

April 22, 2011

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.210

RULE TITLE: Use of Force

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to clarify that chemical agents will not be used indoors except when the risk of the threat presented outweighs the risk of contact with unintended or uninvolved individuals.

SUBJECT AREA TO BE ADDRESSED: Use of force – chemical agents

RULEMAKING AUTHORITY: 944.09 FS

LAW IMPLEMENTED: 776.07, 944.09, 944.35 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: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.210 Use of Force.

(1) through (20) No change.

(21) Use of Chemical Agents. Chemical agents shall not be used on anyone other than an inmate during an authorized use of force.

(a) through (k) No change.

(1) Issuance of chemical agents.

1. No change.

2. Certified officers assigned to major institutions and posted to internal security, recreation field, shift supervisor posts, or designated as “A” team response members are authorized by the Secretary to be issued one MK-9, or equivalent, dispenser of OC in addition to the dispenser issued in accordance with subparagraph (21)(l)1. These

officers are authorized to administer the chemical agents listed in this subparagraph in spontaneous disturbance situations involving multiple inmates in locations where large numbers of inmates are present, such as recreation fields, canteen, and meal lines. This option shall only be utilized in disturbance situations rising to the level of inmate involvement where this enhanced option is deemed necessary and shall not be used indoors except in emergency situations where the concern for unintended application of the agent to uninvolved bystanders is overshadowed by the seriousness of the threat being confronted.

3. through (29) No change.

Rulemaking Authority 944.09 FS. Law Implemented 776.07, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, 3-3-08, 8-4-08, 1-6-09, 5-26-09, 4-8-10, 9-13-10, 3-22-11, _____.