

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.

	Date Submitted	Date Approved	Federal Register
Original Reg:	06/29/79	01/25/80	45 FR 6092
1st Revision:	07/19/82	01/11/84	49 FR 1341
2nd Revision:	02/11/99	10/23/01	66 FR 53658