

CHAPTER IV -- ADMINISTRATIVE PROCEDURES FOR SOURCES

Rule 5-400 - Permit Requirement and Application Shield

(a) Permit Requirement

No person shall operate an emissions unit at a stationary source subject to the requirements of Regulation 5 except in compliance with permits to operate issued pursuant to Regulation 5 or under the protection of the application shield of subsection (b). Except as provided in subsection (b) and in Rule 5.405(c), operation of an emissions unit at a source subject to Regulation 5 without a permit issued pursuant to Regulation 5 constitutes a violation of Regulation 5. Operation of an emissions unit at a permitted source out of compliance with the terms of the permit constitutes a violation of Regulation 5.

Regulation 5 does not alter any applicable requirement that a source obtain pre-construction permits.

[Reference: 40 CFR 70.7(a)(6) and (b)]

(b) Application Shield

If a responsible official submits, pursuant to Regulation 5, a timely and complete application for a permit, a source shall not be deemed in violation of the requirement to have a permit to operate until the Air Pollution Control Officer takes final action on the application.

[Reference: 40 CFR 70.7(b) and (e)(2)(v)]

This application shield does not apply to sources applying for permit modifications. For permit modifications, a source shall operate in accordance with the applicable federal requirements, the permit to operate issued pursuant to Regulation 5 and any temporary permit to operate issued pursuant to Section 42301.1 of the Health and Safety Code.

[Reference: 40 CFR 70.7(a)(6)(iii), 70.7(b) and (e)(2)(v)]

(c) Compliance with Other Permit Requirements

If a responsible official submits a timely and complete application for an initial permit, the source shall operate in accordance with the requirements of any valid permit to operate issued pursuant to Section 42301 of the Health and Safety Code until the Air Pollution Control Officer takes final action on the application. If a responsible official submits a timely and complete application for renewal of a permit to operate, the source shall operate in accordance with the permit to operate issued pursuant to Regulation 5, notwithstanding expiration of this permit, until the Air Pollution Control Officer takes final action on the application.

(d) Termination of Application Shield

The application shield of subsection (b) shall cease to insulate a source from enforcement action if a responsible official of the source fails to submit any additional information requested by the Air Pollution Control Officer pursuant to Rule 5.420 in a timely manner as specified by the Air Pollution Control Officer.

[Reference: 40 CFR 70.7(b)]

Rule 5-405 - Application Requirements

(a) Initial Permit

- (1) For a source that is subject to Regulation 5 by operation of Rule 5.300(a)(5) on the effective date of Regulation 5, a responsible official shall submit a complete standard TS District application within 180 days after the effective date of Regulation 5;
[Reference: 40 CFR 70.5(a)(1) and (c)(10)]
- (2) For a source that is subject to Regulation 5 by operation of Rule 5.300(a)(1) through (a)(4) on the effective date of Regulation 5, a responsible official shall submit a complete standard District application within 12 months after the effective date of Regulation 5;
[Reference: 40 CFR 70.5(a)(1) and (c)(10)]
- (3) For a source that becomes subject to Regulation 5 after the date the rule becomes effective, a responsible official shall submit a complete standard District application for a permit pursuant to Regulation 5 within 12 months after commencing operation or of otherwise becoming subject to District Regulation 5;
[Amended November 14, 2000]
- (4) For a source with an acid rain unit, a responsible official shall submit a standard District application and acid rain permit applications to the District as provided in Subsections (1) or (2) above. If the source is subject to Regulation 5 because of Rule 5.300(a)(1), a responsible official shall submit a standard District application and acid rain permit applications to the District by January 1, 1996 or, if applicable, by a later date established pursuant to 40 CFR Part 72.
[Reference: 40 CFR 70.5(a) and (c)(10)]

(b) Permit Renewal

For renewal of a permit, a responsible official shall submit a complete standard District application no earlier than 18 months and no later than 6 months before the expiration date of the current permit to operate. A responsible official shall submit applications for renewal of permits to operate for all emissions units at a stationary source for simultaneous review.

[Reference: 40 CFR 70.5(a)(1)(iii)]

(c) Significant Permit Modification

After obtaining any required preconstruction permits, a responsible official shall submit a standard District application for each emissions unit affected by a proposed permit revision that qualifies as a significant permit modification. Upon request by the Air Pollution Control Officer, the responsible official shall submit copies of the latest preconstruction permit for each affected emissions unit. The emissions unit(s) shall not commence operation until the Air Pollution Control Officer takes final action to approve the permit revision.

[Reference: 40 CFR 70.5(a)(1)(ii)]

(d) Minor Permit Modification

After obtaining any required preconstruction permits, a responsible official shall submit a standard District application for each emissions unit affected by the proposed permit revision that qualifies as a minor permit modification. The emissions unit(s) affected by the proposed permit modification shall not commence operation until the Air Pollution Control Officer takes final action to approve the permit revision. In the application, the responsible official shall include the following:

- (1) A description of the proposed permit revision, any change in emissions, and additional applicable federal requirements that will apply;
- (2) Proposed permit terms and conditions; and
- (3) A certification by a responsible official that the permit revision meets criteria for use of minor permit modification procedures and a request that such procedures be used.
[Reference: 40 CFR 70.5(a)(ii) and 70.7(e)(2)(ii and v)]

(e) Acid Rain Unit Permit Modification

A permit modification of the acid rain portion of the operating permit shall be governed by regulations promulgated pursuant to Title IV of the Clean Air Act.

[Reference: 40 CFR 70.7(e)]

Rule 5-410 - Standard District Application

A responsible official filing an application for a permit pursuant to Regulation 5 must submit that application on standard District application forms. Additional information that does not fit on the standard forms may be attached.

Rule 5-415 - Application Content

When submitting an application for a permit pursuant to Regulation 5, the responsible official shall include the following information:

- (a) Information identifying the source;
[Reference: 40 CFR 70.5(c)(1)]
- (b) Description of processes and products (by Standard Industrial Classification Code) including any associated with proposed alternative operating scenarios;
[Reference: 40 CFR 70.5(c)(2)]
- (c) A schematic diagram and plot plan of the stationary source, identifying each emissions unit and keyed to the listing of subsection (d);
- (d) A listing and enumeration of all existing emissions units at the stationary source, keyed to the diagram and plot plan of subsection (c), and identification and description of all points of emissions from the emissions units in sufficient detail to establish the applicable federal requirements and the basis for fees pursuant to Regulation 1, Rules 300 and 310;
[Reference: 40 CFR 70.5(c)(3)(i)]

- (e) Citation and description of all applicable federal requirements, information and calculations used to determine the applicability of such requirements and other information that may be necessary to implement and enforce such requirements;
[Reference: 40 CFR 70.5(c)(3)(vii) and (4)(i and ii)]
- (f) Calculation of all emissions, including fugitive emissions, in tons per year and in such terms as are necessary to establish compliance with the all applicable District, state, or federal requirements for the following:

 - (1) All regulated air pollutants emitted from the source;
 - (2) Any hazardous air pollutant that the source has the potential to emit in quantities equal to or in excess of 10 tons per year; and
 - (3) If the source has the potential to emit two or more hazardous air pollutants in quantities equal to or in excess of 25 tons per year, all hazardous air pollutants emitted by the source.
[Reference: 40 CFR 70.5(c)(3)(i and viii)]
- (g) As these affect emissions from the source, the identification of fuels, fuel use, raw materials, production rates, operating schedules, limitations on source operation or work place practices;
[Reference: 40 CFR 70.5(c)(3)(iv and vi)]
- (h) An identification and description of air pollution control equipment and compliance monitoring devices or activities;
[Reference: 40 CFR 70.5(c)(3)(v)]
- (i) Other information required by an applicable federal requirement;
[Reference: 40 CFR 70.5(c)(3)(vii) and (5)]
- (j) The information needed to define permit terms or conditions implementing a source's options for operational flexibility, including alternative operating scenarios, pursuant to subsection Rule 5.580;
[Reference: 40 CFR 70.5(c)(7)]
- (k) A compliance plan and compliance schedule with the following:

 - (1) A description of the compliance status of each emissions unit within the stationary source with respect to applicable federal requirements;
 - (2) A statement that the source will continue to comply with such other applicable federal requirements that the source is already in compliance with;
 - (3) A statement that the source will comply, on a timely basis, with applicable federal requirements that will become effective during the permit term; and
 - (4) A description of how the source will achieve compliance with requirements for which the source is not in compliance.
[Reference: 40 CFR 70.5(c)(8)]

- (l) For a source not in compliance with an applicable federal requirement at the time of permit issuance, renewal, and modification (if the non-compliance is with units being modified), a schedule of compliance which resembles and is at least as stringent as that contained in any judicial consent decree, administrative order, or schedule approved by the District hearing board if required by state law and which identifies remedial measures with specific increments of progress, a final compliance date, testing and monitoring methods, recordkeeping requirements, and a schedule for submission of certified progress reports to the U.S EPA and the Air Pollution Control Officer at least every 6 months;

[Reference: 40 CFR 70.5(c)(8)(iii)(C)]
[Amended: November 14, 2000]

- (m) A certification by a responsible official of all reports and other documents submitted for permit application forms, progress reports at least every 6 months, statements on compliance status with any applicable enhanced monitoring, and compliance plans at least annually which shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;

[Reference: 40 CFR 70.5(c)(9) and (d)]
[Amended: November 14, 2000]

- (n) For a source with an acid rain unit, an application shall include the elements required by 40 CFR Part 72.

[Reference: 40 CFR 70.5(c)(10)]

- (o) For a source of hazardous air pollutants required to submit a risk management plan pursuant to Section 112(r) of the Clean Air Act, the application shall include verification that such a plan has been submitted to the authorized implementing agency, or a compliance schedule for the submittal of the plan; and

- (p) For proposed portable sources, the application shall identify all locations of potential operation and how the source will comply with all applicable District, state, and federal requirements at each location.

[Reference: 40 CFR 70.6(e)]

- (q) Identification of fees specified in Regulation 1, Rules 300 and 310.

[Reference: 40 CFR 70.6(a)(7)]

An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required in Rules 300-370 of Regulation 1.

[Reference: 40 CFR 70.5 (c)]
[Amended: November 14, 2000]

Rule 5-420 - Correctness of Applications

- (a) A responsible official of a source shall submit an accurate and complete application in accordance with the requirements of the District.

- (b) Upon written request of the Air Pollution Control Officer, a responsible official shall supplement any complete application with additional information within the timeframe specified by the Air Pollution Control Officer.
- (c) A responsible official shall promptly provide additional information in writing to the Air Pollution Control Officer upon discovery of submittal of any inaccurate information as part of the application or as a supplement thereto, or of any additional relevant facts previously omitted that are needed for accurate analysis of the application.
- (d) Intentional or negligent submittal of inaccurate information constitutes sufficient reason for denial of an application.

[Reference: 40 CFR 70.5(a)(2) and (b)]

Rule 5-425 - Written Requests for District Action

A responsible official shall submit a written request to the Air Pollution Control Officer for the following permit actions:

(a) Administrative Permit Amendment

A responsible official may implement an administrative permit amendment change upon submittal of the request to the District, except that transfer of ownership must be processed by the District.

[Reference: 40 CFR 70.7(d)(3)]

(b) Permit Modification for a Condition that is not Federally Enforceable

For a permit modification for a condition that is not federally enforceable, a responsible official shall submit a written request in accordance with the requirements of Regulation 1, Rule 200.

(c) Permits to Operate for New Emissions Units

For permits to operate for a new emissions unit at a stationary source, a responsible official shall submit a written request in accordance with the requirements of Regulation 1, Rule 230, except under the following circumstances:

- (1) The construction or operation of the emissions unit is a modification under U.S. EPA regulations promulgated pursuant to Title I of the Clean Air Act, including 40 CFR Parts 51, 52, 60, 61, 63;

[Reference: 40 CFR 70.7(e)(2)(i)(A)(5)]

- (2) The construction or operation of the emissions unit is addressed or prohibited by permits for other emissions units at the stationary source; or

[Reference: 40 CFR 70.5(a)(ii)]

- (3) The emissions unit is an acid rain unit subject to Title IV of the Clean Air Act.

[Reference: 40 CFR 70.7(e)]

In the circumstances specified in subsections (c)(1), (c)(2) or (c)(3), a responsible official shall apply for a permit to operate for the new emissions unit pursuant to the requirements of Regulation 5.

Rule 5-430 - Response to Permit Reopening for Cause

Upon notification by the Air Pollution Control Officer of a reopening of a permit for cause for an applicable federal requirement pursuant to Rule 5.570, a responsible official shall respond to any written request for information by the Air Pollution Control Officer within the time frame specified by the Air Pollution Control Officer.

[Reference: 40 CFR 70.6(a)(6)(v)]

Rule 5-440 - Portable Sources

(a) Any portable source that may operate at two or more locations shall meet all applicable District, state and applicable federal requirements at each location.

(b) A responsible official shall notify the Air Pollution Control Officer not sooner than thirty days and not later than ten days before a change in location of a portable source that may operate at two or more locations.

[Reference: 40 CFR 70.6(e)]

Rule 5-450 - Emergency Events

(a) The permittee shall comply with the requirements of Regulation 1, Rule 540 and the emergency provisions contained in all applicable federal requirements;

(b) Within two weeks of an emergency event, the responsible official shall submit to the District a signed contemporaneous log or other relevant evidence that demonstrates that:

(1) An emergency occurred;

(2) The permittee can identify the cause(s) of the emergency;

(3) The facility was being properly operated at the time of the emergency;

(4) All steps were taken to minimize the emissions resulting from the emergency;
and

(5) Within two working days of the emergency event, the permittee provided the District with a description of the emergency and any mitigating or corrective actions taken.

(c) In any enforcement proceeding, the permittee has the burden of proof to establish that an emergency occurred.

[Reference: 40 CFR 70.6(g)]

Rule 5-455 – Record keeping

- (a) A responsible official shall maintain records of all monitoring and support information associated with any applicable federal requirement, including:
 - (1) Date, place, and time of sampling;
 - (2) Operating conditions at the time of sampling;
 - (3) Date, place, and method of analysis; and
 - (4) Results of the analysis.
- (b) A responsible official shall retain records of all required monitoring data and support information for a period of at least five years from the date of sample collection, measurement, report, or application; and
- (c) A responsible official shall maintain any other records deemed necessary by the Air Pollution Control Officer to ensure compliance with all applicable federal requirements.

Rule 5-460 - Reporting Requirements

- (a) A responsible official shall submit to the District a monitoring report at least every six months which shall identify any deviation from permit requirements, including that information previously reported to the Air Pollution Control Officer pursuant to subsection (b).
- (b) A responsible official shall submit to the District a report of any deviation from permit requirements, including those attributable to emergency or breakdown conditions (as defined in the permit). This information shall be promptly reported to the Air Pollution Control Officer who will determine what constitutes "prompt" reporting in terms of the requirement, the degree, and type of deviation likely to occur.
- (c) Each report of a deviation from permit requirements shall describe the probable cause of the deviation and any preventative or corrective action taken.
- (d) Each monitoring report submitted pursuant to subsection (a) or (b) shall be accompanied by a written statement from the responsible official that certifies the truth, accuracy, and completeness of the report.
- (e) A responsible official shall submit to the District a progress report on a compliance schedule at least semi-annually and shall include the date when compliance will be achieved, an explanation of why compliance was not, or will not be, achieved by the scheduled date, and a log of any preventative or corrective action taken.

[Reference: 40 CFR 70.6(a)(3)(ii)]

Rule 5-470 - Voluntary Emissions Caps

To the extent applicable federal requirements provide for averaging emissions increases and decreases within a stationary source without case-by-case approval, a responsible official may request, subject to approval by the Air Pollution Control Officer, to permit one or more emissions unit(s) under a voluntary emissions cap, subject to the following conditions:

- (a) The stationary source and each emissions unit must comply with all applicable federal requirements, including those authorizing emissions averaging;
- (b) Emissions from any individual emissions unit shall not exceed any emissions limitation, standard, or other requirement;
- (c) Any emissions limitation, standard, or other requirement shall be enforced through continuous emission monitoring, where applicable; and
- (d) All affected emissions units under a voluntary emissions cap shall be considered to be operating in violation of the permit, if the voluntary emissions cap is exceeded.