



# FLORIDA DEPARTMENT OF Environmental Protection

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**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

## Via Electronic Mail

January 5, 2024

Ms. Jeaneanne Gettle  
Acting Regional Administrator  
U.S. Environmental Protection Agency (EPA) – Region 4  
61 Forsyth Street, SW – Mail Code: 9T25  
Atlanta, GA 30303-8909

Re: Withdrawal of Specified Provisions in Florida’s Proposed Revision to Florida’s State Implementation Plan – Florida SIP 2022-04, Chapter 62-204, F.A.C., Air Pollution Control – General Provisions – Repeals and Amendments

Dear Administrator Gettle:

On August 12, 2022, the Florida Department of Environmental Protection (Department) submitted a final proposed revision to the Florida State Implementation Plan (SIP), which, among other requests, included revisions to specific regulatory provisions in Rule 62-204.500, Florida Administrative Code (F.A.C.) (“Conformity”). For administrative purposes, the Department identified this SIP submittal as Florida SIP 2022-04, and EPA has identified the suite of proposed SIP revisions contained within Florida SIP 2022-04 as FL-170.

EPA is in the process of evaluating Florida’s proposed amendments to Rule 62-204.500, F.A.C., as a component of FL-170. After further analysis of the provisions of Rule 62-204.500, F.A.C., as currently adopted into Florida’s SIP, the Department has determined that several elements of the existing state rule, as reflected in the SIP amendment package, are not necessary elements of Florida’s SIP. The Department hereby withdraws certain proposed amendments to Rule 62-204.500, F.A.C., as set forth in FL-170.

Florida specifically withdraws its request to amend Rule 62-204.500, F.A.C., by adding subparts 62-204.500(1)(a), (b), (c), and (d), F.A.C. The provisions contained in these four subparts date to the earliest iteration of Florida’s state “Conformity” rule, but they have never been a component of Florida’s SIP. The Department inadvertently included these subparts among Florida’s proposed amendments to Rule 62-204.500, F.A.C. The Department has consulted with the Air Planning Branch at EPA Region 4 on this matter, and EPA has acknowledged that a formal withdrawal letter would be an appropriate method of addressing this error in Florida’s SIP submittal.

EPA Acting Regional Administrator Gettle  
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Florida does, however, request that EPA proceed with the other proposed amendments to Section 62-204.500(1), F.A.C. (“General Conformity”), as reflected in FL-170. Florida specifically requests that EPA update the outdated citations to reflect the federal transfer of conformity requirements from 40 CFR Part 51, Subpart W (“Determining Conformity of General Federal Actions to State or Federal Implementation Plans”) to 40 CFR Part 93, Subpart B (“Determining Conformity of General Federal Actions to State or Federal Implementation Plans”). As detailed in the submittal package, Florida has adopted and incorporated by reference 40 CFR Part 93, Subpart B in its entirety into Rule 62-204.800, F.A.C., and updated corresponding references in Rule 62-204.500, F.A.C. It would, therefore, be appropriate to update these same elements of Rule 62-204.500, F.A.C., in Florida’s SIP.

For ease of reference, Florida hereby requests EPA revise Rule 62-204.500, F.A.C., in Florida’s SIP as follows:

**62-204.500 Conformity.**

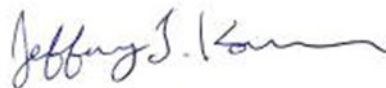
(1) General Conformity. The provisions of this rule apply to state review of all federal general conformity determinations submitted to the state pursuant to 40 CFR Part ~~9351~~, Subpart ~~BW~~, adopted and incorporated by reference at Rule 62-204.800, F.A.C. Pursuant to 40 CFR Part ~~9351~~, Subpart ~~BW~~, federal agencies are required to make conformity determinations to ensure that certain federal actions are consistent with the State Implementation Plan.

(2) Transportation Conformity. Pursuant to 40 CFR 93.105, adopted and incorporated by reference at Rule 62-204.800, F.A.C., the Department has certain consultation and conflict resolution responsibilities in the transportation conformity process. The Department will carry out these responsibilities for transportation conformity pursuant to the interagency memorandum of agreement as revised in 1998, and hereby adopted and incorporated by reference.

History – New 11-30-94, Amended 3-13-96, 3-23-97, 9-1-98, 10-23-16.

We appreciate EPA’s readiness to assist with this matter. If you have any questions about this partial withdrawal of Florida’s proposed SIP revision, please contact Preston McLane at (850) 717-9041 or by email at [Preston.McLane@FloridaDEP.gov](mailto:Preston.McLane@FloridaDEP.gov).

Sincerely,



Jeffery F. Koerner  
Director  
Division of Air Resource Management  
Florida Department of Environmental Protection