

**Louisville Metro Air Pollution Control District
Preliminary
Regulatory Impact Assessment**

**Regulation 5.21
*Environmental Acceptability for Toxic Air Contaminants***

Purpose of the Draft Proposed Action:

The District proposes to repeal and re-enact Regulation 5.21, Environmental Acceptability for Toxic Air Contaminants, to clarify the text by removing redundant or outdated provisions, reducing the number of cross-references to other regulations, and consolidating STAR definitions into a single new regulation, 5.00, Definitions. The language of the regulation has been generally simplified and the sections reordered. These are administrative changes with no impact other than improving readability. See Attachment 1 (table of parallel provisions).

The environmental acceptability goals of this regulation (the EA goals), which establish the acceptable risk from TAC emissions from processes and process equipment, are not proposed to be revised.

Other proposed changes are intended to streamline implementation and administration of the STAR Program. These include:

- Clarifying the bases upon which Environmental Acceptability (EA) may be demonstrated;
- Specifying when best available control technology for toxics (T-BAT) must be re-evaluated or implemented;
- Addressing when new or modified EA demonstrations are required;
- Revising the scope of notice provided under the program, including post-card notifications;
- Eliminating the de minimis exemption for certain new or modified surface coating exemptions; and
- Eliminating references to the NEET Clean Air Act Technologies Database. The NEET database is no longer maintained by EPA or its contractor. As a result, there is no alternative to RACT/BACT/LAER Clearinghouse referenced in the District's regulations.

The District has attempted to clarify key elements of Regulation 5.21 while preserving its fundamental requirements. However, the complexity of Regulation 5.21 makes revising it a perilous process; the District is mindful of the fact that one seemingly small change can cause lead to a host of unintended consequences. Therefore, public comment on this proposal will be particularly important. To give stakeholders ample time to make a meaningful review, the District proposes to take comments from the public through January 31, 2011.

Estimated Costs and Savings:

Because the District is not proposing to revise the EA goals, the estimated costs and savings associated with this action are not significant. Nevertheless, it is hoped that increased clarity will prevent numerous iterations of EA demonstrations and permit submittals, thus saving both regulated sources and the District time and resources.

There may be some increased costs associated with the elimination of the de minimis exemption for new or modified surface coating operations. However, such costs are expected to be minimal since this exemption only applies to surface coating operations with VOC emissions of 5 tons per year or less and expires after 18 months.

Feasibility of All Alternatives:

Regulation 5.21 is the core of the STAR Program. It establishes the framework for estimating risks and generally prohibits emissions of TACs in a harmful amount or duration by requiring about 229 companies that emit the largest amounts of chemicals to determine, through modeling, whether their emissions exceed the health risk goal for each of the targeted chemicals. Sources that exceed an EA goal may seek a modification or variance or develop a plan to reduce emissions and ultimately reach the goals. No modification can be granted unless the requesting source implements best available control technology for toxics, or T-BAT. None of this is changed in the proposed amendments.

EA demonstrations generally include case-by-cases analyses of model inputs and results based on verified emissions data for TACs emitted by each process or process equipment at a stationary source. “Process” means an action or operation, or a series of actions or operations, from which the emission of an air contaminant may originate. Examples of a “process” include the physical change of a material, the chemical change of a material, the combustion of a fuel, refuse, or waste material, the storage of a material, the handling of a material, and the use of a material.¹ “Process equipment” means all equipment, devices, and auxiliary components, including control equipment and stacks, used in a process.² As a result, EA demonstrations, particularly those for existing stationary sources, are complex.

However, compliance with STAR is not determined for all time by a one-time EA demonstration. STAR is a part of the District's permitting program; the District performs a STAR review prior to issuing a construction or operating permit to a Group 1 or 2 source. Since July 1, 2005, the effective date of STAR, the District has issued nearly 500 permits that have undergone some degree of STAR review, depending on the scope of the project and the TACs involved.

Clarifying the bases upon which environmental acceptability may be demonstrated and when T-BAT must be re-evaluated will improve the efficiency of the STAR Program. Changes to the scope of notice provided under the program will further help to integrate STAR into the

¹ Regulation 1.02 section 1.61.

² Regulation 1.02 section 1.62.

District's general permitting process, which provides legal notice pursuant to KRS Chapter 424 upon issuance of a draft permit.

Finally, the District received several informal comments expressing confusion over the application of the "general duty" clause of Regulation 5.01 to Category 3 and 4 TACs in Regulation 5.21. The District has attempted to clarify these provisions **without changing their meaning**. The District particularly seeks comment on whether or not it has succeeded in doing so. See Attachment 2 (parallel references to Categories 3 and 4 TACs and the general duty clause).

Comparison with Any Minimum or Uniform Standards:

There is no federal requirement for this administrative regulation. This administrative regulation provides for the control of emissions of toxic air contaminants.

Report on Public Outreach Efforts:

This draft proposal to amend Regulation 5.21 is part of a package of proposed amendments to the STAR regulations that was issued for informal external review on March 17, 2010, and sent to: all members of the 2009 STAR Advisory Group; all persons who have requested to be informed of proposed changes to STAR regulations; all persons who have requested to be notified of proposed changes to any District regulations; EPA Region 4; and the Kentucky Division for Air Quality. The District received written informal comments on the original draft proposal and is responding to those comments in a separate Comment/Response document. The public will have an opportunity to comment at a meeting of the appropriate committee of the Air Pollution Control Board, during the formal public comment period, and at a public hearing prior to consideration by the full Board.