

REGULATION 1.07 Emissions During Startups, Shutdowns, Malfunctions, and Emergencies

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 notification and reporting requirements for emissions during startups, shutdowns, malfunctions, and emergencies.

SECTION 1 Definitions

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

- 1.1 "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 preventive maintenance, careless or improper operation, or operator error.

SECTION 2 Excess Emissions

- 2.1 Emissions due to startup, shutdown, malfunction, or emergency, that temporarily exceed the standards set forth by the District, shall be deemed in violation of those standards unless, based upon a showing by the owner or operator of the source and an affirmative determination by the District, the applicable requirements of this regulation are satisfied. These applicable requirements are as follows:
 - 2.1.1 Startups and shutdowns are in Section 3,
 - 2.1.2 Malfunctions are in Section 4, 6, and 7, and
 - 2.1.3 Emergencies are in Section 5, 6, and 7.
- 2.2 Notwithstanding the provisions of section 2.1, if a federal regulation requires compliance with emission standards during startup, shutdown, malfunction, or emergency, excess emissions resulting from any of these events shall be deemed in violation of those standards even though, based upon a showing by the owner or operator of the source and an affirmative determination by the District, the applicable requirements identified in section 2.1 are satisfied. However, in the case of technology-based federal emission standards, an emergency shall constitute an affirmative defense to an enforcement action brought for noncompliance with these emission standards if, based upon a showing by the owner or operator of the source and an affirmative determination by the District, the requirements of Section 5 are met. In the case of these technology-based federal emission standards, the District shall include a provision in the applicable permit that this affirmative defense is provided.

- 2.3 Nothing in this regulation shall be construed to restrict the District's discretion to take, at any time, appropriate enforcement action under KRS Chapter 77 if, upon information supplied to the District pursuant to this regulation or otherwise available to the District, the District determines that such action is necessary to protect public health or welfare.

SECTION 3 Startup or Shutdown

- 3.1 When emissions during any planned startup or shutdown are expected to exceed the standards, the owner or operator of the affected facility shall notify the District in writing no later than three days before the planned startup or shutdown. However, if the startup or shutdown is necessitated by events which the owner or operator could not reasonably have foreseen three days before the startup or shutdown, then such notification shall be given as promptly as possible following the determination to shut down or startup and in no event later than one day following the determination to startup or shutdown.
- 3.2 If the emissions exceed the standard for a period in excess of four hours, the owner or operator of the affected facility shall send written notice to the District no later than the end of the next working day following the fourth hour of excess emissions.
- 3.3 Startup or shutdown notices pursuant to section 3.1 shall include:
- 3.3.1 The reason for and duration of the startup or shutdown,
 - 3.3.2 The nature of the action to be taken during startup or shutdown,
 - 3.3.3 The date and time for the action, and
 - 3.3.4 The basis for determination that such startup or shutdown is necessary.

SECTION 4 Malfunctions

- 4.1 In order for excess emissions resulting from a malfunction to not be deemed a violation, the showing and determination identified in section 2.1 shall confirm that all of the following have occurred:
- 4.1.1 The occurrence in question did not result from the failure of the owner or operator of the source to operate and maintain the equipment properly,
 - 4.1.2 All reasonable steps were taken to correct, as expeditiously as practicable, the conditions causing the emissions to exceed the standards, including the use of off-shift labor and overtime if necessary,
 - 4.1.3 All reasonable steps were taken to minimize the emissions resulting from the occurrence, and
 - 4.1.4 The excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance.
- 4.2 In cases where malfunctions are of a repetitious nature, or when more than 12 failures of the same or similar pieces of equipment occur in a 12-month period, the District shall require the owner or operator to submit a written program outlining a time schedule and corrective actions which will result in a permanent solution to the problems. The District reserves the right to continually evaluate and require corrections of malfunctions.

SECTION 5 Emergencies

- 5.1 The affirmative defense of an emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
- 5.1.1 An emergency occurred and that the permittee can identify the cause of the emergency,
 - 5.1.2 The permitted facility was at the time being properly operated,

- 5.1.3 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
- 5.1.4 The permittee submitted notice of the emergency to the District pursuant to this regulation of the time when emission limitations were exceeded due to the emergency. This notice must fulfill the requirements of this section, and must contain a description of the emergency, steps taken to mitigate emissions, and corrective actions taken.
- 5.2 In an enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.
- 5.3 This provision is in addition to any emergency or upset provision contained in an applicable regulation.

SECTION 6 Initial Notification and Reporting Requirements for Malfunctions and Emergencies

- 6.1 When emissions due to malfunction (or to unforeseen shutdown associated with malfunctions) or an emergency are or may be in excess of the standards, the owner or operator of the affected facility shall, as promptly as possible, and in no event later than one hour following the start of the malfunction or emergency, notify the District by telephone. A call placed to the emergency number 911 constitutes notification to the District.
- 6.2 If the time necessary to correct unlawful emissions will exceed four hours, the owner or operator must notify the District of the malfunction or emergency by telephone at the time of this determination and in writing no later than two working days after the start of the emergency or malfunction. Notification of completion of the corrective actions must be made by telephone to the District.
- 6.3 Malfunction and emergency reports and shutdown notices must include the following information:
 - 6.3.1 The name of the air contaminant source and affected facility,
 - 6.3.2 Its location,
 - 6.3.3 The name, address, and telephone number of the responsible person for the affected facility,
 - 6.3.4 The date and time of the occurrence,
 - 6.3.5 The physical and chemical composition, rate, and concentration of the emissions during shutdown and startup, during the malfunction, or during the emergency, and
 - 6.3.6 The measures adopted to minimize the duration and extent of the emissions during shutdown, startup, malfunction, or emergency.
- 6.4 Malfunction and emergency reports shall also include:
 - 6.4.1 The time the excess emissions began and ended,
 - 6.4.2 The time of the beginning and end of the breakdown, malfunction or emergency that is asserted to be the cause of the excess emissions,
 - 6.4.3 An explanation and, where appropriate, an engineering analysis of the cause of the malfunction, breakdown or emergency,
 - 6.4.4 An analysis of the steps that will be taken to prevent or minimize similar occurrences in the future, and
 - 6.4.5 Additional information as the District may require.
- 6.5 The District, for cause, may waive the reports or extend the time period for filing the reports required by this section.

SECTION 7 Extended Malfunctions and Emergencies

- 7.1 In the event of a malfunction or emergency for which the time necessary to correct unlawful emissions will exceed four hours, the Air Pollution Control Officer may authorize continued operation and impose conditions for continued operation.
- 7.2 If the time necessary to correct the unlawful emissions is anticipated to exceed 30 days, the owner or operator shall request, in writing, that the District initiate a Board order.

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