

## **REGULATION 2.03**

## **Authorization to Construct or Operate; Demolition/Renovation Notices and Permit Requirements**

### **Louisville Metro Air Pollution Control District Jefferson County, Kentucky**

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

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

**Necessity And Function:** KRS 77.180 provides that the Air Pollution Control Board may make and enforce all orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the District's requirements for Permits to Construct and Operate and Demolition/Renovation Notices and Permits.

### **SECTION 1 Applicability**

- 1.1 Except as authorized under Regulation 2.02, section 5.8 of Regulation 2.16, and Section 7 of this regulation, no person may construct, reconstruct, modify or operate an affected facility or related air pollution control equipment without a permit issued by the District. Insignificant activities are not required to obtain a construction permit under this regulation.
- 1.2 Determinations made under this regulation are valid until changes are made to the process operation equipment or air pollution control equipment and there is an increase of any air pollutant or the emission of a new air pollutant. If such changes are proposed, the owner or operator shall apply for the appropriate permits.

### **SECTION 2 Definitions**

Unless otherwise specified, terms used in this regulation are defined in Regulation 1.02 *Definitions*.

### **SECTION 3 Asbestos Demolition/Renovation Notices and Permits**

- 3.1 Applicability. This section applies to those processes and process equipment, roadways, and demolition or renovation activities regulated by Regulation 5.04 and Regulation 5.13.
- 3.2 "Facility" as used in this section is defined in Regulation 5.04.
- 3.3 A permit issued by the District is required for any demolition or renovation project that disturbs material containing more than 1% asbestos.
- 3.4 A written notice of demolition of a facility shall be submitted to the District no less than ten business days prior to commencement of demolition, even if no asbestos is present.
- 3.5 A written notice of renovation of a facility shall be submitted to the District no less than ten business days prior to commencement of renovation if material containing more than 1% asbestos will be disturbed in the facility or on any facility component.
- 3.6 A person may be subject to enforcement under KRS Chapter 77 for:

- 3.6.1 Demolishing or renovating a facility containing asbestos without a permit.
- 3.6.2 Demolishing or renovating a facility not in accordance with a permit issued by the District.

#### **SECTION 4 Applications for Permits to Construct or Operate**

- 4.1 Applications for permits to construct or operate an affected facility shall be made on forms authorized by the District.
- 4.2 Applications for construction permits shall include:
  - 4.2.1 A certification that the statements made in the application are true and complete, signed by a responsible official, and
  - 4.2.2 An analysis of the characteristics, properties, and quantity of the air contaminants under maximum operating conditions.
- 4.3 An applicant shall, within the time period specified in writing by the District, provide additional information necessary to:
  - 4.3.1 Determine, implement, or enforce an applicable requirement;
  - 4.3.2 Supplement or correct an application; or
  - 4.3.3 Address requirements that become applicable to the stationary source after the date an application was submitted, but before a permit is issued.
- 4.4 Failure to supply information required by the District may result in the denial of an application for a permit to construct or revocation of a stationary source's authority to operate an affected facility.
- 4.5 An application for a permit may include one or more affected facilities located at a single stationary source.
- 4.6 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, and whether the insignificant activity is in compliance with applicable requirements. However, if the insignificant activity category is subject to a restriction on the size or production rate of the affected facility, information regarding the size or production rate shall be included in the application.
  - 4.6.1 The sum of the potential emissions from all insignificant activities when added with the source's other potential emissions shall not exceed a major source threshold.
- 4.7 Trivial activities need not be listed in the application.
- 4.8 Stationary sources operating pursuant to Regulation 2.16 or 2.17 shall follow the application procedures in those regulations to obtain an operating permit.
- 4.9 Combined Permit to Construct and Operate. The District shall issue a combined permit to construct and operate an affected facility at the following stationary sources:
  - 4.9.1 Stationary sources with a potential to emit less than:
    - 4.9.1.1 100 tons per year of a regulated air pollutant;
    - 4.9.1.2 10 tons per year of a hazardous air pollutant;
    - 4.9.1.3 25 tons per year of combined hazardous air pollutants; and

- 4.9.1.4 100,000 tons per year of CO<sub>2</sub>e.
- 4.9.2 Issuance of a combined permit to construct and operate will terminate a previously issued permit to construct or operate covering the affected facility.
- 4.9.3 In the event a minor source becomes subject to Regulation 2.16 or 2.17, the combined permit to construct and operate shall function as the construction permit for the affected facilities.

## **SECTION 5 Application Review**

- 5.1 After receipt of the permit application, the District shall determine if applicable emission standards and ambient standards are met.
- 5.2 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.
- 5.3 Persons who consider themselves aggrieved by an order of the Board or a determination made by the District or the Board, may file a petition for an administrative hearing under Regulation 1.19. An action on a permit includes the issuance, denial, modification, transfer, suspension, or revocation of a permit.

## **SECTION 6 Issuance, Terms, Renewal and Transfer**

- 6.1 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. All fees shall be assessed and paid in accordance with Regulation 2.08.
- 6.2 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.
- 6.3 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.
- 6.4 Approval to construct, reconstruct, or modify an affected facility shall become invalid if:
  - 6.4.1 Construction is not commenced within 12 months after receipt of approval,
  - 6.4.2 Construction is discontinued for a period of six months or more, or
  - 6.4.3 Construction is not completed within a reasonable time.
- 6.5 The District may extend the time for construction following 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.

- 6.6 The owner or operator of a stationary source authorized pursuant to Regulation 2.03 to operate shall pay an annual fee and submit an annual permit certification on Form AP-500B signed by the responsible official. Authorization to operate may be withdrawn in accordance with Regulation 2.09 for failure to pay any fees or complete the permit certification by the deadline established by the District.
- 6.6.1 This, and any 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."
- 6.7 The District may adjust individual permit terms to accommodate its inspection schedules of stationary sources. Fees for such permits shall be prorated to account for the adjusted term.
- 6.8 Permits or registrations may be transferred to a new owner or operator.
- 6.8.1 Stationary sources subject to Regulation 2.16 shall follow the transfer procedures in that regulation.
- 6.8.2 For all other stationary sources, a permit or registration may be transferred if:
  - 6.8.2.1 A completed Form AP-100A or written statement containing a specific date for transfer of the permit has been submitted to the District,
  - 6.8.2.2 The District determines that no other changes in the permit are necessary, and
  - 6.8.2.3 The stationary source pays the applicable fees.
- 6.9 Approval to construct, reconstruct, modify, or operate any affected facility or to conduct an asbestos demolition or renovation abatement project 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.
- 6.10 Banking permits are not subject to periodic renewal. A modified banking permit shall be issued pursuant to Regulation 2.12 after each banking transaction, when Emission Reduction Credits (ERCs) are deposited or removed.

## **SECTION 7 Construction or Reconstruction of Air Pollution Control Equipment**

- 7.1 Stationary sources shall notify the District prior to constructing or reconstructing any air pollution control equipment. A permit is required to construct or reconstruct any air pollution control equipment that results in an increase of any air pollutant or the emission of a new air pollutant.
  - 7.1.1 A stationary source may commence constructing or reconstructing an air pollution control device ten (10) days after submitting an application to construct, paying the applicable filing fee, and notifying the District in writing of its intent to begin construction prior to the issuance of a construction permit.
  - 7.1.2 The District shall review the application and notify the stationary source within sixty (60) days of receipt of the submittal that:
    - 7.1.2.1 a construction permit issued by the District is not necessary for the project; or

- 7.1.2.2 a construction permit, including applicable fees, is required for the project.
- 7.1.2.3 In the event the District determines that a construction permit is required, the stationary source must suspend construction until a construction permit is issued.
- 7.2 Nothing in this section shall be construed as authorizing the construction or reconstruction of any air pollution control equipment that does not comply with federal, state, or District regulations.

### **SECTION 8 Relocated Sources**

- 8.1 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 8.2.
- 8.2 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.
- 8.3 Any source which locates in Jefferson County from outside Jefferson County shall be treated as a new source.

### **SECTION 9 Reconstructed Sources**

- 9.1 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:
  - 9.1.1 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,
  - 9.1.2 The estimated life of the facility after the replacement compared to the life of a comparable and entirely new facility,
  - 9.1.3 The extent to which the components being replaced cause or contribute to the emissions from the facility, and
  - 9.1.4 Any economic or technical limitations on compliance with new source performance standards which are inherent in the proposed replacements.
- 9.2 Nothing in this regulation is intended to limit the applicability of Regulation 2.04 or 2.05.

### **SECTION 10 Recordkeeping Requirements**

Stationary sources shall retain all records required by the District or an applicable requirement, including all required monitoring data and supporting information, for at least 5 years from the date of the monitoring, sampling, measurement, report, or application.

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, v7/07-20-11, v8/5-15-13.