

## NORTHERN SONOMA COUNTY AIR POLLUTION CONTROL DISTRICT

### **Regulation 5 -- Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990**

*(Adopted October 12, 1993)(Amended May 8, 2001)*

#### **Chapter I -- PURPOSE AND GENERAL REQUIREMENTS**

[Reference: 40 CFR 70.1, 70.4, 70.6(a)(6) and 70.7(a)(6) and (b)]

##### **Rule 5.100 PURPOSE**

The purpose of Regulation 5 is to implement the requirements of Title V of the federal Clean Air Act, as amended in 1990, for permits to operate. Additionally, Regulation 5 is used to implement the Phase II acid deposition control provisions of Title IV of the Clean Air Act, including provisions for Acid Rain Permits.

##### **Rule 5.110 GENERAL REQUIREMENTS OF REGULATION 5**

After the effective date of Regulation 5, the Northern Sonoma County Air Pollution Control District will implement an operating permit program pursuant to the requirements of this Regulation, as provided in Title V. Title V provides for the establishment of operating permit programs for sources which emit regulated air pollutants, including attainment and nonattainment pollutants.

Sources subject to Regulation 5 include major sources, acid rain units subject to Title IV of the Clean Air Act, solid waste incinerators subject to section 111 or 129 of the Clean Air Act, and any other sources specifically designated by rule of the U.S. EPA.

Sources subject to Regulation 5 shall obtain permits to operate pursuant to it. Each permit to operate issued pursuant to Regulation 5 will contain conditions and requirements adequate to ensure compliance with and the enforceability of the following:

- (a) All applicable provisions of Division 26 of the Health and Safety Code, commencing with section 39000;
- (b) All applicable orders, rules, and regulations of the District and the California Air Resources Board;
- (c) All applicable provisions of the applicable implementation plan required by the Clean Air Act;
- (d) Each applicable emission standard or limitation, rule, regulation, or requirement adopted or promulgated to implement the Clean Air Act; and

(e) The requirements of all preconstruction permits issued pursuant to Parts C and D of the Clean Air Act.

The operation of an emissions unit to which Regulation 5 is applicable without a permit or in violation of any applicable permit condition or requirement constitutes a violation of Regulation 5.

#### **Rule 5.120 PRECEDENCE OVER CONFLICTING REQUIREMENTS AND CONTINUATION OF EXISTING PROGRAM**

The requirements of Regulation 5 shall augment and take precedence over conflicting administrative requirements of other provisions of the District's rules and regulations, if any.

Regulation 5 does not alter any applicable requirement that a source obtain preconstruction permits, or permits to operate pursuant to Health and Safety Code Section 42301. The District will continue to implement its existing program pertaining to prevention of significant deterioration, Regulation 1, Rule 220, and permits required by Regulation 1, Rules 200, 220 and 240, including authorities to construct, Rule 200 or new source review, Rule 220. Nothing in Regulation 5 limits the authority of the District, including the hearing board, to deny, revoke or terminate a permit pursuant to provisions of state law, including California Health and Safety Code Sections 40808 and 42301-42309, or to impose conditions on a permit pursuant to state law.

#### **NORTHERN SONOMA COUNTY AIR POLLUTION CONTROL DISTRICT**

#### **Regulation 5 -- Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990**

*(Adopted October 12, 1993)(Amended May 8, 2001)*

#### **Chapter II -- DEFINITIONS USED IN REGULATION 5**

#### **Rule 5.200 DEFINITIONS**

The definitions in this section apply throughout Regulation 5 and are derived from related provisions of the U.S. EPA's Title V regulations in Part 70 of the Code of Federal Regulations, "State Operating Permit Programs." The terms defined in this section are italicized throughout Regulation 5.

(a1) *Acid Rain Unit*

An "acid rain unit" is any fossil-fuel-fired combustion device that is an affected unit under 40 CFR Part 72.6 and therefore subject to the requirements of Title IV (Acid Deposition Control) of the Clean Air Act.

[Reference: 40 CFR 70.2 Affected Unit]

(a2) ***Administrative Permit Amendment***

An "administrative permit amendment" is an amendment to a permit to operate which:

- (1) Corrects a typographical error;
- (2) Identifies a minor administrative change at the stationary source; for example, a change in the name, address, or phone number of any person identified in the permit;
- (3) Requires more frequent monitoring or reporting by a responsible official of the stationary source; or
- (4) Transfers ownership or operational control of a stationary source, provided that, prior to the transfer, the Air Pollution Control Officer receives a written agreement which specifies a date for the transfer of permit responsibility, coverage, and liability from the current to the prospective permittee.

[Reference: 40 CFR 70.7(d)]

(a3) ***Affected State***

An "affected state" is any state that is contiguous with the District and whose air quality may be affected by a permit action, or is within 50 miles of the source for which a permit action is being proposed.

[Reference: 40 CFR 70.2 Affected States]

(a4) ***Air Pollution Control Officer (APCO)***

"Air Pollution Control Officer" refers to the air pollution control officer of the Northern Sonoma County Air Pollution Control District, appointed pursuant to Health and Safety Code Section 40750.

(a5) ***Applicable Federal Requirement***

An "applicable federal requirement" is any requirement which is enforceable by the U.S. EPA and citizens pursuant to section 304 of the Clean Air Act and is set forth in, or authorized by, the

Clean Air Act or a U.S. EPA regulation. An "applicable federal requirement" includes any requirement of a regulation in effect at permit issuance and any requirement of a regulation that becomes effective during the term of the permit. Applicable federal requirements include:

(1) Title I requirements of the Clean Air Act, including:

(A) New Source Review requirements in the State Implementation Plan approved by the U.S. EPA and the terms and conditions of the preconstruction permit issued pursuant to an approved New Source Review rule;

(B) Prevention of Significant Deterioration (PSD) requirements and the terms and conditions of the PSD permit (40 CFR Part 52);

(C) New Source Performance Standards (40 CFR Part 60);

(D) National Ambient Air Quality Standards, increments, and visibility requirements as they apply to portable sources required to obtain a permit pursuant to section 504(e) of the Clean Air Act;

(E) National Emissions Standards for Hazardous Air Pollutants (40 CFR Part 61);

(F) Maximum Achievable Control Technology or Generally Available Control Technology Standards (40 CFR Part 63);

(G) Risk Management Plan preparation and registration requirements (section 112(r) of the Clean Air Act);

(H) Solid Waste Incineration requirements (sections 111 or 129 of the Clean Air Act);

(I) Consumer and Commercial Product requirements (section 183 of the Clean Air Act);

(J) Tank Vessel requirements (section 183 of the Clean Air Act);

(K) District prohibitory rules that are approved into the state implementation plan;

(L) Standards or regulations promulgated pursuant to a Federal Implementation Plan; and

(M) Enhanced Monitoring and Compliance Certification requirements (section 114(a)(3) of the Clean Air Act).

(2) Title III, section 328 (Outer Continental Shelf) requirements of the Clean Air Act (40 CFR Part 55);

(3) Title IV (Acid Deposition Control) requirements of the Clean Air Act (40 CFR Parts 72, 73, 75, 76, 77, 78 and regulations implementing sections 407 and 410 of the Clean Air Act);

(4) Title VI (Stratospheric Ozone Protection) requirements of the Clean Air Act (40 CFR Part 82); and

(5) Monitoring and Analysis requirements (section 504(b) of the Clean Air Act).  
[Reference: 40 CFR 70.2: Applicable Requirement]

(c1) ***California Air Resources Board (ARB)***

"California Air Resources Board" refers to the Air Resources Board of the State of California, created by Health and Safety Code Division 26, Part 2.

(c2) ***Clean Air Act (Clean Air Act)***

"Clean Air Act" refers to the federal Clean Air Act as amended in 1990 (42 U.S.C. section 7401 et seq.).

(c3) ***Code of Federal Regulations (CFR)***

"Code of Federal Regulations" refers to the United States Code of Federal Regulations.

(c4) ***Commence Operation***

"Commence operation" means to begin operation (q.v.) of an emissions unit, including any start-up or shakedown period authorized by a temporary permit to operate issued pursuant to Health and Safety Code section 42301.1.

(d1) ***Direct Emissions***

"Direct emissions" are emissions that may reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

(d2) ***District***

"District" refers to the Northern Sonoma County Air Pollution Control District.

(e1) ***Effective Date of Regulation 5***

The "effective date of Regulation 5" is the date the District Board adopts the rule.

[Reference: 40 CFR 70.4 (g)]

(e2) ***Emergency***

An "emergency" is any situation arising from a sudden and reasonably unforeseeable event beyond the control of a permittee (e.g., an act of God) which causes the exceedance of a technology-based emission limitation under a permit and requires immediate corrective action to restore compliance. An "emergency" does not include noncompliance as a result of improperly designed or installed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

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

(e3) ***Emissions Unit***

An "emissions unit" is any identifiable article, machine, contrivance, or operation which emits, may emit, or results in the emissions of, any regulated air pollutant or hazardous air pollutant.

[Reference: 40 CFR 70.2 ; Emissions Unit]

(e4) ***Federally-enforceable Condition***

A "federally-enforceable condition" is any condition set forth in the permit to operate which addresses an applicable federal requirement or a voluntary emissions cap.

[Reference: 40 CFR 70.6(h)]

(f1) ***Fugitive Emissions***

"Fugitive emissions" are emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

[Reference: 40 CFR 70.2 Fugitive Emissions]

(h1) ***Hazardous Air Pollutant (HAP)***

A "hazardous air pollutant" is any air pollutant listed pursuant to section 112(b) of the Clean Air Act.

(h2) ***Health and Safety Code (H&SC)***

"Health and Safety Code" refers to the California Health and Safety Code.

(i1) ***Initial Permit***

An "initial permit" is the first operating permit for which a source submits an application that addresses the requirements of the federal operating permits program as implemented by Regulation 5.

(m1) ***Major Source***

A "major source" is a stationary source which has the potential to emit a regulated air pollutant or a hazardous air pollutant in quantities equal to or exceeding the lesser of any of the following thresholds:

- (1) 100 tons per year (tpy) of any regulated air pollutant;
- (2) 50 tpy of volatile organic compounds or oxides of nitrogen for a federal nonattainment area classified as serious, 25 tpy for an area classified as severe, or, 10 tpy for an area classified as extreme;
- (3) 70 tpy of PM10 (particulate matter of 10 microns or less) for a federal PM10 nonattainment area classified as serious;
- (4) 10 tpy of one hazardous air pollutant or 25 tpy of two or more hazardous air pollutants; or
- (5) Any lesser quantity threshold promulgated by the U.S. EPA.  
[Reference: 40 CFR 70.2 ;Major Sources]

(m2) ***Minor Permit Modification***

A "minor permit modification" is any modification to a federally-enforceable condition on a permit to operate which is not a significant permit modification, and is not an administrative permit amendment.

[Reference: 40 CFR 70.7 (e)(2)]

(o1) ***Operation***

"Operation" means any physical action resulting in a change in the location, form or physical properties of a material, or any chemical action including combustion resulting in a change in the chemical composition or the chemical or physical properties of a material, which results in or may result in the emission of a regulated air pollutant.

(p1) ***Permit Modification***

A "permit modification" is any addition, deletion, or revision to a permit to operate condition.

[Reference: 40 CFR 70.2; Permit Modification and Permit Revision]

(p2) ***Potential to Emit***

For the purposes of Regulation 5, "potential to emit" as it applies to an emissions unit and a stationary source is defined below.

(1) Emissions Unit The "potential to emit" for an emissions unit is the maximum capacity of the unit to emit a regulated air pollutant or hazardous air pollutant considering the unit's physical and operational design. Physical and operational limits on the emissions unit shall be treated as part of its design, if the limitations are set forth in permit conditions or in rules or regulations that are legally and practicably enforceable by the U.S. EPA and citizens or by the District. Physical and operational limitations shall include but are not limited to, the following: limits placed on emissions; and restrictions on operations such as hours of operation and type or amount of material combusted, stored, or processed.

(2) Stationary Source The "potential to emit" for a stationary source is the sum of the potential to emit from all emissions units at the stationary source. If two or more hazardous air pollutants are emitted at a stationary source, the potential to emit for each of those hazardous air pollutants shall be combined to determine applicability. Fugitive emissions shall be considered in determining the potential to emit for: 1) sources as specified in 40 CFR Part 70.2 Major Source (2), and 2) sources of hazardous air pollutant emissions. Notwithstanding the above, any hazardous air pollutant emissions from any oil or gas exploration or production well (with its associated equipment) and any pipeline compressor or pump station shall not be aggregated with emissions of similar units for the purpose of determining a major source of hazardous air pollutants, whether or not such units are located in contiguous areas or are under common control.

[Reference: 40 CFR 70.2; Potential to Emit and Major Source (2)]

(p3) ***Preconstruction Permit***

A "preconstruction permit" is a permit authorizing construction and includes:



(1) An Authority To Construct issued pursuant to the District's program for the prevention of significant deterioration of air quality required by section 165 of the Clean Air Act or Regulation 1, Rule 220 of the District; or

(2) An Authority To Construct issued pursuant to the District's new source review program required by sections 172 and 173 of the Clean Air Act or Regulation 1, Rule 220.

[Reference: 40 CFR 70.2; Applicable Requirement (2)]

**(r1) *Regulated Air Pollutant***

A "regulated air pollutant" is any pollutant which is emitted into or otherwise enters the ambient air, and for which the U.S. EPA has adopted an emission limit, standard, or other requirement. Regulated air pollutants include the following:

(1) Oxides of nitrogen and volatile organic compounds;

(2) Any pollutant for which a national ambient air quality standard has been promulgated pursuant to section 109 of the Clean Air Act;

(3) Any pollutant subject to a new source performance standard promulgated pursuant to section 111 of the Clean Air Act;

(4) Any ozone-depleting substance specified as a Class I (chlorofluorocarbons) or Class II (hydrofluorocarbons) substance pursuant to Title VI of the Clean Air Act; and

(5) Any pollutant subject to a standard or requirement promulgated pursuant to section 112 of the Clean Air Act, including:

a. Any pollutant listed pursuant to section 112(r) of the Clean Air Act (Prevention of Accidental Releases) shall be considered a "regulated air pollutant" upon promulgation of the list.

b. Any hazardous air pollutant subject to a standard or other requirement promulgated by the U.S. EPA pursuant to section 112(d) or adopted by the District pursuant to 112(g) and (j) of the Clean Air Act shall be considered a "regulated air pollutant" for all sources or categories of sources: 1) upon promulgation of the standard or requirement, or 2) 18 months after the standard or requirement was scheduled to be promulgated pursuant to section 112(e)(3) of the Clean Air Act.

c. Any hazardous air pollutant subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the U.S. EPA promulgation or scheduled promulgation of an emissions limitation shall be considered a "regulated air pollutant" when the determination is made pursuant to section 112(g)(2) of the Clean Air Act. In case-by-case emissions limitation determinations, the hazardous air pollutant shall be considered a "regulated

air pollutant" only for the individual source for which the emissions limitation determination was made.

[Reference: 40 CFR 70.2 ;Regulated Air Pollutant]

**(r2) *Responsible Official***

A "responsible official" is an individual with the authority to certify that a source complies with all applicable federal requirements and federally-enforceable conditions of permits issued to sources in accordance with Regulation 5. "Responsible official" means one of the following:

(1) For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

a. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

b. The delegation of authority to such representative is approved in advance by the Air Pollution Control Officer;

(2) For a partnership or sole proprietorship, a general partner or the proprietor, respectively;

(3) For a municipality, state, federal, or other public agency, either a principal executive officer or a ranking elected official; or

(4) For an acid rain unit subject to Title IV (Acid Deposition Control) of the Clean Air Act, the "responsible official" is the designated representative of that unit for any purposes under Title IV and Regulation 5.

[Reference: 40 CFR 70.2; Responsible Official]

**(s1) *Significant Permit Modification***

A "significant permit modification" is any modification to a federally-enforceable condition on a permit to operate which:

(1) Involves any modification under section 112(g) of Title I of the Clean Air Act or under U.S. EPA regulations promulgated pursuant to Title I of the Clean Air Act, including 40 CFR Parts

51, 52, 60, 61, and 63;

- (2) Significantly changes monitoring conditions;
- (3) Provides for the relaxation of any reporting or recordkeeping conditions;
- (4) Involves a permit term or condition which allows a source to avoid an applicable federal requirement, including: 1) a federally-enforceable voluntary emissions cap assumed in order to avoid triggering a modification requirement of Title I of the Clean Air Act, or 2) an alternative hazardous air pollutant emission limit pursuant to section 112(i)(5) of the Clean Air Act;
- (5) Involves a case-by-case determination of any emission standard or other requirement; or
- (6) Involves a source-specific determination for ambient impacts, visibility analysis, or increment analysis on portable sources.

[Reference: 40 CFR 70.7 (e)(2) and (4)]

**(s2) *Solid Waste Incinerator***

A "solid waste incinerator" is any incinerator which burns solid waste material from commercial, industrial, medical, general public sources (e.g., residences, hotels, or motels), or other categories of solid waste incinerators subject to a performance standard promulgated pursuant to sections 111 or 129 of the Clean Air Act. The following incinerators are excluded from the definition of "solid waste incinerator" for the purpose of Regulation 5:

- (1) Any hazardous waste incinerator required to obtain a permit under the authority of section 3005 of the Solid Waste Disposal Act (42 U.S.C. section 6925);
- (2) Any materials recovery facility which primarily recovers metals;
- (3) Any qualifying small power production facility as defined in 16 U.S.C.A. section 796(17)(C);
- (4) Any qualifying cogeneration facility which burns homogenous waste for the production of energy as defined in 16 U.S.C.A. section 796(18)(B); or
- (5) Any air curtain incinerator which burns only wood, yard, or clean lumber waste and complies with the opacity limitations to be established by the Administrator of the U.S. EPA.

**(s3) *Stationary Source***

For the purposes of Regulation 5, a "stationary source" is any building, structure, facility, or installation (or any such grouping) that:

- (1) Emits, may emit, or results in the emissions of any regulated air pollutant or hazardous air pollutant;
- (2) Is located on one or more contiguous or adjacent properties;
- (3) Is under the ownership, operation, or control of the same person (or persons under common control) or entity; and
- (4) Belongs to a single major industrial grouping; for example, each building, structure, facility, or installation in the grouping has the same two-digit code under the system described in the 1987 Standard Industrial Classification Manual.

[Reference: 40 CFR 70.2 Stationary Source]

(u1) *United States Environmental Protection Agency (U.S. EPA)*

"United States Environmental Protection Agency" refers to the Administrator or designated representative of the "United States Environmental Protection Agency."

(v1) *Voluntary Emissions Cap*

A "voluntary emissions cap" is an optional, federally-enforceable emissions limit on one or more emissions unit(s) which a source assumes in order to avoid an applicable federal requirement. The source remains subject to all other applicable federal requirements.

NORTHERN SONOMA COUNTY AIR POLLUTION CONTROL DISTRICT

**Regulation 5 -- Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990**

*(Adopted October 12, 1993)(Amended May 8, 2001)*

**Chapter III -- APPLICABILITY OF REGULATION 5**

**Rule 5.300 APPLICABILITY**

(a) *Sources Subject to Regulation 5*

[Reference: 40 CFR 70.3 (3)]

The sources listed below are subject to the requirements of Regulation 5:

- (1) *A major source;*

(2) A source with an *acid rain unit* for which application for an Acid Rain Permit is required pursuant to Title IV of the *Clean Air Act*;

(3) A *solid waste incinerator* subject to a performance standard promulgated pursuant to section 111 or 129 of the *Clean Air Act*;

(4) Any other source in a source category designated pursuant to 40 CFR Part 70.3 by rule of the *U.S. EPA*; and

(5) Any source that is subject to a standard or other requirement promulgated pursuant to section 111 or 112 of the *Clean Air Act*, published after July 21, 1992, designated pursuant to 40 CFR Part 70.3 by the *U.S. EPA* at the time the new standard or requirement is promulgated.

**(b) Sources Exempt from Regulation 5**

[Reference: 40 CFR 70.3 (b)]

The sources listed below are not subject to the requirements of Regulation 5:

(1) Any stationary source that would be required to obtain a permit solely because it is subject to 40 *CFR* Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters);

(2) Any stationary source that would be required to obtain a permit solely because it is subject to 40 *CFR* Part 61, Subpart M, section 145 (National Emission Standards for Asbestos, Standard for Demolition and Renovation); and

(3) Any other source in a source category deferred pursuant to 40 CFR Part 70.3 by *U.S. EPA* rulemaking, unless such source is otherwise subject to Title V (i.e., it is a major source).

**NORTHERN SONOMA COUNTY AIR POLLUTION CONTROL DISTRICT**

**Regulation 5 -- Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990**

*(Adopted October 12, 1993)(Amended May 8, 2001)*

**Chapter IV -- ADMINISTRATIVE PROCEDURES FOR SOURCES**

**Rule 5.400 PERMIT REQUIREMENT AND APPLICATION SHIELD**

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

**(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 preconstruction permits.

**(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 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)]

**(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.

(e) The application shield of subsection (b) 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 70.6 (a) (6)(iii) and 70.7(b) and (e)(2)(v)]

**Rule 5.405 APPLICATION REQUIREMENTS**

[Reference: 40 CFR 70.5]

(a) **Initial Permit**

(1) For a source that is subject to Regulation 5 on the date the rule becomes effective, a responsible official shall submit a complete standard District application within 12 months after the date the rule becomes effective.

[Reference: 40 CFR 70.5 (a)(1) and (c)(10)]

(2) 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 1 within 12 months after commencing operation or otherwise becoming subject to Regulation 5.

(3) For a source with an acid rain unit a responsible official shall submit application for initial Phase II acid rain permits shall be submitted to the District by January 1, 1996 for sulfur dioxide and for coal-fired units by January 1, 1998 for oxides of nitrogen.

(b) ***Permit Renewal***

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

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.

(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)(iii)]

(d) ***Minor Permit Modification***

[Reference: 40 CFR 70.5 (a)(ii) and 70.7(e)(92)(ii and v)]

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.

(e) Acid Rain Unit Permit Modification

[Reference: 40 CFR 70.7 (e)]

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.

**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 which does not fit on the standard forms may be attached.

**Rule 5.415 APPLICATION CONTENT**

[Reference: 40 CFR 70.5]

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 section VII, below;

[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 workplace 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 applicable federal requirements that the source is in compliance,

(3) A statement that the source will comply, on a timely basis, with applicable federal requirements that will become effective during the permit term,

(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)]

(m) A certification by a responsible official of all reports and other documents submitted for permit application, compliance 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 the 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)]

(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 prepare a risk management plan pursuant to 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 include a compliance schedule for the

submittal of such a plan; and

(p) For proposed portable sources, an 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.

(q) Identification of fees specified in Regulation 1, Rule 300;

(r) Insignificant Activities

(1) For the purposes of this rule, an insignificant activity shall be any activity, process, or emissions unit which is not subject to a source-specific applicable federal requirement and which emits no more than 0.5 tons per year of a HAP and no more than two tons per year of a regulated air pollutant that is not a HAP. Source-specific applicable federal requirements include requirements for which emission unit-specific information is required to determine applicability.

(2) 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 Regulation 1 Rule 360 [Reference:40 CFR Part 70.5(c)].

#### **Rule 5.420 CORRECTNESS OF APPLICATIONS**

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

(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 time frame 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 which are needed for accurate analysis of the application.

(d) Intentional or negligent submittal of inaccurate information constitutes sufficient reason for denial of an application.

#### **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

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

A responsible official may implement an administrative permit amendment changes, except that transfer of ownership must be processed by the District.

(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 proposed new 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 proposed new emissions unit is an acid rain unit subject to Title IV of the Clean Air Act.

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.

[Reference: 40 CFR 70.7 (e)]

**Rule 5.430 RESPONSE TO PERMIT REOPENING FOR CAUSE**

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

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.

NORTHERN SONOMA COUNTY AIR POLLUTION CONTROL DISTRICT

**Regulation 5 -- Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990**

*(Adopted October 12, 1993)(Amended May 8, 2001)*

**Chapter V -- DISTRICT ADMINISTRATIVE PROCEDURES**

**Rule 5.500 COMPLETENESS REVIEW OF APPLICATIONS**

[Reference: 40 CFR 70.5 (a)(2) and 70.7(a)(4)]

The Air Pollution Control Officer shall determine if an application is complete and shall notify the responsible official of the determination within the following time frames:

- (a) For an initial permit, permit renewal, or a significant permit modification, within 60 days of receiving the application;
- (b) For a minor permit modification, within 30 days of receiving the application;

The application shall be deemed complete unless the Air Pollution Control Officer requests additional information or otherwise notifies the responsible official that the application is incomplete within the time frames specified above.

**Rule 5.510 NOTIFICATION OF COMPLETENESS DETERMINATION**

[Reference: 40 CFR 70.7 (e)(2)(iii) and 70.8(a)(1 and 2)]

The Air Pollution Control Officer shall provide written notification of the completeness determination to the U.S. EPA, the Air Resources Board and any affected state and shall submit a copy of the complete application to the U.S. EPA within five working days of the determination. The Air Pollution Control Officer need not provide notification for applications from sources that are not major sources, except as determined by the U.S. EPA.

**Rule 5.520 APPLICATION PROCESSING TIME FRAMES**

[Reference: 40 CFR 70.7 (a)(2)]

The Air Pollution Control Officer shall act on a complete application in accordance with the procedures in Rules 5.540, 5.545, and 5.550 (except as application procedures for acid rain units are provided for under regulations promulgated pursuant to Title IV of the Clean Air Act), and take final action within the following time frames:

- (a) For an initial permit for a source subject to Regulation 5 on the date the rule becomes effective, no later than three years after the date the rule becomes effective;

[Reference: 40 CFR 70.4 (b)(11)]

(b) For an initial permit for a source that becomes subject to Regulation 5 after the date the rule becomes effective, no later than 18 months after the complete application is received;

(c) For a permit renewal, no later than 18 months after the complete application is received;

(d) For a significant permit modification, no later than 18 months after the complete application is received ;

(e) For a minor permit modification, within 90 days after the application is received or 60 days after written notice to the U.S. EPA on the proposed decision, whichever is later; or

[Reference: 40 CFR 70.7 (e)(2)(iv)]

(f) For any permit application with early reductions pursuant to section 112(i)(5) of the Clean Air Act, within 9 months from the date a complete application is received.

[Reference: 40 CFR 70.4 (b)(11)(iii)]

(g) The District shall review permits to operate simultaneously for all emissions units at a stationary source for initial issuance or renewal.

#### **Rule 5.530 DISTRICT ANALYSIS OF PERMIT APPLICATION**

The District analysis of any application for an operating permit under Regulation 5, or for renewal of such a permit, shall set forth the legal and factual bases for the proposed decision to grant or deny the permit, including references to the applicable statutory and regulatory provisions.

#### **Rule 5.540 NOTIFICATION AND OPPORTUNITY FOR REVIEW OF PROPOSED DECISION**

[Reference: 40 CFR 70.7 (h) and 70.8)]

Within the applicable time frame specified in Rule 5.520, the Air Pollution Control Officer shall provide official and public notice of and opportunity to review the proposed decision to issue a permit to operate in accordance with requirements of this Rule.

##### *(a) Official Notice*

For initial permits, renewal of permits, significant permit modifications, and reopenings for cause, the Air Pollution Control Officer shall send official written notice of the proposed decision to the responsible official, the Air Resources Board, adjacent air pollution control districts and any affected state. Official notice shall include the proposed permit and, upon request, copies of the District analysis.

[Reference: 40 CFR 70.7 (h)(3)and 70.8(b)(1)]

For minor permit modifications, the Air Pollution Control Officer shall provide official written notice of the proposed decision to the responsible official, the Air Resources Board and any affected state.

The Air Pollution Control Officer shall send Official Notice of proposed permit decisions by certified mail, return receipt requested.

*(b) Public Notice*

For initial permits, renewal of permits, significant permit modifications, and reopenings for cause, the Air Pollution Control Officer shall provide public notice of the proposed decision by publication in at least one newspaper of general circulation in the District and, if necessary, by other means to assure adequate notice to the affected public and by mail to persons who request such notification.

*(c) Contents of Public Notice*

Public notice shall include the following information:

- (1) The identification of the source, the name and address of the applicant, the activities and emissions and change in emissions involved in the permit action;
- (2) The name and address of the District, the name and telephone number of District staff to contact for additional information;
- (3) The availability, upon request, of the District Analysis, setting forth the legal and factual basis for the proposed decision;
- (4) The location where the public may inspect the complete application, the District analysis, and the proposed permit;
- (5) A statement that the public may submit written comments regarding the proposed decision within at least 30 days from the date of publication and a brief description of commenting procedures; and
- (6) The date, time and place of the public hearing on the proposed decision or a statement that members of the public may request a public hearing if a hearing has not been scheduled. The Air Pollution Control Officer shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing.

[Reference: 40 CFR 70.7 (a)(5) and 70.7(h)(1,2 and4)]

*(d) Notice to U.S. EPA*

After completion of the public notice and comment period pursuant to subsection (f), the Air Pollution Control Officer shall send written notice to the U.S. EPA of the proposed decision along with copies of the proposed permit, the District analysis, the public notice submitted for publication, the District's response to written comments, and all necessary supporting information.

For minor permit modifications, the Air Pollution Control Officer shall provide written notice of the proposed decision to the U.S. EPA, the Air Resources Board, and any affected state. Additionally, the District shall provide to the U.S. EPA (and, upon request, to the Air Resources Board or any affected state) copies of the proposed permit, the District analysis, and all necessary supporting information.

*(e) Availability of Documents*

The Air Pollution Control Officer shall make available for public inspection during normal business hours copies of the following documents:

- (1) The complete application;
- (2) The District analysis;
- (3) The proposed permit;
- (4) All submitted written comments which are postmarked by the close of the public notice and comment period of subsection (f) and the District's written response to persons or agencies that submitted such comments.

*(f) Opportunity for Comment and Public Hearing*

- (1) The District shall receive written comments regarding the proposed decision for 30 days from the date of publication of Public Notice pursuant to subsection (b).
- (2) At any time during the public comment period, members of the public may request a public hearing as provided in Regulation 1, Rule 250. The Air Pollution Control Officer shall provide notice of any public hearing scheduled to address the proposed decision at least 30 days prior to such hearing.

**Rule 5.545 CHANGES TO THE PROPOSED DECISION**

Changes to the proposed decision shall be governed by the following procedure:



(a) The Air Pollution Control Officer may modify or change the proposed decision, the proposed permit, or the District analysis on the basis of information set forth in the comments received during the public comment period provided pursuant to Rule 5.540 (f)(1), or due to further analysis of the Air Pollution Control Officer. Pursuant to Rule 5.540(d), the Air Pollution Control Officer shall forward any such modified proposed decision, the proposed permit, any changes or additions to the District analysis, and all necessary supporting information to the U.S. EPA.

[Reference: 40 CFR 70.7 (g)(5) and 70.8(b)(2)]

(b) If the U.S. EPA objects in writing to the proposed decision within 45 days of being notified of the proposed decision and receiving a copy of the proposed permit and all necessary supporting information pursuant to Rule 5.540(d), the Air Pollution Control Officer shall not issue the permit. Also, if the public petitions the U.S. EPA within 60 days after the end of the U.S. EPA's 45-day review period and the permit has not yet been issued, the APCO shall not issue the permit until U.S. EPA objections in response to the petition are resolved. The Air Pollution Control Officer shall either deny the application or revise and resubmit a permit which addresses the deficiencies identified in the U.S. EPA objection within the following time frames:

(1) For initial permits, permit renewals, and significant permit modifications, within 90 days of receiving the U.S. EPA objection; or

(2) For minor permit modifications, within 90 days of receipt of the application or 60 days of the notice to U.S. EPA, whichever is later.

[Reference: 40 CFR 707.e (2)(iv) and 70.8(c)]

### **Rule 5.550 PERMIT ISSUANCE OR DENIAL**

If the U.S. EPA does not object in writing within 45 days of the notice provided pursuant to Rule 540(d), or the Air Pollution Control Officer submits a revised permit pursuant to Rule 545, the Air Pollution Control Officer shall expeditiously issue the final permit to operate or deny the application. In any case, the Air Pollution Control Officer shall take final action on an application within the applicable time frame specified in Rule 5.520. Failure of the Air Pollution Control Officer to act on a permit application or permit renewal application in accordance to the time frames provided in Rule 5.520, shall constitute final action for purposes of obtaining judicial review to require that action on the application be taken expeditiously.

[Reference: 40 CFR 70.4 (b)(xi), 70.7(a)(1)(v) and (a)(2), and 70.8(c)]

The Air Pollution Control Officer shall send written notification of the final issuance or denial of a permit to the responsible official of the source, the U.S. EPA, the Air Resources Board and any person or affected state that submitted comments during the public comment period. Written notification of any refusal by the District to accept all recommendations for the proposed permit that an affected state submitted during the public comment period shall be sent to U.S. EPA and affected states. The Air Pollution Control Officer shall submit a copy of a permit to operate, as

issued, to the U.S. EPA and provide a copy to any person or agency requesting a copy. If the application is denied, the Air Pollution Control Officer shall provide reasons for the denial in writing to the responsible official along with the District analysis and cite the specific statute, rule, or regulation upon which the denial is based.

[Reference: 40 CFR 70.8 (a)(1)]

### **Rule 5.560 DISTRICT ACTION ON WRITTEN REQUESTS**

The Air Pollution Control Officer shall act on a written request of a responsible official for permit action using the applicable procedure specified in this subsection.

#### *(a) Administrative Permit Amendment*

The Air Pollution Control Officer shall take final action no later than 60 days after receiving the written request for an administrative permit amendment.

(1) After designating the permit revisions as an administrative permit amendment, the Air Pollution Control Officer may revise the permit without providing notice to the public or any affected state.

(2) The Air Pollution Control Officer shall provide a copy of the revised permit to the responsible official and the U.S. EPA.

(3) While the Air Pollution Control Officer need not make a completeness determination on a written request, the Air Pollution Control Officer shall notify the responsible official if the Air Pollution Control Officer determines that the permit can not be revised as an administrative permit amendment.

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

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

[Reference: 40 CFR 70.4 (b)(14)and 70.6(b)]

The Air Pollution Control Officer shall take action on a written request for a permit modification for a condition that is not federally enforceable in accordance with the requirements of Regulation 1, Rule 240 under the following circumstances:

(1) Any change at the stationary source allowed by the permit modification shall meet all applicable federal requirements and shall not violate any existing permit term or condition; and

(2) The Air Pollution Control Officer provides to the U.S. EPA a contemporaneous written notice describing the change, including the date, any change in emissions or air pollutants emitted, and any applicable federal requirement that would apply as a result of the change.

*(c) Permits to Operate for New Emissions Unit*

The Air Pollution Control Officer shall take action on a written request for a permit to operate for a new emissions unit in accordance with the requirements of Regulation 1, Rule 240 under the circumstances specified in Rule 5.560(b). However, if Rule 5.425(c) applies, the Air Pollution Control Officer shall require the submittal of a standard District application and take action on that application pursuant to the requirements of Regulation 5.

**Rule 5.570 PERMIT REOPENING FOR CAUSE**

[Reference: 40 CFR 70.7 (f)]

(a) The Air Pollution Control Officer shall reopen and revise a permit to operate during the annual review period required by Health and Safety Code Section 42301(c), or petition the District hearing board to do so pursuant to Health and Safety Code Section 42307, whichever is applicable, prior to its expiration date upon discovery of cause for reopening or upon notification of cause for reopening by the U.S. EPA, or within 18 months of promulgation of a new applicable federal requirement. The Air Pollution Control Officer shall act only on those parts of the permit for which cause to reopen exists.

[Reference: 40 CFR 70.7 (f)(2)]

(b) Circumstances that are cause for reopening and revision of a permit include, but are not limited to, the following:

(1) The need to correct a material mistake or inaccurate statement;

(2) The need to revise or revoke a permit to operate to assure compliance with applicable federal requirements;

(3) The need to incorporate any new, revised, or additional applicable federal requirements, if the remaining authorized life of the permit is 3 years or greater, no later than 18 months after the promulgation of such requirement (where less than 3 years remain in the authorized life of the permit, the Air Pollution Control Officer shall incorporate these requirements into the permit to operate upon renewal); or

(4) The need to reopen a permit issued to acid rain unit subject to Phase II of Title IV of the Clean Air Act to include:

(A) Oxides of nitrogen requirements prior to January 1, 1999, and

(B) Additional requirements promulgated pursuant to Title IV as they become applicable to any acid rain unit governed by the permit.

[Reference: 40 CFR 70.7 (f)(1)]

(c) In processing a permit reopening, the Air Pollution Control Officer shall use the same procedures as for an initial permit and shall additionally:

(1) Provide written notice to a responsible official and the U.S. EPA at least 30 days, or a shorter period in the case of an emergency, prior to reopening a permit; and

(2) Complete action to revise the permit as specified in the notice of reopening within 60 days after the written notice to the U.S. EPA pursuant to Rule 5.540(d), if the U.S. EPA does not object, or after the Air Pollution Control Officer has responded to U.S. EPA objection pursuant to Rule 5.545(b).

[Reference: 40 CFR 70.7 (f)(2 and 3) and (g)(i)]

### **Rule 5.580 OPERATIONAL FLEXIBILITY**

The Air Pollution Control Officer shall allow specified changes in operations at a source without requiring a permit revision for conditions that address an applicable federal requirement. The Air Pollution Control Officer shall not allow changes which constitute a modification under Title I of the Clean Air Act or Regulation 1, Rules 130(m2), 200, or 220, or that result in an exceedance of the emissions allowable under the facility's permit, whether expressed therein as a rate of emissions or in terms of total emissions without revision to the permit. The source may gain operational flexibility through use of the following options:

[Reference: 40 CFR 70.4 (b)(12) and (d)(3)(viii)]

#### *(a) Alternative Operating Scenarios*

The Air Pollution Control Officer shall allow the use of alternative operating scenarios provided that:

(1) Terms and conditions applicable to each operating scenario are identified by the responsible official in the permit application; and

(2) The terms and conditions are approved by the Air Pollution Control Officer; and

(3) The terms and conditions are incorporated into the permit; and

(4) The terms and conditions are in compliance with all applicable District, state, and federal requirements.

A permit condition shall require a contemporaneous log to record each change made from one operating scenario to another.

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

(b) *Voluntary Emissions Caps*

The Air Pollution Control Officer shall issue a permit that contains terms and conditions that allow for trading of emissions increases and decreases within the stationary source solely for the purpose of complying with a voluntary emissions cap established in the permit independent of otherwise applicable federal requirements provided that:

- (1) The requirements of subsections (a)(1), (a)(3) and (a)(4), above, are met;
- (2) The terms and conditions are approved by the Air Pollution Control Officer as quantifiable and enforceable; and
- (3) The terms and conditions are consistent with the applicable preconstruction permit.

A permit condition shall require that a responsible official provide written notice to the U.S EPA and Air Pollution Control Officer 30 days in advance of a change by clearly requesting operational flexibility under this Rule. The written notice shall describe the change, identify the emissions unit which will be affected, the date on which the change will occur and the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not.

[Reference: 40 CFR 70.4 (b)(12)(iii)and 70.6(a), (a)(10) and (c)]

(c) *Contravening an Express Permit Condition*

The Air Pollution Control Officer shall allow for changes in operation that contravene an express condition addressing an applicable federal requirement in a permit to operate provided that the following conditions are met:

- (1) The change will not violate any applicable federal requirement;
- (2) The change will not contravene federally-enforceable conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements;
- (3) The change is not a modification under Title I of the Clean Air Act or any provision of Regulation 1, Rule 220;
- (4) The change does not result in exceeding the emissions allowable under the permit, whether expressed therein as a rate of emissions or in terms of total emissions;
- (5) Written notice is given to the U.S. EPA and Air Pollution Control Officer 30 days in advance of a change, and the notice clearly indicates which term or condition will be contravened, requests operational flexibility under this subsection, describes the change, identifies the

emissions units which will be affected, the date on which the change will occur, the duration of the change, any change in emissions of any air pollutant, whether regulated or not, and any new emissions of any air pollutant not emitted before the change, whether regulated or not; and

(6) The Air Pollution Control Officer has not provided a written denial to the responsible official within 30 days of receipt of the request for an operational change. The written denial shall identify which of the requirements of subsections (1), (2), (3) or (4) above have not been satisfied.

[Reference: 40 CFR 70.4(b)(12)]

## NORTHERN SONOMA COUNTY AIR POLLUTION CONTROL DISTRICT

### **Regulation 5 -- Procedures for Issuing Permits to Operate for Sources Subject to Title V of the Federal Clean Air Act Amendments of 1990**

*(Adopted October 12, 1993)(Amended May 8, 2001)*

### **Chapter VI -- PERMIT CONTENT REQUIREMENTS**

[Reference: 40 CFR 70.6]

#### **Rule 5.600 APPLICABLE FEDERAL REQUIREMENTS**

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

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.

#### **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***

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

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

(c) ***Preconstruction Permit Requirements***

[Reference: 40 CFR 70.2 Applicable Requirement (2) and 70.3(c)]

The permit shall include all of the preconstruction permit conditions for each emissions unit. The permit shall clearly identify those permit conditions which are federally enforceable and those which are not.

(d) ***Origin and Authority for Permit Conditions***

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

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

(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.

(f) ***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, modification, enforcement action, 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.

(g) *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.

**Rule 5.615 RECORDKEEPING**

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

A permit issued pursuant to Regulation 5 shall include recordkeeping conditions that require:

- (a) Record maintenance 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) Retention of 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) Any other recordkeeping deemed necessary by the Air Pollution Control Officer to ensure



compliance with all applicable federal requirements.

### **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. Periodic monitoring shall be required as a condition to ensure that the monitoring is sufficient to yield reliable data which are representative of the source's compliance with permit conditions over the relevant time period.

### **Rule 5.625 REPORTING**

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

The permit shall include reporting conditions that require a responsible official to report the following information:

(a) Any deviation from permit requirements, including that attributable to upset 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;

(b) A monitoring report shall be submitted at least every six months and shall identify any deviation from permit requirements, including that information previously reported to the Air Pollution Control Officer pursuant to subsection (a);

(c) All reports of a deviation from permit requirements shall include the probable cause of the deviation and any preventative or corrective action taken;

(d) A progress report shall be made 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; and

(e) Each monitoring report shall be accompanied by a written statement from the responsible official which certifies the truth, accuracy, and completeness of the report.

### **Rule 5.630 COMPLIANCE PLAN**

[Reference: 40 CFR 70.5 (c)(8)]

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

(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 bases with any applicable federal requirement that will become effective during the permit term.

#### **Rule 5.635 COMPLIANCE SCHEDULE**

[Reference: 40 CFR 70.5 (c)(8)(iii)(C)]

A permit issued pursuant to Regulation 5 shall include a compliance schedule for any emissions unit which 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 include the following requirements:

(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 on a timely bases with any future applicable federal requirement that will become effective during the permit term;

(c) For each condition with which the emissions unit is not in compliance which addresses an applicable federal requirement, a schedule of compliance which 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.

#### **Rule 5.640 EMERGENCY PROVISIONS**

[Reference: 40 CFR 70.6 (g)]

A permit issued pursuant to Regulation 5 shall include the following emergency provisions:

(a) The responsible official shall submit to the District a signed contemporaneous log or other relevant evidence which 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;
- (b) In any enforcement proceeding, the permittee has the burden of proof to establish that an emergency occurred; and
- (c) In addition to the emergency provisions above, the permittee shall comply with the emergency provisions contained in all applicable federal requirements and District requirements.

### **Rule 5.650 COMPLIANCE CERTIFICATION**

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

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 or by 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;
- (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.

#### **(e) Compliance Certifications**

Notwithstanding any other provision in any plan approved by the District, for the purpose of submission of compliance certifications the owner or operator is not prohibited from using the following in addition to any specified compliance methods:

- (1) An enhanced monitoring protocol approved for the source pursuant to 40 CFR Part 64.

(2) Any other monitoring method approved for the source pursuant to 40 CFR 70.6(a)(3) and incorporated into a federally enforceable operating permit.

(f) Enforcement

Notwithstanding any other provision in the NSCAPCD implementation plan approved by the U.S.EPA, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such plan.

(1) Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at a source.

(A) An enhanced monitoring protocol approved for the source pursuant to 40 CFR Part 64.

(B) A monitoring method approved for the source pursuant to 40 CFR 70.6(a)(3) and incorporated in a federally enforceable operating permit.

(C) Compliance test methods specified in the applicable plan approved in this part.

(2) The following testing, monitoring or information gathering methods are presumptively credible testing, monitoring or information-gathering methods:

(A) Any federally-enforceable monitoring or testing methods, including those in 40 CFR parts 51, 60, 61 and 75.

(B) Other testing, monitoring or information-gathering methods that produce information comparable to that produced by any method in (1) or (2) (A).

**Rule 5.660 PERMIT LIFE**

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

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.

**Rule 5.670 PAYMENT OF FEES**

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

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.

#### **Rule 5.675 ALTERNATIVE OPERATING SCENARIOS**

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

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.

#### **Rule 5.680 VOLUNTARY EMISSIONS CAPS**

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

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. The permit for each such emissions unit shall include federally-enforceable conditions requiring that:

- (a) All applicable federal requirements, including those authorizing emissions averaging, are complied with;
- (b) No individual emissions unit shall 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.

#### **Rule 5.690 ACID RAIN UNITS SUBJECT TO TITLE IV**

[Reference: 40 CFR 70.6 (a)(4)]

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.