

**REGULATION 2
PERMIT REQUIREMENTS**

REGULATION 2.01 General Application

**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 general application of District permit regulations.

This regulation establishes requirements for obtaining permits for the operation, construction or modification of all new, existing or modified sources of air pollution in Jefferson County, Kentucky. The provisions of this regulation shall be effective on April 21, 1982. Except for those sources listed in Regulation 2.02, the District will conduct a review of permit applications for new or modified sources as set forth in Regulations 2.04 and 2.05 and all other sources as set forth in Regulation 2.06. An outline of permit review procedure is in Table 1.

Adopted v1/4-19-72; effective 4-19-72; amended v2/9-1-76, v3/6-13-79, v4/4-21-82.

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Table 1 to Regulation 2.01
Permit Review Procedure Outline

Size ¹	Attainment Area		Non-Attainment Area	
	Review	Emission Standard ²	Review	Emission Standard ²
1 New Plants				
1.1 Greater than 250 tpy	PSD	BACT	Offset	LAER
1.2 Greater than 100 tpy				
1.2.1 All Sources			Offset	LAER
1.2.2 Selected sources	PSD	BACT		
1.3 Less than 100 tpy	SIP	New Source Performance Standards	SIP	New Source Performance Standards
2 Modifications				
2.1 Major (significant increase)	PSD	BACT	Offset	LAER
2.2 Minor	SIP	New Source Performance Standards	SIP	New Source Performance Standards
3 Existing				
	SIP	Existing Source Performance Standards	SIP	Existing Source Performance Standards

¹ tons/year (tpy) based on potential after control for a given pollutant.

² Applicable standard is determined by permit review. All hazardous pollutants shall also comply with the Hazardous Standards.

REGULATION 2.02 Air Pollution Regulation Requirements and Exemptions

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 procedures for permitting and reporting of air contaminant facilities and establishes certain exemptions from permitting.

SECTION 1 Permitting and Reporting

- 1.1 Persons engaged in the operation of air contaminant facilities shall have current air pollution permits for such facilities in accordance with Regulation 2.
- 1.2 The District may require from such persons reports containing information relating to the facilities and the air contaminants emitted by each facility into the atmosphere.
- 1.3 Permit applications and reporting of air contaminant facilities and their related discharges shall be upon forms provided by the District.

SECTION 2 Exemptions

Notwithstanding the permitting requirements of section 1.1, applications and permits may not be required of the following:

- 2.1 Indirect heat exchangers, except furnaces that combust waste oil regardless of size, of the following types:
 - 2.1.1 Those less than 10 million BTU/hr capacity using distillate oil, propane, butane, LPG, or natural gas as fuel, or
 - 2.1.2 Those used solely for heating residential buildings not exceeding four dwelling units.
- 2.2 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;
- 2.3 Those affected facilities to which no standard is applicable or which emit an air pollutant to which no standard applies. The following facilities are included in this category:
 - 2.3.1 Presses used exclusively for extruding metals, minerals, or wood,
 - 2.3.2 Dry cleaners for which there is no emission, performance, or other standard,
 - 2.3.3 Lint traps used in conjunction with commercial laundry and dry cleaners,
 - 2.3.4 Brazing, soldering or welding equipment,
 - 2.3.5 Equipment commonly used in wood-working operations, except for conveying, hogging or burning of sawdust or wood waste,
 - 2.3.6 Foundry core-making equipment to which no heat is applied and for which there is no emission standard,
 - 2.3.7 Ovens used exclusively for curing potting materials or castings made with epoxy resins,
 - 2.3.8 Equipment used for compression or injection molding of plastics,
 - 2.3.9 Containers, reservoirs, or tanks used exclusively for:
 - 2.3.9.1 Dipping operations for coating objects with oils, waxes, or greases and where no organic solvents, diluents, or thinners are used, or

- 2.3.9.2 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,
- 2.3.10 Emergency relief vents, stacks and ventilating systems,
- 2.3.11 Laboratory ventilating and exhausting systems which are not used for radioactive air contaminants,
- 2.3.12 Process, exhaust or ventilating systems in bakeries or eating establishments preparing food for human consumption,
- 2.3.13 Blast cleaning equipment using a suspension of abrasives in water,
- 2.3.14 Equipment used exclusively for heat treating, soaking, case hardening or surface conditioning of metal objects such as carbonizing, cyaniding, nitriding, carbon-nitriding, siliconizing, or diffusion treating when natural gas or LP gas is used as fuel,
- 2.3.15 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,
- 2.3.16 Equipment, machines, devices, or contrivances built or installed to be used at a domestic residence for domestic use,
- 2.3.17 Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enameling furnaces or vitreous enameling drying ovens,
- 2.3.18 Crucible or pot furnaces with a brim full capacity of less than 450 cubic inches of any molten metal,
- 2.3.19 Facilities using only peanut oil, sunflower oil, cottonseed oil or canola oil,
- 2.3.20 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,
- 2.3.21 Dust or particulate collectors that are located in-doors, vent directly indoors 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,
- 2.3.22 Cold solvent parts cleaners that are equipped with a functional secondary reservoir into which the solvent drains during use,
- 2.3.23 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,
- 2.3.24 Storage vessels for VOCs with a maximum capacity of 250 gallons or less,
- 2.3.25 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,
- 2.3.26 All pressurized VOC storage vessels, and
- 2.3.27 Research and Development (R&D) facilities.

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REGULATION 2.03 Permit Requirements - Non-Title V Construction and Operating Permits and Demolition/Renovation Permits

**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 non-Title V permit requirements of the District.

SECTION 1 Permits to Construct, Operate, or Demolish/Renovate

- 1.1 No person shall construct, reconstruct or modify an affected facility or related air pollution control equipment unless a permit to construct has been issued by the District, except as provided in the exemptions under Regulations 2.02 and 2.08.
- 1.2 No person shall operate any affected facility which is in compliance with all emission limiting regulations unless a permit to operate the affected facility and permits to operate any related air pollution control equipment have been issued by the District and are currently in effect, except as provided in the exemptions under Regulation 2.02.

SECTION 2 Non-Title V Permit Application for Construction and Operation

- 2.1 Applications for permits required under Section 1 shall be made on forms prepared by the District for such purpose and shall contain such information as the District may deem necessary for issuance of the permit.
- 2.2 Applications for permits shall be signed by the corporate president or his authorized agent; by an equivalently responsible officer in the case of an organization other than a corporation; in other cases, by the source owner or operator; or, in the case of a political subdivision, by the highest elected official of such subdivision. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.
- 2.3 The information submitted in the application shall:
 - 2.3.1 Include an analysis of the characteristics, properties, and quantity of the air contaminants taken under maximum operating conditions, and
 - 2.3.2 Be certified as to the accuracy of the submittal.
- 2.4 Failure to supply information required or deemed necessary by the District to enable it to act upon the permit application shall result in denial of the permit.
- 2.5 An application for a permit may include one or more affected facilities provided that all are contained within a source. A person may apply for an amended permit to include new affected facilities provided that such new facilities are within the same source.

SECTION 3 Non-Title V Permit Review

- 3.1 After receipt of the permit application, the District shall determine if emission standards and ambient standards are met. As provided in Regulations 2.04, 2.05, 2.06, 5.11, 5.12 and

5.14, no permit shall be issued where it can be shown either through diffusion calculations or actual ambient air quality monitoring performed according to methods prescribed by the District, that the affected facility will prevent or interfere with the attainment or maintenance of local, state, or federal air quality standards.

- 3.1.1 In cases where no emission standards have been prescribed by regulation, the District shall require the use of all available, practical, and reasonable methods to prevent and control air pollution.
- 3.2 In the event any person or persons allege themselves to be adversely affected by a proposed or existing affected facility or other physical conditions, the District may afford such persons a hearing to determine whether a new permit to construct, operate, or demolish or renovate an affected facility should be issued or denied, or an existing permit should be revoked.
- 3.3 In the event any person or persons allege themselves to be adversely affected by the District deciding not to afford a hearing, the person or persons may request the Board to afford a hearing.

SECTION 4 Emission Density Provision

- 4.1 Except as allowed pursuant to section 4.2, the District shall not issue a permit for the construction or modification of an affected facility in an area having a radius of one mile and centered on the affected facility to be constructed or modified when:
 - 4.1.1 The sum of particulate emissions from all sources emitting 25 tpy or more within the area, including the applicant, exceeds or would exceed 4,000 tpy.
 - 4.1.2 The sum of sulfur dioxide emissions from all sources emitting 25 tpy or more within the area, including the applicant, exceeds or would exceed 8,000 tpy.
- 4.2 In those areas within which the densities cited in sections 4.1.1 or 4.1.2 above have been exceeded prior to the adoption of this regulation, the District may issue a permit for the construction of any new affected facility if the applicant can demonstrate through diffusion calculations that the affected facility will not prevent or interfere with the attainment or maintenance of the applicable particulate and sulfur dioxide ambient air quality standards.
- 4.3 In applying this regulation, the District shall give due consideration to the planned reductions of the other sources within the affected area in accordance with section 3.1.

SECTION 5 Non-Title V Permit Conditions

- 5.1 Permits issued shall be subject to the terms and conditions set forth and embodied in the permit as the District may deem necessary to insure compliance with its standards. Such terms and conditions may include maintenance and availability of records relating to operations which may cause or contribute to air pollution including periodic sampling of the affected facilities.

- 5.2 Acceptance of a permit shall denote agreement to the restrictions embodied in the permit and shall be binding upon the holder of the permit or compliance schedule.
- 5.4 Approval to construct shall become invalid if:
 - 5.4.1 Construction is not commenced within 12 months after receipt of approval,
 - 5.4.2 Construction is discontinued for a period of six months or more, or
 - 5.4.3 Construction is not completed within a reasonable time.
- 5.5 The District may extend the time periods upon a satisfactory demonstration that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project - each phase must commence construction within 12 months of the projected and approved commencement date.

SECTION 6 Relocated Sources

- 6.1 If a source in Jefferson County is relocated involving a change of address, the owner or operator shall obtain new permits for the source. Any existing affected facilities which are not modified or reconstructed (as defined in Regulation 1.02) will continue to be treated as existing affected facilities except as specified in section 6.2.
- 6.2 If the sum of the potential emissions of the relocated affected facilities at the new location is of sufficient size to qualify as a major source under Regulation 2.04 or 2.05, then all the relocated affected facilities shall be treated as new affected facilities.
- 6.3 Any source which locates in Jefferson County from outside Jefferson County shall be treated as a new source.

SECTION 7 Reconstructed Sources

- 7.1 An existing affected facility, upon reconstruction as defined in Regulation 1.02, becomes a new affected facility regardless of any change in emission rate. If an owner or operator proposes to replace part or all of an existing affected facility, the owner or operator shall notify the District of the proposed replacement before installation or construction begins. The District will determine after receipt of the appropriate information whether the proposed replacement constitutes reconstruction. The District's determination shall be based on:
 - 7.1.1 The fixed capital cost of the replacements in comparison to 50% of the fixed capital cost that would be required to construct a comparable entirely new facility,
 - 7.1.2 The estimated life of the facility after the replacement compared to the life of a comparable and entirely new facility,
 - 7.1.3 The extent to which the components being replaced cause or contribute to the emissions from the facility, and
 - 7.1.4 Any economic or technical limitations on compliance with new source performance standards which are inherent in the proposed replacements.
- 7.2 Regulation 2.04 or 2.05 shall not apply to a reconstructed source unless the reconstruction would also result in a major modification as defined in Regulation 2.04 or 2.05 respectively.

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REGULATION 2.04 Construction or Modification of Major Sources in or Impacting Upon Non-Attainment Areas (Emission Offset Requirements)

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: 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 requirements for the construction, modification of stationary sources within, or impacting upon, areas where the national ambient air quality standards have not been attained.

SECTION 1 Applicability

- 1.1 The requirements of this regulation shall apply to new major sources and major modifications commenced after April 21, 1982 and that will locate in or impact upon any area designated as non-attainment pursuant to the Act Section 107(d)(1)(A), (B), or (C). Area designations are contained in 40 CFR Section 81.318.
- 1.2 The provisions of this regulation relating to visibility protection shall also apply to major sources or major modifications in non-attainment areas which potentially have an impact on visibility in any mandatory Class I federal area.
- 1.3 The requirements of this regulation applicable to each major stationary source of VOC shall also apply to NO_x emissions for which the source is major, except that such requirements shall not apply if EPA determines (when EPA approves a plan, plan revision, or petition under the provisions of the Act Section 182(f)) that the requirements of Section 182(f) do not apply.

SECTION 2 Definitions

Terms as used in this regulation not defined herein shall have the meaning given them in Regulation 1.02 or, for terms relating to the protection of visibility, in 401 KAR 51:017.

2.1 "Major stationary source" means:

- 2.1.1 Any stationary source which emits, or has the potential to emit, 100 tpy or more of any pollutant subject to regulation under the Act, or
 - 2.1.2 Any physical change that would occur at a stationary source not qualifying under section 2.1.1 as a major stationary source, if the change would constitute a major stationary source by itself.
 - 2.1.3 A major stationary source that is major for volatile organic compounds shall be considered major for ozone.
 - 2.1.4 For the purposes of applying the requirements of section 1.3 to stationary sources of NO_x located in an ozone non- attainment area classified as Moderate, any stationary source which emits, or has the potential to emit, NO_x emissions of 100 tons per year.
- 2.2 "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

- 2.2.1 Any net emissions increase that is significant for volatile organic compounds shall be significant for ozone.
- 2.2.1.1 For the purpose of applying the requirements of section 1.3 to stationary sources of NO_x located in ozone non- attainment areas, any significant net emissions increase of NO_x is considered significant for ozone, in addition to any separate requirements for NO_x under Regulation 2.05.
- 2.2.2 A physical change or change in the method of operation shall not include:
 - 2.2.2.1 Routine maintenance, repair and replacement,
 - 2.2.2.2 Use of alternative fuel or raw material by reason of an order or by reason of a natural gas curtailment plan in effect under a federal act,
 - 2.2.2.3 Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste,
 - 2.2.2.4 Use of an alternative fuel or raw material by a stationary source which:
 - 2.2.2.4.1 The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any permit condition which was established after December 21, 1976 pursuant to 40 CFR Section 52.21, pursuant to Regulation 2.05 or under regulations established pursuant to 40 CFR Section 51.165, or
 - 2.2.2.4.2 The source is approved to use under any permit issued under this regulation;
 - 2.2.2.5 An increase in the hours of operation or in the production rate, unless such change is prohibited under a permit condition which was established after December 21, 1976 pursuant to 40 CFR Section 52.21, pursuant to Regulation 2.05 or under regulations established pursuant to 40 CFR Section 51.165, or
 - 2.2.2.6 Any change in ownership at a stationary source.
- 2.2.3 "Net emission increase" means the amount by which the sum of sections 2.2.3.1 and 2.2.3.2 exceeds zero:
 - 2.2.3.1 Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source, and
 - 2.2.3.2 Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
 - 2.2.3.3 An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date which is ten years before construction on the particular change commences, but not before December 21, 1976, and the date that the increase from the particular change occurs.
 - 2.2.3.4 An increase or decrease in actual emissions is creditable only if the District has not relied on it in issuing a permit for the source under this regulation, which permit is in effect when the increase in actual emissions from the particular change occurs.
 - 2.2.3.5 An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
 - 2.2.3.6 A decrease in actual emissions is creditable only to the extent that:
 - 2.2.3.6.1 The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions,
 - 2.2.3.6.2 It is locally and federally enforceable at and after the time that actual construction on the particular change begins,
 - 2.2.3.6.3 The District has not relied on it in issuing any permit or in demonstrating attainment or reasonable further progress, and

- 2.2.3.6.4 It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
- 2.2.3.7 An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- 2.2.4 "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical or operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on 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 locally and federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.
- 2.2.5 "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act.
- 2.2.6 "Building, structure, facility, or installation" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the in-transit activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same 2 digit code) as described in the Standard Industrial Classification Manual (1977).
- 2.2.7 "Emission unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Act.
- 2.2.8 "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.
- 2.2.9 "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:
 - 2.2.9.1 Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time, or
 - 2.2.9.2 Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
- 2.2.10 "Necessary preconstruction approvals or permits" means those permits or approvals required under District Regulations.
- 2.2.11 "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to state and federally enforceable permit conditions which limit operating rate, or hours of operation, or both) and the most stringent of the following:
 - 2.2.11.1 The applicable new source performance standards set forth in Regulations 5 and 7, or 40 CFR Parts 60 and 61,

- 2.2.11.2 Any other state and federally approved regulatory emission limitations, including those with a future compliance date, or
- 2.2.11.3 The emission rate specified as a state and federally enforceable permit condition, including those with a future compliance date.
- 2.2.12 "Federally enforceable" means all limitations and conditions which are enforceable by EPA, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR Section 52.21 or under regulations approved pursuant to 40 CFR Section 51.166.
- 2.2.13 "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this regulation, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off site support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel except included as secondary emissions are vessel emissions which occur during loading/unloading at a facility or which are dockside emissions.
- 2.2.14 "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with sections 2.2.14.1 to 2.2.14.3 inclusive.
- 2.2.14.1 In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emission unit actually emitted the pollutant during a operational period selected pursuant to Section 6 which precedes the particular date and which is representative of normal source operation. The District shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emission unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
- 2.2.14.2 The District may presume that source specific allowable emissions for the emission unit are equivalent to the actual emissions of the emission unit.
- 2.2.14.3 For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emission unit on that date.
- 2.2.15 "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- 2.2.16 "Significant" means in reference to a net emissions increase or the potential of a source to emit any pollutant, a rate of emissions that would equal or exceed any rates given in Appendix A. For the purposes of applying the requirements of section 1.3 to a major stationary source of NO_x, located in an ozone non- attainment area, the significant emission rates and other requirements for VOC in this section shall apply to NO_x emissions.
- 2.2.17 "Lowest achievable emission rate" means, for any source, the more stringent rate of emissions based on the following:

- 2.2.17.1 The most stringent emissions limitation which is contained in any implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable, or
- 2.2.17.2 The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a major modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under any applicable new source standard under Regulations 5 and 7, and 40 CFR Parts 60 and 61.
- 2.2.18 "Reasonable further progress" means annual incremental reductions in emissions of the applicable air pollutant which are sufficient, in the judgment of the District and EPA, to provide for attainment of the applicable ambient air quality standard by the required date.
- 2.2.19 "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.
- 2.2.20 "Class I area" means the areas listed in sections 2.2.20.1, 2.2.20.2 and 2.2.20.3. These areas may not be redesignated.
- 2.2.20.1.1 International parks,
- 2.2.20.1.2 National wilderness areas and national memorial parks which exceed 5,000 acres in size, and
- 2.2.20.1.3 National parks which exceed 6,000 acres in size and this includes Mammoth Cave National Park.
- 2.2.20.2 Any other area, unless otherwise specified in the legislation creating such an area, is designated Class II but may be redesignated as provided in 40 CFR Section 51.166(g).
- 2.2.20.3 "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Class I area. This determination shall be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with the times of visitor use of the Class I area, and the frequency and timing of natural conditions that reduce visibility.
- 2.2.20.4 "State Implementation Plan" means the most recently prepared plan or revision thereof required by the Act Section 110 which has been approved by EPA.
- 2.2.20.5 "Mandatory Class I federal area" means any area identified in 40 CFR Part 81, Subpart D, where EPA, in consultation with the Department of Interior, has determined visibility to be an important value.
- 2.2.20.6 "Natural conditions" means those naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

- 2.2.20.7 "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

SECTION 3 Initial Screening Analyses And Determination Of Applicable Requirements

- 3.1 Review of all sources for emissions limitation compliance. The District shall examine each proposed major new source and proposed major modification to determine if such source or modification will meet all applicable emission requirements in Regulations 1 to 7. If the District determines from the application and all other available information that the proposed source or modification will not meet the applicable emission requirements, the permit to construct shall be denied.
- 3.2 Review of specified sources of air quality impact. In addition, the District shall determine whether the major stationary source or major modification would be constructed in an area designated as non-attainment pursuant to the Act Section 107(d)(1)(A), (B), or (C) for a pollutant for which the stationary source or modification is major. If a designated non-attainment area is projected to be an attainment area as part of an approved control strategy by the new source start-up date, offsets shall not be required if the new source would not cause a new violation.
- 3.3 Fugitive emission sources. Sections 5 and 10 shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:
- 3.3.1 Coal cleaning plants (with thermal dryers),
 - 3.3.2 Kraft pulp mills,
 - 3.3.3 Portland cement plants,
 - 3.3.4 Primary zinc smelters,
 - 3.3.5 Iron and steel mills,
 - 3.3.6 Primary aluminum ore reduction plants,
 - 3.3.7 Primary copper smelters,
 - 3.3.8 Municipal incinerators capable of charging more than 250 tons of refuse per day,
 - 3.3.9 Hydrofluoric, sulfuric, or nitric acid plants,
 - 3.3.10 Petroleum refineries,
 - 3.3.11 Lime plants,
 - 3.3.12 Phosphate rock processing plants,
 - 3.3.13 Coke oven batteries,
 - 3.3.14 Sulfur recovery plants,
 - 3.3.15 Carbon black plants (furnace process),
 - 3.3.16 Primary lead smelters,
 - 3.3.17 Fuel conversion plants,
 - 3.3.18 Sintering plants,
 - 3.3.19 Secondary metal production plants,
 - 3.3.20 Chemical process plants,
 - 3.3.21 Fossil-fuel boilers (or combination thereof) totaling more than 250 million BTUs per hour heat input,

- 3.3.22 Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- 3.3.23 Taconite ore processing plants,
- 3.3.24 Glass fiber processing plants,
- 3.3.25 Charcoal production plants,
- 3.3.26 Fossil fuel-fired steam electric plants of more than 250 million BTUs per hour heat input, or
- 3.3.27 Any other stationary source category which, as of August 7, 1980, is being regulated under Regulations 5 and 7, or 40 CFR Parts 60 and 61.

SECTION 4 Sources Locating In Designated Attainment Or Unclassifiable Areas

- 4.1 This section shall apply only to new major stationary sources or major modifications which will locate in designated attainment or unclassifiable areas pursuant to the Act Section 107(d)(1)(D) or (E) if the source or modification would cause impacts which exceed the significance levels specified in Appendix B at any locality that does not or would not meet the national ambient air quality standards.
- 4.2 Sources to which this section applies must meet the requirements in sections 5.1, 5.2 and 5.3. However, such sources may be exempt from section 5.3.
- 4.3 For sources of sulfur dioxide, particulate matter, and carbon monoxide, the determination of whether a new major source or major modification will cause or contribute to a violation of a national ambient air quality standard shall be made on a case-by-case basis using the source's allowable emissions in an approved atmospheric simulation model as found in EPA 450/2-7-027 R and Supplement A (1987).
- 4.4 For sources of nitrogen oxides, the initial determination of whether a new major source or major modification would cause or contribute to a violation of the national ambient air quality standard for nitrogen dioxide shall be made using an approved atmospheric simulation model assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level. The initial concentration estimates may be adjusted if adequate data are available to account for the expected oxidation rate.
- 4.5 The determination as to whether a new major source or major modification would cause or contribute to a violation of a national ambient air quality standard shall be made as of the start-up date.
- 4.6 Applications for major new sources and major modifications locating in attainment or unclassifiable areas the operation of which would cause a new violation of a national ambient air quality standard but would not contribute to an existing violation may be approved only if both the following conditions are met:
 - 4.6.1 The new source is required to meet an emission limitation, or a design, operational or equipment standard, or existing sources are controlled such that the new source will not cause a violation of any national ambient air quality standard.
 - 4.6.2 The new emission limitations for the new source as well as any existing sources affected must be state and federally enforceable in accordance with the mechanisms set forth in Section 7.

SECTION 5 Conditions For Approval

The provisions of this section shall apply to new major stationary sources or major modifications which would be constructed in an area designated as non-attainment pursuant to the Act Section 107(d)(1)(A), (B), or (C) for a pollutant for which the stationary source or modification is major. Approval may be granted only if the following conditions are met:

- 5.1 The new major source or major modification shall be required to meet an emission limitation which specifies the lowest achievable emission rate for such source.
- 5.2 The applicant shall demonstrate that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in the Commonwealth of Kentucky are in compliance with all applicable emission limitations and standards specified in District Regulations 1 to 7 or 401 KAR Chapters 50 to 63, and 40 CFR Parts 60 and 61 and the Act, or are in compliance with an expeditious state and federally enforceable compliance schedule or a court decree establishing a compliance schedule.
- 5.3 Emissions from existing sources in the affected area of the proposed new major source or modifications (whether or not under the same ownership) shall be reduced (offset) such that there will be reasonable progress toward attainment of the applicable national ambient air quality standard. Only those transactions in which the emissions being offset are from the same criteria pollutant category shall be accepted.
- 5.4 The emission reductions shall be such as to provide a positive net air quality benefit in the affected area. The net air quality benefit shall not be less than 15% for VOCs, thus requiring an emissions offset ratio of 1.15 to 1.0. Atmospheric simulation modeling is not necessary for volatile organic compounds and oxides of nitrogen. Compliance with sections 5.3 and 6.7 will be adequate to meet this condition.
- 5.5 For a major stationary source or major modification locating in an area designated non-attainment with respect to that pollutant for which the proposed source or modification is major, permits issued under this regulation shall specify that construction shall not commence until EPA has approved the District's plan relating to the requirements of the Act Title I Part D.
- 5.6 In non-attainment areas which have been granted an extension of the deadline to attain the primary national ambient air quality standard for ozone or carbon monoxide pursuant to the Act Section 172(a)(2), the proposed major stationary source or major modification shall include in the application for a construction permit, an analysis of the alternative sites, sizes, production processes, and environmental control techniques for such proposed source, which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

SECTION 6 Baseline For Determining Credit For Emission Offsets

The baseline for determining credit for emission reductions or offsets will be the emission limitations in effect at the time the application to construct or modify a source is filed. For areas where the demonstration of attainment for the State Implementation Plan was based on actual emissions, the baseline for determining offset credit shall be actual emissions. The Jefferson County, Kentucky ozone SIP is based upon actual emissions. Credit for emission offset purposes may be allowed for existing control that goes beyond that required by regulations. Offset calculations shall be made on a pound per hour basis when all facilities involved in the emission

offset calculations are operating at their maximum expected or allowed production rate. Offsets may be calculated on a tons per year basis providing that baseline emissions for existing sources providing the offsets are calculated using the actual annual operating hours for one of the following conditions:

- 1) the previous two year period,
 - 2) two out of the previous five years, or
 - 3) any other period that can be demonstrated to better represent normal operating conditions for the source. Where the District requires certain hardware controls in lieu of an emission limitation, baseline allowable emissions shall be based on actual operating conditions for the previous two year period in conjunction with the required hardware controls.
- 6.1 No applicable emission limitation.
Where the requirements of the District do not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be actual emissions determined under actual operating conditions as determined pursuant to section 6. Where the emission limitations required by the District allow greater emissions than the uncontrolled emission rate of the source, emission offset credit will be allowed only for control below the uncontrolled emission rate.
- 6.2 Combustion of fuels.
The emissions for determining emission offset credit involving an existing fuel combustion source will be the allowable emissions under the emission limitation requirements of the District for the type of fuel being burned at the time the new major source or major modification application is filed. If the existing source has switched to a different type of fuel at some earlier date, any resulting emission reduction (either actual or allowable) shall not be used for emission offset credit. If the existing source commits to switch to a cleaner fuel at some future date, emission offset credit based on the allowable emissions for the fuels involved is not acceptable unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emission reduction should the source switch back to a dirtier fuel at some later date.
- 6.3 Operating hours and source shutdown.
A source may be credited with emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels provided that the work force to be affected has been notified in writing of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed shall not be used for emission offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than 1 year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source.
- 6.4 Credit for hydrocarbon substitution.
No emission offset credit may be allowed for replacing one volatile organic compound with another of lesser photochemical reactivity, unless the replacement compound is not a volatile organic compound.
- 6.5 Banking of emission offset credit.
New sources obtaining permits by applying offsets after January 16, 1979 may bank offsets that exceed the requirements of reasonable progress toward attainment for future use. An

owner or operator of an existing source that reduces its own emissions may bank any resulting reduction beyond those required by regulation for use under this regulation, even if the offsets are applied immediately to a new source permit. These banked emissions offsets may be used under the preconstruction review program required in the Act as long as these banked emissions are identified and accounted for in the District's control strategy.

6.6 Offset credit for meeting NSPS or NESHAPS.

Where a source is subject to an emission limitation established in a New Source Performance Standard (NSPS) or a National Emission Standard for Hazardous Air Pollutants (NESHAPS) in compliance with Regulations 7 and 5 respectively, and a different emission limitation required by the District, the more stringent limitation shall be used as the baseline for determining credit for emission offsets. The difference in emissions between NSPS or NESHAPS and other emission limitations may not be used as offset credit.

6.7 Location of offsetting emissions.

In the case of emission offsets involving nitrogen oxides, offsets may be obtained only within the same air quality control region in which the source is to be located. For sulfur dioxide, particulate matter and carbon monoxide, the District shall require atmospheric simulation modeling to ensure that the emission offsets provide a positive net air quality benefit. In the case of emission offsets involving stack emissions of VOC in Jefferson County, offsetting emissions may be obtained and used from other sources within Jefferson County.

SECTION 7 Administrative Procedures

The necessary emission offsets may be proposed either by the owner of the proposed source or the District. The emission reduction committed to must be locally enforceable by the District and federally enforceable by EPA, and must be accomplished by the start-up date of the new source. If emission reductions are to be obtained in a state that neighbors the Commonwealth of Kentucky for a new source to be located in Jefferson County, the emission reductions committed to must be state and federally enforceable by the neighboring state and/or local agencies and EPA.

7.1 Source initiated emission offsets.

The owner and/or operator of a source may propose emission offsets which involve reductions from sources controlled by the owner (internal emission offsets) and/or reductions from other sources (external emission offsets). As long as the emission offsets obtained represent reasonable progress toward attainment, they shall be acceptable. An internal emission offset shall be made enforceable by inclusion as a condition of the new source permit. An external emission offset will not be accepted unless the affected source(s) is subject to a new emission limitation requirement of the District to ensure that its emission will be reduced by a specified amount in a specified time. The form of the new emission limitation may be a District regulation, operating permit condition, or consent or enforcement order.

7.2 District initiated emission offsets.

The District may commit to reducing emissions from existing sources (including mobile sources) to provide a net air quality benefit in the impact area of the proposed new source so as to accommodate the proposed new source. The commitment must be reflected in the emission limitation requirements of the District for the new and existing sources as required by this section.

SECTION 8 Source Obligation

- 8.1 Any owner or operator who constructs or operates an applicable source or modification not in accordance with the application submitted pursuant to this regulation or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this regulation who begins actual construction after September 22, 1982 without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.
- 8.2 Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The District may extend the 18 month period upon satisfactory showing that an extension is justified.
- 8.3 Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of Regulations 1 through 7 and any other requirements under local, state, or federal law.
- 8.4 At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any local, state, or federally enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then this regulation shall apply to the source or modification as though construction had not yet commenced on the source or modification.

SECTION 9 Permit Condition Rescission

- 9.1 Any owner or operator holding a permit for a stationary source or modification which was issued pursuant to Regulation 2.04 (April 21, 1982) may request that the District rescind the permit condition.
- 9.2 The District may rescind a permit condition if so requested if the applicant can demonstrate to the satisfaction of the District that this regulation does not apply to the source or modification or a portion thereof if construction would have commenced after September 22, 1982, and if the owner or operator demonstrates that such rescission would not interfere with reasonable further progress.

SECTION 10 Protection Of Visibility

- 10.1 New source review - applicability and exemptions.
 - 10.1.1 No stationary source or modification to which the requirements of this section apply shall begin actual construction without a permit which states that the stationary source or modification would meet those requirements.
 - 10.1.2 The requirements of this section shall apply to construction of any new major stationary source or major modification that would both be constructed in an area classified as non-attainment under the Act Section 107(d)(1)(A), (B), or © and potentially has an impact on visibility in any Class I area.
 - 10.1.3 The requirements of this section shall apply to any such major stationary source and any such major modification with respect to each pollutant subject to regulation under the Act that it would emit, except as this section otherwise provides.
 - 10.1.4 The requirements of this section shall not apply to a particular major stationary source or major modification if:

- 10.1.4.1 The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the Governor of the Commonwealth of Kentucky requests that it be exempt from those requirements.
- 10.1.4.2 The source is a portable stationary source which has previously received a permit under this section; and:
 - 10.1.4.2.1 The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary,
 - 10.1.4.2.2 The emissions from the source would not exceed its allowable emissions,
 - 10.1.4.2.3 The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated, and
 - 10.1.4.2.4 Reasonable notice is given to the District prior to the relocation, identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the District not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the District.
- 10.1.5 The requirements of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:
 - 10.1.5.1 Would impact no Class I area and no area where an applicable increment is known to be violated, and
 - 10.1.5.2 Would be temporary.
- 10.2 Visibility impact analyses.
The owner or operator of a source shall provide an analysis of the impairment to visibility that would occur in a Class I area as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification.
- 10.3 Federal land manager notification.
 - 10.3.1 The federal land manager and the federal official charged with direct responsibility for management of Class I areas have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the District, whether a proposed source or modification will have an adverse impact on such values.
 - 10.3.2 The District shall provide written notification to all affected federal land managers of any permit application for any proposed new major stationary source or major modification that may affect visibility in any Class I area. The District shall also provide such notification to the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in any Class I area. The District shall also notify all affected federal land managers within 30 days of receipt of any advance notification of any such permit application.

- 10.3.3 The District shall consider any analysis performed by the federal land manager provided within 30 days of the notification and analysis required by section 10.3.2, that such proposed new major stationary source or major modification may have an adverse impact on visibility in any Class I area. Where the District finds that such an analysis does not demonstrate to the satisfaction of the District that an adverse impact on visibility will result in the Class I area, the District shall, in the public hearing notice either explain that decision or give notice as to where the explanation can be obtained.
- 10.4 Public participation.
The District shall follow the applicable procedures of Regulations 2.03 and 2.06 in processing applications under this section. The District shall follow the procedures at 40 Section CFR 52.21(r) (1980) to the extent that the procedures of Regulations 2.03 and 2.06 do not apply.
- 10.5 National visibility goal.
The District shall only issue permits to those sources whose emissions will be consistent with making reasonable progress toward the national goal of preventing any future, and remedying any existing, impairment of visibility in Class I areas which impairment results from man-made air pollution. In making the decision to issue a permit the District may take into account the overriding factors of the cost of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.
- 10.6 Monitoring.
The District may require monitoring of visibility in any Class I area near the proposed new stationary source or major modification using human observations, teleradiometers, photographic cameras, nephelometers, fine particulate monitors, or other appropriate methods as specified by EPA. The method selected shall be determined on a case-by-case basis by the District. Any visibility monitoring required by the District in a Class I area will be approved by the federal land manager. Data obtained from visibility monitoring shall be made available to the District, the federal land manager, and EPA upon request.

Adopted v1/4-19-72; effective 4-19-72; amended v2/6-13-79, v3/4-21-82, v4/11-16-83, v5/4-16-86, v6/3-28-88, v7/3-17-93.

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Original Reg:	06/29/79	01/25/80	45 FR 6092
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Appendix A to Regulation 2.04

Significant Pollutant and Emission Rate

Carbon monoxide	100 tpy
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate matter emissions
PM ₁₀	15 tpy of particulate matter emissions
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy

PM₁₀ - particulate matter with an aerodynamic diameter less than or equal to a nominal of 10 microns as measured by a reference method based on Appendix J to 40 CFR Part 50, and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.

Appendix B to Regulation 2.04

Significant Levels of Air Quality Impact

Pollutant	Annual Average	Averaging Time			
		24-Hr	8-Hr	3-Hr	1-Hr
Sulfur Dioxide	1.0 ug/m ³	5 ug/m ³		25 ug/m ³	
PM ¹⁰	1.0 ug/m ³	5ug/m ³			
Nitrogen Dioxide	1.0 ug/m ³				
Carbon Monoxide			0.5 mg/m ³		2 mg/m ³

PM₁₀ - particulate matter with an aerodynamic diameter less than or equal to a nominal of 10 microns as measured by a reference method based on Appendix J to 40 CFR Part 50, and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.

Regulation 2.05 Prevention of Significant Deterioration of Air Quality

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, which adopts the Federal Prevention of Significant Deterioration of Air Quality program, provides for the prevention of significant deterioration of air quality where the national ambient air quality standards have been achieved.

SECTION 1 General Provisions

40 CFR 52.21 *Prevention of Significant Deterioration of Air Quality* is effective on July 15, 2017 is adopted and incorporated by reference with the following changes:

1.1 The following portions of 40 CFR 52.21 are not incorporated

1.1.1 (a)(1),

1.1.2 the second sentence of (b)(2)(iii)(a),

1.1.3 (b)(55),

1.1.4 (b)(56),

1.1.5 (b)(57),

1.1.6 (b)(58),

1.1.7 (s),

1.1.8 (u),

1.1.9 (cc),

1.1.10 (q), The District shall follow the applicable public participation procedures in District Regulation 2.07.

1.2 The term "administrator" as it appears in 40 CFR 52.21 shall mean the Louisville Metro Air Pollution Control District (hereinafter "District"), except that:

1.2.1 In subparagraph (b)(3)(iii) (relating to "net emissions increase"), it shall mean either the District or the Administrator of the United States Environmental Protection Agency (USEPA).

1.2.2 In the following subsections, it shall continue to mean the Administrator of the USEPA:

1.2.2.1 (b)(17),

1.2.2.2 (b)(37)(i),

1.2.2.3 (b)(43),

1.2.2.4 (b)(48)(ii),

1.2.2.5 (b)(49),

1.2.2.6 (b)(50)(i),

1.2.2.7 (b)(51),

1.2.2.8 (g),

- 1.2.2.9 (1)(2),
- 1.2.2.10 (p),
- 1.2.2.11 (t).

- 1.3 Subsection (c) *Ambient air increments* shall have the following sentences added at the end: "No single new or modified stationary source may consume an inordinate portion of the available increment, as determined by the Board. The Board may consider air quality and economic impacts on the community in determining the appropriate amount of increment allowed for a new or modified stationary source."
- 1.4 Subsection (h)(1) shall read: "The degree of emission limitation required for control of any air pollutant under this section shall not be affected in any manner by a dispersion technique pursuant to District Regulation 2.10 *Stack Height Considerations*."
- 1.5 Subsection (h)(3) is added and shall read: "The Board may require an increase in the stack height of a proposed new source or modification if the applicant's modeling demonstration indicates an inordinate amount of increment consumption. In no event shall such increased stack height exceed the stack height allowed for the modeling demonstration pursuant to subsection (h)(1) of this Regulation."
- 1.6 The Executive Director of the District shall transmit to the Administrator of the USEPA a copy of each permit application filed under this regulation and shall notify the Administrator of the USEPA of each significant action the Executive Director takes on the application.

SECTION 2 Effect of Stay, Vacatur, or Withdrawal

Pursuant to KRS 77.180, any section or subsection of 40 CFR 52.21 *Prevention of Significant Deterioration of Air Quality* (July 1, 2010) that is subsequently stayed, vacated, or withdrawn by USEPA or a federal court shall be deemed stayed, vacated, or withdrawn by the District.

- 2.1 For any section or subsection of 40 CFR 52.21 *Prevention of Significant Deterioration of Air Quality* (July 1, 2010) that is subsequently stayed, the effectiveness of the section or subsection shall be delayed until the completion of the reconsidered process or the resolution of the proceeding for judicial review. The period of delay shall begin and end on the date specified in the notices of stay published in the Federal Register for that section or subsection.
- 2.2 For any section or subsection of 40 CFR 52.21 *Prevention of Significant Deterioration of Air Quality* (July 1, 2010) that is subsequently vacated or withdrawn, the section or subsection shall be null and void as of the date specified in the notice of vacatur or withdrawal published in the Federal Register for that section or subsection.

Adopted v1/4-19-72; effective 4-19-72; amended v2/6-13-79, v3/4-21-82, v4/11-16-83, v5/4-16-86, v6/2-17-88, v7/4-19-89, v8/6-19-02, v9/5-20-09, v10/11-17-10, v12/02-15-17, v13/01-17-18.

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3rd Revision:	08/29/17	04/10/19	84 FR 14268
4th Revision:	07/01/09	09/16/20	66 FR 57707

REGULATION 2.06 Permit Requirements - Other Sources

**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 permit requirements for all other sources not subject to Regulation 2.04 or 2.05.

All other sources not subject to Regulation 2.04 or 2.05 shall be reviewed for compliance with applicable emission standards for existing sources, emission standards for hazardous air pollutants, new source performance standards or other standards as the District may require. No permit shall be issued unless the source can demonstrate compliance with all applicable standards.

Adopted v1/4-19-72; effective 4-19-72; amended v2/6-13-79, v3/11-16-83.

	Date Submitted	Date Approved	Federal Register
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REGULATION 2.07 Public Notification for Title V, PSD, and Offset Permits; SIP Revisions; and Use of Emission Reduction Credits

**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. The Act Section 502(b)(6) and 40 CFR Section 70.7(h) require the District to provide public notice, opportunity for public comment, and a hearing on Title V permit actions. 40 CFR Section 70.8 requires the District to give notice of permit actions to affected states and for transmission of permitting information to EPA for review. This regulation establishes the public involvement process to be followed by the District to ensure that accurate permitting information is made available to the public in sufficient time to allow for comment and that enough information is provided to inform the public of the extent of the actions proposed, procedures for public notification, the required EPA and affected states review of the proposed permit, the issuance of permits, the use of an alternate emission standard, or the use of an emission reduction credit in any of the foregoing actions.

SECTION 1 Public Notice for Title V Permit Actions

- 1.1 The District shall provide public notice for the following Title V operating permit actions:
 - 1.1.1 Issuance of a draft permit,
 - 1.1.2 Intended denial of a permit application,
 - 1.1.3 Issuance of a draft of a significant permit revision,
 - 1.1.4 Issuance of a draft of a general permit,
 - 1.1.5 Issuance of a permit renewal,
 - 1.1.6 Scheduling of a public hearing pursuant to Section 4, or
 - 1.1.7 Any other permit related activity that the District determines to be of substantial interest to the public.
- 1.2 The District shall provide public notice in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky. Publication shall include paid advertisement, legal notice, or other appropriate format as determined by the District. The District may provide additional notice to the public through other methods, including, but not limited to, newsletters and press releases.
- 1.3 A notice of the activities described in section 1.1 shall be provided to:
 - 1.3.1 The applicant,
 - 1.3.2 EPA via the appropriate regional office,

- 1.3.3 The Division for Air Quality, Department for Environmental Protection,
- 1.3.4 Affected states,
- 1.3.5 The Jefferson County Judge/Executive and the Mayor of the City of Louisville,
- 1.3.6 Affected comprehensive regional land use planning agencies,
- 1.3.7 Affected local air pollution control agencies,
- 1.3.8 Any federal land manager or Indian governing body within a 50 mile radius of the source whose land may be affected by the emissions from the source, and
- 1.3.9 The persons on the mailing list maintained by the District pursuant to section 1.4.
- 1.4 Title V notification mailing list.
 - 1.4.1 The District shall maintain a mailing list of persons requesting notice of the Title V operating permit actions listed in section 1.1. The District shall, on a minimum of an annual basis, inform the public of the opportunity to be on the mailing list. The District shall also, on a minimum of an annual basis, inform those on the mailing list of the opportunity to remain on the mailing list and may delete from the list persons who fail to respond to such an inquiry of continued interest in receiving notice.
 - 1.4.2 A request for inclusion on the mailing list for notices shall not result in an extension of the comment period associated with any notice.
- 1.5 A public notice and the notice to those on the mailing list shall include:
 - 1.5.1 Name and address of the District,
 - 1.5.2 Name and address of the permit applicant and, if different, the name and address of the source,
 - 1.5.3 A brief description of the business conducted at the source and, if different, the facility involved in the permit action,
 - 1.5.4 Name, address, and telephone number of a person from whom interested persons may obtain further information such as copies of the draft permit; the application; the relevant supporting material, including compliance plans, prior Title V operating permits, and monitoring and compliance certification reports, except for confidential information; and all other materials available to the District that are relevant to the permit decision,
 - 1.5.5 A brief description of the comment procedures, the time and place of any hearing scheduled for the permit, and the procedures for requesting a public hearing if one has not been scheduled, and
 - 1.5.6 A description of the emission change involved in any permit revision.
- 1.6 The District shall make the draft permit and all nonconfidential information contained in the permit application and supporting materials available for public inspection at the District office during normal business hours. Public inspection of materials for nonstationary sources or general permits shall be made available through the same method.
- 1.7 The following actions shall be exempt from the requirements of Section 1:

- 1.7.1 Revisions qualifying for minor permit revision procedures, including group processing, and
- 1.7.2 Administrative permit amendments.

SECTION 2 Opportunity for Public Comment

- 2.1 The public shall be given opportunity to comment on the non-proprietary information submitted by the owner or operator of the source to the District and on the District's intent to approve or disapprove the application prior to:
 - 2.1.1 The issuance of a construction or operating permit for a source which is subject to Regulation 2.04, 2.05 or 2.16,
 - 2.1.2 The issuance of a construction permit for a source which will cause an increase in the potential to emit of 100 tpy or more of any one pollutant,
 - 2.1.3 The approval of an alternate emission standard, or
 - 2.1.4 The use of an emission reduction credit in any of the above actions.
- 2.2 If the District performs an analysis of the permit action's potential impact on air quality, the District will make this analysis available.
- 2.3 The District shall provide a 30 day period for submittal of public comment.
- 2.4 The District shall publish legal notice of the request which shall include any changes to emission limits resulting from trades approved under Regulation 2.12 or section 2.1.4.
- 2.5 A proposed Title V operating permit, permit revision or permit renewal shall not be issued:
 - 2.5.1 Until affected states have had an opportunity to review the proposed permit action,
 - 2.5.2 Until EPA has had an opportunity to review the proposed permit action,
 - 2.5.3 Unless EPA has waived the review for EPA and affected states, and
 - 2.5.4 Until the public comment period has ended and the District has prepared a response to comments received.
- 2.6 Public comments submitted in writing within 30 days after the draft permit was made available shall be considered by the District in its decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The District shall consider the applicant's response in making its final decision.

SECTION 3 PSD Notifications

- 3.1 For permits issued under Regulation 2.05, the District shall:
 - 3.1.1 Notify the public by advertisement in a newspaper of general circulation of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment.
 - 3.1.2 Send a copy of the notice of public comment to the applicant, EPA, the Division for Air Quality, Department for Environmental Protection and to officials and agencies

- having cognizance over the location where the proposed construction will occur as follows: any comprehensive regional land use planning agency and any state or Federal Land Manager whose lands may be affected by emissions from the source or modification.
- 3.1.3 Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.
 - 3.1.4 Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approval of the application. No later than ten days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The District shall consider the applicant's response in making a final decision. The District shall make all comments available for public inspection at the District's office.

SECTION 4 Public Hearing

- 4.1 The District shall provide a public hearing if:
 - 4.1.1 On the basis of the written requests received within the public comment period, the District determines that material issues have been raised concerning the terms and conditions of a proposed Title V permit, or
 - 4.1.2 The District determines that a permit action is of significant public interest. Public notice of the hearing may be combined with the public notice of the draft permit.
- 4.2 The District shall publish one notice of a public hearing, at least 30 days in advance of the hearing and a second notice not less than seven days nor more than 21 days in advance of the hearing. Notice shall contain:
 - 4.2.1 Reference to the dates of previous public notices relating to the permit,
 - 4.2.2 Date, time and place of the hearing, and
 - 4.2.3 A brief description of the applicable rules and procedures of the hearing.
- 4.3 The District shall provide notice and an opportunity for participation by any affected states at the hearing.
- 4.4 When a public hearing is held, the Board shall be responsible for its scheduling and orderly conduct.
- 4.5 Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements. Written submission of an oral statement may be requested. Comments may be submitted in alternate format to accommodate individuals with disabilities.
- 4.6 The hearing chairman may extend the 30 day public comment period for cause.

- 4.7 A tape recording or written transcript of the hearing shall be made available to the public at a reasonable reproduction cost.
- 4.8 The applicant may submit a written response to any or all comments submitted by the public within ten days after the close of the public comment period.
- 4.9 The District shall consider the comments and the applicant's response in making its final decision.
- 4.10 The District shall prepare a written response to comments received.

SECTION 5 Public Record

The District shall keep a record of the comments and of the issues raised during the public participation process. These records shall be made available to the public and to EPA during the duration of the Title V permit.

SECTION 6 Petition for Objection

- 6.1 Any person may petition EPA to make an objection to a proposed permit pursuant to Section 9.
- 6.2 The following acts shall be exempt from this section:
 - 6.2.1 Revisions qualifying for minor permit revision procedures,
 - 6.2.2 Group processing, and
 - 6.2.3 Administrative permit amendments.

SECTION 7 Notice to Affected States

- 7.1 The District shall give notice of a draft permit to affected states on or before the time that the District provides the draft permit or draft permit revision notice to the public pursuant to Section 1.
- 7.2 The District, as part of the submittal of the proposed permit to EPA (or for minor permit revisions, as soon as possible after the submittal) pursuant to Section 8, shall notify EPA and the affected states in writing of the refusal by the District to accept a recommendation concerning a proposed permit that an affected state submitted during the public review period. The notice shall include the District's reasons for not accepting the recommendation.
- 7.3 Recommendations based on requirements that are not applicable to the proposed permit or that are not based on requirements of Regulation 2.16 shall not be accepted by the District.

SECTION 8 Transmission of Information to EPA

- 8.1 The District shall provide EPA a copy of each permit application, permit revision application, proposed permit, and final permit. The District shall require the applicant to provide a copy of any confidential application material directly to EPA.

- 8.2 On a case by case basis and with EPA's approval, the District may submit a permit application in summary form and the relevant portion of the permit application and compliance plan in place of the complete application and compliance plan.

SECTION 9 EPA Objection

- 9.1 EPA may review each permit submitted by the District and, if appropriate, will object to the issuance of the permit. EPA must file an objection in writing within 45 days of receipt of the proposed permit and the necessary supporting information.
- 9.2 The District shall not issue a permit if EPA files an objection pursuant to section 9.1.
- 9.3 Failure to comply with any of the following requirements, though not exhaustive, shall constitute grounds for objection by EPA:
- 9.3.1 Compliance with section 2.4 and Section 7,
 - 9.3.2 Compliance with applicable requirements,
 - 9.3.3 Submission by the District or the applicant of information necessary to adequately review the proposed permit, or
 - 9.3.4 Processing of the permit pursuant to Regulation 2.16.
- 9.4 An EPA objection must include a statement of the reasons for the objection and a description of the terms and conditions that the permit must include to respond to the objection. EPA will provide the applicant a copy of the objection.
- 9.5 If the District fails within 90 days after the date of EPA objection to revise and submit a proposed permit in response to the objection, EPA will issue or deny the permit pursuant to the requirements of the Act Title V.
- 9.6 If EPA does not object in writing, a person may petition EPA within 60 days after the expiration of EPA's 45-day review period to make an objection. The petition shall be based only on the objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise the objections within the comment period, or unless the grounds for objection arose after the comment period. If EPA objects to the proposed permit as a result of the petition, the District shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection.
- 9.7 If the District has issued a permit prior to receipt of an EPA objection, EPA will modify, terminate, or revoke the permit, and shall do so consistent with the procedures in 40 CFR Section 70.7(g)(4) or (5)(i) and (ii), except in unusual circumstances. The District may thereafter issue only a revised permit that satisfies EPA objections. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

SECTION 10 Record Keeping and Sharing of Information

- 10.1 The District shall keep all records of the information required in Section 8 for at least five years or the duration of a permit, whichever is longer.
- 10.2 If information is submitted to the District under a claim of confidentiality, the source shall submit a copy of the confidential information directly to EPA.
- 10.3 The District shall submit, upon request from EPA and in a form specified by EPA, information which may reasonably be required to ascertain whether the permit program complies with the requirements of the Act and 40 CFR Part 70.

SECTION 11 Public Notification Costs

The cost of public notifications prescribed under this regulation for a source shall be borne by the applicant except that the cost of public notification for Title V permits shall be paid by the District from Title V emissions fees.

Adopted v1/4-19-72; effective 4-19-72; amended v2/6-13-79, v3/4-21-82, v4/11-16-83, v5/12-15-93, v6/6-21-95.

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2nd Revision:	02/11/99	10/23/01	66 FR 53658

REGULATION 2.09 Causes for Permit Suspension

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 causes under which a permit may be modified, revoked, or suspended.

SECTION 1 Permit Modification by the District or the Board

- 1.1 The District may, on its own initiative, modify a permit for one or more of the following causes:
 - 1.1.1 Failure to comply with the terms and conditions of the permit,
 - 1.1.2 Failure to comply with the emissions standards or other provisions of these regulations, KRS Chapter 77, or EPA regulations that are applicable to the affected facility,
 - 1.1.3 Failure to report a process or process equipment change that causes an emission increase,
 - 1.1.4 An additional requirement becomes applicable to the affected facility,
 - 1.1.5 The District determines that the permit contains a material mistake,
 - 1.1.6 The District determines that an inaccurate or incomplete statement that was the basis of establishing an emission standard or other term and condition of the permit was included in the permit application, and
 - 1.1.7 The District determines that the affected facility, as permitted, does not comply with the provisions of Regulation 1.09 *Prohibition of Air Pollution*.
- 1.2 The Board may direct the District to modify a permit for one or more of the causes specified in section 1.1.
- 1.3 The Board may direct the District to modify a permit consistent with a final order of the Board resulting from an administrative hearing pursuant to Regulation 1.19 *Administrative Hearings*

SECTION 2 Permit Revocation by the Board

- 2.1 The Board may, after providing the notice, opportunity for response, and public hearing as specified in section 2.2, revoke a permit for one or more of the following causes:
 - 2.1.1 Failure to comply with the terms and conditions of the permit,
 - 2.1.2 Failure to comply with the emissions standards or other provisions of these regulations, KRS Chapter 77, or EPA regulations that are applicable to the affected facility,
 - 2.1.3 Failure to report a process or process equipment change that causes an emission increase,
 - 2.1.4 The District determines that an inaccurate or incomplete statement that was the basis of establishing an emission standard or other term and condition of the permit was included in the permit application,
 - 2.1.5 Fraud or deceit was employed in obtaining the permit,
 - 2.1.6 The District determines that the affected facility, as permitted, does not comply with the provisions of Regulation 1.09 *Prohibition of Air Pollution*,
 - 2.1.7 Failure of the permittee to pay either of the following within the time frame directed in

the enforcement action:

- 2.1.7.1 An assessment to the District pursuant to an agreed settlement of an alleged violation, or
- 2.1.7.2 A civil or criminal penalty imposed by an order of the Board or a court of competent jurisdiction for a violation of the terms and conditions of the permit, the emissions standards or other provisions of these regulations, KRS Chapter 77, or EPA regulations that are applicable to the affected facility, and
- 2.1.8 Any other cause for permit revocation identified in these regulations.
- 2.2 Before revoking a permit, the Board shall do the following:
 - 2.2.1 Provide notice to the permittee that a determination has been made that cause exists for the revocation of the permit. The notice shall state the basis of the determination,
 - 2.2.2 Provide the permittee with a 30-day period in which to submit to the District a written response to the notice, and
 - 2.2.3 Hold a public hearing pursuant to Regulation 1.08 *Administrative Procedures*.
- 2.3 The Board may revoke a permit effective immediately or specify a future date for the revocation to take effect. If the Board specifies a future date for the revocation to take effect, the Board may stipulate that the revocation shall not take effect if the permittee complies with the conditions specified by the Board.
- 2.4 If a permit is revoked by the Board, the District shall provide written notice to the permittee stating that the permit has been revoked and specifying the reason for the revocation and the effective date of the revocation.

SECTION 3 Permit Suspension by the District

The District may suspend a permit for either of the following causes:

- 3.1 Failure of the permittee to provide information, analyses, plans, or specifications relating to an affected facility that were requested by the District, or
- 3.2 Failure of the permittee to timely pay permit fees pursuant to Regulation 2.08 *Emissions Fees, Permit Fees, Permit Renewal Procedures, and Additional Program Fees* section 2.11.

¹ Adopted v1/6-13-79; effective 6-13-79; amended v2/6-19-02.

	Date Submitted	Date Approved	Federal Register
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1st Revision:	03/14/03	11/03/03	68 FR 62236

REGULATION 2.10 Stack Height Considerations

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 procedures under which stack heights shall be considered in determining compliance of an affected source.

SECTION 1 Applicability

This regulation applies to all stacks, and any other dispersion techniques, constructed in Jefferson County which emit air contaminants from an affected source that was commenced on or after January 1, 1971.

SECTION 2 Definitions

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

- 2.1 "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:
 - 2.1.1 Using that portion of a stack which exceeds good engineering practice stack height,
 - 2.1.2 Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or
 - 2.1.3 Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.
 - 2.1.4 The preceding sentence does not include:
 - 2.1.4.1 The re-heating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream, or
 - 2.1.4.2 The merging of exhaust gas streams where:
 - 2.1.4.2.1 The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams, and
 - 2.1.4.2.2 After July 8, 1985 such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation, or
 - 2.1.4.2.3 Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an

increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the District shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the District shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

- 2.1.4.3 Smoke management in agricultural or silvicultural prescribed burning programs;
 - 2.1.4.4 Episodic restrictions on residential woodburning and open burning; or
 - 2.1.4.5 Techniques under section 2.3.3 which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.
- 2.2 "Emission limitation" or "emission standard" means a requirement established by the Cabinet, the Board, or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
- 2.3 "Excessive concentration" as defined for the purpose of determining good engineering practice stack height under section 2.4.3 means:
- 2.3.1 For sources seeking credit for stack height exceeding that established under section 2.4.2.1 or 2.4.2.2, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to District Regulations 2.05, or regulations approved pursuant to 40 CFR Section 51.166 or 52.21, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this regulation shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the District, an alternative emission rate shall be established in consultation with the source owner or operator.
 - 2.3.2 For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under section 2.4.2.1 or 2.4.2.2; either
 - 2.3.2.1 A maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in section 2.6.1, except that the emission rate

specified by the applicable SIP (or, in the absence of such a limit, the actual emission rate) shall be used, or

2.3.2.2 The actual presence of a local nuisance caused by the existing stack as determined by the District, and

2.3.3 For sources seeking credit after January 12, 1979 for a stack height determined under section 2.4.2.1 or 2.4.2.2 where the District requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in sections 2.4.2.1 and 2.4.2.2, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

2.4 "Good engineering practice" (GEP) stack height means the greater of:

2.4.1 65 meters (213.25 feet), measured from the ground-level elevation at the base of the stack:

2.4.2.1 For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable pre-construction permits or approvals required under District Regulations approved pursuant to 40 CFR Parts 51 and 52. Good engineering practice stack height is two and five tenths multiplied by the height of the nearby structures measured from the ground-level elevation at the base of the stack, $H_g = 2.5H$, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation:

2.4.2.2 For all other stacks, GEP stack height shall be determined by the following equation, provided that the District, State or EPA may require the use of a field study or fluid model to verify GEP stack height for the source:

$$H_g = H + 1.5L$$

where:

H_g = GEP stack height, measured from the ground-level elevation at the base of the stack.

H = Height of nearby structures measured from the ground-level elevation at the base of the stack.

L = Lesser dimension (height or projected width) of nearby structures, or

2.4.3 The height demonstrated by a fluid model or a field study approved by the District, State or EPA, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

2.4.3.1 The fluid model study shall be conducted in accordance with guidelines published by EPA in "Guideline for Use of Fluid Modeling to Determine Good Engineering Practice Stack Height," July 1981, EPA Office of Air Quality Planning and

Standards, EPA-450/4-81-003; and "Guideline for Fluid Modeling of Atmospheric Diffusion", April 1981, EPA Environmental Sciences Research Laboratory, EPA-600/8- 81-009.

- 2.5 "Nearby" as used in section 2.4 is defined for a specific structure or terrain feature; and
- 2.5.1 For purposes of applying the formulae provided in 2.4.2.1 and 2.4.2.2 means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and
- 2.5.2 For conducting demonstrations under section 2.4.3 means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby if it falls within a distance of up to ten times the maximum height (Ht) of the feature, not to exceed two miles if such feature achieves a height (Ht) 0.8 km from the stack that is at least 40% of the GEP stack height determined by the formulae provided in section 2.4.2.2 or 26 meters (85.3 feet), whichever is greater, as measured from the ground- level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground- level elevation at the base of the stack.
- 2.6 "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.
- 2.7 "Stack in existence" means that the owner or operator had begun, or caused to begin, a continuous program of physical on-site construction of the stack; or, entered into binding agreements or contractual obligations which could not be cancelled or modified without substantial loss to the owner or operator to undertake a program of construction for the stack to be completed within a reasonable time.

SECTION 3 Compliance

Stack emissions of any source which are controlled in order to attain and maintain an ambient air quality standard or to prevent significant deterioration of the air quality, shall be accomplished through emission limitation alone. The degree of emission limitation so required of any source for control of any air pollutant shall not be affected by the remainder of that source's stack height that exceeds GEP or by any other dispersion technique, except as provided in Section 5.

SECTION 4 Public Notice

The District shall, after notice and opportunity for public hearing, require all stack heights to be demonstrated in a manner consistent with this regulation. A new or revised emission limitation that is based on GEP stack height that exceeds the stack height allowed by section 2.4.1, 2.4.2.1, 2.4.2.2 or 2.4.3 shall be required to provide an opportunity for public hearing on the emission limitation and shall make available to the District a copy of the demonstration study for public review.

SECTION 5 Exemptions

Stack heights in existence, or dispersion techniques implemented as part of a control strategy or permit review on or before December 31, 1970, or coal-fired steam electric generating units, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974, are exempt from this regulation.

Adopted v1/6-13-79; effective 6-13-79; amended v2/11-16-83, v3/7-19-89.

	Date Submitted	Date Approved	Federal Register
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1st Revision:	02/11/99	10/23/01	66 FR 53658

REGULATION 2.11 Air Quality Model Usage

**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 procedures for the use of air quality modeling.

SECTION 1

- 1.1 Except as allowed in section 1.2, all air quality modeling required by District regulations, including the use of alternative or modified models, shall be based on the applicable air quality models, data bases, procedures, and other requirements specified in 40 CFR, Appendix W to Part 51: Guideline on Air Quality Models (Guideline). In addition, the requirements of any other procedures or methods outlined in EPA policy statements shall be met as these policy statements are issued.
- 1.2 The District, at its discretion, may approve the use of alternative or modified models in programs with no EPA-required modeling.

Adopted v1/6-13-79; effective 6-13-79; amended v2/4-21-82, v3/5-19-99.

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REGULATION 2.17 Federally Enforceable District Origin Operating Permits

Louisville Metro Air Pollution Control District 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 procedures for the District to issue federally enforceable District origin operating permits.

SECTION 1 Definitions

Terms used in this regulation that are not defined in this regulation shall have the meaning given to them in Regulations 1.02 and 2.16.

- 1.1 "Federally enforceable District origin operating permit" (FEDOOP) means an operating permit issued pursuant to this regulation to a stationary source that is not, or would not subsequently be, required to have an operating permit pursuant to Regulation 2.16 and that contains a federally enforceable permit condition, limit, or provision.

SECTION 2 Applicability

This regulation applies to any stationary source, or one or more processes or process equipment at a stationary source, for which the owner or operator voluntarily applies for a federally enforceable District origin operating permit.

SECTION 3 General Provisions

- 3.1 The stationary source shall comply with all terms and conditions in a FEDOOP, including subsequent revisions.
- 3.2 All terms and conditions in a FEDOOP, including those requirements designed to limit a stationary source's potential to emit, are enforceable by the EPA. However, notwithstanding this provision, permits issued pursuant to this regulation that do not conform to the requirements of this regulation and the requirements in 54 FR 27275 (1989) may be deemed not federally enforceable by the EPA.
- 3.3 Permits may be issued, revised, or renewed by the District or revoked by the Board.
- 3.4 If the SIP allows the determination of an alternative emission limit at a stationary source, then a permit that contains an alternative emission limit shall contain conditions to ensure that the resulting emission limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures. The District shall not issue permits that waive, or make less stringent, any limitation or requirement contained in or issued pursuant to the SIP or that are otherwise federally enforceable, including, but not limited to, standards established pursuant to the Act Sections 111 and 112.
- 3.5 All application forms, reports, compliance certifications, and any other relevant information submitted to the District shall contain certification by a responsible official. This certification shall include the following statement:
"Based on information and belief formed after reasonable inquiry, I certify that the statements and information in this document are true, accurate, and complete."

- 3.6 Fugitive emissions from a stationary source shall be included in the permit application and the permit in the same manner as stack emissions.
- 3.7 The issuance of a FEDOOP does not invalidate the applicability of the requirements of Regulation 2.03 except those that are redundant and clearly addressed in Regulation 2.17, in which case the requirements of Regulation 2.17 shall take precedence.
- 3.8 Permits shall remain in effect for a fixed term of five years subject to section 6.2

SECTION 4 Permit Applications

- 4.1 Applications for permits issued pursuant to this regulation shall be made on forms prepared by the District or forms that have prior approval by the District.
- 4.2 Sources subject to this regulation must apply for a permit in a timely fashion as follows:
 - 4.2.1 A source not previously required to obtain a permit under this regulation that becomes subject to an applicable requirement after the effective date of this regulation shall submit a complete permit application within 12 months after becoming subject to this regulation.
 - 4.2.2 A source constructing, reconstructing, or modifying, shall submit a complete permit application within 12 months after commencing operation. If an existing permit would prohibit construction or a change in operation, the source must obtain a permit revision before commencing operation. Modification and major modification are defined in Regulations 2.04 and 2.05.
 - 4.2.3 A source that is required to reopen an existing permit pursuant to the requirements of Section 6 must submit a complete application for a permit revision within six months after notification by the District that the permit must be reopened.
 - 4.2.4 A complete permit application must be submitted to the District at least six months prior to the date of permit expiration and in accordance with Section 6 for permit renewal.
- 4.3 Insignificant activities shall be identified in the application, although they may be grouped by affected facility category. The application may exclude information that is not needed to determine which applicable requirements apply, whether the insignificant activity is in compliance with applicable requirements, and whether the stationary source is major. However, if the insignificant activity category is subject to a restriction on the size or production rate of the affected facility, then information regarding the size or production rate shall be included in the application.
- 4.4 Trivial activities need not be listed in the application.
- 4.5 The applicant shall supplement or correct an application within the time period as specified in writing by the District. Any specified time period shall be a minimum of 30 calendar days.
- 4.6 An applicant who fails to submit relevant facts or who has submitted incorrect information in a permit application shall, upon discovery of the occurrence, promptly submit the supplementary facts or corrected information. The applicant shall provide additional information as necessary to address requirements that become applicable to the stationary source after the date the application was submitted.
- 4.7 The District may deny a permit application for a FEDOOP or FEDOOP revision if the applicant operates a process or process equipment within the stationary source that is not in compliance with all applicable requirements and has not submitted an approvable compliance plan and schedule.

SECTION 5 Permit Requirements

- 5.1 The permit shall include specific conditions that limit the stationary source's potential to emit to a level below the major source threshold levels in Regulation 2.16.
- 5.2 The permit shall include testing, monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with the terms and conditions of the permit.
- 5.3 The terms and conditions of the permit shall be permanent, quantifiable, and otherwise enforceable as a practical matter.

SECTION 6 Permit Issuance, Renewals, Revisions, and Revocations

- 6.1 The District shall provide the EPA with notice of proposed issuance, renewal, or revision of a FEDOOP or, pursuant to section 8.5, administrative incorporation of a construction permit, at the time of public notice. If requested for review by the EPA, a permit, permit renewal, or permit revision may be issued only if the EPA has received a copy of the proposed application and permit and has not objected to the issuance of the permit before the end of the public comment period. Upon issuance, renewal, or revision of a FEDOOP, the District shall, if requested by the EPA, provide the EPA with a copy of the final permit.
- 6.2 If the owner or operator of a stationary source submits an administratively complete application for permit issuance or renewal, then the stationary source's failure to have a permit is not a violation until the District takes final action on the permit application. During this time, the stationary source may continue to operate under its existing permit subject to the terms and conditions of that permit. This protection shall cease to apply if, subsequent to a request for additional information, the applicant fails to submit this information within the time period specified in writing by the District.
- 6.3 The following actions require a permit revision:
 - 6.3.1 Relaxations in an existing permit term or condition, including, but not limited to, emission limits or testing, monitoring, recordkeeping, or reporting requirements,
 - 6.3.2 Changes that establish new requirements, or
 - 6.3.3 Changes that would cause emissions of any air pollutant to exceed the allowable limit specified in the permit.
- 6.4 A permit shall be revised if:
 - 6.4.1 The District determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emission standards or other terms or conditions of the permit, or
 - 6.4.2 Additional requirements become applicable to the source.
- 6.5 The Board may revoke a permit for cause pursuant to the procedures in Regulation 2.09.
- 6.6 After issuance of a FEDOOP, the District shall void any applicable operating permits previously issued to the stationary source.

SECTION 7 Reporting and Recordkeeping Requirements

- 7.1 Stationary sources for which a FEDOOP is issued shall retain all records required by the District or an applicable requirement, including all required monitoring data and supporting information, for a period of 5 years from the date of the monitoring, sampling, measurement, report, or application.
- 7.2 Stationary sources for which a FEDOOP is issued shall submit an annual compliance

certification by April 15.

SECTION 8 Public Participation in Federally Enforceable District Origin Operating Permit Actions

- 8.1 The District shall provide public notice of proposed issuance, renewal, or revision of a FEDOOP in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky. Publication shall include paid advertisement, legal notice, or other appropriate format as determined by the District. In the alternative, public notice may be made by the District by publishing a periodic listing made available to the public, provided that the District has first published a public notice in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky, specifying all of the following:
- 8.1.1 The District's intent to provide public notice through a periodic listing published by the District,
 - 8.1.2 A list of locations where the periodic listing may be inspected by the public, and
 - 8.1.3 The method by which a person may directly receive a copy of the periodic listing.
- 8.2 8.2 The public shall be given the opportunity to comment on the non-proprietary information submitted by the owner or operator of the stationary source to the District and on the District's intent to approve the issuance, renewal, or revision of a FEDOOP.
- 8.3 8.3 The District shall provide a 30-day period for submittal of public comment. Further, the District shall provide an opportunity for a public hearing for unresolved, germane, non-frivolous issues.
- 8.4 Public comments submitted in writing and received by the District within 30 days after the public notice shall be considered by the District in its decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The District shall consider the applicant's response in making its final decision.
- 8.5 Notwithstanding the requirements of sections 8.1 to 8.3, the District may revise a FEDOOP through the administrative incorporation of a construction permit, including the terms and conditions of that permit, issued pursuant to Regulation 2, provided that all of the following conditions are met:
- 8.5.1 Public notice of the request by the applicant, or the decision by the District, to modify the FEDOOP is made by the District. The public notice may be made upon receipt by the District of an application for a construction permit. The public notice may be made by publishing a periodic listing made available to the public, provided that the District has first published a public notice in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky, specifying all of the conditions contained in sections 8.1.1 to 8.1.3. The public notice shall include all of the following:
 - 8.5.1.1 A summary description of the modification,
 - 8.5.1.2 A statement that the construction permit, and the terms and conditions of the permit, will be incorporated into the FEDOOP, and
 - 8.5.1.3 A summary of the effect on any current terms and conditions of the FEDOOP,
 - 8.5.2 The public has a 30-day opportunity for public comment, and further, an opportunity for a public hearing, and

8.5.3 There are no unresolved, germane, non-frivolous public comments.

SECTION 9 Public Notification and Public Hearing Costs

The cost of public notifications prescribed under this regulation for a stationary source shall be borne by the applicant.

Adopted v1/12-21-94; effective 12-21-94; amended v2/6-21-95, v3/6-19-02, v4/05-15-13, v5/03-16-22.

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