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DARM- PER-10
(Revised)

TO: District Air Program Administrators
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FROM:  Joseph Kahn, Director
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SUBJECT: REVISION OF EXISTING GUIDANCE MEMO DARM-PER-10
"Guidance on Incorporation of Existing Permit Conditions into Title V Permits"

DATE: July 28, 2009

This revision to DARM-PER-10 corrects obsolete rule citations and updates the guidance to reflect rule changes since initial issuance.

General Requirements

Pursuant to Rule 62-213.440, Florida Administrative Code (FAC), Title V permits must incorporate all applicable requirements for the Title V Source and for each method of operation. The term "applicable requirement" is defined in Rule 62-210.200, FAC and includes standards and requirements of certain preconstruction permits; air operation permits; standards or requirements of state and federal air program rules; standards and requirements that are part of an approved local air program as long as they don't conflict with the acid rain program or Power Plant Siting Act (PPSA) requirements. Air construction permit conditions that are obsolete need not be included in a Title V permit pursuant to Rule 62-210.300, FAC. An example of an obsolete condition would be the requirement to conduct initial testing if the unit has already completed the test and demonstrated compliance. Conditions originating in an air construction permit need not be incorporated verbatim into the Title V permit as long as the original meaning is not changed. Rule language should be incorporated into the permit as precisely as possible.

Conditions that originate from a settlement agreement related to litigation of an air permit may not be obsolete and the Office of General Counsel should be contacted before such conditions

are removed. Generally speaking, conditions that establish permanent requirements (e.g., an emission limit; a requirement to operate control equipment) should be included in future permits while conditions that have been satisfied (e.g., submit an application for a new permit or install a control device) need not be included in future permits. Consent Orders or Consent Decrees that have not been fulfilled should be included in the Title V permit as a compliance plan. Air-related conditions that originate from a PPSA requirement should also be included in the Title V permit. Rule 17-2.111, FAC, states that any changes to conditions in a Title V permit "automatically" change the site certification. It is important, therefore, that any requested change to a Title V permit condition originating from the site certification be discussed with the Siting Office. The Siting Office may determine that a requested change must go through the Siting amendment or modification process prior to a Title V permit change. The review of a Title V renewal application must be conducted with the same thoroughness as the initial Title V application. All permitting offices must thoroughly review the renewal application to identify the applicable requirements. Permitting offices must ensure any updates to state or federal rule requirements are included in the Title V permit renewal (e.g. change in state's Annual Operating Report due date; updates to EPA' s New Source Performance Standards). All permitting offices are required to use the Title V permit formats established and updated by the Division of Air Resource Management's Title V Section. Title V permit application shall be processed in accordance with Rule 62-213.430, FAC or Rule 62-213.405, F AC for a construction permit requested concurrently with a Title V application, and meet the content requirements of Rule 62-213.440, FAC.

Requests for Changes to Permits

An applicant can request changes in a permit at any time. Changes to a condition originating from an air construction permit must be made through the air construction permit process. This can be done by making a revision to an active construction permit or by issuing a new air construction permit. The applicant can submit an application to make this change with a concurrent air construction/Title V application pursuant to Rule 62-213.405, FAC. Note that concurrent processing is at the option of the applicant and not the Department. The responsible official submitting a concurrent air construction/Title V application must waive the air construction permit time clock which allows the draft actions on the air construction and Title V permit applications to be processed at the same time. In addition, the applicant may need to submit a compliance plan for activities that are yet to be completed. The Division's New Source Review Section should be consulted regarding any requested changes to an underlying Prevention of Significant Deterioration (PSD) permit.

All permitting offices should review requested permit condition changes and evaluate whether the requested change would trigger new federal or state rule requirements. This is especially true if a change is requested in a throughput or emission limitation.