

## **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<sub>x</sub> 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<sub>x</sub> located in an ozone non- attainment area classified as Moderate, any stationary source which emits, or has the potential to emit, NO<sub>x</sub> 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<sub>x</sub> located in ozone non- attainment areas, any significant net emissions increase of NO<sub>x</sub> is considered significant for ozone, in addition to any separate requirements for NO<sub>x</sub> 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<sub>x</sub>, located in an ozone non- attainment area, the significant emission rates and other requirements for VOC in this section shall apply to NO<sub>x</sub> 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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## 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 <sub>10</sub>	15 tpy of particulate matter emissions
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy

PM<sub>10</sub> - 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 <sup>3</sup>	5 ug/m <sup>3</sup>		25 ug/m <sup>3</sup>	
PM <sup>10</sup>	1.0 ug/m <sup>3</sup>	5ug/m <sup>3</sup>			
Nitrogen Dioxide	1.0 ug/m <sup>3</sup>				
Carbon Monoxide			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>

PM<sub>10</sub> - 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.

