

## **PART 1**

### **GENERAL PROVISIONS**

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

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

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

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

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

#### **SECTION 1**

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

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

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

## **REGULATION 1.02 Definitions**

### **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 contains definitions used throughout District regulations.

#### **SECTION 1 Definitions**

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

- 1.1 "Act" means the Clean Air Act, 42 USC 7401 *et seq.*
- 1.2 "Acute noncancer effect" means a biochemical change, functional impairment, or pathological lesion that is produced within a short period of time following an exposure and that affects the performance of the whole organism, or reduces the organism's ability to respond to additional environmental challenges.
- 1.3 "Affected facility" means a process or process equipment to which a regulation is applicable.
- 1.4 "Air contaminant" or "air pollutant" means smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, or particulate matter, or any combination of these, that is emitted into or otherwise enters the outside air. These terms also include any precursors to the formation of an air contaminant or air pollutant.
- 1.5 "Air pollution control equipment" means equipment that may be required by law or regulation for the control of air pollution but is not vital to production of the normal product of the process or process equipment or to its normal operation.
- 1.6 "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference method or an equivalent method but that has been demonstrated to the satisfaction of the U.S. Environmental Protection Agency (EPA) and the District to produce, in specific cases, results adequate for determining compliance.

- 1.7 "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access. For the purpose of determining the concentration of an air contaminant that is or may be emitted by a stationary source, ambient air also includes the atmosphere, external to buildings, that is beyond the property line of that stationary source, regardless of whether the general public has access.
- 1.8 "Ambient air quality standard" means a numerical expression of the level of an air contaminant required to be achieved and maintained through the application of appropriate preventive or control measures. An "ambient air quality standard" consists of two parts:
- 1.8.1 A specified concentration for a particular air contaminant and
- 1.8.2 A time-averaging interval over which that concentration is measured.
- 1.9 "Annual mean" means an average determined on the basis of any consecutive 12-month interval.
- 1.10 "Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, amosite, anthophyllite, and actinolite-tremolite.
- 1.11 "Asbestos mill" means any process or process equipment engaged in converting, or in any intermediate step in converting, asbestos ore into commercial asbestos. Outside storage of asbestos materials is not considered a part of the asbestos mill.
- 1.12 "Asbestos material" means asbestos or any material containing asbestos.
- 1.13 "Asbestos tailings" means any solid waste that contains asbestos and is a product of asbestos mining or milling operations.
- 1.14 "Best available control technology" (BACT) means an emission limitation, including a visible emission standard, based on the maximum degree of reduction for each pollutant subject to regulation that would be emitted from any proposed new or modified process or process equipment that the District, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for that new or modified process or process equipment through the application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, innovative fuel combustion techniques, and pollution prevention approaches, for elimination, reduction, or control of that pollutant. In no event shall the application of BACT result in emissions of any pollutant that would exceed the emissions

allowed by any applicable standard under Part 5, 6, or 7 of District regulations. If the District determines that technological or economic limitations on the application of measurement methodology to a particular process or process equipment would make the imposition of an emissions standard infeasible, a design, equipment, work practice, or operational standard, or combination of those approaches, may be prescribed instead.

- 1.15 "Board" means the Louisville Metro Air Pollution Control Board as provided for in KRS Chapter 77.
- 1.16 "Bypass" means the intentional diversion of air contaminants from air pollution control equipment or process equipment that normally reduces the emission of the air contaminants.
- 1.17 "Cabinet" means the Energy and Environment Cabinet of the Commonwealth of Kentucky as provided for in KRS Chapter 224.
- 1.18 "Commence" means that an owner or operator has obtained all necessary preconstruction approvals or permits and has either:
  - 1.18.1 Begun, or caused to begin, a continuous program of actual on-site construction or modification, to be completed within a reasonable time, or
  - 1.18.2 Entered into a binding agreement or a contractual obligation, that cannot be canceled or modified without substantial loss to the owner or operator, to undertake a continuous program of actual on-site construction or modification, to be completed within a reasonable time.
- 1.19 "Commercial asbestos" means any asbestos that is extracted from asbestos ore.
- 1.20 "Compliance plan and schedule" means a list of remedial measures including an enforceable sequence and timing of actions or operations leading to compliance with a limitation or standard by a specific date.
- 1.21 "Construction" means fabrication, erection, modification, or installation of an affected facility or any portion of an affected facility.
- 1.22 "Demolition" means the wrecking or taking out of any load-supporting structural member of a structure together with any related handling operations.
- 1.23 "District" means the Louisville Metro Air Pollution Control District as provided for in KRS Chapter 77.
- 1.24 "Division" means the Division for Air Quality (DAQ) of the Energy and Environment

Cabinet of the Commonwealth of Kentucky as provided for in KRS Chapter 224.

- 1.25 "Emission standard" means a requirement that is contained in a federal, state, or local law or regulation, District permit, or Board Order, or is otherwise legally enforceable that limits the quantity, rate, concentration, or opacity of the emission of an air contaminant on a continuous basis, including any requirement related to the operation or maintenance of a process or process equipment to assure continuous emission reduction, and any design, equipment, work practice, or operational standard.
- 1.26 "Equivalent method" means a method of sampling and analyzing for an air pollutant that has been demonstrated to the satisfaction of the EPA to have a consistent and quantitatively-known relationship to the reference method under specified conditions.
- 1.27 "Excess emissions" means emissions that exceed an applicable emission standard.
- 1.28 "Existing affected facility," except as otherwise specified under applicable regulations, means any affected facility that is in existence or has commenced construction before the effective date of the applicable emission standard and that has not been subsequently modified or reconstructed.
- 1.29 "Federally Enforceable District Origin Operating Permit" (FEDOOP) means a non-Title V operating permit issued by the District that contains a federally-enforceable permit condition, limit, or provision.
- 1.30 "Fixed capital cost" means the capital needed to provide all of the depreciable components.
- 1.31 "Fuel" means natural gas, petroleum, coal, wood, and any other form of solid, liquid, or gaseous matter consumed for the purpose of creating useful heat.
- 1.32 "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- 1.33 "Hazardous air pollutant" (HAP) means any air pollutant listed in Regulation 5.14 *Hazardous Air Pollutants and Source Categories* pursuant to the Act §112(b), 42 USC 7412(b).
- 1.34 "Incineration" means the process of igniting and burning solid, semi-solid, liquid, or gaseous combustible or partially combustible wastes.
- 1.35 "Incinerator" means any furnace used in the process of burning waste for the purpose of reducing the volume of waste by removing combustible matter.

- 1.36 "Lowest achievable emission rate" (LAER) means, for any affected facility, that rate of emissions based on the more stringent of the following:
- 1.36.1 The most stringent emission limitation that is contained in the implementation plan of any State for that class or category of affected facility, unless the owner or operator of the proposed affected facility demonstrates that this limitation is not achievable, or
- 1.36.2 The most stringent emission limitation that is achieved in practice by that class or category of affected facility taking into consideration the pollutant that must be controlled. In no event shall the application of LAER permit a proposed affected facility to emit any pollutant in excess of the amount allowable under an applicable new source standard in Part 5, 6, or 7 of District regulations or 40 CFR Part 60, 61, or 63.
- 1.37 "Major source", except as specified in another regulation for use in that regulation, means any stationary source that emits, or has the potential to emit, 100 tons per year or more of any air pollutant subject to regulation under the Act, 10 tons or more of an individual HAP, or 25 tons per year or more of a combination of HAPs.
- 1.38 "Malfunction" means the sudden, unforeseen, and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard, but not including a failure that is caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or equipment breakdown.
- 1.39 "Maximum achievable control technology" (MACT) means the maximum achievable control technology defined in the Act §112 (d), 42 USC 7412(d).
- 1.40 "Modification", except as specified in another regulation for use in that regulation, means any physical change in, or change in the method of operation of, an affected facility that increases the amount of any air pollutant (to which an emission standard applies) emitted by that affected facility or that results in the emission of any air pollutant (to which an emission standard applies) not previously emitted, except that:
- 1.40.1 Routine maintenance, repair, and replacement shall not be considered a physical change, and
- 1.40.2 A change in the method of operation, unless previously limited by permit conditions, shall not include:

- 1.40.2.1 An increase in the production rate, if the increase does not exceed the operating design capacity of the affected facility or of the air pollution control equipment installed on the affected facility,
- 1.40.2.2 An increase in the hours of operation when the increase does not result in a violation of any applicable emission standards,
- 1.40.2.3 Use of an alternative fuel or raw material if, prior to the date any standard under this regulation becomes applicable to that affected facility, the affected facility is designed to accommodate the alternative use,
- 1.40.2.4 Use of an alternative fuel or raw material by reason of an order, rule, or natural gas curtailment plan approved by the District, or
- 1.40.2.5 A change in ownership of the stationary source.
- 1.41 "New affected facility" means any affected facility the construction, modification, or reconstruction of which is commenced on or after the effective date of an applicable emission standard.
- 1.42 "Nitrogen oxides" means all oxides of nitrogen, except nitrous oxide, as measured by test methods specified by the District.
- 1.43 "Odor" means the property of an air contaminant that can be detected by the sense of smell.
- 1.44 "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
- 1.45 "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outside air without passing through a stack, chimney, vent, or other functionally equivalent opening.
- 1.46 "Organic compound" or "organic material" means a chemical compound of carbon that has the same meaning as "volatile organic compound."
- 1.47 "Outside air" or "open air" means the air outside of buildings and structures.
- 1.48 "Owner or Operator" means any person who owns, leases, operates, controls, or supervises one or more affected facilities.
- 1.49 "Particulate asbestos material" means finely divided particles of asbestos material.
- 1.50 "Particulate matter" means any material, except uncombined water, that exists in a finely divided form as a liquid or a solid.

- 1.51 "PM<sub>10</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.
- 1.52 "PM<sub>2.5</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.
- 1.53 "Person" means any individual, firm, copartnership, joint venture, association, corporation, social club, fraternal organization, estate, trust, receiver, syndicate, county, city, municipality, district (for air pollution control or other purpose), or other political subdivision, or any group or combination acting as a unit, and the plural as well as the singular unit.
- 1.54 "Pollution prevention" (P2) means the use of materials, processes, or practices that reduce or eliminate the creation of pollutants or wastes by the process. Pollution prevention includes practices that reduce the use of hazardous and nonhazardous materials, energy, water, or other resources as well as practices that protect natural resources through conservation or more efficient use.
- 1.55 "Potential hazardous emissions" means an air pollutant, exclusive of pollutants regulated under the Act Section 112(b), 42 USC 7412(b), to which no ambient air quality standard is applicable and that, in the judgment of the District, may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
- 1.56 "Potential to emit" (PTE) means the maximum capacity of a stationary source or an affected facility to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source or affected facility to emit a pollutant, including air pollution control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source or affected facility.

- 1.57 "Preventable upset condition" means the sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard that results entirely or in part from poor maintenance, careless operation, or any other preventable upset condition or equipment breakdown.
- 1.58 "Process" means an action or operation, or a series of actions or operations, from which the emission of an air contaminant may originate. Examples of a "process" include any of the following:
- 1.58.1 The physical change of a material,
  - 1.58.2 The chemical change of a material,
  - 1.58.3 The combustion of a fuel, refuse, or waste material,
  - 1.58.4 The storage of a material,
  - 1.58.5 The handling of a material, and
  - 1.58.6 The use of a material.
- 1.59 "Process equipment" means all equipment, devices, and auxiliary components, including control equipment and stacks, used in a process.
- 1.60 "Reactor" means a vat or vessel that may be jacketed to permit temperature control, designed to contain chemical reactions.
- 1.61 "Reasonably available control technology" (RACT) means devices, systems, process modifications, or other apparatus or techniques, including pollution prevention approaches, that are reasonably available taking into account the necessity of imposing those controls in order to attain and maintain a national ambient air quality standard and the social, environmental, and economic impact of those controls.
- 1.62 "Reconstruction" means the replacement of process equipment for an affected facility to the extent that the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new affected facility.
- 1.63 "Reference Method" means any method of sampling and analyzing for an air pollutant as prescribed in the following EPA regulations: Standards of Performance for New Stationary Sources (40 CFR part 60), National Emission Standards for Hazardous Air Pollutants (40 CFR part 61), National Emission Standards for Hazardous Air Pollutants for Source Categories (40 CFR part 63), National Primary and Secondary Ambient Air

Quality Standards (40 CFR part 50), and Requirements for Preparation, Adoption, and Submittal of Implementation Plans (40 CFR part 51).

- 1.64 "Regulation" means a rule or order adopted by the Board pursuant to KRS Chapter 77 for the control or abatement of air contaminants within its jurisdiction or for the administration of the District.
- 1.65 "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.
- 1.66 "Sludge" means solid or semi-solid material produced by a treatment plant that processes municipal or industrial waste waters.
- 1.67 "Sludge dryer" means a device used to reduce the moisture content of a sludge by heating to temperatures above 65 °C directly with combustion gases.
- 1.68 "Stack or chimney" means a flue, conduit, or duct arranged to conduct a gas stream to the outside air.
- 1.69 "Standard conditions" means:
- 1.69.1 For source measurements, 20 °C and a pressure of 760 mm Hg, and
- 1.69.2 For the purpose of air quality determinations, 25 °C and a reference pressure of 760 mm Hg.
- 1.70 "Stationary source" means all of the air pollutant-emitting activities, including all processes and process equipment, that are located on one or more contiguous or adjacent properties and are under the control of the same person or persons under common control. A property shall be considered contiguous if separated by only a public thoroughfare, stream, or other right-of-way. If a transmission and fuel delivery right-of-way or a strip of land that serves no other principal purpose than as a transportation or materials handling link connecting two or more otherwise separate stationary sources, then the connected stationary sources shall be considered as separate stationary sources.
- 1.71 "Startup" means the setting in operation of an affected facility for any purpose.
- 1.72 "Upset condition" means the sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard and that results entirely or in part from either a malfunction or a preventable upset condition.

- 1.73 "Uncombined water" means water that is either in a gaseous, liquid, or solid state and that is not bound to a compound by internal molecular forces.
- 1.74 "Volatile organic compound" (VOC) means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions. The following organic compounds have been determined by the EPA to have negligible photochemical reactivity and are also excluded:
- 1.74.1 Methane,
  - 1.74.2 Ethane,
  - 1.74.3 Methylene chloride (dichloromethane),
  - 1.74.4 1,1,1-trichloroethane (methyl chloroform),
  - 1.74.5 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113),
  - 1.74.6 Trichlorofluoromethane (CFC-11),
  - 1.74.7 Dichlorodifluoromethane (CFC-12),
  - 1.74.8 Chlorodifluoromethane (HCFC-22),
  - 1.74.9 Trifluoromethane (HFC-23),
  - 1.74.10 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114),
  - 1.74.11 Chloropentafluoroethane (CFC-115),
  - 1.74.12 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123),
  - 1.74.13 1,1,1,2-tetrafluoroethane (HFC-134a),
  - 1.74.14 1,1-dichloro-1-fluoroethane (HCFC-141b),
  - 1.74.15 1-chloro-1,1-difluoroethane (HCFC-142b),
  - 1.74.16 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124),
  - 1.74.17 Pentafluoroethane (HFC-125),
  - 1.74.18 1,1,2,2-tetrafluoroethane (HFC-134),
  - 1.74.19 1,1,1-trifluoroethane (HFC-143a),
  - 1.74.20 1,1-difluoroethane (HFC-152a),
  - 1.74.21 Parachlorobenzotrifluoride (PCBTF),
  - 1.74.22 Cyclic, branched, or linear completely methylated siloxanes,
  - 1.74.23 Acetone,
  - 1.74.24 Perchloroethylene (tetrachloroethylene),

- 1.74.25 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca),
- 1.74.26 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb),
- 1.74.27 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee),
- 1.74.28 Difluoromethane (HFC-32),
- 1.74.29 Ethylfluoride (HFC-161),
- 1.74.30 1,1,1,3,3,3-hexafluoropropane (HFC-236fa),
- 1.74.31 1,1,2,2,3-pentafluoropropane (HFC-245ca),
- 1.74.32 1,1,2,3,3-pentafluoropropane (HFC-245ea),
- 1.74.33 1,1,1,2,3-pentafluoropropane (HFC-245eb),
- 1.74.34 1,1,1,3,3-pentafluoropropane (HFC-245fa),
- 1.74.35 1,1,1,2,3,3-hexafluoropropane (HFC-236ea),
- 1.74.36 1,1,1,3,3-pentafluorobutane (HFC-365mfc),
- 1.74.37 Chlorofluoromethane (HCFC-31),
- 1.747.38 1-chloro-1-fluoroethane (HCFC-151a),
- 1.74.39 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a),
- 1.74.40 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub>) or HFE-7100,
- 1.74.41 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane[(CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OCH<sub>3</sub>],
- 1.74.42 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub>) or HFE-7200,
- 1.74.43 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane [(CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>],
- 1.74.44 Perfluorocarbon compounds that fall into the following classes:
- 1.74.44.1 Cyclic, branched, or linear, completely fluorinated alkanes,
- 1.74.44.2 Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations,
- 1.74.44.3 Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations, and
- 1.74.44.4 Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine,
- 1.74.45 Methyl acetate,
- 1.74.46 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (HFE-7000) or (n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub>),
- 1.74.47 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500),

- 1.74.48 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea),
- 1.74.49 Methyl formate  $\text{HCOOCH}_3$ ,
- 1.74.50 t-butyl acetate, for purposes of VOC emissions limitations or VOC content requirements, but is not excluded for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements that apply to VOC and shall be uniquely identified in emission reports,
- 1.74.51 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300) or  $\text{C}_2\text{F}_5\text{CF}(\text{OCH}_3)\text{CF}(\text{CF}_3)_2$
- 1.74.52 Dimethyl carbonate, and
- 1.74.53 Propylene carbonate.
- 1.75 "Welfare," when referring to effects on welfare, includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.
- 1.76 "Year" means a calendar year.

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

## REGULATION 1.03 Abbreviations and Acronyms

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

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

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

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

#### SECTION 1 Abbreviations

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

|                                |   |                 |                                   |
|--------------------------------|---|-----------------|-----------------------------------|
| acfm                           | - actual cubic foot per minute                | k               | - 1,000                           |
| Act                            | - Clean Air Act as defined in Regulation 1.02 | kg              | - kilogram                        |
| Btu                            | - British Thermal Unit                        | l               | - liter                           |
| °C                             | - degree Celsius (Centigrade)                 | lb              | - pound                           |
| cal                            | - calorie                                     | m               | - meter                           |
| CFC                            | - chlorofluorocarbon                          | mg              | - milligram                       |
| cfm                            | - cubic feet per minute                       | min             | - minute                          |
| cm                             | - centimeter                                  | MJ              | - megajoules                      |
| CO                             | - carbon monoxide                             | ml              | - milliliter                      |
| CO <sub>2</sub>                | - carbon dioxide                              | mm              | - millimeter                      |
| dscf                           | - dry standard cubic foot                     | MM              | - million                         |
| dscm                           | - dry standard cubic meter                    | n               | - nano (one billionth part of)    |
| °F                             | - degree Fahrenheit                           | ng              | - nanogram                        |
| Fed. Reg.                      | - <i>Federal Register</i> (Also FR, Fed Reg)  | NO              | - nitric oxide                    |
| ft                             | - foot  | NO <sub>2</sub> | - nitrogen dioxide                |
| g                              | - gram  | NO <sub>x</sub> | - oxides of nitrogen              |
| gal                            | - gallon                                      | O <sub>2</sub>  | - oxygen                          |
| gr                             | - grain                                       | O <sub>3</sub>  | - ozone                           |
| HC                             | - hydrocarbon                                 | Pa              | - Pascal                          |
| HCFC                           | - hydrochlorofluorocarbon                     | ppb             | - parts per billion               |
| HCl                            | - hydrochloric acid                           | ppm             | - parts per million               |
| HF                             | - hydrogen fluoride                           | psia            | - pounds per square inch absolute |
| HFC                            | - hydrofluorocarbon                           | psig            | - pounds per square inch gauge    |
| Hg                             | - mercury                                     | rpm             | - revolutions per minute          |
| H <sub>2</sub> O               | - water                                       | s               | - at standard conditions          |
| hr                             | - hour  | sec             | - second                          |
| H <sub>2</sub> S               | - hydrogen sulfide                            | SO <sub>2</sub> | - sulfur dioxide                  |
| H <sub>2</sub> SO <sub>4</sub> | - sulfuric acid                               | sq              | - square                          |
| in                             | - inch  | SSU             | - Saybolt Universal seconds       |
| J                              | - joule                                       | tpy             | - tons per year                   |
|                                |   | µg              | - microgram                       |

(w/w) - (weight by weight)

## SECTION 2 Acronyms

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

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

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

Adopted v1/7-14-76; effective 9-1-76; amended v2/6-13-79, v3/9-15-93, v4/9-25-96, v5/5-15-02, v6/1-16-08.

## **REGULATION 1.04 Performance Tests**

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

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

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

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

#### **SECTION 1 Applicability**

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

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

- 2.1 The District, for cause, may require the owner or operator of any affected facility to sample emissions in accordance with EPA test method procedures. Alternate procedures may be used in special circumstances upon advance approval by the District. All tests shall be made under the direction of persons qualified by training and experience in the field of air pollution control.
- 2.2 The District may conduct tests of emissions of air contaminants from any source.
- 2.3 Performance tests required by District regulations shall be conducted and data reduced in accordance with the methods and procedures specified by the District.
- 2.4 The District may waive the requirement for performance tests if, in the case of an existing affected facility, the owner or operator proves to the District's satisfaction that the test cannot be performed due to physical plant limitations or extreme economic burden.
- 2.5 In the event of the need for certification of a CEMS, the District may waive advance notice.
- 2.6 If the affected facility is subject to a standard of performance promulgated under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63, then those specified procedures shall be used unless:
  - 2.6.1 The EPA and the District specify or approve the use of a reference method with minor changes in methodology,
  - 2.6.2 The EPA and the District approve the use of an equivalent method,
  - 2.6.3 The EPA and the District approve the use of an alternative method, the results of which have been determined to be adequate for indicating whether a specific source is in compliance, or
  - 2.6.4 The EPA and the District waive the requirement for performance tests for an affected facility for which a standard of performance has been promulgated under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63 because the owner or operator of that affected facility has demonstrated to the agencies' satisfaction that the affected facility is deemed to be in compliance with the applicable standard.
- 2.7 Agreements with the facility's owner or operator to modify any test procedures from the Reference Methods of 40 CFR Part 60 Appendix A, 40 CFR Part 61 Appendix B, or 40 CFR Part 63 Appendix A shall be documented in writing.
- 2.8 The owner or operator shall permit the District to conduct performance tests at any

reasonable time, shall cause the affected facility to be operated for purposes of those tests under the conditions as the District may specify based on representative performance of the affected facility, and shall make available to the District those records as may be necessary to determine the performance.

- 2.9 The owner or operator of an affected facility shall provide the District at least 10 working days prior notice of the scheduled starting date for the performance test to afford the District the opportunity to have an observer present.
- 2.10 The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:
  - 2.10.1 Sampling ports adequate for test methods applicable to that facility,
  - 2.10.2 Safe sampling platforms,
  - 2.10.3 Safe access to sampling platforms, and
  - 2.10.4 Utilities for sampling and testing equipment.
- 2.11 Each performance test shall consist of separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable regulation. For the purpose of determining compliance with an applicable standard, the arithmetic mean of three runs shall apply. The arithmetic mean shall be determined carrying all significant digits in data and calculations to the final emission rate calculation. The final emission rate shall then be determined by rounding off to the last significant digit of the applicable standard; i.e., dropping the following digit if it is 4 or less, or adding 1 to the last significant digit if the following digit is 5 or greater. If a sample is accidentally lost or conditions occur in which 1 of the 3 runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner's or operator's control, then compliance may, upon the District's approval, be determined using the arithmetic mean of the results of the 2 other runs.

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

- 3.1 A pre-test survey and conference shall be arranged at least 20 working days in advance of the projected starting date for the performance test. This meeting shall be arranged by District personnel after receiving the owner's or operator's notification of the "intent to test" a facility. The notification of intent must be submitted to the District at least 25 working days in advance of the projected starting date for the performance test. Prior to the meeting, available information on the facility shall be submitted and reviewed to focus attention on those areas that might jeopardize a successful test.
- 3.2 The conference shall include a representative from the facility, the test team leader, and the District's selected observer for the proposed test.

### **SECTION 4 Notification Waiver**

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

- 4.1 Notice of intent to test,
- 4.2 The pre-test survey and conference, and
- 4.3 The prior notice requirement of section 2.9.

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

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

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

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

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

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

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

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

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

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

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

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

- 3.1 For purposes of this Section, the following definitions and abbreviations apply:
  - 3.1.1 "Capture" means the containment or recovery of emissions from a process for direction into a duct which may be exhausted through a stack or sent to a control device.
  - 3.1.2 "Capture system" means all equipment including, but not limited to, hoods, ducts, fans, booths, ovens, dryers, etc., that contain, collect and transport an air pollutant to a stack or control device.

- 3.1.3 "Capture efficiency" means the weight per unit time of VOC entering a capture system and delivered to a stack or control device divided by the weight per unit time of total VOC generated by a source of VOC, expressed as a percentage.
- 3.1.4 "Control device" means equipment such as an incinerator or carbon adsorber used to reduce, by destruction or removal, the amount of air pollutants in an air stream prior to discharge to the ambient air.
- 3.1.5 "Control system" means a combination of one or more capture systems and control devices working in concert to reduce discharges of pollutants to the ambient air.
- 3.1.6 "Destruction or removal efficiency" means the amount of VOC destroyed or removed by a control device expressed as a percent of the total amount of VOC entering the control device.
- 3.1.7 "Gas/gas method" means either of two methods for determining capture which rely only on gas phase measurements. One method requires construction of a temporary enclosure (TTE) to assure all would-be fugitive emissions are measured while the other method uses a room or building which houses the emission source as an enclosure.
- 3.1.8 "Hood" means a partial enclosure or canopy for capturing and exhausting, by means of a draft, the organic vapors or other fumes rising from a coating process or other source.
- 3.1.9 "Liquid/gas method" means either of two methods for determining capture which require both gas phase and liquid phase measurements and analysis. One liquid/gas method requires construction of a temporary enclosure; the other uses the building or room which houses the facility as an enclosure.
- 3.1.10 "Overall emission reduction efficiency" means the weight per unit time of VOC removed or destroyed by a control device divided by the weight per unit time of VOC generated by a source, expressed as a percentage. The overall emission reduction efficiency is the product of the capture efficiency and the control device destruction or removal efficiency.
- 3.1.11 "F" means the mass of VOC leaving the process as gaseous fugitive emissions.
- 3.1.12 "G" means the mass of VOC captured and delivered to a control device.
- 3.1.13 "L" means the mass of VOC input to the process in liquid form.
- 3.1.14 "PTE" means a permanent total enclosure which contains a process that emits VOC and meets the specifications given in Procedure T in section 3.5.
- 3.1.15 "TTE" means a temporary total enclosure which is built around a process that emits VOC and meets the specifications given in Procedure T.
- 3.1.16 "BE" means a building or room enclosure that contains a process that emits VOC. If a BE is to serve as a PTE or TTE, the appropriate requirements given in Procedure T must be met.
- 3.2 Applicability
- 3.2.1 The requirements of section 3.3 shall apply to all regulated VOC-emitting processes employing a control system except as provided below.
- 3.2.2 If a source installs a PTE that meets EPA specifications and which directs all VOC to a control device, the capture efficiency is assumed to be 100%, and the source is exempt from the requirements described in section 3.3. The EPA specifications to determine whether a structure is considered a PTE are given in Procedure T. This does not exempt a source from performance of any control device efficiency testing required under these

or any other regulations. In addition, a source must demonstrate that all criteria for a PTE are met during the testing for control efficiency.

3.2.3 If a source uses a control device designed to collect and recover VOC, e.g. carbon adsorber, an explicit measurement of capture efficiency is not necessary if the conditions given below are met. The overall control of the system can be determined by directly comparing the input liquid VOC (L) to the recovered liquid VOC. The general procedure for use in this situation is given in 40 CFR §60.433 with the following additional restrictions:

3.2.3.1 The source must be able to equate solvent usage with solvent recovery on a 24-hour (daily) basis rather than a 30-day weighted average as given in 40 CFR §60.433. This must be done within 72 hours following each 24-hour period. In addition, one of the following two criteria must be met:

3.2.3.1.1 The solvent recovery system, i.e., capture and control system, must be dedicated to a single process line e.g., one process line venting to a carbon adsorber system, or

3.2.3.1.2 If the solvent recovery system controls multiple process lines, the source must be able to demonstrate that the overall control (i.e., the total recovered solvent VOC divided by the sum of liquid VOC input to all process lines venting to the control system) meets or exceeds the most stringent standard applicable for any process line venting to the control system.

### 3.3 Specific Requirements

3.3.1 The capture efficiency of a process line shall be measured using one of the five protocols given in section 3.3.3.

3.3.2 Any error margin associated with a test protocol may not be incorporated into the results of a capture efficiency test.

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

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

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

where:

CE = capture efficiency, decimal fraction.

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

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

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

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

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

where:

- CE = capture efficiency, decimal fraction.
- L = mass of liquid VOC input to process.
- F = mass of fugitive VOC that escapes from a TTE.

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

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

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

where:

- CE = capture efficiency, decimal fraction.
- G = mass of VOC captured and delivered to a control device.
- FB = mass of fugitive VOC escaping from building enclosure.

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

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

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

where:

- CE = capture efficiency, decimal fraction.
- L = mass of liquid VOC input to process.
- FB = mass of fugitive VOC that escapes from building enclosure.

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

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

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

where:

CE = capture efficiency, decimal fraction.

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

L = Mass of liquid VOC input to coating line.

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

3.3.3.6 A capture efficiency test shall consist of at least three runs. Each run shall cover at least one complete production or processing cycle or shall be at least one hour in duration. For automotive and truck surface coating operations, the sampling time shall be based on coating a minimum of three representative vehicles.

#### 3.4 Recordkeeping and Reporting

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

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

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

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

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

#### 3.5 Reference Procedures

Procedure G.1 - Captured VOC Emissions

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

Procedure F.1 - Fugitive VOC Emissions from Temporary Enclosures

Procedure F.2 - Fugitive VOC Emissions from Building Enclosures

Procedure L - VOC Input

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

## SECTION 4 Compliance with Volatile Organic Compounds Regulations

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

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

**SECTION 5 Maintenance Requirements**

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

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

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

**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 requirements for stationary source monitoring, record-keeping, and reporting.

**SECTION 1 Stack Monitoring and Reporting**

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

**SECTION 2 Ambient Air Monitoring and Reporting**

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

**SECTION 3 Requirements for Section 4 and Section 5 Emissions Statements**

- 3.1 When reporting actual emissions, the owner or operator shall include any increased emissions that result from startups, shutdowns, and upset conditions.
- 3.2 Emissions shall be calculated using one of the following methods:
  - 3.2.1 An emission factor from the EPA's Emissions Factors and Policy Applications Center (EFPAC), which includes AP-42,
  - 3.2.2 An emission factor or method from the EPA's Emission Inventory Improvement Program (EIIP),
  - 3.2.3 A method in a federally enforceable District regulation,
  - 3.2.4 An emission estimation equation, factor, or method included in an EPA regulation for determining actual emissions,
  - 3.2.5 Stack test or CEMS data,
  - 3.2.6 For a purchased material, information from the Material Safety Data Sheet (MSDS),  
or
  - 3.2.7 A method proposed by the owner or operator and approved in writing by the District.
- 3.3 Data required by Sections 4 and 5 shall include the process- or process equipment-

specific calculations used to determine emissions. The raw data used to calculate the emissions shall be retained by the owner or operator of the stationary source for 5 years and shall be made available to the District upon request. Representative portions of the raw data used to calculate the emissions shall be supplied to the District in support of the emissions statement.

- 3.4 Data required by Sections 4 and 5 shall be submitted on forms provided by the District, or in an alternate format approved by the District.
- 3.5 A stationary source that did not emit an air contaminant required to be reported under Section 4 or 5 during an applicable year shall submit a negative declaration in place of the required emission statement.

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

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

#### **SECTION 5 Emissions Statements for Toxic Air Contaminants**

- 5.1 On or before April 15 of each year, the owner or operator of a stationary source described in section 4.2 shall submit to the District a statement of actual emissions, for the previous calendar year of operation, of toxic air contaminants (TACs) that are:
  - 5.1.1 Listed in Sections 1 - 4 of Regulation 5.23, and
  - 5.1.2 Not reported under Section 4 of this regulation.
- 5.2 In making the report under section 5.1, the owner or operator may exclude emissions from motor vehicle fueling and refueling.

#### **SECTION 6 Certification by a Responsible Official**

Information submitted to the District pursuant to this regulation shall contain a formal certification by a responsible official, as defined in Regulation 2.16, stating:

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

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

#### **SECTION 4 Emissions Data for Criteria Pollutants, HAPs, and Ammonia**

- 4.1 The owner or operator of a stationary source described in sections 4.1.1, 4.1.2, or 4.1.3 shall submit an emissions statement of actual emissions of particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide, ozone precursor emissions of volatile organic compounds and oxides of nitrogen, lead, ammonia, and all hazardous air pollutants (HAPs) listed in Regulation 5.14 *Hazardous Air Pollutants and Source Categories* to the District as follows:
- 4.1.1 Each year, on or before April 15<sup>th</sup> of the year, for the previous calendar year of operation, for a stationary source subject to Regulation 2.16 *Title V Operating Permits* (Group 1 stationary source),
- 4.1.2 Each year, on or before April 15<sup>th</sup> of the year, for the previous calendar year of operation, for either of the following (Group 2 stationary source):
- 4.1.2.1 A stationary source that has applied for an operating permit pursuant to Regulation 2.17 *Federally Enforceable District Origin Operating Permits*, or
- 4.1.2.2 A stationary source that is subject to the permit requirements of Regulation 2.03 section 1.1 or 1.2 but is not included in section 4.1.1, 4.1.2.1, 4.2, 4.3, or 4.4 of this regulation, if the actual emissions from the stationary source are 25 or more tons per year individually of sulfur dioxide, particulate matter, volatile organic compounds, or oxides of nitrogen, and
- 4.1.3 Beginning August 15, 2006, and every third year thereafter, on or before August 15<sup>th</sup> of the year, for the previous calendar year of operation, for a stationary source that is subject to the permit requirements of Regulation 2.03 section 1.1 or 1.2 but is not included in section 4.1.1, 4.1.2, 4.2, 4.3, or 4.4 of this regulation, unless the District has notified the owner or operator of the stationary source in writing that an emissions statement is required every year.
- 4.2 Beginning April 15, 2006, the owner or operator of a gasoline dispensing facility subject to Regulation 6.40 *Standards of Performance for Gasoline Transfer to Motor Vehicles (Stage II Vapor Recovery and Control)*, which does not include the initial transfer of gasoline into the fuel tanks of new motor vehicles at an automobile or truck assembly plant, shall submit to the District, on or before April 15<sup>th</sup> of each year, the gasoline throughput, by grade, by month, for the previous calendar year of operation. In addition, beginning April 15, 2006, and every third year thereafter, the owner or operator of a gasoline dispensing facility, whose only permitted process or process equipment is the gasoline dispensing facility, shall submit to the District, on or before April 15<sup>th</sup> of the year, the amount, by type, in gallons per year, of cold cleaner material used for the previous calendar year.
- 4.3 Beginning July 15, 2006, and every third year thereafter, the owner or operator of a stationary source that is subject to Regulation 6.44 *Standards of Performance For Existing Commercial Motor Vehicle And Mobile Equipment Refinishing Operations* or Regulation 7.79 *Standards of Performance For New Commercial Motor Vehicle And Mobile Equipment Refinishing Operations* and is not a stationary source described in either section 4.1.1 or 4.1.2 shall submit to the District, on or before July 15<sup>th</sup> of the year, the amount, in gallons, of coating and solvent, by type, used each month for the previous calendar year.
- 4.4 Beginning April 15, 2006, and every third year thereafter, the owner or operator of a stationary source that is subject to Regulation 5.02 *Adoption of National Emission Standards for Hazardous Air Pollutants* section 3.12 *National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities* and is not a stationary source described in either section 4.1.1 or 4.1.2 shall submit to the District, on or before April 15<sup>th</sup> of the year, the

perchloroethylene usage in gallons, by month, for the previous calendar year.

**SECTION 5 Enhanced Emissions Data for Toxic Air Contaminants**

5.1 As used in Section 5:

5.1.1 “Category 1 TAC” means a toxic air contaminant (TAC) listed in Regulation 5.23 *Categories of Toxic Air Contaminants* Section 1, and

5.1.2 “Category 2 TAC” means a toxic air contaminant listed in Regulation 5.23 Section 2.

5.2 The owner or operator of a stationary source shall submit an enhanced emissions statement for listed toxic air contaminants (TACs) to the District as follows:

5.2.1 For a stationary source subject to Regulation 2.16 (Group 1 stationary source), the following:

5.2.1.1 The information listed in section 5.2.3 for the actual emissions by process or process equipment as follows:

5.2.1.1.1 Category 1 TACs 7-1-05 to 12-31-05 Due 4-15-06, and

5.2.1.1.2 Categories 1 and 2 TACs Calendar Year 2006 Due 4-15-07, and each year thereafter, and

5.2.1.2 The related stack and fugitive emission release parameters listed in section 5.3 as follows:

5.2.1.2.1 Category 1 TACs Due 2-28-06, and

5.2.1.2.2 Category 2 TACs Due 6-30-07,

5.2.2 For a stationary source that has applied for an operating permit pursuant to Regulation 2.17 or a stationary source that is described in section 4.1.2.2 (Group 2 stationary source), the following:

5.2.2.1 The information listed in section 5.2.3 for the actual emissions by process or process equipment as follows:

5.2.2.1.1 Category 1 TACs Calendar Year 2006 Due 4-15-07, and

5.2.2.1.2 Categories 1 and 2 TACs Calendar Year 2007 Due 4-15-08, and each year thereafter, and

5.2.2.2 The related stack and fugitive emission release parameters listed in section 5.3 as follows:

5.2.2.2.1 Category 1 TACs Due 6-30-07, and

5.2.2.2.2 Category 2 TACs Due 6-30-08, and

5.2.3 For each process, all of the following:

5.2.3.1 The operating schedule in hours per day, days per week, and weeks per year,

5.2.3.2 The chemical name for each listed TAC emitted,

5.2.3.3 The actual annual emission rate for each listed TAC, and

5.2.3.4 For the process emissions, the percentage of the overall process emissions that are stack, flare, fugitive, or area or pit.

5.3 The related stack and fugitive emission release parameters are as follows:

5.3.1 Plot plan, drawn to scale, showing all of the following:

5.3.1.1 Property line,

5.3.1.2 Fences,

5.3.1.3 Scale,

5.3.1.4 North arrow,

5.3.1.5 Buildings and other structures,

5.3.1.6 Height of buildings and other structures (if buildings have tiers, profile of building tiers),

- 5.3.1.7 Location of processes and process equipment,
- 5.3.1.8 Location of points of emission, and
- 5.3.1.9 UTM coordinates for corners of property, fences, buildings, and points of emission,
- 5.3.2 For each stack, all of the following:
  - 5.3.2.1 Stack height,
  - 5.3.2.2 Stack diameter (or dimensions if the stack is not round),
  - 5.3.2.3 Exhaust gas temperature at stack exit point,
  - 5.3.2.4 Exhaust gas exit velocity,
  - 5.3.2.5 Exhaust gas flow rate in ACFM, and
  - 5.3.2.6 A diagram of the stack discharge point if the exhaust gas is not discharged unobstructed vertically upwards,
- 5.3.3 For fugitive and area or pit emissions, all of the following:
  - 5.3.3.1 Dimensions of the point of release, and
  - 5.3.3.2 Height of the point of release, and
- 5.3.4 For flares, all of the following:
  - 5.3.4.1 Flare tip height,
  - 5.3.4.2 Maximum and average flare input gas stream volumetric flow rate, temperature, and net heat input,
  - 5.3.4.3 Identification of each component of the flare input gas stream,
  - 5.3.4.4 Volumetric fraction for each component of the flare input gas stream, and
  - 5.3.4.5 Flare stack diameter.
- 5.4 The related stack and fugitive emission release parameters required to be submitted pursuant to section 5.2 are required to be submitted only once unless there is an appreciable change in the information that has been submitted that would increase the maximum ambient concentration of a toxic air contaminant. The current actual annual emission rate of each listed toxic air contaminant is required to be submitted each year according to the schedule in section 5.2.
- 5.5 If the District determines that the concentration of a toxic air contaminant in the ambient air, resulting from the emission by a stationary source that is not required to submit the related stack and fugitive emission release parameters listed in section 5.3, may be greater than the level that would be considered environmentally acceptable pursuant to Regulation 5.21 *Environmental Acceptability for Toxic Air Contaminants* section 2.5.2 or 2.5.3, then the District may require the owner or operator to submit the applicable stack and fugitive emission release parameter information. In this case, the District shall provide written notice to the owner or operator, specifying the information required to be submitted and the applicable deadline.
- 5.6 If the District determines, based on ambient air monitoring or modeling of allowed emissions, that the concentration of a toxic air contaminant in the ambient air is greater than the level that would be considered environmentally acceptable pursuant to Regulation 5.21 section 2.8.1 or 2.8.2 and a potentially responsible entity for the emissions of the toxic air contaminant is identified, then the District may require the owner or operator of an identified stationary source to submit the information identified in sections 5.2 and 5.3 of this regulation. If the stationary source is already scheduled to submit the information identified in section 5.2 and 5.3, then the District may require the information to be submitted on an accelerated schedule. In either case, the District shall provide written notice to the owner or operator, specifying the required information to be submitted and the applicable deadline.

**SECTION 6 Certification by a Responsible Official**

The information submitted to the District pursuant to this regulation shall contain a formal certification by a responsible official, as defined in Regulation 2.16 section 1.35 (excluding section 1.35.1.1), of the truth, accuracy, and completeness of the information. The certification required is as follows:

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

**SECTION 7 Confidentiality and Open Records Requirements**

Nothing in this regulation is intended to preempt the confidentiality and open records provisions of Regulation 1.08 *Administrative Procedures*.

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

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

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

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

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

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

#### **SECTION 1 Definitions**

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

#### **SECTION 2 Excess Emissions**

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

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

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

- 3.1 If excess emissions during any planned startup or shutdown are expected to occur, then the owner or operator of the process or process equipment shall notify the District in writing no later than 3 days before the planned startup or shutdown.

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

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

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

- 4.1 If excess emissions from a process or process equipment resulting from an upset condition, or from an unplanned startup or shutdown necessitated by an upset condition, occur or are likely to occur, the owner or operator of the process or process equipment shall, as promptly as possible, but no later than 1 hour following the start of the upset condition, or, if a call to the 911 system was made, then no later than 2 hours following the start of the upset condition, notify the District by telephone, facsimile, or electronic mail.
- 4.2 The initial notification of the upset condition pursuant to section 4.1 shall include the following information:
  - 4.2.1 The name and location of the stationary source,

- 4.2.2 The name, address, telephone number, and electronic mail address of the person responsible for providing the information required by section 4.2,
- 4.2.3 The process or process equipment involved in the upset condition,
- 4.2.4 The date and time of the beginning of the upset condition, the estimated time before input feed to the process or process equipment will be stopped and the process or process equipment shut down or the process or process equipment is returned to normal operation, whichever is earlier (the excess emissions end), and the estimated time period during which excess emissions are likely to occur,
- 4.2.5 To the extent that it can reasonably be determined under the circumstances, the physical and chemical composition and estimated quantity and concentration of excess emissions, or equivalent information that relates to compliance with the emissions standard, such as emissions monitoring data or results of an EPA-approved test method, for each air contaminant,
- 4.2.6 If known or suspected, the likely cause of the upset condition, and
- 4.2.7 If applicable and known, the reason the processes or process equipment will not be shut down immediately, consistent with safe operating procedures.
- 4.3 If the initial notification pursuant to section 4.1 is required to be made at a time outside of the District's regular business hours (8:00 a.m. to 5:00 p.m. on Monday to Friday, not counting holidays), then, in addition to that initial notification, the owner or operator of the process or process equipment shall leave a message on the District's main telephone line [(502) 574-6000] containing the information required by sections 4.2.1, 4.2.3, 4.2.4, 4.2.6, and 4.2.7, and the name and telephone number of a contact person at the stationary source.
- 4.4 If excess emissions during an upset condition of a process or process equipment occur or are likely to occur, then the owner or operator shall comply with both of the following:
  - 4.4.1 Consider the suitability and appropriateness of each of the following and implement one or more as appropriate and necessary to prevent or minimize excess emissions:
    - 4.4.1.1 Reasonable, available, and practicable emission reduction measures, including process equipment design, appropriate operating procedures, pollution prevention measures, use of off-shift labor and overtime, and, consistent with safe operating procedures, immediately stopping or reducing input feed to the process or process equipment and reducing the operation of or shutting down the process or process equipment, and
    - 4.4.2 Comply with all of the following:
      - 4.4.2.1 The frequency and duration of operation of the process or process equipment in an upset condition mode shall be minimized as much as necessary to prevent or minimize excess emissions,
      - 4.4.2.2 A bypass of any related control equipment shall not occur unless necessary to prevent loss of life, personal injury, or severe property damage, and the extent and duration of any bypass shall be reduced as much as necessary to minimize excess emissions, and
      - 4.4.2.3 All emission and parametric monitoring systems for the process or process equipment shall be operated unless technically infeasible.
- 4.5 If a person has notified the District pursuant to section 4.1 or 4.3 but no excess emission occurred as the result of the upset condition, then the owner or operator of the process or process equipment shall send a written report to the District that includes the name and telephone number of a contact person at the stationary source, the information required by sections 4.6.1, 4.6.3, and 4.6.4, and the statement that no excess emission occurred. The

written report may be sent by mail, facsimile, or electronic mail, and shall be sent no later than 5 working days after the input feed to the process or process equipment is stopped and the process or process equipment is shut down or the process or process equipment is returned to normal operation after the occurrence of an upset condition, whichever is earlier.

4.6 As soon as reasonably possible, but no later than 2 hours after the excess emissions ended, the owner or operator of the process or process equipment shall notify the District by telephone, facsimile, or electronic mail. If this notification is made by telephone, the owner or operator shall provide written notification by facsimile or electronic mail no later than 4 hours after the excess emissions ended. The written notification of the end of the upset condition shall include the following information:

4.6.1 The name and location of the stationary source,

4.6.2 The name, address, telephone number, and electronic mail address of the person responsible for providing the information required by section 4.6,

4.6.3 The process or process equipment involved in the upset condition,

4.6.4 The date and time that the excess emissions ended, and

4.6.5 If the initial notification to the District pursuant to section 4.6 was made by telephone, then the time that the telephone notification was made.

4.7 No later than 15 calendar days after the excess emissions ended, the owner or operator of the process or process equipment shall send a written report to the District that includes the following information:

4.7.1 The name and location of the stationary source,

4.7.2 The name, address, telephone number, and electronic mail address of the person responsible for providing the information required by section 4.7,

4.7.3 The process or process equipment involved in the upset condition,

4.7.4 Confirmation of the actual date and time that the excess emissions ended,

4.7.5 The physical and chemical composition and calculated quantity and concentration of excess emissions, or equivalent information that relates to compliance with the emissions standard, such as emissions monitoring data or results of an EPA-approved test method, for each air contaminant, including a description of the method used for calculating excess emissions and an identification of the applicable emission standard that was exceeded,

4.7.6 An explanation of how the requirements of section 4.4 were met,

4.7.7 An analysis of the cause of the upset condition and the steps that will be taken to prevent or minimize similar occurrences in the future, and

4.7.8 Any additional information requested by the District.

4.8 Upon written request from the owner or operator of a process or process equipment required to submit a report pursuant to section 4.7 for an extension of the due date to submit the information required by section 4.7.7, the District may extend the due date by up to 45 days from the original due date.

## **SECTION 5 Extended Upset Conditions**

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

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## REGULATION 1.08 Administrative Procedures

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

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

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

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

#### SECTION 1 Public Hearings

- 1.1 A public hearing shall be held by the Air Pollution Control Board (Board) before any of the following actions are taken:
  - 1.1.1 The adoption of an order for a stationary source or person,
  - 1.1.2 The issuance of a compliance plan and schedule to a stationary source,
  - 1.1.3 The adoption of a new regulation,
  - 1.1.4 The adoption of an amended regulation,
  - 1.1.5 The repeal of a regulation,
  - 1.1.6 The revocation of a permit for cause by the Board pursuant to Regulation 2.09 *Causes for Permit Modification, Revocation, or Suspension* Section 2 *Permit Revocation by the Board*,
  - 1.1.7 The adoption of an alternate emission standard pursuant to Regulation 2.12 *Emissions Trading (Including Banking and Bubble Rules)*, Section 8 *Alternate Emission Standards (Bubbles)*,
  - 1.1.8 The use of unallocated emission reduction credits pursuant to Regulation 2.12, Section 5 *Use of Emission Reduction Credits*, and
  - 1.1.9 The modification of an environmental acceptability goal to a cancer risk exceeding  $25 \times 10^{-6}$  pursuant to Regulation 5.21 *Environmental Acceptability for Toxic Air Contaminants*, Section 2.
- 1.2 A public hearing may be held by the Board before any of the following actions are taken:
  - 1.2.1 A permit action for a stationary source that is subject to a public notice requirement in Regulation 2.07 *Public Notification for Title V, PSD, and Offset Permits; SIP Revisions; and Use of Emission Reduction Credits* or Regulation 2.16 *Title V Operating Permits*,
  - 1.2.2 A permit action for a stationary source that is subject to a public notice requirement in Regulation 2.17 *Federally Enforceable District Origin Operating Permits*,
  - 1.2.3 A permit action for a stationary source for which the District or the Board determines that there is significant public concern regarding the permit action or for which the public interest is better served by having an opportunity for a public hearing,
  - 1.2.4 The approval, revision, or discontinuance of an upset condition prevention program pursuant to Regulation 1.20 *Upset Condition Prevention Programs*,

- 1.2.5 The modification of an environmental acceptability goal to a cancer risk not exceeding  $25 \times 10^{-6}$  or to a Hazard Quotient exceeding 1.0 pursuant to Regulation 5.21, Section 2,
- 1.2.6 The issuance of a construction permit containing an emission standard developed pursuant to Regulation 5.21 section 3.1.2.2, and
- 1.2.7 The approval of a Risk Reduction Plan pursuant to Regulation 5.21.
- 1.3 A public hearing shall be held by the Board if requested by the permittee within 10 days after receipt of notice that a permit has been suspended pursuant to Regulation 2.09 *Causes for Permit Modification, Revocation, or Suspension*, Section 3 Permit Suspension by the District.

## **SECTION 2 Compliance Plans and Schedules**

- 2.1 No person shall operate an affected facility resulting in the presence of air contaminants in the atmosphere in contravention of these regulations unless an approved compliance plan and schedule has been issued by the Board and is currently in effect.
- 2.2 An application for approval of a compliance plan and schedule authorized by this Section shall contain the following:
  - 2.2.1 The reason for requesting a compliance plan and schedule,
  - 2.2.2 A plan and schedule for compliance,
  - 2.2.3 The level of emissions expected during the period prior to compliance,
  - 2.2.4 A plan for emission monitoring and monthly reporting,
  - 2.2.5 Facts establishing that the proposed system is the best practical system of emission reduction, and
  - 2.2.6 Any other information required by the District or the Board to determine whether the compliance plan and schedule should be issued.
- 2.3 An approved compliance plan and schedule that is inconsistent with any provision of the Kentucky State Implementation Plan (SIP) shall be forwarded to the Kentucky Division for Air Quality for submittal to the EPA as a requested revision to the SIP; This compliance plan and schedule does not change the federally-enforceable SIP unless approved by the EPA.
- 2.4 Applications for compliance plans and schedules shall be signed by the corporate president or an authorized agent; by an equivalently responsible officer in the case of organizations other than corporations; by the stationary source owner or operator; or, in the case of political subdivisions, by an appropriate elected official. This signature shall constitute personal affirmation that the statements made in the application are true and complete.
- 2.5 The information submitted in the application shall, when specifically requested by the District or the Board, include an analysis of the characteristics, properties, and volume of the air contaminants based upon samples of air contaminants taken under maximum operating conditions. Failure to supply information required or deemed necessary by the District or the Board to enable the Board to act upon the compliance plan and schedule application shall result in disapproval of the compliance plan and schedule application.
- 2.6 If, for any reason, the District and the owner of the affected facility are unable to develop a mutually acceptable compliance plan and schedule, then the District may develop and propose an appropriate compliance plan and schedule to the Board. After a public hearing, the Board may issue a compliance plan and schedule incorporating, in its judgement, the most expeditious and practicable schedule for bringing the affected

facility into compliance. Once issued, this compliance plan and schedule, including all increments of progress, shall be legally enforceable.

- 2.7 Compliance plans and schedules shall include the terms and conditions that the Board deems necessary to insure compliance with the compliance plan and schedule and these regulations. These terms and conditions may include maintenance and availability of records relating to operations that may cause or contribute to air pollution, including periodic sampling of the affected facilities.
- 2.8 An application for a compliance plan and schedule shall be submitted to the District at least 40 days prior to the proposed hearing date, unless the District finds either of the following:
  - 2.8.1 The late request was beyond the control of the applicant, or
  - 2.8.2 The delay in holding the hearing until after the 40-day period may result in significant impairment or disruption of the applicant's business.

### **SECTION 3 Procedures at Public Hearings**

- 3.1 Public hearings shall be held just prior to the monthly Board meeting, unless the Board Chair sets a different date. At any public hearing:
  - 3.1.1 The staff recommendation shall first be made by a representative of the District,
  - 3.1.2 A representative of the affected entity, if any, shall then be given the opportunity to present any statements to the Board regarding the recommendation,
  - 3.1.3 Any person who wishes to present evidence either in support of, or in opposition to, the proposed action may then make a statement,
  - 3.1.4 The representative of the affected entity shall then be given an opportunity to rebut any of the opposition statements,
  - 3.1.5 Further opportunity for comment may be granted at the discretion of the Chair, and
  - 3.1.6 Board members may ask questions of the District staff or any person addressing the Board.
- 3.2 At the conclusion of the statements, the public hearing shall be adjourned. The Board shall place the matter of the public hearing on its agenda for appropriate action, although the Board may delay action until a subsequent Board meeting. This provision for Board action does not apply if the subject of a public hearing is a construction or operating permit application or other matter to be ruled on by the District.

### **SECTION 4 Enforcement Orders**

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

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

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

- 6.1 Definitions

Terms that are used in this Section that are not defined in this Section or Regulation 1.02 *Definitions* shall have the meaning given to them in the Kentucky Open Records Act, KRS 61.870 to 61.884.

- 6.1.1 "Emission data" means, with reference to any source of emission of any substance into the air, the following:
  - 6.1.1.1 Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing,
  - 6.1.1.2 Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source), and
  - 6.1.1.3 A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).
- 6.2 General Rule  
Inspection of public records shall be governed by the Kentucky Open Records Act, KRS 61.870 to 61.884.
- 6.3 A request to inspect public records shall be in writing, signed by the applicant and with the applicant's name printed legibly on the application, directed to the attention of the Custodian of Records. The request shall describe the records with sufficient specificity to enable the District to identify and locate the public records sought.
- 6.4 A person may inspect public records:
  - 6.4.1 During the regular office hours of the District, 8:00 a.m. to 5:00 p.m., Monday through Friday, in the District's office, 850 Barret Avenue, Louisville, Kentucky 40204. After inspection, a person may request copies of the records, or
  - 6.4.2 By requesting a copy of the public records from the District that the District may send by mail, electronic mail, or facsimile.
- 6.5 Exemption from Public Inspection
  - 6.5.1 Records furnished to the District shall be available for inspection by the public unless the records or portions of the records are designated by the District as confidential or otherwise exempt from public inspection. Records furnished to the District may be exempt from public inspection only after the individual or company furnishing the records has requested in writing an exemption provided by the Kentucky Open Records Act in KRS 61.878 and the request has been approved by the District.
  - 6.5.2 Emission data shall not be exempt from public inspection.
  - 6.5.3 An applicant requesting a designation of a record as exempt shall provide all of the following:
    - 6.5.3.1 A statement identifying the specific exemption that would authorize the District to exempt the record from public inspection and a brief explanation of how the exemption applies to the record. The burden of showing the applicability of the exemption rests with the applicant,
    - 6.5.3.2 A copy of the furnished record completely filled out, including the exempt information, and a second copy of the furnished record omitting the information

requested to be designated as exempt but including a general description of the omitted information. The second copy shall be available for public inspection.

- 6.5.4 The applicant shall be notified in writing if the District determines that the record does not qualify as exempt from public inspection. The applicant shall, within 14 calendar days, resubmit the record without any marking as confidential. This determination may be appealed as provided by Regulation 1.19 *Administrative Hearings*.

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

- 7.1 Prior to the commencement of the public comment period and public hearing on a proposed action on a regulation, a committee of the Board shall review the draft proposed action and the preliminary assessment of the regulatory impact of the proposed action on the regulated community and the public. An action includes the adoption of a new regulation, the amendment of an existing regulation, and the repeal of an existing regulation. The draft proposed action shall be available to the Board and the public prior to the day that the committee takes action on the draft proposed action. The regulatory impact assessment shall include the purpose of the draft proposed action, the estimated costs and savings associated with the action, the feasibility of all alternatives considered, and a comparison with any minimum or uniform standards under the Act or any other federal or state requirement. The District may rely on reasonably available information in developing the regulatory impact assessment. The regulatory impact assessment required by this section need not be developed when the proposed regulatory action is substantively identical to federal or state standards or requirements. As part of this review, the District shall report on its public outreach efforts on the proposed action. Upon committee approval of the proposed action and preliminary regulatory impact assessment for public review, the District shall schedule the public comment period and public hearing.
- 7.2 For the purpose of the regulatory impact assessment required by section 7.1:
- 7.2.1 The estimated costs and savings shall include the following:
- 7.2.1.1 The estimated number of affected facilities,
- 7.2.1.2 A description of the range of affected facilities, and
- 7.2.1.3 The estimated capital and operating costs and savings associated with compliance with the proposed action for affected facilities, and
- 7.2.2 The feasibility of alternatives considered shall include, for each alternative, a description of the following:
- 7.2.2.1 The approach for reducing emissions,
- 7.2.2.2 The estimated level of emission reductions,
- 7.2.2.3 The available pollution prevention measures, and
- 7.2.2.4 The reason that the alternative was chosen or not chosen.
- 7.3 The public shall be provided with at least 30 days' notice prior to the public hearing on a proposed action on a regulation. Legal notice shall be made in accordance with KRS Chapter 424 Legal Notices and any applicable EPA requirements.
- 7.4 At the time of the legal notice, copies of the proposed action shall be available from the District during normal working hours.
- 7.5 Prior to final action on a regulation:
- 7.5.1 The District shall prepare a preliminary response to all written comments on the proposed action received by the District within the time period specified in the public

- notice and, unless the Board takes action on the proposed action on the same day as the public hearing, oral comments made during the public hearing. The preliminary response shall be available to the Board and the public prior to the day that the Board takes action on the proposed action,
- 7.5.2 The Board shall consider written comments received by the District within the time period specified in the legal notice and oral comments made during the public hearing, and
  - 7.5.3 The District shall identify, for Board consideration, unresolved issues raised during the public comment period and the public hearing.
  - 7.6 The written record of final action on a regulation shall be made available to the public and shall include the following:
    - 7.6.1 A final response to all written comments on the proposed action received by the District within the time period specified in the public notice and oral comments made during the public hearing,
    - 7.6.2 A statement explaining the basis for any substantive amendments made to a proposed action on a regulation after its initial proposal, and
    - 7.6.3 A final regulatory impact assessment that shall include any additional information submitted pursuant to the public comment period and public hearing. The Board may rely on reasonably available information in assessing the regulatory impact of its regulatory action.

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

**REGULATION 1.09     Prohibition of Air Pollution**

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

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

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

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

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

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

## **Regulation 1.10 Circumvention**

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

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

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

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

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

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

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

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

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

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

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

#### **SECTION 1 Definitions**

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

1.1 "Fire pit" means either:

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

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

2.1 No person shall cause, allow, or maintain any open fire except the following:

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

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

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

**REGULATION 1.12 Control of Nuisances**

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

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

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

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

**SECTION 1 Definitions**

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

**SECTION 2 Prohibition of Nuisances**

When dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building or equipment in such a manner and amount as to cause a nuisance or to violate any regulation, the Board may order that the building or equipment in which processing, handling, or storage are done be tightly closed and ventilated in such a way that all air and gases and air or gas-bourne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

**SECTION 3 Supersession**

This regulation supersedes Regulations 6.03 and 7.02.

Adopted v1/4-19-72; effective 4-19-72; amended v2/9-1-76, v3/1-20-88.

## **REGULATION 1.13 Control of Objectionable Odors in the Ambient Air**

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

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

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

**Necessity And Function:** KRS 77.180 provides that the Air Pollution Control Board may make and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation provides for the control of objectionable odors in the ambient air.

#### **SECTION 1 Definitions**

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

- 1.1 "Objectionable odor" means any odor present in the ambient air that, by itself or in combination with other odors, gases, or vapors, is offensive, foul, unpleasant, or repulsive.

#### **SECTION 2 Prohibition of Objectionable Odors**

- 2.1 No person shall emit or cause to be emitted into the ambient air any substance that creates an objectionable odor beyond the person's property line. An odor will be deemed objectionable when documented investigation by the District includes, as a minimum: observations on the odor's nature, intensity, duration, and location, and evidence that the odor causes injury, detriment, nuisance, or annoyance to persons or to the public.
- 2.2 An instrument, device, or technique may be used by the District in the determination of the intensity of an odor and may be used in the enforcement of this regulation.
- 2.3 An owner or operator of any business or any machine, device, equipment, or facility that emits into the ambient air any odorous matter or vapors, gases, dusts, or any combination thereof that creates objectionable odors shall provide, properly install, and maintain in good working order and in operation the control devices or procedures approved by the District.
- 2.4 Abatement or control requirements may include, but are not limited to, the following:
  - 2.4.1 The use of catalytic incinerators, afterburners, scrubbers, absorbers, or other methods approved by the District,
  - 2.4.2 The removal and disposal of odorous materials, or
  - 2.4.3 The use of methods in handling and storage of odorous materials that minimize emissions.
- 2.5 The District may order that a building or buildings in which processing, handling, or storage of any odorous materials is performed be tightly closed and ventilated so that the odorous air, gases, or gas-borne materials leaving the buildings are treated by incineration or other effective means for removal or destruction of odorous matter or other contaminants before discharge into the open air.
- 2.6 An owner or operator incinerating or processing gases, vapors, or gas-entrained effluents pursuant to this regulation shall provide, properly install, and maintain in good working order and in operation, devices as approved by the District for indicating temperatures, pressures, or other operating conditions.
- 2.7 Odor-producing materials shall be stored, transported, and handled in a manner so that accumulation of these materials resulting from spillage or other escape is prevented.

### **SECTION 3 Reporting Accidental and Other Infrequent Emissions**

Accidental and other infrequent discharges that cause or contribute to objectionable odors shall be reported by telephone to the District by the owner or operator. These reports shall be made within 1 hour of the discharge. The owner or operator shall also comply with all applicable notification and reporting requirements pursuant to Regulation 1.07 *Emissions During Startups, Shutdowns, Malfunctions, and Emergencies*.

Adopted v1/4-19-72; effective 4-19-72; amended v2/9-1-76, v3/11-28-79, v4/1-20-88, v5/9-20-89, v6/6-17-98.

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

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

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

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

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

#### **SECTION 1 Definitions**

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

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

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

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

building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

- 2.3 No person shall cause or permit the discharge of fugitive emissions in excess of 20% opacity.
- 2.4 No person shall cause or permit the discharge of visible fugitive emissions beyond the lot line of the property on which the emissions originate.

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

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

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

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

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

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

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

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

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

- 7.1 No developer or owner of an open mining activity shall throughout the duration of the operation, disturb or contract to disturb by grading, excavating, blasting, or depositing on more total surface area than one acre of land in the aggregate unless the provisions of Section 8 are being met continuously. Open mining activities must notify by writing the District prior to operation. Open mining shall mean the mining of natural mineral deposits, limestone, coal, and gravel, and quarry aggregate, by removing the overburden lying above such deposits thereby exposed. The term includes, but is not limited to, such practices as open cut mining, open pit mining, strip mining, quarrying, and dredging.

## **SECTION 8 Other Activities**

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

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

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

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

## **SECTION 10 Supersession**

This regulation supersedes Regulations 6.05 and 7.04.

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

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

**REGULATION 1.15 Version of Federal Regulations Adopted and Incorporated by Reference**

**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 identifies the version of the EPA regulations that have been adopted and incorporated by reference.

**SECTION 1 General Definition**

In the federal regulations adopted and incorporated by reference in these regulations, "Regional Administrator," "EPA," and "Agency" shall be read as "District" and "this subpart" shall be read as "this regulation," unless otherwise specified in these regulations.

**SECTION 2 Date of Regulation**

All federal regulations adopted and incorporated by reference in the regulations shall be the version in the *Code of Federal Regulations* (CFR) Title 40 as of July 1, 2010, unless otherwise specified in a District regulation.

**SECTION 3 Availability**

Copies of the CFR are available:

3.1 For sale from:

U.S. Government Printing Office  
Superintendent of Documents  
Mail Stop SSOP  
Washington, DC 20402-9328

3.2 For free by downloading from the Internet: <http://www.gpoaccess.gov>

Adopted v1/4-20-88 effective 4-20-88; amended v2/12-21-88, v3/9-15-93, v4/3-20-96, v5/4-15-98, v6/7-21-99, v7/3-15-00, v8/6-20-01, v9/2-20-02, v10/2-19-03, v11/3-17-04, v12/9-21-05, v13/3-15-06, v14/2-20-08, v15/4-20-11.

## **REGULATION 1.17     Air Quality Trust Fund**

### **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 77.127 establishes an Air Quality Trust Fund to be used for conducting and funding air quality research and development projects, special nonrecurring air quality projects, and air quality education programs approved by the Air Pollution Control Board. This regulation sets policies and establishes procedures for the receipt and disbursement of any money collected for the Air Quality Trust Fund and for the full disclosure of the source and use of the money.

#### **SECTION 1   Applicability**

This regulation applies to the Air Quality Trust Fund (Fund) of the Air Pollution Control District of Jefferson County.

#### **SECTION 2   Income**

- 2.1     The Board may accept money by grant, gift, donation, bequest, civil or criminal penalty, or other conveyance, but may not accept penalties collected under KRS 77.990, for the Fund. Full disclosure of the source of money shall be made prior to acceptance by the Board.
- 2.2     All money collected for the Fund shall be deposited into an interest-bearing, capital project account maintained by the Jefferson County Fiscal Court.
- 2.3     Money unexpended at the close of a fiscal year shall not lapse but shall remain in the Fund and be carried forward.

#### **SECTION 3   Disbursements**

Disbursement of money from the Fund requires approval by the Board. The Board may approve, by action at its meeting, disbursements for conducting and funding air quality research and development projects, special nonrecurring air quality projects, or air quality education programs. The approved minutes of the Board meeting at which a disbursement approval action is taken shall be sufficient written authorization for the finance director of Jefferson County Fiscal Court to disburse money from the Fund.

#### **SECTION 4   Accounting**

The Secretary-Treasurer of the District shall prepare an annual accounting of the income and disbursements of the Fund. The accounting shall be in writing and presented to the Board at its June meeting.

Adopted v1/6-21-95; effective 6-21-95.

## **REGULATION 1.18 Rule Effectiveness**

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

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

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

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

#### **SECTION 1 Applicability**

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

#### **SECTION 2 Definitions**

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

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

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

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

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

Adopted v1/9-21-94; effective 9-21-94.

## **REGULATION 1.19 Administrative Hearings**

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

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

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

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

#### **SECTION 1 Applicability**

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

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

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

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

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

### **SECTION 3 Hearing Officer**

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

### **SECTION 4 Intervention**

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

### **SECTION 5 Prehearing Conference**

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

### **SECTION 6 Hearing Proceedings**

- 6.1 A party to an administrative hearing held pursuant to this regulation may be represented by counsel, make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions.
- 6.2 Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence,

evidence not admissible under judicial rules may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably-prudent persons in the conduct of their affairs. The hearing officer shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when an administrative hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Notice may be taken of generally recognized technical or scientific facts within the District's specialized knowledge.

- 6.3 All administrative hearings subject to this regulation shall be recorded verbatim. It shall be within the hearing officer's discretion to provide for a court reporter or for a mechanical recording device. A transcript of an administrative hearing shall be made if a written request by a party to the administrative hearing is filed with the Secretary-Treasurer. The costs of creating a transcript shall be borne by the requesting party and the projected costs shall be paid to the Secretary-Treasurer before the transcript is created. A party requesting the creation of a transcript shall provide a copy to the District at no charge to the District. Fees for transcripts prepared by District employees from recordings shall be at rates that cover the cost of staff time, machine use, and materials.
- 6.4 The record of the hearing, including all documents filed and the hearing officer's report and recommended order, shall, consistent with the provisions of Regulation 1.08 *Administrative Procedures Section 6 Confidentiality and Open Records Policy*, be a public record open for inspection.

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

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

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

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

- 8.2.2 Including the written communication made in violation of this section in the record, providing a copy of the written communications to all parties, and giving all parties an opportunity to respond, and
- 8.2.3 Requiring an offending party to show cause why the offending party's claim, motion, or interest should not be dismissed or denied and invoking other sanctions as appropriate.

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

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

**SECTION 10 Appeals**

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

Adopted v1/5-15-02; effective 5-15-02, v2/1-16-08.

## **REGULATION 1.20 Upset Condition Prevention Programs**

### **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 requirement for the owner or operator of certain permitted processes or process equipment to develop and implement an upset condition prevention program.

#### **SECTION 1 Definitions**

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

- 1.1 “Affected facility” means any process or process equipment that meets one of the following:
- 1.1.1 An upset condition involving the process or process equipment was reported pursuant to Regulation 1.07 *Excess Emissions During Startups, Shutdowns, and Upset Conditions* and the District determines that the development and implementation of an upset condition prevention program is appropriate,
  - 1.1.2 The District determines that an upset condition involving the process or process equipment may have occurred and that the development and implementation of an upset condition prevention program is appropriate, or
  - 1.1.3 The District determines that the development and implementation of an upset condition prevention program is appropriate to minimize the likelihood of the occurrence of an upset condition that may become harmful to public health or welfare.

#### **SECTION 2 Applicability**

This regulation applies to any affected facility.

#### **SECTION 3 Upset Condition Prevention Program Requirements**

- 3.1 The owner or operator of an affected facility shall develop an upset condition prevention program to prevent, detect, and correct upset conditions, equipment failures, or abnormal process or process equipment operating parameters that may cause an excess emission. The program shall be in writing and reviewed and updated as the owner or operator or the District determines necessary to keep the program current, relevant, and effective. The program shall, at a minimum, include all of the following:
- 3.1.1 Identification of the processes, process equipment, and air pollution control equipment included in the program, including monitoring equipment and other instrumentation used to determine proper operation of the process and equipment,
  - 3.1.2 Identification of the individual or position responsible for inspecting, maintaining, and repairing the affected process equipment and air pollution control equipment,
  - 3.1.3 The maximum intervals for inspection and routine maintenance of the affected process equipment and air pollution control equipment. The maximum interval for routine inspection and maintenance shall not exceed that recommended by the manufacturer

- unless specifically identified in the program and justified,
- 3.1.4 A description of the items or conditions that will be inspected,
  - 3.1.5 A listing of materials and spare parts that will be maintained in inventory,
  - 3.1.6 A description of the corrective procedures that will be taken in the event of an upset condition,
  - 3.1.7 The calibration schedule for any device that monitors emissions or process, process equipment, or air pollution control equipment operational parameters. The time between calibrations shall not exceed 1 year or as specified in the program, whichever is shorter,
  - 3.1.8 A description of any additional air pollution control equipment, monitoring equipment, or other instrumentation that will be installed, the installation and operation of which is necessary to minimize the likelihood of the occurrence of an upset condition,
  - 3.1.9 A description of any operational changes that will be instituted that are necessary to minimize the likelihood of the occurrence of an upset condition,
  - 3.1.10 If full implementation of a component of the upset condition prevention program will not occur upon approval by the District, then a schedule for implementation of that component,
  - 3.1.11 The recommended length of time for the upset condition prevention program to remain in effect, and
  - 3.1.12 Any other information that the District deems appropriate.
- 3.2 The owner or operator of an affected facility shall submit an upset condition prevention program to the District within 120 days of receipt of written notification from the District that a program is required. If the District determines that a revision to the program is necessary, the owner or operator shall, within 60 days of receipt of written notification from the District of a deficiency, submit a revision to the program addressing the deficiency.
- 3.3 After providing an opportunity for public review and comment on an initial upset condition prevention program, the District may approve the program. Upon receipt of written notification from the District that a submitted upset condition prevention program is approved, the owner or operator of the affected facility shall implement the approved program. The approved program shall be an enforceable requirement of the applicable District permit for the process and process equipment included in the program.
- 3.4 In addition to any required revision of an upset condition prevention program pursuant to section 3.1 or 3.2, the owner or operator of an affected facility may periodically revise the program as necessary to satisfy the requirements of this regulation or to reflect changes in equipment or procedures for the affected facility. Any revised program shall be submitted to the District. After providing an opportunity for public review and comment on a revision to a program determined by the District to be substantive, the District may approve the revised program. Upon receipt of written notification from the District that the revised program is approved, the owner or operator of the affected facility shall implement the approved revised program. The approved revised program shall be the enforceable requirement of the applicable District permit.
- 3.5 The owner or operator may reference, in whole or in part, in an upset condition prevention program the affected facility's standard operating procedure manual, an Occupational Safety and Health plan, or other program to meet some or all of the requirements of this regulation.
- 3.6 The owner or operator of the affected facility shall keep adequate records to document implementation of the components of the upset condition prevention program. These records shall be maintained for a minimum of 5 years and made available to the District upon request.

- 3.7 The District, after providing an opportunity for public review and comment, may discontinue the requirement for an owner or operator to implement an upset condition prevention program. If the District determines that discontinuation of this requirement is appropriate, based upon a supporting history that the program has been successful in minimizing upset conditions, then the District shall notify the owner or operator in writing and the program shall no longer be an enforceable requirement of the applicable District permit.

Adopted v1/6-21-05; effective 7-1-05.