

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
PROPOSED REVISION TO STATE IMPLEMENTATION PLAN**



**SUBMITTAL NUMBER 2020-01**

**REMOVAL OF MOTOR VEHICLE RULES  
IN CHAPTERS 62-243 AND 62-244, F.A.C.**

**July 2, 2020**

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## PROPOSED REVISION TO STATE IMPLEMENTATION PLAN

### SUBMITTAL NUMBER 2020-01

#### REMOVAL OF MOTOR VEHICLE RULES IN CHAPTERS 62-243 AND 62-244, F.A.C.

##### Introduction

The Department of Environmental Protection (DEP) is proposing a revision to Florida's State Implementation Plan (SIP) under the Clean Air Act (CAA) to remove 13 Florida Administrative Code (F.A.C.) rules from the SIP. The rules proposed to be removed from the SIP comprise two F.A.C. rule chapters related to tampering with motor vehicle emission control equipment and motor vehicle visible emissions. All 13 rules were approved into the SIP on June 9, 1992 (57 Fed. Reg. 24,378) and are listed at 40 CFR Part 52, Subpart K, with their corresponding effective dates as shown below.<sup>1</sup>

##### Chapter 62-243, F.A.C. – Tampering with Motor Vehicle Air Pollution Control Equipment

1. Rule 62-243.100, F.A.C., “Purpose and Scope,” effective 5/29/90
2. Rule 62-243.200, F.A.C., “Definitions,” effective 1/2/91
3. Rule 62-243.300, F.A.C., “Exemptions,” effective 1/2/91
4. Rule 62-243.400, F.A.C., “Prohibitions,” effective 1/2/91
5. Rule 62-243.500, F.A.C., “Certification,” effective 1/2/91
6. Rule 62-243.600, F.A.C., “Enforcement,” effective 1/2/91
7. Rule 62-243.700, F.A.C., “Penalties,” effective 5/29/90

##### Chapter 62-244, F.A.C. - Visible Emissions from Motor Vehicles

8. Rule 62-244.100, F.A.C., “Purpose and Scope,” effective 2/21/90
9. Rule 62-244.200, F.A.C., “Definitions,” effective 2/21/90
10. Rule 62-244.300, F.A.C., “Exemptions,” effective 2/21/90
11. Rule 62-244.400, F.A.C., “Prohibitions,” effective 2/21/90
12. Rule 62-244.500, F.A.C., “Enforcement,” effective 2/21/90
13. Rule 62-244.600, F.A.C., “Penalties,” effective 2/21/90

DEP has determined that the above rule sections are not needed for attainment and maintenance of national air quality standards or protection of visibility and requests that EPA approve the removal of these rule sections from Florida’s SIP.

Of the 13 rules proposed for removal from the SIP, all but one have been repealed from the Florida Administrative Code. Rules 62-243.100, 62-243.200, 62-243.400, 62-243.600, and 62-243.700, F.A.C., were repealed on February 16, 2012. Rule 62-243.500, F.A.C., was amended

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<sup>1</sup> In the Florida Administrative Code, “62-243,” for example, is a rule chapter, and “62-243.500” is a rule section, commonly written as “Chapter 62-243, F.A.C.,” and “Rule 62-243.500, F.A.C.,” respectively. The effective dates of rules and rule amendments in the F.A.C. are tied to rule sections; therefore, EPA incorporates F.A.C. rules into Florida’s SIP on a section-by-section basis according to their state-established effective dates.

effective July 13, 2017 to incorporate provisions from Rule 62-243.300, F.A.C., which was repealed concurrently. DEP has determined that Rule 62-243.500, F.A.C., while still in effect, is not needed for purposes of the SIP. The only purpose of Rule 62-243.500, F.A.C., is to implement the statutory directive in Section 316.2935(7), Florida Statutes (F.S.), which states that DEP “shall adopt rules that define the specific wording of the required certification and the circumstances under which the certificate is not required.” The certification statement required by Section 316.2935(1)(b), F.S., is provided to purchasers of motor vehicles by licensed motor vehicle dealers and certifies that the dealer has “visually observe[d] those air pollution control devices listed by department rule pursuant to subsection (7), and certify that they are in place, and appear properly connected and undamaged.”

Chapter 62-244, F.A.C., was repealed in its entirety on December 31, 1995 on the basis that the rule was not needed or used by law enforcement officers for the issuance of traffic citations pursuant to the underlying statute (Section 316.2935, Florida Statutes). The statute remains in place but does not serve any SIP-related purpose.

## **Background**

### **The Clean Outdoor Air Law**

In 1988, the Florida Legislature adopted the “Clean Outdoor Air Law” to reduce the contribution of motor vehicle emissions to air pollution levels across the state, particularly in six urban counties which were designated as nonattainment areas for the 1979 national ambient air quality standard for ozone. The centerpiece of the law, Chapter 325, Florida Statutes (F.S.), created a vehicle inspection & maintenance (I&M) program in the six nonattainment counties (Duval, Hillsborough, Pinellas, Palm Beach, Broward and Miami-Dade). The statewide component of the law, embodied in Section 316.2935, F.S., addressed the issue of motor vehicle air pollution control equipment tampering and motor vehicle visible emissions. It required used car dealers to inspect each vehicle for sale or lease and certify to the buyer that its emission control equipment was in place. It also provided for the issuance of a noncriminal traffic citation to anyone operating a tampered or excessively smoking vehicle on a public road.

In 1995, nonattainment-to-attainment redesignation requests and CAA section 175A air quality maintenance plans were approved by EPA for all six ozone nonattainment counties. Three maintenance plans were put in place—for Duval County, the Tampa Bay area (Hillsborough and Pinellas counties), and the Southeast Florida area (Palm Beach, Broward and Miami-Dade counties), respectively. In 1999 and 2000, DEP submitted proposed SIP revisions to “back-out” the relatively minor emission reduction credits attributable to the I&M program in the three air quality maintenance plans. In 2001, these SIP revisions were approved by EPA, Chapter 325, F.S., was repealed, and the I&M program was ended. The statewide portion of the Clean Outdoor Air Law, Section 316.2935, F.S., remained in effect.

### **Rulemaking Pursuant to Section 316.2935, F.S.**

In February 1990, DEP adopted Chapters 62-243, F.A.C., and 62-244, F.A.C., to implement the “on-road” prohibitions of section 316.2935, F.S. Florida is including section 316.2935, Florida Statute for your reference as **Appendix A**. These rules were intended to give guidance to law enforcement officers in the exercise of their authority to issue noncriminal traffic citations to persons operating on the public roads of the state any motor vehicle that had been tampered with or which emitted excessive visible emissions. In May 1990, and again in January 1991, Chapter

62-243, F.A.C., was amended to implement those portions of section 316.2935, F.S., prohibiting licensed motor vehicle dealers from offering for sale, lease or transfer any vehicle that had been tampered with and requiring such dealers to certify to each motor vehicle buyer or lessee that the vehicle had been inspected and found to be free of any visual evidence of tampering. Tampering was defined in the statute to include the removal or disabling of specific motor vehicle air pollution control devices.

The rules and rule amendments comprising Chapters 62-243 and 62-244, F.A.C. were submitted to EPA in a series of proposed SIP revisions in 1990 and 1991. They were approved for adoption and incorporation into the SIP in 1992 (57 Fed. Reg. 24,378). With respect to these rules, DEP stated in each of the several SIP submissions that it was “making no claims as to their projected effectiveness in reducing emissions.”

In 1995, in response to a statewide effort to eliminate obsolete and unnecessary rules, Chapter 62-244, F.A.C., the motor vehicle visible emissions rule, was repealed in its entirety. In 2012, in response to a similar initiative to eliminate unnecessary rules, Rules 62-243.100, 62-243.200, 62-243.400, 62-243.600, and 62-243.700, F.A.C., were repealed. These rules were determined to be obsolete and unnecessary because they merely repeated the substantive provisions of Section 316.2935, F.S.

In 2017, Rule 62-243.500, F.A.C., which implements the anti-tampering requirements related to the sale, lease or transfer of motor vehicles by licensed motor vehicle dealers, was amended to incorporate and consolidate the necessary provisions of Rule 62-243.300, F.A.C., allowing that rule to be repealed concurrently. Florida is including Rule 62-243.500, F.A.C. (all that remains of Chapter 62-243, F.A.C., in Florida State regulations) as **Appendix B**. Of the Chapters 62-243 and 62-244, F.A.C., rules listed as part of Florida’s approved SIP, only Rule 62-243.500, F.A.C., remains in effect. The only purpose of Rule 62-243.500, F.A.C., is to specify the language used in the certification that motor vehicle dealers are required to provide when selling a vehicle and to specify the circumstances under which the certification is not required consistent with Section 316.2935(7), F.S.

#### **CAA Section 110(l) Noninterference Demonstration**

The removal of Chapters 62-243 and 62-244, F.A.C., from the State Implementation Plan will not interfere with attainment or maintenance of national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress, or protection of visibility.

The CAA addresses tampering prohibition for emission control equipment for motor vehicles and motor vehicle engines at CAA Section 203(a)(3) and prohibits tampering with any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with motor vehicle emission standards. The authority to enforce CAA Section 203(a)(3), however, is not delegated to Florida. Section 316.2935, F.S., allows the Department (and other law enforcement agencies of the state) the power to enforce similar anti-tampering provisions in Florida.

Removal of Chapters 62-243 and 62-244, F.A.C., from the Florida SIP will not cause a loss in emissions reductions for two reasons. The first is that more stringent federal anti-tampering rules under CAA Section 203 are in place and enforceable at the federal level. The second is that when Florida submitted Chapters 62-243 and 62-244, F.A.C., for approval into Florida’s SIP, the Department stated that it was “making no claims as to their projected effectiveness in reducing

emissions” and this program was never used as a method to ensure attainment or maintenance or compliance with any other CAA provision.

### **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 authority, DEP has developed this proposed SIP revision.

In accordance with the notice requirements of 40 CFR 51.102, a pre-hearing submittal of the proposed SIP revision was transmitted to the U.S. Environmental Protection Agency (EPA) via the State Planning Electronic Collaboration System (SPeCS) on May 27, 2020 and posted on the DEP website. At the same time, DEP published a notice of the proposed SIP revision in the Florida Administrative Register (FAR) announcing the opportunity for the public to provide comments or participate in a public hearing to be held on July 8, 2020, if requested by June 26, 2020. No hearing was requested by June 26, 2020 and, therefore, no hearing was held.

DEP also transmitted a copy of the public notice to Florida’s local air pollution control programs and DEP’s District Offices. Notice was not provided to neighboring states in the interstate region as they are not significantly impacted by as this SIP submission. Documentation of the 40 C.F.R. 51.102 process can be found in the Public Participation section of this submittal.

## 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).

### 2.1. Administrative Materials

**(a) A formal 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 DEP, on behalf of the Governor of the State of Florida, has been sent to EPA along with the final submittal.

**(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.**

Not applicable.

**(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 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 submittal shall be 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 the regulation/document shall, whenever possible, be indicated in the document itself. *If the State submits an electronic copy, it must be an exact duplicate of the hard copy with changes indicated, signed documents need to be in portable document format, rules need to be in text format and files need to be submitted in manageable amounts (e.g., a file for each section or chapter, depending on size, and separate files for each distinct document) unless otherwise agreed to by the State and Regional Office.***

This proposed revision to Florida’s SIP consists of the requested removal from the SIP of:

1. Rule 62-243.100, F.A.C., “Purpose and Scope,” repealed 2/16/12
2. Rule 62-243.200, F.A.C., “Definitions,” repealed 2/16/12
3. Rule 62-243.300, F.A.C., “Exemptions,” repealed 7/13/17
4. Rule 62-243.400, F.A.C., “Prohibitions,” repealed 2/16/12
5. Rule 62-243.500, F.A.C., “Certification,” amended effective 7/13/17



6. Rule 62-243.600, F.A.C., “Enforcement,” repealed 2/16/12
7. Rule 62-243.700, F.A.C., “Penalties,” repealed 2/16/12
8. Rule 62-244.100, F.A.C., “Purpose and Scope,” repealed 12/31/95
9. Rule 62-244.200, F.A.C., “Definitions,” repealed 12/31/95
10. Rule 62-244.300, F.A.C., “Exemptions,” repealed 12/31/95
11. Rule 62-244.400, F.A.C., “Prohibitions,” repealed 12/31/95
12. Rule 62-244.500, F.A.C., “Enforcement,” repealed 12/31/95
13. Rule 62-244.600, F.A.C., “Penalties,” repealed 12/31/95

A copy of Chapter 62-243 and 62-244, F.A.C., as approved into Florida’s SIP on June 9, 1992 (57 Fed. Reg. 24,378) may be found in the “Materials Proposed to be Removed from the SIP” 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.**

State law (section 120.525, F.S.) requires DEP to provide notice of public meetings, hearings, and workshops in the Florida Administrative Register (FAR) not less than seven days before the event. By publication in the FAR of the notice of opportunity to participate in a public hearing, if requested, at least 30 days before the event, DEP has complied with all state procedural requirements relevant to development of this proposed SIP revision. A copy of the notice of proposed SIP revision 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 notice requirements of 40 CFR 51.102. Copies of the relevant notices and notifications may be found in the “Public Participation” and “Pre-Hearing Submittal to EPA” sections 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” and “Pre-Hearing Submittal to EPA” sections of this submittal.

## **2.2. Technical Support**

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

While the rules proposed for elimination from the SIP affect all criteria pollutants emitted by motor vehicles, the proposed SIP revision will have no effect on emissions of those pollutants.

**(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).**

Not applicable.

**(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 emissions are expected as a result of 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.**

See discussion on Florida's CAA Section 110(l) Noninterference Demonstration above.

**(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.**

Not applicable.

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

Not applicable.

**(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.

**2.3. Exceptions**

Not applicable.

## 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

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

[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

[62-257](#) Asbestos Program

## Materials Proposed to be Removed from the SIP

### Chapters 62-243 and 62-244, F.A.C. Motor Vehicle Rules

DEP is proposing to remove two rule chapters from Florida's SIP: Chapters 62-243 and 62-244, F.A.C. This is the rule language that was submitted and approved into Florida's SIP on June 9, 1992 (57 Fed. Reg. 24,378).

#### Ch. 62-243, Tampering with Motor Vehicle Air Pollution Control Equipment

- 62-243.100 Purpose and Scope.
- 62-243.200 Definitions.
- 62-243.300 Exemptions.
- 62-243.400 Prohibitions.
- 62-243.500 Certification. (Reserved)
- 62-243.600 Enforcement.
- 62-243.700 Penalties.

~~— **62-243.100 Purpose and Scope.** The Department of Environmental Protection adopts this chapter to establish procedures to determine compliance with those parts of Section 316.2935, F.S., which provide that no person shall operate on the public roads or streets of this state any motor vehicle that has been tampered with and that no person or motor vehicle dealer as defined in Section 320.27, F.S., shall offer or display for retail sale or lease, sell, lease or transfer title to a motor vehicle in Florida that has been tampered with.~~

~~Specific Authority: 316.2935, F.S.~~

~~Law Implemented: 316.2935, 316.6105, 318.18, 325.209, F.S.~~

~~History.: New 2 21 90, Amended 5 29 90, Formerly 17 243.100.~~

#### ~~— **62-243.200 Definitions.**~~

~~— (1) "Six-point component check" means an inspection to confirm that the following air pollution control devices and systems, if installed on the motor vehicle by the vehicle manufacturer or importer, are in place and appear properly connected and undamaged as determined by visual observation:~~

- ~~— (a) Catalytic converter.~~
- ~~— (b) Fuel inlet restrictor.~~
- ~~— (c) Unvented fuel cap.~~
- ~~— (d) Exhaust gas recirculation system (EGR).~~
- ~~— (e) Air pump and/or air injection system (AIS).~~
- ~~— (f) Fuel evaporative emissions system (EVP).~~

~~— (2) "Tampering" means the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle.~~

~~— (a) A motor vehicle which has been rebuilt, built from parts, or has had an engine exchanged must match exactly any United States Environmental Protection Agency certified configuration of the same or newer model year as the chassis.~~

—(b) An imported nonconforming motor vehicle which has been imported under a certificate of conformity or modification/test procedure pursuant to 40 CFR 85, Subpart P, must comply with the emission control requirements of such certificate or procedure.

—(c) A motor vehicle which has been made from a manufactured kit body must match exactly any United States Environmental Protection Agency certified configuration of the engine family used in the vehicle.

—(d) Any failure to meet the conditions of paragraphs (a), (b) or (c), above, shall be considered tampering.

—(3) "Three point component check" means an inspection to confirm that the following air pollution control devices and systems, if installed on the motor vehicle by the vehicle manufacturer or importer, are in place and appear properly connected and undamaged as determined by visual observation:

—(a) Catalytic converter.

—(b) Fuel inlet restrictor.

—(c) Unvented fuel cap.

Specific Authority: 316.2935, F.S.

Law Implemented: 316.2935, F.S.

History: New 2-21-90, Amended 5-29-90, 1-02-91, Formerly 17-243.200.

#### ~~62-243.300 Exemptions.~~

—(1) The following motor vehicles are exempt from the provisions of this chapter:

—(a) Motor vehicles which have net vehicle weights greater than 5,000 pounds or gross vehicle weights greater than 10,000 pounds.

—(b) Motor vehicles which are designated as model year 1974 or older.

—(c) Motoreycles, mopeds, scooters and golf carts, as defined in Section 320.01, F.S.

—(d) Farm vehicles, as defined in Section 320.51, F.S.

—(e) Imported nonconforming motor vehicles which are documented to be exempt from federal emission control requirements by the U.S. Environmental Protection Agency under 40 CFR 85, Subpart P.

—(2) Motor vehicles which are owned by persons who have received hardship exemptions, or exchanged engine certifications, pursuant to Department of Highway Safety and Motor Vehicles Rule 15C-6.002, F.A.C., are exempt from the provisions of Rule 62-243.400(1), F.A.C., but, unless otherwise exempted, are subject to the provisions of Rules 62-243.400(2) and 62-243.500, F.A.C.

—(3) The following motor vehicle transactions are exempt from the provisions of Rule 62-243.400(2), F.A.C.:

—(a) Sales, reassignments, and trades to licensed motor vehicle dealers.

—(b) First-time retail sales or leases of new motor vehicles subject to certification under Section 207, Clean Air Act, 42 U.S.C. 7541.

—(c) Lease agreements for 30 days or less.

—(d) Sales of motor vehicles for salvage purposes only.

—(4) The following motor vehicle transactions are exempt from the certification requirement of Rule 62-243.500, F.A.C.:

—(a) Sales, reassignments or transfers of motor vehicles by endorsement or delivery of a manufacturer's or distributor's statement of origin to a motor vehicle dealer holding a franchise agreement from the manufacturer or distributor issuing the statement of origin.

—(b) First-time retail sales or leases of new motor vehicles subject to certification under Section 207, Clean Air Act, 42 U.S.C. 7541.

—(c) Sales, reassignments, and trades to licensed motor vehicle dealers, where the dealer elects not to request the certification from the seller or person reassigning title.

—(d) Sales, reassignments, and trades by licensed motor vehicle dealers to licensed motor vehicles dealers.

—(e) Lease agreements for 30 days or less.

—(f) Sales of motor vehicles for salvage purposes only.

Specific Authority: 316.2935, F.S.

Law Implemented: 316.2935, 325.209, F.S.

History: New 2-21-90, Amended 5-29-90, 1-02-91, Formerly 17-243.300.

#### ~~62-243.400 Prohibitions.~~

—(1) On and after January 1, 1990, no person shall operate on the public roads or streets of this state any nonexempt motor vehicle that has been tampered with.

—(2) Except as provided in Rule 62-243.300(3), F.A.C., on and after July 1, 1990, no person or motor vehicle dealer as defined in Section 320.27, F.S., shall offer or display for retail sale or lease, sell, lease or transfer title to a nonexempt motor vehicle in Florida that has been tampered with. For the purpose of this section, "display for retail sale or lease" means advertise or represent to the general public that a particular vehicle is available for retail sale or lease.

Specific Authority: 316.2935, F.S.

Law Implemented: 316.2935, F.S.

History: New 2-21-90, Amended 5-29-90, 01-02-91, Formerly 17-243.400.

#### ~~62-243.500 Certification.~~

—(1) Certification Statement.

—(a) Except as provided in Rule 62-243.300(4), F.A.C., on and after January 1, 1991, at the time of sale, lease, or transfer of title of a nonexempt motor vehicle, the seller, lessor, or person transferring title shall provide a written certification to the purchaser, lessee, or transferee that the air pollution control equipment of the motor vehicle has not been tampered with by the seller, lessor, transferor, or by his or her agents, employees, or other representatives.

—(b) As provided in Rule 62-243.500(1)(d), F.A.C., a licensed motor vehicle dealer shall also visually observe and certify in writing that specific air pollution devices and systems are in place and appear properly connected and undamaged.

—(c) For sales, leases, or transfers of title by private parties, the certification shall read as follows:

Florida law prohibits the operation, sale, lease, or transfer of title of any automobile or light-duty truck (1975 or newer, 10,000 pounds gross vehicle weight or less) that has been tampered with. "Tampering" means the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle (316.2935, F.S.)

As the owner of this motor vehicle, or on behalf of the owner which is an organization, firm, or other such entity, I hereby certify that the following air pollution emission control devices and



~~systems of this vehicle, if installed by the vehicle manufacturer or importer, have not been tampered with by me or with my permission, or by or with the permission of the owner of said vehicle: catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR)\*, air pump and/or air injection system (AIS)\*, and fuel evaporative emissions system (EVP)\* (\*1981 and newer vehicles only).~~

~~This certification shall not be deemed or construed as a warranty that any air pollution control device or system of the vehicle is in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.~~

~~—(d) For sales, leases, or transfers of title by licensed motor vehicle dealers to private parties, the certification shall read as follows:~~

~~Florida Law prohibits the operation, sale, lease or transfer of title of any automobile or light duty truck (1975 or newer, 10,000 pounds gross vehicle weight or less) that has been tampered with. "Tampering" means the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle (316.2935, F.S.).~~

~~As a motor vehicle dealer licensed to conduct business in the State of Florida, I hereby certify that the following air pollution emission control devices and systems of this vehicle, if installed by the vehicle manufacturer or importer, have not been tampered with by me or by my agents, employees, or other representatives: catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR)\*, air pump and/or air injection system (AIS)\*, and fuel evaporative emissions system (EVP)\* (\*1981 and newer vehicles only). I also hereby certify that I or persons under my supervision have inspected this motor vehicle and, based on said inspection, have determined that the above listed air pollution control devices and systems, if installed by the vehicle manufacturer or importer, are in place and appear properly connected and undamaged as determined by visual observation.~~

~~This certification shall not be deemed or construed as a warranty that any air pollution control device or system of the vehicle is in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.~~

~~—(e) The certification statement shall be provided on the bill of sale, lease agreement, or other document furnished by the seller, lessor, or person transferring title. The make, model, year, and vehicle identification number of the motor vehicle being sold, leased, or transferred shall be included on the document containing the certification statement.~~

~~—(2) Acknowledgment of Certification.~~

~~—(a) All parties to a transaction, or their authorized agent(s) or attorney(s) in fact, shall acknowledge that the certification required by this section has been prepared, tendered and~~

received. Such acknowledgment may be included on the face of the certification document and shall reflect the date of tender and receipt.

—(b) Those persons authorized or empowered to execute motor vehicle title transactions shall also be authorized to execute the certification as described by subparagraph (a).

Specific Authority: 316.2935, F.S.

Law Implemented: 316.2935, F.S.

Authority: New 2-21-90, Amended 5-29-90, 01-02-91, Formerly 17-243.500.

#### ~~62-243.600 Enforcement.~~

—(1) Enforcement of Rule 62-243.400(1), F.A.C., shall be the responsibility of any law enforcement officer of this state as defined in Section 112.531, F.S. Investigation of tampering for purposes of Rule 62-243.400(1), F.A.C., shall consist of a three-point component check of the vehicle.

—(2) Enforcement of Rule 62-243.400(2), F.A.C., as it applies to persons other than motor vehicle dealers, shall be the responsibility of any law enforcement officer of this state as defined in Section 112.531, F.S. Investigation of tampering for the purposes of Rule 62-243.400(2), F.A.C., as it applies to persons other than motor vehicle dealers, shall consist of:

—(a) A three-point component check of the motor vehicle if the vehicle is designated as model year 1975 through 1980.

—(b) A three-point or six-point component check of the motor vehicle if the vehicle is designated as model year 1981 or newer.

—(3) Enforcement of Rule 62-243.400(2), F.A.C., as it applies to motor vehicle dealers, shall be the responsibility of the Department of Environmental Protection, any authorized agent of the Department, or any law enforcement officer of this state as defined in Section 112.531, F.S. Investigation of tampering for the purposes of Rule 62-243.400(2), F.A.C., as it applies to motor vehicle dealers, shall consist of:

(a) A three-point component check of the motor vehicle if the vehicle is designated as model year 1975 through 1980.

—(b) A six-point component check of the motor vehicle if the vehicle is designated as model year 1981 or newer.

—(4) In conducting a three-point or six-point component check, the applicability of any air pollution control device or system to a motor vehicle may be determined from the engine compartment label as required under 40 CFR 85.1510 or 40 CFR 86.085-35.

—(5) The Department of Environmental Protection and any authorized agent of the Department may assist law enforcement officers in making determinations of tampering under this rule.

—(6) Any nonexempt motor vehicle which fails to meet any part of the three-point or six-point component check shall be considered a tampered motor vehicle for purposes of Rule 62-243.400, F.A.C.

—(7) It shall be considered a single violation of Rule 62-243.400, F.A.C., if one or more components of a motor vehicle have been tampered with as detected during a three-point or six-point component check.

Specific Authority: 316.2935, F.S.

Law Implemented: 316.2935, F.S.

History: New 2-21-90, Amended 5-29-90, 01-02-91, Formerly 17-243.600.

#### ~~62-243.700 Penalties.~~

~~—(1) Except as provided in Rule 62-243.700(2), any person or motor vehicle dealer who violates Rule 62-243.400, F.A.C., as determined pursuant to Rule 62-243.600, F.A.C., shall be charged with a noncriminal traffic infraction as provided in Section 316.2935, F.S.~~

~~—(2) Any person or motor vehicle dealer who knowingly and willfully violates Rule 62-243.400(2), F.A.C., shall be punished as follows:~~

~~—(a) For a first violation, violators shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, F.S., except that a motor vehicle dealer shall be guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083, F.S.~~

~~—(b) For a second or subsequent offense, violators, including motor vehicle dealers, shall be guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083, F.S. In addition, the Department of Highway Safety and Motor Vehicles may temporarily or permanently revoke or suspend the motor vehicle dealer license authorized pursuant to the provisions of Section 320.27, F.S.~~

~~Specific Authority: 316.2935, F.S.~~

~~Law Implemented: 316.2935, 316.6105, 318.18, F.S.~~

~~History: New 2-21-90, Amended 5-29-90, Formerly 17-243.700.~~

## **Ch. 62-244, Visible Emissions from Motor Vehicles**

62-244.100 Purpose and Scope

62-244.200 Definitions

62-244.300 Exemptions

62-244.400 Prohibitions

62-244.500 Enforcement

62-244.600 Penalties

~~— **62-244.100 Purpose and Scope.** The Department of Environmental Protection adopts this chapter to establish procedures to determine compliance with those parts of Section 316.2935, F.S., which provide that no person shall operate on the public roads and streets of this state any gasoline-powered motor vehicle which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, and no person shall operate on the public roads or streets of this state any diesel-powered motor vehicle which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds except during engine acceleration, engine lugging, or engine deceleration.~~

~~Specific Authority: 316.2935, F.S.~~

~~Law Implemented: 316.2935, 316.6105, 318.18, 325.209, F.S.~~

~~History: New 2-21-90, Formerly 17-244.100.~~

~~— **62-244.200 Definitions.**~~

~~—(1) "Cruise Mode" means a vehicle moving at a constant rate of speed as determined by a law enforcement officer during the period that visible emissions are observed.~~

~~—(2) "Idle Mode" means a motor vehicle at rest with its engine running.~~

~~—(3) "Visible Emissions" means visible air contaminants, or smoke, from the exhaust pipe of a motor vehicle. Visible emissions do not include water vapor.~~

~~Specific Authority: 316.2935, F.S.~~

Law Implemented: 316.2935, F.S.  
History: New 2-21-90, Formerly 17-244.200.

— ~~62-244.300 Exemptions.~~ The following motor vehicles are exempt from the provisions of this chapter:

- (1) Motorcycles, mopeds, and golf carts as defined in Section 320.01, F.S.
- (2) Farm vehicles, as defined in Section 320.51, F.S.
- (3) Motor vehicles which are owned by persons who have received hardship exemptions pursuant to Subsection 325.209(4), F.S.

Specific Authority: 316.2935, F.S.  
Law Implemented: 316.2935, 325.209, F.S.  
History: New 2-21-90, Formerly 17-244.300.

— ~~62-244.400 Prohibitions.~~

- (1) No person shall operate on the public roads and streets of this state any non-exempt gasoline-powered motor vehicle which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds.
- (2) No person shall operate on the public roads and streets of this state any non-exempt diesel-powered motor vehicle which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds while in the cruise mode or the idle mode.

Specific Authority: 316.2935, F.S.  
Law Implemented: 316.2935, F.S.  
History: New 2-21-90, Formerly 17-244.400.

— ~~62-244.500 Enforcement.~~

- (1) Enforcement of this rule shall be the responsibility of any law enforcement officer of this state as defined in Section 112.531, F.S.
- (2) The determination of visible emissions for purposes of Rule 62-244.400, F.A.C., shall be made by visual observation. It shall be presumed that water vapor emissions are not visible once the engine has attained normal operating temperature.
- (3) Department of Environmental Protection employees are authorized to assist law enforcement officers in making determinations of visible emissions under this rule.

Specific Authority: 316.2935, F.S.  
Law Implemented: 316.2935, F.S.  
History: New 2-21-90, Formerly 17-244.500.

— ~~62-244.600 Penalties.~~ Any person who violates Rule 62-244.400, F.A.C., as determined pursuant to Rule 62-244.500, F.A.C., shall be charged with a noncriminal traffic infraction as provided in Section 316.2935, F.S.

Specific Authority: 316.2935, F.S.  
Law Implemented: 316.2935, 318.18, 316.6105, F.S.  
History: New 2-21-90, Formerly 17-244.600.

## Public Participation

### Notice of Opportunity to Submit Comments and Participate in Public Hearing

*Florida Administrative Register*

*Volume 46, Number 103, May 27, 2020*

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Division of Real Estate, (407)481-5662. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
The Department of Environmental Protection, Division of Air Resource Management, announces a hearing, if requested, to which all persons are invited.

DATE AND TIME: July 8, 2020, 2:00 p.m.

PLACE: Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 195, Tallahassee, Florida.

The Department will hold the hearing, if requested, at the date, time and place above and will also offer accessibly through a teleconference option. The teleconference option is being provided to allow maximum public participation if the hearing is requested. Parties can access the teleconference by telephone (regular long-distance telephone charges will apply). Parties may access the teleconference at the following number:

July 8, 2020, 1(888)585-9008, ID number: 416-112-909#

GENERAL SUBJECT MATTER TO BE CONSIDERED:

Pursuant to 40 CFR 51.102, the Department of Environmental Protection (DEP) announces a public hearing and opportunity to offer comments on a proposed revision to Florida's State Implementation Plan (SIP) under the Clean Air Act. This proposed SIP revision consists of removing Chapters 62-243 and 62-244, Florida Administrative Code (F.A.C.), Florida's Motor Vehicle Rules from Florida's SIP.

A public hearing will be held, if requested, at the date and time, given above. The public hearing, if requested, will also be accessible via a teleconferencing service. It is not necessary that the hearing be held or attended for persons to comment on DEP's proposed revisions to Florida's pending SIP submission. Any comments or requests for a public hearing must be submitted by email to [Hastings.Read@FloridaDEP.gov](mailto:Hastings.Read@FloridaDEP.gov), and received no later than June 26, 2020. If no request for a public hearing is received, the hearing (and teleconference) will be cancelled, and notice of the cancellation will be posted at the following website:

[https://floridadep.gov/events/month?field\\_county\\_tid=All&field\\_is\\_a\\_public\\_notice\\_value=Yes](https://floridadep.gov/events/month?field_county_tid=All&field_is_a_public_notice_value=Yes).

Persons may also contact Mr. Read at (850)717-9017 to find out if the hearing has been cancelled. The materials comprising DEP's revision to the pending SIP submission are accessible at the website above by clicking on the July 8, 2020 hearing link or at the following website:

<http://www.dep.state.fl.us/air/rules/regulatory.htm>. A copy of the agenda may be obtained by contacting: Mr. Read by email at the above email address or by calling (850)717-9017.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Ms. Terri Long at (850)717-9023 or [Terri.Long@FloridaDEP.gov](mailto:Terri.Long@FloridaDEP.gov). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact Ms. Long by email or by calling (850)717-9023.

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
The Division of Air Resource Management announces a hearing to which all persons are invited.

DATE AND TIME: July 8, 2020, 10:00 a.m.

PLACE: Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 195, Tallahassee, Florida

The Department will hold the hearing, if requested, at the date, time and place above and will also offer accessibly through a teleconference option. The teleconference option is being provided to allow maximum public participation if the hearing is requested. Parties can access the teleconference by telephone (regular long-distance telephone charges will apply). Parties may access the teleconference at the following number:

July 8, 2020, 1(888)585-9008, ID number: 416-112-909#

GENERAL SUBJECT MATTER TO BE CONSIDERED:

Pursuant to 40 C.F.R. 60.23, the Department of Environmental Protection (DEP) announces the opportunity to offer comments and participate in a public hearing, if requested, on a proposed revision to DEP's pending Commercial Industrial Solid Waste Incinerator (CISWI) State Plan submission that was transmitted to EPA on May 27, 2020. Specifically, DEP is proposing to revise its pending CISWI State Plan submission to include EPA's April 26, 2019 revisions to the model rules contained in 40 C.F.R. 60, Subpart DDDD and, pursuant to DEP's authority under 40 C.F.R. 60.2515(b), to provide for an equivalent production-based particulate matter emission limit for units in the waste-burning kiln subcategory. Once the State Plan is approved by EPA, DEP will be the agency tasked with ensuring that CISWI facilities are in compliance with applicable emissions limitations.

A public hearing will be held, if requested, at the date and time, given above. The public hearing, if requested, will also be accessible via a teleconferencing service. It is not necessary that the hearing be held or attended for persons to comment on DEP's proposed revisions to Florida's pending SIP submission. Any comments or requests for a public hearing must be

2098

## Requests that Locals/Districts Assist Public in Viewing Materials

**From:** [Long, Terri](#)  
**To:** [Telehart, Jon](#); [Andreotta, Jason](#); [Yeagan, Mary](#); [Watkins, Aaron](#); [Strong, Greg](#); [Orr, Elizabeth](#); ["Fernandez, Lorenzo"](#); ["Tallam, Laxmana"](#); [Schneider, Sheila](#); [woodard@epchc.org](#); [Palomino, Susana \(RFR\)](#); [Wanda.Parker@ocf.net](#); ["John Hickey"](#); [long melissa](#)  
**Cc:** [Read, Hastings](#)  
**Subject:** Florida DEP - Notice of Proposed SIP Revision - Districts - Locals  
**Date:** Wednesday, May 27, 2020 2:20:25 PM  
**Attachments:** [FAR Notice SIP 2020-01 5-27-20.pdf](#)

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Good afternoon,

Notice is hereby given that, pursuant to 40 CFR 51.102 the Florida Department of Environmental Protection is accepting comments and will hold a public hearing, if requested, on a proposed revision to Florida's State Implementation Plan (SIP). This proposed SIP revision consists of removing Chapters 62-243 and 62-244, Florida Administrative Code (F.A.C.), Florida's Motor Vehicle Rules from Florida's SIP.

Attached please find the notice of opportunity to offer comments and request a public hearing. This notice was published on Wednesday, May 27, 2020, in the Florida Administrative Register. The comment period for this proposed SIP revision will close on June 26, 2020, and the public hearing, if requested, will be held on Wednesday, July 8, 2020.

The materials comprising the proposed SIP revision will be posted at <https://floridadep.gov/air/air-business-planning/content/air-regulatory-projects>. Please assist any member of the public who may contact you to view these materials. In the event that members of the public have substantive questions related to the proposed revision, please direct them to [Hastings.Read@FloridaDEP.gov](mailto:Hastings.Read@FloridaDEP.gov), (850) 717-9017.

Thank you,

Terri Long  
Office of Business Planning  
Division of Air Resource Management  
Florida Department of Environmental Protection  
(850) 717-9023  
[Terri.long@FloridaDEP.gov](mailto:Terri.long@FloridaDEP.gov)

## **Public Comments on Pre-Hearing SIP Notice**

No public comments were received on the Pre-Hearing SIP submittal.

## **DEP Response to Public Comments**

No public comments were received on the Pre-Hearing SIP submittal.



## Pre-Hearing Submittal to EPA

### 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

**Noah Valenstein**  
Secretary

#### Via Electronic Mail

May 27, 2020

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

Re: Air Program Pre-Hearing Submittal: Proposed Revision to State Implementation Plan – Removal of Motor Vehicle Rules in Chapters 62-243 and 62-244, F.A.C.

Dear Ms. Walker,

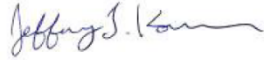
Notice is hereby given that, pursuant to 40 C.F.R. 51.102, the Florida Department of Environmental Protection (Department) is accepting comments and will hold a public hearing, if requested, on a proposed revision to Florida's State Implementation Plan (SIP) under the Clean Air Act. The notice of opportunity to submit comments and request a public hearing was published on May 27, 2020, in the Florida Administrative Register. The public hearing, if requested, will be held on July 8, 2020.

This SIP submittal proposes to revise Florida's SIP by removing Chapters 62-243 and 62-244, Florida Administrative Code (F.A.C.), from the Florida SIP. These rule chapters implement Florida's Clean Air Outdoor Law, codified at Section 316.2935, Florida Statutes. The Department has determined that these rule chapters are not needed for attainment and maintenance of national air quality standards or protection of visibility and requests that EPA approve the removal of these rule sections from Florida's SIP.

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 respectfully requests that EPA provide any comments on this submittal by June 26, 2020. If you have any questions, please contact Hastings Read at (850) 717-9017 or by e-mail at [Hastings.Read@FloridaDEP.gov](mailto:Hastings.Read@FloridaDEP.gov).

Ms. Mary Walker  
Page 2 of 2  
May 27, 2020

Sincerely,



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

JFK/tl

cc (with SIP package):  
Kenneth L. Mitchell, PhD, Acting Division Director, Air & Radiation Division, EPA  
Region 4;  
R. Scott Davis, Chief, Air Planning & Implementation Branch, EPA Region 4  
Lynorae Benjamin, Acting Branch Chief, Air Planning & Implementation Branch.

Enclosures:

1. Notice published May 27, 2020 in the Florida Administrative Register;
2. Pre-Hearing State Implementation Plan Submittal: Removal of Motor Vehicle Rules in Chapters 62-243 and 62-244, F.A.C.

## EPA Comments on Pre-Hearing Submittal



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW  
ATLANTA, GEORGIA 30303-3104

June 24, 2020

Mr. Jeff Koerner  
Director  
Division of Air Resource Management  
Florida Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400


Dear Mr. Koerner:

Thank you for your letter dated May 27, 2020, transmitting a prehearing package regarding revisions to Florida's State Implementation Plan. Specifically, the prehearing package addressing removal of Chapters 62-243 and Chapter-244, Florida Administrative Code (F.A.C.). We understand that this submittal is the subject of a public hearing that will take place on July 8, 2020, if requested, with written comments due by the close of business on June 26, 2020. We have completed our review of the prehearing submittal and offer no comments at this time.

Thank you for the opportunity to review the prehearing package. If you have any questions, please contact Ms. Jane Spann, Acting Section Chief, Air Regulatory Management Section at (404) 562-9029, or have your staff contact Ms. Tiereny Bell at (404) 562-9088.

Sincerely,

**LYNORAE  
BENJAMIN**

 Digitally signed by LYNORAE  
BENJAMIN  
Date: 2020.06.24 17:53:56 -04'00'

Lynorae Benjamin  
Acting Branch Chief  
Air Planning and Implementation Branch

cc: Hastings Read, Deputy Director, FDEP

## **DEP Response to EPA Comments**

EPA had no comments on the Pre-Hearing SIP submittal.

## Appendix A – Section 316.2935, Florida Statutes

Select Year:

### The 2019 Florida Statutes

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[Title XXIII](#)                      [Chapter 316](#)                      [View Entire Chapter](#)  
MOTOR VEHICLES                      STATE UNIFORM TRAFFIC CONTROL

**316.2935 Air pollution control equipment; tampering prohibited; penalty.—**

(1)(a) It is unlawful for any person or motor vehicle dealer as defined in s. [320.27](#) to offer or display for retail sale or lease, sell, lease, or transfer title to, a motor vehicle in Florida that has been tampered with in violation of this section, as determined pursuant to subsection (7). Tampering is defined as the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle. All motor vehicles sold, reassigned, or traded to a licensed motor vehicle dealer are exempt from this paragraph.

(b) At the time of sale, lease, or transfer of title of a motor vehicle, the seller, lessor, or transferor shall certify in writing to the purchaser, lessee, or transferee that the air pollution control equipment of the motor vehicle has not been tampered with by the seller, lessor, or transferor or their agents, employees, or other representatives. A licensed motor vehicle dealer shall also visually observe those air pollution control devices listed by department rule pursuant to subsection (7), and certify that they are in place, and appear properly connected and undamaged. Such certification shall not be deemed or construed as a warranty that the pollution control devices of the subject vehicle are in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.

(c) All motor vehicles sold, reassigned, or traded by a licensed motor vehicle dealer to a licensed motor vehicle dealer, all new motor vehicles subject to certification under s. 207, Clean Air Act, 42 U.S.C. s. 7541, and all lease agreements for 30 days or less are exempt from this subsection. Also exempt from this subsection are sales of motor vehicles for salvage purposes only.

(2) No person shall operate any gasoline-powered motor vehicle, except a motorcycle, moped, scooter, or an imported nonconforming motor vehicle which has received a one-time exemption from federal emission control requirements under 40 C.F.R. 85, subpart P, on the public roads and streets of this state which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, and no person shall operate on the public roads or streets of this state any motor vehicle that has been tampered with in violation of this section, as determined pursuant to subsection (7).

(3) No person shall operate on the public roads or streets of this state any diesel-powered motor vehicle which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, except during engine acceleration, engine lugging, or engine deceleration.

(4) This section shall be enforced by the Department of Environmental Protection and any law enforcement officer of this state as defined in s. [112.531](#).

(5) Any person who knowingly and willfully violates subsection (1) shall be punished as follows:

(a) For a first violation, violators shall be guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#), except that a motor vehicle dealer shall be guilty of a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(b) For a second or subsequent offense, violators, including motor vehicle dealers, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#). In addition, the Department of Highway Safety and Motor Vehicles may temporarily or permanently revoke or suspend the motor vehicle dealer license authorized pursuant to the provisions of s. [320.27](#).

(6) Except as provided in subsection (5), any person who violates subsection (1), subsection (2), or subsection (3) shall be charged with a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318. However, the penalty may be reduced if the person committing the violation corrects the violation pursuant to the provisions of s. [316.6105](#).

(7) The Department of Environmental Protection shall adopt rules that define the specific wording of the required certification and the circumstances under which the certificate is not required. In addition, the department shall adopt rules as necessary to conform to requirements of federal law, to establish procedures to determine compliance with this section, including specifying what tampering activities constitute a violation of this section, and to provide for exceptions and waivers. For those rules applicable pursuant to subsection (1) to licensed motor vehicle dealers for certification by visual observation, the air pollution control devices or systems that shall be included in such certification for motor vehicles dated model year 1981 or later are the catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR), air pump and/or air injector system (AIS), and fuel evaporative emissions system (EVP). The department may by rule remove or add devices or systems to this test if justified by developments in air pollution control technology or changes in federal law.

**History.**—s. 18, ch. 88-129; s. 5, ch. 89-212; ss. 6, 9, ch. 90-290; s. 5, ch. 93-19; s. 137, ch. 94-356; s. 32, ch. 96-350; s. 206, ch. 99-248; s. 33, ch. 2000-266.

## Appendix B – Rule 62-243.500, F.A.C.

### 62-243.500 Certification.

#### (1) Certification Statement.

(a) Except as provided in subsection 62-243.500(2), F.A.C., on and after January 1, 1991, at the time of sale, lease, or transfer of title of a nonexempt motor vehicle, the seller, lessor, or person transferring title shall provide a written certification to the purchaser, lessee, or transferee that the air pollution control equipment of the motor vehicle has not been tampered with by the seller, lessor, transferor, or by his or her agents, employees, or other representatives.

(b) Except as provided in subsection 62-243.500(2), F.A.C., a licensed motor vehicle dealer shall also visually observe and certify in writing that specific air pollution devices and systems are in place and appear properly connected and undamaged.

(c) For sales, leases, or transfers of title by private parties, the certification shall read as follows:

1. Florida law prohibits the operation, sale, lease, or transfer of title of any automobile or light-duty truck (1975 or newer, 10,000 pounds gross vehicle weight or less) that has been tampered with. "Tampering" means the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle (Section 316.2935, F.S.).

2. As the owner of this motor vehicle, or on behalf of the owner which is an organization, firm, or other such entity, I hereby certify that the following air pollution emission control devices and systems of this vehicle, if installed by the vehicle manufacturer or importer, have not been tampered with by me or with my permission, or by or with the permission of the owner of said vehicle: catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR)\*, air pump and/or air injection system (AIS)\*, and fuel evaporative emissions system (EVP)\* (\*1981 and newer vehicles only).

3. This certification shall not be deemed or construed as a warranty that any air pollution control device or system of the vehicle is in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.

(d) For sales, leases, or transfers of title by licensed motor vehicle dealers to private parties, the certification shall read as follows:

1. Florida law prohibits the operation, sale, lease, or transfer of title of any automobile or light-duty truck (1975 or newer, 10,000 pounds gross vehicle weight or less) that has been tampered with. "Tampering" means the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle (Section 316.2935, F.S.).

2. As a motor vehicle dealer licensed to conduct business in the State of Florida, I hereby certify that the following air pollution emission control devices and systems of this vehicle, if installed by the vehicle manufacturer or importer, have not been tampered with by me or by my agents, employees, or other representatives: catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR)\*, air pump and/or air injection system (AIS)\*, and fuel evaporative emissions system (EVP)\* (\*1981 and newer vehicles only). I also hereby certify that I or persons under my supervision have inspected this motor vehicle and, based on said inspection, have determined that the above-listed air pollution control devices and systems, if installed by the vehicle manufacturer or importer, are in place and appear properly connected and undamaged as determined by visual observation.

3. This certification shall not be deemed or construed as a warranty that any air pollution control device or system of the vehicle is in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.

(e) The certification statement shall be provided on the bill of sale, lease agreement, or other document furnished by the seller, lessor, or person transferring title. The make, model, year, and vehicle identification number of the motor vehicle being sold, leased, or transferred shall be included on the document containing the certification statement.

(2) Exemptions from the certification requirements of subsection 62-243.500(1), F.A.C.

(a) The following motor vehicle transactions are exempt from the certification requirements of subsection 62-243.500(1), F.A.C.:

1. Sales, reassignments, or transfers of motor vehicles by endorsement or delivery of a manufacturer's or distributor's statement of origin to a motor vehicle dealer holding a franchise agreement from the manufacturer or distributor issuing the statement of origin.

2. First-time retail sales or leases of new motor vehicles subject to certification under Section 207, Clean Air Act, 42 U.S.C.,

7541.

3. Sales, reassignments, and trades to licensed motor vehicle dealers, where the dealer elects not to request the certification from the seller or person reassigning title.

4. Sales, reassignments, and trades by licensed motor vehicle dealers to licensed motor vehicle dealers.

5. Lease agreements for 30 days or less.

6. Sales of motor vehicles for salvage purposes only.

(b) The following motor vehicles are exempt from the certification requirements of subsection 62-243.500(1), F.A.C.:

1. Transactions involving motor vehicles which have net vehicle weights greater than 5,000 pounds or gross vehicle weights greater than 10,000 pounds.

2. Transactions involving motor vehicles which are designated as model year 1974 or older.

3. Transactions involving motorcycles, mopeds, scooters, and golf carts, as defined in Section 320.01, F.S.

4. Transactions involving farm vehicles, as defined in Section 320.51, F.S.

5. Transactions involving imported nonconforming motor vehicles which are documented to be exempt from federal emission control requirements by the U.S. Environmental Protection Agency under 40 CFR 85, Subpart P.

*Rulemaking Authority 316.2935 FS. Law Implemented 316.2935 FS. History—New 5-29-90, Amended 1-2-91, Formerly 17-243.500, Amended 7-13-17.*