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GUIDELINES

TO: Permitting Branch

FROM: Regg Olsen, Permitting Branch Manager *RO*

DATE: February 23, 2017

SUBJECT: Replacement-in-Kind

To provide a common ground for application of the replacement-in-kind procedures, please take note of the following.

Our state rules allow for certain process or pollution control equipment to be replaced without having to follow the requirements to submit a notice of intent under R307-401-5. The procedures are spelled out in R307-401-11 which is below.

The notification, from the owner or operator as required by R307-401-11(2)(a), shall be compared with the Approval Order (AO) to determine whether an update to the source's approval order is necessary. If the replaced process equipment or pollution control equipment requires an update, that process will be started and processed as quickly as possible. If an update to the approval order is required, the source will be billed for the actual time spent on the project.

If the approval order does not need to be updated, the modification will be placed in the source file.

There has been one requirement of the rule that has caused some concern. R307-401-11(1)(g) concerning applicability to the New Source Performance Standards etc, has apparently been misinterpreted in the past. The language of the rule states that, "*the replaced process equipment or pollution control equipment does not trigger New Source Performance Standards or National Emissions Standards for Hazardous Air Pollutants Under 42 U.S.C. 7411 or 7412.*" To assure that we are all interpreting this in a consistent manner the following simple guidance will be followed.

Should a piece of process or control equipment being replaced be subject to an NSPS or NESHAP (to include MACT) standard, they can still use the procedures of R307-401-11, **provided** the replacement equipment is subject to the same requirements of the NSPS, NESHAP, MACT, etc., and all other requirements of the R307-401-11 are also met. Any questions that arise should be discussed with section managers.

Rule Language:

R307-401-11 Replacement-in-Kind

(1) Applicability. Existing process equipment or pollution control equipment that is covered by an existing approval order or State Implementation Plan requirement may be replaced using the procedures in (2) below if:

- (a) the potential to emit of the process equipment is the same or lower;*
- (b) the number of emission points or emitting units is the same or lower;*
- (c) no additional types of air contaminants are emitted as a result of the replacement;*
- (d) the process equipment or pollution control equipment is identical to or functionally equivalent to the replaced equipment;*
- (e) the replacement does not change the basic design parameters of the process unit or pollution control equipment;*
- (f) the replaced process equipment or pollution control equipment is permanently removed from the stationary source, otherwise permanently disabled, or permanently barred from operation;*
- (g) the replaced process equipment or pollution control equipment does not trigger New Source Performance Standards or National Emissions Standards for Hazardous Air Pollutants under 42 U.S.C. 7411 or 7412; and*
- (h) The replacement of the control apparatus or process equipment does not violate any other provision of Title R307.*

(2) Replacement-in-Kind Procedures

- (a) In lieu of filing a notice of intent under R307-401-5, the owner or operator of a stationary source shall submit a written notification to the director before replacing the equipment. The notification shall contain a description of the replacement-in-kind equipment, including the control capability of any control apparatus and a demonstration that the conditions of (1) above are met.*
- (b) If the replacement-in-kind meets the conditions of (1) above, the director will update the source's approval order and notify the owner or operator. Public review under R307-401-7 is not required for the update to the approval order.*

(3) If the replaced process equipment or pollution control equipment is brought back into operation, it shall constitute a new emissions unit.

This Guideline shall be audited every five years by the Major Source NSR Section Manager to determine the current status and relevance of the information.