

**REGULATION 1**

**GENERAL PROVISIONS**

**REGULATION 1.01 General Application of Regulations and Standards**

**Air Pollution Control District of Jefferson County  
Jefferson County, Kentucky**

**Relates To:** KRS Chapter 77 Air Pollution Control

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Necessity And Function:** KRS 77.180 provides that the Air Pollution Control Board may make and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation describes the general application of District regulations and emission standards.

**SECTION 1**

The regulations of the District shall be interpreted and applied as follows:

- 1.1 Regardless of any other specific requirements, all air contaminant sources shall, as a minimum, apply the control procedures that are reasonable, available, and practical,
- 1.2 Nothing in these regulations is intended to allow any practice that violates any statute, ordinance, or regulation,
- 1.3 These regulations shall be interpreted as being complementary to each other. If the application of any requirement to any person or circumstance is found to be invalid, then this invalidity shall not affect the applicability of any other part of these regulations,
- 1.4 A word used in the singular form may mean one person or thing or several persons or things. A word used in the plural form may mean several persons or things or one person or thing, and
- 1.5 A word used in the male gender form shall also include the female gender.

Adopted v1/9-1-76; effective 9-1-76; amended v2/6-13-79, v3/3-17-99.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	05/21/99	10/23/01	66 FR 53658

## REGULATION 1.02 Definitions

### Air Pollution Control District of Jefferson County Jefferson County, Kentucky

#### Pursuant To: KRS Chapter 77 Air Pollution Control

**Relates To:** KRS Chapter 77 Air Pollution Control

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Necessity and Function:** KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation contains definitions used throughout District regulations.

#### SECTION 1 Definitions

The following terms shall have the meaning given to them in this regulation except as otherwise specified in the District's regulations. All terms not defined in these regulations shall have the meaning given to them in KRS 77.005, the Clean Air Act, or by commonly accepted usage.

- 1.1 "Act" means the Clean Air Act, 42 U.S.C. 7401 *et seq.*
- 1.2 "Acute noncancer effect" means a biochemical change, functional impairment, or pathological lesion that affects the performance of the whole organism, or reduces an organism's ability to respond to an additional environmental challenge that is produced within a short period of time following an exposure.
- 1.3 "Administrative permit revision" means a revision to a permit that:
  - 1.3.1 Corrects typographical errors;
  - 1.3.2 Changes the name, address, or phone number of a person identified in the permit;
  - 1.3.3 Increases the frequency of monitoring, recordkeeping, or reporting by the committee;  
or
  - 1.3.4 Changes the ownership or operational control of a source.
- 1.4 "Affected facility" means a process or process equipment to which a regulation is applicable or which emits or may emit air contaminants.
- 1.5 "Air contaminant or air pollutant" includes smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, or particulate matter, or any combination of these, that is emitted into or otherwise enters the outside air. These terms also include any precursors to the formation of an air contaminant or air pollutant.
- 1.6 "Air pollution control equipment" means equipment that may be required by law or regulation for the control of air pollution but is not vital to production of the normal product of the process or process equipment or to its normal operation.

**Commented [LS1]:** Not approved. 81 FR 87815.  
Therefore, not modified based on redline strike out in  
submittal KY-213.

- 1.7 "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference method or an equivalent method but that has been demonstrated to the satisfaction of the U.S. Environmental Protection Agency (EPA) and the District to produce, in specific cases, results adequate for determining compliance.
- 1.8 "Ambient air" means that portion of the atmosphere external to buildings, to which the general public has access. For the purpose of determining the concentration of an air contaminant that is or may be emitted by a stationary source, ambient air also includes the atmosphere, external to buildings, that is beyond the property line of that stationary source, regardless of whether the general public has access.
- 1.9 "Ambient air quality standard" means a numerical expression of the level of an air contaminant required to be achieved and maintained through the application of appropriate preventive or control measures. An "ambient air quality standard" consists of two parts:
- 1.9.1 A specified concentration for a particular air contaminant and
- 1.9.2 A time averaging interval over which that concentration level is measured.
- 1.10 "Annual mean" means an average determined on the basis of any consecutive 12-month interval.
- 1.11 "Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, amosite, anthophyllite, and actinolite-tremolite.
- 1.12 "Asbestos mill" means any process or process equipment engaged in converting, or in any intermediate step in converting, asbestos ore into commercial asbestos. Outside storage of asbestos materials is not considered a part of the asbestos mill.
- 1.13 "Asbestos material" means asbestos or any material containing asbestos.
- 1.14 "Asbestos tailings" means any solid waste that contains asbestos and is a product of asbestos mining or milling operations.
- 1.15 "Best available control technology" (BACT) means an emission limitation, including a (visible emission standard, based on the maximum degree of reduction for each pollutant subject to regulation that would be emitted from any proposed new or modified process or process equipment that the District, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for that new or modified process or process equipment through the application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, innovative fuel combustion techniques, and pollution prevention approaches, for elimination, reduction, or control of that pollutant. In no event shall the application of BACT result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under Part 5, 6, or 7 of District regulations. If the District determines that technological or economic limitations on the application of measurement methodology to a particular process or process equipment would make the imposition of an emissions standard infeasible, a design, equipment, work practice, or operational standard, or combination of those approaches, may be prescribed instead.

- 1.16 "Board" means the Louisville Metro Air Pollution Control Board as provided for in KRS Chapter 77.
- 1.17 "Bypass" means the intentional diversion of air contaminants from air pollution control equipment or process equipment that normally reduces the emission of the air contaminants.
- 1.18 "Cabinet" means the Energy and Environmental Cabinet of the Commonwealth of Kentucky as provided for in KRS Chapter 224.
- 1.19 "Commence" means that an owner or operator has obtained all necessary preconstruction approvals or permits and has either:
  - 1.19.1 Begun, or caused to begin, a continuous program of actual on-site construction or modification, to be completed within a reasonable time, or
  - 1.19.2 Entered into a binding agreement or a contractual obligation, that cannot be canceled or modified without substantial loss to the owner or operator, to undertake a continuous program of actual on-site construction or modification, to be completed within a reasonable time.
- 1.20 "Commercial asbestos" means any asbestos that is extracted from asbestos ore.
- 1.21 "Compliance plan and schedule" means a list of remedial measures including an enforceable sequence and timing of actions or operations leading to compliance with limitation or standard by a specific date.
- 1.22 "Construction" means fabrication, erection, modification, or installation of an affected facility or any portion of an affected facility.
- 1.23 "Demolition" means the wrecking or taking out of any load-supporting structural member of a structure together with any related handling operations.
- 1.24 "District" means the Louisville Metro Air Pollution Control District as provided for in KRS Chapter 77.
- 1.25 "Division" means the Division for Air Quality (DAQ) of the Energy and Environment Cabinet of the Commonwealth of Kentucky as provided for in KRS Chapter 224.
- 1.26 "Emission standard" means a requirement that is contained in a federal, state, or local law or regulation, District permit, or Board Order, or is otherwise legally enforceable that limits the quantity, rate, concentration, or opacity of the emission of an air contaminant on a continuous basis, including any requirement related to the operation or maintenance of a process or process equipment to assure continuous emission reduction, and any design, equipment, work practice, or operational standard.
- 1.27 "Emissions unit" or "facility" means a part or activity of a stationary source that emits or has the potential to emit a regulated air pollutant, any pollutant listed under the Act Section 112(b), or GHGs subject to regulation. This term is not meant to alter or affect the definition of the term "unit" as used in the Acid Rain program.

- 1.28 "Equivalent method" means a method of sampling and analyzing for an air pollutant that has been demonstrated to the satisfaction of the EPA to have a consistent and quantitatively known relationship to the reference method under specified conditions.
- 1.29 "Excess emissions" means emissions that exceed an applicable emission standard.
- 1.30 "Existing affected facility", except as otherwise specified under applicable regulations, means any affected facility that is in existence or has commenced construction before the effective date of the applicable emission standard and that has not been subsequently modified or reconstructed.
- 1.31 "Federally Enforceable District Origin Operating Permit" (FEDOOP) means a non-Title V operating permit issued by the District that contains a federally enforceable permit condition, limit, or provision.
- 1.32 "Fixed capital cost" means the capital needed to provide all of the depreciable components.
- 1.33 "Fuel" means natural gas, petroleum, coal, wood, and any other form of solid, liquid, or gaseous matter consumed for the purpose of creating useful heat.
- 1.34 "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- 1.35 "Hazardous air pollutant" (HAP) means any air pollutant listed in Regulation 5 .14 *Hazardous Air Pollutants and Source Categories* pursuant to the Act section§ 112(b)' 42 USC 7412(b).
- 1.36 "Incineration" means the process of igniting and burning solid, semi-solid, liquid, or gaseous combustible or partially combustible wastes.
- 1.37 "Incinerator" means any furnace used in the process of burning waste for the purpose of reducing the volume of waste by removing combustible matter.
- 1.38 "Insignificant activity" means the following:
- 1.38.1 An affected facility that is not subject to a federally enforceable requirement, other than generally applicable requirements, does not involve the incineration of medical waste, and meets one of the following provisions:
- 1.38.1.1 The affected facility is listed in Appendix A of Regulation 1.02 and the uncontrolled potential emissions of the affected facility do not exceed either 5 tons per year of a regulated air pollutant or 1,000 pounds per year of hazardous air pollutant,
- 1.38.1.2 The affected facility is determined to be insignificant on a case-by-case bases. For a case-by-case approval, all of the following provisions are met:
- 1.38.1.2.1 The potential emissions of the affected facility do not exceed either 5 tons per year of a regulated pollutant or 1,000 pounds per year of a hazardous air pollutant
- 1.38.1.2.2 The potential emissions of the affected facility are in conformance with the general prohibition of air pollution of Regulation 1.09, and
- 1.38.1.2.3 Special approval of a Title V permit issuance, renewal, or revision that had

- undergone the full public participation process, including the notice, comment, and EPA objection provisions, in Regulation 2.07, or
- 1.38.1.3 The affected facility is listed as an insignificant activity in the District's federally-approved Title V permit program,
- 1.38.1.4 Other types of activities approved by the District for a specific stationary source on a case-by-case basis may be viewed on the District's List of Title V Operating Permits on its website.
- 1.38.2 For the purpose of this definition, potential emissions mean the emissions before air pollution control devices. An R&D facility that has the same SIC as the manufacturing facility or is considered a support facility at the manufacturing facility shall be considered a part of the stationary source but may be treated as an insignificant activity if the R&D facility meets the qualifications of this definition. The emissions from insignificant activities shall be accounted for in determining major source status, and
- 1.38.3 For the purpose of an initial permit pursuant to this regulation, an affected facility that has been identified as an insignificant activity in a permit application that was, before December 20, 2000, determined by the District to be complete pursuant to section 3.2, and the District had determined that the potential emissions of the affected facility do not exceed either 5 tons per year of a regulated air pollutant or 1,000 pounds per year of a hazardous air pollutant, shall be treated as insignificant activity. However, the District may require the applicant to submit additional information to demonstrate compliance with these requirements. The determination by the District that the potential emissions of an affected facility do not exceed these levels shall be subject to EPA review and approval.
- 1.39 "Lowest achievable emission rate" (LAER) means, for any affected facility, that rate of emissions based on the more stringent of the following:
- 1.39.1 The most stringent emission limitation that is contained in the implementation plan of any State for that class or category of affected facility, unless the owner or operator of the proposed affected facility demonstrates that this limitation is not achievable, or
- 1.39.2 The most stringent emission limitation that is achieved in practice by that class or category of affected facility taking into consideration the pollutant that must be controlled. In no event shall the application of LAER permit a proposed affected facility to emit any pollutant in excess of the amount allowable under an applicable new source standards in Part 5, 6, or 7 of District regulations or 40 CFR Part 60, 61, or 63.
- 1.40 "Major source", except as specified in another regulation for use in that regulation, means any stationary source that emits, or has the potential to emit, 100 tons per year or more of any air pollutant subject to regulation under the Act, 10 tons or more of an individual hazardous air pollutant (HAP), or 25 tons per year or more of a combination of HAPs..

- 1.41 "Malfunction" means the sudden, unforeseen, and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard, but not including a failure that is caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or equipment breakdown.
- 1.42 "Maximum achievable control technology" (MACT) means the maximum achievable control technology defined in the Act § 112 (d), 42 USC 7412(d).
- 1.43 "Minor permit revision" means a revision to a permit that:
  - 1.43.1 Does not violate an applicable requirement;
  - 1.43.2 Does not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
  - 1.43.3 Does not require or change a case-by-case determination of (1) an emission limitation or other standard, (2) a source-specific determination for temporary sources of ambient impacts, or (3) a visibility or increment analysis;
  - 1.43.4 Does not seek to establish or change a permit term or condition for which there is no corresponding applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:
    - 1.43.4.1 A federally enforceable emission cap assumed to avoid classification as a modification in a provision of the SIP, and
    - 1.43.4.2 An alternate emissions limit approved pursuant to Section 112(i)(5) of the Act.
  - 1.43.5 Is not a modification in the regulation promulgated by the District and does not constitute a modification under any provision of the Title I of the Act; and
  - 1.43.6 Is not required to be processed as significant permit revisions.
- 1.44 "Minor source" means a stationary source that is not subject to Regulation 2.16 or 2.17.
- 1.45 "Modification" except as specified in another regulation for use in that regulation, means any physical change in, or change in the method of operation of, an affected facility that increases the amount of any air pollutant (to which an emission standard applies) emitted by that affected facility or that results in the emission of any air pollutant (to which an emission standard applies) not previously emitted, except that:
  - 1.45.1 Routine maintenance, repair, and replacement shall not be considered a physical change and
  - 1.45.2 A change in the method of operation, unless previously limited by permit conditions, shall not include:
    - 1.45.2.1 An increase in the production rate, if the increase does not exceed the operating design capacity of the affected facility or of the air pollution control equipment installed on the affected facility,

- 1.45.2.2 An increase in the hours of operation when the increase does not result in a violation of any applicable emission standards,
- 1.45.2.3 Use of an alternative fuel or raw material if, prior to the date any standard under this regulation becomes applicable to that affected facility, the affected facility is designed to accommodate the alternative use,
- 1.45.2.4 Use of an alternative fuel or raw material by reason of an order, rule, or natural gas curtailment plan approved by the District, or
- 1.45.2.5 A change in ownership of the stationary source.
- 1.46 "New affected facility" means any affected facility the construction, modification, or reconstruction of which is commenced on or after the effective date of an applicable emission standard.
- 1.47 "Nitrogen oxides" means all oxides of nitrogen, except nitrous oxide, as measured by test methods specified by the District.
- 1.48 "Odor" means the property of an air contaminant that can be detected by the sense of smell.
- 1.49 "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
- 1.50 "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outside air without passing through a stack chimney, vent, or other functionally equivalent opening.
- 1.51 "Organic compound" or "organic material" means a chemical compound of carbon that has the same meaning as "volatile organic compound."
- 1.52 "Outside air" or "open air" means the air outside of buildings and structures.
- 1.53 "Owner or Operator" means any person who owns, leases, operates, controls, or supervises one or more affected facilities.
- 1.54 "Particulate asbestos material" means finely divided particles of asbestos material.
- 1.55 "Particulate matter" means any material, except uncombined water, that exists in a finely divided form as a liquid or a solid.
- 1.56 "PM<sub>10</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J, and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.
- 1.57 "PM<sub>2.5</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix Land designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.
- 1.58 "Person" means any individual, firm, co-partnership, joint venture, association, corporation, social club, fraternal organization, estate, trust, receiver, syndicate, county, city, municipality, district (for air pollution control or other purpose), or other political



subdivision, or any group or combination acting as a unit, and the plural as well as the singular unit.

- 1.59 "Pollution prevention" (P2) means the use of materials, processes, or practices that reduce or eliminate the creation of pollutants or wastes by the process. Pollution prevention includes practices that reduce the use of hazardous and nonhazardous materials, energy, water, or other resources as well as practices that protect natural resources through conservation or more efficient use.
- 1.60 "Potential hazardous emissions" means an air pollutant, exclusive of pollutants regulated under the Act Section 112(b), 42 USC 71412(b) to which no ambient air quality standard is applicable and that, in the judgment of the District, may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
- 1.61 "Potential to emit" (PTE) means the maximum capacity of a stationary source or an affected facility to emit a pollutant under its physical and operational design. Any physical or operational limitation on capacity of the stationary source or affected facility to emit a pollutant, including air pollution control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source or affected facility.
- 1.62 "Preventable upset condition" means the sudden failure of air pollution control equipment or process equipment or a process to operate in a normal or usual manner that causes or is likely to cause, emissions that exceed an applicable emission standard that results entirely or in part from poor maintenance, careless operation, or any other preventable upset condition or equipment breakdown.
- 1.63 "Process" means an action or operation, or a series of actions or operations, from which the emission of an air contaminant may originate. Examples of a "process" include any of the following:
- 1.63.1 The physical change of a material,
  - 1.63.2 The chemical change of a material,
  - 1.63.3 The combustion of a fuel, refuse, or waste material,
  - 1.63.4 The storage of a material,
  - 1.63.5 The handling of a material, and
  - 1.63.6 The use of a material.
- 1.64 "Process equipment" means all equipment, devices, and auxiliary components, including control equipment and stacks, used in a process.

- 1.65 "Reactor" means a vat or vessel, that may be jacketed to permit temperature control, designed to contain chemical reactions.
- 1.66 "Reasonably available control technology" (RACT) means devices, systems, process modifications, or other apparatus or techniques, including pollution prevention approaches, that are reasonably available taking into account the necessity of imposing those controls in order to attain and maintain a national ambient air quality standard and the social, environmental, and economic impact of those controls.
- 1.67 "Reconstruction" means the replacement of process equipment for an affected facility to the extent that the fixed capital cost of the new components exceeds 50% of the fixed capital cost if a comparable entirely new affected facility.
- 1.68 "Reference Method" means any method of sampling and analyzing for an air pollutant as prescribed in the following EPA regulations: Standards of Performance for New Stationary Sources (40 CFR Part 60), National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61), National Emission Standards for Hazardous Air Pollutants for Source Categories (40 CFR Part 63, National Primary and Secondary Ambient Air Quality Standards (40 CFR Part 50), and Requirements for Preparation, Adoption, and Submittal of Implementation Plans (40 CFR Part 51).
- 1.69 "Regulated air pollutant" means the following:
  - 1.69.1 Nitrogen oxides,
  - 1.69.2 Volatile organic compounds,
  - 1.69.3 Any Class I or II substance subject to a standard promulgated under or established by the Act Title VI,
  - 1.69.5 Any pollutant that is subject to a standard promulgated under the Act Section 111,
  - 1.69.6 Any pollutant that is subject to a standard promulgated under the Act Section 112, including Sections 112(g), 112(i), and 112®, and including the following:
    - 1.69.6.1 Any pollutant subject to requirements under Section 112(j). If EPA fails to promulgate a standard by the date established pursuant to Section 112(e), any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e), and
    - 1.69.6.2 Any pollutant for which the requirements of Section 112(g)(2) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.
- 1.70 "Regulation" means a rule or order adopted by the Board pursuant to KRS Chapter 77 for the control or abatement of air contaminants within its jurisdiction or for the administration of the District.
- 1.71 "Responsible official" means one of the following:
  - 1.71.1 For a corporation: a president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of that person if the representative for the overall operation of manufacturing, production, or operating facility applying for or subject to a permit and either;
    - 1.71.1.1 The source employs more than 250 persons or has gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or
    - 1.71.1.2 The delegation of authority to the representative is approved by the District;
  - 1.71.2 For a partnership or sole proprietorship, a general partner or the proprietor respectively;

- 1.71.3 For a municipal, state, federal, or other public agency, either a principal executive officer or ranking elected official, or designee. For this regulation, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA).
- 1.72 "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.
- 1.73 "Significant permit revision" means a revision to a permit that:
- 1.73.1 Does not qualify as a minor permit revision or as administrative revision;
- 1.73.2 Includes any significant changes to or relaxation of existing monitoring, reporting, or recordkeeping permit terms or conditions;
- 1.73.3 Establishes new requirements, or
- 1.73.4 Causes emissions of any air pollutant to exceed the allowable limit specified in the permit.
- 1.74 "Sludge" means solid or semi-solid material produced by a treatment plant that processes municipal or industrial waste waters.
- 1.75 "Sludge dryer" means a device used to reduce the moisture content of a sludge by heating to temperatures above 65 °C directly with combustion gases.
- 1.76 "Stack or chimney" means a flue, conduit, or duct arranged to conduct a gas stream to the outside air.
- 1.77 "Standard conditions" means:
- 1.77.1 For source measurements 20 °C and a pressure of 760 mm Hg, and
- 1.77.2 For the purpose of air quality determinations 25 °C and a reference pressure of 760 mm Hg.
- 1.78 "Stationary source" means all of the air pollutant-emitting activities that are located on 1 or more contiguous or adjacent properties and are under control of the same persons or person under common control. A property shall be considered contiguous if separated by only a public thoroughfare, stream, or other right-of-way. If a transmission and fuel delivery right-of-way or a strip of land that serves no other principal purpose than as a transportation or materials handling link connecting two or more otherwise separate stationary sources, then the connected stationary sources shall be considered as separate stationary sources.
- 1.79 "Startup" means the setting in operation of an affected facility for any purpose.
- 1.80 "Trivial activities" means any activity that is considered inconsequential, as determined by the District. The District will maintain a list of trivial activities. This list shall be made available to the public upon request.
- 1.81 "Twelve month rolling period" or "12-month rolling period" means a period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.
- 1.82 "Upset condition" means the sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard and that results entirely or in part from either a malfunction or a preventable upset condition.
- 1.83 "Uncombined water" means water that is either in a gaseous, liquid, or solid state and that is not bound to a compound by internal molecular forces.

- 1.84 "Volatile organic compound" (VOC) means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.
- 1.84.1 The exclusions from the definition of Volatile Organic Compounds (VOC) found at 40 CFR §51.100(s)(1) as of July 1, 2018 for compounds which have been determined to have negligible photochemical reactivity are adopted and incorporated by reference.
- 1.84.2 Copies of the CFR are available for sale from:  
 U.S. Government Printing Office  
 Superintendent of Documents  
 Mail Stop SSOP  
 Washington, DC 20402-9328  
 or for free by downloading from the Internet: <http://www.gpo.gov/fdsys>
- 1.85 "Welfare," when referring to effects on welfare, includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.
- 1.86 "Year" means a calendar year.

Adopted v1/4-19-72, effective 4-19-72; amended v2/6-13-79, v3/11-16-83, v4/4-20-88, v5/5-15-91, v6/3-17-93, v7/6-16-93, v8/9-25-96, v9/11-19-97, v10/12-19-01, v11/6-21-05 effective 7-1-05, v12/6-15-11, v13/5-15-13, v14/9-21-16, v15/06-19-19.

#### **Appendix A to Regulation 1.02 Insignificant Activities**

1. Indirect heat exchangers, except furnaces that combust waste oil regardless of size, of the following types:
  - 1.1 Those less than 10 million BTU/hr capacity using distillate oil, propane, butane, LPG, or natural gas as fuel, or
  - 1.2 Those used solely for heating residential buildings not exceeding four dwelling units.
2. Internal combustion engines, whether fixed or mobile, and vehicles used for transport of passengers or freight, except as may be provided for in subsequent regulations;
3. An affected facility that is not subject to a federally enforceable requirement, other than a generally applicable requirement and does not involve the incineration of medical waste.  
 The following facilities are included in this category:
  - 3.1 Presses used exclusively for extruding metals, minerals, or wood,
  - 3.2 Dry cleaners for which there is no emission, performance, or other standard,
  - 3.3 Lint traps used in conjunction with commercial laundry and dry cleaners,
  - 3.4 Brazing, soldering or welding equipment,
  - 3.5 Equipment commonly used in wood-working operations, except for convening, hogging or burning of sawdust or wood waste,
  - 3.6 Foundry core-making equipment to which no heat is applied and for which there is no emission standard,

- 3.7 Ovens used exclusively for curing potting materials or castings made with epoxy resins,
- 3.8 Equipment used for compression or injection molding of plastics,
- 3.9 Containers, reservoirs, or tanks used exclusively for:
  - 3.9.1 Dipping operations for coating objects with oils, waxes, or greases and where no organic solvents, diluents, or thinners are used, or
  - 3.9.2 Storage of lubricating oils or fuel oils with a vapor pressure of less than 10 mm Hg at conditions of 20 °C and 760 mm of Hg,
- 3.10 Emergency relief vents, stacks and ventilating systems,
- 3.11 Laboratory ventilating and exhausting systems which are not used for radioactive air contaminants,
- 3.12 Process, exhaust or ventilating systems in bakeries or eating establishments preparing food for human consumptions,
- 3.13 Blas cleaning equipment using a suspension of abrasives in water,
- 3.14 Equipment used exclusively for heat treating, soaking, case hardening or surface conditioning of metal objects such as carbonizing, cyaniding, nitriding, carbonitriding, siliconizing, or diffusion treating when natural gas or LP gas is used as fuel,
- 3.15 Equipment used for washing or drying products fabricated from metal or glass provided no volatile organic materials are used in the process and no oil or solid fuel is burned,
- 3.16 Equipment, machines, devices, or contrivances build or installed to be used as a domestic residence for domestic use,
- 3.17 Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enamling furnaces or vitreous enameling drying ovens,
- 3.18 Crucible or pot furnaces with a brim capacity of less than 450 cubic inches of any molten metal,
- 3.19 Facilities using only peanut oil, sunflower oil, cottonseed oil or canola oil,
- 3.20 Soil or ground water contamination remediation projects that are entirely passive or entail the total removal of the contaminated substrate for disposal in a certified landfill. Remediation systems that actively vent to the atmosphere by pumps or fans are not exempt.
- 3.21 Dust or particulate collectors that are located in-doors, vent directly in doors into the work space, collect no more than one ton of material per year and do not collect materials listed in Regulation 5.11, 5.12, or 5.14,
- 3.22 Cold solvent parts cleaners that are equipped with a functional secondary reservoir into which the solvent drains during use,
- 3.23 Portable diesel or gasoline storage tanks with a maximum capacity of less than 500 gallons. Portability is defined as being in one location less than one year,
- 3.24 Storage vessels for COVs with a maximum capacity of 250 gallons or less,
- 3.25 Diesel or fuel oil storage tanks that are not used for distribution, sale or resale, and that have less than two times the capacity of the vessel in annual turnover of the fluid contained.
- 3.26 All pressurized VOC storage vessels, and
- 3.27 Research and Development (R&D) facilities.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	02/12/92	10/22/93	58 FR 54516
2nd Revision:	09/22/98	10/23/01	66 FR 53658
3rd Revision:	2/19/02	11/19/02	67 FR 69688
4th Revision:	3/22/11	12/6/16	81 FR 87815
5th Revision:	8/29/12	7/28/17	82 FR 35101
6th Revision:	08/25/17	07/25/19	84 FR 35828
7th Revision:	09/5/19	10/22/20	85 FR 67282

## REGULATION 1.03     Abbreviations and Acronyms

### Air Pollution Control District of Jefferson County Jefferson County, Kentucky

**Relates To:** KRS Chapter 77 Air Pollution Control

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Necessity And Function:** KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation contains certain abbreviations and acronyms used in District regulations.

#### SECTION 1 Abbreviations

The following abbreviations, used in these regulations have the following meanings:

acfm	-	actual cubic feet per minute	Hg	-	mercury
Act	-	Clean Air Act as defined in Regulation 1.02	HF	-	hydrogen fluoride
Btu	-	British Thermal Unit	H <sub>2</sub> O	-	water
°C	-	degree Celsius (Centigrade)	H <sub>2</sub> S	-	hydrogen sulfide
cal	-	calorie	H <sub>2</sub> SO <sub>4</sub>	-	sulfuric acid
CFC	-	chlorofluorocarbon	hr	-	hour
cfm	-	cubic feet per minute	in	-	inch
cm	-	centimeter	J	-	joule
CO	-	carbon monoxide	k	-	1,000
CO <sub>2</sub>	-	carbon dioxide	kg	-	kilogram
dscf	-	dry standard cubic foot	l	-	liter
dscm	-	dry standard cubic meter	lb	-	pound
°F	-	degree Fahrenheit	m	-	meter
Fed. Reg.	-	Federal Register (Also FR, Fed Reg)	mg	-	milligram
ft	-	foot	min	-	minute
g	-	gram	MJ	-	Megajoules
gal	-	gallon	ml	-	milliliter
gr	-	grain	mm	-	millimeter
HC	-	hydrocarbon	MM	-	million
HCFC	-	hydrochlorofluorocarbon	n	-	nano (one billionth part of)
HCl	-	hydrochloric acid	ng	-	nanogram
HFC	-	hydrofluorocarbon	N <sub>2</sub>	-	nitrogen
			NO	-	nitric oxide
			NO <sub>2</sub>	-	nitrogen dioxide

NO <sub>x</sub>	-	oxides of Nitrogen	psig	-	pounds per square inch gauge
O <sub>2</sub>	-	oxygen	rpm	-	revolutions per minute
O <sub>3</sub>	-	ozone	s	-	at standard conditions
Pa	-	Pascal	sec	-	second
ppb	-	parts per billion	SO <sub>2</sub>	-	sulfur dioxide
ppm	-	parts per million	sq	-	square
psia	-	pounds per square inch	SSU	-	Saybolt Universal seconds
			tpy	-	tons per year
			ug	-	microgram
			(w/w)	-	(weight by weight)



## SECTION 2 Acronyms

The following acronyms used in these regulations have the following meanings:

AASHTO	- American Association of State Highway and Transportation Officials
AERMOD	- American Meteorological Society/Environmental Protection Agency Regulatory Model
APCO	- Air Pollution Control Officer
ASTM	- American Society for Testing & Materials
ATSDR	- Agency for Toxic Substances and Disease Registry
BAC	- Benchmark ambient concentration
BAC <sub>C</sub>	- Benchmark ambient concentration for a carcinogen
BAC <sub>NC</sub>	- Benchmark ambient concentration for noncarcinogenic effects
BAC <sub>NCA</sub>	- Benchmark ambient concentration for acute noncarcinogenic effects
BACT	- Best available control technology
CARB	- California Air Resource Board
CAS	- Chemical Abstract Services
CEMS	- Continuous emission monitoring system
CFR	- Code of Federal Regulations
EA	- Environmental acceptability
EAG <sub>C</sub>	- Environmental acceptability goal for carcinogenic risk
EAG <sub>NC</sub>	- Environmental acceptability goal for noncarcinogenic risk
EFPAC	- Emissions Factors and Policy Applications Center
EIIP	- Emissions Inventory Improvement Program
EPA	- U.S. Environmental Protection Agency
ERC	- Emission Reduction Credit
FEDOOP	- Federally enforceable District operating permit
HAP	- Hazardous air pollutant as listed in Regulation 5.14
HQ	- Hazard quotient
IARC	- International Agency for Research on Cancer
IRIS	- Integrated Risk Information System
IRSL	- Initial risk screening level
ISC3	- Industrial Source Complex Model
ITSL	- Initial threshold screening level
KAR	- Kentucky Administrative Regulations
KRS	- Kentucky Revised Statutes
LAER	- Lowest achievable emission rate
LC <sub>50</sub>	- Lethal concentration, 50% mortality
LD <sub>50</sub>	- Lethal dose, 50% mortality
LOAEL	- Lowest observed adverse effect level
MACT	- Maximum achievable control technology
MSDS	- Material Safety Data Sheet
NAAQS	- National Ambient Air Quality Standards
NEET	- New and Emerging Environmental Technologies Clean Air Technologies Database
NESHAPs	- National Emission Standards for Hazardous Air Pollutants

- NOISH - National Institute of Occupational Safety and Health
- NOAEL - No observed adverse effect
- NSPS - New Source Performance Standards
- OAQPS - EPA Office of Air Quality Planning and Standards
- OEL - Occupational exposure level
- OSHA - Occupational Health and Safety Administration
- P2 - Pollution prevention
- PM - Particulate Matter
- PM<sub>10</sub> - Particulate Matter (10 microns or less in size)
- PM<sub>2.5</sub> - Particulate Matter (2.5 microns or less in size)
- PSD - Prevention of Significant Deterioration
- PSI - Pollutant Standards Index
- PTE - Potential to emit
- RACT - Reasonably Available Control Technology
- RAIMI - Regional Air Impact Modeling Initiative
- REL - Reference exposure level
- RfC - Reference concentration
- RfD - Reference dose
- RSEI - Risk-Screening Environmental Indicators
- SIC - Standard Industrial Classification
- SIP - State Implementation Plan
- SOCMI - Synthetic Organic Chemicals Manufacturing Industry
- TAC - Toxic air contaminant
- TAP - Toxic Air Pollutant
- T-BAT - Best available technology for toxics
- TLV - Threshold Limit Value
- TOSHI - Target-organ-specific hazard index
- TRI - Toxics Release Inventory
- TSP - Total Suspended Particulates
- UF - Uncertainty factor
- URE - Unit risk estimate
- USC - United States Code
- VOC - Volatile Organic Compound

Adopted v1/7-14-76; effective 9-1-76; amended v2/6-13-79, v3/9-15-93, v4/9-25-96, v5/5-15-02, v6/1/16/2008

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	07/15/02	11/19/02	67 FR 69688
2nd Revision	12/20/10	08/31/17	82 FR 41335

## **REGULATION 1.04    Performance Tests**

### **Air Pollution Control District of Jefferson County Jefferson County, Kentucky**

**Relates To:** KRS Chapter 77 Air Pollution Control

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Necessity and Function:** KRS 77.180 provides that the Air Pollution Control Board may make and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes procedures for conducting performance tests to demonstrate compliance with the District's regulations.

#### **SECTION 1    Applicability**

This regulation applies to any affected facility as defined in Regulation 1.02.

#### **SECTION 2    Test Requirements**

- 2.1    The District or the Administrator of the United States Environmental Protection Agency (EPA), for cause, may require the owner or operator of any affected facility to sample emissions in accordance with EPA test method procedures. Alternate procedures may be used in special circumstances upon advance approval by the District or the Administrator of the EPA. All tests shall be made under the direction of persons qualified by training and experience in the field of air pollution control.
- 2.2    The District or the Administrator of the EPA may conduct tests of emissions of air contaminants from any source.
- 2.3    Performance tests required by the District or District regulations shall be conducted and data reduced in accordance with the methods and procedures specified by the District.
- 2.4    The District and the Administrator of the EPA may waive the requirement for performance tests if, in the case of an existing affected facility, the owner or operator proves to the District and the Administrator of the EPA's satisfaction that the test cannot be performed due to physical plant limitations or extreme economic burden.
- 2.5    In the event of the need for certification of a CEMS, the District or the Administrator of the EPA may waive advance notice.
- 2.6    If the affected facility is required to conduct performance testing pursuant to a standard of performance promulgated under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63, then those specified procedures shall be used unless:
  - 2.6.1    The Administrator of the EPA and the District specify or approve the use of a reference method with minor changes in methodology,
  - 2.6.2    The Administrator of the EPA and the District approve the use of an equivalent method,
  - 2.6.3    The Administrator of the EPA and the District approve the use of an alternative method,

- the results of which have been determined to be adequate for indicating whether a specific source is in compliance, or
- 2.6.4 The Administrator of the EPA and the District waive the requirement for performance tests for an affected facility for which a standard of performance has been promulgated under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63 because the owner or operator of that affected facility has demonstrated to the agency's satisfaction that the affected facility is deemed to be in compliance with the applicable standard.
- 2.7 Agreements with the facility's owner or operator to modify any test procedures from the Reference Methods of 40 CFR Part 60 Appendix A, 40 CFR Part 61 Appendix B, or 40 CFR Part 63 Appendix A shall be documented in writing.
- 2.8 The owner or operator shall permit the District or the Administrator of the EPA to conduct performance tests at any reasonable time, shall cause the affected facility to be operated for purposes of those tests under the conditions as the District or the Administrator of the EPA may specify based on representative performance of the affected facility, and shall make available to the District those records as may be necessary to determine the performance.
- 2.9 The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:
- 2.9.1 Sampling ports adequate for test methods applicable to that facility,
- 2.9.2 Safe sampling platforms,
- 2.9.3 Safe access to sampling platforms, and
- 2.9.4 Utilities for sampling and testing equipment.
- 2.10 Each performance test shall consist of separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable regulation. For the purpose of determining compliance with an applicable standard, the arithmetic mean of three runs shall apply. The arithmetic mean shall be determined carrying all significant digits in data and calculations to the final emission rate calculation. The final emission rate shall then be determined by rounding off to the last significant digit of the applicable standard; i.e., dropping the following digit if it is 4 or less, or adding 1 to the last significant digit if the following digit is 5 or greater.
- 2.10.1 Once performance testing has begun, a person conducting the testing shall not halt a sampling run except do to:
- 2.10.1.1 Forced shutdown;
- 2.10.1.2 Failure of an irreplaceable portion of the sample train;
- 2.10.1.3 Extreme meteorological conditions; or
- 2.10.1.4 Unforeseen circumstances beyond the owner's or operator's control.
- 2.10.2 The person conducting the testing shall not halt a sampling run for the purpose of making adjustments to the parameters of the performance test.
- 2.11 If a sample is accidentally lost or conditions occur in which 1 of the 3 runs must be

discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner's or operator's control, then compliance may, upon the District's approval, be determined using the arithmetic mean of the results of the 2 other runs.

### **SECTION 3 Pre-test Survey And Conference**

- 3.1 The owner or operator of an affected facility shall submit a test protocol at least 30 calendar days prior to the projected start date of any performance test. A sample form shall be prepared and made available by the District
- 3.2 A pre-test conference may be arranged 20 working days in advance of the projected starting date for the performance test.
  - 3.2.1 This meeting shall be arranged by District personnel after receiving a test protocol.
  - 3.2.2 The conference shall include a representative from the facility, the test team leader, and the District's selected observer for the proposed test.
- 3.3 The owner or operator of an affected facility shall submit a final “intent to test” notification to the District at least 10 working days prior to the start of the performance test, which shall afford the District the opportunity to have an observer present.

### **SECTION 4 Notification Waiver**

In the event of an emergency or malfunction, the District may waive and of the following:

- 4.1 Notice of intent to test,
- 4.2 The pre-test conference, and
- 4.3 The prior notice requirement of section 3.1.

### **SECTION 5 Test Report**

- 5.1 The owner or operator of an affected facility shall submit a final test report within sixty (60) calendar days of the completion of any performance test.
- 5.2 The final test report shall include all data collected, including data from any aborted or rejected runs, as well as all other data specified in the test protocol for collection such as operating or other parametric data.

Adopted v1/4-19-72; effective 4-19-72; amended v2/9-1-76, v3/4-21-82, v4/11-16-83, v5/12-15-93, v6/11-19-97, v7/06-19-19.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	07/19/82	01/11/84	47 FR 1341
2nd Revision:	09/22/98	10/23/01	66 FR 53658
3rd Revision:	09/5/19	07/10/20	85 FR 41399

## **REGULATION 1.05 Compliance with Emission Standards and Maintenance Requirements**

### **Air Pollution Control District of Jefferson County Jefferson County, Kentucky**

**Relates To:** KRS Chapter 77 Air Pollution Control

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Necessity and Function:** KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the conditions for compliance with emissions standards.

#### **SECTION 1 Compliance with Emission Standards**

- 1.1 Compliance with emission standards in these regulations, other than opacity standards, VOC, and capture efficiency standards, shall be determined by performance tests required by Regulations 2, 5, 6 or 7.
- 1.2 For affected facilities not required to conduct performance tests pursuant to these regulations, compliance with emission standards, other than opacity standards, shall be determined by engineering calculations based upon data obtained by District personnel.

#### **SECTION 2 Opacity Standards**

- 2.1 Compliance with opacity standards in this regulation shall be determined by conducting observations in accordance with the reference method as defined in Regulation 1.02. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative, but not conclusive, evidence of the actual opacity of an emission. The owner or operator shall meet the burden of proving that the instrument used at the time of the alleged violation meets performance specifications as required by the District, has been properly maintained and calibrated, and that the resulting data have not been tampered with in any way.
- 2.2 The opacity standards set forth in these regulations shall apply at all times except during periods of start-up, shutdown, malfunction, and as otherwise provided in the applicable standard.

#### **SECTION 3 Capture Efficiency Protocols**

The following procedures shall be followed to determine VOC capture efficiency as necessary for determining compliance in all coating regulations in Regulations 6 and 7:

3.1 For purposes of this Section, the following definitions and abbreviations apply:

- 3.1.1 "Capture" means the containment or recovery of emissions from a process for direction into a duct which may be exhausted through a stack or sent to a control device.
- 3.1.2 "Capture system" means all equipment including, but not limited to, hoods, ducts, fans, booths, ovens, dryers, etc., that contain, collect and transport an air pollutant to a stack or control device.
- 3.1.3 "Capture efficiency" means the weight per unit time of VOC entering a capture system and delivered to a stack or control device divided by the weight per unit time of total VOC generated by a source of VOC, expressed as a percentage.
- 3.1.4 "Control device" means equipment such as an incinerator or carbon adsorber used to reduce, by destruction or removal, the amount of air pollutants in an air stream prior to discharge to the ambient air.
- 3.1.5 "Control system" means a combination of one or more capture systems and control devices working in concert to reduce discharges of pollutants to the ambient air.
- 3.1.6 "Destruction or removal efficiency" means the amount of VOC destroyed or removed by a control device expressed as a percent of the total amount of VOC entering the control device.
- 3.1.7 "Gas/gas method" means either of two methods for determining capture which rely only on gas phase measurements. One method requires construction of a temporary enclosure (TTE) to assure all would-be fugitive emissions are measured while the other method uses a room or building which houses the emission source as an enclosure.
- 3.1.8 "Hood" means a partial enclosure or canopy for capturing and exhausting, by means of a draft, the organic vapors or other fumes rising from a coating process or other source.
- 3.1.9 "Liquid/gas method" means either of two methods for determining capture which require both gas phase and liquid phase measurements and analysis. One liquid/gas method requires construction of a temporary enclosure; the other uses the building or room which houses the facility as an enclosure.
- 3.1.10 "Overall emission reduction efficiency" means the weight per unit time of VOC removed or destroyed by a control device divided by the weight per unit time of VOC generated by a source, expressed as a percentage. The overall emission reduction efficiency is the product of the capture efficiency and the control device destruction or removal efficiency.
- 3.1.11 "F" means the mass of VOC leaving the process as gaseous fugitive emissions.
- 3.1.12 "G" means the mass of VOC captured and delivered to a control device.
- 3.1.13 "L" means the mass of VOC input to the process in liquid form.
- 3.1.14 "PTE" means a permanent total enclosure which contains a process that emits VOC and meets the specifications given in Procedure T in section 3.5.



- 3.1.15 "TTE" means a temporary total enclosure which is built around a process that emits VOC and meets the specifications given in Procedure T.
- 3.1.16 "BE" means a building or room enclosure that contains a process that emits VOC. If a BE is to serve as a PTE or TTE, the appropriate requirements given in Procedure T must be met.
- 3.2 Applicability
- 3.2.1 The requirements of section 3.3 shall apply to all regulated VOC-emitting processes employing a control system except as provided below.
- 3.2.2 If a source installs a PTE that meets EPA specifications and which directs all VOC to a control device, the capture efficiency is assumed to be 100%, and the source is exempt from the requirements described in section 3.3. The EPA specifications to determine whether a structure is considered a PTE are given in Procedure T. This does not exempt a source from performance of any control device efficiency testing required under these or any other regulations. In addition, a source must demonstrate that all criteria for a PTE are met during the testing for control efficiency.
- 3.2.3 If a source uses a control device designed to collect and recover VOC, e.g. carbon adsorber, an explicit measurement of capture efficiency is not necessary if the conditions given below are met. The overall control of the system can be determined by directly comparing the input liquid VOC (L) to the recovered liquid VOC. The general procedure for use in this situation is given in 40 CFR §60.433 with the following additional restrictions:
- 3.2.3.1 The source must be able to equate solvent usage with solvent recovery on a 24-hour (daily) basis rather than a 30-day weighted average as given in 40 CFR §60.433. This must be done within 72 hours following each 24-hour period. In addition, one of the following two criteria must be met:
- 3.2.3.1.1 The solvent recovery system, i.e., capture and control system, must be dedicated to a single process line e.g., one process line venting to a carbon adsorber system, or
- 3.2.3.1.2 If the solvent recovery system controls multiple process lines, the source must be able to demonstrate that the overall control (i.e., the total recovered solvent VOC divided by the sum of liquid VOC input to all process lines venting to the control system) meets or exceeds the most stringent standard applicable for any process line venting to the control system.
- 3.3 Specific Requirements
- 3.3.1 The capture efficiency of a process line shall be measured using one of the five protocols given in section 3.3.3.
- 3.3.2 Any error margin associated with a test protocol may not be incorporated into the results of a capture efficiency test.

3.3.3 The five specific capture efficiency protocols are discussed in sections 3.3.3.1 through 3.3.3.5. Any affected source must use one of these protocols to measure capture efficiency unless a suitable alternative protocol is approved by the District and EPA as a SIP revision.

3.3.3.1 Gas/gas method using TTE. The EPA specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{G_w}{G_w + F_w}$$

where:

CE = capture efficiency, decimal fraction.

$G_w$  = mass of VOC captured and delivered to control device using a TTE.

$F_w$  = mass of fugitive VOC that escapes from a TTE.

Procedure G.2 is used to obtain  $G_w$ . Procedure F.1 is used to obtain  $F_w$ . See section 3.5.

3.3.3.2 Liquid/gas method using TTE. The EPA specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{L-F}{L}$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOC input to process.

F = mass of fugitive VOC that escapes from a TTE.

Procedure L is used to obtain L. Procedure F.1 is used to obtain F.

3.3.3.3 Gas/gas method using the building or room (BE) in which the affected source is located as the enclosure and in which G and F are measured while operating only in the affected facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{G}{G + FB}$$

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where:

CE = capture efficiency, decimal fraction.

G = mass of VOC captured and delivered to a control device.

FB = mass of fugitive VOC escaping from building enclosure.

Procedure G.2 is used to obtain G. Procedure F.2 is used to obtain FB.

- 3.3.3.4 Liquid/gas method using the building or room (BE) in which the affected source is located as the enclosure and in which L and F are measured while operating only the affected facility. All fans and blowers in the building or room must be operating as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{L - FB}{L}$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOC input to process.

FB = mass of fugitive VOC that escapes from building enclosure.

Procedure L is used to obtain L. Procedure F.3 is used to obtain FB.

- 3.3.3.5 Liquid/Gas method measuring the captured emission,  $G_w$ , and liquid input, L. This procedure should only be used when the capture efficiency for a coating line is expected to be less than 50% or if the measurement of capture efficiency cannot feasibly be performed in accordance with the other approved protocols. The capture equation to be used for this protocol is:

$$CE = \frac{G_w}{L}$$

where:

CE = capture efficiency, decimal fraction.

$G_w$  = Mass of VOC captured and delivered to a control device.

L = Mass of liquid VOC input to coating line.

Procedure G.1 is used to obtain  $G_w$ . Procedure L or the alternative EPA Method 204F shall be used to determine L.

- 3.3.3.6 A capture efficiency test shall consist of at least three runs. Each run shall cover at

least one complete production or processing cycle or shall be at least one hour in duration. For automotive and truck surface coating operations, the sampling time shall be based on coating a minimum of three representative vehicles.

3.4 Recordkeeping and Reporting

3.4.1 All affected facilities must maintain on file a copy of the capture efficiency protocols submitted to the District. All results of appropriate test methods and CE protocols must be reported to the District within 60 days of test date.

3.4.2 If any changes are made to capture or control equipment, the source is required to notify the District, in writing, of these changes and a new test may be required.

3.4.3 The source must notify the District 30 days prior to performing any capture efficiency and/or control efficiency tests.

3.4.4 A source utilizing a PTE must demonstrate that this enclosure meets the requirement given in Procedure T for a PTE during any testing of a control device.

3.4.5 A source utilizing a TTE must demonstrate that its TTE meets the requirement given in Procedure T for a TTE during testing of the control device. The source must also provide documentation that the quality assurance criteria for a TTE have been achieved.

3.5 Reference Procedures

Procedure G.1 - Captured VOC Emissions

Procedure G.2 -Captured VOC Emissions (Dilution Technique)

Procedure F.1 - Fugitive VOC Emissions from Temporary Enclosures

Procedure F.2 - Fugitive VOC Emissions from Building Enclosures

Procedure L - VOC Input Procedure T-Criteria for and Verification of a Permanent or Temporary Total Enclosure referred to in Subsections 3.3.3.1<sup>1</sup> through 3.3.3.5<sup>1</sup>, are incorporated into these regulations by reference. These procedures are found in 40 CFR Part 52 Subpart O Appendix B - VOM Measurement Techniques for Capture Efficiency. Appendix B is located at 55 Fed. Reg. 26887 (1990).

## **SECTION 4 Compliance with Volatile Organic Compounds Regulations**

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<sup>1</sup> The 11-18-92 version had incorrect citations for the capture efficiency protocols in section 3.3.3. These citations have been corrected.

- 4.1 All sources emitting VOCs in quantities equal to or greater than 100 tons per year and all Control Technique Guidance (CTG) sources emitting VOCs in quantities of 25 tons or more per year or some lesser applicability amount as defined in the specific CTG regulation shall maintain daily records and calculations that demonstrate daily compliance with the VOC emission standards defined in the applicable portions of Regulation 6 or 7.
  - 4.1.1 Sources subject to the Control Technique Guidance Documents issued by EPA and embodied in Regulations (i.e. Regulations 6.12, 6.13, 6.16, 6.17, 6.18, 6.19, 6.23, 6.29, 6.30, 6.31, 6.33, 6.34, 6.35, portions of 7.02, 7.11, 7.12, 7.16, 7.17, 7.18, 7.52, 7.57, 7.58, 7.59, and 7.60) where the calculations and recordkeeping requirements are specifically defined in the applicable portions of Regulation 6 or 7, those requirements shall be met as required in those regulations.
  - 4.1.2 Where the calculations and recordkeeping requirements are not specifically defined in the applicable portions of Regulations 6 and 7, the source shall propose calculations and record-keeping requirements to the District in accordance with the schedule listed below. Upon approval of the proposed calculations and recordkeeping requirements by the District, a copy of the proposal and the District's approval statement shall be retained with the sources operating permit. Sources that have an emissions standard (i.e., pounds of VOC per hour or pounds of VOC per gallon of coating) must retain daily records and perform calculations as necessary to demonstrate compliance with the daily emissions standard. Sources that have an equipment standard (i.e., floating roof tanks with double seals) must maintain good engineering practice inspection and maintenance records to demonstrate good faith in complying with the equipment standard.
    - 4.1.2.1 Sources subject to section 4.1.2 shall submit proposed calculations and record-keeping requirements to the District within 120 days of the effective date of this regulation. The District will comment on the sources proposal within an additional 60 days. After this 180 day period, the source shall begin daily recordkeeping and performing calculations for the purpose of validating and refining the accuracy of the proposed techniques. One year from the effective date of this regulation, the source shall attain daily compliance with the standards as required by this regulation.
    - 4.1.2.2 Sources that continue to have problems identifying accurate recordkeeping or define compliance problems after the compliance date in this section may petition for a Compliance Plan and Schedule Board Order as provided in Regulation 1.08.
- 4.2 Where it is not economically or technically feasible to determine emissions on a daily basis, alternative compliance periods may be accepted provided that:
  - 4.2.1 A SIP revision is prepared to allow the use of the alternative compliance period, and the SIP revision is submitted to and approved by EPA.

## **SECTION 5 Maintenance Requirements**

At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the District which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspections of the source.

Adopted v1/4-19-72; effective 4-19-72; amended v2/6-13-79, v3/11-16-83, v4/5-15-91, v5/11-18-92.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	02/12/92	06/23/94	59 FR 32343
2nd Revision:	07/20/99	10/23/01	66 FR 53658

## **REGULATION 1.06 Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting**

### **Air Pollution Control District of Jefferson County Jefferson County, Kentucky**

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Relates To:** KRS Chapter 77 Air Pollution Control

**Necessity And Function:** KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes requirements for stationary source self-monitoring, record-keeping, and reporting.

#### **SECTION 1 Stack Monitoring and Reporting**

- 1.1 The District may require the owner or operator of a stationary source to install, operate, and maintain stack gas measuring, emission monitoring, and parametric monitoring equipment, including data storage devices, and periodically report monitoring or real-time monitoring data to the District.
- 1.2 Stack monitoring and reporting requirements for specific types of affected facilities are contained in the applicable regulations.
- 1.3 The District, for cause, may include additional or more stringent requirements in the permit for an individual affected facility than those in the regulation's applicable regulations.

#### **SECTION 2 Ambient Air Monitoring and Reporting**

The District may require the owner or operator of a stationary source facility to install, operate, and maintain ambient air monitoring equipment and to periodically submit ambient air monitoring reports to the District.

#### **SECTION 3 Requirements for Emissions Statements**

- 3.1 When reporting actual emissions, the owner or operator shall include any increased emissions that result from startups, shutdowns, and upset conditions
- 3.2 Emissions shall be calculated using one of the following methods:
  - 3.2.1 An emission factor from the EPA's Emissions Factors and Policy Applications Center (EFPAC), which includes AP-42,
  - 3.2.2 An emission factor or method from the EPA's Emission Inventory Improvement Program (EIIP),
  - 3.2.3 A method in a federally enforceable District regulations,
  - 3.2.4 An emission estimation equation, factor, or method included in an EPA regulation for determining actual emissions,
  - 3.2.5 Stack test or CEMS data,
  - 3.2.6 For a purchased material, information from the Material Safety Data Sheet (MSDS), or
  - 3.2.7 A method proposed by the owner or operator and approved in writing by the District.

- 3.3 Data required in emissions statements shall include the process- or process equipment specific calculations used to determine emissions. The raw data used to calculate the emissions shall be retained by the owner or operator of the stationary source for 5 years and shall be made available to the District upon request. Representative portions of the raw data used to calculate the emissions shall be supplied to the District in support of the emissions statement.
- 3.4 The District may require such additional information be submitted as necessary.
- 3.5 Data required by Sections 4 through 6 shall be submitted on forms provided by the District, or in an alternate format approved by the District.
- 3.6 A stationary source that did not emit an air contaminant required to be reported under Section 4 during an applicable year shall submit a negative declaration in place of the required emission statement.

#### **SECTION 4 Emissions Statements for Criteria Pollutants, HAPS, and Ammonia**

- 4.1 All stationary sources shall maintain annual records of actual emissions particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide, ozone precursor emissions of volatile organic compounds and oxides of nitrogen, lead, ammonia, and all other hazardous air pollutants (HAPs) listed in Regulation 5.14. Station sources shall retain these records for 5 years.
- 4.2 On or before April 15 of each year, stationary sources subject to Regulation 2.16 shall submit to the District statement of actual emissions of particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide, ozone precursor emissions of volatile organic compounds and oxides of nitrogen, lead, ammonia, and all hazardous air pollutants (HAPS) listed in Regulation 5.1.4 for the previous calendar year of operation.
- 4.3 The District may require the owner or operator of any source not subject to section 4.2 to report its actual or potential emissions to the District. The information shall be certified pursuant to Section 6 and returned to the District by the deadline stated in the forms or the letter of transmittal.

#### **SECTION 5 [Not Approved into the SIP]**

#### **SECTION 6 Emissions Statements for Ozone Precursors**

- 6.1 On or before April 15 of each year, all stationary sources of oxides of nitrogen or volatile organic compounds shall submit to the District a statement of actual emissions of those compounds.
- 6.2 Exemptions from this section:
  - 6.2.1 Facilities with less than 25 tons per year of plant-wide actual volatile organic compounds or oxides of nitrogen emissions are exempted from this requirement, unless emissions of the other are at or above 25 tons per year. The District may require sources claiming this exemption to provide adequate information to verify actual emissions for the previous year.
  - 6.2.2 The District may waive this requirement for sources located in an area designated as attainment or maintenance by U.S. EPA for all National Ambient Air Quality Standards (NAAQS) for ozone.



6.3 The emission statements submitted by the source to the District shall contain (at a minimum) all information required by Section 3 of this Regulation. The Emissions Statement submitted under Section 4 may be used to satisfy the requirements of this section.

**SECTION 7 Certification by a Responsible Official**

Information submitted to the District pursuant to this regulation shall contain a formal certification by a responsible official, as defined in Regulation 1.02, stating:

"Based on information and belief formed after reasonable inquiry, I certify that the statements and information in this document are true, accurate, and complete."

Adopted v1/4-19-72; effective 4-19-72; amended v2/9-1-76, v3/6-13-79, v4/12-17-86, v5/11-18-92, v6/12-15-93 v7/6-21-05 effective 7-1-05, v8/9-21-05, v9/1-19-11, v10/05-20-20.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	02/12/92	06/23/94	59 FR 32343
2nd Revision:	05/21/99	10/23/01	66 FR 53658
3rd Revision:	04/20/11	08/28/17	82 FR 40701
4th Revision:	08/12/20	03/9/22	87 FR 13177

**REGULATION 1.07    Excess Emissions During Startups, Shutdowns, and Upset Conditions**

**Air Pollution Control District of Jefferson County  
Jefferson County, Kentucky**

**Relates to:** KRS Chapter 77 Air Pollution Control

**Pursuant to:** KRS Chapter 77 Air Pollution Control

**Necessity and Function:** KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the notification, reporting, and operational requirements for the owner or operator of a stationary source when excess emissions occur as a result of a startup, shutdown, preventable upset condition, or malfunction.

**SECTION 1    Definitions**

Terms used in this regulation that are not defined in this regulation shall have the meaning given to them in Regulation 1.02 *Definitions*.

**SECTION 2    Excess Emissions**

- 2.1    The owner or operator of a process or process equipment has a general duty to ensure that the emissions from the process or process equipment are in compliance with all applicable emission standards. This includes starting up and shutting down the process or process equipment in a manner that the emissions are in compliance with all applicable emission standards and, consistent with safe operating procedures, stopping input feed to the process or process equipment and shutting down the process or process equipment if excess emissions would likely result from an upset condition.
- 2.2    Excess emissions from a process or process equipment due to startup, shutdown, or upset condition shall be deemed in violation of the applicable emission standard.
- 2.3    In determining the appropriate enforcement action for excess emissions, the District may consider the following factors:
  - 2.3.1    The duration and frequency of excess emissions during startups, shutdowns, and upset conditions,
  - 2.3.2    Whether the excess emissions could have been prevented through careful planning and design,
  - 2.3.3    Whether the excess emissions are part of a recurring pattern indicative of inadequate design, operation, or maintenance,
  - 2.3.4    Whether the process or process equipment was, at all times, operated in a manner consistent with good practices for minimizing emissions,
  - 2.3.5    For an upset condition, whether the owner or operator, consistent with safe operating procedures, stopped input feed to the process or process equipment and shut down the process or process equipment as soon as possible,
  - 2.3.6    For excess emissions during a startup or shutdown, the extent to which the owner or operator complied with section 3.6,
  - 2.3.7    For excess emissions during an upset condition, the extent to which the owner or operator complied with section 4.4,
  - 2.3.8    For an upset condition, whether the excess emissions were the result of a malfunction.  
To be deemed a malfunction, the owner or operator of the process or process

- equipment shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, all of the following:
- 2.3.8.1 The excess emissions were the result of an identified sudden and reasonably unforeseeable event beyond the control of the owner or operator, including forces of nature,
  - 2.3.8.2 Corrective action to restore normal operation of the process or process equipment was required,
  - 2.3.8.3 The excess emissions were not caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error, and
  - 2.3.8.4 The process or process equipment was, at the time of the upset condition, being properly operated, and
- 2.3.9 Whether the excess emissions exceeded a concentration in the ambient air that could reasonably have caused an acute noncancer effect.
- 2.4 Nothing in this regulation shall be construed to restrict the District's discretion to take, at any time, appropriate enforcement action under KRS Chapter 77 if, upon information supplied to the District pursuant to this regulation or otherwise available to the District, the District determines that this action is necessary to protect public health or welfare.
- 2.5 The owner or operator of a process or process equipment for which there are excess emissions shall comply with the following requirements, as applicable:
- 2.5.1 For startups and shutdowns, Section 3, and
  - 2.5.2 For upset conditions, Section 4.
- 2.6 If a notification or report to the District is required pursuant to this regulation to be in writing, then compliance with the deadline shall be established as follows:
- 2.6.1 If the notification or report is sent via mail, then the date and time postmarked by the U.S. Postal Service,
  - 2.6.2 If the notification or report is sent via facsimile, then the date and time received by the District as indicated on the printed copy received by the District,
  - 2.6.3 If the notification or report is sent via electronic mail, then the date and time identified as sent by the electronic mail to the District, and
  - 2.6.4 If the notification or report is hand-delivered to the District's office, then the date and time received by the District as stamped by the District.
- 2.7 The owner or operator of a process or process equipment that is subject to a notification or reporting requirement pursuant to this regulation may request, and the District may, for cause, approve an extension of the deadline for submitting one or more elements of the notification or report. The owner or operator may make this request by telephone, facsimile or electronic mail. If the request is made by telephone, then the owner or operator shall submit, by the end of that day, a confirmation written request by facsimile, electronic mail, or mail.
- 2.8 Notwithstanding a requirement in these regulations for certification of a submitted report, the notifications required by sections 3.1, 3.2, 3.3, 4.1, 4.3, and 4.6 are not required to be certified by a "responsible official" as defined in Regulation 2.16 *Title V Operating Permits* section 1.35. The reports required by sections 3.7, 3.8, 4.5, and 4.7 are required to be certified by a "responsible official."

### **SECTION 3 Startup or Shutdown**

- 3.1 If excess emissions during any planned startup or shutdown are expected to occur, then

- the owner or operator of the process or process equipment shall notify the District in writing no later than 3 days before the planned startup or shutdown.
- 3.2 If an unplanned startup or shutdown during which excess emissions are expected to occur is necessitated by events, other than an upset condition, that the owner or operator could not reasonably have foreseen 3 days before the startup or shutdown, then the notification shall be given to the District by telephone, facsimile, or electronic mail within 1 hour after the decision to start up or shut down the process or process equipment was made, and, if the notification is given by telephone, in writing as promptly as possible, but no later than 24 hours after that decision was made.
  - 3.3 If an unplanned startup or shutdown pursuant to section 3.2 begins outside of the District's regular business hours (8:00 a.m. to 5:00 p.m. on Monday to Friday, not including holidays) and the initial written notification pursuant to section 3.2 was not available to the District during regular business hours, then, in addition to that written notification, the owner or operator of the process or process equipment shall leave a message on the District's main telephone line [(502) 574-6000] containing the information required by sections 3.5.1, 3.5.3, 3.5.4, and 3.5.6, and the name and telephone number of a contact person at the stationary source.
  - 3.4 An unplanned startup or shutdown during which excess emissions are expected to occur that is necessitated by an upset condition shall be treated as part of the upset condition pursuant to Section 4.
  - 3.5 The written planned or unplanned startup or shutdown initial notification pursuant to section 3.1 or 3.2 shall include the following information:
    - 3.5.1 The name and location of the stationary source,
    - 3.5.2 The name, address, telephone number, and electronic mail address of the person responsible for providing the information required by section 3.5,
    - 3.5.3 The process or process equipment involved in the startup or shutdown,
    - 3.5.4 The scheduled date and time for the beginning of the startup or shutdown process, the expected duration of the startup or shutdown process, and the expected time period during which excess emissions are expected to occur,
    - 3.5.5 The physical and chemical composition and estimated quantity and concentration of excess emissions, or equivalent information that relates to compliance with the emissions standard, such as emissions monitoring data or results of an EPA-approved test method, for each air contaminant,
    - 3.5.6 The reason for and necessity of the startup or shutdown,
    - 3.5.7 The reason the startup or shutdown could not be accomplished without causing excess emissions, and
    - 3.5.8 An explanation as to how the provisions of section 3.6 will be met.
  - 3.6 If excess emissions during a startup or shutdown of a process or process equipment are expected to occur, then the owner or operator of the process or process equipment shall comply with all of the following:
    - 3.6.1 Reasonable, available, and practicable emission reduction measures, including process equipment design, appropriate operating procedures, and pollution prevention measures, shall be used to prevent or minimize excess emissions,
    - 3.6.2 The frequency and duration of operation of the process or process equipment in the startup or shutdown mode shall be minimized as much as necessary to prevent or minimize excess emissions,

- 3.6.3 A bypass of any related control equipment shall not occur unless necessary to prevent loss of life, personal injury, or severe property damage, and the extent and duration of any bypass shall be reduced as much as necessary to minimize excess emissions, and
- 3.6.4 All emission and parametric monitoring systems for the process or process equipment shall be operated unless technically infeasible.
- 3.7 If a person has notified the District pursuant to section 3.1, 3.2, or 3.3 but no excess emission occurred as the result of the startup or shutdown, then the owner or operator of the process or process equipment shall send a written report to the District that includes the name and telephone number of a contact person at the stationary source and the information required by sections 3.8.1, 3.8.3, and 3.8.4, except indicating that no excess emission occurred. The written report may be sent by mail, facsimile, or electronic mail, and shall be sent no later than 5 working days following the completion of the startup or shutdown.
- 3.8 No later than 5 working days following the completion of a startup or shutdown during which excess emissions occurred, whether or not initial notification of the startup or shutdown pursuant to section 3.1, 3.2, or 3.3 was made to the District, the owner or operator of the process or process equipment shall send a written report to the District that includes the following information:
  - 3.8.1 The name and location of the stationary source,
  - 3.8.2 The name, address, telephone number, and electronic mail address of the person responsible for providing the information required by section 3.8,
  - 3.8.3 The process or process equipment involved in the startup or shutdown,
  - 3.8.4 The actual date and time of the beginning of the startup or shutdown process, the actual duration of the startup or shutdown process, and the actual time period during which excess emissions occurred,
  - 3.8.5 The physical and chemical composition and calculated quantity and concentration of excess emissions, or equivalent information that relates to compliance with the emissions standard, such as emissions monitoring data or results of an EPA-approved test method, for each air contaminant, including a description of the method used for calculating excess emissions and an identification of the applicable emission standard that was exceeded, and
  - 3.8.6 An explanation as to how each provision of section 3.6 was met.
- 3.9 The District may require the owner or operator of a process or process equipment for which startups or shutdowns have resulted in repeated excess emissions to develop and submit a program to eliminate or minimize excess emissions. If the District determine that a program is appropriate, then the District shall notify the owner or operator in writing, specify the information that is required in the program, and establish a deadline for submittal of the program. Upon District approval, the owner or operator shall implement the approved program and the approved program shall be an enforceable requirement of the applicable District permit for the process and process equipment included in the program.

#### **SECTION 4 Upset Condition**

- 4.1 If excess emissions from a process or process equipment resulting from an upset condition, or from an unplanned startup or shutdown necessitated by an upset condition, occur or are likely to occur, the owner or operator of the process or process equipment

shall, as promptly as possible, but no later than 1 hour following the start of the upset condition, or, if a call to the 911 system was made, then no later than 2 hours following the start of the upset condition, notify the District by telephone, facsimile, or electronic mail.

- 4.2 The initial notification of the upset condition pursuant to section 4.1 shall include the following information:
  - 4.2.1 The name and location of the stationary source,
  - 4.2.2 The name, address, telephone number, and electronic mail address of the person responsible for providing the information required by section 4.2,
  - 4.2.3 The process or process equipment involved in the upset condition,
  - 4.2.4 The date and time of the beginning of the upset condition, the estimated time before input feed to the process or process equipment will be stopped and the process or process equipment shut down or the process or process equipment is returned to normal operation, whichever is earlier (the excess emissions end), and the estimated time period during which excess emissions are likely to occur,
  - 4.2.5 To the extent that it can reasonably be determined under the circumstances, the physical and chemical composition and estimated quantity and concentration of excess emissions, or equivalent information that relates to compliance with the emissions standard, such as emissions monitoring data or results of an EPA-approved test method, for each air contaminant,
  - 4.2.6 If known or suspected, the likely cause of the upset condition, and
  - 4.2.7 If applicable and known, the reason the processes or process equipment will not be shut down immediately, consistent with safe operating procedures.
- 4.3 If the initial notification pursuant to section 4.1 is required to be made at a time outside of the District's regular business hours (8:00 a.m. to 5:00 p.m. on Monday to Friday, not counting holidays), then, in addition to that initial notification, the owner or operator of the process or process equipment shall leave a message on the District's main telephone line [(502) 574-6000] containing the information required by sections 4.2.1, 4.2.3, 4.2.4, 4.2.6, and 4.2.7, and the name and telephone number of a contact person at the stationary source.
- 4.4 If excess emissions during an upset condition of a process or process equipment occur or are likely to occur, then the owner or operator shall comply with both of the following:
  - 4.4.1 Consider the suitability and appropriateness of each of the following and implement one or more as appropriate and necessary to prevent or minimize excess emissions:
    - 4.4.1.1 Reasonable, available, and practicable emission reduction measures, including process equipment design, appropriate operating procedures, pollution prevention measures, use of off-shift labor and overtime, and, consistent with safe operating procedures, immediately stopping or reducing input feed to the process or process equipment and reducing the operation of or shutting down the process or process equipment, and
  - 4.4.2 Comply with all of the following:
    - 4.4.2.1 The frequency and duration of operation of the process or process equipment in an upset condition mode shall be minimized as much as necessary to prevent or minimize excess emissions,
    - 4.4.2.2 A bypass of any related control equipment shall not occur unless necessary to prevent loss of life, personal injury, or severe property damage, and the extent and

duration of any bypass shall be reduced as much as necessary to minimize excess emissions, and

- 4.4.2.3 All emission and parametric monitoring systems for the process or process equipment shall be operated unless technically infeasible.
- 4.5 If a person has notified the District pursuant to section 4.1 or 4.3 but no excess emission occurred as the result of the upset condition, then the owner or operator of the process or process equipment shall send a written report to the District that includes the name and telephone number of a contact person at the stationary source, the information required by sections 4.6.1, 4.6.3, and 4.6.4, and the statement that no excess emission occurred. The written report may be sent by mail, facsimile, or electronic mail, and shall be sent no later than 5 working days after the input feed to the process or process equipment is stopped and the process or process equipment is shut down or the process or process equipment is returned to normal operation after the occurrence of an upset condition, whichever is earlier.
- 4.6 As soon as reasonably possible, but no later than 2 hours after the excess emissions ended, the owner or operator of the process or process equipment shall notify the District by telephone, facsimile, or electronic mail. If this notification is made by telephone, the owner or operator shall provide written notification by facsimile or electronic mail no later than 4 hours after the excess emissions ended. The written notification of the end of the upset condition shall include the following information:
  - 4.6.1 The name and location of the stationary source,
  - 4.6.2 The name, address, telephone number, and electronic mail address of the person responsible for providing the information required by section 4.6,
  - 4.6.3 The process or process equipment involved in the upset condition,
  - 4.6.4 The date and time that the excess emissions ended, and
  - 4.6.5 If the initial notification to the District pursuant to section 4.6 was made by telephone, then the time that the telephone notification was made.
- 4.7 No later than 15 calendar days after the excess emissions ended, the owner or operator of the process or process equipment shall send a written report to the District that includes the following information:
  - 4.7.1 The name and location of the stationary source,
  - 4.7.2 The name, address, telephone number, and electronic mail address of the person responsible for providing the information required by section 4.7,
  - 4.7.3 The process or process equipment involved in the upset condition,
  - 4.7.4 Confirmation of the actual date and time that the excess emissions ended,
  - 4.7.5 The physical and chemical composition and calculated quantity and concentration of excess emissions, or equivalent information that relates to compliance with the emissions standard, such as emissions monitoring data or results of an EPA-approved test method, for each air contaminant, including a description of the method used for calculating excess emissions and an identification of the applicable emission standard that was exceeded,
  - 4.7.6 An explanation of how the requirements of section 4.4 were met,
  - 4.7.7 An analysis of the cause of the upset condition and the steps that will be taken to prevent or minimize similar occurrences in the future, and
  - 4.7.8 Any additional information requested by the District.
- 4.8 Upon written request from the owner or operator of a process or process equipment

required to submit a report pursuant to section 4.7 for an extension of the due date to submit the information required by section 4.7.7, the District may extend the due date by up to 45 days from the original due date.

**SECTION 5 Extended Upset Conditions**

- 5.1 If correcting the excess emissions from a process or process equipment resulting from an upset condition is anticipated to exceed 30 days and the owner or operator does not shut down the process or process equipment, then the owner or operator shall, as soon as known, but no later than 7 days after the beginning of the excess emissions, request, in writing, that the District initiate the process for the adoption of a Board Order to allow continued operation with excess emissions. The request by the owner or operator of the process or process equipment shall include a written program outlining a time schedule and corrective actions to abate the excess emissions. The time schedule may include a period for engineering review and analysis of the cause of the excess emissions and design of modifications to effect compliance with the emission standards. The owner or operator shall, in a timely manner, submit all information requested by the District.
- 5.2 Any resulting Board Order shall include a time schedule and required actions to comply with the emission standards. The Board Order shall neither constitute an affirmative defense for violations caused by excess emissions nor preempt the rights of the EPA or any person to take action under federal, state, or local law.

Adopted v1/4-19-72; effective 4-19-72; amended v2/9-1-76, v3/6-13-79, v4/11-16-83, v5/12-15-93, v6/6-21-95, v7/1-17-96, v8/6-21-05 effective 7-1-05.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	02/11/99	10/23/01	66 FR 53658
2nd Revision:	03/22/11	06/14/14	79 FR 33101



**REGULATION 1.08            Administrative Procedures**

**Air Pollution Control District of Jefferson County Jefferson County, Kentucky**

**Relates to:** KRS Chapter 77 Air Pollution Control and KRS Chapter 424 Legal Notices

**Pursuant to:** KRS Chapter 77 Air Pollution Control and KRS Chapter 424 Legal Notices

**Necessity and Function:** KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules; and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the procedures for public hearings for certain actions by the Board and the District, the requirements for compliance plans and schedules and enforcement orders, the procedures for compliance with the Kentucky Open Records Act KRS 61.870 to 61.884, and the procedures for the adoption, amendment, and repeal of regulations.

**SECTION 1 Public Hearings**

- 1.1 A public hearing shall be held by the Air Pollution Control Board (Board) before any of the following actions are taken:
  - 1.1.1 The adoption of an order for a stationary source or person,
  - 1.1.2 The issuance of a compliance plan and schedule to a stationary source,
  - 1.1.3 The adoption of a new regulation,
  - 1.1.4 The adoption of an amended regulation,
  - 1.1.5 The repeal of a regulation,
  - 1.1.6 The revocation of a permit for cause by the Board pursuant to Regulation 2.09 *Causes for Permit Modification, Revocation, or Suspension* Section 2 *Revocation of a Permit or other Authorization to Operate by the Board*,
  - 1.1.7 The adoption of an alternate emission standard pursuant to Regulation 2.12 *Emissions Trading (Including Banking and Bubble Rules)*, Section 8 *Alternate Emission Standards (Bubbles)*,
  - 1.1.8 The use of unallocated emission reduction credits pursuant to Regulation 2.12, Section 5 *Use of Emission Reduction Credits*, and
  - 1.1.9 The modification of an environmental acceptability goal to a cancer risk exceeding  $25 \times 10^{-6}$  pursuant to Regulation 5.21 *Environmental Acceptability for Toxic Air Contaminants*, Section 5, *Modification of an EA Goal*.
- 1.2 A public hearing may be held by the Board before any of the following actions are taken:
  - 1.2.1 A permit action for a stationary source that is subject to a public notice requirement in
    - 1.2.1.1 Regulation 2.07 *Public Notification for Title V, PSD, and Offset Permits; SIP Revisions; and Use of Emission Reduction Credits*,
    - 1.2.1.2 Regulation 2.16 *Title V Operating Permits*,
    - 1.2.1.3 Regulation 2.17 *Federally Enforceable District Origin Operating Permits*,  
or

- 1.2.1.4 Any other permit action for a stationary source for which the District or the Board determines that there is significant public concern regarding the permit action or for which the public interest is better served by having an opportunity for a public hearing,
- 1.2.2 The approval, revision, or discontinuance of an upset condition prevention program pursuant to Regulation 1.20 *Upset Condition Prevention Programs*,
- 1.2.3 The modification of an environmental acceptability goal to cancer risk not exceeding  $25 \times 10^{-6}$  or to a Hazard Quotient exceeding 1.0 pursuant to Regulation 5.21, Section 5, *Modification of an EA Goal*.
- 1.2.4 The issuance of a construction permit containing an emission standard developed pursuant to Regulation 5.21 section 4.11.2, and
- 1.2.5 The approval of a Risk Reduction Plan pursuant to Regulation 5.21, Section 6 *District-initiated Determination*.
- 1.2.6 A public hearing shall be held by the Board if requested by the permittee within 10 days after receipt of notice that a permit has been suspended pursuant to Regulation 2.09 *Causes for Permit Modification, Revocation, or Suspension*, Section 3 *Suspension of a Permit or other Authorization to Operate by the District*.

**SECTION 2 Procedures at Public Hearings**

- 2.1 Public hearings shall be held just prior to the monthly Board meeting, unless the Board Chair sets a different date. At any public hearing:
  - 2.1.1 The staff explanation of the action and recommendation shall first be made by a representative of the District,
  - 2.1.2 A representative of the affected entity, if any, shall then be given the opportunity to present any statements regarding the proposed action,
  - 2.1.3 Any person who wishes to present evidence either in support of, or in opposition to, the proposed action may then make a statement,
  - 2.1.4 The representative of the affected entity shall then be given an opportunity to rebut any of the opposition statements,
  - 2.1.5 Further opportunity for comment may be granted at the discretion of the Chair, and
  - 2.1.6 Board members may ask question of the District staff or any person addressing the Board
  - 2.1.7 At the conclusion of the statements, the public hearing shall be adjourned.
- 2.2 If the matter is to be decided on by the Board, the Board shall place the matter of the public hearing on its agenda for appropriate action, although the Board may delay action until a subsequent Board meeting.

### **SECTION 3 Compliance Plans and Schedules**

- 3.1 No person shall operate an affected facility resulting in the presence of air contaminants in the atmosphere in contravention of any regulation unless an approved compliance schedule has been issued by the District and is currently in effect.
- 3.2 Application for compliance schedules required under this section shall contain:
  - 3.2.1 The reason for requesting a compliance schedule,
  - 3.2.2 A plan and schedule for compliance,
  - 3.2.3 The level of emissions expected during the period prior to compliance,
  - 3.2.4 A plan for emission monitoring and monthly reporting,
  - 3.2.5 Facts establishing that the proposed system is the best practical system of emission reduction
  - 3.2.6 Any other information required by the District or the Board to determine whether the compliance plan and schedule should be issued.
- 3.3 An approved compliance plan and schedule that is inconsistent with any provision of the Kentucky State Implementation Plan (SIP) shall be forwarded to the Kentucky Division for Air Quality for submittal to the EPA as a requested revision to the SIP; This compliance plan and schedule does not change the federally-enforceable SIP unless approved by the EPA.
- 3.4 Applications for compliance schedules shall be signed by the corporate president or an authorized agent; by an equivalently responsible officer in the case of organizations other than corporations; by the source owner or operator; or, in the case of political subdivisions, by an appropriate elected official. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.
- 3.5 The information submitted in the application shall, when specifically requested by the District, include an analysis of the characteristics, properties, and volume of the air contaminants based upon samples of air contaminants taken under maximum operating conditions. Failure to supply information required or deemed necessary by the District to enable it to act upon the compliance schedule application shall result in disapproval of the compliance schedule application.
- 3.6 If, for any reason, the District and the owner of the affected facility are unable to develop a mutually acceptable compliance plan and schedule, then the District may develop and propose an appropriate compliance plan and schedule to the Board. After a public hearing, the Board may issue a compliance plan and schedule incorporating, in its judgement, the most expeditious and practicable schedule for bringing the affected facility into compliance. Once issued, this compliance schedule, including all increments of progress, shall be legally enforceable.
- 3.7 Compliance plans and schedules shall include the terms and conditions that the Board deems necessary to insure compliance with the compliance plan and schedule and these regulations. These terms and conditions may include maintenance and availability of

records relating to operations that may cause or contribute to air pollution, including periodic sampling of the affected facilities.

- 3.8 An application for a compliance plan and schedule shall be submitted to the District at least 40 days prior to the proposed hearing date, unless the District finds either of the following:
  - 3.8.1 The late request was beyond the control of the applicant, or
  - 3.8.2 The delay in holding the hearing until after the 40-day period may result in significant impairment or disruption of the applicant's business.

#### **SECTION 4 Enforcement Orders**

- 4.1 An enforcement order shall be issued to a stationary source that has been granted a compliance plan and schedule pursuant to this regulation. The order shall contain the terms and conditions imposed upon the stationary source by the Board. Failure of the owner or operator of the stationary source to comply with any term or condition of the order may result in an immediate enforcement action by the Board through either an enforcement order of the Board or through appropriate judicial action.
- 4.2 The Board may issue an order to prevent or abate a violation of these regulations by any person.

#### **SECTION 5 [Reserved]**

#### **SECTION 6 Confidentiality and Open Records Policy**

- 6.1 Definitions
  - 6.1.1 Terms that are used in this Section that are not defined in this Section or Regulation 1.02 *Definitions* shall have the meaning given them in the Kentucky Open Records Act KRS 61.870 to 61.884.
  - 6.1.2 "Emission data" means, with reference to any source of emission of any substance into the air, the following:
    - 6.1.2.1 Information necessary to determine the identity, amount, frequency, concentration, or other characteristic (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from emission by the source), or any combination of the foregoing,
    - 6.1.2.2 Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emission which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for purposes, a description of the manner or rate of operation of the source), and
    - 6.1.2.3 A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including,

to the extent necessary for such purposes, a description of the device installation, or operation constituting the source). The request shall describe the records with sufficient specificity to enable the District to identify and locate the public records sought.

- 6.2 Pursuant to KRS 61.874, physical copies of any written material not exempt from inspection shall be furnished, on request, to any person requesting them. Payment of a reasonable fee per page for each record copies may be required.
- 6.3 The principal office and hours, title and address of the official custodian of records, and fees related to production of records are listed in the Louisville Metro Air Pollution Control Districts Open Records Policy,
- 6.4 Requests shall follow the procedure found in the Louisville Metro Air Pollution Control District Open Records Policy.
- 6.5 Exemption from Public Inspection
- 6.5.1 Records furnished to the District shall be available for inspection by the public unless the records or portions of the records are designated by the District as confidential or otherwise exempt from public inspection. Records furnished to the District may be exempt from public inspection only after the individual or company furnishing the records has requested in writing an exemption provided by the Kentucky Open Records Act in KRS 61.878 and the request has been approved by the District. The request shall include a statement of the specific exemption which would authorize the District to withhold the record and a brief explanation of how the exemption applies to the record. The burden of showing the applicability of the exemption rests with the person requesting the exemption.
- 6.5.2 Emission data shall not be exempt from public inspection.
- 6.5.3 An applicant requesting a designation of a record as exempt shall provide all of the following:

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- 6.5.3.1 A statement identifying the specific exemption that would authorize the District to exempt the record from public inspection and a brief explanation of how the exemption applies to the record. The burden of showing the applicability of the exemption rests with the applicant,
- 6.5.3.2 A copy of the furnished records completely filled out, including the exempt information, and a second copy of the furnished record omitting the information requested to be designated as exempt but including a general description of the omitted information. The second copy shall be available for public inspection.
- 6.5.4 The applicant shall be notified in writing if the District determines that the record does not qualify as exempt from public inspection. The applicant shall, within 14 calendar days, resubmit the record without any marking as confidential. This determination may be appealed as provided by Regulation 1.19 *Administrative Hearings*

**SECTION 7 Procedures for the Adoption, Amendment, or Repeal of a Regulation**

- 7.1 The District shall propose necessary regulatory actions, including adoption of new regulations, and amendment and repeal of existing regulations. Each proposed regulatory action shall include a preliminary regulatory impact assessment as required by Section 7.4.
- 7.2 A committee of the Board shall review the draft proposed action and the preliminary regulatory impact assessment.
  - 7.2.1 The Board Chari shall schedule Committee meetings to review any proposed actions; and
  - 7.2.2 the District shall provide notice to the public, and the draft proposed action and preliminary regulatory impact assessment available to the Board and the public prior to the day that the committee takes action on the draft proposed action. .
- 7.3 Upon review, the committee may approve of the proposed action and preliminary regulatory impact assessment for public review, at which time the District shall schedule the public comment period and public hearing.
- 7.4 The preliminary and final regulatory impact assessments required by sections 7.1 & 7.8.3 shall include
  - 7.4.1 shall include
    - 7.4.1.1 the purpose of the action,
    - 7.4.1.2 the estimated costs and savings associated with the action,
    - 7.4.1.3 the feasibility of all alternatives considered,
    - 7.4.1.4 a comparison with any minimum or uniform standards under the Act or any other federal or state requirement, and
    - 7.4.1.5 a report on public outreach efforts intended/completed for the proposed action,
  - 7.4.2 The estimated costs and savings shall include the following:
    - 7.4.2.1 The estimated number of affected facilities,
    - 7.4.2.2 A description of the range of affected facilities, and
    - 7.4.2.3 The estimated capital and operating costs and savings associated with compliance with the proposed action for affected facilities, and
  - 7.4.3 The feasibility of alternatives considered shall include, for each alternative, a description of the following:
    - 7.4.3.1 The approach for reducing emissions,
    - 7.4.3.2 The estimated level of emission reductions,
    - 7.4.3.3 The available pollution prevention measures, and
    - 7.4.3.4 The reason that the alternative was chose or not chosen.

- 7.4.4 The District may rely on reasonably available information in developing the regulatory impact assessment.
- 7.4.5 The regulatory impact assessment required by sections 7.1 & 7.8.3 need not be developed when the proposed regulatory action is substantively identical to federal or state standards or requirements.
- 7.5 The public shall be provided with at least 30 days' notice prior to the public hearing on a proposed action on a regulation. Legal notice shall be made in accordance with KRS Chapter 424 Legal Notices and any applicable EPA requirements.
- 7.6 At the time of the legal notice, copies of the proposed action shall be available from the District during normal working hours.
- 7.7 Prior to final action on a regulation:
  - 7.7.1 The District shall prepare a preliminary response to all written comments on the proposed action received by the District within the time period specified in the public notice and, unless the Board takes action on the proposed action on the same day as the public hearing, oral comments made during the public hearing. The preliminary response shall be available to the Board and the public prior to the day that the Board takes action on the proposed action,
  - 7.7.2 The Board shall consider written comments received by the District within the time period specified in the legal notice and oral comments made during the public hearing, and
  - 7.7.3 The District shall identify, for Board consideration, unresolved issues raised during the public comment period and the public hearing.
- 7.8 The written record of final action on a regulation shall be made available to the public and shall include the following:
  - 7.8.1 A final response to all written comments on the proposed action received by the District within the time period specified in the public notice and oral comments made during the public hearing,
  - 7.8.2 A statement explaining the basis for any substantive amendments made to a proposed action on a regulation after its initial proposal, and
  - 7.8.3 A final regulatory impact assessment that shall include any additional information submitted pursuant to the public comment period and public hearing. The Board may rely on reasonably available information in assessing the regulatory impact of its regulatory action.

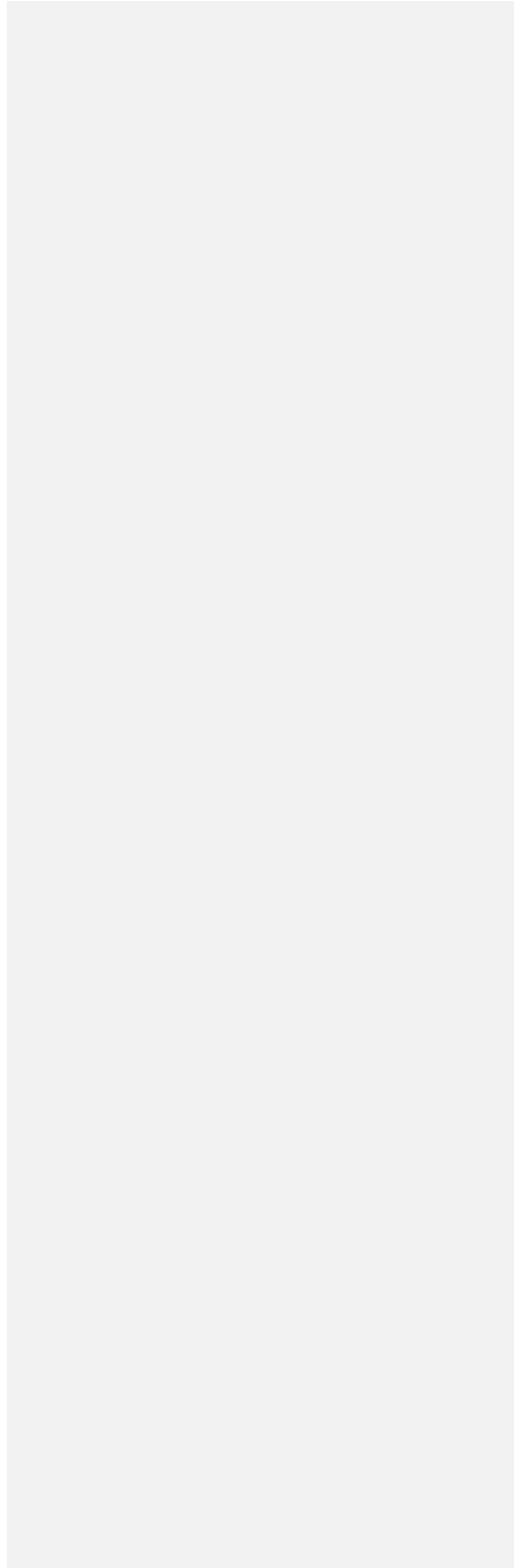
Adopted v1/4-19-72; effective 4-19-72; amended v2/9-1-76, v3/6-13-79, v4/11-16-83, v5/2-19-86, v6/1-20-88, v7/5-15-91, v8/12-15-93, v9/6-21-95, v10/9-25-96, v11/6-19-02, v12/1-16-08, v13/4-21-10, v14/11-20-19.

	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	02/12/92	10/22/92	58 FR 54516
2nd Revision:	03/14/03	11/03/03	68 FR 62236
3rd Revision:	12/20/10	08/31/17	82 FR 41335

4th Revision: 03/04/20 10/21/20 85 FR 66876

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**REGULATION 1.09    Prohibition of Air Pollution**

**Air Pollution Control District of Jefferson County  
Jefferson County, Kentucky**

**Relates To:** KRS Chapter 77 Air Pollution Control

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Necessity And Function:** KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes a general prohibition of air pollution within Jefferson County.

No person shall permit or cause the emission of air pollutants which exceed the requirements of the District regulations or which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health, or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property.

Adopted v1/4-19-72; effective 4-19-72; amended v2/3-14-73, v3/9-1-76, v4/6-13-79, v5/11-16-83.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	02/11/99	10/23/01	66 FR 53658

**Regulation 1.10 Circumvention**

**Air Pollution Control District of Jefferson County  
Jefferson County, Kentucky**

**Relates To:** KRS Chapter 77 Air Pollution Control

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Necessity And Function:** KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes a general prohibition against circumventing District regulations.

No person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air contaminant emitted, conceals or dilutes an emission of air contaminant which would otherwise violate these regulations.

Adopted v1/4-19-72; effective 4-19-72.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	07/20/99	10/23/01	66 FR 53660

## **REGULATION 1.11 Control of Open Burning**

### **Air Pollution Control District of Jefferson County Jefferson County, Kentucky**

**Relates To:** KRS Chapter 77 Air Pollution Control

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Necessity And Function:** KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation provides for the control of open burning by any person.

#### **SECTION 1 Definitions**

Terms used in this regulation that are not defined in this regulation shall have the meaning given to them in Regulation 1.02 *Definitions*.

1.1 "Fire pit" means either:

- 1.1.1 A portable device that is commercially manufactured for the purpose of building a recreational fire, such as a chimenea or above-ground fire pit, or
- 1.1.2 A permanent, constructed fire chamber that is completely lined with non-combustible material, such as brick, rock, or concrete, the bottom of which may be soil.

#### **SECTION 2 Prohibition of Open Burning**

2.1 No person shall cause, allow, or maintain any open fire except as follows:

- 2.1.1 A fire substantially for the cooking of food non-commercial purposes; however, a fire maintained at a size or duration in excess of that appropriate for the cooking of food, or a fire for which the cooking of food is an inconsequential activity, shall be considered a recreational fire subject to the requirements of section 2.1.3. The cooking of food for non-commercial purposes in a device such as a grill, smoker, or cooker, shall not be deemed an open fire subject to this regulation.
- 2.1.2 A fire in a pit, provided that:
  - 2.1.2.1 Only untreated firewood is used as fuel, and
  - 2.1.2.2 The fire is no larger than 3 feet long by 3 feet wide by 3 feet high.
- 2.1.3 A fire determined by the District to be for recreational or ceremonial purposes and approved in writing by the District, provided that:
  - 2.1.3.1 A written request, on a form provided by the District, for approval of a recreational or ceremonial fire from the person in charge of the event shall be received by the District at least 5 working days before the requested date of the event,
  - 2.1.3.2 Only untreated firewood is used as fuel, and
  - 2.1.3.3 The fire is no larger than 5 feet long by 5 feet wide by 5 feet high,
- 2.1.4 A fire for general agricultural production for weed abatement, disease control, or pest prevention or for recognized silvicultural, range, native grassland, or wildfire management practices, provided that open burning is necessary and approved for that purpose by the District, after considering the written recommendation of the Jefferson County Soil and Water Conservation District and the local fire protection. No such fire may be set when the forecasted average wind speed is greater than 15 miles per hour during the expected period of burning,

- 2.1.5 A fire for controlling a public health hazard, provided that the Louisville Metro Department of Public Health and Wellness has declared open burning to be necessary for this purpose and has submitted a written notice of this determination to the District,
- 2.1.6 A fire set for the prevention of a fire or safety hazard, provided that the local fire protection district or the appropriate regulatory agency having jurisdiction where the hazard exists has declared open burning to be necessary to abate the hazard and has submitted a written notice of this determination to the District,
- 2.1.7 A fire, or a series of fires, set for the purpose of bona fide instruction and training of public and industrial employees in the methods of fighting fires that is approved in writing by the District. A written request, on a form provided by the District, for approval of the fire training exercise from the official in charge, or a designee of the official in charge, shall be received by the District at least 5 working days before the date of the first fire,
- 2.1.8 A fire set for the purpose of debris removal necessitated by natural forces, including, but not limited to, a tornado, very severe windstorm, or flood, having caused community-wide damage, that if the fire were prohibited, would place a severe burden on other disposal methods and that is declared necessary, in writing, to be necessary by the Louisville Metro Mayor and approved in writing by the District. A written request, on a form provided by the District, for approval of a debris removal fire shall be considered by the District on a case-by-case basis. The visible emissions into the outside air from fires for this purpose shall not be equal to or greater than 40% opacity, and
- 2.1.9 A special-case fire not otherwise addressed in section 2.1, approved in writing by the District on a case-by-case basis. A written request for approval of a special-case fire from the person in charge of the fire shall, if possible, be received by the District at least 10 working days before the requested date of the fire. The request shall include an explanation of why the fire is necessary.
- 2.2 A fire described in sections 2.1.2 to 2.1.9 is prohibited on any day designated by the District as an Air Quality Alert Day, except that a fire set for controlling a public health hazard pursuant to section 2.1.5 may be set if declared necessary by the Louisville Metro Mayor to abate an imminent danger to human health or safety.
- 2.3 A person responsible for a fire described in section 2.1 shall also comply with all applicable provisions of KRS Chapters 149 *Forestry*, 150 *Fish and Wildlife Resources*, or 227 *Fire Prevention and Protection*, any other state law or regulation, any local ordinances, and any District regulation.
- 2.4 Tires, used oil, heavy oil, gasoline, diesel fuel, kerosene, or similar accelerant shall not be used to start or maintain combustion of any fire described in section 2.1.
- 2.5 Burn barrels of any sort are prohibited.
- 2.6 The District may require the submittal of information, on a form provided by the District, regarding a fire allowed by section 2.1.2 to 2.1.9.
- 2.7 The District may impose limitations or prohibitions on a fire allowed by section 2.1.2 to 2.1.9 including, but not limited to, the following:
  - 2.7.1 The composition and amount of material to be burned and the frequency of approved fires,

2.7.2 The time and day for the burning, including an episodic prohibition of burning based upon the forecasted meteorological or air quality conditions of a day for which burning is otherwise approved, and

2.7.3 Where practical, the location of the fires.

Adopted v1/4-19-72; effective 4-19-72; amended v2/10-17-72, v3/9-1-76, v4/2-19-86, v5/12-17-86, v6/1-20-88, v7/12-20-89, v8/2-22-90, v9/1-15-03, v10/1-16-08.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	02/11/99	10/23/01	66 FR 53658
1st Revision:	12/20/10	08/31/17	82 FR 41335

## **REGULATION 1.14 Control of Fugitive Particulate Emissions**

### **Air Pollution Control District of Jefferson County Jefferson County, Kentucky**

**Relates to:** KRS Chapter 77 Air Pollution Control

**Pursuant to:** KRS Chapter 77 Air Pollution Control

**Necessity And Function:** KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation provides for the control of fugitive particulate emissions for any source.

#### **SECTION 1 Definitions**

Terms used in this regulation not defined herein shall have the meaning given them in Regulation 1.02.

- 1.1 "Fugitive particulate matter" means any particulate matter which is emitted into the open air from points other than a stack outlet.
- 1.2 "Open air" means the air outside buildings, structures, and equipment.

#### **SECTION 2 Standard for Fugitive Particulate Matter:**

- 2.1 No person shall cause, allow, or permit any materials to be handled, transported, or stored; or a building and/or its appurtenances to be constructed, altered, used, repaired, or demolished; or a road to be used without taking reasonable precautions to prevent particulate matter from becoming airborne beyond the work site. Such precautions shall include, where applicable, but shall not be limited to the following:
  - 2.1.1 Using, where possible, water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land,
  - 2.1.2 Applying and maintaining asphalt, oil, water, or suitable chemicals on roads, materials stockpiles, and other surfaces which can create airborne dusts,
  - 2.1.3 Installing and using hoods, fans, and fabric filters to enclose and vent the handling of dusty materials; using water sprays or other measures to suppress the dust emissions during handling. Adequate containment methods shall be employed during sandblasting or other similar operations,
  - 2.1.4 Covering at all times, except when loading and unloading, open bodied trucks transporting materials likely to become airborne,
  - 2.1.5 Conducting agricultural practices such as tilling of land, application of fertilizers etc., in such manner as to not create a nuisance to others residing in the area,
  - 2.1.6 Maintaining paved roadways in a clean condition,
  - 2.1.7 Removing earth or other material from paved streets which earth or other material has been transported thereto by trucking or earth moving equipment or erosion by water.
- 2.2 When particulate matter escapes from a building or equipment in such a manner and amount as to cause a nuisance or to violate any regulation, the District may order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that all air and gases and air or gas-borne material leaving the

- building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.
- 2.3 No person shall cause or permit the discharge of fugitive emissions in excess of 20% opacity.
  - 2.4 No person shall cause or permit the discharge of visible fugitive emissions beyond the lot line of the property on which the emissions originate.

### **SECTION 3 Unpaved Roads and Unpaved Parking Areas**

- 3.1 Any person owning or constructing any unpaved road or unpaved parking area shall discontinue and prevent use of the road or parking area, unless the District has approved a fugitive dust control plan which includes preventive measures.
- 3.2 Exceptions:
  - 3.2.1 Any road or parking area which, after demonstration to the District, will not exceed an average daily traffic count of 10 vehicles averaged over any consecutive three-day period,
  - 3.2.2 Any road or parking area associated solely with a housing project of four family dwelling units or less, and
  - 3.2.3 Temporary roads or parking area used in the construction process. Abatement and preventive measures shall be implemented as set forth in Section 9.
- 3.3 The District may require the person owning or maintaining any unpaved road to supply traffic count information on a regular basis to the District as necessary to determine if additional abatement and preventive measures or changes in the implementation time schedule are required of the person by the District as set forth in Section 9.

### **SECTION 4 Hard Surfaces of Roads and Parking Areas**

A person constructing or contracting to construct any road or parking area which is to be hard surfaced (concrete or bituminous binder and rock, for example) shall submit to the District a compliance plan and schedule within six months of start of construction. The person shall use abatement and preventive measures during construction.

### **SECTION 5 Earth and Construction Material Moving and Excavating Activities**

No land developer or owner of a construction or land development project shall throughout the duration of the project, disturb or contract to disturb by grading, excavating or depositing on land, unless abatement and preventive measures are being met continuously. New sources regulated in this paragraph must notify by writing the District prior to breaking ground.

### **SECTION 6 Demolition, Wrecking and Moving of Structures**

No person shall conduct demolition, wrecking, or moving of structures prior to notifying the District.

### **SECTION 7 Open Mining Activities**

- 7.1 No developer or owner of an open mining activity shall throughout the duration of the operation, disturb or contract to disturb by grading, excavating, blasting, or depositing on more total surface area than one acre of land in the aggregate unless the provisions of Section 8 are being met continuously. Open mining activities must notify by writing the District prior to operation. Open mining shall mean the mining of natural mineral deposits,

limestone, coal, and gravel, and quarry aggregate, by removing the overburden lying above such deposits thereby exposed. The term includes, but is not limited to, such practices as open cut mining, open pit mining, strip mining, quarrying, and dredging.

## **SECTION 8 Other Activities**

A plan must be submitted at the District's request on forms provided by the District which includes the following information:

- 8.1 A description shall be submitted to the District at the District's request of the nature and scope of the activity and of the existing sources of fugitive dust including but not limited to the following:
  - athletic fields
  - borrow pits
  - campgrounds
  - cleaning
  - construction
  - crushing
  - demolition
  - detonation of explosives
  - drying
  - earth moving
  - excavating
  - fairgrounds
  - feed & grain handling, loading & unloading
  - feed lots
  - handling
  - landfills
  - land leveling
  - mining activities
  - mixing
  - processing of sand, gravel and rock
  - quarrying
  - repair or alteration
  - sandblasting
  - screening
  - site preparation
  - storage
  - transportation
  - unpaved parking areas
  - unpaved roads
  - vehicle movement
  - waste disposal
- 8.2 Fugitive dust abatement and preventive measures to be implemented, and
- 8.3 A description of any monitoring or sampling methods used for recording and reporting data to the District.

## **SECTION 9 Abatement and Preventive Measures**



- 9.1 Unpaved roads and unpaved parking areas.  
Abatement and preventive measures shall be approved by the District and may include but shall not be limited to frequent watering, addition of dust palliatives, detouring, paving, closure, speed control, or other means such as surface treatment with penetration chemicals (ligninsulfonates, water, cutbacks, etc.) or methods of equal or greater effectiveness in reducing the air contamination produced as demonstrated to the District.
- 9.2 Demolition, wrecking, explosive detonations, earth and construction material moving, mining, and excavation activities.
- 9.2.1<sup>1</sup> Abatement and preventive fugitive dust control measures shall be approved by the District and may include, but shall not be limited to: Wetting down, including pre-watering; landscaping and replanting vegetation; covering, shielding or enclosing the area; paving, temporary or permanent; treating, the use of dust palliatives and chemical stabilization; detouring; restriction of the speed of vehicles on sites; prevention of the deposit of dirt and mud on improved streets and roads and other such effective means of dust control as the District may deem necessary; disturbing less topsoil and reclaiming as soon as possible.
- 9.2.2<sup>1</sup> Sequential blasting shall be employed whenever or wherever feasible to reduce the amounts of unconfined particulate matter.
- 9.2.3<sup>1</sup> Such dust control strategies as re-vegetation, delay of surface opening until demanded, or surface compaction and sealing, shall be applied.
- 9.2.4<sup>1</sup> Hauling equipment shall be washed or wetted down, treated, or covered when necessary to minimize the amount of dust emitted in transit and in loading. This section shall apply to the source facility or permanent installation for the production and distribution of construction materials or supplies.

### **SECTION 10 Supersession**

This regulation supersedes Regulations 6.05 and 7.04.

Adopted v1/4-19-72; effective 4-19-72; amended v2/1-20-88.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	02/11/99	10/23/01	66 FR 53658

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<sup>1</sup> When the 1-20-88 version was converted from the paragraph form to the decimal paragraph form, these citations were incorrectly converted. These citations have now been returned to their original intent.

## **REGULATION 1.18            Rule Effectiveness**

### **Air Pollution Control District of Jefferson County Jefferson County, Kentucky**

**Relates to:** KRS Chapter 77 Air Pollution Control

**Pursuant to:** KRS Chapter 77 Air Pollution Control

**Necessity and Function:** KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation provides for the collection of data required to establish rule effectiveness values, and for the establishment of measures that could be implemented to improve the rule effectiveness values, and for implementation of the measures.

#### **SECTION 1   Applicability**

This regulation applies to sources in Regulation 6.43, sources with actual annual VOC emissions of 50 tons or more, and to sources with affected facilities subject to other VOC control requirements in Regulations 6 or 7.

#### **SECTION 2   Definitions**

Terms used in this regulation not defined herein shall have the meaning given them in Regulation 1.02.

- 2.1    “Rule effectiveness” means the percentage value that expresses the likely level of compliance that a particular regulation achieves from the affected facilities subject to it.

#### **SECTION 3   Compliance Requirements**

All sources subject to this regulation shall do all of the following:

- 3.1    When notified by the District, complete, and return by the date specified, a questionnaire supplied by the District that will determine the current procedures that impact rule effectiveness evaluation, including, but not limited to:
- 3.1.1        Employee operational training,
  - 3.1.2        Operational and preventive maintenance procedures,
  - 3.1.3        Intermittent test procedures and schedules,
  - 3.1.4        Continuous monitoring procedures, and
  - 3.1.5        Record keeping and reporting methods;
- 3.2    When notified by the District, complete, and return by the date specified, a detailed rule effectiveness implementation plan. This plan shall specify both the schedule and procedures to modify and improve rule effectiveness in areas including, but not limited to, those listed in section 3.1. This plan shall include all reasonable measures to improve rule effectiveness; and
- 3.3    Implementation, as expeditiously as practicable but no later than November 15, 1996, all rule effectiveness measures according to the rule effectiveness implementation plan approved by the District.

Adopted 9-21-94; effective 9-21-94.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	06/30/97	10/23/01	66 FR 53686

**REGULATION 1.19            Administrative Hearings**

**Air Pollution Control District of Jefferson County Jefferson  
County, Kentucky**

**Relates To:** KRS Chapter 77 Air Pollution Control

**Pursuant To:** KRS Chapter 77 Air Pollution Control

**Necessity and Function:** KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes procedures for administrative hearings provided by the District to enforce KRS Chapter 77, District regulations, orders of the Board, and permits and to provide an opportunity to be heard to persons aggrieved by orders of the Board or determinations made by the District or the Board, including actions on permits .

**SECTION 1 Applicability**

This regulation applies to administrative hearings provided by the District for the following purposes:

- 1.1 Enforcing KRS Chapter 77, these regulations, orders of the Board, and permits, and
- 1.2 Providing an opportunity to be heard to persons who consider themselves aggrieved by orders of the Board or determinations made by the District or the Board, including actions taken by the District or the Board on permits, so long as the person has not previously been heard regarding that matter in an administrative hearing pursuant to this regulation. An action on a permit includes the issuance, denial, modification, transfer, suspension, or revocation of the permit.

**SECTION 2 Petition for Administrative Hearing; Notice of Administrative Hearing**

- 2.1 If, after the District has notified, in accordance with KRS 77.310(1), a person alleged to have violated KRS Chapter 77, these regulations, an order of the Board, or a permit, the alleged violation remains unresolved, then the District may file a petition with the Secretary-Treasurer requesting that an administrative hearing be held. The Secretary-Treasurer shall serve written notice of the petition on each person named in the petition and shall schedule an administrative hearing to be held not less than 30 days after the petition is filed unless the person complained against waives in writing the 30-day period.
- 2.2 Permittees or persons who consider themselves aggrieved by orders of the Board or determinations made by the District or the Board, including actions taken by the District or the Board on permits, may file a petition for an administrative hearing with the Secretary-Treasurer so long as the person has not previously been heard regarding that matter in an administrative hearing pursuant to this regulation. The petition shall allege that the action is contrary to law or fact and is injurious to the petitioner, state the grounds and reasons for the allegation, and request an administrative hearing. Unless the Board considers the petition frivolous, the Secretary-Treasurer shall serve written notice of the petition on each person named in the petition and shall schedule an administrative hearing to be held not less than 60 days after the petition is filed unless the person complained against waives in writing the 60-day period. The right to request an administrative hearing pursuant to this

regulation shall be limited to a period of 30 days after the petitioner has had actual notice, or could reasonably have had notice, of the order or action specified in the petition. Prior to scheduling an administrative hearing, the Secretary-Treasurer may require the parties to meet for settlement purposes.

- 2.3 The Secretary-Treasurer shall provide written notice of the administrative hearing to the person alleged to be in violation, the petitioner, and any other party named in the petition by certified mail, return receipt requested.

### **SECTION 3 Hearing Officer**

- 3.1 Administrative hearings subject to this regulation shall be held before a qualified, independent hearing officer who, in the discretion of the District, may serve by contract, be paid on a per diem basis, or be a full-time employee of Jefferson County not assigned to the District.
- 3.2 The hearing officer shall preside at the administrative hearing, shall keep order, and shall conduct the administrative hearing in accordance with reasonable administrative practices.
- 3.3 In conducting administrative hearings, the hearing officer may do all of the following:
  - 3.3.1 Administer oaths and affirmations,
  - 3.3.2 Issue subpoenas,
  - 3.3.3 Issue appropriate orders relating to discovery,
  - 3.3.4 Rule on procedural requests or similar matters,
  - 3.3.5 Hold prehearing conferences for settlement or simplification of the issues,
  - 3.3.6 Regulate the course of the administrative hearing, and
  - 3.3.7 Rule on offers of proof and receive relevant evidence.

### **SECTION 4 Intervention**

- 4.1 A person who may be adversely affected by the outcome of an administrative hearing may file a petition to intervene as a party to the proceeding.
- 4.2 The hearing officer shall consider whether to grant the petition to intervene based on the following criteria:
  - 4.2.1 The nature of the issues,
  - 4.2.2 The adequacy of representation of the petitioner's interest being provided by the existing parties to the proceeding,
  - 4.2.3 The ability of the petitioner to present relevant evidence and argument, and
  - 4.2.4 The effect of intervention on the Board's and the District's implementation of their statutory mandates.

### **SECTION 5 Prehearing Conference**

Prior to the formal administrative hearing, and upon 15-day advance written notice to all parties, the hearing officer may hold a prehearing conference to consider simplification and clarification of the issues, stipulations and admissions of fact, discovery issues, limitation of the number of witnesses, and any other matters as will aid in the disposition of the matter. Disposition of the matter may be made at the prehearing conference by stipulation, agreed settlement, or default for failure of a party to appear.

## **SECTION 6 Hearing Proceedings**

- 6.1 A party to an administrative hearing held pursuant to this regulation may be represented by counsel, make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions.
- 6.2 Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, not admissible under judicial rules may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The hearing officer shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when an administrative hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Notice may be taken of generally recognized technical or scientific facts within the District's specialized knowledge.
- 6.3 All administrative hearings subject to this regulation shall be recorded verbatim. It shall be within the hearing officer's discretion to provide for a court reporter or for a mechanical recording device. A transcript of an administrative hearing shall be made if a written request by a party to the administrative hearing is filed with the Secretary-Treasurer. The costs of creating a transcript shall be borne by the requesting party and the projected costs shall be paid to the Secretary-Treasurer before the transcript is created. A party requesting the creation of a transcript shall provide a copy to the District at no charge to the District. Fees for transcripts prepared by District employees from recordings shall be at rates that cover the cost of staff time, machine use, and materials.
- 6.4 The record of the hearing, including all documents filed and the hearing officer's report and recommended order, shall, consistent with the provisions of Regulation 1.08 *Administrative Procedures* Section 6 *Confidentiality and Open Records Policy*, be a public record open for inspection.

## **SECTION 7 Filing of Documents; Computation of Time**

- 7.1 A document is considered filed in a matter subject to this regulation when it is received and stamped by the Secretary-Treasurer.
- 7.2 A party filing a document with the Secretary-Treasurer shall serve a copy of the document on all parties to the proceeding. If a party is on record as being represented by an attorney in the proceeding, then a copy of filed documents shall be served instead on the party's attorney. Service shall be made upon the District by serving the Secretary-Treasurer.
- 7.3 Computation of time for the initiation of an administrative hearing or the subsequent filing of a document in an administrative hearing subject shall be in accordance with KRS 446.030 *Computation of time*.

## **SECTION 8 Communications with the Hearing Officer**

- 8.1 Except as authorized by law, there shall be no communication concerning the merits of a proceeding between a party to the proceeding, a person interested in the proceeding, or a representative of a party or interested person and the hearing officer, unless the communication, if oral, is made in the presence of all other parties or their representatives, or, if written, is furnished to all other parties. Communications concerning case status or requesting advice concerning compliance with procedural requirements are not prohibited unless the subject of the inquiry is in fact a subject of controversy in the proceeding.
- 8.2 The hearing officer in a proceeding in which a prohibited communication has been made may impose appropriate sanctions on the offending person, which may include the following:
  - 8.2.1 Reducing the oral communication made in violation of this section to writing in a memorandum, including the memorandum in the record, providing a copy of the memorandum to all parties, and giving all parties an opportunity to respond,
  - 8.2.2 Including the written communication made in violation of this section in the record, providing a copy of the written communications to all parties, and giving all parties an opportunity to respond, and
  - 8.2.3 Requiring an offending party to show cause why the offending party's claim, motion, or interest should not be dismissed or denied and invoking other sanctions as appropriate.

## **SECTION 9 Hearing Officer's Report and Recommendation; Exceptions; Order of the Board; Communication with Board Members**

- 9.1 The hearing officer shall, within 30 days of the close of the hearing record, prepare and file a written report and recommended order with the Secretary-Treasurer. The report and recommended order shall be based on a preponderance of the evidence appearing in the record as a whole and contain findings of fact and conclusions of law. The Secretary-Treasurer may, upon written request from the hearing officer, grant additional time as needed.
- 9.2 The hearing officer shall send a copy of the report and recommended order to all parties of record to the proceeding.
- 9.3 The parties may, within 14 days of receipt of the hearing officer's report and recommended order, file with the Secretary-Treasurer exceptions to the report and recommended order.
- 9.4 After completion of the administrative hearing and any filing of exceptions, the Secretary-Treasurer shall schedule a time for the Board to consider the report, recommended order, and exceptions and to adopt a final order resolving the matter. A copy of the adopted final order shall be served by certified mail, return receipt requested, to all parties of record to the proceeding.
- 9.5 There shall be no communication concerning the merits of a proceeding between a party to the proceeding, a person interested in the proceeding, or a representative of a party or interested person and a Board member. Questions regarding case status or procedural requirements shall be addressed to the Secretary-Treasurer.

**SECTION 10 Appeals**

Appeals of a final order following an administrative hearing shall be filed with the Jefferson Circuit Court within 30 days of the Board action. The petition shall state fully the grounds upon which a review is sought and assign all errors relied upon. The District shall be named respondent. Notice of the filing of an appeal shall be given by the appellant to all parties of record to the prior proceeding. Service shall be made upon the District by serving the Secretary-Treasurer.

Adopted v 115-15-02; effective 5-15-02, v2/1-16-08.

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	Date Submitted	Date Approved	Federal Register
Original Reg:	07/15/02	11/19/02	67 FR 69688
1st Revision	12/20/2010	8/31/2017	82 FR 41335