delays by the facility may impact eligibility for an implementation extension beyond June 1, 2018.

Question 16: There is no defined review timeline for local emergency management review of plans; however facilities are expected to have generators implemented within 60 days. If all plans received on 45th day – there is very little time for review/comment, particularly if permits are required if it is expected that reviews will be completed within the 60 day implementation period. Is it expected that the plan reviews and approvals be completed prior to implementation?

Answer: The rule describes plan reviews and approvals prior to implementation. If implementation is delayed due to regulatory approval processes, the provider may request an extension.

Question 17: Must the Emergency Power Plan (EPP) be submitted annually after initial approval?

Answer: The Emergency Power Plan rules address initial submission of the plan for approval, but clarify that these plans are part of each facility's Comprehensive Emergency Management Plan (CEMP). Therefore, the EPP would be submitted annually hereafter as an addendum to the CEMP whenever the CEMP is submitted for review and approval.





Question 18: Is any action required if a facility already meets the requirements of the rule?

Answer: Many facilities have already taken steps to protect their residents and are in compliance with this rule. Such facilities must submit their plan in accordance with the rule to confirm compliance and will be acknowledged for their proactive implementation. Plans previously approved under the Emergency Rules published in September, 2017 do not require resubmission unless changes occur. Providers whose plans were previously approved under the emergency rules will need to submit a consumer-friendly summary of the emergency power plan to the Agency. The recommended format for submitting a consumer friendly summary of the emergency power plan can be accessed online at: http://ahca.myflorida.com/MCHQ/Emergency_Activities/EPP.shtml

Facility Policies

Question 19: The portion of the written policies describing the procedures for monitoring residents for signs of heat related injury is required to be a part of the emergency environmental control plan submitted to the local emergency management agency when a portion of the building will be cooled. Will these policies be required if the operator elects to provide cooling for the entire facility rather than only a portion?

Answer: The rule does not require the written policy if the entire facility is cooled, however, facilities are always required to protect the residents in their care.


Question 20: Must the policies and procedures for monitoring heat related injury be submitted with the plans for approval or can they solely be kept at the facility for inspection?

Answer: Details that must be included in the Emergency Environmental Control Plan are outlined in Rule 58A-5.036(1), F.A.C. for assisted living facilities and Rule 59A-4.1265(1), F.A.C. for nursing homes. In addition, local emergency management agencies may request additional information in order to demonstrate compliance with these requirements.

New Facilities

Question 21: For providers seeking a license, plans must be submitted before a license may be granted. Another section of the rule requires facilities to notify residents within 5 business days that the plan has been submitted to the local emergency management agency. Must an applicant for licensure submit a plan prior to being licensed?

Answer: Yes, the rule requires new facilities to submit and implement plans prior to licensure.





Carbon Monoxide Detectors for Assisted Living Facilities

Question 22: What, if any, details are required concerning the carbon monoxide (CO) alarm?

Answer: The rule does not provide specific requirements other than the need for all ALFs to have a carbon monoxide detector. For further guidance you may refer to Section 553.885, Florida Statutes, or contact your local authority having jurisdiction. Assisted living facilities must take precautions to assure resident safety at all times.

Extensions of Deadlines

Question 23: How do I find out if a facility is in an evacuation zone?

Answer: For planning purposes, the evacuation zones equate to the hurricane evacuation zones identified by each county (typically titled zones A, B, C, D, E and F). Information about county evacuation zones are available at <https://www.floridadisaster.org/info>. Providers can determine if they are in an evacuation zone by clicking on “Know Your Zone” and entering the facility address. (This would be consistent with the potential hazards described in the “Hazard Analysis” section of the facility’s overall CEMP.)

Question 24: Should the EPP submitted to the Local EOC address extensions beyond 6/1?

Answer: The EPP submitted to the local emergency management agency should include a timeline by which the facility plans to fully implement the emergency power plan.

Question 25: Will there be a formal process to have extensions granted? If not, will the Agency be providing guidance as to what they would like to accompany any request for an extension?

Answer: Providers may request an extension up to January 1, 2019 and the request can be made in the form of a letter or e-mail. Extension requests must show delays are caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes. The request must demonstrate how arrangements have been made pending full implementation of its plan that provides the residents with an area or areas to congregate that meets the safe indoor air temperature requirements for a minimum of ninety-six (96) hours. Requests for extension can be submitted via mail or email to the following addresses:





Assisted Living Facilities

Assisted Living Unit
Agency for Health Care Administration
2727 Mahan Drive, MS #30
Tallahassee, FL 32308
ALF_EmergencyRule@ahca.myflorida.com

Nursing Homes

Long Term Care Services Unit
Agency for Health Care Administration
2727 Mahan Drive, MS #33
Tallahassee, FL 32308
NH_EmergencyRule@ahca.myflorida.com

Assisted living facilities shall notify the Agency that they will utilize the extension and keep the Agency apprised of progress on a quarterly basis to ensure there are no unnecessary delays.

Nursing homes granted an extension must keep the Agency apprised of progress on a monthly basis to ensure there are no unnecessary delays.

Question 26: Do I need to file a Section 120.542, F.S. request for waiver or variance in order to receive an extension?

Answer: No. A rule waiver or variance request pursuant to Section 120.542, F.S., is not required when requesting an extension. The request can be made in the form of a letter or e-mail.

Question 27: Does a delay in approval past June 1, 2018 of the Emergency Environmental Control Plan by the local emergency management agency constitute a delay in a regulatory approval process?


Answer: Yes.


Question 28: Will AHCA develop a form to fill out or request particular information to be submitted to a specified email address?

Answer: Providers must provide details as indicated in the rule specific to their individual circumstances. A form is not required, however, AHCA will provide a suggested format for facilities to utilize.

Question 29: Will AHCA develop a form to fill out or request particular information to be submitted to a specified email address for the progress reports?

Answer: A form is not required, however, AHCA will provide a suggested format for facilities to utilize.





Question 30: At the time of ALF extension notification, will AHCA also require submission of the ALF's arrangements to provide residents with an area(s) to congregate that meets the 81-degree temperature requirement pending full implementation of the plan?

Answer: Yes.

Legal Waivers and Variances

Question 31: If a facility received a variance or waiver under the Emergency Rules (59AER17-1 or 58AER17-1) published in September, 2017, is the variance or waiver still valid?

Answer: No, the emergency rules 59AER17-1 and 58AER17-1 are no longer in effect and have been replaced by the permanent rules 59A-4.1265 and 58A-5.036, F.A.C. The permanent rules allow for extensions of the June 1, 2018 implementation deadline up to January 1, 2019, if certain conditions in the rules are met, without requiring a formal legal variance or waiver.


Question 32: The initial extension is in force from June 1, 2018 until January 1, 2019; however, an additional extension may be granted through a variance or waiver if unavoidable delays would cause the facility's implementation date to go beyond January 1, 2019. What is AHCA requiring for the Section 120.542, F.S. waiver/variance? Is AHCA contemplating receiving waiver requests at least 90 days prior to January 1, 2019 (Wednesday, October 3, 2018)?

Answer: Facilities should not assume requests will be approved and should make every effort to meet the requirements of the rule. Agencies generally have 90 days to grant or deny requests for variances or waivers pursuant to Section 120.542, F.S. Any request to extend an implementation date past January 1, 2019 must be timely filed with the Agency for Health Care Administration 90 days prior to avoid being out of compliance with the requirements of the rule.

Penalties for Non-Compliance

Question 33: What are the penalties for failure to comply with the Emergency Power Rules?

Answer: The Agency's goal is for all nursing homes and assisted living facilities to comply with the Emergency Power Rules and provide for safe environments for residents during an emergency power outage. Although these rules do not address specific penalties, the Agency may use existing sanction authority in the licensure laws for failure to implement these protections, including fines, license denial, and revocation.





Resources

Question 34: Where can I find information about the EPP, Questions and Answers and any suggested forms?

Answer: Visit the AHCA website at: <http://ahca.myflorida.com/>

Select: Licensure and Regulation

Select: Bureau of Health Facility Regulation

Nursing Homes - Select Long Term Care Unit

Assisted Living Facilities – Select Assisted Living Unit

Question 35: Do you have a list of generator companies and electrical engineering contractors who could be hired to help facilities implement the emergency rule?

Answer: A number of businesses and associations have offered assistance to help facilities implement the emergency rule.

Access <http://dcnonline.org/PropertyOwner> to search the Disaster Contractors Network for contractors in your area.

Access <http://www.egsa.org/Membership/MemberDirectory/DirectorySearch.aspx> to search the Electrical Generating Systems Association membership directory for contractors in your area.

Please note this information is provided as a resource. It is the responsibility of the facility operator to ensure securing an appropriate contractor for your project with appropriate licensure.

Question 36: Will funding be available to assist with any costs of acquiring or installing the generator or fuel source?

Answer: Nursing homes may also qualify for additional reimbursement of Medicaid costs through the existing reimbursement process. Housing and Urban Development (HUD) financed properties may qualify for HUD funding assistance through HUD's Lean 232 Program, Office of Residential Care Facilities (ORCF). Please visit HUD website for details at https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care.

