

CHAPTER VI -- PERMIT CONTENT

[Reference: 40 CFR 70.6]

Rule 5-600 - Applicable Federal Requirements

A permit to operate issued pursuant to Regulation 5 shall contain permit conditions that will assure compliance with all applicable federal requirements. A permit to operate shall incorporate all applicable federal requirements as permit conditions. The following procedure shall be used to incorporate an applicable federal requirement as a permit condition:

- (a) A permit condition that addresses an applicable federal requirement shall be specifically identified in the permit, or otherwise distinguished from any requirement that is not enforceable by the U.S. EPA;
- (b) Where an applicable federal requirement and a similar requirement that is not federally enforceable apply to the same emissions unit, both shall be incorporated as permit conditions, provided that they are not mutually exclusive; and
- (c) Where an applicable federal requirement and a similar requirement that is not federally enforceable apply to the same emissions unit and are mutually exclusive (e.g., require different air pollution control technology), the requirement specified in the preconstruction permit (or, in the case of sources without preconstruction permits, the more stringent requirement) shall be incorporated as a permit condition and the other requirement shall be referenced.

[Reference: 40 CFR 70.3(c)(1) and 70.6(a)(1) and (b)]

Rule 5-610 - General Requirements for Permit Content

A permit to operate issued pursuant to Regulation 5 shall contain conditions or terms consistent with 40 CFR Part 70.6, Permit Content, including:

(a) Equipment Identification

The permit shall identify the equipment to which a permit condition applies;

(b) Emission and Operational Limitations

The permit shall contain conditions that require compliance with all applicable federal requirements, including any operational limitations or requirements;

[Reference: 40 CFR 70.6(a)(1)]

(c) Pre-construction Permit Requirements

The permit shall include all of the pre-construction permit conditions for each emissions unit. The permit shall clearly identify those permit conditions that are federally enforceable and those that are not;

(d) Origin and Authority for Permit Conditions

The permit shall identify the origin and authority for each permit term or condition;

[Reference: 40 CFR 70.6(a)(1)(i)]

(e) Right of Entry

The permit shall require that the source allow the entry of the District, ARB, or U.S. EPA officials for the purpose of inspection and sampling, including:

- (1) Inspection of the stationary source, including equipment, work practices, operations, and emission-related activity;
- (2) Inspection and duplication of records required by the permit to operate; and
- (3) Source sampling or other monitoring activities.

[Reference: 40 CFR 70.6(c)(2)]

(f) Determination of Compliance

The permit shall specify the monitoring methods or other methods (e.g. air quality modeling) approved by the Air Pollution Control Officer, that will be used to demonstrate compliance with each applicable District, state and federal requirements. For portable sources, this must be done for each site at which the source will be permitted to operate;

(g) Compliance with Permit Conditions

The permit shall include the following provisions regarding compliance:

- (1) The permittee shall comply with all permit conditions;
- (2) The permit does not convey property rights or exclusive privilege of any sort;
- (3) Violation of any permit condition is grounds for enforcement action by the District, including monetary civil penalties, permit termination, revocation and reissuance of the permit, permit modification, or denial of permit renewal;
- (4) The "need to halt or reduce a permitted activity in order to maintain compliance" shall not constitute a defense for non-compliance with any permit condition;
- (5) A pending permit action or notification of anticipated non-compliance does not stay any permit condition; and
- (6) Within a reasonable time period, the permittee shall furnish any information requested by the Air Pollution Control Officer, in writing, for the purpose of determining compliance with the permit, or whether or not cause exists for a permit action or enforcement.

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

(h) Severability

The permit shall include a severability clause to ensure the continued validity of otherwise unaffected permit requirements in the event of a challenge to any portion of the permit.

[Reference: 40 CFR 70.6(a)(5)]
[Amended: November 14, 2000]

Rule 5-615 – Record keeping

A permit issued pursuant to Regulation 5 shall include conditions that require a responsible official to maintain and retain records in accordance with Rule 5.455. The permit shall state such requirements explicitly, and not by reference.

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

Rule 5-620 - Monitoring, Testing, and Analysis

A permit issued pursuant to Regulation 5 shall contain conditions that require monitoring, analytical methods, compliance certification, test methods, equipment management, and statistical procedures consistent with any applicable federal requirement, including those pursuant to Sections 114(a)(3) and 504(b) of the Clean Air Act, and 40 CFR Part 64. The permit shall require periodic monitoring sufficient to yield reliable data which are representative of the source's compliance with permit conditions over the relevant time period. The permit shall state such requirements explicitly, and not by reference.

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

Rule 5-625 - Reporting

The permit shall include reporting conditions that require a responsible official to report in accordance with the requirements of Rule 5.460. The permit shall state such requirements explicitly, and not by reference. The permit shall contain a condition or conditions specifying what constitutes "prompt" reporting of deviations from a permit requirement.

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

Rule 5-630 - Compliance Plan

A permit issued pursuant to Regulation 5 shall include a compliance plan that does the following:

- (a) Describes the compliance status of each emissions unit with respect to each applicable federal requirement;
- (b) Describes how compliance will be achieved if an emissions unit is not in compliance with an applicable federal requirement at the time of permit issuance;
- (c) Assures that an emissions unit will continue to comply with those permit conditions with which it is in compliance; and

- (d) Assures that an emissions unit will comply, on a timely basis with any applicable federal requirement that will become effective during the permit term.

[Reference: 40 CFR 70.6(c)]

Rule 5-635 - Compliance Schedule

A permit issued pursuant to Regulation 5 shall include a compliance schedule for any emissions unit that is not in compliance with current applicable federal requirements at the time of permit issuance, renewal, and modification (if the non-compliance is with units being modified). The compliance schedule shall resemble and be 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 shall include the following requirements:

[Amended: November 14, 2000]

- (a) A statement that the emissions unit will continue to comply with those permit conditions with which it is in compliance;
- (b) A statement that the emissions unit will comply with any future applicable federal requirement on a timely basis;
- (c) For each condition with which the emissions unit is not in compliance which addresses an applicable federal requirement, a schedule of compliance that lists all preventative or corrective activities, and the dates when these activities will be accomplished; and
- (d) For each emissions unit that is not in compliance with an applicable federal requirement, a schedule of progress reports submitted no less frequently than semi-annually which include: 1) the date when compliance will be achieved, 2) an explanation of why compliance was not, or will not be, achieved by the scheduled date, and 3) a log of any preventative or corrective actions taken.

[Reference: 40 CFR 70.5(c)(8) and 70.6(c)(3)]

Rule 5-640 - Emergency Provisions

A permit issued pursuant to Regulation 5 shall include a condition requiring compliance with the provisions of Rule 5.450. The permit shall state that in any enforcement proceeding, the permittee has the burden of proof to establish that an emergency occurred.

[Reference: 40 CFR 70.6(g)]

Rule 5-645 - Portable Sources

The permit for any portable source, which may operate at two or more locations, shall contain conditions that require the portable source to meet the requirements of Rule 5.440.

[Reference 40 CFR 70.6(e)]

Rule 5-650 - Compliance Certification

Each permit shall contain conditions for compliance certification which include the following requirements:

- (a) The responsible official shall submit a compliance certification to the U.S. EPA and the Air Pollution Control Officer every 12 months or more frequently as specified in an applicable requirement of the District. All compliance reports and other documents required to be submitted to the District by the responsible official shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete;

[Amended: November 14, 2000]

- (b) The compliance certification shall identify the basis for each permit term or condition (e.g., specify the emissions limitation, standard, or work practice) and a means of monitoring compliance with the term or condition;
- (c) The compliance certification shall include the compliance status and method(s) used to determine compliance for the current time period and over the entire reporting period; and
- (d) The compliance certification shall include any additional inspection, monitoring, or entry requirement that may be promulgated pursuant to Sections 114(a) and 504(b) of the Clean Air Act.

[Reference: 40 CFR 70.6(b)(5)]

Rule 5-660 - Permit Life

With the exception of acid rain units subject to Title IV of the Clean Air Act and solid waste incinerators subject to Section 129(e) of the Clean Air Act, each permit issued pursuant to Regulation 5 to operate for any source shall include a condition for a fixed term not to exceed five years from the time of issuance. A permit to operate for an acid rain unit shall have a fixed permit term of five years. A permit to operate for a solid waste incinerator shall have a permit term of 12 years; however, the permit shall be reviewed at least every five years.

[Reference: 40 CFR 70.6(a)(2)]

Rule 5-670 - Payment of Fees

A permit issued pursuant to Regulation 5 shall include a condition to ensure that appropriate permit fees are paid on schedule. If fees are not paid on schedule, the permit is forfeited. Operation without a permit subjects the source to potential enforcement action by the District and the U.S. EPA pursuant to Section 502(a) of the Clean Air Act.

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

Rule 5-675 - Alternative Operating Scenarios

Where a responsible official requests that an alternative operating scenario be included in the permit for an emissions unit, a permit issued pursuant to Regulation 5 shall contain specific conditions for each operating scenario, including each alternative operating scenario. Each operating scenario, including each alternative operating scenario, identified in the permit must meet all applicable federal requirements and all of the requirements of this Section. Furthermore, the source is required to maintain a contemporaneous log to record each change from one operating scenario to another.

[Reference: 40 CFR 70.6(a)(9)]

Rule 5-680 - Voluntary Emissions Caps

The permit for each such emissions unit at a stationary source that is operating under a voluntary emissions cap shall include federally-enforceable conditions requiring that:

- (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.

[Reference: 40 CFR 70.6(a)(10)]

Rule 5-690 - Acid Rain Units Subject to Title IV

The permit for an acid rain unit shall include conditions that require compliance with any federal standard or requirement promulgated pursuant to Title IV (Acid Deposition Control) of the Clean Air Act and any federal standard or requirement promulgated pursuant to Title V of the Clean Air Act, except as modified by Title IV. Acid rain unit permit conditions shall include the requirements of 40 CFR Part 72.9 and the following provisions:

- (a) The sulfur dioxide emissions from an acid rain unit shall not exceed the annual emissions allowances (up to one ton per year of sulfur dioxide may be emitted for each emission allowance allotted) that the source lawfully holds for that unit under Title IV of the Clean Air Act or the regulations promulgated pursuant to Title IV;
- (b) Any increase in an acid rain unit's sulfur dioxide emissions authorized by allowances acquired pursuant to Title IV of the Clean Air Act shall not require a revision of the acid rain portion of the operating permit provided such increases do not require permit revision under any other applicable federal requirement;

- (c) Although there is no limit on the number of sulfur dioxide emissions allowances held by a source, a source with an acid rain unit shall not use these emissions allowances as a defense for noncompliance with any applicable federal requirement or District requirement, including Regulation 1, Rule 220; and
- (d) An acid rain unit's sulfur dioxide allowances shall be accounted for according to the procedures established in regulations promulgated pursuant to Title IV of the Clean Air Act.
[Reference: 40 CFR 70.6(a)(4)]