

REGULATION 2.08 Fees

Louisville Metro Air Pollution Control District Jefferson County, Kentucky

Pursuant to: KRS Chapter 77 Air Pollution Control

Relates to: KRS 77.195 and 77.205; 42 USC 7661a

Necessity and Function: KRS Chapter 77 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, including establishing fees. The Clean Air Act Title V (42 USC 7661 et seq.) requires the assessment of emissions fees necessary to operate the Title V-required activities of the District. This regulation establishes emissions fees, permit fees, and additional program fees.

SECTION 1 Title V Emissions Fees

- 1.1 Applicability. Annual emissions fees are required from all major sources subject to the operating permit requirements of Regulation 2.16 *Title V Operating Permits*.
- 1.2 Except as provided in section 1.3 or 1.4, emissions fees shall be calculated based on the actual emissions from the stationary source for the calendar year preceding the start of the fiscal year in which the fee is due. For Fiscal Year (FY) 2010 (July 1, 2009, through June 30, 2010), emissions fees shall be calculated by multiplying the total of all the single pollutant actual emissions in tons per year (tpy) for calendar year 2008 by the fee rate of \$48.12 per ton. For each fiscal year after FY 2010, emissions fees shall be calculated by multiplying the total of all the single pollutant actual emissions in tpy for the calendar year preceding the start of the fiscal year 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 (CPI) as most recently published by the EPA, available at www.epa.gov/air/oaqps/permits/fees.html.
- 1.3 The total annual emissions fee shall be the sum of the single pollutant fees except that:
 - 1.3.1 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 statements are required to be submitted annually in accordance with Regulation 1.06 *Source Self-Monitoring and Reporting*. If data for the preceding year are not submitted, the District shall determine the fees based on potential to emit.
- 1.5 Payment of annual emissions fees is due within 45 days of the billing date. The District may approve an installment schedule of payments to be made 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% over 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 the District has approved a payment schedule in writing.

SECTION 2 Permit Fees

- 2.1 The permit fees listed in this Section 2 shall apply to Fiscal Year 2010 (July 1, 2009, to June 30, 2010).
- 2.2 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 CPI (as used in section 1.2), rounded to the nearest dollar. The District shall make available, at the beginning of each fiscal year, a list of the 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 first-issue minor source 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 federally enforceable District-origin operating permits (FEDOOPs), the fiscal year in which the FEDOOP is issued, and
 - 2.3.5 For renewal operating permits, the fiscal year in which the previous operating permit expires.
- 2.4 Permit fees (except permit transfers and asbestos demolition/renovation permits) shall be based on the pollutant that has the largest potential to emit and are on a per permit basis.
 - 2.4.1 Construction permit fees are based on potential to emit for the total project.
 - 2.4.2 Operating permit fees are based on 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 one year. The fee for each permit shall be determined as follows:
 - 2.5.1.1 Subject to Federal PSD/NSR (includes "net-outs," "offsets," other exemptions, or subject to NSPS or NESHAPs) \$ 8,027
 - 2.5.1.2 100 tpy or more, the basic fee is \$ 5,351
 - 2.5.1.2.1 Subject to NSPS, add to the basic fee \$ 1,910
 - 2.5.1.2.2 Subject to NESHAPs, add to the basic fee \$ 1,910
 - 2.5.1.3 Less than 100 tpy, but greater than or equal to 50 tpy, the basic fee is . . \$ 3,249
 - 2.5.1.3.1 Subject to NSPS, add to the basic fee \$ 1,434
 - 2.5.1.3.2 Subject to NESHAPs, add to the basic fee \$ 1,434
 - 2.5.1.4 Less than 50 tpy, but greater than or equal to 10 tpy, the basic fee is . . . \$ 1,243
 - 2.5.1.4.1 Subject to NSPS, add to the basic fee \$ 956
 - 2.5.1.4.2 Subject to NESHAPs, add to the basic fee \$ 956
 - 2.5.1.5 New Stage II Gasoline Dispensing Facilities \$ 2,776
 - 2.5.1.6 Modified Stage II Gasoline Dispensing Facilities for which testing or retesting is necessary \$ 1,109
 - 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 \$ 956
 - 2.5.1.7.1 Subject to NESHAPs or NSPS, add to the basic fee \$ 478
 - 2.5.1.8 Stage I Gasoline Dispensing Facilities of greater than 250 gallon capacity but less than or equal to 1000 gallon capacity \$ 239
 - 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 \$ 670
 - 2.5.1.10 Less than 5 tpy and not subject to NSPS or NESHAPs \$ 357

- 2.5.1.11 Permit transfers \$ 95
- 2.5.2 If a source submits simultaneous applications for construction permits for two or more identical pieces of equipment at the same location, the fee shall be the same as that specified for one piece of equipment.
- 2.5.3 Construction permits may be renewed until the project is completed and the affected facility is in operation unless otherwise provided in Regulation 2.03 *Permit Requirements - Non-Title V Construction and Operating Permits and Demolition/Renovation Permits*. The construction permit renewal fee shall be \$859 or the applicable construction permit fee, whichever is less.

2.6 Minor Source Operating Permit Fees

- 2.6.1 Minor source operating permits are issued to stationary sources that are not subject to the emissions fees of Section 1 or the permit fees of section 2.7.
- 2.6.2 Except as provided in Section 3, minor source operating permits are valid for 5 years 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 minor source operating permits shall be adjusted to a common date and fees shall not be prorated.
- 2.6.4 Minor source operating permits are issued on an equipment basis and the District may require multiple permits.
- 2.6.5 The fee for each minor source operating permit shall be determined as follows:
 - 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) \$ 56
 - 2.6.5.2 Greater than or equal to 100 tpy but not subject to the Title V program . . \$1,482
 - 2.6.5.3 Less than 100 tpy, but greater than or equal to 50 tpy, the basic fee is \$ 593
 - 2.6.5.4 Less than 50 tpy, but greater than or equal to 10 tpy, the basic fee is \$ 446
 - 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 \$ 294
 - 2.6.5.6 Less than 5 tpy, the basic fee is \$ 223
 - 2.6.5.7 Gasoline Dispensing Facilities - Stage II, add to the Stage I fee per fueling position \$ 236
 - 2.6.5.8 Subject to NSPS, add to the applicable basic fee \$ 75
 - 2.6.5.9 Subject to NESHAPs, add to the applicable basic fee \$ 75
 - 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 \$ 75
 - 2.6.5.11 Banking Permit (issuance or reissuance with modification, no renewal required.) \$ 572
 - 2.6.5.12 Permit transfers \$ 95

2.7 Federally Enforceable District Origin Operating Permit (FEDOOP) Fees

- 2.7.1 FEDOOPs are issued to stationary sources pursuant to Regulation 2.17 *Federally Enforceable District Origin Operating Permits*.
- 2.7.2 FEDOOPs 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 fee shall be the sum of the following:

- 2.7.3.1 Special processing fee (including cost of public notification) \$ 593 and
- 2.7.3.2 The sum of the permit fees for all of the emissions units at the stationary source that would normally be assessed pursuant to section 2.6 if the stationary source had not applied for a FEDOOP.
- 2.7.4 The fee for initial issuance of a FEDOOP pursuant to section 2.7.3 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 fee for revision of a FEDOOP shall be the amount that, in the absence of section 2.7, would have been required by section 2.5 or 2.6.
- 2.7.6 The fee for the initial FEDOOP and subsequent renewal FEDOOPs shall be divided by the number of years for which that FEDOOP 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 as follows:**
 - 2.8.1 Friable asbestos demolition/renovation projects:
 - 2.8.1.1 The basic permit fee including the first 1500 linear or square feet ... \$ 765
 - 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 \$ 765
 - 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 \$ 170
 - 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 \$ 478
 - 2.8.2.2 Add to the basic permit fee for each additional full or partial increment of 1500 linear or square feet \$ 478
 - 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 . . \$ 285
 - 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 \$ 285
 - 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 \$ 62
 - 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) \$ 36
 - 2.8.5 Each address on a multiple-dwelling project shall be assessed a fee based on 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, 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 each subsequent revision 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. weekdays, on a weekend, or on a holiday. Requests shall be in writing and are subject to the District's approval . . . \$ 189
- 2.9 PAL Permit Fees. A permit containing a plantwide applicability limit (PAL) shall be valid for ten years. Fees for PAL permits shall be:
 - 2.9.1 Initial PAL permit issuance.....\$8027
 - 2.9.2 Annual PAL fee during the PAL effective period..... \$2000
 - 2.9.3 Renewal of a PAL permit.....\$8027
 - 2.9.4 Increasing a PAL during the PAL effective period\$8027
- 2.10 Permit fees are payable by cash, check, or money order to the District and due 45 days after the issuance of a statement of fees by the District.
- 2.11 Failure to timely pay for permits may cause the issuance of a notice of violation and appropriate enforcement action, including penalties.
 - 2.11.1 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.
 - 2.11.2 Failure to pay 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 the District has approved a payment schedule in writing.

SECTION 3 Permit Renewal And Transfer

- 3.1 All stationary sources shall renew operating permits every 5 years.
- 3.2 The District may, at its discretion, adjust individual permit terms by up to one year to conform with its inspection schedules of stationary sources.
- 3.3 The District may, at its discretion, adjust an individual non-Title V operating permit term by an amount greater than one year.
 - 3.3.1 If, at the time of operating permit renewal, the District adjusts the permit term by more than one year, 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 shorter term.
 - 3.3.2 If, during the term of an operating permit, the District adjusts the permit term by more than one year, 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 shorter term.
- 3.4 Non-Title V construction and operating permits may be reissued to a new owner or operator (transferred) if:
 - 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, and
 - 3.4.2 The District determines that no other changes in the permit are necessary.
- 3.5 The transfer of construction 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 2.6.5.11 shall be issued after each banking transaction, whether ERCs are deposited or removed.

SECTION 4 Review of Permit and Emissions Fees

- 4.1 Permit fees may be reviewed by the Board in accordance with KRS 77.205.
- 4.2 The Board may, by regulation, adjust the Title V emissions fee rate applicable to a fiscal year if:
 - 4.2.1 The District recommends, to the appropriate committee of the Board, an adjusted fee rate based on the District’s actual expenses incurred during the previous fiscal year, the District’s projected expenses for the current fiscal year, and the total for all affected stationary sources of all single pollutant actual emissions for the previous calendar year;
 - 4.2.2 The Board committee reviews the information in section 4.2.1 and makes a recommendation to the full Board;
 - 4.2.3 The public is provided with at least 30 days’ notice and opportunity to comment prior to the public hearing in section 4.2.4, with legal notice made in accordance with KRS Chapter 424 *Legal Notices*; and
 - 4.2.4 The Board holds a public hearing on the proposed action to adjust the Title V emissions fee rate.
- 4.3 If the Board adjusts the Title V emissions fee rate applicable to a fiscal year, the new rate shall be retroactive to the previous July 1.

SECTION 5 Risk Management Plan Program Fee

- 5.1 Beginning 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.
- 5.2 The RMP program fee for Fiscal Year 2010 is.....\$694
- 5.3 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 CPI (as used in section 1.2), rounded to the nearest dollar.
- 5.4 RMP program fees are payable by cash, check, or money order to the District and due 45 days after the issuance of a statement of fees by the District. Failure to timely pay RMP program fees may cause the issuance of a notice of violation and appropriate enforcement action.

SECTION 6 STAR Fees

- 6.1 Beginning in Fiscal Year 2006, Strategic Toxic Air Reduction (STAR) Program fees are required from each stationary source that:
 - 6.1.1 Is a Title V source described in section 1.1,
 - 6.1.2 Has a FEDOOP issued pursuant to Regulation 2.17, or
 - 6.1.3 Is neither a Title V source nor a FEDOOP source but, for calendar year 2007, 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).
- 6.2 The STAR Program fees for Fiscal Year 2010 are:
 - 6.2.1 For a Title V source, the sum of:
 - 6.2.1.1 \$5466, plus

- 6.2.1.2 \$200 per ton of actual emissions of HAPs and ammonia from the Title V source for calendar year 2007.
- 6.2.2 For a FEDOOP source or a 25 ton source, \$544.
- 6.3 The STAR Program fee shall be calculated by multiplying the fee in section 6.2 for the previous fiscal year by the sum of 1 plus the fractional change in the CPI (as used in section 1.2), rounded to the nearest dollar. The District shall make available, at the beginning of each fiscal year, a list of the STAR fees for that fiscal year.
- 6.4 STAR fees are payable by cash, check, or money order to the District and due 45 days after the issuance of a statement of fees by the District. Failure to timely pay STAR fees may cause the issuance of a notice of violation and appropriate enforcement action, including penalties.
- 6.5 Failure to pay STAR fees within 60 days of the due date shall automatically suspend the stationary source's construction and operating permits until the fees are paid or the District has approved a payment schedule in writing.

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, v23/10-21-09.