STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PROPOSED REVISION TO STATE IMPLEMENTATION PLAN

SUBMITTAL NUMBER 2016-01

REVISIONS TO EXCESS EMISSIONS RULE

PRE-HEARING SUBMITTAL

October 13, 2016

TABLE OF CONTENTS

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EXECUTIVE SUMMARY

Introduction

The Department of Environmental Protection (DEP) is proposing an update to Florida's State Implementation Plan (SIP) under the federal Clean Air Act (CAA) consisting of an amendment to one Florida Administrative Code (F.A.C.) rule section in one F.A.C. rule chapter.[1] The rule amendment revises Florida's existing SIP-approved rule, Rule 62-210.700, F.A.C. ("Excess Emissions"), as required by EPA's June 12, 2015 "Startup, Shutdown, and Malfunction (SSM)" SIP Call. *See* 80 Fed. Reg. 33,840.

On June 12, 2015, EPA published a final rule concerning its interpretation of CAA requirements for emission limits incorporated into states' SIPs. [2] 80 Fed. Reg. 33,840. This final rule was promulgated pursuant to CAA Section 110(k)(5), which allows EPA to issue a "SIP Call" to states if EPA determines that the states' existing SIPs are "substantially inadequate." EPA's SIP Call found that 36 states, including Florida, had rules in their SIPs that were inconsistent with EPA's interpretation of the CAA, as these rules rendered certain SIP emission limits not continuous (i.e., the SIP did not contain "practically and legally enforceable" emission limits applicable during periods of startup, shutdown, and malfunction). EPA provided a deadline of November 22, 2016 for states to submit SIP revisions that remove or amend the regulations that EPA identified as problematic.

This SIP submittal consists of revisions to Florida's "Excess Emissions" rule in response to EPA's SSM SIP Call.[3] Florida's existing, federally-approved regulations require that facilities must meet specified conditions during startup and shutdown rather than steady-state emission limits. *See* Rule 62-210.700(1), (2), and (4), F.A.C. Florida is proposing to remove subsections 62-210.700(1), (2), and (4), F.A.C., as applied to both category-specific SIP limits found in

[1] In the Florida Administrative Code, "62-210," for example, is a rule chapter, and "62-210.200" is a rule section, commonly written as "Chapter 62-210, F.A.C.," and "Rule 62-210.200, 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.

[2] The general components of Florida's SIP are identified at 40 C.F.R. Part 52, Subpart K. Florida's SIP is subject to periodic revisions to reflect both substantive and procedural changes in the state's air program. In addition to incorporating rules associated with the implementation of the Clean Air Act in Florida, Florida's SIP incorporates a range of generally applicable emission limits, codified in Chapter 62-296, F.A.C., together with permit-based unit-specific emissions limits that address particular units in areas of the state that are subject to Nonattainment Area Plans and units that are identified in the state's approved Regional Haze Plan.

[3] EPA's Final Rule has been challenged in the D.C. Circuit Court of Appeals by multiple states, including the State of Florida, in *Walter Coke, Inc. v. U.S. EPA*, USCA Case No. 15-1166. DEP will evaluate whether any further revisions to Florida's Excess Emissions rule are necessary after litigation concludes.

Chapter 62-296, F.A.C., and source-specific permit limits that have been expressly incorporated into Florida's SIP.

Effective May 22, 2018, subsections 62-210.700(1), (2), and (4), F.A.C., will no longer be applicable to SIP-based emission limits. In addition, subsections 62-210.700(1), (2), and (4), F.A.C, will no longer be applicable to limits established through new PSD and NSR permits issued by the Department after the effective date of the rule revision (October 23, 2016).

DEP requests that EPA approve and incorporate into Florida's SIP the following revised rule section:

Chapter 62-210, F.A.C., "Stationary Sources – General Requirements"

- Rule 62-210.700, F.A.C., "Excess Emissions"
  (as amended effective 10/23/16)

Details of the rule amendment are provided below, and in the "Materials Proposed to be Incorporated into SIP" section of this submittal.

Rule Adoption Process

The rule amendment addressed in this proposed SIP revision was adopted in accordance with Florida administrative procedures. Documentation of the state rule development process for the rule amendment is included in the "State Administrative Materials" section of this submittal.

As previously stated, the proposed SIP revision involves one F.A.C. rule amendment in one F.A.C. rule chapter, 62-210, F.A.C. (DEP project #OGC 15-0395).

On September 1, 2016, DEP published a Notice of Proposed Rule in the Florida Administrative Register (FAR) proposing to amend Rule 62-210.700, F.A.C. ("Excess Emissions"), and to add a new rule section, Rule 62-210.710, F.A.C. ("Emissions Limits During Transient Modes of Operation").[4] Pursuant to the Florida Administrative Procedures Act, DEP provided a 21-day comment period on the proposed rule, and scheduled a public hearing on the rulemaking, if requested, for September 26, 2016. DEP received only one formal comment on the proposed rule. This comment was supportive of the state's regulatory approach, and there were no requests for a rulemaking adoption hearing.

On October 3, 2016, DEP transmitted to the Florida Department of State a rule certification package finalizing the amendments to Chapter 62-210, F.A.C. The effective date of the rule amendments is October 23, 2016.

[4] The new rule section, Rule 62-210.710, F.A.C., details a process whereby facilities that are subject to SIP-based emission limits that may not be appropriate or achievable during transient modes of operation, such as during periods of startup or shutdown, can receive secondary emission limits that will be applicable during those periods. Rule 62-210.710, F.A.C., is not, however, proposed to be incorporated into Florida's SIP at this time.

Details of Rule Amendments – Chapter 62-210, F.A.C.
("Stationary Sources – General Requirements")

The amendments to Rule 62-210.700, F.A.C., proposed for inclusion in Florida's SIP consist of the following:

1. Subsection 62-210.700(4), F.A.C. (which was subject to EPA's SSM SIP Call), is deleted, and equivalent language is added to current subsections 62-210.700(1) and (2);

2. Subsection 62-210.700(3), F.A.C. (which was subject to EPA's SSM SIP Call), is amended to remove the term "excess" and to remove the provision that allows fossil fuel steam generators to exceed 60% opacity for up to 24 minutes during soot blowing or boiler cleaning;

3. A provision is added at subsection 62-210.700(6), F.A.C., which states that new subsections 62-210.700(1) and (2) (which are subject to EPA's SSM SIP Call and have been combined with previous subsection 62-210.700(4), F.A.C.), shall not apply after May 22, 2018, to either category-specific or unit-specific limits that have been incorporated into Florida's SIP.

4. A provision is added at subsection 62-210.700(7), F.A.C., that states that after the effective date of the rule change (October 23, 2016), subsections 62-210.700(1) and (2), F.A.C., shall not apply to new permit-specific emission limits established pursuant to Florida's Prevention of Significant Deterioration (PSD) and New Source Review (NSR) regulations (Rules 62-212.400 and 62-212.500, F.A.C.).

Noninterference Demonstration

Approval of this SIP revision will comply with CAA Section 110(l). This proposed SIP revision is submitted in response to EPA's SSM SIP Call. The amendment of Rule 62-210.700 renders subsections 62-210.700(1), (2), and (4), F.A.C., inapplicable to both category-specific SIP limits found in Chapter 62-296, F.A.C., and source-specific permit limits that have been expressly incorporated into Florida's SIP will not affect the attainment or maintenance of any NAAQS in the State of Florida.

SIP DEVELOPMENT PROCESS

Section 403.061(35), Florida Statutes, authorizes the Department 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, the Department 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 is included in the "State Administrative Materials" section of this submittal.

In accordance with 40 C.F.R. 51.102, the Department published a notice in the Florida Administrative Register on October 13, 2016, announcing an opportunity for the public to submit comments and request a public hearing to be held on November 16, 2016, if requested, regarding the proposed revision to Florida's SIP.

In accordance with the 30-day notice requirement of 40 C.F.R. 51.102, a pre-hearing submittal providing details of the proposed SIP revision was transmitted to the U.S. Environmental Protection Agency (EPA) on October 13, 2016, and the Department also transmitted a copy of the public notice to neighboring states and Florida's local air pollution control programs.

RESPONSE TO 40 C.F.R. PART 51, APPENDIX V, CRITERIA

Pursuant to 40 C.F.R. 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, 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 section, as adopted or amended, effective upon the date shown:

  Rule 62-210.700, F.A.C., "Excess Emissions" (as amended effective 10/23/16)

  Copies of this rule section showing the amendments may be found in the "Materials Proposed to be Incorporated into the SIP" section of this submittal.

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

- The Department 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 submittal 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. *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.*

- Certified copies of all rules 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.

- The Department 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.

- In addition, state law (s. 120.525, F.S.) requires the Department 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, the Department 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.

- The Department has complied with all public hearing requirements of 40 C.F.R. 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 C.F.R. 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' response thereto.

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

2.2. Technical Support

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

- This SIP revision addresses a rule of general applicability that applies to all pollutants regulated pursuant to Florida's SIP.

(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).

- This SIP revision applies 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.

- Not applicable.

(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.

- A "Noninterference Demonstration" may be found in the "Executive Summary" section of this submittal.

(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. 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.

2.3. Exceptions

- Not applicable.

MATERIALS PROPOSED TO BE INCORPORATED INTO SIP

In this section of the submittal, the rule amendments proposed for incorporation into the SIP are arranged by F.A.C. rule chapter and, where possible, are shown in "coded" format where ~~strike-through~~ denotes deleted text, and underline denotes new text.

Florida's "Excess Emissions" rule found at Rule 62-210.700, F.A.C., was previously approved and incorporated into Florida's SIP. *See* table of EPA-approved state regulations at 40 C.F.R. Part 52, Subpart K.

Effective October 23, 2016, DEP amended Rule 62-210.700, F.A.C., as detailed below. This SIP revision proposes to replace the currently approved and incorporated version of Rule 62-210.700, F.A.C., with this amended version.

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.

Chapter 62-210, F.A.C., 2016 Revision

62-210.700 Excess Emissions.

(1) Excess emissions resulting from startup, shutdown or malfunction of any emissions unit shall be permitted provided ~~providing~~ (1) best ~~operational~~ practices to minimize emissions are adhered to and (2) the duration of excess emissions shall be minimized but in no case exceed two hours in any 24-hour period unless specifically authorized by the Department for longer duration. Excess emissions that are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure that may reasonably be prevented during startup, shutdown or malfunction shall be prohibited.

(2) Excess emissions from existing fossil fuel steam generators resulting from startup or shutdown shall be permitted provided that best ~~operational~~ practices to minimize emissions are adhered to and the duration of excess emissions shall be minimized. Excess emissions that are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure that may reasonably be prevented during startup, shutdown or malfunction shall be prohibited.

(3) Visible ~~Excess~~ emissions from existing fossil fuel steam generators resulting from boiler cleaning (soot blowing) and load change may be up to 60 percent opacity, based upon a six-minute average, for a period of up to 3 hours in any 24-hour period ~~shall be permitted~~ provided ~~the duration of such excess emissions shall not exceed 3 hours in any 24-hour period and visible emissions shall not exceed Number 3 of the Ringelmann Chart (60 percent opacity), and providing~~ (1) best ~~operational~~ practices to minimize visible emissions are adhered to and (2) the duration of elevated opacity ~~emissions shall be~~ is minimized. Particulate matter emissions from existing fossil fuel steam generators during periods of boiler cleaning (soot blowing) and load change may average up to 0.3 pounds per million BTU heat input for a period of up to 3 hours in any 24-hour period provided (1) best practices to minimize particulate matter emissions are adhered to and (2) the duration of elevated particulate matter emissions is minimized. A load change, other than startup or shutdown, occurs when ~~the operational capacity of~~ a fossil fuel steam generating unit is operating in the range of 10 percent to 100 percent of rated capacity, ~~range, other than startup or shutdown, which~~ the change in operation exceeds 10 percent of the unit's rated capacity, and ~~which~~ the change in operation occurs at a rate of 0.5 percent or more per minute ~~or more~~. ~~Visible emissions above 60 percent opacity shall be allowed for not more than 4, six (6) minute periods, during the 3-hour period of excess emissions allowed by this subparagraph, for boiler cleaning and load changes, at units which have installed and are operating, or have committed to install or operate, continuous opacity monitors. Particulate matter emissions shall not exceed an average of 0.3 lbs. per million BTU~~

~~heat input during the 3-hour period of excess emissions allowed by this subparagraph.~~

~~(4) Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented during startup, shutdown, or malfunction shall be prohibited.~~

(5) through (6) renumbered (4) through (5) No change.

(6) After May 22, 2018, Subsections 62-210.700(1) and (2), F.A.C., shall not apply to:

(a) Emission limits in Chapter 62-296, F.A.C., that have been or that become incorporated into the State Implementation Plan for the State of Florida, identified in 40 C.F.R. 52.520; and

(b) Unit-specific emission limits that have been or that become incorporated into the State Implementation Plan for the State of Florida, identified in 40 C.F.R. 52.520.

(7) Subsections 62-210.700(1) and (2), F.A.C., shall not apply to unit-specific emission limits established after October 23, 2016, pursuant to Rules 62-212.400 and 62-212.500, F.A.C.

Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History–Formerly 17-2.250, 17-210.700, Amended 11-23-94,_____.

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 (Department). 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 the Department 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 the Department 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. Department 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 Department 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

Documentation of State Rule Development Process for Rule 62-210.700, F.A.C.

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 62-210.700 and 62-210.710, F.A.C.
OGC No: 15-0395

Dear Mr. Reddick:

Attached is the certification package for Rules 62-210.700 and 62-210.710, 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,

Benjamin M. Melnick
Assistant General Counsel

CERTIFICATION OF DEPARTMENT OF ENVIRONMENTAL PROTECTION

ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

[x] (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

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

[x] (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

[x] (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 the rule covered by this certification. The rule is hereby adopted by the undersigned agency by and upon its filing with the Department of State.

Rule No.(s)

62-210.700, F.A.C.

62-210.710, F.A.C.

Under the provision of Section 120.54(3)(e)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:

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

Justin Wolfe
Deputy General Counsel

3
Number of Pages Certified

62-210.700 Excess Emissions.

(1) Excess emissions resulting from startup, shutdown or malfunction of any emissions unit shall be permitted provided ~~providing~~ (1) best ~~operational~~ practices to minimize emissions are adhered to and (2) the duration of excess emissions shall be minimized but in no case exceed two hours in any 24-hour period unless specifically authorized by the Department for longer duration. Excess emissions that are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure that may reasonably be prevented during startup, shutdown or malfunction shall be prohibited.

(2) Excess emissions from existing fossil fuel steam generators resulting from startup or shutdown shall be permitted provided that best ~~operational~~ practices to minimize emissions are adhered to and the duration of excess emissions shall be minimized. Excess emissions that are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure that may reasonably be prevented during startup, shutdown or malfunction shall be prohibited.

(3) Visible ~~Excess~~ emissions from existing fossil fuel steam generators resulting from boiler cleaning (soot blowing) and load change may be up to 60 percent opacity, based upon a six-minute average, for a period of up to 3 hours in any 24-hour period ~~shall be permitted~~ provided ~~the duration of such excess emissions shall not exceed 3 hours in any 24-hour period and visible emissions shall not exceed Number 3 of the Ringelmann Chart (60 percent opacity), and providing~~ (1) best ~~operational~~ practices to minimize visible emissions are adhered to and (2) the duration of elevated opacity ~~emissions shall be~~ is minimized. Particulate matter emissions from existing fossil fuel steam generators during periods of boiler cleaning (soot blowing) and load change may average up to 0.3 pounds per million BTU heat input for a period of up to 3 hours in any 24-hour period provided (1) best practices to minimize particulate matter emissions are adhered to and (2) the duration of elevated particulate matter emissions is minimized. A load change, other than startup or shutdown, occurs when ~~the operational capacity of~~ a fossil fuel steam generating unit is operating in the range of 10 percent to 100 percent of rated capacity, ~~range, other than startup or shutdown, which~~ the change in operation exceeds 10 percent of the unit's rated capacity, and ~~which~~ the change in operation occurs at a rate of 0.5 percent or more per minute ~~or more~~. ~~Visible emissions above 60 percent opacity shall be allowed for not more than 4, six (6) minute periods, during the 3-hour period of excess emissions allowed by this subparagraph, for boiler cleaning and load changes, at units which have installed and are operating, or have committed to install or operate, continuous opacity monitors. Particulate matter emissions shall not exceed an average of 0.3 lbs. per million BTU~~

~~heat input during the 3-hour period of excess emissions allowed by this subparagraph.~~

~~(4) Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented during startup, shutdown, or malfunction shall be prohibited.~~

(5) through (6) renumbered (4) through (5) No change.

(6) After May 22, 2018, Subsections 62-210.700(1) and (2), F.A.C., shall not apply to:

(a) Emission limits in Chapter 62-296, F.A.C., that have been or that become incorporated into the State Implementation Plan for the State of Florida, identified in 40 C.F.R. 52.520; and

(b) Unit-specific emission limits that have been or that become incorporated into the State Implementation Plan for the State of Florida, identified in 40 C.F.R. 52.520.

(7) Subsections 62-210.700(1) and (2), F.A.C., shall not apply to unit-specific emission limits established after October 23, 2016, pursuant to Rules 62-212.400 and 62-212.500, F.A.C.

Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History–Formerly 17-2.250, 17-210.700, Amended 11-23-94,_____.

62-210.710 Emission Limits during Transient Modes of Operation.

(1) A facility may request that the Department establish by permit one or more unit-specific secondary emission limits to apply during a specified transient mode of operation in lieu of the unit's primary emission limit in Chapter 62-296, F.A.C., or the State Implementation Plan of the State of Florida, identified in 40 C.F.R. 52.520. Transient modes of operation include, but are not limited to, periods of startup, shutdown, or fuel switching. In order to be eligible for a secondary emission limit applicable during a specified transient mode of operation, the facility must provide to the Department data and documentation sufficient to:

(a) Describe the specific operating conditions that mark the commencement and completion of the transient mode of operation, the duration of those operating conditions, and the operational variations in the process and control equipment and operations being permitted that could affect the frequency or duration of the transient mode of operation; and

(b) Demonstrate that the frequency and duration of the transient mode of operation will be limited to the greatest extent practicable; and

(c) Demonstrate that the unit's emission control strategy for compliance with the otherwise applicable category-specific primary emission limit or unit-specific primary emission limit contained in the State Implementation Plan of the State of Florida, identified in 40 C.F.R. 52.520, is technically infeasible during the transient mode of operation; and

(d) Demonstrate that the unit is unable to comply with the otherwise applicable category-specific primary emission limit or unit-specific primary emission limit contained in the State Implementation Plan of the State of Florida, identified in 40 C.F.R. 52.520; and

(e) Define best practices for the unit for limiting the extent and duration of emissions of the regulated air pollutant during the transient mode of operation; and

(f) Determine a secondary emission limit that (1) reflects best practices and (2) minimizes the extent and duration of emissions of the regulated air pollutant during the transient mode of operation to the greatest extent practicable; and

(g) Demonstrate that the facility has implemented or will implement recordkeeping practices (e.g. continuous emissions monitoring, parametric data collection and storage, contemporaneous operating logs) sufficient to demonstrate compliance with the unit-specific secondary emission limit.

(2) A unit-specific secondary emission limit established pursuant to Subsection 62-210.710(1), F.A.C., may be in a different form than the category-specific primary emission limit or unit-specific primary emission limit contained in the State Implementation Plan of the State of Florida, identified in 40 C.F.R. 52.520. Any secondary emission limit applicable during a transient mode of operation must be in one of the following forms:

(a) A unit-specific numerical emission limit equivalent to emissions levels during the transient mode of operation under best practices for the unit;

(b) A unit-specific numerical emission limit established under a federal New Source Performance Standard (NSPS) or National Emission Standards for Hazardous Air Pollutant (NESHAP) that applies during a transient mode of operation and is representative of best practices for the unit;

(c) A unit-specific federal NSPS- or NESHAP-based work practice standard that applies during a transient mode of operation and is representative of best practices for the unit; or

(d) A unit-specific work practice standard representative of best practices for the unit.

Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History-New_____.

DETAILED STATEMENT OF FACTS AND CIRCUMSTANCES

JUSTIFYING PROPOSED RULE

Re: Rules 62-210.700 and 62-210.710, Florida Administrative Code (F.A.C.)

Notice of Proposed Rulemaking: September 1, 2016

OGC No. 15-0395

Project: Excess Emissions and Emission Limits During Transient Modes of Operation

Introduction

The purpose of the proposed rulemaking (OGC No. 15-0395) is to revise Rule 62-210.700, F.A.C. ("Excess Emissions"), and add a new rule section, Rule 62-210.710, F.A.C. ("Emission Limits During Transient Modes of Operation"), to Chapter 62-210, F.A.C. ("Stationary Sources – General Requirements"). Promulgation of these rules is necessary to meet the legal requirements of the United States Environmental Protection Agency's (EPA) Notice of Final Rule published in the Federal Register on June 12, 2015 (80 Fed. Reg. 33,840). EPA's Final Rule has been challenged in the D.C. Circuit Court of Appeals by multiple states, including the State of Florida, in *Walter Coke, Inc. v. U.S. EPA*, USCA Case No. 15-1166.

Need for Rule Change

On June 12, 2015, EPA published in the Federal Register a final rule concerning its interpretation of federal Clean Air Act (CAA) requirements for emission limits incorporated into states' State Implementation Plans (SIP).[1] 80 Fed.

[1] The general components of Florida's SIP are identified at 40 C.F.R. Part 52, Subpart K. In addition to incorporating rules associated with the implementation of the Clean Air Act in Florida, Florida's SIP incorporates a range of generally applicable emission limits, codified in Chapter 62-296, F.A.C., together with permit-based unit-specific emissions limits that address particular units in areas of the state that are subject to Nonattainment Area Plans and units that are identified in the state's approved Regional Haze Plan.

Reg. 33,840. CAA Section 110(k)(5) allows EPA to issue a "SIP Call" to states if EPA determines that the states' existing SIPs are "substantially inadequate." EPA's SIP Call found that 36 states, including Florida, had rules in their SIPs that were inconsistent with EPA's interpretation of the CAA, as these rules rendered certain SIP emission limits not continuous (i.e., the SIP did not contain "practically and legally enforceable" emission limits applicable during periods of startup, shutdown, and malfunction). EPA provided a deadline of November 22, 2016 for states to submit SIP revisions that remove or amend the identified regulations. In order to meet this deadline, the Department must first amend the underlying state rule, Rule 62-210.700, F.A.C., via the state rulemaking process, and then submit the revised rule to EPA as a revision to Florida's SIP.

This rulemaking is intended to respond to EPA's SIP Call. The proposed rule language is consistent with EPA's revised interpretation of the Clean Air Act and specifies how secondary emission limits that apply during transient modes of operation should be developed. This rulemaking has two prongs.

The first prong revises Rule 62-210.700, F.A.C., by combining Subsections 62-210.700(1) and (4) and Subsections 62-210.700(2) and (4), F.A.C. The revised Subsections 62-210.700(1) and (2), F.A.C., are then sunset for the purposes of emission limits in Florida's SIP. This means that although Subsections 62-210.700(1) and (2), F.A.C., remain in the Florida Administrative Code, they cannot apply to SIP emission limits after the specified sunset date. The Department also is proposing to remove a clause from Subsection 62-210.700(3), F.A.C., that EPA determined to be inadequate, which allowed electrical generating units to have opacity in excess of 60% for up to 24 minutes while soot blowing.

These proposed changes to Rule 62-210.700, F.A.C., respond to EPA's SIP Call by sunsetting or amending the four provisions EPA believes are inconsistent with its current interpretation of the Clean Air Act (i.e., Subsections 62-210.700(1) through (4), F.A.C.). The legal effect of the sunset date will mean that after that date, SIP-based steady-state emission limits will apply at all times.

In order to avoid subjecting facilities to steady-state emission limits during transient operations, the second prong of this rulemaking provides a process for a facility to request that the Department establish by permit a unit-specific

secondary SIP emission limit to apply in lieu of the facility's primary steady-state SIP emission limit. The procedure for requesting and receiving a secondary emission limit will be codified in a new rule section, Rule 62-210.710, F.A.C., and will ensure that all facilities have emission limits that are achievable, even during transient modes of operation. The new proposed rule specifically requires that sources requesting a secondary emission limit demonstrate that they cannot meet the primary steady-state emission limit during a transient mode of operation. The rule provides a process for determining a suitable secondary emission limit, which may take a number of forms, as specified in Subsection 62-210.710(2)(a)-(d), F.A.C.

The net effect of the sunset clause and the addition of the new rule will be that sources unable to meet an applicable SIP emission limit during a transient mode of operation will have adequate time to develop and have incorporated into their operating permit a secondary emission limit prior to the sunset of Subsections 62-210.700(1) and (2), F.A.C.

Summary of Rule Amendments

The specific rule amendments are as follows:

Rule Number	Detailed Explanation
62-210.700, F.A.C.	Revise Rule 62-210.700, F.A.C., ("Excess Emissions"), to add a sunset clause, rendering certain parts of this rule void past a certain future date. Revisions to this rule are necessary to meet the legal requirements of the United States Environmental Protection Agency's (EPA) Final Rule dated May 22, 2015 (80 Fed. Reg. 33,840), which found that Florida's current rule on excess emissions during periods of startup, shutdown, and malfunction (SSM) was substantially inadequate under EPA's interpretation of the Clean Air Act and recent court decisions. EPA's Final Rule has been challenged in the D.C. Circuit Court of Appeals by multiple states, including the State of Florida, in *Walter Coke, Inc. v. U.S. EPA*, USCA Case No. 15-1166. Once the specified provisions are sunsetted, affected facilities subject to emission limits in Florida's State Implementation Plan will be required to meet those limits at all times, or these facilities may avail themselves of the provisions of new Rule 62-210.710, F.A.C. (below) to establish secondary emission limits applicable

	during transient modes of operation. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
62-210.710, F.A.C.	Add new Rule 62-210.710, F.A.C., ("Emission Limits During Transient Modes of Operation"), to provide a process for facilities to receive secondary emission limitations during transient modes of operation (i.e., during periods of startup, shutdown, maintenance, and malfunction). The rule revision will describe the process by which secondary emissions limits and systems of emissions control during SSM events may be specified in facilities' operating permits. As noted above, the Department's regulatory approach in response to EPA's mandate will enable affected facilities to request voluntary emissions limits that reflect existing emissions control practices during transient modes of operation, and is not expected to increase the regulatory burden on affected facilities. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.

SUMMARY OF THE RULE

On June 12, 2015, EPA published in the Federal Register a final rule concerning its interpretation of federal Clean Air Act (CAA) requirements for emission limits incorporated into states' State Implementation Plans (SIP).[1] 80 Fed. Reg. 33,840. CAA Section 110(k)(5) allows EPA to issue a "SIP Call" to states if EPA determines that the states' existing SIPs are "substantially inadequate." EPA's SIP Call found that 36 states, including Florida, had rules in their SIPs that were inconsistent with EPA's interpretation of the CAA, as these rules rendered certain SIP emission limits not continuous (i.e., the SIP did not contain "practically and legally enforceable" emission limits applicable during periods of startup, shutdown, and malfunction). EPA provided a deadline of November 22, 2016 for states to submit SIP revisions that remove or amend the identified regulations. In order to meet this deadline, the Department must first amend the underlying state rule, Rule 62-210.700, F.A.C., via the state rulemaking process, and then submit the revised rule to EPA as a revision to Florida's SIP.

This rulemaking is intended to respond to EPA's SIP Call. The proposed rule language is consistent with EPA's revised interpretation of the Clean Air Act and specifies how secondary emission limits that apply during transient modes of operation should be developed. This rulemaking has two prongs.

The first prong revises Rule 62-210.700, F.A.C., by combining Subsections 62-210.700(1) and (4) and Subsections 62-210.700(2) and (4), F.A.C. The revised Subsections 62-210.700(1) and (2), F.A.C., are then sunset for the purposes of emission limits in Florida's SIP. This means that although Subsections 62-210.700(1) and (2), F.A.C., remain in the Florida Administrative Code, they cannot apply to SIP emission limits after the specified sunset date. The Department also is proposing to remove a clause from Subsection 62-210.700(3), F.A.C., that EPA determined

[1] The general components of Florida's SIP are identified at 40 C.F.R. Part 52, Subpart K. In addition to incorporating rules associated with the implementation of the Clean Air Act in Florida, Florida's SIP incorporates a range of generally applicable emission limits, codified in Chapter 62-296, F.A.C., together with permit-based unit-specific emissions limits that address particular units in areas of the state that are subject to Nonattainment Area Plans and units that are identified in the state's approved Regional Haze Plan.

to be inadequate, which allowed electrical generating units to have opacity in excess of 60% for up to 24 minutes while soot blowing.

These proposed changes to Rule 62-210.700, F.A.C., respond to EPA's SIP Call by sunsetting or amending the four provisions EPA believes are inconsistent with its current interpretation of the Clean Air Act (i.e., Subsections 62-210.700(1) through (4), F.A.C.). The legal effect of the sunset date will mean that after that date, SIP-based steady-state emission limits will apply at all times.

In order to avoid subjecting facilities to steady-state emission limits during transient operations, the second prong of this rulemaking provides a process for a facility to request that the Department establish by permit a unit-specific secondary SIP emission limit to apply in lieu of the facility's primary steady-state SIP emission limit. The procedure for requesting and receiving a secondary emission limit will be codified in a new rule section, Rule 62-210.710, F.A.C., and will ensure that all facilities have emission limits that are achievable, even during transient modes of operation. The new proposed rule specifically requires that sources requesting a secondary emission limit demonstrate that they cannot meet the primary steady-state emission limit during a transient mode of operation. The rule provides a process for determining a suitable secondary emission limit, which may take a number of forms, as specified in Subsection 62-210.710(2)(a)-(d), F.A.C.

The net effect of the sunset clause and the addition of the new rule will be that sources unable to meet an applicable SIP emission limit during a transient mode of operation will have adequate time to develop and have incorporated into their operating permit a secondary emission limit prior to the sunset of Subsections 62-210.700(1) and (2), F.A.C.

Summary of Rule Amendments

The specific rule amendments are as follows:

Rule Number	Detailed Explanation

62-210.700, F.A.C.	Revise Rule 62-210.700, F.A.C., ("Excess Emissions"), to add a sunset clause, rendering certain parts of this rule void past a certain future date. Revisions to this rule are necessary to meet the legal requirements of the United States Environmental Protection Agency's (EPA) Final Rule dated May 22, 2015 (80 Fed. Reg. 33,840), which found that Florida's current rule on excess emissions during periods of startup, shutdown, and malfunction (SSM) was substantially inadequate under EPA's interpretation of the Clean Air Act and recent court decisions. EPA's Final Rule has been challenged in the D.C. Circuit Court of Appeals by multiple states, including the State of Florida, in *Walter Coke, Inc. v. U.S. EPA*, USCA Case No. 15-1166. Once the specified provisions are sunsetted, affected facilities subject to emission limits in Florida's State Implementation Plan will be required to meet those limits at all times, or these facilities may avail themselves of the provisions of new Rule 62-210.710, F.A.C. (below) to establish secondary emission limits applicable during transient modes of operation. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
62-210.710, F.A.C.	Add new Rule 62-210.710, F.A.C., ("Emission Limits During Transient Modes of Operation"), to provide a process for facilities to receive secondary emission limitations during transient modes of operation (i.e., during periods of startup, shutdown, maintenance, and malfunction). The rule revision will describe the process by which secondary emissions limits and systems of emissions control during SSM events may be specified in facilities' operating permits. As noted above, the Department's regulatory approach in response to EPA's mandate will enable affected facilities to request voluntary emissions limits that reflect existing emissions control practices during transient modes of operation, and is not expected to increase the regulatory burden on affected facilities. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.

SUMMARY OF THE HEARING

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

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,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cindy Phillips, Division of Air Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jonathan P. Steverson, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 22, 2016

DATE OF NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 8, 2016

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Air Resource Management

RULE NOS.:	RULE TITLES:
62-210.700	Excess Emissions
62-210.710	Emission Limits During Transient Modes of Operation

PURPOSE AND EFFECT: The purpose of this proposed rule is to add a new rule section to Chapter 62-210, F.A.C., and to revise specified provisions of Rule 62-210.700, F.A.C. Promulgation of these rules is intended to meet the legal requirements of the United States Environmental Protection Agency's Notice of Final Rule published in the Federal Register on June 12, 2015 (80 FR 33840). EPA's Final Rule has been challenged in the D.C. Circuit Court of Appeals by multiple states, including the State of Florida, in Walter Coke, Inc. v. U.S. EPA, USCA Case No. 15-1166.

SUMMARY: The proposed rule amendments address emission limitations during transient operating conditions at regulated facilities, including periods of startup, shutdown, and malfunction.

OTHER RULES INCORPORATING RULE 62-210.700 F.A.C: 62-110.107, 62-212.720, 62-213.440, 62-296.401, 62-296.404, 62-296.570, 62-296.702, and 62-297.310, F.A.C.

OTHER RULES INCORPORATING RULE 62-210.710, F.A.C: None

EFFECT ON THOSE OTHER RULES: The effect of the revisions in Rule 62-210.700, F.A.C., will be to incorporate those changes as intended by the cross reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Department has determined that this rulemaking will not have an adverse impact on small business or likely increase regulatory costs in excess of $200,000 in the aggregate within one year after the implementation of the rule. A statement of estimated regulatory costs (SERC) has not been prepared by the Department. The Department has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs, or, if no SERC is required, the information expressly relied upon and described herein: Based on the Department's analysis, the Department has determined that this rulemaking will not increase regulatory costs for any small business and will only have a small regulatory cost for facilities that choose to prepare an air construction permit application pursuant to Rule 62-210.710, F.A.C. The Department estimates that the regulatory cost for these facilities will be less than $200,000 in the first year of implementation. Any person who wishes to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 403.061, FS.

LAW IMPLEMENTED: 403.021, 403.031, 403.061, 403.087, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: SEPTEMBER 26, 2016, 10:00 a.m.

PLACE: Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida, Conference Room 609

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: Terri Long, (850)717-9023, E-mail: Terri.Long@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency by using the Florida Relay Service, 1 (800)955-8771 (TDD) or 1 (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Preston McLane, Florida Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399-2400, Telephone: (850)717-9089, E-mail: Preston.McLane@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-210.700 Excess Emissions.

(1) Excess emissions resulting from startup, shutdown or malfunction of any emissions unit shall be permitted provided ~~providing~~ (1) best ~~operational~~ practices to minimize emissions are adhered to and (2) the duration of excess emissions shall be minimized but in no case exceed two hours in any 24-hour period unless specifically authorized by the Department for longer duration. Excess emissions that are caused entirely or in part by poor maintenance, poor operation, or any other

equipment or process failure that may reasonably be prevented during startup, shutdown or malfunction shall be prohibited.

(2) Excess emissions from existing fossil fuel steam generators resulting from startup or shutdown shall be permitted provided that best ~~operational~~ practices to minimize emissions are adhered to and the duration of excess emissions shall be minimized. Excess emissions that are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure that may reasonably be prevented during startup, shutdown or malfunction shall be prohibited.

(3) Visible ~~Excess~~ emissions from existing fossil fuel steam generators resulting from boiler cleaning (soot blowing) and load change may be up to 60 percent opacity, based upon a six-minute average, for a period of up to 3 hours in any 24-hour period ~~shall be permitted~~ provided ~~the duration of such excess emissions shall not exceed 3 hours in any 24 hour period and visible emissions shall not exceed Number 3 of the Ringelmann Chart (60 percent opacity), and providing~~ (1) best ~~operational~~ practices to minimize visible emissions are adhered to and (2) the duration of elevated opacity ~~emissions shall be~~ is minimized. Particulate matter emissions from existing fossil fuel steam generators during periods of boiler cleaning (soot blowing) and load change may average up to 0.3 pounds per million BTU heat input for a period of up to 3 hours in any 24-hour period provided (1) best practices to minimize particulate matter emissions are adhered to and (2) the duration of elevated particulate matter emissions is minimized. A load change, other than startup or shutdown, occurs when ~~the operational capacity of~~ a fossil fuel steam generating unit is operating in the range of 10 percent to 100 percent of rated capacity, ~~range, other than startup or shutdown, which~~ the change in operation exceeds 10 percent of the unit's rated capacity, and ~~which~~ the change in operation occurs at a rate of 0.5 percent or more per minute ~~or more~~. ~~Visible emissions above 60 percent opacity shall be allowed for not more than 4, six (6) minute periods, during the 3 hour period of excess emissions allowed by this subparagraph, for boiler cleaning and load changes, at units which have installed and are operating, or have committed to install or operate, continuous opacity monitors. Particulate matter emissions shall not exceed an average of 0.3 lbs. per million BTU heat input during the 3 hour period of excess emissions allowed by this subparagraph.~~

~~(4) Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented during startup, shutdown, or malfunction shall be prohibited.~~

(5) through (6) renumbered (4) through (5) No change.

(6) After May 22, 2018, Subsections 62-210.700(1) and (2), F.A.C., shall not apply to:

(a) Emission limits in Chapter 62-296, F.A.C., that have been or that become incorporated into the State Implementation Plan for the State of Florida, identified in 40 CFR 52.520; and

(b) Unit-specific emission limits that have been or that become incorporated into the State Implementation Plan for the State of Florida, identified in 40 CFR 52.520.

(7) Subsections 62-210.700(1) and (2), F.A.C., shall not apply to unit-specific emission limits established after [*insert date of rule adoption*] pursuant to Rules 62-212.400 and 62-212.500, F.A.C.

Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History–Formerly 17-2.250, 17-210.700, Amended 11-23-94, _____.

62-210.710 Emission Limits during Transient Modes of Operation.

(1) A facility may request that the Department establish by permit one or more unit-specific secondary emission limits to apply during a specified transient mode of operation in lieu of the unit's primary emission limit in Chapter 62-296, F.A.C., or the State Implementation Plan for the State of Florida, identified in 40 CFR 52.520. Transient modes of operation include, but are not limited to, periods of startup, shutdown, or fuel switching. In order to be eligible for a secondary emission limit applicable during a specified transient mode of operation, the facility must provide to the Department data and documentation sufficient to:

(a) Describe the specific operating conditions that mark the commencement and completion of the transient mode of operation, the duration of those operating conditions, and the operational variations in the process and control equipment and operations being permitted that could affect the frequency or duration of the transient mode of operation; and

(b) Demonstrate that the frequency and duration of the transient mode of operation will be limited to the greatest extent practicable; and

(c) Demonstrate that the unit's emission control strategy for compliance with the otherwise applicable category-specific primary emission limit or unit-specific primary emission limit contained in the State Implementation Plan of the State of Florida, identified in 40 CFR 52.520, is technically infeasible during the transient mode of operation; and

(d) Demonstrate that the unit is unable to comply with the otherwise applicable category-specific primary emission limit or unit-specific primary emission limit contained in the State Implementation Plan of the State of Florida, identified in 40 CFR 52.520; and

(e) Define best practices for the unit for limiting the extent and duration of emissions of the regulated air pollutant during the transient mode of operation; and

(f) Determine a secondary emission limit that (1) reflects best practices and (2) minimizes the extent and duration of emissions of the regulated air pollutant during the transient mode of operation to the greatest extent practicable; and

(g) Demonstrate that the facility has implemented or will implement recordkeeping practices (e.g. continuous emissions monitoring, parametric data collection and storage, contemporaneous operating logs) sufficient to demonstrate compliance with the unit-specific secondary emission limit.

(2) A unit-specific secondary emission limit established pursuant to Subsection 62-210.710(1), F.A.C., may be in a different form than the category-specific primary emission limit or unit-specific primary emission limit contained in the State Implementation Plan of the State of Florida, identified in 40 CFR 52.520. Any secondary emission limit applicable during a transient mode of operation must be in one of the following forms:

(a) A unit-specific numerical emission limit equivalent to emissions levels during the transient mode of operation under best practices for the unit;

(b) A unit-specific numerical emission limit established under a federal New Source Performance Standard (NSPS) or National Emission Standards for Hazardous Air Pollutant (NESHAP) that applies during a transient mode of operation and is representative of best practices for the unit;

(c) A unit-specific federal NSPS- or NESHAP-based work practice standard that applies during a transient mode of operation and is representative of best practices for the unit; or

(d) A unit-specific work practice standard representative of best practices for the unit.

Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History-New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Hastings Read, Division of Air Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jonathan P. Steverson, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 22, 2016

DATE OF NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 8, 2016

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Air Resource Management

RULE NOS.:	RULE TITLES:
62-243.300	Exemptions
62-243.500	Enforcement

PURPOSE AND EFFECT: 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 Rules 62-243.300, and 62-243.500, F.A.C. The revisions will eliminate reference to a previously repealed rule and delete provisions that are unnecessary for implementation of the Florida Statutes.

SUMMARY: The proposed rule amendments address tampering with motor vehicle air pollution control equipment.

OTHER RULES INCORPORATING RULE 62-243.300, F.A.C.: 62-243.500, F.A.C.

OTHER RULES INCORPORATING RULE 62-243.500, F.A.C.: 62-243.300, F.A.C.

EFFECT ON THOSE OTHER RULES: There will be no effect on other rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Department has determined that amendment of this rule will not have an adverse impact on small business or increase regulatory costs in excess of $200,000 in the aggregate within one year after the implementation of the rule. The Department has not prepared a statement of estimated regulatory costs (SERC). The Department has determined that the proposed rule is not expected to require legislative ratification based on the SERC, or, if no SERC is required, the information expressly relied upon and described herein: The Department has determined that the amendments to these rules remove unnecessary portions of the rules and therefore will not increase regulatory costs for any entity. Any person who wishes to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 316.2935, FS.

LAW IMPLEMENTED: 316.2935, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: SEPTEMBER 26, 2016, 10:00 a.m.

PLACE: Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida, Conference Room 609

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: Terri Long, (850)717-9023, E-mail: Terri.Long@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency by using the Florida Relay Service, 1 (800)955-8771 (TDD) or 1 (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Terri Long, Florida Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida, 32399-2400, Telephone: (850)717-9023, E-mail: Terri.Long@dep.state.fl.us

PUBLIC PARTICIPATION

Response to 40 C.F.R. 51.102 Requirements

Documentation will be added upon completion of the 30-day comment period for the pre-hearing submittal and public notice.