

PART 2

PERMIT REQUIREMENTS

REGULATION 2.01 General Application

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

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

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

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

Table 1 to Regulation 2.01

Permit Review Procedure Outline

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

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

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

REGULATION 2.02 Air Pollution Regulation Requirements and Exemptions

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity and Function: KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the procedures for permitting and reporting of air contaminant facilities and establishes certain exemptions from permitting.

SECTION 1 Permitting and Reporting

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

SECTION 2 Exemptions

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

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

- 2.3.9.2 Storage of lubricating oils or fuel oils with a vapor pressure of less than 10 mm Hg at conditions of 20 °C and 760 mm of Hg,
- 2.3.10 Emergency relief vents, stacks and ventilating systems,
- 2.3.11 Laboratory ventilating and exhausting systems which are not used for radioactive air contaminants,
- 2.3.12 Process, exhaust or ventilating systems in bakeries or eating establishments preparing food for human consumption,
- 2.3.13 Blast cleaning equipment using a suspension of abrasives in water,
- 2.3.14 Equipment used exclusively for heat treating, soaking, case hardening or surface conditioning of metal objects such as carbonizing, cyaniding, nitriding, carbon-nitriding, siliconizing, or diffusion treating when natural gas or LP gas is used as fuel,
- 2.3.15 Equipment used for washing or drying products fabricated from metal or glass provided no volatile organic materials are used in the process and no oil or solid fuel is burned,
- 2.3.16 Equipment, machines, devices, or contrivances built or installed to be used at a domestic residence for domestic use,
- 2.3.17 Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enameling furnaces or vitreous enameling drying ovens,
- 2.3.18 Crucible or pot furnaces with a brim full capacity of less than 450 cubic inches of any molten metal,
- 2.3.19 Facilities using only peanut oil, sunflower oil, cottonseed oil or canola oil,
- 2.3.20 Soil or ground water contamination remediation projects that are entirely passive or entail the total removal of the contaminated substrate for disposal in a certified landfill. Remediation systems that actively vent to the atmosphere by pumps or fans are not exempt,
- 2.3.21 Dust or particulate collectors that are located in-doors, vent directly indoors into the work space, collect no more than one ton of material per year and do not collect materials listed in Regulation 5.11, 5.12 or 5.14,
- 2.3.22 Cold solvent parts cleaners that are equipped with a functional secondary reservoir into which the solvent drains during use,
- 2.3.23 Portable diesel or gasoline storage tanks with a maximum capacity of less than 500 gallons. Portability is defined as being in one location less than one year,
- 2.3.24 Storage vessels for VOCs with a maximum capacity of 250 gallons or less,
- 2.3.25 Diesel or fuel oil storage tanks that are not used for distribution, sale or resale, and that have less than two times the capacity of the vessel in annual turnover of the fluid contained,
- 2.3.26 All pressurized VOC storage vessels, and
- 2.3.27 Research and Development (R&D) facilities.

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

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

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

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity And Function: KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the non-Title V permit requirements of the District.

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

- 1.1 No person shall construct, reconstruct or modify an affected facility or related air pollution control equipment unless a permit to construct has been issued by the District, except as provided in the exemptions under Regulations 2.02 and 2.08.
- 1.2 No person shall operate any affected facility which is in compliance with all emission limiting regulations unless a permit to operate the affected facility and permits to operate any related air pollution control equipment have been issued by the District and are currently in effect, except as provided in the exemptions under Regulation 2.02.
- 1.3 No person shall conduct an asbestos demolition or renovation abatement project in an affected facility which contains friable asbestos unless a demolition/renovation permit has been issued by the District, except as provided in the exemptions under Regulation 5.04.

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

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

SECTION 3 Non-Title V Permit Review

- 3.1 After receipt of the permit application, the District shall determine if emission standards and ambient standards are met. As provided in Regulations 2.04, 2.05, 2.06, 5.11, 5.12 and 5.14, no permit shall be issued where it can be shown either through diffusion calculations or actual ambient air quality monitoring performed according to methods prescribed by the District, that the affected facility will prevent or interfere with the attainment or maintenance of local, state, or federal air quality standards.
- 3.1.1 In cases where no emission standards have been prescribed by regulation, the District shall require the use of all available, practical, and reasonable methods to prevent and control air pollution.
- 3.2 In the event any person or persons allege themselves to be adversely affected by a proposed or existing affected facility or other physical conditions, the District may afford such persons a hearing to determine whether a new permit to construct, operate, or demolish or renovate an affected facility should be issued or denied, or an existing permit should be revoked.
- 3.3 In the event any person or persons allege themselves to be adversely affected by the District deciding not to afford a hearing, the person or persons may request the Board to afford a hearing.

SECTION 4 Emission Density Provision

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

SECTION 5 Non-Title V Permit Conditions

- 5.1 Permits issued shall be subject to the terms and conditions set forth and embodied in the permit as the District may deem necessary to insure compliance with its standards. Such terms and conditions may include maintenance and availability of records relating to operations which may cause or contribute to air pollution including periodic sampling of the affected facilities.
- 5.2 Acceptance of a permit shall denote agreement to the restrictions embodied in the permit and shall be binding upon the holder of the permit or compliance schedule.
- 5.3 Any person who demolishes or renovates an affected facility containing friable asbestos, or any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to

construct or operate, or any owner or operator of a source or modification subject to this section who begins actual construction after the effective date of this regulation without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action as provided under KRS Chapter 77 Air Pollution Control.

- 5.4 Approval to construct shall become invalid if:
 - 5.4.1 Construction is not commenced within 12 months after receipt of approval,
 - 5.4.2 Construction is discontinued for a period of six months or more, or
 - 5.4.3 Construction is not completed within a reasonable time.
- 5.5 The District may extend the time periods upon a satisfactory demonstration that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project - each phase must commence construction within 12 months of the projected and approved commencement date.
- 5.6 Approval to construct, reconstruct, modify, or operate any affected facility or to conduct an asbestos demolition or renovation abatement project in an affected facility containing friable asbestos shall not relieve the owner or operator of the responsibility to comply fully with all applicable District regulations and any other requirements under local, state, or federal law.

SECTION 6 Relocated Sources

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

SECTION 7 Reconstructed Sources

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

Adopted v1/4-19-72; effective 4-19-72; amended v2/9-1-76, v3/6-13-79, v4/11-16-83, v5/12-17-86, v6/12-15-93.

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

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

Relates To: Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity and Function: KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes requirements for the construction, modification of stationary sources within, or impacting upon, areas where the national ambient air quality standards have not been attained.

SECTION 1 Applicability

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

SECTION 2 Definitions

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

2.1 "Major stationary source" means:

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

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

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

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

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

SECTION 3 Initial Screening Analyses And Determination Of Applicable Requirements

- 3.1 Review of all sources for emissions limitation compliance. The District shall examine each proposed major new source and proposed major modification to determine if such source or modification will meet all applicable emission requirements in Regulations 1 to 7. If the District determines from the application and all other available information that the proposed source or modification will not meet the applicable emission requirements, the permit to construct shall be denied.
- 3.2 Review of specified sources of air quality impact. In addition, the District shall determine whether the major stationary source or major modification would be constructed in an area designated as non-attainment pursuant to the Act Section 107(d)(1)(A), (B), or (C) for a pollutant for which the stationary source or modification is major. If a designated non-attainment area is projected to be an attainment area as part of an approved control strategy by the new source start-up date, offsets shall not be required if the new source would not cause a new violation.
- 3.3 Fugitive emission sources. Sections 5 and 10 shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:
 - 3.3.1 Coal cleaning plants (with thermal dryers),
 - 3.3.2 Kraft pulp mills,
 - 3.3.3 Portland cement plants,
 - 3.3.4 Primary zinc smelters,
 - 3.3.5 Iron and steel mills,
 - 3.3.6 Primary aluminum ore reduction plants,
 - 3.3.7 Primary copper smelters,
 - 3.3.8 Municipal incinerators capable of charging more than 250 tons of refuse per day,
 - 3.3.9 Hydrofluoric, sulfuric, or nitric acid plants,
 - 3.3.10 Petroleum refineries,
 - 3.3.11 Lime plants,
 - 3.3.12 Phosphate rock processing plants,
 - 3.3.13 Coke oven batteries,
 - 3.3.14 Sulfur recovery plants,
 - 3.3.15 Carbon black plants (furnace process),
 - 3.3.16 Primary lead smelters,
 - 3.3.17 Fuel conversion plants,
 - 3.3.18 Sintering plants,
 - 3.3.19 Secondary metal production plants,
 - 3.3.20 Chemical process plants,
 - 3.3.21 Fossil-fuel boilers (or combination thereof) totaling more than 250 million BTUs per hour heat input,
 - 3.3.22 Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
 - 3.3.23 Taconite ore processing plants,
 - 3.3.24 Glass fiber processing plants,
 - 3.3.25 Charcoal production plants,

- 3.3.26 Fossil fuel-fired steam electric plants of more than 250 million BTUs per hour heat input, or
- 3.3.27 Any other stationary source category which, as of August 7, 1980, is being regulated under Regulations 5 and 7, or 40 CFR Parts 60 and 61.

SECTION 4 Sources Locating In Designated Attainment Or Unclassifiable Areas

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

SECTION 5 Conditions For Approval

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

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

SECTION 6 Baseline For Determining Credit For Emission Offsets

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

basis providing that baseline emissions for existing sources providing the offsets are calculated using the actual annual operating hours for one of the following conditions:

- 1) the previous two year period,
- 2) two out of the previous five years, or
- 3) any other period that can be demonstrated to better represent normal operating conditions for the source.

Where the District requires certain hardware controls in lieu of an emission limitation, baseline allowable emissions shall be based on actual operating conditions for the previous two year period in conjunction with the required hardware controls.

6.1 No applicable emission limitation.

Where the requirements of the District do not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be actual emissions determined under actual operating conditions as determined pursuant to section 6. Where the emission limitations required by the District allow greater emissions than the uncontrolled emission rate of the source, emission offset credit will be allowed only for control below the uncontrolled emission rate.

6.2 Combustion of fuels.

The emissions for determining emission offset credit involving an existing fuel combustion source will be the allowable emissions under the emission limitation requirements of the District for the type of fuel being burned at the time the new major source or major modification application is filed. If the existing source has switched to a different type of fuel at some earlier date, any resulting emission reduction (either actual or allowable) shall not be used for emission offset credit. If the existing source commits to switch to a cleaner fuel at some future date, emission offset credit based on the allowable emissions for the fuels involved is not acceptable unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emission reduction should the source switch back to a dirtier fuel at some later date.

6.3 Operating hours and source shutdown.

A source may be credited with emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels provided that the work force to be affected has been notified in writing of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed shall not be used for emission offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than 1 year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source.

6.4 Credit for hydrocarbon substitution.

No emission offset credit may be allowed for replacing one volatile organic compound with another of lesser photochemical reactivity, unless the replacement compound is not a volatile organic compound.

6.5 Banking of emission offset credit.

New sources obtaining permits by applying offsets after January 16, 1979 may bank offsets that exceed the requirements of reasonable progress toward attainment for future use. An owner or operator of an existing source that reduces its own emissions may bank any

resulting reduction beyond those required by regulation for use under this regulation, even if the offsets are applied immediately to a new source permit. These banked emissions offsets may be used under the preconstruction review program required in the Act as long as these banked emissions are identified and accounted for in the District's control strategy.

6.6 Offset credit for meeting NSPS or NESHAPS.

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

6.7 Location of offsetting emissions.

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

SECTION 7 Administrative Procedures

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

7.1 Source initiated emission offsets.

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

7.2 District initiated emission offsets.

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

SECTION 8 Source Obligation

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

SECTION 9 Permit Condition Rescission

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

SECTION 10 Protection Of Visibility

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

Governor of the Commonwealth of Kentucky requests that it be exempt from those requirements.

10.1.4.2 The source is a portable stationary source which has previously received a permit under this section; and:

10.1.4.2.1 The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary,

10.1.4.2.2 The emissions from the source would not exceed its allowable emissions,

10.1.4.2.3 The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated, and

10.1.4.2.4 Reasonable notice is given to the District prior to the relocation, identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the District not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the District.

10.1.5 The requirements of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

10.1.5.1 Would impact no Class I area and no area where an applicable increment is known to be violated, and

10.1.5.2 Would be temporary.

10.2 Visibility impact analyses.

The owner or operator of a source shall provide an analysis of the impairment to visibility that would occur in a Class I area as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification.

10.3 Federal land manager notification.

10.3.1 The federal land manager and the federal official charged with direct responsibility for management of Class I areas have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the District, whether a proposed source or modification will have an adverse impact on such values.

10.3.2 The District shall provide written notification to all affected federal land managers of any permit application for any proposed new major stationary source or major modification that may affect visibility in any Class I area. The District shall also provide such notification to the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in any Class I area. The District shall also notify all affected federal land managers within 30 days of receipt of any advance notification of any such permit application.

10.3.3 The District shall consider any analysis performed by the federal land manager provided within 30 days of the notification and analysis required by section 10.3.2, that such proposed new major stationary source or major modification may have an adverse impact

on visibility in any Class I area. Where the District finds that such an analysis does not demonstrate to the satisfaction of the District that an adverse impact on visibility will result in the Class I area, the District shall, in the public hearing notice either explain that decision or give notice as to where the explanation can be obtained.

10.4 Public participation.

The District shall follow the applicable procedures of Regulations 2.03 and 2.06 in processing applications under this section. The District shall follow the procedures at 40 Section CFR 52.21(r) (1980) to the extent that the procedures of Regulations 2.03 and 2.06 do not apply.

10.5 National visibility goal.

The District shall only issue permits to those sources whose emissions will be consistent with making reasonable progress toward the national goal of preventing any future, and remedying any existing, impairment of visibility in Class I areas which impairment results from man-made air pollution. In making the decision to issue a permit the District may take into account the overriding factors of the cost of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.

10.6 Monitoring.

The District may require monitoring of visibility in any Class I area near the proposed new stationary source or major modification using human observations, teleradiometers, photographic cameras, nephelometers, fine particulate monitors, or other appropriate methods as specified by EPA. The method selected shall be determined on a case-by-case basis by the District. Any visibility monitoring required by the District in a Class I area will be approved by the federal land manager. Data obtained from visibility monitoring shall be made available to the District, the federal land manager, and EPA upon request.

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

Appendix A to Regulation 2.04

Significant Pollutant and Emission Rate

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

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

Appendix B to Regulation 2.04

Significant Levels of Air Quality Impact

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

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

REGULATION 2.05 Prevention of Significant Deterioration of Air Quality

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity and Function: KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation, which adopts the Federal Prevention of Significant Deterioration of Air Quality program, provides for the prevention of significant deterioration of air quality where the national ambient air quality standards have been achieved.

SECTION 1 General Provisions

40 CFR 52.21 *Prevention of Significant Deterioration of Air Quality* (July 1, 2008) is adopted and incorporated by reference with the following changes:

- 1.1 Subsection (a)(1) *Plan disapproval* is not incorporated.
- 1.2 The term "administrator" as it appears in 40 CFR 52.21 shall mean the Louisville Metro Air Pollution Control District (hereinafter "District"), except that:
 - 1.2.1 In subparagraph (b)(3)(iii) (relating to "net emissions increase"), it shall mean either the District or the Administrator of the United States Environmental Protection Agency (USEPA).
 - 1.2.2 In the following subsections, it shall continue to mean the Administrator of the USEPA:
 - 1.2.2.1 (b)(17),
 - 1.2.2.2 (b)(37)(i),
 - 1.2.2.3 (b)(43),
 - 1.2.2.4 (b)(48)(ii),
 - 1.2.2.5 (b)(50)(i),
 - 1.2.2.6 (b)(51),
 - 1.2.2.7 (g),
 - 1.2.2.8 (l)(2),
 - 1.2.2.9 (p),
 - 1.2.2.10 (t).
- 1.3 Subsection (c) *Ambient air increments* shall have the following sentences added at the end: "No single new or modified stationary source may consume an inordinate portion of the available increment, as determined by the Board. The Board may consider air quality and economic impacts on the community in determining the appropriate amount of increment allowed for a new or modified stationary source."
- 1.4 Subsection (h)(1) shall read: "The degree of emission limitation required for control of any air pollutant under this section shall not be affected in any manner by a dispersion technique pursuant to District Regulation 2.10 *Stack Height Considerations*."
- 1.5 Subsection (h)(3) is added and shall read: "The Board may require an increase in the

stack height of a proposed new source or modification if the applicant's modeling demonstration indicates an inordinate amount of increment consumption. In no event shall such increased stack height exceed the stack height allowed for the modeling demonstration pursuant to subsection (h)(1) of this Regulation.”

- 1.6 Subsection (q) *Public participation* is not incorporated. The District shall follow the applicable public participation procedures in District Regulation 2.07.
- 1.7 Subsection (s) *Environmental impact statement* is not incorporated.
- 1.8 Subsection (u) *Delegation of authority* is not incorporated.
- 1.9 The following sections of 40 CFR 52.21 are not incorporated herein:
 - 1.9.1 The second sentence of (b)(2)(iii)(a),
 - 1.9.2 (b)(55),
 - 1.9.3 (b)(56),
 - 1.9.4 (b)(57),
 - 1.9.5 (b)(58),
 - 1.9.6 (cc).
- 1.10 The Executive Director of the District shall transmit to the Administrator of the USEPA a copy of each permit application filed under this regulation and shall notify the Administrator of the USEPA of each significant action the Executive Director takes on the application.

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

REGULATION 2.06 Permit Requirements - Other Sources

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity And Function: KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes permit requirements for all other sources not subject to Regulation 2.04 or 2.05.

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

Adopted v1/4-19-72; effective 4-19-72; amended v2/6-13-79, v3/4-21-82, v4/11-16-83.

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

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

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity and Function: KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. The Act Section 502(b)(6) and 40 CFR Section 70.7(h) require the District to provide public notice, opportunity for public comment, and a hearing on Title V permit actions. 40 CFR Section 70.8 requires the District to give notice of permit actions to affected states and for transmission of permitting information to EPA for review. This regulation establishes the public involvement process to be followed by the District to ensure that accurate permitting information is made available to the public in sufficient time to allow for comment and that enough information is provided to inform the public of the extent of the actions proposed, procedures for public notification, the required EPA and affected states review of the proposed permit, the issuance of permits, the use of an alternate emission standard, or the use of an emission reduction credit in any of the foregoing actions.

SECTION 1 Public Notice for Title V Permit Actions

- 1.1 The District shall provide public notice for the following Title V operating permit actions:
 - 1.1.1 Issuance of a draft permit,
 - 1.1.2 Intended denial of a permit application,
 - 1.1.3 Issuance of a draft of a significant permit revision,
 - 1.1.4 Issuance of a draft of a general permit,
 - 1.1.5 Issuance of a permit renewal,
 - 1.1.6 Scheduling of a public hearing pursuant to Section 4, or
 - 1.1.7 Any other permit related activity that the District determines to be of substantial interest to the public.
- 1.2 The District shall provide public notice in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky. Publication shall include paid advertisement, legal notice, or other appropriate format as determined by the District. The District may provide additional notice to the public through other methods, including, but not limited to, newsletters and press releases.
- 1.3 A notice of the activities described in section 1.1 shall be provided to:
 - 1.3.1 The applicant,
 - 1.3.2 EPA via the appropriate regional office,
 - 1.3.3 The Division for Air Quality, Department for Environmental Protection,
 - 1.3.4 Affected states,
 - 1.3.5 The Jefferson County Judge/Executive and the Mayor of the City of Louisville,
 - 1.3.6 Affected comprehensive regional land use planning agencies,
 - 1.3.7 Affected local air pollution control agencies,
 - 1.3.8 Any federal land manager or Indian governing body within a 50 mile radius of the source whose land may be affected by the emissions from the source, and

- 1.3.9 The persons on the mailing list maintained by the District pursuant to section 1.4.
- 1.4 Title V notification mailing list.
 - 1.4.1 The District shall maintain a mailing list of persons requesting notice of the Title V operating permit actions listed in section 1.1. The District shall, on a minimum of an annual basis, inform the public of the opportunity to be on the mailing list. The District shall also, on a minimum of an annual basis, inform those on the mailing list of the opportunity to remain on the mailing list and may delete from the list persons who fail to respond to such an inquiry of continued interest in receiving notice.
 - 1.4.2 A request for inclusion on the mailing list for notices shall not result in an extension of the comment period associated with any notice.
- 1.5 A public notice and the notice to those on the mailing list shall include:
 - 1.5.1 Name and address of the District,
 - 1.5.2 Name and address of the permit applicant and, if different, the name and address of the source,
 - 1.5.3 A brief description of the business conducted at the source and, if different, the facility involved in the permit action,
 - 1.5.4 Name, address, and telephone number of a person from whom interested persons may obtain further information such as copies of the draft permit; the application; the relevant supporting material, including compliance plans, prior Title V operating permits, and monitoring and compliance certification reports, except for confidential information; and all other materials available to the District that are relevant to the permit decision,
 - 1.5.5 A brief description of the comment procedures, the time and place of any hearing scheduled for the permit, and the procedures for requesting a public hearing if one has not been scheduled, and
 - 1.5.6 A description of the emission change involved in any permit revision.
- 1.6 The District shall make the draft permit and all nonconfidential information contained in the permit application and supporting materials available for public inspection at the District office during normal business hours. Public inspection of materials for nonstationary sources or general permits shall be made available through the same method.
- 1.7 The following actions shall be exempt from the requirements of Section 1:
 - 1.7.1 Revisions qualifying for minor permit revision procedures, including group processing, and
 - 1.7.2 Administrative permit amendments.

SECTION 2 Opportunity for Public Comment

- 2.1 The public shall be given opportunity to comment on the non-proprietary information submitted by the owner or operator of the source to the District and on the District's intent to approve or disapprove the application prior to:
 - 2.1.1 The issuance of a construction or operating permit for a source which is subject to Regulation 2.04, 2.05 or 2.16,
 - 2.1.2 The issuance of a construction permit for a source which will cause an increase in the potential to emit of 100 tpy or more of any one pollutant,
 - 2.1.3 The approval of an alternate emission standard, or
 - 2.1.4 The use of an emission reduction credit in any of the above actions.
- 2.2 If the District performs an analysis of the permit action's potential impact on air quality, the District will make this analysis available.

- 2.3 The District shall provide a 30 day period for submittal of public comment.
- 2.4 The District shall publish legal notice of the request which shall include any changes to emission limits resulting from trades approved under Regulation 2.12 or section 2.1.4.
- 2.5 A proposed Title V operating permit, permit revision or permit renewal shall not be issued:
 - 2.5.1 Until affected states have had an opportunity to review the proposed permit action,
 - 2.5.2 Until EPA has had an opportunity to review the proposed permit action,
 - 2.5.3 Unless EPA has waived the review for EPA and affected states, and
 - 2.5.4 Until the public comment period has ended and the District has prepared a response to comments received.
- 2.6 Public comments submitted in writing within 30 days after the draft permit was made available shall be considered by the District in its decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The District shall consider the applicant's response in making its final decision.

SECTION 3 PSD Notifications

- 3.1 For permits issued under Regulation 2.05, the District shall:
 - 3.1.1 Notify the public by advertisement in a newspaper of general circulation of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment.
 - 3.1.2 Send a copy of the notice of public comment to the applicant, EPA, the Division for Air Quality, Department for Environmental Protection and to officials and agencies having cognizance over the location where the proposed construction will occur as follows: any comprehensive regional land use planning agency and any state or Federal Land Manager whose lands may be affected by emissions from the source or modification.
 - 3.1.3 Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.
 - 3.1.4 Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approval of the application. No later than ten days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The District shall consider the applicant's response in making a final decision. The District shall make all comments available for public inspection at the District's office.

SECTION 4 Public Hearing

- 4.1 The District shall provide a public hearing if:
 - 4.1.1 On the basis of the written requests received within the public comment period, the District determines that material issues have been raised concerning the terms and conditions of a proposed Title V permit, or
 - 4.1.2 The District determines that a permit action is of significant public interest. Public notice of the hearing may be combined with the public notice of the draft permit.

- 4.2 The District shall publish one notice of a public hearing, at least 30 days in advance of the hearing and a second notice not less than seven days nor more than 21 days in advance of the hearing. Notice shall contain:
 - 4.2.1 Reference to the dates of previous public notices relating to the permit,
 - 4.2.2 Date, time and place of the hearing, and
 - 4.2.3 A brief description of the applicable rules and procedures of the hearing.
- 4.3 The District shall provide notice and an opportunity for participation by any affected states at the hearing.
- 4.4 When a public hearing is held, the Board shall be responsible for its scheduling and orderly conduct.
- 4.5 Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements. Written submission of an oral statement may be requested. Comments may be submitted in alternate format to accommodate individuals with disabilities.
- 4.6 The hearing chairman may extend the 30 day public comment period for cause.
- 4.7 A tape recording or written transcript of the hearing shall be made available to the public at a reasonable reproduction cost.
- 4.8 The applicant may submit a written response to any or all comments submitted by the public within ten days after the close of the public comment period.
- 4.9 The District shall consider the comments and the applicant's response in making its final decision.
- 4.10 The District shall prepare a written response to comments received.

SECTION 5 Public Record

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

SECTION 6 Petition for Objection

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

SECTION 7 Notice to Affected States

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

- 7.3 Recommendations based on requirements that are not applicable to the proposed permit or that are not based on requirements of Regulation 2.16 shall not be accepted by the District.

SECTION 8 Transmission of Information to EPA

- 8.1 The District shall provide EPA a copy of each permit application, permit revision application, proposed permit, and final permit. The District shall require the applicant to provide a copy of any confidential application material directly to EPA.
- 8.2 On a case by case basis and with EPA's approval, the District may submit a permit application in summary form and the relevant portion of the permit application and compliance plan in place of the complete application and compliance plan.

SECTION 9 EPA Objection

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

SECTION 10 Record Keeping and Sharing of Information

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

SECTION 11 Public Notification Costs

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

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

REGULATION 2.08 Emissions Fees, Permit Fees, Permit Renewal Procedures, and Additional Program Fees

**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 and
KRS Chapter 224 Environmental Protection

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. The Act Title V requires the assessment of operating permit emissions fees necessary to operate the Act Title V-required activities of the District. This regulation establishes emissions fees, permit fees, the procedures for permit renewal, and additional program fees.

SECTION 1 Title V Emissions Fees

- 1.1 Emissions fees are required from all major sources defined in Regulation 2.16 *Title V Operating Permits* that are subject to the operating permit requirements of Regulation 2.16 and all stationary sources for which an administratively complete operating permit application pursuant to Regulation 2.16 has been submitted to the District.
- 1.2 For Fiscal Year 2009 (July 1, 2008, through June 30, 2009), for the purpose of the July 1st interim billing, emissions fees shall be calculated by multiplying the total of all the single pollutant actual emissions in tons per year (tpy) for calendar year 2007, as affected by the limitations of section 1.3, by the fee rate of \$46.15 per ton. Beginning with Fiscal Year 2010, and for each fiscal year thereafter, for the purpose of the July 1st interim billing for that fiscal year, emissions fees shall be calculated by multiplying the total of all the single pollutant actual emissions in tpy for the calendar year two years before the fiscal year, as affected by the limitations of section 1.3, by the product of (1) the fee rate for the previous fiscal year and (2) the sum of 1 plus the fractional change in the annual Consumer Price Index as most recently published by the EPA. The Board may, by resolution, adjust the emissions fee rate applicable to a fiscal year based upon the review required by section 4.1 and after the public review process specified in section 4.3. If the Board adjusts the emissions fee rate applicable to a fiscal year, the new emissions fee rate shall be retroactive to July 1st of that year and the supplemental emissions fees specified in the supplemental billing shall be calculated by multiplying the difference in emissions fee rates by the same single pollutant total as used for the interim billing.
- 1.3 The total of all the single pollutant actual emissions in tpy shall be modified by the following limitations:
 - 1.3.1 The total annual emissions fee shall be the sum of the single pollutant fees except that no pollutant shall be counted in more than one single pollutant category,
 - 1.3.2 No more than 4,000 tpy of the actual emissions of a single pollutant shall be counted toward the total emissions of a stationary source, and
 - 1.3.3 Carbon monoxide emissions shall not be counted toward the total emissions.
- 1.4 Emissions fees shall be calculated based upon the actual emissions from the stationary source for the calendar year preceding the start of the fiscal year in which the fee is due. Emissions statements are required to be submitted in accordance with Regulation 1.06 *Source Self-Monitoring and Reporting*. If data for the preceding year are not submitted, then

- the District shall determine the fees based upon potential to emit.
- 1.5 Emissions fees are due annually beginning July 1, 1994. Payment of emission fees is due within 30 days of the billing date or July 31, whichever is later. In certain situations, the District may approve an installment schedule of payments not more frequently than quarterly.
 - 1.6 Failure to pay emissions fees when due is a violation of District regulations. This failure is subject to penalties and an increase in the fee of an additional 5% per month up to a maximum of 25% of the original amount due. In addition, failure to pay emissions fees within 60 days of the due date shall automatically suspend the stationary source's permits to operate until the fees are paid or a schedule for payment acceptable to the District has been established.

SECTION 2 Permit Fees

- 2.1 The permit fees listed in Section 2 shall apply to Fiscal Year 2009 (July 1, 2008, to June 30, 2009) to the extent that the date of the applicable event identified in section 2.3 is on or after July 1, 2008. If the date of the applicable event identified in section 2.3 is before July 1, 2006, then the permit fee listed in, or derived from, the January 18, 2006, version of this regulation shall apply. If the date of the applicable event identified in section 2.3 is on or after July 1, 2006, but before July 1, 2008, then the permit fee listed in, or derived from, the August 16, 2006, version of this regulation shall apply.
- 2.2 Beginning with Fiscal Year 2010 (July 1, 2009, to June 30, 2010) and for each fiscal year thereafter, all permit fees shall be calculated by multiplying the applicable permit fee for the previous fiscal year by the sum of 1 plus the fractional change in the Consumer Price Index as is used in section 1.2 for calculating the Title V emissions fee rate, rounded to the nearest dollar. The District shall make available, at the beginning of each fiscal year, a document that lists the calculated permit fees applicable to that fiscal year.
- 2.3 The fiscal year used for determining the applicable permit fee is as follows:
 - 2.3.1 For construction permits, permit transfers, and asbestos demolition/renovation permits, the fiscal year in which the permit is issued,
 - 2.3.2 For construction permit renewals, the fiscal year in which the construction permit expires,
 - 2.3.3 For first-issue operating permits, the fiscal year in which the construction permit expires and is not renewed pursuant to section 2.5.3,
 - 2.3.4 For first-issue FEDOOP permits, the fiscal year in which the FEDOOP permit is issued, and
 - 2.3.5 For renewal operating permits and FEDOOP permits, the fiscal year in which the previous operating permit or FEDOOP permit expires.
- 2.4 Fees for permits except permit transfers and asbestos demolition/renovation permits reviewed or issued pursuant to this regulation shall be based upon the pollutant that has the largest potential to emit and are on a per permit basis. Construction permits are based on potential to emit for the total project and operating permits are based on the potential to emit for the entire stationary source.

2.5 Construction Permit Fees

- 2.5.1 Construction permits shall be valid for a period of 1 year. The permit fee shall be determined by the following criteria for each permit:
 - 2.5.1.1 Subject to Federal PSD/NSR (includes "net-outs," "offsets," other exemptions, or subject to NSPS or NESHAPs) \$ 7,699

2.5.1.2	100 tpy or more, the basic fee is	\$ 5,132
2.5.1.2.1	Subject to NSPS, add to the basic fee	\$ 1,832
2.5.1.2.2	Subject to NESHAPs, add to the basic fee	\$ 1,832
2.5.1.3	Less than 100 tpy, but greater than or equal to 50 tpy, the basic fee is	\$ 3,116
2.5.1.3.1	Subject to NSPS, add to the basic fee	\$ 1,375
2.5.1.3.2	Subject to NESHAPs, add to the basic fee	\$ 1,375
2.5.1.4	Less than 50 tpy, but greater than or equal to 10 tpy, the basic fee is	\$ 1,192
2.5.1.4.1	Subject to NSPS, add to the basic fee	\$ 917
2.5.1.4.2	Subject to NESHAPs, add to the basic fee	\$ 917
2.5.1.5	New Stage II Gasoline Dispensing Facilities	\$ 2,663
2.5.1.6	Modified Stage II Gasoline Dispensing Facilities for which testing or retesting is necessary	\$ 1,064
2.5.1.7	Less than 10 tpy, but greater than or equal to 5 tpy, or Stage I Gasoline Dispensing Facilities of greater than 1000 gallon capacity, the basic fee is	\$ 917
2.5.1.7.1	Subject to NESHAPs or NSPS, add to the basic fee	\$ 458
2.5.1.8	Stage I Gasoline Dispensing Facilities of greater than 250 gallon capacity but less than or equal to 1000 gallon capacity	\$ 229
2.5.1.9	Less than 5 tpy and subject to NSPS or NESHAPs (except asbestos demolition/renovation projects subject to section 2.8), the basic fee is	\$ 643
2.5.1.10	Less than 5 tpy and not subject to NSPS or NESHAPs	\$ 342
2.5.1.11	Permit transfers at non-Title V stationary sources	\$ 91
2.5.2	On applications for construction permits where there are 2 or more identical pieces of equipment at the same location, the fee shall be the same as that specified for 1 piece of equipment.	
2.5.3	Construction permits may be renewed until the project is completed and the affected facility is in operation unless 1 of the provisions in Regulation 2.03 <i>Permit Requirements</i> - <i>Non-Title V Construction and Operating Permits and Demolition/Renovation Permits</i> section 5.4 is met. The construction permit renewal fee shall be	\$ 824
 or the applicable construction permit fee, whichever is less.	

2.6 Non-Title V Operating Permit Fees

- 2.6.1 Non-Title V operating permits are for stationary sources that are not subject to the emissions fees of Section 1.
- 2.6.2 Non-Title V operating permits are valid for up to 5 years except as noted in Section 3 if no changes are made to the process operation equipment, the air pollution control equipment, or the raw materials; or if there is no increase in the pollutant emission rate. If changes are proposed, the owner or operator shall apply for the appropriate permits and any resulting permits shall be issued at full fee.
- 2.6.3 Expiration dates of non-Title V operating permits for a stationary source shall be adjusted to a common date and fees shall not be prorated.
- 2.6.4 Non-Title V operating permits are issued on an equipment basis and the District may require multiple permits.
- 2.6.5 The permit fee shall be determined by the following criteria for each permit:
 - 2.6.5.1 Reissuance of a permit for which the sole change is the name or

	address of the stationary source (this does not include change of owner or operator or relocation)	\$ 54
2.6.5.2	Greater than or equal to 100 tpy but not subject to the Title V program	\$ 1,421
2.6.5.3	Less than 100 tpy, but greater than or equal to 50 tpy, the basic fee is	\$ 569
2.6.5.4	Less than 50 tpy, but greater than or equal to 10 tpy, the basic fee is	\$ 428
2.6.5.5	Less than 10 tpy, but greater than or equal to 5 tpy, or Stage I Gasoline Dispensing Facilities, the basic fee is	\$ 282
2.6.5.6	Less than 5 tpy, the basic fee is	\$ 214
2.6.5.7	Gasoline Dispensing Facilities - Stage II, add to the Stage I fee per fueling position	\$ 226
2.6.5.8	Subject to NSPS, add to the applicable basic fee	\$ 72
2.6.5.9	Subject to NESHAPs, add to the applicable basic fee	\$ 72
2.6.5.10	Greater than 5 tpy of a single HAP or greater than 10 tpy of all HAPs combined, add to the applicable basic fee	\$ 72
2.6.5.11	Banking Permit (issuance or reissuance with modification, no renewal required.)	\$ 549
2.6.5.12	Permit transfers	\$ 91

2.7 Federally Enforceable District Origin Operating Permit (FEDOOP) Fees

- 2.7.1 Permit fees under section 2.7 are for stationary sources that applied for, and were issued, a FEDOOP permit pursuant to Regulation 2.17 *Federally Enforceable District Origin Operating Permits*.
- 2.7.2 FEDOOP permits are valid for 5 years unless voided at the request of the applicant or revoked pursuant to Regulation 2.17 section 6.5.
- 2.7.3 The FEDOOP permit fee shall be the sum of the following:
 - 2.7.3.1 Special processing fee (including cost of public notification) \$ 569 and
 - 2.7.3.2 The sum of the permit fees for all of the emissions units at the stationary source that normally would be assessed pursuant to section 2.6 if the stationary source had not applied for a FEDOOP permit.
- 2.7.4 The permit fee for initial issuance of a FEDOOP permit pursuant to section 2.7.3.2 shall be adjusted on a prorated basis to account for the unexpired term of any previously issued operating permits pursuant to section 2.6.
- 2.7.5 The permit fee for revision of a FEDOOP permit shall be the amount that, in the absence of section 2.7, would have been required by section 2.5 or section 2.6.
- 2.7.6 The permit fee for the initial FEDOOP permit and subsequent renewal FEDOOP permits shall be divided by the number of years for which that FEDOOP permit is issued and the District shall issue a statement of fees annually for the calculated quotient.

2.8 The permit fee or notification fee for asbestos demolition/renovation projects shall be determined by the following criteria:

- 2.8.1 Friable asbestos demolition/renovation projects:
 - 2.8.1.1 The basic permit fee including the first 1500 linear or square feet \$ 734
 - 2.8.1.2 Add to the basic permit fee for each additional full or partial increment of 1500 linear or square feet, up to a total of 5 increments \$ 734
 - 2.8.1.3 Add to the basic permit fee for each additional full or partial increment beyond the first 5 increments of 1500 linear or square feet \$ 163

- 2.8.2 Friable asbestos demolition/renovation projects using glovebags:
 - 2.8.2.1 The basic permit fee including the first 1500 linear or square feet \$ 459
 - 2.8.2.2 Add to the basic permit fee for each additional full or partial increment of 1500 linear or square feet \$ 459
- 2.8.3 Category I and II asbestos demolition/renovation projects:
 - 2.8.3.1 The basic permit fee including the first 3,000 linear or square feet \$ 273
 - 2.8.3.2 Add to the basic permit fee for each additional full or partial increment of 3000 linear or square feet, up to a total of 100 increments \$ 273
 - 2.8.3.3 Add to the basic permit fee for each additional full or partial increment beyond the first 100 increments of 3,000 linear or square feet \$ 60
- 2.8.4 Notification fee for all asbestos demolition/renovation projects for which the quantity involved is less than 260 linear feet on pipes and 160 square feet on other facility components, or 35 cubic feet of facility components if the length or area could not be measured previously (sections 2.1 to 2.3 apply) \$ 35
- 2.8.5 Each address on a multiple-dwelling project shall be assessed a fee based upon the criteria in sections 2.8.1 to 2.8.4.
- 2.8.6 A single permit may be issued with any number of combinations of projects described in sections 2.8.1 to 2.8.4.
- 2.8.7 If the project involves both a material that is measured in linear feet and a different material that is measured in square feet, then the number of linear feet and square feet shall be added to determine the applicable fee.
- 2.8.8 If approved by the District, the amount of material involved in a project may be determined in cubic feet. For the purpose of section 2.8.1, an increment shall be 330 cubic feet. For the purpose of section 2.8.3, an increment shall be 660 cubic feet.
- 2.8.9 The fee for a second and all subsequent revisions to an issued permit for an asbestos demolition/ renovation project shall be 10% of the fee for the initially issued permit.
- 2.8.10 Additional fee for each requested inspection or assistance provided outside of the District's working hours of 8:00 a.m. to 5:00 p.m., on a weekend, or on a holiday. Requests shall be in writing and are subject to the District's approval \$ 181
- 2.9 Permit fees are payable by cash, check, or money order to the District and due 30 days after the issuance of a statement of fees by the District. Failure to timely pay for permits may cause the issuance of a notice of violation.
- 2.10 Failure to timely pay for permits issued pursuant to section 2.8 may also cause the requirement that permits be paid for only by cash, money order, or cashier's check and at the time of issuance.
- 2.11 Failure to pay permit fees for permits issued pursuant to sections 2.5.1.1 to 2.5.1.10, 2.6, or 2.7 within 60 days of the due date may also cause the suspension of the unpaid permits until the fees are paid or a schedule for payment acceptable to the District has been established.

SECTION 3 Permit Renewal And Transfer

- 3.1 All stationary sources shall renew operating permits every 5 years.
- 3.2 The District, at its discretion, may adjust individual permit time periods up to 1 year to conform with its inspection schedules of stationary sources.
- 3.3 Instead of the expiration date and fee provisions of section 2.6.3, section 2.7.2, section 2.7.3.2, section 3.1, or section 3.2, the District, at its discretion, may, at permit renewal or at any time during the term of a permit, adjust an individual non-Title V operating permit time period by an amount greater than 1 year. If, at the time of operating permit

renewal, the District adjusts the time period for the permit by more than 1 year, then the permit fee, other than the special processing fee pursuant to section 2.7.3.1, shall be adjusted on a prorated basis to account for the shortened length of time for which the renewed permit is valid. If, during the term of an operating permit, the District adjusts the time period for the permit by more than 1 year, then the permit fee, other than the special processing fee pursuant to section 2.7.3.1, for the subsequent permit renewal shall be adjusted on a prorated basis to account for the shortened length of time for which the permit is valid.

- 3.4 Except for construction permits and operating permits at Title V stationary sources, permits issued under this regulation may be reissued to a new owner or operator (transferred) provided that all of the following provisions are met:
 - 3.4.1 A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the District,
 - 3.4.2 The District determines that no other changes in the permit are necessary, and
 - 3.4.3 The permit contains an additional permit condition that allows the District to revise the permit to increase monitoring, record keeping, and reporting requirements.
- 3.5 The transfer of construction permits and operating permits at Title V stationary sources is subject to the requirements of Regulation 2.16 sections 1.3.4 and 5.4.
- 3.6 Banking permits are not subject to periodic renewal. However, a modified banking permit, subject to the permit fee provisions of section 2.6.6.12, shall be issued after each banking transaction, either ERCs deposited or removed.

SECTION 4 Review Of Emissions And Permit Fees

- 4.1 Emissions, construction, and operating fees shall be reviewed each year by the Board.
- 4.2 The annual emissions fee review shall be presented to EPA to document the adequacy of the fees collected to satisfy the requirements of the Act.
- 4.3 The Title V emissions fee rate adjustment public review process pursuant to section 1.2 shall consist of the following steps:
 - 4.3.1 Information on the actual expenses incurred during the previous fiscal year, the projected expenses for the current fiscal year, the total for all the affected stationary sources of all the single pollutant actual emissions, as affected by the limitations of section 1.2.1, for the previous year, and the resulting adjusted emissions fee rate shall be presented to a committee of the Board,
 - 4.3.2 The committee of the Board shall have an opportunity to review the information identified in section 4.3.1 and make a recommendation to the full Board,
 - 4.3.3 The public shall be provided with at least 30 days' notice prior to the public hearing, and the opportunity for public comment, on a proposed Board action to adjust the Title V emissions fee rate. Legal notice shall be made in accordance with KRS Chapter 424 Legal Notices, and
 - 4.3.4 The Board shall hold a public hearing on the proposed Board action to adjust the Title V emissions fee rate.

SECTION 5 Transition Period

- 5.1 In addition to the billing of Title V fees as required by Section 1, the District shall continue to issue, as appropriate, non-Title V operating permits to a Title V source whose operating permits expire before issuance of a Title V permit. The permit fee for each non-Title V operating permit renewal at a Title V source whose non-Title V operating permit expires on

or after December 15, 1993, and before July 1, 1994, shall be \$450. A non-Title V operating permit renewal for a Title V source whose non-Title V operating permit expires on or after July 1, 1994, shall be issued at no charge to the owner or operator if the stationary source is considered by the District to be a Title V source at the time that the non-Title V operating permit expires. Non-Title V operating permits issued in the interim for a Title V source shall expire when the Title V permit is issued.

- 5.2 A stationary source is considered by the District to be a Title V source if it meets 1 of the following:
 - 5.2.1 The District has issued a Title V operating permit to the stationary source,
 - 5.2.2 The District has determined that the stationary source has submitted an administratively complete Title V permit application, or
 - 5.2.3 The District had, for Fiscal Years 1995, 1996, or 1997, included the emissions from the stationary source in the emissions inventory list of Title V companies that was used for determining the final Title V emission fee rate for that fiscal year.
- 5.3 A Title V emissions fee credit for the unexpended portion of the non-Title V operating permit fees at a Title V source shall be made as follows:

$$C = (0.51 P) \frac{(T - M)}{T} (N)$$

where:

- C = Title V emissions fees credit, in dollars.
- 0.51 = The fraction of the operating permit fee that does not represent the initial cost of inspection and reissuance.
- P = The non-Title V operating permit fee, pursuant to section 2.6, in dollars.
- T = Term of the issued non-Title V operating permit, in months.
- M = Number of months from effective date of non-Title V operating permit renewals to July 1st of the fiscal year in which the stationary source was considered a Title V source, in months.
- N = Number of current non-Title V operating permits.

SECTION 6 Additional Program Fees

- 6.1 Starting in Fiscal Year 1999, annual Risk Management Plan (RMP) program fees are required from all stationary sources that are subject to the requirements of Regulation 5.15 *Chemical Accident Prevention Provisions* except for those stationary sources that are also subject to Title V emissions fees pursuant to Section 1.
- 6.2 The RMP program fee is as follows:
 - 6.2.1 For Fiscal Year 2009, \$ 666, and
 - 6.2.2 Starting in Fiscal Year 2010, the RMP program fee shall be calculated by multiplying the fee for the previous fiscal year by the sum of 1 plus the fractional change in the Consumer Price Index as is used in section 1.2 for calculating the Title V emissions fee rate, rounded to the nearest dollar. The District shall make available, at the beginning of each fiscal year, a document that lists the calculated fee applicable to that fiscal year.
- 6.3 Beginning in Fiscal Year 2006, Strategic Toxic Air Reduction (STAR) Program fees are required from each stationary source that meets one of the following:
 - 6.3.1 As of July 1, 2008, was identified by the District as subject to Regulation 2.16 *Title V*

- Operating Permits* (Title V source),
- 6.3.2 Is not a Title V source and meets one of the following (FEDDOOP source):
 - 6.3.2.1 As of July 1, 2008, had applied for an operating permit pursuant to Regulation 2.17 *Federally Enforceable District Origin Operating Permits*,
 - 6.3.2.2 Between July 1, 2008, and June 30, 2009, applies for an operating permit pursuant to Regulation 2.17, or
 - 6.3.2.3 Between July 1, 2008, and June 30, 2009, is notified by the District that the stationary source is subject to Regulation 2.16 unless it timely applies for an operating permit pursuant to Regulation 2.17, or
 - 6.3.3 Is neither a Title V source nor a FEDDOOP source but, for calendar year 2006, had actual emissions of 25 or more tons per year individually of sulfur dioxide, particulate matter, volatile organic compounds, or oxides of nitrogen (25 ton source).
 - 6.4 The STAR Program fees are as follows:
 - 6.4.1 For Fiscal Year 2009,
 - 6.4.1.1 For a Title V source, the sum of the following:
 - 6.4.1.1.1 \$ 5,243 and
 - 6.4.1.1.2 A proportional amount of \$ 225,505 based upon the Title V source's percentage of the total hazardous air pollutant (HAP) and ammonia emissions reported by Title V sources to the District for calendar year 2006. The District will make available a list of the Title V sources, the HAP and ammonia emissions reported by each Title V source, and the percentage of the total for each Title V source, or
 - 6.4.1.2 For a FEDDOOP source or a 25 ton source, \$ 522, and
 - 6.4.2 Starting in Fiscal Year 2010 and each year thereafter, each date specified in section 6.3 (except the first date in section 6.3, "Beginning in Fiscal Year 2006,") and section 6.4.1.1.2 shall be changed to one year later than the date used for the previous fiscal year and the STAR Program fee shall be calculated by multiplying the fee in sections 6.4.1.1.1 and 6.4.1.2 and the total amount in section 6.4.1.1.2 for the previous fiscal year by the sum of 1 plus the fractional change in the Consumer Price Index used in section 1.2 for calculating the Title V emissions fee rate, rounded to the nearest dollar. The District shall make available, at the beginning of each fiscal year, a document that lists the calculated fee for each Title V source for that fiscal year.
 - 6.5 Program fees are payable by cash, check, or money order to the District and due 30 days after the issuance of a statement of fees by the District. Failure to timely pay program fees may cause the issuance of a notice of violation. In addition, failure to pay program fees pursuant to section 6.4 within 60 days of the due date shall automatically cause the stationary source's construction and operating permits to be suspended until the fees are paid or a schedule for payment acceptable to the District has been established.

Adopted v1/6-13-79, effective 6-13-79; amended v2/4-21-82, v3/11-16-83, v4/12-17-86, v5/6-20-90, v6/7-15-92, v7/5-19-93, v8/12-15-93, v9/5-25-94, v10/6-21-95, v11/9-20-95, v12/7-17-96, v13/3-19-97, v14/4-16-97, v15/9-16-98, v16/6-16-99, v17/5-17-00, v18/12-20-00, v19/9-19-01, v20/1-18-06, v21/8-16-06, v22/10-24-08.

Note: District Regulation 2.08 as adopted on October 15, 2008 contained five typographical errors that have been corrected in this version. The fee set out in Section 2.5.1.2.1 should be \$1832, not \$1831. The fee set out in Section 2.5.1.3 should be \$3116, not \$3166. The word "calender" has been

replaced with “calendar”, and “begining” replaced with “beginning”.

REGULATION 2.09 Causes for Permit Modification, Revocation, or Suspension

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity And Function: KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the causes under which a permit may be modified, revoked, or suspended.

SECTION 1 Permit Modification by the District or the Board

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

SECTION 2 Permit Revocation by the Board

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

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

SECTION 3 Permit Suspension by the District

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

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

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

REGULATION 2.10 Stack Height Considerations

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity And Function: KRS 77.180 provides that the Air Pollution Control Board may make and enforce all needful orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the procedures under which stack heights shall be considered in determining compliance of an affected source.

SECTION 1 Applicability

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

SECTION 2 Definitions

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

- 2.1 "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:
 - 2.1.1 Using that portion of a stack which exceeds good engineering practice stack height,
 - 2.1.2 Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or
 - 2.1.3 Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.
 - 2.1.4 The preceding sentence does not include:
 - 2.1.4.1 The re-heating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream, or
 - 2.1.4.2 The merging of exhaust gas streams where:
 - 2.1.4.2.1 The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams, and
 - 2.1.4.2.2 After July 8, 1985 such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation, or
 - 2.1.4.2.3 Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence

prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the District shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the District shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

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

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

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

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

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

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

$$H_g = H + 1.5L$$

where:

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

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

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

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

2.4.3.1 The fluid model study shall be conducted in accordance with guidelines published by EPA in "Guideline for Use of Fluid Modeling to Determine Good Engineering Practice Stack Height," July 1981, EPA Office of Air Quality Planning and Standards, EPA-450/4-81-003; and "Guideline for Fluid Modeling of Atmospheric Diffusion", April 1981, EPA Environmental Sciences Research Laboratory, EPA-600/8-81-009.

2.5 "Nearby" as used in section 2.4 is defined for a specific structure or terrain feature; and

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

SECTION 3 Compliance

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

SECTION 4 Public Notice

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

SECTION 5 Exemptions

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

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

REGULATION 2.11 Air Quality Model Usage

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity And Function: KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the procedures for the use of air quality modeling.

SECTION 1

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

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

REGULATION 2.12 Emissions Trading (Including Banking and Bubble Rules)

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 procedures for the creation, holding, transfer, and use of surplus emission reductions. These procedures are intended to encourage the development of innovative pollution control technology and to lower the cost of meeting emission control requirements.

SECTION 1 Applicability

This regulation applies to any pollutant for which the Board has adopted stationary source control regulations.

SECTION 2 Definitions

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

- 2.1 "Banking" means the District's system for recording ERCs so that they may be used or transferred for use at a future date. This system shall be called the Jefferson County Emissions Bank (Bank).
- 2.2 "Bubble" means an alternative emission control strategy where several affected facilities are regarded as being placed under a hypothetical dome that simulates a single emission point. Affected facilities under a bubble may reallocate emission decreases and increases so long as the requirements of this regulation are met.
- 2.3 "Emission reduction credit" (ERC) means a surplus emission reduction registered by the District in accordance with the requirements of this regulation that represents a decrease in the quantity of a pollutant discharged from an affected facility beyond the level used in the State Implementation Plan (SIP) attainment demonstration or otherwise required by federal or District regulations.
- 2.4 "Federally enforceable" means all limitations and conditions that are enforceable by EPA, including those requirements developed pursuant to 40 CFR Parts 60, 61, and 63, requirements within the Kentucky SIP, any permit requirements established pursuant to 40 CFR §52.21 or under regulations approved pursuant to 40 CFR §51.160 to §51.166, and any federally enforceable permit requirements, including, but not limited to, those established in an operating permit pursuant to Regulation 2.16 or Regulation 2.17.
- 2.5 "Netting" means to lower the net emissions increase at an expanding or modernizing stationary source below the significant levels using an ERC obtained at the same stationary source and thus become exempt from the requirements of Regulation 2.04 or Regulation 2.05.
- 2.6 "Offset" means use of an ERC obtained from an existing stationary source to counterbalance the increase in emissions in a nonattainment area from a new or modified stationary source subject to Regulation 2.04.

- 2.7 "Permanent Shutdown" means rendering an affected facility inoperable by physically removing, dismantling, or otherwise disabling the affected facility so that it could not be reactivated without spending more than 50% of the fixed capital cost for a comparable entirely new affected facility.
- 2.8 "Reasonable further progress" means annual incremental reductions in emissions of the applicable air pollutant that are sufficient to provide for attainment of the applicable ambient air quality standard by the attainment date specified in the latest SIP attainment demonstration.
- 2.9 "SIP baseline emissions" means that level of emissions (actual or allowable) for each emission point included in the SIP attainment demonstration for the attainment year.
- 2.10 "Stationary source" means all of the affected facilities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Affected facilities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended.

SECTION 3 Application Procedures

- 3.1 Any person who owns or operates a stationary source at which a reduction in emissions has occurred or will occur may apply for creation of an ERC in accordance with this regulation.
- 3.2 A person shall apply for creation of an ERC on District forms.
- 3.3 Except as provided in section 3.4.2 or section 4.6, the owner or operator of a stationary source at which a reduction in emissions has occurred, or will occur, and is federally enforceable shall apply for the creation of an ERC within 30 days of the effective date of the federally enforceable requirement, or 120 days after the effective date of section 3.3, whichever is later.
- 3.4 Applications requesting creation of an ERC based on emission reductions that have already occurred will be approved by the District provided they meet the following requirements:
 - 3.4.1 For volatile organic compounds and oxides of nitrogen, and except for the volatile organic compound emission reductions that are included in the 1990 emissions inventory, the emission reductions occurred on or after November 15, 1990. For other pollutants, the emission reductions occurred on or after August 7, 1977,
 - 3.4.2 For a permanent shutdown of an affected facility, but not the entire stationary source, the owner or operator applied for the creation of an ERC within 30 days of the emission reductions, or 120 days after the effective date of section 3.4.2, whichever is later,
 - 3.4.3 The emission reductions are consistent with the reasonable further progress requirements of the SIP attainment demonstration, and
 - 3.4.4 The emission reductions comply with this regulation.
- 3.5 Applications requesting an ERC for emission reductions that have not occurred at the time of application will be reviewed by the District and conditionally approved or denied. An ERC will be registered however, only after the reduction has taken place. The District may conditionally deposit an ERC into the Bank when it receives from the owner or operator of the stationary source assurances of a commitment to produce a specific reduction in the future. In all cases the reduction must actually be achieved before it can be used in an emission trade except as specified in Regulation 2.04.

- 3.6 Before an ERC may be created, the owner or operator of the stationary source must obtain a revised federally enforceable operating permit that includes specific quantifiable emission limits or operating procedures reflecting quantifiable emission reductions or, for a permanent shutdown, the operating permit of the affected facilities must be voided by the APCO. A revised operating permit will include, as needed, requirements for record keeping or reporting; requirements for performance testing; limitations on fuel burned or raw materials used; restrictions on operating hours, production rates, or input rates; limitations on operating procedures or control equipment to be used; and any other requirements needed to insure that the reduction will be properly obtained and maintained. The various limits must state the minimum time period over which they will be averaged; e.g., lbs/hour or lbs/MM Btu averaged over 24 hours.
- 3.7 Except as provided in section 4.6, ERCs resulting from volatile organic compound emission reductions that are included in the 1990 emissions inventory and emission reductions that occurred on or after November 15, 1990, for volatile organic compounds and oxides of nitrogen, and on or after August 7, 1977, for other pollutants, and that have already been approved by the District since March 14, 1979, shall remain certified and may be used in accordance with this regulation.
- 3.8 Existing volatile organic compound and oxides of nitrogen ERCs that are not included in the 1990 emissions inventory and that resulted from emission reductions that occurred before November 15, 1990, shall become void upon the effective date of section 3.8.

SECTION 4 Creation of Emission Reduction Credits

- 4.1 No ERC may be created unless the following criteria are met:
- 4.1.1 The emission level after the reduction must be enforceable and a banking permit must be issued by the APCO,
- 4.1.2 The emission reduction must represent a real and permanent decrease in emissions below the applicable baseline level used in the SIP attainment demonstration. If emissions from the affected facility are not separately identified in the SIP demonstration of attainment of national ambient air quality standards, the baseline will be the average emissions calculated from the operating history of the affected facility for the two-year period before the application is filed unless a different two-year period is more representative of normal operation of the affected facility. Credit will not be given for actual emissions that exceed allowable emissions. Where allowable emissions were used in the SIP attainment demonstration, credit will be based on allowable emissions at the rated capacity of the affected facility using the normal operating hours unless different parameters were used in the attainment demonstration. If historical data are deemed inadequate by the District, action on an application may be deferred for up to one year while operating data are compiled by the applicant,
- 4.1.3 An applicant proposing an emission reduction from process curtailments or permanent shutdowns of affected facilities must demonstrate that the proposed decrease will not be negated by countervailing emission increases occurring at other stationary sources in the same area in response to the applicant's process curtailments or permanent shutdowns, and
- 4.1.4 The emission reduction is federally enforceable.
- 4.2 Confirmation of Emission Reduction Credits

- 4.2.1 To confirm emission reductions, the District may require source tests, continuous monitors, or any other acceptable means of measurement.
- 4.2.2 In cases where the District determines that the emission reduction estimates made by the applicant are uncertain, the District reserves the right to grant ERCs for a smaller quantity of emission reductions than requested.
- 4.3 After all of the requirements of this regulation have been met and the emission reduction has actually occurred, the District will register an ERC in the records kept for that purpose and the APCO shall issue a banking permit to the stationary source creating the emission reduction credit.
- 4.4 After receiving written certification from a stationary source that it has released its holding of valid existing ERCs or after a stationary source fails to apply for potential credits within the time period specified in section 3.3 or section 3.4.2, the District shall establish ERCs for general use by the community in the Bank. These credits shall be designated as unallocated credits for purposes of accounting and designation in reports.
- 4.5 During the time that an ERC is held in the emissions banking system, its quantity (expressed in tons per year) will be subject to the following:
 - 4.5.1 If the District determines that additional emission reductions are required from stationary sources because ambient standards are not attained, because of increment violation, or because new RACT requirements are being imposed, stationary sources could satisfy the requirement for additional reductions by using their banked ERCs, by reducing emissions elsewhere, or by purchasing equivalent ERCs.
 - 4.5.2 If new information becomes available to the District that results in more accurate emission estimates, the District will adjust the value of the affected ERCs accordingly.
 - 4.5.3 If an owner or operator of a stationary source that created an ERC fails to comply with the requirements resulting from creating the ERC, the District shall adjust the quantity of such ERCs registered in the banking system.
 - 4.5.4 If the ERC has been used, any violation of the conditions under which the ERC was created will result in enforcement action against the stationary source producing that emission reduction.
- 4.6 ERCs created by the permanent shutdown of an entire stationary source shall be deposited into the Bank for general use by the community, or, as determined appropriate by the Board pursuant to section 5.3.4, improvement in air quality, unless, and to the extent required for approval of the construction permit, before the permanent shutdown occurs, the stationary source has submitted an administratively complete construction permit application to the District for replacement of the entire stationary source within Jefferson County, Kentucky, or for construction or modification of one or more other emissions units located at another stationary source within Jefferson County, Kentucky, to be built within a reasonable time period, as determined by the District for that stationary source or emissions unit category. Section 4.6 shall apply to all permanent shutdowns of an entire stationary source occurring after November 15, 1990. Credits that are deposited into the Bank shall be designated as unallocated credits for the purposes of accounting and designation in reports.

SECTION 5 Use of Emission Reduction Credits

- 5.1 An ERC may be used by the holder of the ERC at the time it is registered or it may be held for future transfer or use so long as the use of the ERC is consistent with the SIP attainment demonstration and in compliance with federal, state, and District regulations.

- 5.2 An ERC may be transferred by the holder of the ERC in whole or in part by any means of conveyance permitted by the laws of this state. The role of the District in the transfer of an ERC will be limited to providing information on the documentation and registration of ERCs and to providing technical assistance with regard to possible future use of the ERCs being transferred. No transfer shall be effective until the following have occurred:
 - 5.2.1 The District is notified thereof in writing,
 - 5.2.2 The APCO issues a revised banking permit to the new holder of the transferred ERC and, as appropriate, either issues a revised banking permit to the previous holder of the ERC showing a reduction of the transferred ERC, or cancels the previous banking permit if all of the ERCs identified in that banking permit are to be transferred, and
 - 5.2.3 The District notes the transfer of the ERC in the District registry for that purpose.
- 5.3 Use of unallocated credits
 - 5.3.1 Upon application to the District for use of unallocated ERCs, or a recommendation by the District or Board to retire unallocated ERCs for the purpose of improvement in air quality, a notice of a public hearing before the Board shall be issued to the public and interested parties. The District shall maintain a list of interested parties to which notice is to be provided.
 - 5.3.2 After appropriate public notice and public hearing, the Board shall approve or deny the application for use of unallocated ERCs, and, if approved, shall direct the APCO to issue a banking permit to the applicant.
 - 5.3.3 The Board, after appropriate public notice and public hearing, may also award unallocated ERCs through any other procedure (such as public auction) that would be in the interests of the Louisville and Jefferson County community.
 - 5.3.4 The Board, after appropriate public notice and public hearing, may retire unallocated ERCs for the purpose of improvement in air quality.
- 5.4 Registered ERCs may be used by the holder of the ERC in accordance with this regulation to establish bubbles, to offset increased emissions from new or modified sources, to offset Prevention of Significant Deterioration (PSD) increment consumption (if emission reduction occurs after applicable PSD baseline date), to net out of new source review required by Regulation 2.04 or Regulation 2.05 (provided the emission reductions occur at the same stationary source netting the increases), or to improve air quality.

SECTION 6 Withdrawal of Emission Reduction Credits

- 6.1 Application for use of ERCs shall be made on District forms and shall be accompanied by a letter from the holder of the ERC requesting the appropriate action.
- 6.2 Before an ERC may be used or transferred, the holder of the ERC must obtain a revised banking permit from the APCO that shows the new balance of ERCs held by the person and the amount that was used or transferred.
- 6.3 Use of an ERC will be allowed only in transactions where emissions being exchanged are in the same criteria pollutant category. Hazardous and non-hazardous emissions may only be traded against each other if the hazardous emission is decreased.
- 6.4 An ERC may not be used to meet the requirements of the New Source Performance Standards established under 40 CFR Part 60, the National Emission Standards for Hazardous Air Pollutants established under 40 CFR Part 61, the Maximum Achievable Control Technology standards established under 40 CFR Part 63, the requirement for Lowest

Achievable Emission Rate if Regulation 2.04 applies, or the requirement for Best Available Control Technology if Regulation 2.05 applies.

SECTION 7 Air Quality Modeling Requirements for Use of Particulate Matter, Sulfur Dioxide, and Carbon Monoxide Emission Reduction Credits

- 7.1 Air quality modeling as specified in Regulation 2.11 will be required for use of ERCs representing stack emissions of particulate matter, sulfur dioxide, or carbon monoxide, if one or more of the following conditions occur:
 - 7.1.1 Use of an ERC produces a net increase in applicable baseline emissions,
 - 7.1.2 The relevant emission points are not in the same immediate vicinity (within 100 meters), or
 - 7.1.3 The effective plume height of the affected facility increasing emissions is less than that of the affected facility decreasing emissions.
- 7.2 Only limited modeling will be necessary for use of ERCs for trades if there is no net increase in applicable baseline emissions and if emissions after the trade will not cause a significantly different air quality impact from the original emission points. The limited modeling need only include the emission points involved in creating and using the ERC. A "significantly different impact" is one that equals or exceeds the levels specified in the following table:

Significance Levels

Pollutant	24-Hour	8-Hour
SO ₂	13 ug/m ³	
TSP	10 ug/m ³	
CO		575 ug/m ³

- 7.3 For use of ERCs representing emissions that exceed the conditions of section 7.2, dispersion modeling considering all stationary sources in the area of impact will be required as follows:
 - 7.3.1 Modeling must show that use of the ERC will neither create a new ambient violation nor interfere with reasonable further progress toward attaining national ambient air quality standards as planned in the SIP, and
 - 7.3.2 Modeling must show that use of the ERC will not create an increment violation in a PSD area as defined in Regulation 2.05.
- 7.4 No air quality modeling shall be required for use of ERCs representing stack emissions of volatile organic compounds or oxides of nitrogen.

SECTION 8 Alternate Emission Standards (Bubbles)

- 8.1 The owner of a stationary source, or the owners of two or more different stationary sources, may propose a bubble that establishes alternative standards for the affected facilities included in the bubble.
- 8.2 A stationary source or stationary sources may meet the requirements of Regulation 6 or Regulation 7 (except as prohibited in section 6.4 of this regulation) by using a bubble, provided that all of the following conditions are met:
 - 8.2.1 The bubble shall address only pollutant control scenarios for the same pollutant on affected facilities having permits,

- 8.2.2 The bubble does not allow increases in hazardous pollutant emissions in trade for reductions in less hazardous pollutants,
- 8.2.3 The bubble demonstrates that it would provide an overall net improvement in air quality as a result of its approval,
- 8.2.4 The bubble demonstrates no net increase in applicable baseline emissions subject to the plan,
- 8.2.5 The bubble must demonstrate a consideration of applying controls on all emission points to the extent engineering technology is available, and must include an implementation schedule, and
- 8.2.6 Bubbles that involve multiple permittees must include an executed agreement among all participants to comply with the provisions of the plan.
- 8.3 The total emission limit determined under section 8.2 may be reallocated among affected facilities included in the bubble. Emission reductions shall meet the requirements contained in sections 4.1 and 4.2. Air quality modeling shall be performed in accordance with the requirements contained in Section 7. If ERCs are withdrawn from or deposited into the Bank in conjunction with the bubble, the ERCs shall be created or used in accordance with this regulation.
- 8.4 Upon application and demonstration that the conditions of sections 8.2 and 8.3 have been addressed, the District shall issue a public notice in accordance with Regulation 2.07 announcing a public hearing before the Board at the first available regularly scheduled meeting. After considering all information, the Board may decide to approve or disapprove the alternative emission reduction plan. Where the alternative emission reduction plan exceeds a compliance schedule of any applicable emission regulation, extensions may be granted, provided that the reasonable further progress requirements of the approved SIP are maintained. Upon approval, the APCO shall issue or revise such permits as necessary to provide for effective enforceability of the entire alternative reduction plan. Each approved alternative reduction plan shall be reviewed and implemented as a distinct and separate permit action.
- 8.5 Upon receiving notice from the District that a new or more restrictive emission standard has become applicable to any affected facility included in a bubble under this Section, the owner or owners of those affected facilities shall submit revised permit applications. The revised applications must demonstrate either reductions in total bubble emission or use of ERCs that are equal to or are greater than the reduction required by the new emission standards.
- 8.6 Alternative emission limits approved under this Section become applicable requirements of the SIP for purposes of the Act Section 113 and Section 304 and are enforceable in the same manner as other SIP requirements.
- 8.7 No alternative emission standard will be established for an affected facility that is presently subject to federal enforcement action unless EPA approves the alternative standard and the schedule for meeting it. As used in section 8.7, "federal enforcement action" means any of the following actions under the applicable sections of the Act: civil actions filed under Section 113(b), criminal actions filed under Section 113(c), a notice imposing noncompliance penalties issued under Section 120, administrative orders issued under Section 113(a), or a citizen suit filed under Section 304 where EPA has intervened.

SECTION 9 Transmittals to EPA

The District will transmit copies of the following documents to EPA promptly after the documents are prepared:

- 9.1 Copies of public notices and supporting documents relating to proposed District action on applications for use of an ERC or bubble, and
- 9.2 Copies of permits reflecting District approval of use of an ERC or bubble, including data on emission limits before and after the approval.

SECTION 10 Amendment of the State Implementation Plan: Requirements and Exemptions

The District will approve the proposed use of an ERC or bubble without action to formally amend the SIP if the proposed use falls under any one of the following conditions:

- 10.1 The sum of emissions increases at the affected facilities totals less than 100 tons per year after applicable control requirements and there is no net increase in applicable baseline emissions as a result of the trade,
- 10.2 The trade involves volatile organic compounds or oxides of nitrogen and there is no net increase in applicable baseline emissions,
- 10.3 The trade involves particulate matter, sulfur dioxide, or carbon monoxide and does not require air quality modeling pursuant to section 7.1, or
- 10.4 The trade involves particulate matter, sulfur dioxide, or carbon monoxide and requires only limited air quality modeling pursuant to section 7.2 and this modeling is conducted in accordance with Regulation 2.11.

Adopted v1/4-21-82; effective 4-21-82; amended v2/11-16-83, v3/4-16-86, v4/12-18-96.

REGULATION 2.14 Asbestos Inspection Fee during Non-Scheduled Hours

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 District fee for asbestos inspections that are made during non-scheduled hours.

SECTION 1 Applicability

This regulation applies to any asbestos abatement project where a request is made to the District for assistance or an inspection at times other than during the normal working hours of the District.

SECTION 2 Definitions

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

2.1 "Normal working hours" of the District means from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays.

SECTION 3 Procedure

Requests for assistance or an inspection by District personnel at times other than during the normal working hours of the District shall be made to the Air Pollution Control Officer, or a designee, who will have discretionary authority to approve or deny such requests. All verbal requests shall be promptly confirmed in writing to the District by the requester.

SECTION 4 Fee

The fee for assistance or an inspection by District personnel at times other than during the normal working hours of the District shall be \$90 for each occurrence. Payment shall be made within 30 days after the assistance or inspection.

Adopted v1/10-19-88; effective 11-1-88.

REGULATION 2.16 Title V Operating Permits

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity and Function: KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes procedures for the District to issue operating permits under the Act Title V *Permits*.

SECTION 1 Definitions

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

- 1.1 "Acid Rain Program" means the national sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established pursuant to 40 CFR Parts 72, 73, 75, 77, and 78.
- 1.2 "Act" means the Clean Air Act as defined in Regulation 1.02 *Definitions*.
- 1.3 "Administrative Permit Amendment" means a revision to a permit processed pursuant to section 5.4, that:
 - 1.3.1 Corrects typographical errors,
 - 1.3.2 Identifies a change in the name, address, or phone number of a person identified in the permit, or provides a similar minor administrative change at the source,
 - 1.3.3 Requires more frequent monitoring or reporting by the permittee,
 - 1.3.4 Allows for a change in ownership or operational control of a source, provided that all of the following provisions are met:
 - 1.3.4.1 A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the District,
 - 1.3.4.2 The District determines that no other changes in the permit are necessary,
 - 1.3.4.3 The District provides public notice of the change in ownership or operation control and the proposed administrative permit amendment,
 - 1.3.4.4 The District provides a 30-day period for submittal of public comment on the proposed administrative permit amendment, and further the District provides an opportunity for a public hearing for unresolved, germane, non-frivolous issues,
 - 1.3.4.5 The permit contains an additional permit condition that notifies the source of the possibility of increased surveillance, and
 - 1.3.4.6 The permit contains an additional permit condition that allows the District to reopen the permit to increase monitoring, record keeping, and reporting requirements, and
 - 1.3.5 Incorporates into the Title V permit the requirements from preconstruction review for District construction permits authorized under an EPA approved District program, provided that such a program meets procedural requirements substantially equivalent to the requirements of 40 CFR 70.7 and 70.8 that would be applicable to the change if it were subject to review as a permit modification and compliance requirements equivalent to those contained in 70.6 of Part 70, or
 - 1.3.6 Incorporates any other type of change which EPA has determined as part of the approved

- Part 70 program to be similar to those listed in this definition.
- 1.4 "Affected source" means a source that includes one or more affected units pursuant to Title IV of the Act.
 - 1.5 "Affected states" means Kentucky and Indiana.
 - 1.6 "Affected Unit" means a unit that is subject to the Acid Rain Program.
 - 1.7 "Applicable requirement" means a federally enforceable standard or other requirement, or District origin requirement or standard, including, but not limited to, the following:
 - 1.7.1 A District origin standard or other requirement that is enforceable by the District but is not federally enforceable,
 - 1.7.2 Standards or other requirements in the District's part of the Kentucky SIP, including revisions to the SIP, promulgated in 40 CFR Part 52,
 - 1.7.3 Any standard or other requirement governing solid waste incineration under the Act Section 129,
 - 1.7.4 A New Source Performance Standard (NSPS) promulgated pursuant to the Act Section 111,
 - 1.7.5 A National Emission Standard for Hazardous Air Pollutants (NESHAPs) promulgated pursuant to the Act Section 112 and any other requirement of Section 112, including any requirement concerning accident prevention under Section 112(r)(7),
 - 1.7.6 Standards or other requirements in the Act Title IV Acid Rain program,
 - 1.7.7 Requirements established pursuant to Section 4 for monitoring and compliance certification,
 - 1.7.8 National ambient air quality standards pursuant to Regulation 3 *Ambient Air Quality Standards* or increments or visibility requirements pursuant to Regulation 2 *Permit Requirements* as they apply to temporary sources permitted pursuant to Section 4,
 - 1.7.9 A permit requirement to use all available, practical, and reasonable methods to prevent and control air pollutants if emission standards have not been prescribed in a District regulation,
 - 1.7.10 Any standard or other requirement for consumer and commercial products under the Act Section 183(e),
 - 1.7.11 Any standard or other requirement for tank vessels under the Act Section 183(f),
 - 1.7.12 Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under the Act Title VI, unless EPA has determined that those requirements need not be contained in a Title V permit,
 - 1.7.13 Any other standard or requirement with future effective compliance dates,
 - 1.7.14 Any terms or conditions of a federally enforceable District construction permit or federal preconstruction permit,
 - 1.7.15 Any standard or other requirement under the Act Section 126(a)(1) and (c),
 - 1.7.16 Any requirement in 40 CFR Part 64 *Compliance Assurance Monitoring for Major Stationary Sources*, and
 - 1.7.17 Any other standard or requirement promulgated pursuant to the Act.
 - 1.8 "Complete application" means an application for a permit or permit revision that meets the requirements of section 3.2.
 - 1.9 "Designated representative" means a responsible person authorized by the owners and operators of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted to EPA pursuant to 40 CFR Section 72.20(b), to represent and legally bind each owner and operator, as a matter of federal law, in all matters pertaining to the Acid Rain Program.

- 1.10 "District origin permit" means a permit that contains only District required conditions. If the permit contains one or more federally enforceable permit conditions, it is a federally enforceable permit.
- 1.11 "District origin permit condition" means a provision in the permit that is not required pursuant to the Act or any of the Act's applicable requirements, and is not federally enforceable.
- 1.12 "Draft permit" means the version of a permit which the District offers for public participation and affected state review as prescribed in Regulation 2.07 *Public Notification for Title V, PSD, and Offset Permits; SIP Revisions; and Use of Emission Reduction Credits*.
- 1.13 "Emergency" means a situation arising from a sudden and reasonably unforeseeable event beyond the control of the source, including acts of God, which requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation in the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
- 1.14 "Emissions fee" means the fee assessed to an air pollution source pursuant to Regulation 2.08 *Emissions Fees, Permit Fees, Permit Renewal Procedures, and Additional Program Fees*.
- 1.15 "Emissions unit" or "facility" means a part or activity of a stationary source that emits or has the potential to emit a regulated air pollutant or any pollutant listed under the Act Section 112(b). This term is not meant to alter or affect the definition of the term "unit" as used in the Acid Rain program.
- 1.16 "Existing source" means a source that commenced operation on or before the effective date of this regulation.
- 1.17 "Federally enforceable permit" means a permit that contains a federally enforceable permit condition or provision.
- 1.18 "Federally enforceable requirement" means all of the following as they apply to emission units at a source subject to this regulation, including any requirements that have been promulgated or approved by EPA through rulemaking at the time of permit issuance but have future effective compliance dates:
- 1.18.1 Requirements that have been promulgated in Regulations 1 through 7, except where the requirements are of District or State origin and are not yet in the federally approved SIP at the time of permit issuance,
- 1.18.2 Standards or other requirements in the District's part of the Kentucky SIP that implement the relevant requirements of the Act, including revisions to the plan promulgated in 40 CFR Part 52,
- 1.18.3 Standard or other requirements promulgated pursuant to the Act Section 111,
- 1.18.4 A NESHAP promulgated pursuant to the Act Section 112, including a requirement for accidental release prevention pursuant to the Act Section 112(r),
- 1.18.5 Standards or requirements in the Act Title IV Acid Rain program,
- 1.18.6 Requirements established pursuant to Section 4 for monitoring and compliance certification. These requirements are established pursuant to the Act Sections 504(b) and 114(a)(3),
- 1.18.7 National ambient air quality standards or increments or visibility requirements pursuant to Regulations 2 and 3 as they apply to temporary sources permitted pursuant to section 4.5. These requirements are pursuant to the Act Sections 161 through 169 and 504(e),
- 1.18.8 A standard or other requirement for consumer or commercial products adopted pursuant

- to the Act Section 183(e),
- 1.18.9 A standard or other requirement for tank vessels pursuant to the Act Section 183(f),
- 1.18.10 A standard or other requirement to protect stratospheric ozone adopted pursuant to the Act Title VI unless EPA determines that those requirements need not be contained in the permit,
- 1.18.11 A standard or other requirement promulgated pursuant to the Act Section 126(a)(1) and (c),
- 1.18.12 Any requirement in 40 CFR Part 64 *Compliance Assurance Monitoring for Major Stationary Sources*, and
- 1.18.13 Any other standard or requirement promulgated pursuant to the Act.
- 1.19 "Final Permit" means the version of a permit issued by the District that has completed all the review procedures required in Regulation 2.07 and for which a final determination has been made by EPA.
- 1.20 "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- 1.21 "General permit" means a permit that meets the requirements of section 4.4.
- 1.22 "Insignificant activity" means the following:
- 1.22.1 An affected facility that is not subject to an affected facility category-specific applicable requirement and meets one of the following provisions:
- 1.22.1.1 The affected facility is listed in Regulation 2.02 *Air Pollution Regulation Requirements and Exemptions* sections 2.1 to 2.3 and the potential emissions of the affected facility do not exceed either 5.00 tons per year of a regulated air pollutant or 1000.0 pounds per year of a hazardous air pollutant,
- 1.22.1.2 For a case-by-case approval, all of the following provisions are met:
- 1.22.1.2.1 The potential emissions of the affected facility do not exceed either 5.00 tons per year of a regulated air pollutant or 1000.0 pounds per year of a hazardous air pollutant,
- 1.22.1.2.2 The potential emissions of the affected facility are in conformance with the general prohibition of air pollution of Regulation 1.09 *Prohibition of Air Pollution*, and
- 1.22.1.2.3 Specific approval of the affected facility as an insignificant activity was made pursuant to approval of a Title V permit issuance, renewal, or revision that had undergone the full public participation process, including the notice, comment, and EPA objection provisions, in Regulation 2.07, or
- 1.22.1.3 The affected facility is listed as an insignificant activity in the District's federally-approved Title V permit program,
- 1.22.2 For the purpose of this definition, potential emissions mean the emissions before air pollution control devices. An R&D facility that has the same SIC as the manufacturing facility or is considered a support facility at the manufacturing facility shall be considered a part of the stationary source, but may be treated as an insignificant activity if the R & D facility meets the qualifications of this definition. The emissions from insignificant activities shall be accounted for in determining major source status, and
- 1.22.3 For the purpose of an initial permit pursuant to this regulation, an affected facility that had been identified as an insignificant activity in a permit application that was, before December 20, 2000, determined by the District to be complete pursuant to section 3.2, and the District had determined that the potential emissions of the affected facility do not exceed either 5.00 tons per year of a regulated air pollutant or 1000.0 pounds per year of a hazardous air pollutant, shall be treated as an insignificant activity. However, the

District may require the applicant to submit additional information to demonstrate compliance with these requirements. The determination by the District that the potential emissions of an affected facility do not exceed these levels shall be subject to EPA review and approval.

- 1.23 "Major industrial grouping" means a source or group of sources whose pollutant emitting activities all have the same two-digit classification code as described in the Standard Industrial Classification (SIC) Manual (1987).
- 1.24 "Major source" means a stationary source, or a group of stationary sources, that are located on one property or two or more contiguous or adjacent properties under common control of the same person (or persons) and that belong to a single major industrial grouping which emits a regulated air pollutant that is described as follows:
 - 1.24.1 A major source pursuant to the Act Section 112 is defined as a stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year (tpy) or more of a hazardous air pollutant or such lesser quantity as EPA may establish by rule or 25 tpy or more of a combination of hazardous air pollutants. Emissions from an oil or gas exploration or production well, with its associated equipment, and emissions from a pipeline compressor or pump station, shall not be aggregated with emissions from other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are major sources. For radionuclides, "major source" shall have the meaning specified by EPA by rule,
 - 1.24.2 A stationary source of air pollutants that emits or has the potential to emit 100 tpy or more of an air pollutant, including any source of fugitive emissions of a pollutant. The fugitive emissions of a stationary source shall not be considered in determining if it is a major source unless it belongs to one of the following categories:
 - 1.24.2.1 Coal cleaning plants with thermal dryers,
 - 1.24.2.2 Kraft pulp mills,
 - 1.24.2.3 Portland cement plants,
 - 1.24.2.4 Primary zinc smelters,
 - 1.24.2.5 Iron and steel mills,
 - 1.24.2.6 Primary aluminum ore reduction plants,
 - 1.24.2.7 Primary copper smelters,
 - 1.24.2.8 Municipal incinerators capable of charging more than 250 tons of refuse per day,
 - 1.24.2.9 Hydrofluoric, sulfuric, or nitric acid plants,
 - 1.24.2.10 Petroleum refineries,
 - 1.24.2.11 Lime plants,
 - 1.24.2.12 Phosphate rock processing plants,
 - 1.24.2.13 Coke oven batteries,
 - 1.24.2.14 Sulfur recovery plants,
 - 1.24.2.15 Carbon black plants (furnace process),
 - 1.24.2.16 Primary lead smelters,
 - 1.24.2.17 Fuel conversion plant,
 - 1.24.2.18 Sintering plants,
 - 1.24.2.19 Secondary metal production plants,
 - 1.24.2.20 Chemical process plants,
 - 1.24.2.21 Fossil fuel boilers (or combination thereof) totaling more than 250 million BTU/hr heat input,

- 1.24.2.22 Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- 1.24.2.23 Taconite ore processing plants,
- 1.24.2.24 Glass fiber processing plants,
- 1.24.2.25 Charcoal production plants,
- 1.24.2.26 Fossil-fuel fired steam electric plants of more than 250 million BTU/hr of heat input, or
- 1.24.2.27 Any other stationary source category, that as of August 7, 1980, is being regulated under the Act Section 111 or 112, or
- 1.24.3 A stationary source located in an area designated nonattainment pursuant to Regulation 3.04 *Ambient Air Quality Standards* including, for ozone nonattainment areas, sources with a potential to emit 100 or more tpy of VOCs or NO_x in areas classified as "moderate,"
- 1.25 "Minor Permit Revision" means a permit review required to be processed pursuant to section 5.5.
- 1.26 "Minor source" means a stationary source that is not a major source and whose emission reductions were credited in the SIP toward the requirements of the Act or is subject to an NSPS or NESHAP standard promulgated pursuant to the Act Section 111 or 112.
- 1.27 "Permit" or "Title V Permit", unless the text clearly indicates otherwise, means an operating permit or group of operating permits covering a source that is issued, amended, or revised pursuant to this regulation.
- 1.28 "Permit revision" means a minor permit revision, a significant permit revision, or administrative permit amendment.
- 1.29 "Phase II" means the Acid Rain program period beginning January 1, 2000, and continuing thereafter.
- 1.30 "Potential to emit" means the maximum capacity of a stationary source to emit an air pollutant given its physical and operational design. A physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by EPA. This term does not alter or affect the use of this term for other purposes of the Act, or the term "capacity factor" as used in the Acid Rain Program.
- 1.31 "Program", unless the text clearly indicates otherwise, means an operating permit program installed and implemented pursuant to 40 CFR Part 70 (1992).
- 1.32 "Proposed permit" means the version of a permit that the District proposes to issue and submit to EPA for review pursuant to Regulation 2.07.
- 1.33 "Regulated air pollutant" means the following:
 - 1.33.1 Nitrogen oxides,
 - 1.33.2 Volatile organic compounds,
 - 1.33.3 A pollutant for which a national ambient air quality standard has been promulgated,
 - 1.33.4 Any Class I or II substance subject to a standard promulgated under or established by the Act Title VI,
 - 1.33.5 Any pollutant that is subject to any standard promulgated under the Act Section 111,
 - 1.33.6 Any pollutant subject to a standard promulgated under the Act Section 112 or other requirements established under Section 112, including Sections 112(g), 112(j), and 112(r), and including the following:
 - 1.33.6.1 Any pollutant subject to requirements under Section 112(j). If EPA fails to promulgate

- a standard by the date established pursuant to Section 112(e), any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e), and
- 1.33.6.2 Any pollutant for which the requirements of Section 112(g)(2) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.
- 1.34 "Renewal" means the process by which a permit is reissued at the end of its term pursuant to Section 5.
- 1.35 "Responsible official" means one of the following:
- 1.35.1 For a corporation: a president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of that person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
- 1.35.1.1 The source employs more than 250 person or has gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or
- 1.35.1.2 The delegation of authority to the representative is approved by the District,
- 1.35.2 For a partnership or sole proprietorship, a general partner or the proprietor, respectively,
- 1.35.3 For a municipal, state, federal, or other public agency, either a principal executive officer or ranking elected official. For this regulation, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA), or
- 1.35.4 For affected sources, the designated representative.
- 1.36 "Significant Permit Revision" means a permit revision required to be processed pursuant to section 5.7.
- 1.37 "Source", unless the text clearly indicates otherwise, means a source required to obtain a permit pursuant to this regulation.
- 1.38 "State Implementation Plan" (SIP) means the most recently prepared plan or revision required by the Act Section 110 which has been submitted by the District and approved by Kentucky and EPA.
- 1.39 "Stationary source" means a building, structure, facility, or installation that emits or may emit a regulated air pollutant or any pollutant listed under the Act Section 112(b).
- 1.40 "Timely application" means an application that meets the requirements of section 3.1.1.
- 1.41 "Trivial activities" means any facility that is considered inconsequential, as determined by the District. The District shall maintain a list of trivial activities. This list shall be made available to the public upon request.

SECTION 2 Applicability

- 2.1 Permitted sources
- Except as provided in section 2.2, this regulation applies to all of the following sources in Jefferson County, Kentucky:
- 2.1.1 A major source, as defined in this regulation,
- 2.1.2 A minor source, as defined in this regulation,
- 2.1.3 Any affected source under the Acid Rain Program, and
- 2.1.4 Any other source in a source category designated by EPA.
- 2.2 Facilities exempt from the requirements in section 2.1 are:
- 2.2.1 Asbestos sources and source categories that would be required to obtain a permit solely

- 2.2.2 because they are subject to 40 CFR Section 61.145, Sources and source categories that would be required to obtain a permit solely because they are subject to the requirements of 40 CFR 60 Subpart AAA, and
- 2.2.3 Sources that would be required to obtain a permit solely because they are subject to the Act Section 112(r).
- 2.3 Fugitive emissions
Fugitive emissions from a source subject to this regulation shall be included in the permit application and the permit in the same manner as stack emissions.

SECTION 3 Permit Applications

- 3.1 Duty to Apply
The owner or operator of a source subject to this regulation shall submit a timely and complete permit application pursuant to this Section.
 - 3.1.1 Timely application
 - 3.1.1.1 An existing major source that is subject to a federally enforceable requirement, and is required to apply for a Title V permit for the first time, shall submit a complete permit application as follows:
 - 3.1.1.1.1 The District shall calculate a score for each such major source according to the following formula:

$$\text{Score} = (1 + n) (1 + p/2)$$

Where: n = number of operating permits at the source as of 11-15-93
p = number of pollutants, for which there is a national ambient air quality standard, emitted at the source
 - 3.1.1.1.2 The District shall notify each such major source by December 30, 1993, as to whether the source is in the lowest 1/3 or higher 2/3 of these major sources.
 - 3.1.1.1.3 Each major source which has a score in the lowest 1/3 of the major sources shall submit a complete permit application by December 15, 1994.
 - 3.1.1.1.4 Each major source which has a score in the higher 2/3 of the major sources shall submit a complete permit application by April 22, 1997.
 - 3.1.1.1.5 Notwithstanding the required submittal date in section 3.1.1.1.3, a company with two or more major sources located in Jefferson County which have a score in the lowest 1/3 of the major sources may, upon written notice to the District, delay the submittal of all but one permit applications until the date specified by section 3.1.1.1.4.
 - 3.1.1.2 A source not previously required to obtain a permit under this regulation that becomes subject to an applicable requirement after the effective date of this regulation shall submit a complete permit application within 12 months after becoming subject to this regulation.
 - 3.1.1.3 An existing minor source that is subject to a federally enforceable requirement or was included as a source category in the Jefferson County portion of the Kentucky SIP to meet the VOC reduction requirements of the Act and is required to apply for a Title V permit for the first time, shall submit a complete permit application within 12 months after EPA has promulgated a standard or by December 15, 1997, whichever is earlier, unless specifically exempted by EPA.
 - 3.1.1.4 A source constructing, reconstructing, modifying, or performing a case-by-case MACT determination pursuant to the Act Section 112(j) after December 15, 1993, shall submit a complete permit application for a Title V permit revision within 12 months

after commencing operation. If an existing permit would prohibit construction or a change in operation, the source must obtain a permit revision before commencing operation. Modification and major modification are defined in Regulations 2.04 *Construction or Modification of Major Sources In or Impacting upon Non-Attainment Areas (Emission Offset Requirements)* and 2.05 *Prevention of Significant Deterioration of Air Quality*.

- 3.1.1.5 A source that is required to reopen an existing permit pursuant to the requirements of Section 5 must submit a complete application for a permit revision within six months after notification by the District that the permit must be reopened.
- 3.1.1.6 A complete permit application must be submitted to the District at least six months prior to the date of permit expiration and in accordance with Section 5 for permit renewal.
- 3.2 Complete application
 - For an application to be deemed complete:
 - 3.2.1 An application must include all information required pursuant to section 3.5, except that applications for a permit revision must supply the information only as it relates to the proposed change. This information must be sufficient to evaluate the source and its application and to determine all applicable requirements,
 - 3.2.2 A responsible official shall certify the submitted information pursuant to section 3.5.11,
 - 3.2.3 Unless the District determines that an application is not complete within 60 days of receipt of the application as shown on the District tracking log, the application shall be deemed to be complete except as otherwise provided in Section 5. If, while processing an application determined to be complete, the District determines that additional information is necessary, it may request the information in writing and set a reasonable deadline for response. If the source fails to respond to the request for additional information within a reasonable time frame, the source loses the permit shield, if applicable,
 - 3.2.4 The District shall maintain a checklist to be utilized in the completeness determination process. A copy of the checklist identifying the deficiencies in the application shall be provided to the applicant with the Notice of Incompleteness,
 - 3.2.5 The source's ability to operate without a permit, as set forth in Section 5, shall be in effect from the date the application is deemed complete until the final permit is issued, if, and only if, the applicant submits all requested additional information by the specified deadline,
 - 3.2.6 The source must include an action plan for compliance with the Act Section 112(r), and
 - 3.2.7 A completeness determination shall not be required for permit revisions processed through minor permit revision procedures pursuant to Section 5.
 - 3.3 Confidential information
 - A source that submits to the District information for a federally enforceable permit in a claim of confidentiality shall submit a copy of the information directly to EPA.
 - 3.4 Duty to supplement or correct application
 - An applicant who fails to submit relevant facts or who has submitted incorrect information in a permit application shall, upon discovery of the occurrence, promptly submit the supplementary facts or corrected information. The applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it submitted a complete permit application but prior to release of a draft permit.
 - 3.4.1 Failure to supplement or correct the application shall be a violation of this regulation and shall cause the source to be subject to applicable penalties including, but not limited to,

- the termination, revocation and reissuance, or revision of the permit, or denial of the permit application.
- 3.5 Standard application form and required information
- 3.5.1 Applications for permits shall be made on forms prepared by the District, except for Title IV portions of the application which shall be on permit application forms required by regulations promulgated under the Act Title IV.
- 3.5.2 An application shall include all information needed to determine the applicability of or to impose an applicable requirement. The District shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source and other information necessary to collect any permit fees owed under the fee schedules approved pursuant to Regulation 2.08.
- 3.5.3 Permit application forms and attachments shall include the company name and address or, if different, the plant name and address; owner's and agent's name; telephone number and name of plant site manager or contact; a description of the source's processes and products by SIC Code, including any associated with alternate scenarios identified by the source.
- 3.5.4 The application must contain the following information:
- 3.5.4.1 Identification of all emissions of regulated pollutants for which the source is major and all emissions of regulated air pollutants. The permit application must describe all emissions of regulated air pollutants emitted from an emissions unit, unless the units are exempted in this section. The District shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source:
- 3.5.4.1.1 For major sources, the applicable requirements for all emission points shall be included in the permit application,
- 3.5.4.1.2 For minor sources, all applicable requirements for the emissions point that cause the source to be subject to this regulation shall be included in the permit application,
- 3.5.4.1.3 Fugitive emissions from a source subject to this regulation shall be included in the permit application in the same manner as stack emissions,
- 3.5.4.1.4 Insignificant activities shall be identified in the application, although they may be grouped by affected facility category. The application may exclude information that is not needed to determine which applicable requirements apply, whether the insignificant activity is in compliance with applicable requirements, and whether the stationary source is major. However, if the insignificant activity category is subject to a restriction on the size or production rate of the affected facility, then information regarding the size or production rate shall be included in the application, and
- 3.5.4.1.5 Trivial activities need not be listed in the application.
- 3.5.4.2 Identification and description of all points of emissions described in section 3.5.4.1 in sufficient detail to establish the applicability of District regulations and to establish the basis for fees,
- 3.5.4.3 Emissions rates in tons per year, to the extent necessary to determine applicable requirements, and in terms necessary to establish compliance consistent with the applicable standard reference tests method. The test methods are referenced in Regulations 1.04 *Performance Tests*, 6 *Standards of Performance for Existing Affected Facilities*, and 7 *Standards of Performance for New Affected Facilities*,
- 3.5.4.4 Fuels, fuel use, raw materials, production rates, and operating schedules to determine

- or regulate emissions,
- 3.5.4.5 Identification and description of air pollution control equipment and compliance monitoring devices or activities,
- 3.5.4.6 Limitations on source operation affecting emissions or any work practice standards, if applicable, for all regulated pollutants at the source,
- 3.5.4.7 Other information required by an applicable requirement, including information related to stack height limitations developed pursuant to EPA's Stack Height Regulation in 40 CFR Part 51, and
- 3.5.4.8 Complete calculations on which the information in sections 3.5.4.1 through 3.5.4.7 is determined to enable the District to evaluate compliance.
- 3.5.5 The application shall identify the following air pollution control requirements:
 - 3.5.5.1 Citation and, to the extent necessary to establish applicability, a description of all applicable requirements, and
 - 3.5.5.2 Description of, or reference to, any applicable test method for determining compliance with each applicable requirement.
- 3.5.6 The application must supply other specific information that may be necessary to implement and enforce other applicable requirements of District regulations or to determine the applicability of these requirements.
- 3.5.7 The application must supply an explanation of proposed exemptions from otherwise applicable requirements.
- 3.5.8 The application must provide any additional information required by the District to define alternative operating scenarios identified by the source pursuant to Section 4 or to define permit terms and conditions implementing Section 4. The additional information must include all items listed in section 3.5.
- 3.5.9 The application must provide a compliance plan for sources that contains the following:
 - 3.5.9.1 A description of the compliance status of the source with respect to all applicable requirements,
 - 3.5.9.2 For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with those requirements,
 - 3.5.9.3 For all applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements in a timely manner,
 - 3.5.9.4 A narrative description of how the source will achieve compliance with the requirements and a time table thereof for all requirements for which the source is not in compliance at the time of permit issuance,
 - 3.5.9.5 A compliance schedule that contains the following:
 - 3.5.9.5.1 A statement that the source will continue to comply with all the requirements for which the source is in compliance,
 - 3.5.9.5.2 A statement that the source will meet the requirements on a timely basis for applicable requirements that will become effective during the permit term,
 - 3.5.9.5.3 A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement,
 - 3.5.9.5.4 A schedule of compliance for each facility that is not in compliance with all applicable requirements at the time of permit issuance. The schedule shall include:
 - 3.5.9.5.4.1 A list of remedial measures,
 - 3.5.9.5.4.2 An enforceable sequence of actions, including:
 - 3.5.9.5.4.2.1 Milestones leading to compliance with all applicable requirements for

- 3.5.9.5.4.2.2 which the facility will be in noncompliance at the time of permit issuance, The compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree, administrative order or Board order to which the source is subject, and
- 3.5.9.5.4.2.3 The schedule of compliance shall be supplemental to, and shall not condone noncompliance with, the applicable requirements on which it is based,
- 3.5.9.6 A schedule for submission of certified progress reports pursuant to Section 4 no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation or noncompliance,
- 3.5.9.7 In the Acid Rain program, the compliance plan content requirements specified in this section shall apply and be included in the Acid Rain portion of a compliance plan for an affected source, except as provided in the Acid Rain program for the schedule and method the source will use to achieve compliance with the Acid Rain emissions limitations. Nationally standardized forms shall be used as required by regulations promulgated under the Act Title IV.
- 3.5.10 The application must identify the requirements for compliance certification, including the following:
 - 3.5.10.1 A certification of compliance with all applicable requirements by a responsible official pursuant to this section,
 - 3.5.10.2 A statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods. Notwithstanding any other provision in the Jefferson County portion of the Kentucky SIP approved by EPA, for the purpose of submission of compliance certifications an owner or operator is not prohibited from using monitoring as required under 40 CFR 70.6(a)(3) and incorporated into a federally enforceable operating permit in addition to any specified compliance methods,
 - 3.5.10.3 A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the District, and
 - 3.5.10.4 A statement indicating the source's compliance status with applicable monitoring, including enhanced monitoring and compliance certification requirements.
- 3.5.11 Certification by a Responsible Official
Application forms, reports, and compliance certifications submitted to the District shall contain certification by a responsible official, as defined in Section 1, of the truth, accuracy, and completeness of the documents. This, and other certifications required in this regulation, shall state that:
"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 4 Permit Content

- 4.1 Standard Permit Requirements
A permit issued pursuant to this regulation must include the following elements:
 - 4.1.1 Specify emission limitations and standards applicable to the source and must include operational requirements and limitations that assure compliance with applicable requirements at the time of issuance,
 - 4.1.2 Specify and reference the origin of and authority for each term or condition and any

variation from the applicable requirements upon which the term or condition is based. Where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by EPA,

- 4.1.3 A statement that the source shall comply with all applicable requirements,
- 4.1.4 If the SIP allows the determination of an alternative emission limit at a source subject to this regulation and equivalent to that contained in the plan to be made in the permit issuance, renewal, or significant permit revision process, then a permit containing the equivalency determination must contain conditions to ensure that the resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicative procedures,
- 4.1.5 For major sources, all applicable requirements for emission units,
- 4.1.6 For minor sources, all applicable requirements for emission units that cause the source to be subject to this regulation,
- 4.1.7 Fugitive emissions from a source shall be included in the permit in the same manner as stack emissions, even if the source is not included in the list of sources in section 1.24.2,
- 4.1.8 Permit duration
 - 4.1.8.1 Initially, one-fifth of the permits issued on the basis of applications received pursuant to Section 3 shall expire during each 12 month period beginning November 15, 1999, so that all permits have expired by November 14, 2004. Expiration dates shall be assigned by the District based on the District's initial requests for application submittals.
 - 4.1.8.2 A statement shall be included that provides that the permit shall expire on a specific date. It shall also state that this permit may only be renewed pursuant to section 5.3.
 - 4.1.8.3 Permits shall remain in effect for a fixed term of five years. The permit shall commence on the date of issuance,
- 4.1.9 Monitoring and related record keeping and reporting requirements
 - 4.1.9.1 The permit must contain the following monitoring requirements:
 - 4.1.9.1.1 All required emissions monitoring and analysis procedures or test methods,
 - 4.1.9.1.2 If the applicable requirement does not require periodic testing, instrumental or non-instrumental monitoring (which may consist of record keeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit shall be reported pursuant to section 4.1.9.3. Such monitoring requirements must assure use of terms, test methods, units, averaging periods, and other statistical conventions pursuant to the applicable requirement. Record keeping provisions shall be sufficient to meet the requirements of this section, and
 - 4.1.9.1.3 Requirements covering the use, maintenance, and installation of monitoring equipment or methods, as necessary and appropriate,
 - 4.1.9.2 Each permit shall incorporate the following record keeping requirements, if applicable:
 - 4.1.9.2.1 Records of required monitoring information that include the following:
 - 4.1.9.2.1.1 The date, place as defined in the permit, and time of sampling or measurements,
 - 4.1.9.2.1.2 The date analyses were performed,
 - 4.1.9.2.1.3 The company or entity that performed the analyses,
 - 4.1.9.2.1.4 The analytical techniques or methods used,

- 4.1.9.2.1.5 The results of analyses, and
- 4.1.9.2.1.6 The operating conditions as existing at the time of sampling or measurement,
- 4.1.9.2.2 Retention of records of all required monitoring data and support information for a period of five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all records required by the permit. Where appropriate, the permit may specify that records be maintained in a computerized form that is readily accessible during reasonable hours,
- 4.1.9.2.3 Unless otherwise mandated by applicable requirements or regulations, a permit may require that records be maintained of representative or periodic samples of monitoring data where such data are, in the judgement of the District, sufficient to demonstrate continued compliance with the terms and conditions of the permit,
- 4.1.9.3 Each permit shall incorporate all applicable reporting requirements and shall require the following, if applicable:
 - 4.1.9.3.1 Submittal of required monitoring reports at least every six months. All deviations from permit requirements shall be clearly identified in the reports, and all reports shall be certified by a responsible official pursuant to Section 3,
 - 4.1.9.3.2 Identification and prompt reporting of deviations from permit requirements, including those caused by upset conditions as defined in the permit, the probable cause of the deviations, and corrective actions or preventive measures taken. Reporting shall be as defined in Regulation 1.07 *Emissions During Startups, Shutdowns, Malfunctions, and Emergencies*, and
- 4.1.9.4 Unless determined by the District to be appropriate, the permit need not contain monitoring, record keeping, and reporting requirements for insignificant activities other than those contained in generally applicable requirements to which the insignificant activity is subject,
- 4.1.10 A permit condition prohibiting emissions exceeding allowances that the source lawfully holds in the Acid Rain program,
- 4.1.11 A permit revision shall not be required for increases in emissions authorized by allowances acquired pursuant to the Acid Rain program if the increases do not require a permit revision in another applicable requirement,
 - 4.1.11.1 A limit shall not be placed on the number of allowances held by the source. The source may not, however, use allowances in defense of noncompliance with other applicable requirements, and
 - 4.1.11.2 Allowances shall be accounted for according to the procedures established in 40 CFR Part 73,
- 4.1.12 A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to portions of the permit,
- 4.1.13 Provisions stating the following:
 - 4.1.13.1 The permittee shall comply with all terms and conditions of the permit. Any noncompliance shall constitute a violation of the Act and of this regulation and shall cause the source to be subject to enforcement actions including, but not limited to, the termination, revocation and reissuance, or revision of a permit, or denial of a permit renewal application,
 - 4.1.13.2 It shall not be a defense for a permittee in an enforcement action that it would have been necessary for the permittee to halt or reduce the permitted activity in order to

- maintain compliance with the conditions of the permit,
- 4.1.13.3 The permittee's failure to halt or reduce activity may be a mitigating factor in assessing penalties for noncompliance if the health, safety or environmental impacts of halting or reducing operations would be more serious than the impacts of continued operation,
- 4.1.13.4 The permit may be revised, revoked, reopened and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance shall not stay a permit condition,
- 4.1.13.5 The permit shall not convey property rights of any sort or grant exclusive privileges,
- 4.1.13.6 The permittee shall furnish to the District within a reasonable time information that the District may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. The permittee shall also furnish to the District upon request copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish the records directly to EPA with a claim of confidentiality should such records be required by EPA, and
- 4.1.13.7 Notwithstanding any other provision in the Jefferson County portion of the Kentucky SIP approved by EPA, any credible evidence may be used for the purpose of establishing whether a person is in compliance with, has violated, or is in violation of any such plan.
- 4.1.13.7.1 Information from the use of the following methods is presumptively credible evidence of compliance or whether a violation has occurred at the source:
- 4.1.13.7.1.1 Monitoring as required under 40 CFR 70.6(a)(3) and incorporated in a federally enforceable operating permit, and
- 4.1.13.7.1.2 Compliance methods specified in the Jefferson County portion of the Kentucky SIP.
- 4.1.13.7.2 The following testing, monitoring, or information-gathering methods are presumptively credible testing, monitoring, or information-gathering methods:
- 4.1.13.7.2.1 Any federally-enforceable monitoring or testing methods, including those in 40 CFR Parts 51, 60, 61, and 75, and
- 4.1.13.7.2.2 Other testing, monitoring, or information-gathering methods that produce information comparable to that produced by any method in sections 4.1.13.7.1 or 4.1.13.7.2.1,
- 4.1.14 A provision to ensure that a source subject to this regulation shall pay fees to the District pursuant to the fee schedule in Regulation 2.08,
- 4.1.15 A provision that failure to pay emission fees within 60 days of the due date may result in the suspension of the source's permit to operate until the fee is paid, except in extenuating circumstances according to Regulation 2.08,
- 4.1.16 Emissions Trading. A permit revision shall not be required in approved economic incentives, emissions trading and other similar programs or processes for changes that are provided for in the permit,
- 4.1.17 Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the District which:
- 4.1.17.1 Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario in which it is operating,
- 4.1.17.2 May extend the permit shield described in section 4.6 to all terms and conditions in

- 4.3.5 Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits must include the following:
 - 4.3.5.1 The frequency, as specified in an applicable requirement or by the District but not less than annually, of submissions of compliance certification,
 - 4.3.5.2 A means for monitoring the compliance of the source with its emissions limitations, standards, and work practices,
 - 4.3.5.3 A requirement that the compliance certification include the following:
 - 4.3.5.3.1 The identification of each term or condition of the permit that is the basis of the certification,
 - 4.3.5.3.2 The compliance status,
 - 4.3.5.3.3 Whether compliance was continuous or intermittent,
 - 4.3.5.3.4 The method used for determining the compliance status of the source currently and over the reporting period pursuant to this section,
 - 4.3.5.3.5 Other facts as the District may require to determine the compliance status of the source, and
 - 4.3.5.3.6 A current list of insignificant activities, including an identification of the additions and removals of insignificant activities that occurred during the preceding year,
 - 4.3.5.4 A requirement that all compliance certifications be submitted to EPA as well as to the District,
 - 4.3.5.5 Additional specified requirements for monitoring and compliance certification,
 - 4.3.5.6 A specific condition that the source shall not be allowed to operate unless it has demonstrated compliance pursuant to Regulation 1.05 *Compliance with Emission Standards and Maintenance Requirements* or is operating in accordance with the compliance plan that has met the review requirements of this regulation and Regulation 2.07, and
 - 4.3.5.7 Other provisions required by the District.
- 4.4 General Permits
 - 4.4.1 The District may, after notice and opportunity for the public participation provided in Regulation 2.07, issue a general permit covering numerous similar sources. A general permit shall comply with all requirements applicable to other permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the District shall grant the conditions and terms of the general permit. Notwithstanding the shield provisions in this section, the source shall be subject to enforcement action for operation without a permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources except as provided in the Acid Rain program.
 - 4.4.2 Sources subject to this regulation that qualify for general permit shall apply to the District for coverage in the terms of the general permit or shall apply for a permit pursuant to Section 3. The District may provide in the general permit for applications which deviate from the requirements of Section 3 if the applications meet the requirements of Regulation 2.07, and include all information necessary to determine qualification for, and to assure compliance with, the general permit. Without repeating the public participation procedures in Regulation 2.07, the District may grant a source's request for authorization to operate under a general permit, but such a grant shall not be a final permit action for purposes of judicial review.
 - 4.4.3 A source operating under a general permit is subject to enforcement action for operating

without a permit if the District determines that the source is not to be qualified for the general permit.

4.5 Temporary Sources

The District may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation shall be temporary and involve at least one change of location during the term of the permit. An affected source shall not be permitted as a temporary source. Permits for temporary sources shall include:

- 4.5.1 Conditions that will assure compliance with all applicable requirements at all authorized locations,
- 4.5.2 Requirements that the owner or operator notify the District at least 30 days in advance of each change in location,
- 4.5.3 Conditions that assure compliance with provisions of this regulation, and
- 4.5.4 No Acid Rain source may be permitted as a temporary source.

4.6 Permit Shield

4.6.1 Except as provided in this Regulation, the District may expressly include in a permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with applicable requirements as of the date of permit issuance if:

4.6.1.1 The applicable requirements are included and are specifically identified in the permit, or

4.6.1.2 The District, in acting on the permit application or permit revision application, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

4.6.2 A permit that does not expressly state that a permit shield exists shall be presumed not to provide a shield.

4.6.3 Nothing in this paragraph or in a permit shall alter or affect the following:

4.6.3.1 The Act Section 303 Emergency powers including the authority of EPA in that Section,

4.6.3.2 The liability of an owner or operator of a source for a violation of applicable requirements prior to or at the time of permit issuance,

4.6.3.3 The applicable requirements of the Acid Rain program, or

4.6.3.4 The ability of EPA to obtain information from a source pursuant to the Act Section 114.

4.7 Emergency Provision

4.7.1 Effect of an emergency.

The District shall include in each permit a provision stating that:

"An emergency shall constitute an affirmative defense to an enforcement action brought for noncompliance with the technology-based emission limitations if the conditions in Regulation 2.16 are met."

4.7.2 The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

4.7.2.1 An emergency occurred and that the permittee can identify the cause of the emergency,

4.7.2.2 The permitted facility was at the time being properly operated,

4.7.2.3 During the period of the emergency the permittee expeditiously took all reasonable steps, consistent with safe operating practices, to minimize levels of emissions that exceeded the emission standards or other requirements in the permit, and

4.7.2.4 The permittee submitted notice meeting the requirements of Regulation 1.07 of the time when emissions limitations were exceeded because of the emergency. This notice

must fulfill the requirement of this section, and must contain a description of the emergency, steps taken to mitigate emissions, and corrective actions taken.

- 4.7.3 In an enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.
- 4.7.4 This provision is in addition to any emergency or upset provision contained in an applicable requirement.

SECTION 5 Permit Issuance, Renewal, Reopenings, and Revisions

An owner or operator shall not construct, reconstruct, modify or operate a source unless a permit has been issued pursuant to Regulation 2 or this regulation, whichever is applicable.

5.1 Action On Application

- 5.1.1 A permit, permit revision, or permit renewal may be issued only if all of the following conditions have been met:
 - 5.1.1.1 The District has received a complete application pursuant to Section 3 for a permit, permit revision, or permit renewal,
 - 5.1.1.2 Except for permit changes qualifying for administrative permit amendments, changes qualifying for minor permit revision procedures, and District origin permits, the District has complied with the requirements for public participation in Regulation 2.07,
 - 5.1.1.3 The District has complied with the requirements for notifying and responding to affected states in Regulation 2.07,
 - 5.1.1.4 The conditions of the permit provide for compliance with all applicable requirements, and
 - 5.1.1.5 EPA has received a copy of the proposed permit and notices required in Regulation 2.07 and has not objected to issuance of the permit within the time period in Regulation 2.07.
- 5.1.2 Except as provided in the Acid Rain program for the permitting of affected sources, the District shall take final action on each permit application, including a request for permit revision or renewal, within 18 months after receiving a complete application.
- 5.1.3 To the extent feasible, permit applications shall be acted upon in the order of receipt of complete permit applications.
- 5.1.4 The District shall promptly provide notice to the applicant as to whether the permit application is complete. Unless the District requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an permit application, the permit application shall be deemed complete.
 - 5.1.4.1 The District shall not require a completeness determination for permit applications submitted through minor permit revision procedures.
- 5.1.5 The District shall provide a statement that sets forth the legal and factual basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions. The District shall provide this statement to EPA and to any other person who requests it.
- 5.1.6 Final permit action by the District may be reviewed in Jefferson Circuit Court by the applicant, any person who participated in the public-participation process provided pursuant to this regulation, the Act, and 40 CFR Section 70.7(h), or any other person who could obtain judicial review under Kentucky law. Any requirement in this regulation limiting access to judicial review shall not exceed the corresponding limits on judicial review imposed by the standing requirements of the United States Constitution Article III.

- 5.1.7 The opportunity for judicial review of a final permit action in Jefferson Circuit Court described in section 5.1.6 is the exclusive means for obtaining judicial review of the terms and conditions of permits. Petitions for judicial review must be filed no later than 30 days after the petitioner has had actual notice of the determination or could reasonably have had notice after the final permit action. Where petitions for judicial review are based solely on grounds arising after the 30-day deadline for judicial review, the petitions may be filed no later than 30 days after the new grounds for review arise. If the final permit action being challenged is the District's failure to take final action, a petition for judicial review may be filed at any time before the District denies that permit or issues the final permit.
- 5.1.8 The submittal of a complete application shall not affect the requirement that a source have a construction permit pursuant to Regulation 2.03 *Permit Requirements - Non-Title V Construction and Operating Permits and Demolition/Renovation Permits*.
- 5.1.9 Coordination of the permit to construct with the permit to operate
- 5.1.9.1 A source which is operating to demonstrate compliance shall not be considered to have commenced operation under the context of this regulation.
- 5.1.9.2 A source that proposes construction or modifications which are not a major source construction or major modification as defined in Regulation 2 but which will cause the source to become major shall also submit a complete operating permit application pursuant to Section 3 within 12 months of commencing operation.
- 5.1.9.3 For a proposed source that is subject to District regulations only, permitting procedures shall be as defined in Regulations 2.01 *General Application* and 2.02.
- 5.2 Requirement For An Operating Permit
Except as provided in sections 5.3 and 5.5, a source subject to this regulation shall not operate after the time that it is required to submit a timely and complete application except in compliance with a permit issued pursuant to this regulation.
- 5.2.1 Action on the application. The District may issue an operating permit, a significant permit revision or permit renewal if, and only if, the following conditions have been met:
- 5.2.1.1 If a source submits a timely and complete application for permit issuance, significant revision, or renewal, then the source's failure to have a permit is not a violation until the District takes final action on the permit application. This protection shall cease to apply if, subsequent to completeness determination and as required by Section 3, the applicant fails to submit by the deadline specified in writing by the District additional information required to process the application,
- 5.2.1.2 The District has complied with the requirements for notifying and responding to affected states,
- 5.2.1.3 EPA has received a copy of the proposed permit and required notices and has not objected to issuance of the permit within the prescribed time limit,
- 5.2.1.4 The District provides notice to the applicant as to whether the application is complete. Unless the District requests additional information or otherwise notifies the applicant that the application is complete within 60 days of posted receipt of the application, the application shall be deemed complete,
- 5.2.1.5 The District provides to EPA and to any requester a statement that sets forth the legal and factual basis for the draft permit conditions including references to the applicable statutory or regulatory provisions,
- 5.2.1.6 A source which has submitted a complete application for an operating permit may operate from the date the application is deemed complete until the final permit is issued if the applicant submits all requested additional information by the specified

- deadlines, and
- 5.2.1.7 Except as provided in the Acid Rain program for permitting affected sources, the District takes final action on each permit application, including permit revisions or renewal, within 18 months after receiving the complete application.
- 5.2.2 For permit applications submitted pursuant to Section 3, final action shall be taken on the initial group of District selected sources' applications during each 12 month period beginning 12 months after the effective date of this regulation and ending 48 months after the effective date of this regulation or 12 months after the approval or partial approval of the program by EPA and ending 48 months after that date whichever is later.
- 5.3 Permit Renewal, Expiration and Application
 - 5.3.1 Permits being renewed shall be subject to the same procedural requirements, including those for public participation, and for affected state and EPA review, that apply to initial permit issuance.
 - 5.3.2 Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted pursuant to this regulation.
 - 5.3.3 If a timely and complete application for permit renewal is submitted to the District and the District fails to take final action on issuing or denying the renewal permit on or before the end of the previous permit's date of expiration, the source shall continue to operate under the previous permit. The shield shall be in effect until the renewal permit is issued or denied.
 - 5.3.4 The District shall, by certified letter, notify affected sources within 18 months and six months of their respective permit expirations and requirements to submit a new and complete operating permit application.
- 5.4 Administrative Permit Amendments
 - 5.4.1 Administrative permit amendments for the purposes of the Acid Rain portion of the permit shall be governed by regulations of the Acid Rain program.
 - 5.4.2 An administrative permit amendment may be made by the District pursuant to the following:
 - 5.4.2.1 The District shall take no more than 60 days from the receipt of a request for an administrative permit amendment to take final action on the request. It may incorporate the changes without providing notice to the public or affected states provided that it designates that the permit amendments were made pursuant to this Section, and
 - 5.4.2.2 The District shall submit a copy of the amended permit to EPA.
 - 5.4.3 The District may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield pursuant to Section 4.
 - 5.4.4 The source may make the requested change addressed in the administrative permit amendment immediately upon submittal of the request.
- 5.5 Minor Permit Revision Procedures

Except as provided in the Acid Rain Program, the procedures for revising a permit are as follows:

 - 5.5.1 Minor permit revision procedures may be used only for those permit revisions that:
 - 5.5.1.1 Do not violate an applicable requirement,
 - 5.5.1.2 Do not involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit,
 - 5.5.1.3 Do not require or have not changed any case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis, and

- 5.5.1.4 Do not seek to establish or change a permit term or condition for which there is no corresponding applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:
 - 5.5.1.4.1 A federally enforceable emission cap assumed to avoid classification as a modification in a provision of the SIP, and
 - 5.5.1.4.2 An alternative emissions limit approved pursuant to the Act Section 112(I)(5).
- 5.5.1.5 Are not modifications in the regulations promulgated by the District and do not constitute modifications under any provision of the Act Title I, and
- 5.5.1.6 Are not required to be processed as significant permit revisions.
- 5.5.2 Notwithstanding this section, minor permit revision procedures may be used for permit revisions involving the use of economic incentives, emissions trading, and other similar approaches, to the extent that minor permit revision procedures are explicitly provided in the SIP or in applicable requirements.
- 5.5.3 Application. An application requesting the use of minor permit revision procedures shall meet the requirements of Section 3 and shall include:
 - 5.5.3.1 A description of the proposed change, the emissions resulting from the change, and new applicable requirements that apply if the change occurs,
 - 5.5.3.2 The source's suggested draft permit,
 - 5.5.3.3 Certification by a responsible official, pursuant to section 3.5.11, that the proposed revision meets the criteria for use of minor revision procedures and a request that these procedures be used, and
 - 5.5.3.4 Completed forms for the District to use to notify EPA and affected states as required in Regulation 2.07.
- 5.5.4 Public participation requirements of Regulation 2.07 are not applicable to minor permit revisions.
- 5.5.5 EPA and affected state notification. Within five working days of receipt of a complete permit revision application, the District shall provide notice to EPA and affected states, pursuant to Regulation 2.07, of the requested permit revision.
- 5.5.6 Timetable for issuance. The District shall not issue a final permit revision until after EPA's 45 day review period or until EPA has notified the District that EPA will not object to issuance of the permit revision, whichever comes first. However, the District may approve the permit revision prior to that time. Within 90 days of the District's receipt of an application for a minor permit revision or 15 days after the end of EPA's 45 day review period as prescribed in Regulation 2.07, whichever is later, the District shall:
 - 5.5.6.1 Issue the minor permit revision as proposed,
 - 5.5.6.2 Deny the minor permit revision application,
 - 5.5.6.3 Determine that the requested permit revision does not meet the minor permit revision criteria and that it shall be reviewed under the significant permit revision procedures, or
 - 5.5.6.4 Revise the draft permit revision and transmit to EPA the new proposed permit revision pursuant to Regulation 2.07.
- 5.5.7 The source may make the change proposed in its minor permit revision application immediately after it files the application. After the source makes the change allowed, and until the District takes any of the actions specified in this section, the source shall comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this period, the source shall not be required to comply with the

existing permit terms and conditions it seeks to modify. However, if the source fails to comply with the proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify shall be enforced against it. If the minor permit revision is denied, the source shall comply with the existing permit terms and conditions.

5.5.8 Permit shield. The permit shield described in Section 4 shall not extend to minor permit revisions.

5.6 Group Processing Of Minor Permit Revisions

The District may modify the procedure outlined in section 5.1 to process groups of a source's applications for certain modifications eligible for minor permit revision processing.

5.6.1 Criteria. Group processing shall be used only for permit revisions that:

5.6.1.1 Meet the criteria for minor permit revision procedures, and

5.6.1.2 Are collectively below the threshold level. This threshold shall be 10% of the emissions allowed by the permit for the emission unit for which the change is requested, 20% of the applicable definition of major source in Section 2, or 5 tpy, whichever is least.

5.6.2 Application. An application requesting the use of group processing procedures shall meet the requirements of Section 3 and shall include the following:

5.6.2.1 A description of the change, the emissions resulting from the change, and new applicable requirements that shall apply if the change occurs,

5.6.2.2 The source's suggested draft permit revision,

5.6.2.3 Certification by a responsible official, consistent with the requirements of section 3.5.11, that the proposed permit revision meets the criteria for use of group processing procedures and a request that these procedures be used,

5.6.2.4 A list of the source's other pending applications awaiting group processing, and a determination of whether the requested permit revision, aggregated with these other applications, equals or exceeds the threshold,

5.6.2.5 Certification by a responsible official, consistent with the requirements of section 3.5.11, that the source has notified EPA of the proposed modification. The notification need only contain a brief description of the requested modification, and

5.6.2.6 Completed forms for the District to use to notify EPA and affected states pursuant to Regulation 2.07.

5.6.3 EPA and affected state notification. The District shall promptly notify EPA and affected states of the requested permit revisions pursuant to Regulation 2.07 on a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under section 5.6.1.2, whichever is earlier.

5.6.4 Timetable for issuance. Section 5.5.6 shall apply to permit revisions eligible for group processing, except that the District shall take one of the actions specified in sections 5.5.6.1 through 5.5.6.4 within 180 days of receipt of the application, or 15 days after the end of EPA's 45 day review period as prescribed in Regulation 2.07, whichever is later.

5.6.5 The sources ability to make change. Section 5.5.7 shall apply to permit revisions eligible for group processing.

5.6.6 Permit Shield. The permit shield described in Section 4 shall not extend to permit revisions eligible for group processing.

5.7 Significant Permit Revision Procedures

- 5.7.1 Significant permit revision procedures shall be used for applications requesting permit revisions that do not qualify as minor permit revisions or as administrative amendments. At a minimum, significant changes include:
 - 5.7.1.1 Changes in existing monitoring permit terms or conditions, and
 - 5.7.1.2 Relaxation of reporting or record keeping permit terms or conditions.
- 5.7.2 Nothing herein shall be construed to preclude the permittee from making changes pursuant to this regulation that would render existing permit compliance terms and conditions not applicable.
- 5.7.3 Significant permit revisions shall meet all the requirements for permit applications, issuance and renewal and all other District regulations providing for public participation and review by affected states and EPA.
- 5.7.4 The District shall complete the review on the majority of the significant permit revisions within nine months after receipt of a complete application.
- 5.8 **Operational Flexibility**
 The permit shield in this regulation shall not apply to any change made pursuant to this section. Sources may make changes within the permitted source without permit revision (except for sources subject to the Acid Rain regulations) if:
 - 5.8.1 The changes are not modifications pursuant to the Act Title I or subject to any requirements under the Act Title IV,
 - 5.8.2 The changes meet all applicable requirements,
 - 5.8.3 The changes are not subject to minor permit revision requirements,
 - 5.8.4 The changes do not result in an emissions increase that would exceed the allowable emissions rate specified in the permit or require a revision to a permit condition,
 - 5.8.5 The owner or operator notifies the District and EPA, in writing, of the changes at least 10 working days before the changes are made. The written notification shall include:
 - 5.8.5.1 A brief description of the changes within the permitted source,
 - 5.8.5.2 The date on which the changes will occur,
 - 5.8.5.3 Any changes in emissions,
 - 5.8.5.4 Any permit term or condition that is no longer applicable as a result of the change,
 - 5.8.5.5 The pollutant emitted, and
 - 5.8.5.6 Any additional requirement that shall apply as a result of the changes.
 - 5.8.6 The owner or operator shall maintain a record of all operational flexibility changes made at the source.
 - 5.8.6.1 This record shall itemize those changes that result in the emission of a regulated air pollutant and those emission rates that changed as a result of the change, and
 - 5.8.6.2 This record shall also indicate which regulation or requirement applies to this change and any new regulation or requirement that may now apply, and
 - 5.8.7 A copy of each written notice of change, subject to this section, shall be attached to the existing permit.
- 5.9 **Reopening For Cause**
 - 5.9.1 Each issued permit shall include provisions specifying the conditions in which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under the following circumstances:
 - 5.9.1.1 Additional applicable requirements become applicable to a source with a remaining permit term of three or more years,
 - 5.9.1.2 A reopening shall be completed not later than 18 months after promulgation of the applicable requirement,

- 5.9.1.3 A reopening is not required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any terms and conditions have been extended,
- 5.9.1.4 Additional requirements, including excess emissions requirements, become applicable to an affected source in the Acid Rain program. Upon approval by EPA and the District, excess emissions offsets plans shall be incorporated into the permit,
- 5.9.1.5 The District or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit, or
- 5.9.1.6 For federally enforceable permits, EPA or the District determines that the permit shall be revised or revoked to assure compliance with applicable requirements.
- 5.9.2 Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Reopenings shall be made as expeditiously as practicable.
- 5.9.3 A reopening shall not be initiated before a notice of intent to reopen is provided to the source by the District at least 30 days in advance of the date that the permit is to be reopened, except that the District may provide a shorter time period in an emergency.
- 5.10 Reopening For Cause By EPA
 - 5.10.1 If EPA finds that cause exists to terminate, revise, or revoke and reissue a permit pursuant to section 5.8, EPA will notify the District and the permittee of this finding in writing.
 - 5.10.2 The District shall, within 90 days after receipt of notification, forward to EPA a proposed determination of termination, revision, or revocation and reissuance, as appropriate. EPA may extend this 90 day period for an additional 90 days if it finds that a new or revised permit application is necessary or that the District shall require the permittee to submit additional information.
 - 5.10.3 EPA will review the proposed determination from the District within 90 days of receipt.
 - 5.10.4 The District shall have 90 days from receipt of an objection by EPA to resolve the objection and to terminate, revise, or revoke and reissue the permit in accordance with the objection.
 - 5.10.5 If the District fails to submit a proposed determination pursuant to section 5.9.3 or fails to resolve an objection pursuant to section 5.9.4, EPA will terminate, revise, or revoke and reissue the permit after taking the following actions:
 - 5.10.5.1 Provide at least 30 days notice to the permittee in writing of the reasons for the action. The notice may be given during the procedures in section 5.9, and
 - 5.10.5.2 Provide the permittee an opportunity for comment on EPA's proposed action and an opportunity for a hearing.
- 5.11 Permit Revocation. The Board may revoke a permit for cause pursuant to the procedures in Regulation 2.09 *Causes for Permit Modification, Revocation, or Suspension* Section 2 *Revocation by the Board*. Cause for revocation exists if:
 - 5.11.1 There is a pattern of substantial or unresolved noncompliances with the terms and conditions of the permit,
 - 5.11.2 The permittee has refused to take appropriate action to resolve the noncompliance,
 - 5.11.3 The permittee has failed to disclose material facts relevant to the issuance of the permit or has knowingly submitted false information to the District,
 - 5.11.4 The District has determined that the permitted source endangers public health, safety, or the environment, and that the danger cannot be mitigated by revision of the terms and conditions of the permit,

- 5.11.5 The permittee has failed to pay a civil or criminal penalty imposed for a violation of its permit within the time frame directed in the enforcement action, or
- 5.11.6 Any other cause specified in Regulation 2.09 section 2.1
- 5.12 Permit Termination. The District may terminate an operating permit only upon written request of the permittee. The permittee may apply at any time for termination of all or a portion of the permit relating solely to operations, activities, and emissions that have been permanently discontinued. The following provisions shall apply:
 - 5.12.1 The application for termination shall identify with specificity the permit or permit terms that relate to the discontinued operations, activities, and emissions,
 - 5.12.2 The District shall act upon an application for termination within 90 days after receipt and shall grant the application for termination upon finding that the permit terms for which termination is sought relate solely to operations, activities, and emissions that have been permanently discontinued, and
 - 5.12.3 The District may require a final report or other information from the permittee to verify the complete discontinuance of the relevant operations, activities, and emissions. The report shall be signed by a responsible official. This action does not negate the permittee's responsibility to submit a complete permit application for revision if the source remains a major or minor source requiring an operating permit.

Adopted v1/12-15-93; effective 12-15-93; amended v2/6-21-95, v3/9-25-96, v4/12-20-00, v5/6-19-02.

REGULATION 2.17 Federally Enforceable District Origin Operating Permits

Air Pollution Control District of Jefferson County Jefferson County, Kentucky

Relates To: KRS Chapter 77 Air Pollution Control

Pursuant To: KRS Chapter 77 Air Pollution Control

Necessity and Function: KRS 77.180 authorizes the Air Pollution Control Board to adopt and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes procedures for the District to issue federally enforceable District origin operating permits.

SECTION 1 Definitions

Terms used in this regulation that are not defined in this regulation shall have the meaning given to them in Regulations 1.02 *Definitions* and 2.16 *Title V Operating Permits*.

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

SECTION 2 Applicability

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

SECTION 3 General Provisions

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

- permit in the same manner as stack emissions.
- 3.7 The issuance of a FEDOOP does not invalidate the applicability of the requirements of Regulation 2.03 *Permit Requirements Non-Title V Construction and Operating Permits and Demolition/Renewal Permits* except those that are redundant and clearly addressed in Regulation 2.17, in which case the requirements of Regulation 2.17 shall take precedence.

SECTION 4 Permit Applications

- 4.1 Applications for permits issued pursuant to this regulation shall be made on forms prepared by the District or forms that have prior approval by the District.
- 4.2 The applicant shall supplement or correct an application within the time period as specified in writing by the District. Any specified time period shall be a minimum of 30 calendar days.
- 4.3 An applicant who fails to submit relevant facts or who has submitted incorrect information in a permit application shall, upon discovery of the occurrence, promptly submit the supplementary facts or corrected information. The applicant shall provide additional information as necessary to address requirements that become applicable to the stationary source after the date the application was submitted.
- 4.4 The District may deny a permit application for a FEDOOP or FEDOOP revision if the applicant operates a process or process equipment within the stationary source that is not in compliance with all applicable requirements and has not submitted an approvable compliance plan and schedule.

SECTION 5 Permit Requirements

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

SECTION 6 Permit Issuance, Renewals, Revisions, and Revocations

- 6.1 The District shall provide the EPA with notice of proposed issuance, renewal, or revision of a FEDOOP or, pursuant to section 8.5, administrative incorporation of a construction permit, at the time of public notice. If requested for review by the EPA, a permit, permit renewal, or permit revision may be issued only if the EPA has received a copy of the proposed permit and has not objected to the issuance of the permit before the end of the public comment period. Upon issuance, renewal, or revision of a FEDOOP, the District shall, if requested by the EPA, provide the EPA with a copy of the final permit.
- 6.2 If the owner or operator of a stationary source submits an administratively complete application for permit issuance or renewal, then the stationary source's failure to have a permit is not a violation until the District takes final action on the permit application. During this time, the stationary source may continue to operate under its existing permit subject to the terms and conditions of that permit. This protection shall cease to apply if, subsequent to a request for additional information, the applicant fails to submit this information within the time period specified in writing by the District.
- 6.3 The following actions require a permit revision:
- 6.3.1 Relaxations in an existing permit term or condition, including, but not limited to, emission limits or testing, monitoring, recordkeeping, or reporting requirements,

- 6.3.2 Changes that establish new requirements, or
- 6.3.3 Changes that would cause emissions of any air pollutant to exceed the allowable limit specified in the permit.
- 6.4 A permit shall be revised if:
 - 6.4.1 The District determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emission standards or other terms or conditions of the permit, or
 - 6.4.2 Additional requirements become applicable to the source.
- 6.5 The Board may revoke a permit for cause pursuant to the procedures in Regulation 2.09 *Causes for Permit Modification, Revocation, or Suspension* Section 2 *Revocation by the Board*.
- 6.6 After issuance of a FEDOOP, the District shall void any applicable operating permits previously issued to the stationary source.

SECTION 7 Reporting and Recordkeeping Requirements

- 7.1 Stationary sources for which a FEDOOP is issued shall retain all records required by the District or an applicable requirement, including all required monitoring data and supporting information, for a period of 5 years from the date of the monitoring, sampling, measurement, report, or application.
- 7.2 Stationary sources for which a FEDOOP is issued shall submit an annual compliance certification by April 15.

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

- 8.1 The District shall provide public notice of proposed issuance, renewal, or revision of a FEDOOP in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky. Publication shall include paid advertisement, legal notice, or other appropriate format as determined by the District. In the alternative, public notice may be made by the District by publishing a periodic listing made available to the public, provided that the District has first published a public notice in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky, specifying all of the following:
 - 8.1.1 The District's intent to provide public notice through a periodic listing published by the District,
 - 8.1.2 A list of locations where the periodic listing may be inspected by the public, and
 - 8.1.3 The method by which a person may directly receive a copy of the periodic listing.
- 8.2 The public shall be given the opportunity to comment on the non-proprietary information submitted by the owner or operator of the stationary source to the District and on the District's intent to approve the issuance, renewal, or revision of a FEDOOP.
- 8.3 The District shall provide a 30-day period for submittal of public comment. Further, the District shall provide an opportunity for a public hearing for unresolved, germane, non-frivolous issues.
- 8.4 Public comments submitted in writing and received by the District within 30 days after the public notice shall be considered by the District in its decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The District shall consider the applicant's response in making its final decision.
- 8.5 Notwithstanding the requirements of sections 8.1 to 8.3, the District may revise a FEDOOP

through the administrative incorporation of a construction permit, including the terms and conditions of that permit, issued pursuant to Regulation 2, provided that all of the following conditions are met:

- 8.5.1 Public notice of the request by the applicant, or the decision by the District, to modify the FEDOOP is made by the District. The public notice may be made upon receipt by the District of an application for a construction permit. The public notice may be made by publishing a periodic listing made available to the public, provided that the District has first published a public notice in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky, specifying all of the conditions contained in sections 8.1.1 to 8.1.3. The public notice shall include all of the following:
 - 8.5.1.1 A summary description of the modification,
 - 8.5.1.2 A statement that the construction permit, and the terms and conditions of the permit, will be incorporated into the FEDOOP, and
 - 8.5.1.3 A summary of the effect on any current terms and conditions of the FEDOOP,
- 8.5.2 The public has a 30-day opportunity for public comment, and further, an opportunity for a public hearing, and
- 8.5.3 There are no unresolved, germane, non-frivolous public comments.

SECTION 9 Public Notification and Public Hearing Costs

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

Adopted v1/12-21-94; effective 12-21-94; amended v2/6-21-95, v3/6-19-02.