

**LOUISVILLE METRO AIR POLLUTION CONTROL DISTRICT  
PRELIMINARY REGULATORY IMPACT ASSESSMENT**

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**INCORPORATION BY REFERENCE**

**REGULATION 1.15 VERSION 17**

*Version of Federal Regulations Adopted and Incorporated by Reference*

**REGULATION 5.02 VERSION 20**

*Adoption and Incorporation by Reference of National Emission Standards for  
Hazardous Air Pollutants*

**REGULATION 7.02 VERSION 17**

*Adoption and Incorporation by Reference of Federal New Source Performance  
Standards*

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**AUGUST 14, 2015**

**PURPOSE OF THE PROPOSED ACTION:**

The purpose of this action is to adopt and to incorporate by reference (IBR) the most up-to-date New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and other parts of Title 40 Code of Federal Regulations (CFR) that have been promulgated by the Environmental Protection Agency (EPA) through July 1, 2015.

An IBR allows the District to refer to materials already published elsewhere with the full force of the law. Upon adoption, the District rather than EPA has the primary authority to implement the federal standards and all notifications, reports and other communication are submitted directly to the District. This allows the District to provide compliance assistance and outreach to affected facilities more effectively and in a timelier manner. Furthermore, EPA periodically requires this delegation of authority through IBR to reaffirm that the District has the necessary resources and ability to implement and enforce the federal standards in Jefferson County, Kentucky. The EPA will publish a notice of delegated authority in the Federal Register codified in 40 CFR 60.4(b), 61.04(b) or 63.99.

The Board first adopted Regulations 1.15, 5.02 and 7.02 on April 20, 1988 and has approved periodic updates throughout the years, with the most recent adoption on May 12, 2012.

**I. *Regulation 1.15 Version of Federal Regulations Adopted and Incorporated by Reference***

These provisions are cited throughout District Regulations, and are incorporated by reference once for convenience and will be updated from May 16, 2012 to July 1, 2015.

## **II. Regulation 5.02 *Adoption and Incorporation by Reference of National Emission Standards for Hazardous Air Pollutants (NESHAP & MACT)***

The Clean Air Act directs EPA under Section 112 to establish standards to reduce emissions of hazardous air pollutants. These pollutants include asbestos, benzene, mercury, and vinyl chloride. These requirements are detailed in 40 CFR 61 and 40 CFR 63, which are incorporated by reference within Regulation 5.02 and will be updated from May 16, 2012 to July 1, 2015. The following Federal Register notice chronicles the revisions by EPA to 40 CFR 61 from May 16, 2012 to July 1, 2015: 79 FR 11228, February 27, 2014. The following Federal Register notices chronicle the amendments by EPA to 40 CFR 63 from May 16, 2012 to July 1, 2015: 77 FR 22907, April 17, 2012; 79 FR 11283, February 27, 2014; 80 FR 5938, February 4, 2015; 80 FR 15510, March 24, 2015.

The following subparts of 40 CFR 61 (NESHAP) will be removed from the regulation because the District does not have jurisdiction to enforce or implement:

- A General Provisions-61.04(b), 61.12(d)(1), 61.13(h)(1)(ii), 61.14(g)(1)(ii), 61.16
- B National Emission Standards for Radon Emissions from Underground Uranium Mines
- H National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities
- I National Emission Standards for Radionuclide Emissions from Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H
- K National Emission Standards for Radionuclide Emissions from Elemental Phosphorus Plants
- Q National Emission Standards for Radon Emissions from Department of Energy Facilities
- R National Emission Standards for Radon Emissions from Phosphogypsum Stacks
- T National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings
- W National Emission Standards for Radon Emissions from Operating Mill Tailings

The following subparts of 40 CFR 63 (MACT) will be removed from the regulation because the District does not have jurisdiction to enforce or implement:

- A General Provisions-Sections 63.6(g), 63.6(h)(9), 63.7(e)(2)(ii) & (f), 63.8(f), 63.10(f)
- B Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)
- C List of Hazardous Air Pollutants, Petitions Process, Lesser Quantity Designations, Source Category List
- D Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants
- E Approval of State Programs and Delegation of Federal Authorities

### **III. Regulation 7.02 Adoption and Incorporation by Reference of Federal New Source Performance Standards (NSPS)**

The Clean Air Act directs EPA under Section 111 to establish pollution control requirements for certain industrial activities. They regulate pollutants such as particulate matter, sulfur dioxide, carbon monoxide, nitrogen oxides, and volatile organic compounds. These requirements are detailed in 40 CFR 60, which is incorporated by reference within Regulation 7.02 and will be updated from May 16, 2012 to July 1, 2015. The following Federal Register notices chronicle the amendments by EPA to 40 CFR 60 from May 16, 2012 to July 1, 2015: 77 FR 49490, August 16, 2012; 77 FR 56422, September 12, 2012; 78 FR 9111, February 7, 2013; 78 FR 10006, February 12, 2013; 78 FR 28052, May 13, 2013; 79 FR 11228, February 27, 2014; 79 FR 18952, April 4, 2014; 79 FR 68788, November 19, 2014; 79 FR 79018, December 31, 2014.

The following subparts of 40 CFR 60 (NSPS) will be removed from the regulation because the District does not have jurisdiction to enforce or implement:

- A General Provisions-60.4 (b), 60.8 (b), 60.9. 60.11(b), 60.11(e), 60.13(a), 60.13(d)(2), 60.13(g), 60.13(i)
- B Adoption and Submittal of State Plans for Designated Facilities
- C Emission Guidelines and Compliance Times
- Cb Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors that are Constructed On or Before September 20, 1994
- Cc Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
- Cd Emission Guidelines and Compliance Times for Sulfuric Acid Production Units
- Ce Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators
- AAA Standards of Performance for New Residential Wood Heaters
- DDDD Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units That Commenced Construction on or Before November 30, 1999
- FFFF Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004
- HHHH Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units
- MMMM Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units

### **ESTIMATED COSTS AND SAVING:**

The District believes the proposed amendments will not have an economic impact on businesses, political subdivisions and members of the public. The amendments are implementing federally required regulations. They do not impose any regulations not required by federal law.

**FEASIBILITY OF ALL ALTERNATIVES CONSIDERED:**

There are no alternatives available; this is required by EPA. This action allows the District to reference materials already published elsewhere.

**COMPARISON WITH ANY MINIMUM OR UNIFORM STANDARDS:**

The proposed amendments are implementing federally required regulations and are identical to federal requirements.

**REPORT ON PUBLIC OUTREACH EFFORTS:**

A draft of **REGULATION 1.15** *Version of Federal Regulations Adopted and Incorporated by Reference*, **REGULATION 5.02** *Adoption and Incorporation by Reference of National Emission Standards for Hazardous Air Pollutants*, and **REGULATION 7.02** *Adoption and Incorporation by Reference of Federal New Source Performance Standards* will be sent for formal review to all persons who have requested to be informed of proposed changes to any District regulations; EPA Region 4; and the Kentucky Division for Air Quality.

In addition, pursuant to Regulation 1.08 *Administrative Procedures*, the public will have a 30-day period in which to make written comments and an opportunity to comment at a public hearing prior to adoption of these regulations.