§ 71.5 Permit applications.

(a) Duty to apply. For each part 71 source, the owner or operator shall submit a timely and complete permit application in accordance with this section.

(1) Timely application. (i) A timely application for a source which does not have an existing operating permit issued by a State under the State’s approved part 70 program and is applying for a part 71 permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program or on or before such earlier date as the permitting authority may establish. Sources required to submit applications earlier than 12 months after the source becomes subject to the permit program will be notified of the earlier submittal date at least 6 months in advance of the date. Where an existing part 70 or 71 permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.

(ii) Part 71 sources required to meet the requirements under section 112(g) of the Act, or to have a permit under the preconstruction review program approved into the applicable implementation plan under part C or D of title I of the Act, shall file a complete application to obtain the part 71 permit or permit revision within 12 months after commencing operation or on or before such earlier date as the permitting authority may establish. Sources required to submit applications earlier than 12 months after the source becomes subject to the permit program will be notified of the earlier submittal date at least 6 months in advance of the date. Where an existing part 70 or 71 permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.

(iii) For purposes of permit renewal, a timely application is one that is submitted at least 6 months but not more that 18 months prior to expiration of the part 70 or 71 permit.

(iv) Applications for initial phase II acid rain permits shall be submitted to the permitting authority by January 1, 1996 for sulfur dioxides, and by January 1, 1998 for nitrogen oxides.

(b) Complete application. To be deemed complete, an application must provide all information required pursuant to paragraph (c) of this section, except that applications for permit revision need supply such information only if it is related to the proposed change. To be found complete, an initial or renewal application must remit payment of fees owed under the fee schedule established pursuant to § 71.9(b). Information required under paragraph (c) of this section must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official must certify the submitted information consistent with paragraph (d) of this section. Unless the permitting authority determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in §71.7(a)(4). If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. The source’s ability to operate without a permit, as set forth in §71.7(b), shall be in effect from the date

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the application is determined or
deemed to be complete until the final
permit is issued, provided that the ap-
licant submits any requested addi-
tional information by the deadline
specified by the permitting authority.

(3) Confidential information. An appli-
cant may assert a business confiden-
tiality claim for information requested
by the permitting authority using pro-
cedures found at part 2, subpart B of
this chapter;

(b) Duty to supplement or correct appli-
cation. Any applicant who fails to sub-
mit any relevant facts or who has sub-
mitted incorrect information in a per-
mit application shall, upon becoming
aware of such failure or incorrect sub-
mittal, promptly submit such supple-
mentary facts or corrected informa-
tion. In addition, an applicant shall
provide additional information as nec-
essary to address any requirements
that become applicable to the source
after the date it filed a complete appli-
cation but prior to release of a draft
permit.

(c) Standard application form and re-
quired information. The permitting au-
thority shall provide sources a stand-
ard application form or forms. The per-
mitting authority may use discretion
in developing application forms that
best meet program needs and adminis-
trative efficiency. The forms and at-
tachments chosen, however, shall in-
clude the elements specified below. An
application may not omit information
needed to determine the applicability
of, or to impose, any applicable re-
quirement, or to evaluate the fee
amount required under the schedule es-
tablished pursuant to §71.9.

(1) Identifying information, including
company name and address (or plant
name and address if different from the
company name), owner’s name and
agent, and telephone number and
names of plant site manager/contact.

(2) A description of the source’s proc-
cesses and products (by SIC Code) in-
cluding those associated with any pro-
posed AOS identified by the source.

(3) The following emissions-related
information:

(i) All emissions of pollutants for
which the source is major, and all
emissions of regulated air pollutants.
A permit application shall describe all
emissions of regulated air pollutants
emitted from any emissions unit, ex-
cept where such units are exempted
under this paragraph (c). The permit-
ting authority shall require additional
information related to the emissions of
air pollutants sufficient to verify
which requirements are applicable to
the source, and other information nec-
essary to collect any permit fees owed
under the fee schedule established pur-
suant to §71.9(b).

(ii) Identification and description of
all points of emissions described in
paragraph (c)(3)(i) of this section in
sufficient detail to establish the basis
for fees and applicability of require-
ments of the Act.

(iii) Emissions rates in tpy and in
such terms as are necessary to estab-
lish compliance consistent with the
applicable standard reference test meth-
od. For emissions units subject to an
annual emissions cap, tpy can be re-
ported as part of the aggregate emis-
sions associated with the cap, except
where more specific information is
needed, including where necessary to
determine and/or assure compliance
with an applicable requirement.

(iv) The following information to the
extent it is needed to determine or reg-
ulate emissions: fuels, fuel use, raw
materials, production rates, and oper-
ating schedules.

(v) Identification and description of
air pollution control equipment and
compliance monitoring devices or ac-
tivities.

(vi) Limitations on source operation
affecting emissions or any work prac-
tice standards, where applicable, for all
regulated pollutants at the part 71
source.

(vii) Other information required by
any applicable requirement (including
information related to stack height
limitations developed pursuant to sec-
tion 123 of the Act).

(viii) Calculations on which the in-
formation in paragraphs (c)(3) (i)
through (vii) of this section is based.

(4) The following air pollution con-
trol requirements:

(i) Citation and description of all ap-
plicable requirements; and

(ii) Description of or reference to any
applicable test method for determining
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(5) Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this part or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements.

(7) Additional information as determined to be necessary by the permitting authority to define proposed AOSs identified by the source pursuant to §71.6(a)(9) or to define permit terms and conditions implementing any AOS under §71.6(a)(9) or implementing §71.6(a)(10) or §71.6(a)(13). The permit application shall include documentation demonstrating that the source has obtained all authorization(s) required under the applicable requirements relevant to any proposed AOSs, or a certification that the source has submitted all relevant materials to the appropriate permitting authority for obtaining such authorization(s).

(8) A compliance plan for all part 71 sources that contains all the following:

(i) A description of the compliance status of the source with respect to all applicable requirements.

(ii) A description as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(C) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(D) For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(iii) A compliance schedule as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(iv) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.
(v) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under parts 72 through 78 of this chapter with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(i) A certification of compliance with all applicable requirements by a responsible official consistent with paragraph (d) of this section and section 114(a)(3) of the Act;

(ii) A statement of methods used for determining compliance, including a description of monitoring, record-keeping, and reporting requirements and test methods;

(iii) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority; and

(iv) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under parts 72 through 78 of this chapter.

(11) Insignificant activities and emissions levels. The following types of insignificant activities and emissions levels need not be included in permit applications. However, for insignificant activities which are exempted because of size or production rate, a list of such insignificant activities must be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to calculate the fee amount required under the schedule established pursuant to §71.9 of this part.

(i) Insignificant activities:

(A) Mobile sources;

(B) Air-conditioning units used for human comfort that are not subject to applicable requirements under title VI of the Act and do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;

(C) Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;

(D) Heating units used for human comfort that do not provide heat for any manufacturing or other industrial process;

(E) Noncommercial food preparation;

(F) Consumer use of office equipment and products;

(G) Janitorial services and consumer use of janitorial products; and

(H) Internal combustion engines used for landscaping purposes.

(ii) Insignificant emissions levels. Emissions meeting the criteria in paragraph (c)(11)(ii)(A) or (c)(11)(ii)(B) of this section need not be included in the application, but must be listed with sufficient detail to identify the emission unit and indicate that the exemption applies. Similar emission units, including similar capacities or sizes, may be listed under a single description, provided the number of emission units is included in the description. No additional information is required at time of application, but the permitting authority may request additional information during application processing.

(A) Emission criteria for regulated air pollutants, excluding hazardous air pollutants (HAP). Potential to emit of regulated air pollutants, excluding HAP, for any single emissions unit shall not exceed 2 tpy.

(B) Emission criteria for HAP. Potential to emit of any HAP from any single emissions unit shall not exceed 1,000 lb per year or the de minimis level established under section 112(g) of the Act, whichever is less.

(d) Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this
§ 71.6 Permit content.

(a) Standard permit requirements. Each permit issued under this part shall include the following elements:

(1) Emissions limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance. Such requirements and limitations may include ARMs identified by the source in its part 71 permit application as approved by the permitting authority, provided that no ARM shall contravene any terms needed to comply with any otherwise applicable requirement or requirement of this part or circumvent any applicable requirement that would apply as a result of implementing the ARM.

(i) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(ii) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of 40 CFR parts 72 through 78, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.

(iii) If an applicable implementation plan allows a determination of an alternative emission limit at a part 71 source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process, and the permitting authority elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(2) Permit duration. The permitting authority shall issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other sources. Notwithstanding this requirement, the permitting authority shall issue permits for solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act for a period not to exceed 12 years and shall review such permits at least every 5 years.

(b) Monitoring and related recordkeeping and reporting requirements. (i) Each permit shall contain the following requirements with respect to monitoring:

(A) All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including part 64 of this chapter and any other procedures and methods that may be promulgated pursuant to sections 114(a)(3) or 504(b) of the Act. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;

(B) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit, as reported pursuant to paragraph (a)(3)(ii) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph (a)(3)(i)(B); and

(C) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(ii) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and