

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**PROPOSED REVISION TO
STATE IMPLEMENTATION PLAN**



SUBMITTAL NUMBER 2022-04

**CHAPTER 62-204, F.A.C.,
AIR POLLUTION CONTROL - GENERAL PROVISIONS
REPEALS AND AMENDMENTS**

PRE-HEARING SUBMITTAL

July 6, 2022

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PROPOSED REVISION TO STATE IMPLEMENTATION PLAN

Pre-Hearing Submittal Number 2022-04 Repeals of and Amendments to Chapter 62-204, F.A.C., Air Pollution Control – General Provisions

Introduction

The Florida Department of Environmental Protection (DEP) is proposing a revision to Florida's State Implementation Plan (SIP) under the Clean Air Act (CAA). This proposed SIP revision consists of the removal of eight Florida Administrative Code (F.A.C.) rule sections and amendments to one F.A.C. rule section. The effective dates of the rules and rule amendments in the F.A.C. are tied to rule sections. The U.S. Environmental Protection Agency (EPA) incorporates F.A.C. rules into Florida's SIP on a section-by-section basis according to their state-established effective dates. The rule sections that DEP is requesting be removed from Florida's SIP or amended within Florida's SIP are contained in Chapter 62-204, F.A.C., "Air Pollution Control – General Provisions."

For reasons detailed below, DEP determined that the following F.A.C. rule sections were obsolete or unnecessary, and these rule sections were repealed on February 16, 2012. DEP hereby requests that EPA approve the removal of these repealed rule sections from Florida's SIP:

1. Rule 62-204.100, F.A.C., "Purpose and Scope"
2. Rule 62-204.200, F.A.C., "Definitions"
3. Rule 62-204.220, F.A.C., "Ambient Air Quality Protection"
4. Rule 62-204.240, F.A.C., "Ambient Air Quality Standards"
5. Rule 62-204.260, F.A.C., "Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments)"
6. Rule 62-204.320, F.A.C., "Procedures for Delegation and Redesignation of Areas"
7. Rule 62-204.360, F.A.C., "Designation of Prevention of Significant Deterioration Areas"
8. Rule 62-204.400, F.A.C., "Public Notice and Hearing Requirements for State Implementation Plan Revisions"

Though not repealed, DEP requests that Rule 62-204.340, F.A.C., "Designation of Attainment, Nonattainment, Unclassifiable, and Maintenance Areas," also be removed from Florida's SIP because it is unnecessary. As adopted into the SIP, Rule 62-204.340, F.A.C., effective March 13, 1996, lists out-of-date area designations and includes the unnecessary requirement to publish notice of the effective date of any redesignation. Florida's current area designations can be found in 40 CFR 81.310, which DEP has adopted and incorporated by reference in Rule 62-204.800, F.A.C., "Federal Regulations Adopted by Reference."

Rule 62-204.500, F.A.C., "Conformity," was amended through state rulemaking on October 23, 2016, and DEP hereby requests that the EPA approve this revision into Florida's SIP.

Background

The amendments to Chapter 62-204, “Air Pollution Control – General Provisions,” F.A.C., include eight separate rule repeals, effective February 16, 2012, which removed duplicative and unnecessary requirements, and revisions to one rule effective October 23, 2016, which updated citations. Documentation of the state rule development process for each set of amendments is included in the “State Administrative Materials” section of this submittal.

Details of Chapter 62-204, F.A.C., Rule Repeals and Amendments

(See **Appendix A** for coded language of each repealed rule.)

Rule	Action	Reason
62-204.100 Purpose and Scope	Repealed 2/16/2012	No longer necessary as the rule contained purely explanatory language.
62-204.200 Definitions		
(1) Actual Emissions	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, “Definitions,” since 2006, became applicable to Chapter 62-204 on 3/28/2012.
(2) Administrator	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, “Definitions,” since at least 1996, became applicable to Chapter 62-204 on 3/28/2012.
(3) Air Pollutant	Repealed 2/16/2012	Duplicative. The same definition, which has been in 210.200, “Definitions,” since at least 1993, became applicable to Chapter 62-204 on 3/28/2012.
(4) Air Pollution	Repealed 2/16/2012	Duplicative. The same definition, which has been in 210.200, “Definitions,” since at least 1993, became applicable to Chapter 62-204 on 3/28/2012.
(5) Air Quality Control Region	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, “Definitions,” since at least 1996, became applicable to Chapter 62-204 on 3/28/2012.
(6) Ambient Air Quality Standard (a) National Ambient Air Quality Standard (b) Primary Standard (c) Secondary Standard (d) State Ambient Air Quality Standard	Repealed 2/16/2012	Duplicative. The same definition, which had been in 62-210.200, “Definitions,” since at least 1996, became applicable to Chapter 62-204 on 3/28/2012. The 62-210.200 definition was subsequently revised on 10/23/2013 to clarify where the standard is specified in the CFR.
(7) Baseline Area	Repealed 2/16/2012	Duplicative. The same definition has been in 62-210.200, “Definitions,” since at least 2006. The 62-210.200 definition was revised on 3/28/2012, and it became applicable to Chapter 62-204 on that date.

Rule	Action	Reason
(8) Baseline Concentration	Repealed 2/16/2012	Duplicative. The same definition had been in 62-210.200, "Definitions," since at least 2006. The 62-210.200 definition was revised on 3/28/2012, and it became applicable to Chapter 62-204 on that date.
(9) Cause or Contribute	Repealed 2/16/2012	Duplicative. The same definition, which has been in 210.200, "Definitions," since at least 1993, became applicable to Chapter 62-204 on 3/28/2012.
(10) Clean Air Act (CAA) or Act	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, "Definitions," since 1994, became applicable to Chapter 62-204 on 3/28/2012.
(11) Department	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, "Definitions," since 1994, became applicable to Chapter 62-204 on 3/28/2012.
(12) Emission	Repealed 2/16/2012	Duplicative. The same definition, which has been in 210.200, "Definitions," since at least 1993, became applicable to Chapter 62-204 on 3/28/2012.
(13) Emission Limiting Standard or Emission Standard or Emission Limitation or Performance Standard	Repealed 2/16/2012	Duplicative. The same definition, which has been in 210.200, "Definitions," since at least 1993, became applicable to Chapter 62-204 on 3/28/2012.
(14) Emissions Unit	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, "Definitions," since 1994, became applicable to Chapter 62-204 on 3/28/2012.
(15) Environmental Protection Agency or EPA	Repealed 2/16/2012	Duplicative. The same definition, which has been in 210.200, "Definitions," since at least 1993, became applicable to Chapter 62-204 on 3/28/2012.
(16) Facility	Repealed 2/16/2012	Duplicative. The same definition, which has been in 210.200, "Definitions," since at least 1993, became applicable to Chapter 62-204 on 3/28/2012.
(17) Federal Land Manager	Repealed 2/16/2012	Duplicative. The same definition, which has been in 210.200, "Definitions," since at least 1993, became applicable to Chapter 62-204 on 3/28/2012.
(18) Indian Governing Body	Repealed 2/16/2012	Duplicative. The same definition, which has been in 210.200, "Definitions," since at least 1993, became applicable to Chapter 62-204 on 3/28/2012.
(19) Indian Reservation	Repealed 2/16/2012	Duplicative. The same definition, which had been in 210.200, "Definitions," since at least 1993, became applicable for Chapter 62-204 on 3/28/2012. This 62-210.200 definition was subsequently repealed on 10/23/2013 because it was no longer needed.

Rule	Action	Reason
(20) Major Source Baseline Date	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, "Definitions," since at least 1998, became applicable to Chapter 62-204 on 3/28/2012.
(21) Marginal Nonattainment Area for Ozone	Repealed 2/16/2012	State definition not needed as nonattainment area classifications are specified in 40 CFR Part 81.
(22) Minor Source Baseline Date	Repealed 2/16/2012	Duplicative. The same definition had been in 62-210.200, "Definitions," since at least 1998. The 62-210.200 definition was revised on 3/28/2012, and it became applicable to Chapter 62-204 on that date.
(23) Moderate Nonattainment Area for Ozone	Repealed 2/16/2012	State definition not needed as nonattainment area classifications are specified in 40 CFR Part 81.
(24) Modification	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, "Definitions," since 1994, became applicable to Chapter 62-204 on 3/28/2012.
(25) Nonattainment Area	Repealed 2/16/2012	State definition not needed as nonattainment area designations are specified in 40 CFR Part 81.
(26) Particulate Matter	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, "Definitions," since at least 1998, became applicable to Chapter 62-204 on 3/28/2012.
(27) PM ₁₀	Repealed 2/16/2012	Duplicative. The same definition had been in 62-210.200, "Definitions," since at least 1996. The 62-210.200 definition was revised on 3/28/2012, and it became applicable to Chapter 62-204 on that date. The 62-210.200 definition was revised on 7/3/2018 to clarify when to consider condensable PM.
(28) Redesignation of an Area	Repealed 2/16/2012	State definition not needed as area redesignations are specified in 40 CFR Part 81.
(29) Significant Impact	Repealed 2/16/2012	Duplicative. The same definition had been in 62-210.200, "Definitions," since at least 1996. The 62-210.200 definition was revised to include PM _{2.5} on 3/28/2012, and it became applicable to Chapter 62-204 on that date.

Rule	Action	Reason
(30) State Implementation Plan (SIP) or Implementation Plan	Repealed 2/16/2012	Duplicative. The same definition, which has been in 62-210.200, "Definitions," since 6/29/2011, became applicable to Chapter 62-204 on 3/28/2012.
62-204.220 Ambient Air Quality Protection		
(1)	Repealed 2/16/2012	Duplicative. This requirement can be found at 62-212.300(1)(b), F.A.C.
(2)	Repealed 2/16/2012	Duplicative. This requirement can be found at 62-212.300(1)(c), F.A.C.
(3)	Repealed 2/16/2012	This is a federal requirement. However, if monitoring is required by an owner or operator for air quality analysis, 62-212.400(7), <i>Air Quality Analysis</i> , points to 40 CFR 52.21(m), and 40 CFR 52.21(m)(3) points to Part 58.
(4)	Repealed 2/16/2012	This is a federal requirement. However, if modeling is required, 62-212.400(6), <i>Air Quality Models</i> , points to 40 CFR 52.21(l), which points to Appendix W of Part 51.
62-204.240 Ambient Air Quality Standards	Repealed 2/16/2012	Contained redundant and obsolete standards. The definition of <i>Ambient Air Quality Standard</i> , found in 62-210.200, F.A.C, points to the current standards in 40 CFR Part 50, NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS, adopted and incorporated by reference in 62-204.800, F.A.C. The standards in 62-204.240, F.A.C., have not functioned as state-only standards for any purpose and were intended to reference the federal ambient air quality standards. Only two other rules, 62-204.220, F.A.C., and 62-204.320, F.A.C., included a cross-reference to 62-204.240, F.A.C. However, all three of these rules were repealed on 2/16/2012, and DEP is requesting that all three rules be removed from the SIP.
62-204.260 Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments)	Repealed 2/16/2012	Redundant. 62-210.200, F.A.C., includes a definition for "PSD increment" which points to the federal PSD increments at 40 CFR 52.21(c), adopted and incorporated by reference in 62-204.800, F.A.C.

Rule	Action	Reason
62-204.320 Procedures for Designation and Redesignation of Areas	Repealed 2/16/2012	Unnecessary. The rule language only restated Federal Procedures for Designation and Redesignation of Areas in 40 CFR Part 81.
62-204.340 Designation of Attainment, Nonattainment, Unclassifiable, and Maintenance Areas	Effective 3/13/1996	Unnecessary. This rule includes the unnecessary requirement to publish notice of the effective date of any redesignation in the Florida Administrative Register and a newspaper of general circulation in each county affected. Additionally, the rule lists out-of-date area designations. Current area designations can be found in 40 CFR 81.310, which is adopted and incorporated by reference in 62-204.800, F.A.C.
62-204.360 Designation of Prevention of Significant Deterioration Areas	Repealed 2/16/2012	Redundant. Baseline areas, minor source baseline dates, <i>Class I Area</i> , and <i>Class II Area</i> are each defined in Rule 62-210.200, F.A.C., and adopted into Florida's SIP.
62-204.400 Public Notice and Hearing Requirements for State Implementation Plan Revisions	Repealed 2/16/2012	Unnecessary. Florida must follow Federal procedures for public notice and hearing requirements in 40 CFR 51 Subpart F, adopted and incorporated by reference in 62-204.800, F.A.C., regardless of their inclusion in state rules.
62-204.500 Conformity	Amended 10/23/16	Citations were outdated and needed to be revised 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." Because of this federal citation revision, 40 CFR Part 93 Subpart B was adopted and incorporated by reference in its entirety in Rule 62-204.800, F.A.C., and references in 62-204.500, F.A.C., were updated.

SIP Development Process

Section 403.061(35), Florida Statutes, authorizes DEP to “exercise the duties, powers, and responsibilities required of the state under the federal Clean Air Act.” These duties and responsibilities include the development and periodic updating of Florida’s SIP. Pursuant to this statutory authority, DEP has developed this proposed SIP revision.

All of the rule amendments addressed in this proposed SIP revision were adopted in accordance with Florida administrative procedures, which include publication in the Florida Administrative Register of proposed rule language and notice of the opportunity to submit comments, request a rule adoption hearing, or participate in any scheduled rule adoption hearing. Documentation of the state rule development process for each set of rule amendments is included in the “State Administrative Materials” section of this submittal.

In accordance with 40 CFR 51.102, DEP published a notice in the FAR on July 6, 2022, announcing an opportunity for the public to submit comments and request a public hearing to be held on August 8, 2022, if requested, regarding the proposed revision to Florida’s SIP. [A public hearing was held on August __, 2022.] [Note whether DEP received any comments.]

In accordance with the 30-day notice requirement of 40 CFR 51.102, a pre-hearing submittal providing details of the proposed SIP revision was transmitted to the U.S. Environmental Protection Agency (EPA) on July 6, 2022, and DEP also transmitted a copy of the public notice to Florida’s local air pollution control programs.

Response to 40 CFR Part 51, Appendix V, Criteria

Pursuant to 40 CFR Part 51, Appendix V, the following materials shall be included in State Implementation Plan (SIP) submissions for review and approval by the U.S. Environmental Protection Agency (EPA).

Administrative Materials

(a) A formal signed, stamped, and dated letter of submittal from the Governor or his designee, requesting EPA approval of the plan or revision thereof (hereafter “the plan”).

- A copy of the “Letter of Submittal,” signed by the Director of the Division of Air Resource Management, Florida Department of Environmental Protection (DEP), on behalf of the Governor of the State of Florida, is submitted with this document.

(b) Evidence that the State has adopted the plan in the State code or body of regulations; or issued the permit, order, consent agreement (hereafter “document”) in final form. That evidence shall include the date of adoption or final issuance as well as the effective date of the plan, if different from the adoption/issuance date.

- This proposed revision to Florida’s SIP consists of the following F.A.C. rule sections as amended or repealed effective upon the dates shown in the table below.

F.A.C. Rule	Title	State Effective Date
62-204.100	Purpose and Scope	Repealed 2/16/2012
62-204.200	Definitions	Repealed 2/16/2012
62-204.220	Ambient Air Quality Protection	Repealed 2/16/2012
62-204.240	Ambient Air Quality Standards	Repealed 2/16/2012
62-204.260	Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments)	Repealed 2/16/2012
62-204.320	Procedures for the Designation and Redesignation of Areas	Repealed 2/16/2012
62-204.340	Designation of Attainment, Nonattainment, Unclassifiable, and Maintenance Areas	Effective 3/13/1996 (requesting removal from the SIP)
62-204.360	Designation of Prevention of Significant Deterioration Areas	Repealed 2/16/2012
62-204.400	Public Notice and Hearing Requirements for State Implementation Plan Revisions	Repealed 2/16/2012
62-204.500	Conformity	Amended 10/23/2016

Copies of each set of rule amendments/repeals may be found in the “Materials Proposed to be Incorporated into the SIP” section of this submittal. Certified copies of each set of rule amendments and accompanying documentation, as filed with the Florida Secretary of State for adoption into the F.A.C., may be found in the “State Administrative Materials” section of this submittal.

(c) Evidence that the State has the necessary legal authority under State law to adopt and implement the plan.

- DEP has the necessary legal authority to adopt and implement this proposed revision to Florida’s SIP. References to the pertinent Florida Statutes and Florida Administrative Code (F.A.C.) rules may be found in the “Legal Authority” section of this submittal.

(d) A copy of the actual regulation, or document submitted for approval and incorporation by reference into the plan, including indication of the changes made (such as redline/strikethrough) to the existing approved plan, where applicable. The submission shall include a copy of the official State regulation/document, signed, stamped, and dated by the appropriate State official indicating that it is fully enforceable by the State. The effective date of any regulation/document contained in the submission shall, whenever possible, be indicated in the regulation/document itself; otherwise the State should include a letter signed, stamped, and dated by the appropriate State official indicating the effective date. If the regulation/document provided by the State for approval and incorporation by reference into the plan is a copy of an existing publication, the State submission should, whenever possible, include a copy of the publication cover page and table of contents.

- Certified copies of all repeals and rule amendments, as filed with the Florida Secretary of State for adoption into the F.A.C., may be found in the “State Administrative Materials” section of this submittal.

(e) Evidence that the State followed all of the procedural requirements of the State’s laws and constitution in conducting and completing the adoption/issuance of the plan.

- DEP has complied with all state procedural requirements in adoption of the rules proposed to be incorporated into the SIP. Evidence of compliance with these requirements is provided by certification of the materials filed with the Florida Secretary of State for adoption of the rules and rule amendments into the F.A.C. These materials may be found in the “State Administrative Materials” section of this submittal.
- State law (s. 120.525, F.S.) requires DEP to provide notice of all public meetings, hearings, and workshops in the Florida Administrative Register (FAR) not less than seven days before the event. Through publication in the FAR of the notice of opportunity to participate in a SIP public hearing, if requested, at least 30 days before the event, DEP has complied with all state procedural requirements relevant to the development of this proposed SIP revision. A copy of this notice may be found in the “Public Participation” section of this submittal.

(f) Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice.

- DEP has complied with all public hearing requirements of 40 CFR 51.102. Copies of all relevant notices and notification emails may be found in the “Public Participation” section of this submittal.

(g) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State’s laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102.

- Certification of compliance with all state and federal public notice and hearing requirements is provided in the “Letter of Submittal.”

(h) Compilation of public comments and the State’s response thereto.

- Written comments received during the public notice period on this proposed SIP revision, and DEP’s response thereto, may be found in the “Public Participation” section of this submittal.

Technical Support

(a) Identification of all regulated pollutants affected by the plan.

- This SIP revision addresses regulated pollutants emitted from stationary sources of air pollution, including particulate matter, volatile organic compounds, nitrogen oxides, and sulfur dioxide.

(b) Identification of the locations of affected sources including the EPA attainment/nonattainment designation of the locations and the status of the attainment plan for the affected areas(s).

- These SIP revisions apply statewide.

(c) Quantification of the changes in plan allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision.

- No changes in allowable or actual emissions are expected as a result of the rule repeals and amendments included in this proposed SIP revision.

(d) The State’s demonstration that the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented. For all requests to redesignate an area to attainment for a national primary ambient air quality standard, under section 107 of the Act, a revision must be submitted to provide for the maintenance of the national primary ambient air quality standards for at least 10 years as required by section 175A of the Act.

- The rule amendments included in this proposed SIP revision relate to clarifications of regulations, or repeals of unnecessary regulations, and will not result in any pollutant emission increases. As a result, these rule amendments are protective of national ambient air quality standards (NAAQS), prevention of significant deterioration increments, and visibility, and will not interfere with measures required of Florida or any other state for reasonable further progress towards attainment of any NAAQS.

(e) Modeling information required to support the proposed revision, including input data, output data, models used, justification of model selections, ambient monitoring data used, meteorological data used, justification for use of offsite data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis.

- No modeling has been performed to support this proposed SIP revision since no emission reduction requirements or changes in allowable or actual emissions are affected by the repealed or amended rules included in this proposed SIP revision.

(f) Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.

- Not applicable—no emission reduction technologies or allowable emission rates are established by the rules included in this proposed SIP revision.

(g) Evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels.

- Not applicable.

(h) Compliance/enforcement strategies, including how compliance will be determined in practice.

- Not applicable.

(i) Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary.

- Not applicable.

Exceptions

- Not applicable.

Materials Proposed to be Incorporated into Florida's SIP

In this section of the submittal, the rule amendments proposed for incorporation into the SIP are arranged by *State Citation* and, where possible, are shown in “coded” format where ~~strike-through~~ denotes deleted text, and underline denotes new text.

Rules 62-204.100, 62-204.220, 62-204.240, 62-204.320, and 62-204.360, F.A.C., each of which had a state effective date of 3/13/1996, and each of which were last approved and incorporated into the SIP on 6/16/1999, were repealed on 2/16/2012. These 2/16/2012 repeals are included in this SIP submittal.

Rules 62-204.200 and 62-204.260, F.A.C., each of which had a state effective date of 2/12/2006, and each of which was last approved and incorporated into the SIP on 6/27/2008, were repealed on 2/16/2012. These 2/16/2012 repeals are included in this SIP submittal.

Since it was last approved and incorporated into the SIP on 6/19/1999, Rule 62-204.340, F.A.C., with a state effective date of 3/13/1996, was amended with a state effective date of 10/23/2016, to point individually to 40 CFR 81.310 for designations of Attainment, Nonattainment, Unclassifiable, and Maintenance Areas, Subsequent amendments on 4/2/2020 pointed collectively to 40 CFR 81.310 for designations of Attainment, Nonattainment, Unclassifiable, and Maintenance Areas and removed the unnecessary requirement to publish notice of the effective date of any redesignation in the Florida Administrative Register and a newspaper of general circulation in each county affected by the redesignation. DEP requests that Rule 62-204.340, F.A.C., be removed entirely from the SIP because the requirement to publish notice of the effective date of any redesignation is unnecessary in the SIP. In addition, the rule lists out-of-date area designations. Current area designations can be found in 40 CFR 81.310, which is adopted and incorporated by reference in Rule 62-204.800, F.A.C.

Rule 62-204.400, F.A.C., with a state effective date of 11/30/1994, and last approved and incorporated into the SIP on 6/16/1999, was repealed on 2/16/2012. This 2/16/2012 repeal is included in this SIP submittal.

Rule 62-204.500, F.A.C., with a state effective date of 9/1/1998, and last approved and incorporated into the SIP on 8/11/2003, was amended on 10/23/2016. These 10/23/2016 amendments are included in this SIP submittal.

Certified copies of all individual sets of rule amendments, as filed with the Florida Secretary of State for adoption into the F.A.C., may be found in the “State Administrative Materials” section of this submittal.

62-204.100 Purpose and Scope.

(1) — This chapter establishes maximum allowable levels of pollutants in the ambient air, or ambient air quality standards, necessary to protect human health and public welfare. This chapter also establishes maximum allowable increases in ambient concentrations for subject pollutants to prevent significant deterioration of air quality in areas where ambient air quality standards are being met. It further specifies approved air quality monitoring and modeling methods.

(2) — In addition, this chapter designates all areas of the state as attainment, nonattainment, or unclassifiable with respect to each pollutant for which ambient air quality standards have been adopted; further designates certain attainment and unclassifiable areas of the state as air quality maintenance areas for particular pollutants; classifies all areas of the state as Class I, Class II, or Class III for determining which set of prevention of significant deterioration (PSD) increments apply; and designates all attainment and unclassifiable areas of the state as one or more PSD areas for determining which pollutant specific PSD baseline dates apply. This chapter also sets forth procedures for redesignating and reclassifying areas as above.

(3) — The Department of Environmental Protection adopts this chapter to identify the Florida State Implementation Plan (SIP) required by the U.S. Environmental Protection Agency pursuant to 40 CFR Part 51; to set forth the public notice and hearing requirements that the Department will adhere to for making SIP revisions; and to set forth the definitions, criteria, and procedures that the Department will use to review a federal agency's general conformity determination, made pursuant to 40 CFR Part 51, Subpart W; and to adopt by reference an interagency memorandum of agreement that the Department will comply with pursuant to 40 CFR Part 51, Subpart T. The provisions of 40 CFR 51.853 require that a federal agency make a general conformity determination for any federal agency action in a nonattainment or maintenance area, to ensure that such action is consistent with the SIP and that such federal conformity determination be reviewed by the affected state. The provisions of 40 CFR 51.394 require that a transportation conformity determination be made for the adoption, acceptance, approval, or support of certain transportation plans, transportation improvement programs, and transportation projects in nonattainment and maintenance areas for transportation related criteria pollutants to ensure that such actions are consistent with the SIP.

(4) — Finally, this chapter adopts and incorporates by reference federal air pollution control regulations which are referenced in whole or in part throughout the Department's air pollution control rules.

History—New 11-30-94, Amended 3-13-96, Repealed 2-16-12.

62-204.100

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	11/22/1994	06/16/1999	64 FR 32353
1st Revision	04/15/1996	06/16/1999	64 FR 32346

Proposed SIP after Approval of Requested Revision:

No provisions of Rule 62-204.100, F.A.C., would remain in Florida's SIP.

62-204.200 Definitions.

The following words and phrases when used in this chapter, unless content clearly indicates otherwise, have the following meanings:

- (1) "Actual Emissions" The actual rate of emission of a pollutant from an emissions unit as determined in accordance with the following provisions:
 - (a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of the normal operation of the emissions unit. The Department shall allow the use of a different time period upon a determination that it is more representative of the normal operation of the emissions unit. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates and types of materials processed, stored, or combusted during the selected time period.
 - (b) The Department may presume that unit-specific allowable emissions for an emissions unit are equivalent to the actual emissions of the emissions unit provided that such unit-specific allowable emissions limits are federally enforceable.
 - (c) For any emissions unit that has not begun normal operations on a particular date, actual emissions shall equal the potential emissions of the emissions unit on that date.
- (2) "Administrator" The Administrator of the United States Environmental Protection Agency or the Administrator's designee.
- (3) "Air Pollutant" Any substance (particulate, liquid, gaseous, organic or inorganic) which if released, allowed to escape, or emitted, whether intentionally or unintentionally, into the outdoor atmosphere may result in or contribute to air pollution.
- (4) "Air Pollution" The presence in the outdoor atmosphere of the state of any one or more substances or pollutants in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (5) "Air Quality Control Region" Any air quality control region designated pursuant to Section 107 of the Clean Air Act. The boundaries of the air quality control regions in Florida are set forth in 40 CFR Part 81, Sections 81.49, 81.68, 81.91, 81.95, 81.96 and 81.97, adopted and incorporated by reference in Rule 62-204.800, F.A.C.
- (6) "Ambient Air Quality Standard" or "Ambient Standard" A restriction established to limit the quantity or concentration of an air pollutant that may be allowed to exist in the ambient air for any specific period of time.
 - (a) "National Ambient Air Quality Standard" means an ambient standard established by EPA and specified at 40 C.F.R. Part 50, adopted and incorporated by reference in Rule 62-204.800, F.A.C.
 - (b) "Primary Standard" means an ambient standard established to protect public health.
 - (c) "Secondary Standard" means an ambient standard established to protect the public welfare including the protection of animal and plant life, property, visibility and atmospheric clarity, and the enjoyment of life and property.

(d) "State Ambient Air Quality Standard" means an ambient standard established or adopted by the Department.

(7) "Baseline Area"—The area (and every part thereof) designated as a prevention of significant deterioration (PSD) area under Rule 62-204.360, F.A.C., in which the facility or major modification establishing the minor source baseline date would construct or in which the emissions of the facility (or the significant net increase in emissions for a major modification) would have a predicted air quality impact equal to or greater than one microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established. For purposes of this definition, "major modification" has the meaning given at Rule 62-210.200, F.A.C.

(8) "Baseline Concentration"—The ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and for each averaging time for which a maximum allowable increase is established in Rule 62-204.260, F.A.C.

(a) The baseline concentration shall include the concentration attributable to:

1. The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided at Rule 62-204.200(8)(b), F.A.C.; and
2. The federally enforceable allowable emissions of major stationary sources on which construction commenced on or before the major source baseline date but which were not in operation by the applicable minor source baseline date.

(b) The baseline concentration shall not include the concentration attributable to the following emissions; rather, such emissions shall affect the amount of any applicable maximum allowable increase remaining available:

1. The actual emissions from any major stationary source on which construction commenced after the major source baseline date; and
2. Any increase or decrease in the actual emissions of facilities occurring after the applicable minor source baseline date.

(c) For purposes of this definition, "construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, shutdown or modification of an emissions unit) that would result in a change in emissions; and "commence construction" has the meaning given at Rule 62-210.200, F.A.C., provided, however, that in the case of demolition or shutdown of an emissions unit, "commence construction" means that the owner or operator has permanently ceased all operations of the unit.

(d) Notwithstanding the provisions of paragraph (b) above:

1. The change in concentration attributable to any decrease in the actual emissions of a facility on which the Department has relied in demonstrating attainment, defining reasonable further progress, or issuing a permit under the provisions of Rule 17-2.17 (repealed), 17-2.510 (transferred), 17-2.650 (transferred), 62-212.500, 62-296.500 through 62-296.570, or 62-296.700 through 62-296.712, F.A.C., shall be included in the baseline concentration and not be considered in determining the amount of any maximum allowable increase remaining available; and

~~2. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities shall be excluded in determining compliance with any maximum allowable increase.~~

~~(9) "Cause or Contribute"—With respect to a violation of an ambient air quality standard, to have a significant impact on the ambient air concentration of a pollutant at any locality that does not or would not meet the applicable standard.~~

~~(10) "Clean Air Act (CAA)" or "Act"—The Federal Clean Air Act (42 U.S.C. s. 7401 et seq.)~~

~~(11) "Department"—The State of Florida Department of Environmental Protection.~~

~~(12) "Emission"—The discharge or release into the atmosphere of one or more air pollutants.~~

~~(13) "Emission Limiting Standard" or "Emission Standard" or "Emission Limitation" or "Performance Standard"—Any restriction established in or pursuant to a regulation adopted by the Department which limits the quantity, rate, concentration or opacity of any pollutant released, allowed to escape or emitted, whether intentionally or unintentionally, into the atmosphere, including any restriction which prescribes equipment, sets fuel specifications, or prescribes operation or maintenance procedures for an emissions unit to assure emission reduction or control.~~

~~(14) "Emissions Unit"—Any part or activity of a facility that emits or has the potential to emit any air pollutant.~~

~~(15) "Environmental Protection Agency" or "EPA"—The United States Environmental Protection Agency.~~

~~(16) "Facility"—All of the emissions units which are located on one or more contiguous or adjacent properties and which are under the control of the same person (or persons under common control).~~

~~(17) "Federal Land Manager"—With respect to any lands in the United States, the Secretary of the department with authority over such lands.~~

~~(18) "Indian Governing Body"—The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.~~

~~(19) "Indian Reservation"—Any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.~~

~~(20) "Major Source Baseline Date"—Pursuant to 40 CFR 51.166(b)(14)(i), adopted and incorporated by reference in Rule 62-204.800, F.A.C.:~~

~~(a) In the case of particulate matter and sulfur dioxide, January 6, 1975; and~~

~~(b) In the case of nitrogen dioxide, February 8, 1988.~~

~~(21) "Marginal Nonattainment Area for Ozone"—The lowest category of five classifications of nonattainment for the air pollutant ozone as defined in the Clean Air Act (42 U.S.C. s.7511).~~

~~(22) "Minor Source Baseline Date"—Pursuant to 40 CFR 51.166(b)(14)(ii), adopted and incorporated by reference in Rule 62-204.800, F.A.C., the minor source baseline date for each pollutant for which maximum allowable increases have been established under Rule 62-204.260, F.A.C., is the earliest date after August 7, 1977, for particulate matter and sulfur dioxide, and February 8, 1988, for nitrogen dioxide, that a facility or a modification subject to preconstruction review under 40 CFR 52.21, Rule 17-2.500,~~

F.A.C. (transferred), or Rule 62-212.400, F.A.C., submits a complete application for permit under such regulations provided that:

- (a) On the date the complete application is filed, the area in which the facility or modification would be constructed is designated as attainment or unclassifiable for the applicable pollutant under 42 U.S.C. Section 7407(d)(1) of the Clean Air Act (if the application is filed under 40 CFR 52.21), or as a PSD area under Rule 17-2.450 (transferred), 62-275.700 (repealed) or 62-204.360, F.A.C., (if the application is filed under Rule 17-2.500 (transferred) or 62-212.400, F.A.C.); and
- (b) In the case of a facility, the emissions of the applicable pollutant would be equal to or greater than the significant emissions rate as defined at Rule 62-210.200, F.A.C., or, in the case of modification, there would be a significant net emissions increase of the pollutant.

~~(23) "Moderate Nonattainment Area for Ozone"—The second lowest category of five classifications of nonattainment for the air pollutant ozone as defined in the Clean Air Act (42 U.S.C. s. 7511).~~

~~(24) "Modification"—~~

~~Any physical change in, change in the method of operation of, or addition to a facility which would result in an increase in the actual emissions of any air pollutant subject to regulation under the Act, including any not previously emitted, from any emissions unit or facility.~~

- ~~(a) A physical change or change in the method of operation shall not include:
 1. Routine maintenance, repair, or replacement of component parts of an emissions unit; or
 2. A change in ownership of an emissions unit or facility.~~

~~(b) For any pollutant that is specifically regulated by the EPA under the Clean Air Act, a change in the method of operation shall not include an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975.~~

~~(c) For any pollutant that is not specifically regulated by the EPA under the Clean Air Act, a change in the method of operation shall not include an increase in the hours of operation or in the production rate, unless such change would exceed any restriction on hours of operation or production rate included in any applicable Department air construction or air operation permit.~~

~~(25) "Nonattainment Area"—Any area not meeting ambient air quality standards and designated as a nonattainment area under Rule 62-204.340, F.A.C. Such an area may be designated as a particulate, sulfur dioxide, nitrogen dioxide, carbon monoxide, lead or ozone nonattainment area, depending on which ambient standard has been violated. An area may be designated as nonattainment for more than one air pollutant. Ozone nonattainment areas may be transitional, marginal, moderate, serious, severe, or extreme as classified in Rule 62-204.340, F.A.C.~~

~~(26) "Particulate Matter"—~~

- ~~(a) With respect to concentrations in the atmosphere, particulate matter means any airborne finely divided solid or liquid material.~~
- ~~(b) With respect to emissions, particulate matter means all finely divided solid or~~

liquid material, other than uncombined water, emitted to the atmosphere as measured by applicable reference methods, or an equivalent or alternative method, specified in 40 CFR Part 60, Appendix A, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(27) "PM₁₀"

(a) With respect to concentrations in the atmosphere, PM₁₀ means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50, Appendix J, adopted and incorporated by reference in Rule 62-204.800, F.A.C., and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(b) With respect to emissions, PM₁₀ means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the atmosphere as measured by an applicable reference method or by an equivalent or alternative method specified in 40 CFR Part 60, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(28) "Redesignation of an Area"—A change in the designation or a redefinition of the boundaries of an area for any of the designations listed under Rule 62-204.340 or 62-204.360, F.A.C.

(29) "Significant Impact"—An impact of emissions on ambient air quality in excess of any of the following pollutant-specific concentration values:

(a) Sulfur Dioxide.

1. Maximum three-hour concentration not to be exceeded more than once per year—25.0 micrograms per cubic meter.
2. Maximum 24-hour concentration not to be exceeded more than once per year—1.0 microgram per cubic meter for Class I areas; 5.0 micrograms per cubic meter for all other areas.
3. Annual arithmetic mean—1.0 microgram per cubic meter.

(b) PM₁₀.

1. Maximum 24-hour concentration not to be exceeded more than once per year—1.0 microgram per cubic meter for Class I areas; 5.0 micrograms per cubic meter for all other areas.
2. Annual arithmetic mean—1.0 microgram per cubic meter.

(c) Nitrogen Dioxide. Annual arithmetic mean—1.0 microgram per cubic meter.

(d) Carbon Monoxide.

1. Maximum one-hour concentration not to be exceeded more than once per year—2.0 milligrams per cubic meter.
2. Maximum eight-hour concentration not to be exceeded more than once per year—0.5 milligram per cubic meter.

(e) Lead. Maximum quarterly arithmetic mean—0.03 microgram per cubic meter.

(30) "State Implementation Plan (SIP)" or "Implementation Plan" The EPA approved plan which Section 110 of the Clean Air Act requires a state to submit to the Administrator. The State Implementation Plan for the State of Florida, as approved by the U.S. Environmental Protection Agency, is identified in 40 CFR Part 52, Subpart K, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

History: New 11-30-94, Amended 3-13-96, 2-12-06, Repealed 2-16-12.

62-204.200

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	11/22/1994	06/16/1999	64 FR 32353
1st Revision	04/15/1996	06/16/1999	64 FR 32346
2nd Revision	02/03/2006	06/27/2008	73 FR 36435

Proposed SIP after Approval of Requested Revision:

No provisions of Rule 62-204.200, F.A.C., would remain in Florida's SIP.

62-204.220 Ambient Air Quality Protection.

(1) ~~Except as provided in Rule 62-212.500, F.A.C., Preconstruction Review for Nonattainment Areas, or in the Reasonably Available Control Technology rules of Chapter 62-296, F.A.C., the Department shall not issue an air permit authorizing a person to build, erect, construct, or implant any new emissions unit; operate, modify, or rebuild any existing emissions unit; or by any other means release or take action which would result in the release of an air pollutant into the atmosphere which would cause or contribute to a violation of an ambient air quality standard established under Rule 62-204.240, F.A.C.~~

(2) ~~Except as provided in Rule 62-212.400, F.A.C., Prevention of Significant Deterioration (PSD), the Department shall not issue an air permit authorizing the construction or modification of any emissions unit or facility that would cause or contribute to an ambient concentration at any point within a baseline area that exceeds either the appropriate baseline concentration for the point plus the appropriate maximum allowable increase or the appropriate ambient air quality standard, whichever is less.~~

(3) ~~Ambient air quality monitors used to establish a violation of an ambient air quality standard shall meet the requirements of 40 CFR Part 58, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(4) ~~For any provision of the air pollution rules of the Department which requires that an estimate of concentrations of pollutants in the ambient air be made, the estimates shall be based on the applicable air quality models, data bases, and other requirements approved by the Department and specified in 40 CFR Part 51, Appendix W—Guideline on Air Quality Models (Revised), adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

History—New 3-13-96, Repealed 2-16-12.

62-204.220

Date Submitted to EPA	Date Approved by EPA	Federal Register
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Proposed SIP after Approval of Requested Revision:

No provisions of Rule 62-204.220, F.A.C., would remain in Florida's SIP.

62-204.240 Ambient Air Quality Standards.~~(1) Sulfur Dioxide.~~

- ~~(a) Maximum three-hour concentration not to be exceeded more than once per year—1300 micrograms per cubic meter (0.5 ppm).~~
- ~~(b) Maximum 24-hour concentration not to be exceeded more than once per year—260 micrograms per cubic meter (0.1 ppm).~~
- ~~(c) Annual arithmetic mean—60 micrograms per cubic meter (0.02 ppm).~~

~~(2) PM10.~~

- ~~(a) 24-hour average concentration not to be exceeded more than once per year, as determined in accordance with 40 C.F.R. Part 50, Appendix K, adopted and incorporated by reference in Rule 62-204.800, F.A.C.—150 micrograms per cubic meter.~~
- ~~(b) Expected annual arithmetic mean concentration as determined in accordance with 40 CFR Part 50 Appendix K—50 micrograms per cubic meter.~~

~~(3) Carbon Monoxide.~~

- ~~(a) Maximum one-hour concentration not to be exceeded more than once per year—35 parts per million (40 milligrams per cubic meter).~~
- ~~(b) Maximum eight-hour concentration not to be exceeded more than once per year—9 parts per million (10 milligrams per cubic meter).~~

~~(4) Ozone. Daily maximum one-hour concentration, not to be exceeded an average of more than one day per year—0.12 parts per million (235 micrograms per cubic meter).~~

- ~~(a) Exceedances. An exceedance will occur for any calendar day when the maximum hourly average concentration for that day exceeds the standard. A day with more than one hourly value exceeding the standard shall count as a single exceedance.~~
- ~~(b) Determination of Compliance with Standard. At the end of each calendar year, the number of days with maximum hourly concentrations above 0.12 ppm shall be determined as specified in Rule 62-204.220(4)(a)3., F.A.C., below, and that number averaged with the results of the immediately preceding two year's data. As long as this average remains less than or equal to 1.0, the site is in compliance.~~
- ~~(c) Estimating the Number of Exceedances per Year. When a valid daily maximum hourly average value is not available for each day of the year, the following method shall be used to account for those missing values when determining the number of exceedances for a particular calendar year. If a site has two or more observed exceedances each year, the standard is not met and no requirement exists to account for the missing values in accordance with this paragraph. The term "missing values" means all days that do not have an~~

associated ozone measurement. A daily maximum ozone value is the highest hourly ozone value recorded for that day. This daily maximum is considered to be valid if 75 percent of the hours from 9:01 A.M. to 9:00 P.M. (LST) were measured or if the highest hourly value is greater than the level of the standard. A missing daily maximum ozone value may be assumed to be less than the level of the standard if the valid daily maxima on both the preceding day and the following day do not exceed 75 percent of the level of the standard (0.09 ppm in this case). No assumption can be made if more than one consecutive day's data are missing. The following equation shall be used to estimate the number of exceedances for the year:

$$e = v + (v/n)(N - n - z); \text{ where:}$$

e = the estimated number of exceedances for the year;

v = the number of daily values above the standard;

n = the number of valid daily maxima;

N = the number of days in the year; and

z = the number of days assumed to be less than the standard level.

This estimated number of exceedances shall be rounded to one decimal place (fractional part equal to or greater than 0.05 rounds up).

(5) Nitrogen Dioxide. Annual arithmetic mean — 100 micrograms per cubic meter (0.05 ppm).

(6) Lead. Maximum quarterly arithmetic — 1.5 Micrograms per cubic meter.

History—New 3-13-96, Repealed 2-16-12.

62-204.240

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	04/15/1996	06/16/1999	64 FR 32346

Proposed SIP after Approval of Requested Revision:

No provisions of Rule 62-204.240, F.A.C., would remain in Florida's SIP.

62-204.260 Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments).

At any location within a baseline area, any increase in pollutant concentration over the baseline concentration shall be limited to the applicable amount, set forth below. For any averaging period other than the annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(1) Class I Area Increments.

(a) Particulate Matter.

1. PM₁₀, Annual arithmetic mean — 4 micrograms per cubic meter.

2. PM₁₀, Twenty-four hour maximum — 8 micrograms per cubic meter.

(b) Sulfur Dioxide.

1. Annual arithmetic mean — 2 micrograms per cubic meter.

- 2. Twenty-four hour maximum—5 micrograms per cubic meter.
- 3. Three hour maximum—25 micrograms per cubic meter.
- (c) Nitrogen Dioxide. Annual arithmetic mean—2.5 micrograms per cubic meter.
- (2) Class II Area Increments.
 - (a) Particulate Matter.
 - 1. PM₁₀, Annual arithmetic mean—17 micrograms per cubic meter.
 - 2. PM₁₀, Twenty-four hour maximum—30 micrograms per cubic meter.
 - (b) Sulfur Dioxide.
 - 1. Annual arithmetic mean—20 micrograms per cubic meter.
 - 2. Twenty-four hour maximum—91 micrograms per cubic meter.
 - 3. Three hour maximum—512 micrograms per cubic meter.
 - (c) Nitrogen Dioxide. Annual arithmetic mean—25 micrograms per cubic meter.
- (3) Class III Area Increments.
 - (a) Particulate Matter.
 - 1. PM₁₀, Annual arithmetic mean—34 micrograms per cubic meter.
 - 2. PM₁₀, Twenty-four hour maximum—60 micrograms per cubic meter.
 - (b) Sulfur Dioxide.
 - 1. Annual arithmetic mean—40 micrograms per cubic meter.
 - 2. Twenty-four hour maximum—182 micrograms per cubic meter.
 - 3. Three hour maximum—700 micrograms per cubic meter.
 - (c) Nitrogen Dioxide. Annual arithmetic mean—50 micrograms per cubic meter.

History—New 3-13-96, Amended 2-12-06, Repealed 2-16-12.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	04/15/1996	06/16/1999	64 FR 32346
1st Revision	02/03/2006	06/27/2008	73 FR 36435

62-204.260

Proposed SIP after Approval of Requested Revision:

No provisions of Rule 62-204.260, F.A.C., would remain in Florida’s SIP.

62-204.320 Procedures for Designation and Redesignation of Areas.

- (1) General.
 - (a) ~~Under Rules 62-204.340(1) through (3), F.A.C., all areas of the state shall be designated as attainment, nonattainment, or unclassifiable with respect to each air pollutant for which an ambient air quality standard is established under Rule 62-204.240, F.A.C. The designation of each such area determines which emission limiting standards, new and modified facility review requirements, and other air pollution control measures shall apply to sources and activities which emit the pollutant or the precursor of the pollutant for which the area is designated. Following the redesignation of an area as nonattainment, a revision to the State Implementation Plan (SIP) may be required to establish the emission limiting~~

standards and other air pollution control measures appropriate for the area.

(b) Under Rule 62-204.360(1), F.A.C., all areas of the state that are not designated as nonattainment with respect to a pollutant for which a maximum allowable increase is defined in Rule 62-204.260, F.A.C., shall be designated as one or more prevention of significant deterioration (PSD) areas with respect to each such pollutant. The designation of a PSD area determines the area for which a PSD baseline date shall be established.

(c) Under Rule 62-204.360(2), F.A.C., all areas of the state shall be designated as Class I, Class II, or Class III. For an area that is designated as a PSD area, the designation of the area as Class I, II or III determines which set of maximum allowable increases in particulate matter, sulfur dioxide, and nitrogen dioxide concentrations established under Rule 62-204.260, F.A.C., shall apply in the area after a PSD baseline date is established.

(d) Under Rule 62-204.340(4), F.A.C., certain areas of the state shall be designated as air quality maintenance areas. Areas that have been redesignated from nonattainment to attainment or unclassifiable may be designated as air quality maintenance areas with the effect that all emission limiting standards and permit limitations that were established pursuant to Rules 17-2.17 (repealed), 17-2.510(transferred), 17-2.650 (transferred), 62-212.500, Chapter 62-252, and the Reasonably Available Control Technology rules in Chapter 62-296, F.A.C., or otherwise as a result of the SIP or nonattainment corrective plan, and all other air pollution control measures that were required under the SIP or nonattainment corrective plan, shall remain in effect in such areas.

(2) Redesignation of Nonattainment, Attainment, and Unclassifiable Areas (Reserved).

(3) Reclassification of Class I, Class II and Class III Areas.

(a) Reclassification of an area classified under Rule 62-204.360(2), F.A.C., may be proposed by filing a petition for rulemaking with the Environmental Regulation Commission showing sufficient justification for such action provided that lands within the exterior boundaries of Indian Reservations may be reclassified only by the appropriate Indian Governing Body. This petition shall conform to the requirements of Section 120.54(5), Florida Statutes. The Department may also initiate reclassification procedures. All reclassifications shall be submitted as revisions to the State Implementation Plan.

(b) Decisions regarding whether an area should be reclassified shall be based on the following criteria:

1. For areas which are proposed to be reclassified as Class I or Class II:
 - a. A public hearing shall be held in accordance with the notice requirements of Rule 62-204.400, F.A.C.
 - b. At least 30 days notice of the proposed reclassification shall be given to other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposal.
 - c. A description and analysis of the health, environmental, economic, social, and energy effects of the proposed reclassification shall be prepared and made available for public inspection at least 30 days prior to the hearing. The notice shall state the availability of the required analysis.

d. If the reclassification includes any Federal lands, the state shall notify the Federal Land Manager of the proposal not more than 60 days prior to the hearing and allow an opportunity for the Federal Land Manager to confer with the state and submit written comments and recommendations. If an area is reclassified against the recommendations of the Federal Land Manager, the state shall publish a notice listing the inconsistencies and the reasons for reclassifying the area against the Federal Land Manager's recommendations in the Florida Administrative Weekly.

e. Prior to proposing a reclassification, the state shall confer with the elected leadership of any local general purpose government in the area covered by the proposed reclassification.

2. For areas which are proposed to be reclassified as Class III (except areas proposed to be reclassified by an Indian Governing Body):

a. All of the requirements of Rule 62-204.320(3)(b)1., F.A.C., above, shall be met.

b. The proposal shall be specifically approved by the Governor after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session.

c. Each unit of local general purpose government representing a majority of the residents of the area to be reclassified shall enact or adopt a resolution or other legislation concurring in the reclassification.

d. The reclassification may not cause or contribute to a violation of any state or national ambient air quality standard, or a violation of a maximum allowable increase in any other Class I, Class II, or Class III area.

e. To the extent practicable, any permit application and supporting documentation for a facility subject to Rule 62-212.400, F.A.C., which could receive a permit only if the area in question were reclassified as Class III, shall be made available for public inspection prior to the hearing on reclassification.

3. For areas which are proposed to be reclassified as Class I, Class II, or Class III by an Indian Governing Body:

a. All of the requirements of Rule 62-204.320(3)(b)1., F.A.C., and the additional requirements of Rules 62-204.320(3)(b)2.d. and e., F.A.C., shall be met, or equivalent procedures shall be followed.

b. Prior to proposing the reclassification, the Indian Governing Body shall consult with the state within which the Indian Reservation is located and any state which borders the Indian Reservation.

(c) The following areas shall not be reclassified as Class III:

1. An area which, as of August 7, 1977, exceeded ten thousand acres in size and was a national monument, a national primitive area, a national preserve, a national recreation area, a national wild and scenic river, a

national wildlife refuge, or a national lakeshore or seashore; or
 2. A national park or national wilderness area established after August 7, 1977, which exceeds ten thousand acres in size.

~~(d) Any area other than an area referred to in Rule 62-204.320(3)(c)1. or 2., F.A.C., above, or an area designated as Class I under Rule 62-204.360(2)(a)2., F.A.C., may be reclassified as Class III.~~

~~(4) Designation or Redesignation of Prevention of Significant Deterioration (PSD) Areas.~~

~~(a) Designation or redesignation of an area designated under Rule 62-204.360(1), F.A.C., may be proposed by filing a petition for rulemaking with the Environmental Regulation Commission. The petition shall conform to the requirements of Section 120.54(5), Florida Statutes. The Department may also initiate designation or redesignation procedures.~~

~~(b) PSD areas shall be designated only for those pollutants for which maximum allowable increases have been established under Rule 62-204.260, F.A.C.~~

~~(c) A PSD area for a pollutant shall not include any areas designated nonattainment for the pollutant under Rule 62-204.240(2), F.A.C.~~

~~(d) A PSD area may not be redesignated if the redesignation would result in the violation of any maximum allowable increase in the area proposed to be redesignated.~~

~~(e) Procedures for proposing the designation or redesignation of PSD areas are as follows:~~

- ~~1. A public hearing shall be held in accordance with the notice requirements of Rule 62-204.400, F.A.C.~~
- ~~2. At least 30 days notice of the hearing shall be given to Federal Land Managers whose lands may be affected by the proposed designation or redesignation.~~
- ~~3. The petition for rulemaking shall be made available for public inspection at least 30 days prior to the hearing and shall include a description and analysis of the health, environmental, economic, social and energy effects of the proposed designation or redesignation.~~

~~(5) Designation or Redesignation of Air Quality Maintenance Areas (Reserved).~~

History—New 3-13-96, Repealed 2-16-12.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	04/15/1996	06/16/1999	64 FR 32346

Proposed SIP after Approval of Requested Revision:

No provisions of Rule 62-204.320, F.A.C., would remain in Florida’s SIP.

62-204.340 Designation of Attainment, Nonattainment, Unclassifiable, and Maintenance Areas.

- ~~(1) Designation of Areas Meeting Ambient Air Quality Standards (Attainment Areas).
 - ~~(a) All of the state except those areas designated as nonattainment under Rule 62-204.340(2)(a), F.A.C., is designated as attainment for the air pollutant ozone.~~
 - ~~(b) All of the state except those areas designated as nonattainment under Rule 62-204.340(2)(b), F.A.C., or as unclassifiable under Rule 62-204.340(3)(a), F.A.C., is designated as attainment for the air pollutant PM₁₀.~~
 - ~~(c) All of the state except those areas designated as nonattainment under Rule 62-204.340(2)(c), F.A.C., or as unclassifiable under Rule 62-204.340(3)(b), F.A.C., is designated as attainment for the air pollutant sulfur dioxide.~~
 - ~~(d) All of the state except those areas designated as nonattainment under Rule 62-204.340(2)(d), F.A.C., is designated as attainment for the air pollutant carbon monoxide.~~
 - ~~(e) All of the state except those areas designated as nonattainment under Rule 62-204.340(2)(e), F.A.C., is designated as attainment for the air pollutant nitrogen dioxide.~~~~
- ~~(2) Designation of Areas Not Meeting Ambient Air Quality Standards (Nonattainment Areas).
 - ~~(a) Ozone Nonattainment Areas. (Reserved.)~~
 - ~~(b) PM₁₀ Nonattainment Areas. (Reserved.)~~
 - ~~(c) Sulfur Dioxide Nonattainment Areas. (Reserved.)~~
 - ~~(d) Carbon Monoxide Nonattainment Areas. (Reserved.)~~
 - ~~(e) Nitrogen Dioxide Nonattainment Areas. (Reserved.)~~
 - ~~(f) Lead Nonattainment Areas. (Reserved.)~~
 - ~~(g) As soon as practicable after notice of redesignation is published by the U. S. Environmental Protection Agency in the Federal Register, the Department shall publish notice of the effective date of redesignation in the Florida Administrative Weekly and a newspaper of general circulation in each county affected by the redesignation.~~~~
- ~~(3) Designation of Areas Which Cannot Be Classified as Attainment or Nonattainment (Unclassifiable Areas).
 - ~~(a) All of the state except those areas designated as nonattainment under Rule 62-204.340(2)(b), F.A.C., is designated as unclassifiable for the air pollutant PM₁₀.~~
 - ~~(b) The following areas are designated as unclassifiable for the pollutant sulfur dioxide.
 - ~~1. Duval County~~
 - ~~2. Escambia County~~
 - ~~3. Hillsborough County~~
 - ~~4. The Southwest corner of Pasco County~~~~
 - ~~(c) All of the state except those areas designated as nonattainment under Rule 62-204.340, F.A.C., is designated as unclassifiable for the air pollutant lead.~~~~
- ~~(4) Designation of Air Quality Maintenance Areas.
 - ~~(a) Each of the following areas is designated as an air quality maintenance area for~~~~

the air pollutant ozone:

1. Orange County.
2. Duval County.
3. The area consisting of Broward, Dade, and Palm Beach Counties.
4. The area consisting of Hillsborough and Pinellas Counties.

(b) Each of the following areas is designated as an air quality maintenance area for the air pollutant, particulate matter:

1. That portion of Hillsborough County which falls within the area of the circle having a centerpoint at the intersection of U. S. 41 South and State Road 60 and a radius of 12 kilometers.
2. The downtown Jacksonville area in Duval County located within the following boundary lines: south and then west along the St. Johns River from its confluence with Long Branch Creek, to Main Street; north along Main Street to Eighth Street; east along Eighth Street to Evergreen Avenue; north along Evergreen Avenue to Long Branch Creek; and east along Long Branch Creek to the St. Johns River.

(c) Effective January 1, 1996, the area encompassed within a radius of five kilometers centered at UTM coordinates: 364.0 kilometers East, 3093.5 kilometers North, zone 17, in Hillsborough County, is designated as an air quality maintenance area for the air pollutant lead.

(d) As soon as practicable after notice of redesignation is published by the U. S. Environmental Protection Agency in the Federal Register, the Department shall publish notice of the effective date of redesignation in the Florida Administrative Weekly and a newspaper of general circulation in each county affected by the redesignation.

History: New 3-13-96, 10-23-16.

62-204.340

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	04/15/1996	06/16/1999	64 FR 32346

DEP requests that this rule be removed entirely from the SIP.

Proposed SIP after Approval of Requested Revision:

No provisions of Rule 62-204.340, F.A.C., would remain in Florida's SIP.

62-204.360 Designation of Prevention of Significant Deterioration Areas.

- (1) ~~The following areas are designated as PSD areas for the air pollutant particulate matter:
(a) All of the state except those areas designated under Rule 62-204.360(1)(b), F.A.C., below. The particulate matter minor source baseline date established for this area is December 27, 1977.
(b) No other areas of the state.~~
- (2) ~~The following areas are designated as PSD areas for the air pollutant sulfur dioxide:
(a) All of the state except those areas designated nonattainment under Rule 62-204.340(2), F.A.C., and those areas designated under Rule 62-204.360(2)(b), F.A.C., below. The sulfur dioxide minor source baseline date established for this area is December 27, 1977.
(b) No other areas of the state.~~
- (3) ~~The following areas are designated as PSD areas for the air pollutant nitrogen dioxide:
(a) All of the state except those areas designated under Rule 62-204.360(3)(b), F.A.C., below. The nitrogen dioxide minor source baseline date established for this area is March 28, 1988.
(b) No other areas of the state.~~
- (4) ~~All areas of the state shall be classified as Class I, Class II, or Class III.
(a) Class II Areas. All areas of the state are designated Class II except for those areas specified in Rule 62-204.360(4)(b), F.A.C., below.
(b) Class I Areas. The following areas are designated as Class I areas and shall not be reclassified.
 - 1. Everglades National Park.
 - 2. Chassahowitzka National Wilderness Area.
 - 3. St. Marks National Wilderness Area.
 - 4. Bradwell Bay National Wilderness Area.~~
- (5) ~~Federally designated Class I Areas outside of Florida but within 100 kilometers of the state are as follows:
(a) Okefenokee National Wilderness Area.
(b) Wolf Island National Wilderness Area.~~

~~History: New 3-13-96.~~

62-204.360

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	04/15/1996	06/16/1999	64 FR 32346

~~History—New 3-13-96, Repealed 2-16-12.~~

DEP requests that this rule be removed entirely from the SIP.

Proposed SIP after Approval of Requested Revision:

No provisions of Rule 62-204.360, F.A.C., would remain in Florida’s SIP.

62-204.400 Public Notice and Hearing Requirements for State Implementation Plan Revisions.

~~(1) The Department shall hold a public hearing prior to adoption of any proposed revision to the Florida State Implementation Plan (SIP).~~

~~(a) In addition to the notice required by Section 120.54, F.S., for rulemaking, the Department shall publish notice of the hearing by prominent advertisement in a newspaper of general circulation in each air quality control region affected at least 30 days prior to the hearing. The notice shall specify the date, time, and place of the hearing and state that a copy of the proposed SIP revision is available for public inspection in each affected region.~~

~~(b) The Department shall also furnish a copy of the notice and proposed SIP revision to:~~

- ~~1. The Region IV office of the EPA;~~
- ~~2. Each local air pollution control agency in an affected region; and~~
- ~~3. In the case of an interstate air quality control region, each other state included in whole or in part in the region.~~

~~(2) A record of the public hearing, including a list of witnesses together with the text of each presentation, shall be made available by the Department to the Administrator upon his/her request.~~

~~(3) The Department shall include with each proposed SIP revision submitted to the EPA a certification that the hearing was held in accordance with the notice required by Rule 62-204.400(1)(a), F.A.C.~~

History: New 11-30-94, Amended 10-06-08, Repealed 2-16-12.

62-204.400

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	11/22/1994	06/16/1999	64 FR 32353

DEP requests that this rule be removed entirely from Florida’s SIP.

Proposed SIP after Approval of Requested Revision:

No provisions of Rule 62-204.400, F.A.C., would remain in Florida’s SIP.

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 51, Subpart W, adopted and incorporated by reference at Rule 62-204.800, F.A.C. Pursuant to 40 CFR Part 51, Subpart W, 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

62-204.500

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	08/14/1998	08/11/2003	68 FR 47468

NOTE: Except for the incorporation by reference of 40 CFR 93.104(e) of the Transportation Conformity Rule.

Proposed SIP after Approval of Requested Revision:

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.

(a) Definitions. The definitions used in reviewing federal general conformity determinations shall be the definitions in 40 CFR Part 93, §93.152, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(b) Criteria. The criteria for reviewing federal general conformity determinations shall be the criteria in 40 CFR Part 93, §93.158, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(c) Procedures. The procedures for reviewing federal general conformity determinations shall be the procedures in 40 CFR Part 93, §93.159, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(d) Mitigation of Air Quality Impacts.

1. A federal general conformity determination submitted to the Department for review must contain, at a minimum, the following before the Department can make a positive finding of conformity in its review.

a. Any measures that are intended to mitigate air quality impacts must be identified, and the process for implementation and enforcement of such measures must be described including an implementation schedule containing explicit timelines for implementation.

b. Written commitments to take any mitigation measures from all persons or agencies committing to such measures.

2. A positive finding of conformity by the Department in any review of a federal general conformity determination is expressly based, in part, on reliance that all written commitments for mitigation measures shall be fulfilled by the timelines set out in such written commitments. Failure to fulfill such mitigation measures by the explicit timelines expressed in the written commitments shall nullify a positive Department review finding of conformity as of midnight of the date of the unfulfilled expressed timeline.

(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.

				62-204.500
	Date Submitted to EPA	Date Approved by EPA	Federal Register	
Original Reg	08/14/1998	08/11/2003	68 FR 47468	

NOTE: Except for the incorporation by reference of 40 CFR 93.104(e) of the Transportation Conformity Rule.

Legal Authority

Chapter 403 of the Florida Statutes (F.S.), entitled “Environmental Control,” provides the legal framework for most of the activities of the air resource management program within the Florida Department of Environmental Protection (DEP). Except as provided at sections 403.8055 and 403.201, F.S., for fast-track rulemaking and the granting of variances under Chapter 403, F.S., respectively, Chapter 120, F.S., Florida’s “Administrative Procedure Act,” sets forth the procedures DEP must follow for rulemaking, variances, and public meetings. The most recent version of the Florida Statutes can be found online at <http://www.leg.state.fl.us/Statutes>.

The principal sections of Chapter 403, F.S., that grant DEP authority to operate its air program are listed below. Authority to develop and update Florida’s State Implementation Plan (SIP) and 111(d) Designated Facilities Plan is expressly provided by subsection 403.061(35), F.S., which provides that the department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to “exercise the duties, powers, and responsibilities required of the state under the federal Clean Air Act, 42 U.S.C. ss. 7401 et seq.”

- [403.031](#) Definitions, including the definition of “regulated air pollutant” (403.031(19)).
- [403.061](#) Authority to: promulgate plans to provide for air quality control and pollution abatement (403.061(1)); adopt rules for the control of air pollution in the state (403.061(7)); take enforcement action against violators of air pollution laws, rules and permits (403.061(8)); establish and administer an air pollution control program (403.061(9)); set ambient air quality standards (403.061(11)); monitor air quality (403.061(12)); require reports from air pollutant emission sources (403.061(13)); require permits for construction, operation, and modification of air pollutant emission sources (403.061(14)); and exercise the duties, powers, and responsibilities required of the state under the federal Clean Air Act (403.061(35)).
- [403.087](#) Authority to issue, deny, modify, and revoke permits.
- [403.0872](#) Authority to establish an air operating permit program as required by Title V of the Clean Air Amendments of 1990.
- [403.0877](#) Authority to require engineering certification of permit applications.
- [403.121](#) Authority to seek judicial and administrative remedies for violations.
- [403.131](#) Authority to seek injunctive relief for violations.
- [403.141](#) Authority to find civil liability for violations.
- [403.161](#) Authority to assess civil and criminal penalties for violations.
- [403.182](#) Authority for local pollution control programs.
- [403.201](#) Authority to grant variances.
- [403.8052](#) Authority to establish a Small Business Assistance Program for small-business sources of air pollutant emissions.

[403.8055](#) Authority to adopt U.S. Environmental Protection Agency (EPA) standards by reference through a fast-track process.

[403.814](#) Authority to allow use of general permits (permits-by-rule) for minor sources.

Other statutory authorities, outside of Chapter 403, F.S., for Florida’s air program are as follows:

[112.3143](#) Requirement that public officials disclose potential conflicts of interest.

[112.3144](#) Requirement for disclosure of financial interests by public officials.

[120.569](#) Authority of agency head to issue an emergency order in response to an immediate threat to public health, safety, or welfare.

[316.2935](#) Authority to prohibit the sale and operation of motor vehicles whose emission control systems have been tampered with, and to prohibit the operation of motor vehicles that emit excessive smoke.

[320.03](#) Authority to establish Air Pollution Control Trust Fund and use \$1 fee on every motor vehicle license registration sold in the state for air pollution control purposes, including support of approved local air pollution control programs.

[376.60](#) Authority to establish a fee for asbestos removal projects.

Current and historical versions of Florida Administrative Code (F.A.C.) rule sections and chapters back to January 1, 2006, may be accessed from the Florida Department of State (DOS) website <https://www.flrules.org>. The DOS website also provides access to materials adopted by reference since January 1, 2011. DEP rule chapters containing State Implementation Plan (SIP) or 111(d) State Plan provisions are as follows:

[62-204](#) Air Pollution Control – General Provisions

[62-210](#) Stationary Sources – General Requirements

[62-212](#) Stationary Sources – Preconstruction Review

[62-252](#) Gasoline Vapor Control

[62-256](#) Open Burning

[62-296](#) Stationary Sources – Emission Standards

[62-297](#) Stationary Sources – Emissions Monitoring

Other air-related DEP rule chapters—not part of the SIP or 111(d) State Plan—include:

[62-213](#) Operation Permits for Major Sources of Air Pollution (Title V)

[62-214](#) Requirements for Sources Subject to the Federal Acid Rain Program

[62-243](#) Tampering with Motor Vehicle Air Pollution Control Equipment

[62-257](#) Asbestos Program

State Administrative Materials

Certification Package for Rule Repeals effective February 16, 2012

CERTIFICATION OF DEPARTMENT OF ENVIRONMENTAL PROTECTION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

11-108
2012 JAN 27 PM 3:38
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
FILED

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s).	62-204.100	62-204.320
	62-204.200	62-204.360
	62-204.220	62-204.400

Under the provision of Section 120.54(3)(e)6, F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____

(month) (day) (year)


LARRY MORAN
Chief Deputy General Counsel

6

Number of Pages Certified

SUMMARY OF RULE

Re: Rules 62-204.100, 62-204.200, 62-204.220, 62-204.320, 62-204.360, 62-204.400, F.A.C.

Notice of Proposed Rule: November 23, 2011

OGC No.: 11-1084

Project: Rule Repeal, NAAQS and Nonattainment Designations

The proposed repeals updates Chapter 62-204, F.A.C., to remove obsolete provisions related to ambient air quality standards. The proposed changes will remove excess or redundant language to better align with Federal rule language.

FILED
2012 JAN 27 PM 3:38
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

DETAILED STATEMENT OF FACTS AND CIRCUMSTANCES

JUSTIFYING PROPOSED RULE

FILED
2022 JAN 27 PM 3:38
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

Re: Rules 62-204.100, 62-204.200, 62-204.220, 62-204.320, 62-204.360, 62-204.400, F.A.C.

Notice of Proposed Rulemaking: November 23, 2011

OGC No.: 11-1084

Project: Rule Repeal, NAAQS and Nonattainment Designations

Introduction

The purpose and effect of the proposed rule amendments (OGC 11-1084) is to eliminate rule sections that are duplicative and unnecessary.

Need for Rule Change

Revisions are needed to Rules 62-204.220, 62-204.320, and 62-204.360, F.A.C., to remove duplicative and unnecessary provisions related to ambient air quality protection and area designations. The definitions in 62-204.200 are either currently duplicated in Rule 62-210.200, or are being added to Rule 62-210.200 in the pending "PM2.5 and Nonattainment New Source Review" rulemaking project, thereby rendering this rule unnecessary and in need of repeal. The language in Rule 62-210.100 also in need of removal because it is purely explanatory, not mandated by statute, and unnecessary.

Summary of Rule Amendments

The specific rule amendments are as follows:

- **Repeal of Rule 204.100 – Purpose and Scope** to remove unnecessary language.
- **Repeal of Rule 204.200 – Definitions** to remove definitions that are (or are to be) duplicated in Rule 62-210.200, F.A.C.

- **Repeal of Rule 204.220 – Ambient Air Quality Protection** to remove duplicative and unnecessary language. This section is proposed to be repealed. The substance of this section is either already included in Rule 62-212.300, F.A.C., or restated in federal procedures that the department must follow whether or not they are included in this rule. Such federal procedures are adopted by reference in 62-204.800, F.A.C. at 62-204.800(6) and 62-204.800(2), F.A.C.
- **Repeal of Rule 204.320 – Procedures for Designation and Resignation of Areas** to remove unnecessary language. This section is proposed to be repealed as the procedures set forth in this section are not needed in a DEP rule. The procedures are either rendered unnecessary by the other proposed changes to this rule chapter, or they restate federal procedures that the department must follow whether or not they are included in this rule.
- **Repeal of Rule 204.360 – Designation of Prevention of Significant Deterioration Areas** to remove language that will be moved to Rule 62-210.200, F.A.C., via the pending “PM2.5 and Nonattainment New Source Review” rulemaking project that will precede these repeals.
- **Repeal of 204.400 – Public Notice and Hearing Requirements for State Implementation Plan Revisions** to remove unnecessary language. This section is proposed to be repealed as the procedures set forth in this section are not needed in a DEP rule. The procedures are either rendered unnecessary by the other proposed changes to this rule chapter, or they restate federal procedures that the department must follow whether or not they are included in this rule.

SUMMARY OF THE HEARING

Re: Rules 62-204.100, 62-204.200, 62-204.220, 62-204.320, 62-204.360, 62-204.400, F.A.C.

Notice of Proposed Rule: November 23, 2011

OGC No.: 11-1084

Project: Rule Repeal, NAAQS and Nonattainment Designations

The Notice of Proposed Rule was published November 23, 2011, in the Florida Administrative Weekly (F.A.W.).

The notice stated that if requested within 21 days of the date of the notice, a rule adoption hearing would have been held by the Department of Environmental Protection. No timely request for hearing was received by the Department, and no hearing was held.

FILED
2012 JAN 27 PM 3:38
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

62-204.100 Purpose and Scope.

Rulemaking Specific-Authority 403.061, 403.8055 FS. Law Implemented 403.021, 403.031, 403.061, 403.8055 FS. History-New 11-30-94, Amended 3-13-96, Repealed.

62-204.200 Definitions.

Rulemaking Specific-Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.8055 FS. History-New 11-30-94, Amended 3-13-96, 2-12-06, 10-6-08, Repealed.

62-204.220 Ambient Air Quality Protection.

Rulemaking Specific-Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History-New 3-13-96, Repealed.

62-204.320 Procedures for Designation and Redesignation of Areas.

Rulemaking Specific-Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History-New 3-13-96, Repealed.

62-204.360 Designation of Prevention of Significant Deterioration Areas.

Rulemaking Specific-Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History-New 3-13-96, Repealed.

62-204.400 Public Notice and Hearing Requirements for State Implementation Plan Revisions.

Rulemaking Specific-Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.8055 FS. History-New 11-30-94, Amended 10-6-08, Repealed.

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

FILED
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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

The following rules are hereby repealed:
 Rule 62-204.100, F.A.C., Purpose and Scope
 Rule 62-204.200, F.A.C., Definitions
 Rule 62-204.220, F.A.C., Ambient Air Quality Protection
 Rule 62-204.320, F.A.C., Procedures for Designation and Redesignation of Areas
 Rule 62-204.360, F.A.C., Designation of Prevention of Significant Deterioration Areas
 Rule 62-204.400, F.A.C., Public Notice and Hearing Requirements for State Implementation Plan Revisions

V. 9, p. 175 AIR POLLUTION CONTROL - GENERAL PROVISIONS OR 10580 62-204.100

CHAPTER 62-204
 AIR POLLUTION CONTROL - GENERAL PROVISIONS

62-204.100 Purpose and Scope.
 62-204.200 Definitions.
 62-204.220 Ambient Air Quality Protection.
 62-204.240 Ambient Air Quality Standards.
 62-204.260 Prevention of Significant Deterioration Increments.
 62-204.300 Approved State Implementation Plan. (Repealed)
 62-204.320 Procedures for Designation and Redesignation of Areas.
 62-204.340 Designation of Attainment, Nonattainment, and Maintenance Areas.
 62-204.360 Designation of Prevention of Significant Deterioration Areas.
 62-204.400 Public Notice and Hearing Requirements for State Implementation Plan Revisions.
 62-204.500 Conformity.
 62-204.600 Transportation Conformity. (Repealed)
 62-204.800 Federal Regulations Adopted by Reference.

62-204.100 Purpose and Scope.
 (1) This chapter establishes maximum allowable levels of pollutants in the ambient air, or ambient air quality standards, necessary to protect human health and public welfare. This chapter also establishes maximum allowable increases in ambient concentrations for subject pollutants to prevent significant deterioration of air quality in areas where ambient air quality standards are being met. It further specifies approved air quality monitoring and modeling methods.
 (2) In addition, this chapter designates all areas of the state as attainment, nonattainment, or unclassifiable with respect to each pollutant for which ambient air quality standards have been adopted; further designates certain attainment and nonattainment areas of the state as air quality maintenance areas for particular pollutants; classifies all areas of the state as Class I, Class II, or Class III for determining which set of provisions of significant deterioration (SD) increments apply; and designates all attainment and unclassifiable areas of the state as one or more PSD areas for determining which pollutant-specific PSD baseline rules apply. This chapter also sets forth procedures for redesignating and redesignating areas to above.
 (3) The Department of Environmental Protection adopts this chapter to identify the Florida State Implementation Plan (SIP) required by the U.S. Environmental Protection Agency pursuant to 40 C.F.R. Part 51; to set forth the public notice and hearing requirements that the Department will adhere to for making SIP revisions; and to set forth the definitions, criteria, and procedures that the Department will use to review a federal agency's general conformity determination, made pursuant to 40 C.F.R. Part 51, Subpart W; and to adopt by reference any interagency memorandum of agreement that the Department will comply with to revise any transportation conformity determination, made pursuant to 40 C.F.R. Part 51, Subpart T. The provisions to 40 C.F.R. § 51.857 require that a federal agency make a general conformity determination for any federal agency action in a nonattainment or maintenance area, to ensure that such action is consistent with the SIP and that such federal conformity determination be reviewed by the affected state.

The provisions of 40 C.F.R. § 51.304 require that a transportation conformity determination be made for the adoption, acceptance, approval, or support of certain transportation plans, transportation improvement programs, and transportation projects in nonattainment and maintenance areas for transportation-related criteria pollutants to ensure that such actions are consistent with the SIP.
 (4) Finally, this chapter adopts and incorporates by reference federal air pollution control regulations which are advanced in whole or in part throughout the Department's air pollution control rules.
Specific Authority: 405.061, 405.0615 FS Law Implemented 405.061, 405.0615, 405.0615 FS History New 11-10-09, Amended 4-12-08.

62-204.200 Definitions. The following words and phrases when used in this chapter, unless context clearly indicates otherwise, have the following meanings:
 (1) "Annual Emissions" - The annual rate of emission of a pollutant from an emissions unit as determined in accordance with the following provisions:
 (a) In general, actual emissions in a particular year shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular time unit which is representative of the normal operation of the emissions unit. The Department shall allow the use of a different time period upon a determination that it is more representative of the normal operation of the emissions unit. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates and types of materials processed, stored, or combusted during the selected time period.
 (b) The Department may presume that unit-specific allowable emissions for an emissions unit are equivalent to the actual emissions of the emissions unit provided that such unit-specific allowable emissions limits are federally enforceable.
 (c) For any emissions unit that has not begun normal operations on a particular date, actual emissions shall equal the potential emissions of the emissions unit on that date.
 (2) "Administrator" - The Administrator of the United States Environmental Protection Agency or the Administrator's designee.
 (3) "Air Pollutant" - Any substance (particulate, liquid, gaseous, organic or inorganic) which if released, allowed to escape, or emitted, whether continuously or intermittently, into the outdoor atmosphere and which is or contributes to air pollution.
 (4) "Air Pollution" - The presence in the outdoor atmosphere of the state of any one or more substances or pollutants in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
 (5) "Air Quality Control Region" - Any air quality control region designated pursuant to Section 107 of the Clean Air Act. The boundaries of the air quality control regions in Florida are set forth in 40 C.F.R. Part 41, §§ 81.25, 81.68, 81.91, 81.95, 81.98 and 81.97, adopted and incorporated by reference in Rule 62-204.300, F.A.C.
 (6) "Ambient Air Quality Standard" or "Ambient Standard" - A restriction established to limit the quantity or concentration of an air pollutant that may be allowed to exist in the ambient air for a specific period of time.
 (7) "National Ambient Air Quality Standard" means an ambient standard established by EPA and specified in 40 C.F.R. Part 50, adopted and incorporated by reference in Rule 62-204.300, F.A.C.

(b) "Primary Standard" means an ambient standard established to protect public health.

(c) "Secondary Standard" means an ambient standard established to protect the public welfare including the protection of animal and plant life, property, visibility and atmospheric clarity, and the enjoyment of life and property.

(d) "State Ambient Air Quality Standard" means an ambient standard established or adopted by the Department.

(7) "Baseline Area" - The area (and every part thereof) designated as a prevention of significant deterioration (PSD) area under Rule 62-204.360, F.A.C., in which the facility or major modification establishing the minor source baseline date would construct or in which the emissions of the facility (or the significant net increase in emissions for a major modification) would have a predicted air quality impact equal to or greater than one microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established. For purposes of this definition, "major modification" has the meaning given in Rule 62-210.200, F.A.C.

(8) "Baseline Concentration" - The ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and for each averaging time for which a maximum allowable increase is established in Rule 62-204.260, F.A.C.

(a) The baseline concentration shall include the concentration attributable to:

1. The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in paragraph 62-204.200(8)(b), F.A.C.; and

2. The federally enforceable allowable emissions of major stationary sources on which construction commenced on or before the major source baseline date but which were not in operation by the applicable minor source baseline date.

(b) The baseline concentration shall not include the concentration attributable to the following emissions; rather, such emissions shall offset the amount of any applicable maximum allowable increase remaining available:

1. The actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

2. Any increase or decrease in the actual emissions of facilities occurring after the applicable minor source baseline date.

(c) For purposes of this definition, "construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, shutdowns or modification of an emissions unit) that would result in a change in emissions; and "commence construction" has the meaning given in Rule 62-210.200, F.A.C., provided, however, that in the case of demolition or shutdown of an emissions unit, "commence construction" means that the owner or operator has permanently ceased all operations of the unit.

(d) Notwithstanding the provisions of paragraph (b) above:

1. The change in concentration attributable to any decrease in the actual emissions of a facility on which the Department has relied in demonstrating attainment, defining reasonable further progress, or issuing a permit under the provisions of Rule 17-2.17 (repealed), 17-2.510 (transferred),

17-2.650 (transferred), 62-212.500, 62-296.500 through 62-296.570, or 62-296.700 through 62-296.712, F.A.C., shall be included in the baseline concentration and not be considered in determining the amount of any maximum allowable increase remaining available; and

2. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities shall be excluded in determining compliance with any maximum allowable increase.

(9) "Cause or Contribute" - With respect to a violation of an ambient air quality standard, to have a significant impact on the ambient air concentration of a pollutant at any locality that does not or would not meet the applicable standard.

(10) "Clean Air Act (CAA)" or "Act" - The Federal Clean Air Act (42 U.S.C. 7401 et seq.)

(11) "Department" - The State of Florida Department of Environmental Protection.

(12) "Emission" - The discharge or release into the atmosphere of one or more air pollutants.

(13) "Emission Limiting Standard" or "Emission Standard" or "Emission Limitation" or "Performance Standard" - Any restriction established in or pursuant to a regulation adopted by the Department which limits the quantity, rate, concentration or opacity of any pollutant released, allowed to escape or emitted, whether intentionally or unintentionally, into the atmosphere, including any restriction which prescribes equipment, smel fuel specifications, or prescribes operation or maintenance procedures for an emissions unit to assure emission reduction or control.

(14) "Emissions Unit" - Any part or activity of a facility that emits or has the potential to emit any air pollutant.

(15) "Environmental Protection Agency" or "EPA" - The United States Environmental Protection Agency.

(16) "Facility" - All of the emissions units which are located on one or more contiguous or adjacent properties and which are under the control of the same person (or persons under common control).

(17) "Federal Land Manager" - With respect to any lands in the United States, the Secretary of the department with authority over such lands.

(18) "Indian Governing Body" - The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(19) "Indian Reservation" - Any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(20) "Major Source Baseline Date" - Pursuant to 40 C.F.R. § 51.166(b)(14)(i), adopted and incorporated by reference in Rule 62-204.300, F.A.C.;

(a) In the case of particulate matter and sulfur dioxide, January 6, 1975; and

(b) In the case of nitrogen dioxide, February 8, 1968.

(21) "Marginal Nonattainment Area for Ozone" - The lowest category of five classifications of nonattainment for the air pollutant ozone as defined in the Clean Air Act (42 U.S.C. Part 7511).

(22) "Minor Source Baseline Date" - Pursuant to 40 C.F.R. § 51.166(b)(14)(ii), adopted and incorporated by reference in Rule 62-204.300, F.A.C., the minor source baseline date for each pollutant for which maximum allowable increases have been established under Rule 62-204.260, F.A.C., is the earliest date after August 7, 1977, for particulate matter and sulfur dioxide.

and February 8, 1988, for nitrogen dioxide, that a facility or modification subject to preconstruction review under 40 C.F.R. § 52.21, Rule 17-2.500, F.A.C. (transferred), or Rule 62-212.400, F.A.C., submits a complete application for permit under such regulations provided that:

(x) On the date the complete application is filed, the area in which the facility or modification would be constructed is designated as attainment or unclassifiable for the applicable pollutant under 42 U.S.C. Section 7407(d)(1) of the Clean Air Act (if the application is filed under 40 C.F.R. § 52.21), or as a PSD area under Rule 17-2.450 (transferred), 62-275.700 (repealed) or 62-204.360, F.A.C., (if the application is filed under Rule 17-2.500 (transferred) or 62-212.400, F.A.C.); and

(y) In the case of a facility, the emissions of the applicable pollutant would be equal to or greater than the significant emissions rate as defined in Rule 62-210.200, F.A.C., or, in the case of modification, there would be a significant net emissions increase of the pollutant.

(23) "Moderate Nonattainment Area for Ozone" - The second-lowest category of five classifications of nonattainment for the air pollutant ozone as defined in the Clean Air Act (42 U.S.C. Part 7511).

(24) "Modification" - Any physical change in, change in the method of operation of, or addition to a facility which would result in an increase in the actual emissions of any air pollutant subject to regulation under the Act, including any not previously emitted, from any emissions unit or facility.

(a) A physical change or change in the method of operation shall not include:

1. Routine maintenance, repair, or replacement of component parts of an emissions unit; or

2. A change in ownership of an emissions unit or facility.

(b) For any pollutant that is specifically regulated by the EPA under the Clean Air Act, a change in the method of operation shall not include an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975.

(c) For any pollutant that is not specifically regulated by the EPA under the Clean Air Act, a change in the method of operation shall not include an increase in the hours of operation or in the production rate, unless such change would exceed any restriction on hours of operation or production rate included in any applicable Department air construction or air operation permit.

(25) "Nonattainment Area" - Any area not meeting ambient air quality standards and designated as a nonattainment area under Rule 62-204.340, F.A.C. Such an area may be designated as a particulate, sulfur dioxide, nitrogen dioxide, carbon monoxide, lead or ozone nonattainment area, depending on which ambient standard has been violated. An area may be designated as nonattainment for more than one air pollutant. Ozone nonattainment areas may be transitional, marginal, moderate, serious, severe, or extreme as classified in Rule 62-204.340, F.A.C.

(26) "Particulate Matter."

(a) With respect to concentrations in the atmosphere, particulate matter means any airborne finely divided solid or liquid material.

(b) With respect to emissions, particulate matter means all finely divided solid or liquid material, other than uncombined water, emitted to the atmosphere as measured by applicable reference methods, or an equivalent or

alternative method, specified in 40 C.F.R. Part 60, Appendix A, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(27) "PM₁₀."

(a) With respect to concentrations in the atmosphere, PM₁₀ means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 C.F.R. Part 50, Appendix J, adopted and incorporated by reference in Rule 62-204.800, F.A.C., and designated in accordance with 40 C.F.R. Part 53 or by an equivalent method designated in accordance with 40 C.F.R. Part 53, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(b) With respect to emissions, PM₁₀ means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the atmosphere as measured by an applicable reference method or by an equivalent or alternative method specified in 40 C.F.R. Part 51, Appendix M, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(28) "Redesignation of an Area" - A change in the designation or a redefinition of the boundaries of an area for any of the designations listed under Rule 62-204.340 or 62-204.360, F.A.C.

(29) "Significant Impact" - An impact of emissions on ambient air quality in excess of any of the following pollutant-specific concentration values:

(a) Sulfur Dioxide.

1. Maximum three-hour concentration not to be exceeded more than once per year - 25.0 micrograms per cubic meter.

2. Maximum 24-hour concentration not to be exceeded more than once per year - 1.0 microgram per cubic meter for Class I areas; 5.0 micrograms per cubic meter for all other areas.

3. Annual arithmetic mean - 1.0 microgram per cubic meter.

(b) PM₁₀.

1. Maximum 24-hour concentration not to be exceeded more than once per year - 1.0 microgram per cubic meter for Class I areas; 5.0 micrograms per cubic meter for all other areas.

2. Annual arithmetic mean - 1.0 microgram per cubic meter.

(c) Nitrogen Dioxide. Annual arithmetic mean - 1.0 microgram per cubic meter.

(d) Carbon Monoxide.

1. Maximum one-hour concentration not to be exceeded more than once per year - 2.0 milligrams per cubic meter.

2. Maximum eight-hour concentration not to be exceeded more than once per year - 0.5 milligram per cubic meter.

(e) Lead. Maximum quarterly arithmetic mean - 0.03 microgram per cubic meter.

(30) "State Implementation Plan (SIP)" or "Implementation Plan" - The EPA approved plan which Section 110 of the Clean Air Act requires a state to submit to the Administrator. The State Implementation Plan for the State of Florida, as approved by the U.S. Environmental Protection Agency, is identified in 40 C.F.R. Part 52, Subpart K, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

Specific Authority: 401.061, 403.855 FS. Law Implemented: 401.031, 401.061, 403.855 FS. History- New 11-30-94, Amended 3-13-98, 7-17-98, 10-6-08.

62-204.220 Ambient Air Quality Protection.

(1) Except as provided in Rule 62-212.500, F.A.C., Preconstruction Review for Nonattainment Areas, or in the Reasonably Available Control Technology rules of Chapter 62-296, F.A.C., the Department shall not issue an air permit authorizing a person to build, erect, construct, or install any new emissions unit, or to alter, modify, or rebuild any existing emissions unit, or by any

(c) Nitrogen Dioxide, Annual arithmetic mean – 25 micrograms per cubic meter.

(2) Class II Area Increments.

(a) Particulate Matter.

1. PM₁₀, Annual arithmetic mean – 17 micrograms per cubic meter.

2. PM_{2.5}, Twenty-four-hour maximum – 30 micrograms per cubic meter.

(b) Sulfur Dioxide.

1. Annual arithmetic mean – 20 micrograms per cubic meter.

2. Twenty-four-hour maximum – 91 micrograms per cubic meter.

3. Three-hour maximum – 512 micrograms per cubic meter.

(c) Nitrogen Dioxide, Annual arithmetic mean – 25 micrograms per cubic meter.

(3) Class III Area Increments.

(a) Particulate Matter.

1. PM₁₀, Annual arithmetic mean – 34 micrograms per cubic meter.

2. PM_{2.5}, 24-hour maximum – 60 micrograms per cubic meter.

(b) Sulfur Dioxide.

1. Annual arithmetic mean – 40 micrograms per cubic meter.

2. Twenty-four-hour maximum – 182 micrograms per cubic meter.

3. Three-hour maximum – 700 micrograms per cubic meter.

(c) Nitrogen Dioxide, Annual arithmetic mean – 50 micrograms per cubic meter.

Specific Authority 403.061 FS, Law Implemented 403.031, 403.061, 403.067 FS, History—New 3-13-88, Amended 2-12-06.

62-204.320 Procedures for Designation and Redesignation of Areas.

(1) General.

(a) Under subsections 62-204.340(1) through (3), F.A.C., all areas of the state shall be designated as attainment, nonattainment, or unclassifiable with respect to each air pollutant for which an ambient air quality standard is established under Rule 62-204.240, F.A.C. The designation of each such area determines which emission limiting standards, new and modified facility review requirements, and other air pollution control measures shall apply to sources and activities which emit the pollutant or the precursor of the pollutant for which the area is designated. Following the redesignation of an area as nonattainment, a revision to the State Implementation Plan (SIP) may be required to establish the emission limiting standards and other air pollution control measures appropriate for the area.

(b) Under subsection 62-204.360(1), F.A.C., all areas of the state that are not designated as nonattainment with respect to a pollutant for which a maximum allowable increase is defined in Rule 62-204.260, F.A.C., shall be designated as one or more prevention of significant deterioration (PSD) areas with respect to each such pollutant. The designation of a PSD area determines the area for which a PSD baseline date shall be established.

(c) Under subsections 62-204.360(2), F.A.C., all areas of the state shall be designated as Class I, Class II, or Class III. For an area that is designated as a PSD area, the designation of the area as Class I, II or III determines which set of

maximum allowable increases in particulate matter, sulfur dioxide, and nitrogen dioxide concentrations established under Rule 62-204.260, F.A.C., shall apply in the area after a PSD baseline date is established.

(d) Under subsection 62-204.340(4), F.A.C., certain areas of the state shall be designated as air quality maintenance areas. Areas that have been redesignated from nonattainment to attainment or unclassifiable may be designated as air quality maintenance areas with the effect that all emission limiting standards and permit limitations that were established pursuant to Rules 17-2.17 (repealed), 17-2.510 (transferred), 17-2.650 (transferred), 62-212.900, Chapter 62-252, and the Reasonably Available Control Technology rules in Chapter 62-296, F.A.C., or otherwise as a result of the SIP or nonattainment corrective plan, and all other air pollution control measures that were required under the SIP or nonattainment corrective plan, shall remain in effect in such areas.

(2) Redesignation of Nonattainment, Attainment, and Unclassifiable Areas (Reserved).

(3) Reclassification of Class I, Class II and Class III Areas.

(a) Reclassification of an area classified under subsection 62-204.360(2), F.A.C., may be proposed by filing a petition for rulemaking with the Environmental Regulation Commission showing sufficient justification for such action provided that lands within the exterior boundaries of Indian Reservations may be reclassified only by the appropriate Indian Governing Body. This petition shall conform to the requirements of Section 120.54(5), F.S. The Department may also initiate reclassification procedures. All reclassifications shall be submitted as revisions to the State Implementation Plan.

(b) Decisions regarding whether an area should be reclassified shall be based on the following criteria.

1. For areas which are proposed to be reclassified as Class I or Class II:

a. A public hearing shall be held in accordance with the notice requirements of Rule 62-204.400, F.A.C.

b. At least 30 days notice of the proposed reclassification shall be given to other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposal.

c. A description and analysis of the health, environmental, economic, social, and energy effects of the proposed reclassification shall be prepared and made available for public inspection at least 30 days prior to the hearing. The notice shall state the availability of the required analysis.

d. If the reclassification includes any Federal lands, the state shall notify the Federal Land Manager of the proposal not more than 60 days prior to the hearing and allow an opportunity for the Federal Land Manager to confer with the state and submit written comments and recommendations. If an area is reclassified against the recommendations of the Federal Land Manager, the state shall publish a notice listing the inconsistencies and the reasons for reclassifying the area against the Federal Land Manager's recommendations in the Florida Administrative Weekly.

e. Prior to proposing a reclassification, the state shall confer with the elected leadership of any local general purpose government in the area covered by the proposed reclassification.

2. For areas which are proposed to be reclassified as Class III (except areas proposed to be reclassified by an Indian Governing Body):

a. All of the requirements of subparagraph 62-204.320(3)(b)1., F.A.C., above, shall be met.

b. The proposal shall be specifically approved by the Governor after consultation with the appropriate committee of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session.

c. Each unit of local general purpose government representing a majority of the residents of the area to be reclassified shall enact or adopt a resolution or other legislation concurring in the reclassification.

d. The reclassification may not cause or contribute to a violation of any state or national ambient air quality standard, or a violation of a maximum allowable increase in any other Class I, Class II, or Class III area.

e. To the extent practicable, any permit application and supporting documentation for a facility subject to Rule 62-204.400, F.A.C., which could receive a permit only if the area in question were reclassified as Class III shall be made available for public inspection prior to the hearing on reclassification.

3. For areas which are proposed to be reclassified as Class I, Class II, or Class III by an Indian Governing Body:

a. All of the requirements of subparagraph 62-204.320(3)(b)1., F.A.C., and the additional requirements of sub-subparagraphs 62-204.320(3)(b)2.d. and e., F.A.C., shall be met, or equivalent procedures shall be followed.

b. Prior to proposing the reclassification, the Indian Governing Body shall consult with the state within which the Indian Reservation is located and any state which borders the Indian Reservation.

(c) The following areas shall not be reclassified as Class III:

1. An area which, as of August 7, 1977, exceeded ten thousand acres in size and was a national monument, a national primitive area, a national preserve, a national recreation area, a national wild and scenic river, a national wildlife refuge, or a national lakeshore or seashore; or

2. A national park or national wilderness area established after August 7, 1977, which exceeds ten thousand acres in size.

(d) Any area other than an area referred to in subparagraph 62-204.320(3)(c)1. or 2., F.A.C., above, or an area designated as Class I under subparagraph 62-204.360(2)(a)2., F.A.C., may be reclassified as Class III.

(4) Designation or Redesignation of Prevention of Significant Deterioration (PSD) Areas.

(a) Designation or redesignation of an area designated under subsection 62-204.360(1), F.A.C., may be proposed by filing a petition for rulemaking with the Environmental Regulation Commission. The petition shall conform to the requirements of Section 120.54(5), F.S. The Department may also initiate designation or redesignation procedures.

(b) PSD areas shall be designated only for those pollutants for which maximum allowable increases have been established under Rule 62-204.260, F.A.C.

(c) A PSD area for a pollutant shall not include any area designated nonattainment for the pollutant under subsection 62-204.340(2), F.A.C.

(d) A PSD area may not be redesignated if the redesignation would result in the violation of any maximum allowable increase in the area proposed to be redesignated.

(e) Procedures for proposing the designation or redesignation of PSD areas are as follows:

1. A public hearing shall be held in accordance with the notice requirements of Rule 62-204.400, F.A.C.

2. At least 30 days notice of the hearing shall be given to Federal Land Managers whose lands may be affected by the proposed designation or redesignation.

3. The petition for rulemaking shall be made available for public inspection at least 30 days prior to the hearing and shall include a description and analysis of the health, environmental, economic, social and energy effects of the proposed designation or redesignation.

(5) Designation or Redesignation of Air Quality Maintenance Areas (Reserved).

Specific Authority: 403.061 F.S., Law Implemented: 403.021, 403.031, 403.061, 403.067 F.S.; History—New 3-13-88.

62-204.340 Designation of Attainment, Nonattainment, and Maintenance Areas.

(1) Designation of Areas Meeting Ambient Air Quality Standards (Attainment Areas).

(a) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(a), F.A.C., is designated as attainment for the air pollutant ozone.

(b) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(b), F.A.C., or as unclassifiable under paragraph 62-204.340(3)(a), F.A.C., is designated as attainment for the air pollutant PM₁₀.

(c) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(c), F.A.C., or as unclassifiable under paragraph 62-204.340(3)(b), F.A.C., is designated as attainment for the air pollutant sulfur dioxide.

(d) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(d), F.A.C., is designated as attainment for the air pollutant carbon monoxide.

(e) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(e), F.A.C., is designated as attainment for the air pollutant nitrogen dioxide.

(2) Designation of Areas Not Meeting Ambient Air Quality Standards (Nonattainment Areas).

(a) Ozone Nonattainment Areas. (Reserved).

(b) PM₁₀ Nonattainment Areas. (Reserved).

(c) Sulfur Dioxide Nonattainment Areas. (Reserved).

(d) Carbon Monoxide Nonattainment Areas. (Reserved).

(e) Nitrogen Dioxide Nonattainment Areas. (Reserved).

(f) Lead nonattainment Areas. (Reserved).

(g) As soon as practicable after notice of redesignation is published by the U. S. Environmental Protection Agency in the Federal Register, the Department shall publish notice of the effective date of redesignation in the Florida Administrative Weekly and a newspaper of general circulation in each county affected by the redesignation.

(3) Designation of Areas Which Cannot Be Classified as Attainment or Nonattainment (Unclassifiable Areas).

(a) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(b), F.A.C., is designated as unclassifiable for the air pollutant PM₁₀.

(b) The following areas are designated as unclassifiable for the pollutant sulfur dioxide.

1. Duval County.
2. Escambia County.
3. Hillsborough County.
4. The Southwest corner of Pasco County.

(c) All of the state except those areas designated as nonattainment under Rule 62-204.340, F.A.C., is designated as unclassifiable for the air pollutant lead.

(4) Designation of Air Quality Maintenance Areas.

(a) Each of the following areas is designated as an air quality maintenance area for the air pollutant ozone:

1. Orange County.
2. Duval County.

3. The area consisting of Broward, Dade, and Palm Beach Counties.

4. The area consisting of Hillsborough and Pinellas Counties.
(b) Each of the following areas is designated as an air quality maintenance area for the air pollutant, particulate matter:

1. That portion of Hillsborough County which falls within the area of the circle having a centerpoint at the intersection of U.S. 41 South and State Road 60 and a radius of 12 kilometers.

2. The downtown Jacksonville area in Duval County located within the following boundary lines: south and then west along the St. Johns River from its confluence with Long Branch Creek, to Main Street; south along Main Street to Eighth Street; east along Eighth Street to Evergreen Avenue; north along Evergreen Avenue to Long Branch Creek; and east along Long Branch Creek to the St. Johns River.

(c) Effective January 1, 1996, the area encompassed within a radius of five kilometers centered at UTM coordinates: 364.0 kilometers East, 3,093.5 kilometers North, zone 17, in Hillsborough County, is designated as an air quality maintenance area for the air pollutant lead.

(d) As soon as practicable after notice of redesignation is published by the U.S. Environmental Protection Agency in the Federal Register, the Department shall publish notice of the effective date of redesignation in the Florida Administrative Weekly and a newspaper of general circulation in each county affected by the redesignation.

Specific Authority 401.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History—New 3-13-96.

62-204.360 Designation of Prevention of Significant Deterioration Areas.

(1) The following areas are designated as PSD areas for the air pollutant particulate matter:

(a) All of the state except those areas designated under paragraph 62-204.360(1)(b), F.A.C., below. The particulate matter minor source baseline date established for this area is December 27, 1977.

(b) No other areas of the state.

(2) The following areas are designated as PSD areas for the air pollutant sulfur dioxide:

(a) All of the state except those areas designated nonattainment under subsection 62-204.440(2), F.A.C., and those areas designated under paragraph 62-204.360(2)(b), F.A.C., below. The sulfur dioxide minor source baseline date established for this area is December 23, 1977.

(b) No other areas of the state.

(3) The following areas are designated as PSD areas for the air pollutant nitrogen dioxide:

(a) All of the state except those areas designated under paragraph 62-204.360(3)(b), F.A.C., below. The nitrogen dioxide minor source baseline date established for this area is March 28, 1988.

(b) No other areas of the state.

(4) All areas of the state shall be classified as Class I, Class II, or Class III.

(a) Class II Areas. All areas of the state are designated Class II except for those areas specified in paragraph 62-204.360(4)(b), F.A.C., below.

(b) Class I Areas. The following areas are designated as Class I areas and shall not be reclassified.

1. Everglades National Park.
2. Osceola National Wilderness Area.
3. St. Marks National Wilderness Area.
4. Bradwell Bay National Wilderness Area.

(5) Federally designated Class I Areas outside of Florida but within 100 kilometers of the state are as follows:

(a) Okefenokee National Wilderness Area.

(b) Wolf Island National Wilderness Area.

Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History—New 3-13-96.

62-204.400 Public Notice and Hearing Requirements for State Implementation Plan Revisions. The Department shall comply with the public notice and hearing requirements of 40 C.F.R. Part 51, Subpart F, adopted and incorporated by reference at Rule 62-204.800, F.A.C., prior to submission of any proposed revision to the Florida State Implementation Plan (SIP) to the U.S. Environmental Protection Agency.

Specific Authority 403.061, 403.053 FS. Law Implemented 403.031, 403.061, 403.053 FS. History—New 11-30-94, Amended 10-5-98.

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 C.F.R. Part 51, Subpart W, adopted and incorporated by reference at Rule 62-204.800, F.A.C. Pursuant to 40 C.F.R. Part 51, Subpart W, federal agencies are required to make conformity determinations to ensure that certain federal actions are consistent with the State Implementation Plan.

(a) Definitions. In addition to the definitions in Rule 62-204.200, F.A.C., the definitions used in reviewing federal general conformity determinations shall be the definitions in 40 C.F.R. § 51.852.

(b) Criteria. The criteria for reviewing federal general conformity determinations shall be the criteria in 40 C.F.R. § 51.858.

(c) Procedures. The procedures for reviewing federal general conformity determinations shall be the procedures in 40 C.F.R. § 51.859.

(d) Mitigation of Air Quality Impacts.

1. A federal general conformity determination submitted to the Department for review must contain, at a minimum, the following before the Department can make a positive finding of conformity in its review.

a. Any measures that are intended to mitigate air quality impacts must be identified, and the process for implementation and enforcement of such measures must be described including an implementation schedule containing explicit timelines for implementation.

b. Written commitments to take any mitigation measures from all persons or agencies committing to such measures.

2. A positive finding of conformity by the Department in any review of a federal general conformity determination is expressly based, in part, on reliance that all written commitments for mitigation measures shall be fulfilled by the timelines set out in such written commitments. Failure to fulfill such mitigation measures by the explicit timelines expressed in the written commitments shall nullify a positive Department review finding of conformity as of midnight of the date of the unfulfilled expressed timeline.

(2) Transportation Conformity. Pursuant to 40 C.F.R. § 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 intragency memorandum of agreement as revised in 1998 and hereby adopted and incorporated by reference.

Specific Authority 403.061 FS. Law Implemented 403.031, 403.061 FS. History—New 11-30-94, Amended 3-13-96, 3-23-97, 9-1-98.

11-1085

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2012 JAN 27 PM 3:39
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

CERTIFICATION OF DEPARTMENT OF ENVIRONMENTAL PROTECTION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

- (1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and
- (2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and
- (3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and
 - (a) Are filed not more than 90 days after the notice; or
 - (b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or
 - (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or
 - (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or
 - (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or
 - (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or
 - (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or
 - (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or
 - (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No(s), 62-204.240
 62-204.260

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
 (month) (day) (year)



LARRY MORJAN
Chief Deputy General Counsel

 2
Number of Pages Certified

SUMMARY OF RULE

Re: Rule No.: 62-204.240, and 62-204.260, F.A.C.

Notice of Proposed Rule: November 10, 2011

OGC No.: 11-1085

Project: Rule Repeal, NAAQS and Nonattainment Designations

The proposed repeals updates Chapter 62-204, F.A.C., to remove obsolete provisions related to ambient air quality standards. The proposed changes will remove excess or redundant language to better align with Federal rule language.

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TALLAHASSEE, FLORIDA

DETAILED STATEMENT OF FACTS AND CIRCUMSTANCES

JUSTIFYING PROPOSED RULE

Re: Rules 62-204.240, and 62-204.260, F.A.C.

Notice of Proposed Rulemaking: November 10, 2011

OGC No.: 11-1085

Project: Rule Repeal, NAAQS and Nonattainment Designations

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TALLAHASSEE, FLORIDA

Introduction

The proposed rule repeals remove duplicative provisions related to ambient air quality standards and prevention of significant deterioration (PSD) increments.

Need for Rule Change

Revisions are needed to Chapter 62-204, F.A.C., for efficient implementation of any new or revised National Ambient Air Quality Standards. As explained below, the proposed changes will remove excess or redundant language to better align with Federal rule language.

Summary of Rule Amendments

The specific rule amendments are as follows:

- **Repeal of Rule 204.240 – Ambient Air Quality Standards** to eliminate duplicative standards. The standards set forth in this rule section are identical to, or less stringent than, current National Ambient Air Quality Standards (NAAQS), which are adopted by reference at Rule 62-204.800(1) and included in the definition of “ambient air quality standard” at Rule 62-210.200(27). The department will adopt future revisions to the NAAQS by reference at Rule 62-204.800, thereby eliminating the need to update this rule section in response to EPA actions.
- **Repeal of Rule 204.260 Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments)** to eliminate duplicative standards. The PSD increments set forth in this section are identical to the PSD increments set forth at 40 C.F.R. 52.21(c) and adopted by reference at Rule 62-204.800(3). A definition of

"maximum allowable increase" that references the federal rule will be added to Rule 62-210.200 in the proposed "PM2.5 and Nonattainment New Source Review" rulemaking project to precede these repeals. The department will adopt future revisions to the PSD increments by reference at Rule 62-204.800, F.A.C., thereby eliminating the need to update this rule in response to EPA actions.

SUMMARY OF THE HEARING

Re: Rule No.: 62-204.240, and 62-204.260, F.A.C.

Notice of Proposed Rule: November 10, 2011

OGC No.: 11-1085

Project: Rule Repeal, NAAQS and Nonattainment Designations

The Notice of Proposed Rule was published November 10, 2011, in the Florida Administrative Weekly (F.A.W.). A rule adoption hearing was held before the Environmental Regulation Commission (ERC) on December 8, 2011. The ERC approved the rule as noticed and no amendments were offered.

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TALLAHASSEE, FLORIDA

62-204.240 Ambient Air Quality Standards

Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History—New 3-13-96, Repealed

62-204.260 Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments).

Specific Authority 403.061 FS. Law Implemented 403.031, 403.061, 403.087 FS. History—New 3-13-96, Amended 2-12-06, Repealed

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TALLAHASSEE, FLORIDA

**The following rules are hereby repealed:
 Rule 62-204.240, F.A.C., Ambient Air Quality Standards
 Rule 62-204.260, F.A.C., Prevention of Significant Deterioration Maximum Allowable
 Increases (PSD Increments)**

08.10000
 62-204.240

DEPARTMENT OF ENVIRONMENTAL PROTECTION

V. 3, p. 178

other means release or take action which would result in the release of an air pollutant into the atmosphere which would cause or contribute to a violation of an ambient air quality standard established under Rule 62-204.240, F.A.C.

(3) Except as provided in Rule 62-212.400, F.A.C., Prevention of Significant Deterioration (PSD), the Department shall not issue an air permit authorizing the construction or modification of any emission unit or facility that would cause or contribute to an ambient concentration at any point within a baseline area that exceeds either the appropriate baseline concentration for the point plus the appropriate maximum allowable increase or the appropriate ambient air quality standard, whichever is less.

(4) Ambient air quality monitors used to establish a violation of an ambient air quality standard shall meet the requirements of 40 C.F.R. Part 58, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(5) For any provision of the air pollution rules of the Department which requires that an estimate or concentration of pollutants in the ambient air be made, the estimate shall be based on the applicable air quality models, data basis, and other requirements approved by the Department and specified in 40 C.F.R. Part 51, Appendix W - Guidelines on Air Quality Models (Revised), adopted and incorporated by reference in Rule 62-204.800, F.A.C.

Single Authority: 402.001 FS, Law Implementation 402.001, 402.001, 402.001, 402.001 FS, History-New 3-13-88.

62-204.240 Ambient Air Quality Standards

(1) Sulfur Dioxide.

(a) Maximum three-hour concentration not to be exceeded more than once per year - 1300 micrograms per cubic meter (0.5 ppm).

(b) Maximum 24-hour concentration not to be exceeded more than once per year - 350 micrograms per cubic meter (0.1 ppm).

(c) Annual arithmetic mean - 60 micrograms per cubic meter (0.02 ppm).

(2) PM₁₀.

(a) Twenty-four-hour average concentration not to be exceeded more than once per year, as determined in accordance with 40 C.F.R. Part 58, Appendix K, adopted and incorporated by reference in Rule 62-204.800, F.A.C. - 150 micrograms per cubic meter.

(b) Expected annual arithmetic mean concentration as determined in accordance with 40 C.F.R. Part 58, Appendix K - 50 micrograms per cubic meter.

(3) Carbon Monoxide.

(a) Maximum one-hour concentration not to be exceeded more than once per year - 35 parts per million (40 milligrams per cubic meter).

(b) Maximum eight-hour concentration not to be exceeded more than once per year - nine parts per million (10 milligrams per cubic meter).

(c) Ozone, Daily maximum one-hour concentration, not to be exceeded an average of more than one-day per year - 0.12 parts per million (245 micrograms per cubic meter).

(d) Excursions. An excitation will occur for any calendar day when the maximum hourly average concentration for that day exceeds the standard. A day with more than one hourly value exceeding the standard shall count as a single excitation.

(e) Determination of Compliance with Standard. At the end of each calendar year, the number of days with

maximum hourly concentration above 0.12 ppm shall be determined as specified in subparagraph 62-204.220(4)(b), F.A.C., below, and that number averaged with the results of the immediately preceding two years' data, so long as this average remains less than or equal to that the data in compliance.

(f) Estimating the Number of Excursions per Year. When a valid daily maximum hourly average value is not available for each day of the year, the following method shall be used to account for those missing values when determining the number of excursions for a particular calendar year. If there has been no more observed excursions each year, the standard is not met and no requirement exists to account for the missing values in accordance with this paragraph. The term "missing values" means all days that do not have an associated ozone measurement. A daily maximum ozone value is the highest hourly ozone value recorded for that day. This daily maximum is considered to be valid if 75 percent of the hours from 3:01 A.M. to 9:00 P.M. (EST) were recorded or if the highest hourly value is greater than the level of the standard. A missing daily maximum ozone value may be assumed to be less than the level of the standard if the valid daily maximum on both the preceding day and the following day do not exceed 75 percent of the level of the standard (0.09 ppm on this date). No assumption can be made if more than one consecutive day's data are missing. The following equation shall be used to estimate the number of excursions for the year:

$$x = v + (v/n)(N - n) - z$$

x = the estimated number of excursions for the year;

v = the number of daily values above the standard;

n = the number of valid daily maxima;

N = the number of days in the year; and

z = the number of days assumed to be less than the standard level.

This estimated number of excursions shall be rounded to one decimal place (fractional part equal to or greater than 0.05 rounds up).

(3) Nitrogen Dioxide. Annual arithmetic mean - 100 micrograms per cubic meter (0.05 ppm).

(4) Lead. Maximum quarterly arithmetic - 1.5 Micrograms per cubic meter.

Single Authority: 402.001 FS, Law Implementation 402.001, 402.001, 402.001 FS, History-New 3-13-88.

62-204.260 Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments). At any location within a baseline area, any increase in pollutant concentration over the baseline concentration shall be limited to the applicable amount set forth below. For any monitoring period other than the annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(1) Class I Area Increases.

(a) Particulate Matter.

1. PM₁₀, Annual arithmetic mean - four micrograms per cubic meter.

2. PM_{2.5}, 24-hour maximum - eight micrograms per cubic meter.

(b) Sulfur Dioxide.

1. Annual arithmetic mean - two micrograms per cubic meter.

2. Twenty-four-hour maximum - five micrograms per cubic meter.

(c) Carbon Monoxide.

1. One-hour maximum - 25 micrograms per cubic meter.

2. Eight-hour maximum - 25 micrograms per cubic meter.

3. Three-hour maximum - 25 micrograms per cubic meter.

DEPARTMENT OF STATE
 TALLAHASSEE, FLORIDA
 2012 JAN 27 PM 3:39

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Certification Package for Rule Amendments effective October 23, 2016

Note: This Certification Package is provided only in reference to amendments to Rule 62-204.500 F.A.C. DEP is not requesting that amendments to Rules 62-204.340 or 62-204.800, F.A.C., be considered in this submittal.



**Florida Department of
Environmental Protection**

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Jonathan P. Steverson
Secretary

October 3, 2016

Mr. Ernest Reddick
Program Administrator
Administrative Code and Register
500 South Bronough Street, Room 101
Tallahassee, Florida 32399-0250

Re: Certification Package for Rules 62-204.340, 62-204.500, and 62-204.800, F.A.C.
OGC No: 15-0546

Dear Mr. Reddick:

Attached is the certification package for Rules 62-204.340, 62-204.500 and 62-204.800, F.A.C. I am the attorney handling this matter and if you have any questions please contact me at 245-2194, Benjamin.Melnick@dep.state.fl.us, or by mail at Department of Environmental Protection, Office of General Counsel, MS 35, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000. Or you may also contact Preston McLane at 717-9089, Preston.McLane@dep.state.fl.us, or by mail at Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399.

Sincerely,

A handwritten signature in blue ink that reads "Benjamin M. Melnick".

Benjamin M. Melnick
Assistant General Counsel

RECEIVED
TALLAHASSEE
OCT 11 2016
FILED

CERTIFICATION OF DEPARTMENT OF ENVIRONMENTAL PROTECTION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

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DEPARTMENT OF STATE
2022 OCT 19 11:11 AM

I hereby certify:

- (1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and
- (2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and
- (3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S., and
 - (a) Are filed not more than 90 days after the notice; or
 - (b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or
 - (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or
 - (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or
 - (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or
 - (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or
 - (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or
 - (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or
 - (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

62-204.340 Designation of Attainment, Nonattainment, Unclassifiable, and Maintenance Areas.

(1) Designation of Areas Meeting Ambient Air Quality Standards (Attainment Areas). As designated in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

~~(a) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(a), F.A.C., is designated as attainment for the air pollutant ozone.~~

~~(b) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(b), F.A.C., or as unclassifiable under paragraph 62-204.340(3)(a), F.A.C., is designated as attainment for the air pollutant PM₁₀.~~

~~(c) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(c), F.A.C., or as unclassifiable under paragraph 62-204.340(3)(b), F.A.C., is designated as attainment for the air pollutant sulfur dioxide.~~

~~(d) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(d), F.A.C., is designated as attainment for the air pollutant carbon monoxide.~~

~~(e) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(e), F.A.C., is designated as attainment for the air pollutant nitrogen dioxide.~~

(2) Designation of Areas Not Meeting Ambient Air Quality Standards (Nonattainment Areas). As designated in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

~~(a) Ozone Nonattainment Areas. (Reserved).~~

~~(b) PM₁₀ Nonattainment Areas. (Reserved).~~

~~(c) Sulfur Dioxide Nonattainment Areas. (Reserved).~~

~~(d) Carbon Monoxide Nonattainment Areas. (Reserved).~~

~~(e) Nitrogen Dioxide Nonattainment Areas. (Reserved).~~

~~(f) Lead nonattainment Areas. (Reserved).~~

~~(g) As soon as practicable after notice of redesignation is published by the U. S. Environmental Protection Agency in the Federal Register, the Department shall publish notice of the effective date of redesignation in the Florida Administrative Register Weekly and a newspaper of general circulation in each county affected by the redesignation.~~

(3) Designation of Areas Which Cannot Be Classified as Attainment or Nonattainment (Unclassifiable Areas). As designated in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(a) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(b), F.A.C., is designated as unclassifiable for the air pollutant PM₁₀.

(b) The following areas are designated as unclassifiable for the pollutant sulfur dioxide.

1. Duval County.

2. Escambia County.

3. Hillsborough County.

4. The Southwest corner of Pasco County.

(c) All of the state except those areas designated as nonattainment under Rule 62-204.340, F.A.C., is designated as unclassifiable for the air pollutant lead.

(4) No change.

Rulemaking Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History—New 3-13-96, Amended _____.

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 C.F.R. Part ~~93.51~~, Subpart ~~BW~~, adopted and incorporated by reference at Rule 62-204.800, F.A.C. Pursuant to 40 C.F.R. Part ~~93.51~~, Subpart ~~BW~~, federal agencies are required to make conformity determinations to ensure that certain federal actions are consistent with the State Implementation Plan.

(a) Definitions. ~~In addition to the definitions in Rule 62-204.200, F.A.C.,~~ the definitions used in reviewing federal general conformity determinations shall be the definitions in 40 C.F.R. Part 93, §93.152, adopted and incorporated by reference at Rule 62-204.800, F.A.C. 51-852.

(b) Criteria. The criteria for reviewing federal general conformity determinations shall be the criteria in 40 C.F.R. Part 93, §93.158, adopted and incorporated by reference at Rule 62-204.800, F.A.C. 51-858.

(c) Procedures. The procedures for reviewing federal general conformity determinations shall be the procedures in 40 C.F.R. Part 93, §93.159, adopted and incorporated by reference at Rule 62-204.800, F.A.C. 51-859.

(d) No change.

(2) No change.

Rulemaking Authority 403.061 FS. Law Implemented 403.031, 403.061 FS. History--New 11-30-94, Amended 3-13-96, 3-23-97, 9-1-98, _____.

62-204.800 Federal Regulations Adopted by Reference.

All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) through (8) No change.

(9) Title 40, Code of Federal Regulations, Part 60, Emission Guidelines and Compliance Times.

(a) through (e) No change.

(f) Commercial and Industrial Solid Waste Incineration (CISWI) Units. 40 C.F.R. Part 60, Subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or Before June 4, 2010, revised as of July 1, 2009, amended February 7, 2013, at 78 FR 9112 (<https://www.flrules.org/gateway/reference.asp?No=Ref-03695>), amended June 23, 2016, at 81 FR 40956 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07493>), is hereby adopted and incorporated by reference subject to the following provisions (all cross-references to 40 C.F.R. 63 Subpart LLL, [40 C.F.R. 63.1340 through 1359], as amended February 12, 2013, at 78 FR 10005, as amended July 27, 2015, at 80 FR 44771, are adopted and incorporated by reference at Paragraph 62-204.800(11)(b), F.A.C.):

1. through 4. No change.

5. Emission Limitations and Operating Limits. The emission limitations and operating limits applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2670 through 60.2685, except that a unit in the waste-burning kiln subcategory may instead comply with an alternative production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as specified in Table 4 as published February 7, 2013 at 78 FR 9112, 9122 (<https://www.flrules.org/gateway/reference.asp?No=Ref-03695>).

6. Performance Testing. The performance testing requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2690 and through 60.2695.

7. Initial Compliance Requirements. The initial compliance requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2700 through 60.2706, except

that a waste-burning kiln complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must demonstrate initial compliance pursuant to 40 C.F.R. § 63.1348(a)(5). The initial compliance test must begin on the first operating day following completion of the field testing and data collection that demonstrates that the continuous emissions monitoring system has satisfied the relevant performance acceptance criteria of Performance Specifications 12A or 12B in 40 C.F.R. 60 Appendix B. The notification required by 40 C.F.R. § 60.2760 shall also include notification of whether an owner or operator of a unit in the waste-burning kiln subcategory intends to comply with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C.

8. Continuous Compliance Requirements. The continuous compliance requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2710 through 60.2725, except that a waste-burning kiln complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must demonstrate continuous compliance with this alternative limit pursuant to the procedures of 40 C.F.R. § 63.1348(b)(7), and 40 C.F.R. § 63.1349(b)(5).

9. Monitoring. The monitoring requirements applicable to each CISWI unit subject to paragraph 62-204.800(8)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2730 ~~and through 60.2735.~~ A unit in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also monitor mercury pursuant to 40 C.F.R. 63.1350(k), the clinker production rate pursuant to 40 C.F.R. § 63.1350(d), and the flow rate pursuant to 40 C.F.R. § 63.1350(n). An owner of a waste burning kiln is not required to develop an emissions monitoring plan pursuant to 40 C.F.R. § 63.1350(p)(1) through (p)(4) if the owner prepares the emissions monitoring plan required pursuant to 40 C.F.R. § 60.2710(k) and (l).

10. Recordkeeping and Reporting Requirements. The recordkeeping and reporting requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2740 through 60.2800. Units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also keep records of all data collected from the continuous flow rate monitoring system required by 40 C.F.R. § 63.1350(n), all data collected from the clinker production monitoring system required by 40 C.F.R. § 63.1350(d), and all calculated 30-operating day rolling average values derived from the mercury monitoring system. Units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also report all

deviations from the alternative production-based mercury limit in accordance with 40 C.F.R. §§ 60.2740 through 60.2800.

11. through 12. No change.

13. Definitions. The definitions applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §60.2875. For purposes of paragraph 62-204.800(9)(f), F.A.C., the definition of the term administrator means the department, except that the EPA is the administrator for purposes of 40 C.F.R. § 60.2030(c). The terms used but not defined in 40 C.F.R. Part 60, Subpart DDDD, have the meaning given to them in the Clean Air Act and in 40 C.F.R. Part 60, Subparts A, B, and CCCC. For units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., the term operating day in 40 C.F.R. § 63.1348(a)(5), 40 C.F.R. § 63.1348(b)(7) and 40 C.F.R. § 63.1349(b)(5) means any 24-hour period beginning at 12:00 midnight during which the kiln produces any amount of clinker.

(g) through (h) No change.

(10) through (25) No change.

(26) Title 40, Code of Federal Regulations, Part 93, Determining Conformity of Federal Actions to State or Federal Implementation Plans. The following subparts of 40 C.F.R. Part 93, revised as of July 1, 2015 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07494>), or later as specifically indicated, are adopted and incorporated by reference. The provisions of 40 C.F.R. 93, Subpart A, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, revised as of July 1, 2001; amended August 6, 2002, at 67 FR 50808, are adopted and incorporated by reference.

(a) 40 C.F.R. Part 93, Subpart A, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws.

(b) 40 C.F.R. Part 93, Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(27) No Change.

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872, 403.8055 FS.

History–New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-1-08, 10-6-08, 12-1-08, 11-18-09, 6-11-10, 7-1-10, 10-1-10, 12-30-10, 12-1-11, 12-1-12, 5-22-13, 12-17-13, 1-24-14, 1-14-15, 1-7-16,_____.

DETAILED STATEMENT OF FACTS AND CIRCUMSTANCES

JUSTIFYING PROPOSED RULE

Re: Rules 62-204.340, 62-204.500, and 62-204.800, Florida Administrative Code (F.A.C.)

Notice of Proposed Rulemaking: September 1, 2016

OGC No.: 15-0546

Project: Air Pollution Control – General Provisions

RECEIVED
DEPARTMENT OF STATE
2016 OCT -3 PM 1:19
FILED

Introduction

Pursuant to Executive Orders 11-01, 11-72 and 11-211, which require the Department to identify and revise rules that are unnecessary, unnecessarily burdensome, or duplicative, the Department is proposing to revise two rule sections from Chapter 62-204, F.A.C. (Air Pollution Control – General Provisions): Rule 62-204.340, F.A.C. (Designation of Attainment, Nonattainment, and Maintenance Areas), and Rule 62-204.500, F.A.C. (Conformity). These revisions will update and revise outdated area designations and clarify language regarding general conformity. In addition, the Department is proposing to revise Rule 62-204.800, F.A.C. (Federal Regulations Adopted by Reference), to amend Florida’s Commercial Industrial Solid Waste Incinerator (CISWI) rule to provide for an equivalent alternative production-based mercury emission limit for units in the waste-burning kiln subcategory.

Need for Rule Change

The federal National Ambient Air Quality Standards (NAAQS) designations of Attainment, Nonattainment, and Unclassifiable for Florida have been reflected, for convenience, in Rule 62-204.340, F.A.C. However, because of the lag time between the U.S. Environmental Protection Agency’s (EPA’s) changing of the area designations and the Department’s subsequent amending of Rule 62-204.340, F.A.C., the Department believes that it would more efficient to directly cite the federal designations as found in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

The citations to federal conformity rules in Rule 62-204.500, F.A.C., have become outdated and needed to be revised to reflect the federal transfer of conformity requirements from 40 C.F.R. Part 51 Subpart W, *Determining Conformity of General Federal Actions to State or Federal Implementation Plans*, to 40 C.F.R. Part 93 Subpart B, *Determining Conformity of General Federal Actions to State or Federal Implementation Plans*. Because of this federal citation revision, 40 C.F.R. Part 93 Subpart B will also be adopted and incorporated by reference into Rule 62-204.800, F.A.C.

The Division is also revising Rule 62-204.800, F.A.C., to provide an equivalent alternative production-based mercury emission limit for waste-burning kilns subject to Florida's CISWI rules. EPA specified in its final CISWI rule that an alternative production-based mercury emission limit of 58 pounds of mercury per million tons of clinker is equivalent to the concentration-based limit for waste-burning kilns specified in the CISWI regulations. See 78 Fed. Reg. 9,112, 9,122 (February 7, 2013). EPA's CISWI regulations provide that a state "may deviate from the format and content of the emission guidelines" provided that the state "demonstrate that [its] State plan is at least as protective as the emission guidelines contained in this subpart." 40 C.F.R. 60.2515(b). Because EPA specified that a production-based mercury emission limit of 58 pounds per million tons of clinker is equivalent to the concentration-based emission limit in the CISWI rules, this proposed revision to Florida's CISWI rules meets the requirements of 40 C.F.R. 60.2515(b). The revisions to Rule 62-204.800, F.A.C., also include monitoring and recordkeeping requirements to ensure compliance with the production-based limit.

Summary of Rule Amendments

The specific rule amendments are as follows:

Rule Number	Detailed Explanation
62-204.340	Rule 62-204.340, F.A.C., will be updated to reference the Code of Federal Regulations for air quality designations. This will revise references to now obsolete historic area designations for National Ambient Air Quality Standards (NAAQS) by incorporating references to the Nonattainment Area in Hillsborough County for the 2010 Sulfur Dioxide

	(SO ₂) NAAQS, the Nonattainment Area in Nassau County for the 2010 SO ₂ NAAQS, and the Nonattainment Area in Hillsborough County for the 2008 Lead NAAQS, and clarifying previous area designations for Hillsborough County, including removal of a previous Lead Nonattainment Area designation. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
62-204.500	Rule 62-204.500, F.A.C., will be revised to update obsolete Code of Federal Regulation citations and add clarifying general conformity language. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
62-204.800	Rule 62-204.800, F.A.C., will be revised to add an equivalent alternative production-based mercury emission limit for Commercial Industrial Solid Waste Incinerators in the waste-burning kiln subcategory. Revisions will include incorporating recordkeeping and reporting requirements in order for units to demonstrate compliance with the alternative production-based mercury emission limit and incorporating recent EPA revisions to 40 C.F.R. 60 Subpart DDDD (Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units). Rule 62-204.800, F.A.C., will also be updated to incorporate by reference 40 C.F.R. 93, which is referenced in the proposed changes to Rule 62-204.500, F.A.C. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.

SUMMARY OF THE RULE

Pursuant to Executive Orders 11-01, 11-72 and 11-211, which require the Department to identify and revise rules that are unnecessary, unnecessarily burdensome, or duplicative, the Department is proposing to revise two rule sections from Chapter 62-204, F.A.C. (Air Pollution Control – General Provisions): Rule 62-204.340, F.A.C. (Designation of Attainment, Nonattainment, and Maintenance Areas), and Rule 62-204.500, F.A.C. (Conformity). These revisions will update and revise outdated area designations and clarify language regarding general conformity. In addition, the Department is proposing to revise Rule 62-204.800, F.A.C. (Federal Regulations Adopted by Reference), to amend Florida's Commercial Industrial Solid Waste Incinerator (CISWI) rule to provide for an equivalent alternative production-based mercury emission limit for units in the waste-burning kiln subcategory.

The federal National Ambient Air Quality Standards (NAAQS) designations of Attainment, Nonattainment, and Unclassifiable for Florida have been reflected, for convenience, in Rule 62-204.340, F.A.C. However, because of the lag time between the U.S. Environmental Protection Agency's (EPA's) changing of the area designations and the Department's subsequent amending of Rule 62-204.340, F.A.C., the Department believes that it would more efficient to directly cite the federal designations as found in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

The citations to federal conformity rules in Rule 62-204.500, F.A.C., have become outdated and needed to be revised to reflect the federal transfer of conformity requirements from 40 C.F.R. Part 51 Subpart W, Determining Conformity of General Federal Actions to State or Federal Implementation Plans, to 40 C.F.R. Part 93 Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Because of this federal citation revision, 40 C.F.R. Part 93 Subpart B will also be adopted and incorporated by reference into Rule 62-204.800, F.A.C.

The Division is also revising Rule 62-204.800, F.A.C., to provide an equivalent alternative production-based mercury emission limit for waste-burning kilns subject to Florida's CISWI rules. EPA specified in its final CISWI rule that an alternative production-based mercury emission limit of 58 pounds of mercury per million tons of clinker

is equivalent to the concentration-based limit for waste-burning kilns specified in the CISWI regulations. *See* 78 Fed. Reg. 9,112, 9,122 (February 7, 2013). EPA’s CISWI regulations provide that a state “may deviate from the format and content of the emission guidelines” provided that the state “demonstrate that [its] State plan is at least as protective as the emission guidelines contained in this subpart.” 40 C.F.R. 60.2515(b). Because EPA specified that a production-based mercury emission limit of 58 pounds per million tons of clinker is equivalent to the concentration-based emission limit in the CISWI rules, this proposed revision to Florida’s CISWI rules meets the requirements of 40 C.F.R. 60.2515(b). The revisions to Rule 62-204.800, F.A.C., also include monitoring and recordkeeping requirements to ensure compliance with the production-based limit.

Summary of Rule Amendments

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62-204.340	Rule 62-204.340, F.A.C., will be updated to reference the Code of Federal Regulations for air quality designations. This will revise references to now obsolete historic area designations for National Ambient Air Quality Standards (NAAQS) by incorporating references to the Nonattainment Area in Hillsborough County for the 2010 Sulfur Dioxide (SO ₂) NAAQS, the Nonattainment Area in Nassau County for the 2010 SO ₂ NAAQS, and the Nonattainment Area in Hillsborough County for the 2008 Lead NAAQS, and clarifying previous area designations for Hillsborough County, including removal of a previous Lead Nonattainment Area designation. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
62-204.500	Rule 62-204.500, F.A.C., will be revised to update obsolete Code of Federal Regulation citations and add clarifying general conformity language. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.

62-204.800	Rule 62-204.800, F.A.C., will be revised to add an equivalent alternative production-based mercury emission limit for Commercial Industrial Solid Waste Incinerators in the waste-burning kiln subcategory. Revisions will include incorporating recordkeeping and reporting requirements in order for units to demonstrate compliance with the alternative production-based mercury emission limit and incorporating recent EPA revisions to 40 C.F.R. 60 Subpart DDDD (Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units). Rule 62-204.800, F.A.C., will also be updated to incorporate by reference 40 C.F.R. 93, which is referenced in the proposed changes to Rule 62-204.500, F.A.C. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
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SUMMARY OF THE HEARING

No timely request for hearing was received by the agency and no hearing was held.

FILED
2019 OCT -3 PM 14:19
COURT CLERK'S OFFICE
MILWAUKEE COUNTY

CERTIFICATION OF MATERIALS INCORPORATED

BY REFERENCE IN RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify pursuant to Rule 1-1.013, Florida Administrative Code:

(1) That materials incorporated by reference in Rule 62-204.800 have been electronically filed with the Department of State.


(2) That because there would be a violation of federal copyright laws if the submitting agency filed the incorporated materials described below electronically, a true and complete paper copy of the incorporated materials are attached to this certification for filing. Paper copies of the incorporated materials below may be obtained at the agency by [include address(es)/location(s)].

List form number(s) and form title(s), or title of document(s) below:

40 CFR Part 60, Subpart DDDD, Published at Volume 81 of the Federal Register, Number 121, (June 23, 2016)
pp 40956-41034

40 CFR Part 93; Subparts A and B, as of July 1, 2015

Under the provision of Section 120.54(3)(c)6., F.S., the rule takes effect 20 days from the date filed with the Department of State or a later date as set out below:


Justin Wolfe

Deputy General Counsel

From: FL-Rules@dca.state.fl.us
To: [Long, Terri](#)
Cc: flrules@dca.state.fl.us
Subject: 62-204.800 Reference Material for Rule Adoption Approved
Date: Monday, September 26, 2016 10:37:43 AM

Dear terri:

The reference material for rule adoption you submitted has been approved by the Administrative Code and Register Staff.

The approved material is available in the [Review/Modify Agency Reference Material](#) list (Agency Main Menu page).

Rule Number: 62-204.800

Reference Number: Ref-07493; Reference Name: 40 CFR Part 60 Subpart DDDD

Reference Number: Ref-07494; Reference Name: 40 CFR Part 93

Click [here](#) to log in.

Administrative Code and Register Staff
Florida Department of State

FILED
2016 OCT -3 PM 14:20
TALLAHASSEE, FLORIDA

Public Participation

Notice of Opportunity to Submit Comments and Participate in Public Hearing

DEP will include in the Final Submittal a copy of the notice published in the Florida Administrative Register.

Local Program and District Office Assistance to the Public

DEP will include in the Final Submittal a copy of the e-mail notice transmitted to Local Programs and District Offices.

Public Comments on Pre-Hearing SIP Notice

DEP will include in the Final Submittal any public comments received during the comment period.

DEP Response to Public Comments

DEP will respond in the Final Submittal to any public comments that are received during the comment period.

Pre-Hearing Submittal Letter



FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

Via Electronic Mail and State Planning Electronic Collaboration System

July 6, 2022

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

Re: Pre-Hearing Submittal: Proposed Revision to State Implementation Plan –
Chapter 62-204, F.A.C., Air Pollution Control - General Provisions Rule
Removals and Amendments

Dear Mr. Blackman:

Notice is hereby given that, pursuant to 40 CFR 51.102, the Department of Environmental Protection (Department) is accepting comments and will hold a public hearing, if requested, on a proposed revision to Florida's State Implementation Plan (SIP) for – Chapter 62-204, F.A.C., Air Pollution Control - General Provisions Rule Removals and Amendments. The Department published the public notice in the Florida Administrative Register (FAR) on July 6, 2022. The comment period for the proposed SIP revision will close on August 5, 2022, and the public hearing, if requested, will be held on August 8, 2022.

This proposed SIP revision consists of the removal of outdated or superseded Florida Administrative Code (F.A.C.) requirements including the required CAA Section 110(l) noninterference demonstration. The proposed SIP revision also incorporates amendments to F.A.C. rules to make Florida's SIP consistent with current rules. EPA incorporates F.A.C. rules into Florida's SIP on a rule-by-rule basis according to their state-established effective dates. The rule language that DEP is requesting be removed from, or amended within, Florida's SIP is contained in Chapter 62-204, F.A.C., Air Pollution Control - General Provisions.

The Department has sent the complete pre-hearing SIP submittal package directly to the Air Planning & Implementation Branch via EPA's State Planning Electronic Collaboration System (SPeCS). The public notice and pre-hearing SIP submittal are enclosed. The Department requests that all comments on the Pre-Hearing SIP submittal be provided to

Mr. Daniel Blackman
Page 2 of 2
July 6, 2022

the Department by August 5, 2022. If you have any questions, please contact Elizabeth Rogers at (850) 717-9019 or by email at Elizabeth.Rogers@FloridaDEP.gov.

Sincerely,



Jeffery F. Koerner, Director
Division of Air Resource Management

JFK/tl

cc:

Caroline Freeman, Division Director, Air & Radiation Division, EPA Region 4;
Lynorae Benjamin, Chief, Air Planning & Implementation Branch, EPA Region 4

Enclosure:

Pre-Hearing SIP 2022-04 - Chapter 62-204, F.A.C., Air Pollution Control - General Provisions Rule Removals and Amendments

EPA Comments on Pre-Hearing Submittal

DEP will include in the Final Submittal any EPA comments that are received during the comment period.

DEP Response to EPA Comments

DEP will include in the Final Submittal written responses to any EPA comments that are received during the comment period.

**APPENDIX A –
Chapter 62-204, F.A.C. – Coded Copy**

Chapter 62-204, F.A.C. Coded (strikethrough) Copy of Rule Sections Requested to be Repealed

The Department is requesting the repealed Rules 62-204.100, 62-204.200, 62-204.220, 62-204.240, 62-204.260, 62-204.320, 62-204.360 and 62-204.400, F.A.C., be removed from Florida’s SIP. The rulemaking process for repealing rule sections in their entirety in Florida does not require a coded copy (strikethrough) to be used in any portion of the official rulemaking process (i.e., Notice of Repeal, or Certification Package filed with the Florida Department of State.)

The Notice of Repeal that is published in the Florida Administrative Code includes the rule number, rule title, Rulemaking Authority, Law Implemented, and History note, with the addition of “Repealed_____”. The published Notice of Repeals do not include coded rule language showing deletion via strikethrough formatting.

The Certification Package for any rule repeals filed with the Florida Department of State has different coding requirements than a rule amendment. The document should begin with the words, “The following rules are hereby repealed:” followed by the rule number and title of the rule or rules being repealed and the complete text of each repealed rule with a diagonal line drawn through the entire text of the rule. These Certification packages for the repealed rules requested to be removed from Florida’s SIP are included in the State Administrative Materials section of this SIP

For clarity, the following are the versions of the rule sections prior to repeal, in their entirety, shown with language as deleted (strikethrough) for your use.

62-204.100 Purpose and Scope.

~~(1) This chapter establishes maximum allowable levels of pollutants in the ambient air, or ambient air quality standards, necessary to protect human health and public welfare. This chapter also establishes maximum allowable increases in ambient concentrations for subject pollutants to prevent significant deterioration of air quality in areas where ambient air quality standards are being met. It further specifies approved air quality monitoring and modeling methods.~~

~~(2) In addition, this chapter designates all areas of the state as attainment, nonattainment, or unclassifiable with respect to each pollutant for which ambient air quality standards have been adopted; further designates certain attainment and unclassifiable areas of the state as air quality maintenance areas for particular pollutants; classifies all areas of the state as Class I, Class II, or Class III for determining which set of prevention of significant deterioration (PSD) increments apply; and designates all attainment and unclassifiable areas of the state as one or more PSD areas for determining which pollutant specific PSD baseline dates apply. This chapter also sets forth procedures for redesignating and reclassifying areas as above.~~

~~(3) The Department of Environmental Protection adopts this chapter to identify the Florida State Implementation Plan (SIP) required by the U.S. Environmental Protection Agency pursuant to 40 CFR Part 51; to set forth the public notice and hearing requirements that the Department will adhere to for making SIP revisions; and to set forth~~

~~the definitions, criteria, and procedures that the Department will use to review a federal agency's general conformity determination, made pursuant to 40 CFR Part 51, Subpart W; and to adopt by reference an interagency memorandum of agreement that the Department will comply with to review any transportation conformity determination, made pursuant to 40 CFR Part 51, Subpart T. The provisions of 40 CFR 51.853 require that a federal agency make a general conformity determination for any federal agency action in a nonattainment or maintenance area, to ensure that such action is consistent with the SIP and that such federal conformity determination be reviewed by the affected state. The provisions of 40 CFR 51.394 require that a transportation conformity determination be made for the adoption, acceptance, approval, or support of certain transportation plans, transportation improvement programs, and transportation projects in nonattainment and maintenance areas for transportation-related criteria pollutants to ensure that such actions are consistent with the SIP.~~

~~(4) Finally, this chapter adopts and incorporates by reference federal air pollution control regulations which are referenced in whole or in part throughout the Department's air pollution control rules.~~

Rulemaking Specific Authority 403.061, 403.8055 FS. Law Implemented 403.021, 403.031, 403.061, 403.8055 FS. History—New 11-30-94, Amended 3-13-96, Repealed 2-16-12.

62-204.200 Definitions.

The following words and phrases when used in this chapter, unless content clearly indicates otherwise, have the following meanings:

(1) “Actual Emissions”—The actual rate of emission of a pollutant from an emissions unit as determined in accordance with the following provisions.

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of the normal operation of the emissions unit. The Department shall allow the use of a different time period upon a determination that it is more representative of the normal operation of the emissions unit. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates and types of materials processed, stored, or combusted during the selected time period.

(b) The Department may presume that unit-specific allowable emissions for an emissions unit are equivalent to the actual emissions of the emissions unit provided that such unit-specific allowable emissions limits are federally enforceable.

(c) For any emissions unit that has not begun normal operations on a particular date, actual emissions shall equal the potential emissions of the emissions unit on that date.

(2) “Administrator”—The Administrator of the United States Environmental Protection Agency or the Administrator's designee.

(3) “Air Pollutant”—Any substance (particulate, liquid, gaseous, organic or inorganic) which if released, allowed to escape, or emitted, whether intentionally or unintentionally, into the outdoor atmosphere may result in or contribute to air pollution.

(4) “Air Pollution”—The presence in the outdoor atmosphere of the state of any one or more substances or pollutants in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(5) “Air Quality Control Region”—Any air quality control region designated pursuant to Section 107 of the Clean Air Act. The boundaries of the air quality control regions in Florida are set forth in 40 C.F.R. Part 81, Sections 81.49, 81.68, 81.91, 81.95, 81.96 and 81.97, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(6) “Ambient Air Quality Standard” or “Ambient Standard”—A restriction established to limit the quantity or concentration of an air pollutant that may be allowed to exist in the ambient air for any specific period of time.

(a) “National Ambient Air Quality Standard” means an ambient standard established by EPA and specified at 40 C.F.R. Part 50, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(b) “Primary Standard” means an ambient standard established to protect public health.

(c) “Secondary Standard” means an ambient standard established to protect the public welfare including the protection of animal and plant life, property, visibility and atmospheric clarity, and the enjoyment of life and property.

(d) “State Ambient Air Quality Standard” means an ambient standard established or adopted by the Department.

(7) “Baseline Area”—The area (and every part thereof) designated as a prevention of significant deterioration (PSD) area under Rule 62-204.360, F.A.C., in which the facility or major modification establishing the minor source baseline date would construct or in which the emissions of the facility (or the significant net increase in emissions for a major modification) would have a predicted air quality impact equal to or greater than one microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established. For purposes of this definition, “major modification” has the meaning given at Rule 62-210.200, F.A.C.

(8) “Baseline Concentration”—The ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and for each averaging time for which a maximum allowable increase is established in Rule 62-204.260, F.A.C.

(a) The baseline concentration shall include the concentration attributable to:

1. The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided at paragraph 62-204.200(8)(b), F.A.C.; and
2. The federally enforceable allowable emissions of major stationary sources on which construction commenced on or before the major source baseline date but which were not in operation by the applicable minor source baseline date.

(b) The baseline concentration shall not include the concentration attributable to the following emissions; rather, such emissions shall affect the amount of any applicable maximum allowable increase remaining available:

1. The actual emissions from any major stationary source on which construction commenced after the major source baseline date; and
2. Any increase or decrease in the actual emissions of facilities occurring after the applicable minor source baseline date.

(c) For purposes of this definition, “construction” means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, shutdown or modification of an emissions unit) that would result in a change in emissions; and “commence construction” has the meaning given at Rule 62-210.200,

F.A.C., provided, however, that in the case of demolition or shutdown of an emissions unit, “commence construction” means that the owner or operator has permanently ceased all operations of the unit.

(d) Notwithstanding the provisions of paragraph (b) above:

1. The change in concentration attributable to any decrease in the actual emissions of a facility on which the Department has relied in demonstrating attainment, defining reasonable further progress, or issuing a permit under the provisions of Rule 17-2.17 (repealed), 17-2.510 (transferred), 17-2.650 (transferred), 62-212.500, 62-296.500 through 62-296.570, or 62-296.700 through 62-296.712, F.A.C., shall be included in the baseline concentration and not be considered in determining the amount of any maximum allowable increase remaining available; and

2. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities shall be excluded in determining compliance with any maximum allowable increase.

(9) “Cause or Contribute” — With respect to a violation of an ambient air quality standard, to have a significant impact on the ambient air concentration of a pollutant at any locality that does not or would not meet the applicable standard.

(10) “Clean Air Act (CAA)” or “Act” — The Federal Clean Air Act (42 U.S.C. s. 7401 et seq.)

(11) “Department” — The State of Florida Department of Environmental Protection.

(12) “Emission” — The discharge or release into the atmosphere of one or more air pollutants.

(13) “Emission Limiting Standard” or “Emission Standard” or “Emission Limitation” or “Performance Standard” — Any restriction established in or pursuant to a regulation adopted by the Department which limits the quantity, rate, concentration or opacity of any pollutant released, allowed to escape or emitted, whether intentionally or unintentionally, into the atmosphere, including any restriction which prescribes equipment, sets fuel specifications, or prescribes operation or maintenance procedures for an emissions unit to assure emission reduction or control.

(14) “Emissions Unit” — Any part or activity of a facility that emits or has the potential to emit any air pollutant.

(15) “Environmental Protection Agency” or “EPA” — The United States Environmental Protection Agency.

(16) “Facility” — All of the emissions units which are located on one or more contiguous or adjacent properties and which are under the control of the same person (or persons under common control).

(17) “Federal Land Manager” — With respect to any lands in the United States, the Secretary of the department with authority over such lands.

(18) “Indian Governing Body” — The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(19) “Indian Reservation” — Any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(20) “Major Source Baseline Date” — Pursuant to 40 C.F.R. 51.166(b)(14)(i), adopted and incorporated by reference in Rule 62-204.800, F.A.C.;

(a) In the case of particulate matter and sulfur dioxide, January 6, 1975; and

~~(b) In the case of nitrogen dioxide, February 8, 1988.~~

~~(21) “Marginal Nonattainment Area for Ozone”—The lowest category of five classifications of nonattainment for the air pollutant ozone as defined in the Clean Air Act (42 U.S.C. s. 7511).~~

~~(22) “Minor Source Baseline Date”—Pursuant to 40 C.F.R. 51.166(b)(14)(ii), adopted and incorporated by reference in Rule 62-204.800, F.A.C., the minor source baseline date for each pollutant for which maximum allowable increases have been established under Rule 62-204.260, F.A.C., is the earliest date after August 7, 1977, for particulate matter and sulfur dioxide, and February 8, 1988, for nitrogen dioxide, that a facility or a modification subject to preconstruction review under 40 C.F.R. 52.21, Rule 17-2.500, F.A.C. (transferred), or Rule 62-212.400, F.A.C., submits a complete application for permit under such regulations provided that:~~

~~(a) On the date the complete application is filed, the area in which the facility or modification would be constructed is designated as attainment or unclassifiable for the applicable pollutant under 42 U.S.C. Section 7407(d)(1) of the Clean Air Act (if the application is filed under 40 C.F.R. 52.21), or as a PSD area under Rule 17-2.450 (transferred), 62-275.700 (repealed) or 62-204.360, F.A.C., (if the application is filed under Rule 17-2.500 (transferred) or 62-212.400, F.A.C.); and~~

~~(b) In the case of a facility, the emissions of the applicable pollutant would be equal to or greater than the significant emissions rate as defined at Rule 62-210.200, F.A.C., or, in the case of modification, there would be a significant net emissions increase of the pollutant.~~

~~(23) “Moderate Nonattainment Area for Ozone”—The second lowest category of five classifications of nonattainment for the air pollutant ozone as defined in the Clean Air Act (42 U.S.C. s. 7511).~~

~~(24) “Modification”—Any physical change in, change in the method of operation of, or addition to a facility which would result in an increase in the actual emissions of any air pollutant subject to regulation under the Act, including any not previously emitted, from any emissions unit or facility.~~

~~(a) A physical change or change in the method of operation shall not include:~~

~~1. Routine maintenance, repair, or replacement of component parts of an emissions unit; or~~

~~2. A change in ownership of an emissions unit or facility.~~

~~(b) For any pollutant that is specifically regulated by the EPA under the Clean Air Act, a change in the method of operation shall not include an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975.~~

~~(c) For any pollutant that is not specifically regulated by the EPA under the Clean Air Act, a change in the method of operation shall not include an increase in the hours of operation or in the production rate, unless such change would exceed any restriction on hours of operation or production rate included in any applicable Department air construction or air operation permit.~~

~~(25) “Nonattainment Area”—Any area not meeting ambient air quality standards and designated as a nonattainment area under Rule 62-204.340, F.A.C. Such an area may be designated as a particulate, sulfur dioxide, nitrogen dioxide, carbon monoxide, lead or ozone nonattainment area, depending on which ambient standard has been violated. An area may be~~

designated as nonattainment for more than one air pollutant. Ozone nonattainment areas may be transitional, marginal, moderate, serious, severe, or extreme as classified in Rule 62-204.340, F.A.C.

(26) ~~“Particulate Matter”.~~

~~(a) With respect to concentrations in the atmosphere, particulate matter means any airborne finely divided solid or liquid material.~~

~~(b) With respect to emissions, particulate matter means all finely divided solid or liquid material, other than uncombined water, emitted to the atmosphere as measured by applicable reference methods, or an equivalent or alternative method, specified in 40 C.F.R. Part 60, Appendix A, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(27) ~~“PM₁₀”.~~

~~(a) With respect to concentrations in the atmosphere, PM₁₀ means particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on 40 C.F.R. Part 50, Appendix J, adopted and incorporated by reference in Rule 62-204.800, F.A.C., and designated in accordance with 40 C.F.R. Part 53 or by an equivalent method designated in accordance with 40 C.F.R. Part 53, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

~~(b) With respect to emissions, PM₁₀ means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the atmosphere as measured by an applicable reference method or by an equivalent or alternative method specified in 40 C.F.R. Part 51, Appendix M, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(28) ~~“Redesignation of an Area”~~—A change in the designation or a redefinition of the boundaries of an area for any of the designations listed under Rule 62-204.340 or 62-204.360, F.A.C.

(29) ~~“Significant Impact”~~—An impact of emissions on ambient air quality in excess of any of the following pollutant specific concentration values:

~~(a) Sulfur Dioxide.~~

~~1. Maximum three-hour concentration not to be exceeded more than once per year—25.0 micrograms per cubic meter.~~

~~2. Maximum 24-hour concentration not to be exceeded more than once per year—1.0 microgram per cubic meter for Class I areas; 5.0 micrograms per cubic meter for all other areas.~~

~~3. Annual arithmetic mean—1.0 microgram per cubic meter.~~

~~(b) PM₁₀.~~

~~1. Maximum 24-hour concentration not to be exceeded more than once per year—1.0 microgram per cubic meter for Class I areas; 5.0 micrograms per cubic meter for all other areas.~~

~~2. Annual arithmetic mean—1.0 microgram per cubic meter.~~

~~(c) Nitrogen Dioxide. Annual arithmetic mean—1.0 microgram per cubic meter.~~

~~(d) Carbon Monoxide.~~

~~1. Maximum one-hour concentration not to be exceeded more than once per year—2.0 milligrams per cubic meter.~~

~~2. Maximum eight-hour concentration not to be exceeded more than once per year—0.5 milligram per cubic meter.~~

(e) ~~Lead. Maximum quarterly arithmetic mean—0.03 microgram per cubic meter.~~
(30) ~~“State Implementation Plan (SIP)” or “Implementation Plan”~~—The EPA approved plan which Section 110 of the Clean Air Act requires a state to submit to the Administrator. The State Implementation Plan for the State of Florida, as approved by the U.S. Environmental Protection Agency, is identified in 40 C.F.R. Part 52, Subpart K, adopted and incorporated by reference in Rule 62-204.800, F.A.C.

Rulemaking Specific Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.8055 FS. History—New 11-30-94, Amended 3-13-96, 2-12-06, 10-6-08, Repealed 2-16-12.

62-204.220 Ambient Air Quality Protection.

(1) ~~Except as provided in Rule 62-212.500, F.A.C., Preconstruction Review for Nonattainment Areas, or in the Reasonably Available Control Technology rules of Chapter 62-296, F.A.C., the Department shall not issue an air permit authorizing a person to build, erect, construct, or implant any new emissions unit; operate, modify, or rebuild any existing emissions unit; or by any other means release or take action which would result in the release of an air pollutant into the atmosphere which would cause or contribute to a violation of an ambient air quality standard established under Rule 62-204.240, F.A.C.~~

(2) ~~Except as provided in Rule 62-212.400, F.A.C., Prevention of Significant Deterioration (PSD), the Department shall not issue an air permit authorizing the construction or modification of any emissions unit or facility that would cause or contribute to an ambient concentration at any point within a baseline area that exceeds either the appropriate baseline concentration for the point plus the appropriate maximum allowable increase or the appropriate ambient air quality standard, whichever is less.~~

(3) ~~Ambient air quality monitors used to establish a violation of an ambient air quality standard shall meet the requirements of 40 CFR Part 58, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(4) ~~For any provision of the air pollution rules of the Department which requires that an estimate of concentrations of pollutants in the ambient air be made, the estimates shall be based on the applicable air quality models, data bases, and other requirements approved by the Department and specified in 40 CFR Part 51, Appendix W—Guideline on Air Quality Models (Revised), adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

Rulemaking Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History—New 3-13-96, Repealed 2-16-12.

62-204.240 Ambient Air Quality Standards.

(1) ~~Sulfur Dioxide.~~

(a) ~~Maximum three hour concentration not to be exceeded more than once per year—1300 micrograms per cubic meter (0.5 ppm).~~

(b) ~~Maximum 24 hour concentration not to be exceeded more than once per year—260 micrograms per cubic meter (0.1 ppm).~~

(c) ~~Annual arithmetic mean—60 micrograms per cubic meter (0.02 ppm).~~

(2) ~~PM10.~~

(a) 24-hour average concentration not to be exceeded more than once per year, as determined in accordance with 40 CFR Part 50, Appendix K, adopted and incorporated by reference in Rule 62-204.800, F.A.C. — 150 micrograms per cubic meter.

(b) Expected annual arithmetic mean concentration as determined in accordance with 40 CFR Part 50 Appendix K — 50 micrograms per cubic meter.

(3) Carbon Monoxide.

(a) Maximum one hour concentration not to be exceeded more than once per year — 35 parts per million (40 milligrams per cubic meter).

(b) Maximum eight hour concentration not to be exceeded more than once per year — 9 parts per million (10 milligrams per cubic meter).

(4) Ozone. Daily maximum one hour concentration, not to be exceeded an average of more than one day per year — 0.12 parts per million (235 micrograms per cubic meter).

(a) Exceedances. An exceedance will occur for any calendar day when the maximum hourly average concentration for that day exceeds the standard. A day with more than one hourly value exceeding the standard shall count as a single exceedance.

(b) Determination of Compliance with Standard. At the end of each calendar year, the number of days with maximum hourly concentrations above 0.12 ppm shall be determined as specified in Rule 62-204.220(4)(a)3., F.A.C., below, and that number averaged with the results of the immediately preceding two year's data. As long as this average remains less than or equal to 1.0, the site is in compliance.

(c) Estimating the Number of Exceedances per Year. When a valid daily maximum hourly average value is not available for each day of the year, the following method shall be used to account for those missing values when determining the number of exceedances for a particular calendar year. If a site has two or more observed exceedances each year, the standard is not met and no requirement exists to account for the missing values in accordance with this paragraph. The term "missing values" means all days that do not have an associated ozone measurement. A daily maximum ozone value is the highest hourly ozone value recorded for that day. This daily maximum is considered to be valid if 75 percent of the hours from 9:01 A. M. to 9:00 P. M. (LST) were measured or if the highest hourly value is greater than the level of the standard. A missing daily maximum ozone value may be assumed to be less than the level of the standard if the valid daily maxima on both the preceding day and the following day do not exceed 75 percent of the level of the standard (0.09 ppm in this case). No assumption can be made if more than one consecutive day's data are missing. The following equation shall be used to estimate the number of exceedances for the year:

$$e = v + (v/n) (N - n - z);$$
 where:

e = the estimated number of exceedances for the year;

v = the number of daily values above the standard;

n = the number of valid daily maxima;

N = the number of days in the year; and

z = the number of days assumed to be less than the standard level.

This estimated number of exceedances shall be rounded to one decimal place (fractional part equal to or greater than 0.05 rounds up).

(5) Nitrogen Dioxide. Annual arithmetic mean — 100 micrograms per cubic meter (0.05 ppm).

(6) Lead. Maximum quarterly arithmetic — 1.5 Micrograms per cubic meter.

Rulemaking Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History—New 3-13-96, Repealed 2-16-12.

62-204.260 Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments).

~~At any location within a baseline area, any increase in pollutant concentration over the baseline concentration shall be limited to the applicable amount set forth below. For any averaging period other than the annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.~~

~~(1) Class I Area Increments.~~

~~(a) Particulate Matter.~~

- ~~1. PM₁₀, Annual arithmetic mean—4 micrograms per cubic meter.~~
- ~~2. PM₁₀, Twenty four hour maximum—8 micrograms per cubic meter.~~

~~(b) Sulfur Dioxide.~~

- ~~1. Annual arithmetic mean—2 micrograms per cubic meter.~~
- ~~2. Twenty four hour maximum—5 micrograms per cubic meter.~~
- ~~3. Three hour maximum—25 micrograms per cubic meter.~~

~~(c) Nitrogen Dioxide. Annual arithmetic mean—2.5 micrograms per cubic meter.~~

~~(2) Class II Area Increments.~~

~~(a) Particulate Matter.~~

- ~~1. PM₁₀, Annual arithmetic mean—17 micrograms per cubic meter.~~
- ~~2. PM₁₀, Twenty four hour maximum—30 micrograms per cubic meter.~~

~~(b) Sulfur Dioxide.~~

- ~~1. Annual arithmetic mean—20 micrograms per cubic meter.~~
- ~~2. Twenty four hour maximum—91 micrograms per cubic meter.~~
- ~~3. Three hour maximum—512 micrograms per cubic meter.~~

~~(c) Nitrogen Dioxide. Annual arithmetic mean—25 micrograms per cubic meter.~~

~~(3) Class III Area Increments.~~

~~(a) Particulate Matter.~~

- ~~1. PM₁₀, Annual arithmetic mean—34 micrograms per cubic meter.~~
- ~~2. PM₁₀, Twenty four hour maximum—60 micrograms per cubic meter.~~

~~(b) Sulfur Dioxide.~~

- ~~1. Annual arithmetic mean—40 micrograms per cubic meter.~~
- ~~2. Twenty four hour maximum—182 micrograms per cubic meter.~~
- ~~3. Three hour maximum—700 micrograms per cubic meter.~~

~~(c) Nitrogen Dioxide. Annual arithmetic mean—50 micrograms per cubic meter.~~

Rulemaking Specific Authority 403.061 FS. Law Implemented 403.031, 403.061, 403.087 FS. History— New 3-13-96, Amended 2-12-06, Repealed 2-16-12.

62-204.320 Procedures for Designation and Redesignation of Areas.

~~(1) General.~~

~~(a) Under Rules 62-204.340(1) through (3), F.A.C., all areas of the state shall be designated as attainment, nonattainment, or unclassifiable with respect to each air pollutant for which an ambient air quality standard is established under Rule 62-204.240;~~

F.A.C. The designation of each such area determines which emission limiting standards, new and modified facility review requirements, and other air pollution control measures shall apply to sources and activities which emit the pollutant or the precursor of the pollutant for which the area is designated. Following the redesignation of an area as nonattainment, a revision to the State Implementation Plan (SIP) may be required to establish the emission limiting standards and other air pollution control measures appropriate for the area.

(b) Under Rule 62-204.360(1), F.A.C., all areas of the state that are not designated as nonattainment with respect to a pollutant for which a maximum allowable increase is defined in Rule 62-204.260, F.A.C., shall be designated as one or more prevention of significant deterioration (PSD) areas with respect to each such pollutant. The designation of a PSD area determines the area for which a PSD baseline date shall be established.

(c) Under Rule 62-204.360(2), F.A.C., all areas of the state shall be designated as Class I, Class II, or Class III. For an area that is designated as a PSD area, the designation of the area as Class I, II or III determines which set of maximum allowable increases in particulate matter, sulfur dioxide, and nitrogen dioxide concentrations established under Rule 62-204.260, F.A.C., shall apply in the area after a PSD baseline date is established.

(d) Under Rule 62-204.340(4), F.A.C., certain areas of the state shall be designated as air quality maintenance areas. Areas that have been redesignated from nonattainment to attainment or unclassifiable may be designated as air quality maintenance areas with the effect that all emission limiting standards and permit limitations that were established pursuant to Rules 17-2.17 (repealed), 17-2.510 (transferred), 17-2.650 (transferred), 62-212.500, Chapter 62-252, and the Reasonably Available Control Technology rules in Chapter 62-296, F.A.C., or otherwise as a result of the SIP or nonattainment corrective plan, and all other air pollution control measures that were required under the SIP or nonattainment corrective plan, shall remain in effect in such areas.

(2) Redesignation of Nonattainment, Attainment, and Unclassifiable Areas (Reserved).

(3) Reclassification of Class I, Class II and Class III Areas.

(a) Reclassification of an area classified under Rule 62-204.360(2), F.A.C., may be proposed by filing a petition for rulemaking with the Environmental Regulation Commission showing sufficient justification for such action provided that lands within the exterior boundaries of Indian Reservations may be reclassified only by the appropriate Indian Governing Body. This petition shall conform to the requirements of Section 120.54(5), Florida Statutes. The Department may also initiate reclassification procedures. All reclassifications shall be submitted as revisions to the State Implementation Plan.

(b) Decisions regarding whether an area should be reclassified shall be based on the following criteria:

1. For areas which are proposed to be reclassified as Class I or Class II:
 - a. A public hearing shall be held in accordance with the notice requirements of Rule 62-204.400, F.A.C.
 - b. At least 30 days notice of the proposed reclassification shall be given to other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposal.
 - c. A description and analysis of the health, environmental, economic, social, and energy effects of the proposed reclassification shall be

prepared and made available for public inspection at least 30 days prior to the hearing. The notice shall state the availability of the required analysis.

d. If the reclassification includes any Federal lands, the state shall notify the Federal Land Manager of the proposal not more than 60 days prior to the hearing and allow an opportunity for the Federal Land Manager to confer with the state and submit written comments and recommendations. If an area is reclassified against the recommendations of the Federal Land Manager, the state shall publish a notice listing the inconsistencies and the reasons for reclassifying the area against the Federal Land Manager's recommendations in the Florida Administrative Weekly.

e. Prior to proposing a reclassification, the state shall confer with the elected leadership of any local general purpose government in the area covered by the proposed reclassification.

2. For areas which are proposed to be reclassified as Class III (except areas proposed to be reclassified by an Indian Governing Body):

a. All of the requirements of Rule 62-204.320(3)(b)1., F.A.C., above, shall be met.

b. The proposal shall be specifically approved by the Governor after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session.

c. Each unit of local general purpose government representing a majority of the residents of the area to be reclassified shall enact or adopt a resolution or other legislation concurring in the reclassification.

d. The reclassification may not cause or contribute to a violation of any state or national ambient air quality standard, or a violation of a maximum allowable increase in any other Class I, Class II, or Class III area.

e. To the extent practicable, any permit application and supporting documentation for a facility subject to Rule 62-212.400, F.A.C., which could receive a permit only if the area in question were reclassified as Class III, shall be made available for public inspection prior to the hearing on reclassification.

3. For areas which are proposed to be reclassified as Class I, Class II, or Class III by an Indian Governing Body:

a. All of the requirements of Rule 62-204.320(3)(b)1., F.A.C., and the additional requirements of Rules 62-204.320(3)(b)2.d. and e., F.A.C., shall be met, or equivalent procedures shall be followed.

b. Prior to proposing the reclassification, the Indian Governing Body shall consult with the state within which the Indian Reservation is located and any state which borders the Indian Reservation.

(e) The following areas shall not be reclassified as Class III:

1. An area which, as of August 7, 1977, exceeded ten thousand acres in size and was a national monument, a national primitive area, a national preserve, a national recreation area, a national wild and scenic river, a national wildlife refuge, or a national lakeshore or seashore; or

2. A national park or national wilderness area established after August 7, 1977, which exceeds ten thousand acres in size.

~~(d) Any area other than an area referred to in Rule 62-204.320(3)(c)1. or 2., F.A.C., above, or an area designated as Class I under Rule 62-204.360(2)(a)2., F.A.C., may be reclassified as Class III.~~

~~(4) Designation or Redesignation of Prevention of Significant Deterioration (PSD) Areas.~~

~~(a) Designation or redesignation of an area designated under Rule 62-204.360(1), F.A.C., may be proposed by filing a petition for rulemaking with the Environmental Regulation Commission. The petition shall conform to the requirements of Section 120.54(5), Florida Statutes. The Department may also initiate designation or redesignation procedures.~~

~~(b) PSD areas shall be designated only for those pollutants for which maximum allowable increases have been established under Rule 62-204.260, F.A.C.~~

~~(c) A PSD area for a pollutant shall not include any areas designated nonattainment for the pollutant under Rule 62-204.240(2), F.A.C.~~

~~(d) A PSD area may not be redesignated if the redesignation would result in the violation of any maximum allowable increase in the area proposed to be redesignated.~~

~~(e) Procedures for proposing the designation or redesignation of PSD areas are as follows:~~

~~1. A public hearing shall be held in accordance with the notice requirements of Rule 62-204.400, F.A.C.~~

~~2. At least 30 days notice of the hearing shall be given to Federal Land Managers whose lands may be affected by the proposed designation or redesignation.~~

~~3. The petition for rulemaking shall be made available for public inspection at least 30 days prior to the hearing and shall include a description and analysis of the health, environmental, economic, social and energy effects of the proposed designation or redesignation.~~

~~(5) Designation or Redesignation of Air Quality Maintenance Areas (Reserved).~~

Rulemaking Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History—New 3-13-96, Repealed 2-16-12.

62-204.360 Designation of Prevention of Significant Deterioration Areas.

(1) The following areas are designated as PSD areas for the air pollutant particulate matter:

(a) All of the state except those areas designated under Rule 62-204.360(1)(b), F.A.C., below. The particulate matter minor source baseline date established for this area is December 27, 1977.

(b) No other areas of the state.

(2) The following areas are designated as PSD areas for the air pollutant sulfur dioxide:

(a) All of the state except those areas designated nonattainment under Rule 62-204.340(2), F.A.C., and those areas designated under Rule 62-204.360(2)(b), F.A.C., below. The sulfur dioxide minor source baseline date established for this area is December 27, 1977.

(b) No other areas of the state.

(3) The following areas are designated as PSD areas for the air pollutant nitrogen dioxide:

(a) All of the state except those areas designated under Rule 62-204.360(3)(b), F.A.C., below. The nitrogen dioxide minor source baseline date established for this area is March 28, 1988.

- ~~(b) No other areas of the state.~~
- ~~(4) All areas of the state shall be classified as Class I, Class II, or Class III.~~
 - ~~(a) Class II Areas. All areas of the state are designated Class II except for those areas specified in Rule 62-204.360(4)(b), F.A.C., below.~~
 - ~~(b) Class I Areas. The following areas are designated as Class I areas and shall not be reclassified.~~
 - ~~1. Everglades National Park.~~
 - ~~2. Chassahowitzka National Wilderness Area.~~
 - ~~3. St. Marks National Wilderness Area.~~
 - ~~4. Bradwell Bay National Wilderness Area.~~
- ~~(5) Federally designated Class I Areas outside of Florida but within 100 kilometers of the state are as follows:~~
 - ~~(a) Okefenokee National Wilderness Area.~~
 - ~~(b) Wolf Island National Wilderness Area.~~

Rulemaking Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History—New 3-13-96, Repealed 2-16-12.

62-204.400 Public Notice and Hearing Requirements for State Implementation Plan Revisions.

- ~~(1) The Department shall hold a public hearing prior to adoption of any proposed revision to the Florida State Implementation Plan (SIP).~~
 - ~~(a) In addition to the notice required by Section 120.54, F.S., for rulemaking, the Department shall publish notice of the hearing by prominent advertisement in a newspaper of general circulation in each air quality control region affected at least 30 days prior to the hearing. The notice shall specify the date, time, and place of the hearing and state that a copy of the proposed SIP revision is available for public inspection in each affected region.~~
 - ~~(b) The Department shall also furnish a copy of the notice and proposed SIP revision to:~~
 - ~~1. The Region IV office of the EPA;~~
 - ~~2. Each local air pollution control agency in an affected region; and~~
 - ~~3. In the case of an interstate air quality control region, each other state included in whole or in part in the region.~~
- ~~(2) A record of the public hearing, including a list of witnesses together with the text of each presentation, shall be made available by the Department to the Administrator upon his/her request.~~
- ~~(3) The Department shall include with each proposed SIP revision submitted to the EPA a certification that the hearing was held in accordance with the notice required by Rule 62-204.400(1)(a), F.A.C.~~

Rulemaking Specific Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.8055 FS. History—New 11-30-94, Amended 10-6-08, Repealed 2-16-12.

62-204-500 Conformity.

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.

(a) Definitions. The definitions used in reviewing federal general conformity determinations shall be the definitions in 40 CFR Part 93, §93.152, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(b) Criteria. The criteria for reviewing federal general conformity determinations shall be the criteria in 40 CFR Part 93, §93.158, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(c) Procedures. The procedures for reviewing federal general conformity determinations shall be the procedures in 40 CFR Part 93, §93.159, adopted and incorporated by reference at Rule 62-204.800, F.A.C.

(d) Mitigation of Air Quality Impacts.

1. A federal general conformity determination submitted to the Department for review must contain, at a minimum, the following before the Department can make a positive finding of conformity in its review.

a. Any measures that are intended to mitigate air quality impacts must be identified, and the process for implementation and enforcement of such measures must be described including an implementation schedule containing explicit timelines for implementation.

b. Written commitments to take any mitigation measures from all persons or agencies committing to such measures.

2. A positive finding of conformity by the Department in any review of a federal general conformity determination is expressly based, in part, on reliance that all written commitments for mitigation measures shall be fulfilled by the timelines set out in such written commitments. Failure to fulfill such mitigation measures by the explicit timelines expressed in the written commitments shall nullify a positive Department review finding of conformity as of midnight of the date of the unfulfilled expressed timeline.

(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.

Rulemaking Specific Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.8055 FS.

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