

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

I do hereby certify:

- (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and
- (2) There is no administrative determination under subsection 120.56(2), F.S. pending on any rule covered by this certification; and
- (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;
- (a) Are filed not more than 90 days after the notice; or
- (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; 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 ombudsman.

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

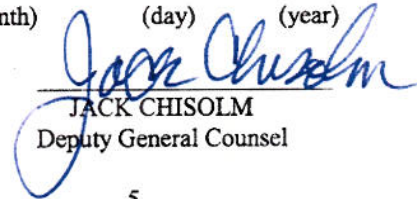
Rule No(s).

62-285.400, F.A.C.

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

Effective: _____

(month) (day) (year)


JACK CHISOLM
Deputy General Counsel

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Number of Pages Certified

62-285.400 Adoption of California Motor Vehicle Emission Standards.

(1) Florida LEV Program. The Department of Environmental Protection (Department) adopts this rule to establish a Florida low emission vehicle (LEV) program that implements California motor vehicle emission standards pursuant to s. 177 of the Clean Air Act. This rule refers to many sections of chapter 1, division 3, title 13 of the California Code of Regulations (CCR), adopted and incorporated by reference at subsection 62-285.400(9), F.A.C. This rule also includes provisions specific to implementation in Florida.

(2) Definitions. For purposes of the Florida LEV program, unless the context clearly indicates otherwise, the following words and phrases have the following meanings:

(a) "Affected Motor Vehicle" – A "passenger car," "light-duty truck," or "medium-duty vehicle" (as those terms are defined in CCR s. 1900) that has never had its title transferred to a person purchasing the vehicle for a purpose other than resale; and that is from any model year, two model years after the model year in existence when both of the following conditions are met:

1. The U.S. Environmental Protection Agency (EPA) grants a waiver for the greenhouse gas standards in CCR s. 1961.1, pursuant to s. 209(b) of the Clean Air Act; and

2. Any Florida legislation ratifying this rule is effective.

(b) "Emergency Vehicle" – A vehicle manufactured for use by fire departments or fire patrols; by police forces; or by ambulatory or other emergency services.

(c) "Military Vehicle" – A vehicle manufactured for military use.

(d) "Model Year" – The manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture is the date of completion of the chassis.

(e) "Specially Constructed Vehicle" – A vehicle which is built for private use, not for resale, or is built to resemble a vehicle that is 25 years old or older, and which is built from kits, new parts, used parts, or a combination of new and used parts.

(3) Applicability, Prohibitions, and Exemptions.

(a) Each motor vehicle manufacturer, factory branch, distributor, or importer shall comply with the sections of the CCR incorporated in subsection 62-285.400(9), F.A.C.

(b) A motor vehicle manufacturer, factory branch, distributor, or importer may not deliver an affected motor

vehicle to Florida for sale, lease, or rent unless the vehicle has been certified to the California emission standards as incorporated in subsection 62-285.400(9), F.A.C., or is exempt pursuant to paragraph 62-285.400(3)(c), F.A.C.

(c) The following vehicles are not subject to this rule: emergency vehicles, military vehicles, specially constructed vehicles, and vehicles designed exclusively for off-highway use.

(4) Fleet Average Emissions and Reporting.

(a) Fleet Average Emission Requirements.

1. Each motor vehicle manufacturer's fleet average emissions of non-methane organic gases (NMOG) from affected motor vehicles delivered to Florida for sale, lease, or rent must meet the fleet average NMOG emission requirement set forth in CCR s. 1961.

2. Each motor vehicle manufacturer's fleet average emissions of greenhouse gases from affected motor vehicles delivered to Florida for sale, lease, or rent must meet the fleet average greenhouse gas emission requirement set forth in CCR s. 1961.1.

(b) Credits and Debits. Each motor vehicle manufacturer will accrue emission credits and debits based on the number of affected motor vehicles delivered to Florida for sale, lease, or rent, and calculated in accordance with the procedures of CCR ss. 1961 and 1961.1.

(c) Manufacturer's Annual Report. Each motor vehicle manufacturer must submit an annual report (manufacturer's annual report) to the Department which sets forth the data used to establish compliance with the fleet average emission requirements for NMOG and greenhouse gases. The manufacturer's annual report must include documentation of the accrual of emission credits or debits. The manufacturer's annual report must also include pre-model year data that projects the NMOG and greenhouse gas fleet average emissions for vehicles expected to be delivered to Florida for sale, lease, or rent during the upcoming model year. The manufacturer's annual report is due March 1 of the calendar year following the close of the model year.

(d) Fleet Average Remediation Report. If the manufacturer's annual report demonstrates that the manufacturer is not in compliance with a fleet average emission requirement, then the manufacturer must submit a fleet average remediation report by May 1 of the calendar year following the close of the model year. The fleet average remediation report must contain the following:

1. A description of how the manufacturer intends to equalize any accrued debits, as required in CCR s. 1961 or s. 1961.1.

2. Identification of all vehicle models delivered to Florida for sale, lease, or rent, their corresponding certification standards, and the percentage of each model delivered to Florida and to California for sale, lease, or rent in relation to total fleet sales in the respective states.

3. A description of how the manufacturer plans to achieve compliance with the fleet average emission requirement in future model years.

(5) Warranties.

(a) Each motor vehicle manufacturer must provide, for all affected motor vehicles, a warranty that complies with the requirements of CCR ss. 2035, 2037, 2038, 2040, and 2046.

(b) For all affected motor vehicles, each motor vehicle manufacturer must include an emission control system warranty statement that complies with the requirements of CCR s. 2039. Manufacturers may modify this statement as necessary to inform Florida consumers of the warranty's applicability. The manufacturer must provide a telephone number that Florida consumers can use to learn answers to warranty questions.

(c) Each motor vehicle manufacturer must include, in the emission control system warranty statement required by paragraph 62-285.400(5)(b), F.A.C., information that clarifies what the warranty does and does not cover. This information must also explain what maintenance work can be performed at an independent or non-dealer repair shop while still maintaining the warranty.

(6) Recalls. Any emission-related recall campaign initiated by a motor vehicle manufacturer pursuant to CCR ss. 2109 through 2135 must extend to all applicable motor vehicles in Florida. The motor vehicle manufacturer must send Florida consumers a notice that complies with the requirements of CCR s. 2118 or s. 2127. The motor vehicle manufacturer must provide a telephone number that Florida consumers can use to learn answers to questions about any recall applicable to motor vehicles in Florida.

(7) Additional Recordkeeping and Reporting Requirements. Each motor vehicle manufacturer, factory branch, distributor, and importer must submit to the Department one copy of the California Executive Order and Certificate of Conformity relating to certification of new motor vehicles for each engine family to be delivered to Florida for sale, lease, or rent. This information may be submitted electronically. Motor vehicle manufacturers, factory branches, distributors, or importers are not required to submit a copy of any California Executive Order or Certificate of Conformity that is readily available to the public, such as one provided on a web page.

(8) Zero Emission Vehicles. [Reserved]

(9) Incorporation by Reference.

(a) For purposes of applying the incorporated sections of the CCR, "California" means "Florida," including in the context of "produced and delivered for sale" and "placed in service," unless otherwise specified in this rule or the application is clearly inappropriate. "California Air Resources Board" and "Executive Officer" mean the California Air Resources Board and its Executive Officer. "California annual sales" and "annual sales" refer to sales in the State of California.

(b) The following sections of title 13 of the CCR, revised as of the indicated date (month/day/year), are adopted and incorporated by reference:

1. 1900, Definitions. (01/01/2006).
2. 1956.8(g) and (h), Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy-Duty Engines and Vehicles. (01/04/2008).
3. 1960.1, Exhaust Emission Standards and Test Procedures – 1981 through 2006 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles. (03/26/2004).
4. 1960.5, Certification of 1983 and Subsequent Model-Year Federally Certified Light-Duty Motor Vehicles for Sale in California. (10/16/2002).
5. 1961, Exhaust Emission Standards and Test Procedures – 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles. (06/16/2008).
6. 1961.1, Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles. (01/01/2006).
7. 1962, Zero-Emission Vehicle Standards for 2005 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles. (03/26/2004).
8. 1962.1, Electric Vehicle Charging Requirements. (07/24/2002).
9. 1965, Emission Control and Smog Index Labels – 1979 and Subsequent Model-Year Motor Vehicles. (06/16/2008).
10. 1968.1, Malfunction and Diagnostic System Requirements – 1994 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines. (11/27/1999).
11. 1968.2, Malfunction and Diagnostic System Requirements – 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines. (11/09/2007).

12. 1968.5, Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines. (11/09/2007).

13. 1976, Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions. (01/04/2008).

14. 1978, Standards and Test Procedures for Vehicle Refueling Emissions. (01/04/2008).

15. Chapter 1, article 6, Emission Control System Warranty, s. 2035, ss. 2037 through 2040, and s. 2046. (11/09/2007).

16. 2109, New Vehicle Recall Provisions. (11/30/1983).

17. Chapter 2, article 2.1, Procedures for In-Use Vehicle Voluntary and Influenced Recalls, ss. 2111 through 2120. (01/04/2008).

18. Chapter 2, article 2.2, Procedures for In-Use Vehicle Ordered Recalls, ss. 2122 through 2133 and s. 2135. (01/04/2008).

19. Chapter 2, article, Procedures for Reporting Failures of Emission-Related Components, ss. 2141 through 2149. (01/04/2008).

20. Chapter 4.4, Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks, s. 2235. (09/17/1991).

(10) If the federal government establishes an equivalent or more stringent nationwide standard for reduced vehicle greenhouse gas emissions, compared to this rule, either directly or through fuel efficiency standards, the department shall initiate proceedings to repeal this rule.

Specific Authority 403.061 FS. Law Implemented 403.031, 403.061 FS. History-New _____.