

REGULATION 2.17 Federally Enforceable District Origin Operating Permits

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 procedures for the District to issue federally enforceable District origin operating permits.

SECTION 1 Applicability

This regulation shall apply to any source, or one or more affected facilities at a source, (source) for which the owner or operator voluntarily applies for a federally enforceable District origin operating permit.

SECTION 2 Definitions

Terms used in this regulation not defined herein shall have the meaning given them in Regulations 1.02 and 2.16.

2.1 "Federally enforceable District origin operating permit" (FEDOOP) means an operating permit issued pursuant to this regulation to a source that is not, or would not subsequently be, required to have an operating permit pursuant to Regulation 2.16 and that contains a federally enforceable permit condition, limit, or provision.

SECTION 3 General Provisions

3.1 The source shall comply with all terms and conditions in a FEDOOP, including subsequent revisions.

3.2 All terms and conditions in a FEDOOP, including those requirements designed to limit a source's potential to emit, are enforceable by EPA. However, notwithstanding this provision, permits issued pursuant to this regulation that do not conform to the requirements of this regulation and the requirements in 54 FR 27275 (1989) may be deemed not federally enforceable by EPA.

3.3 Permits may be issued, revised, renewed, or revoked by the District.

3.4 If the SIP allows the determination of an alternative emission limit at a source, then a permit that contains an alternative emission limit shall contain conditions to ensure that the resulting emission limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures. The District shall not issue permits that waive, or make less stringent, any limitation or requirement contained in or issued pursuant to the SIP or that are otherwise federally enforceable, including, but not limited to, standards established pursuant to the Act Sections 111 and 112.

3.5 All application forms, reports, compliance certifications, and any other relevant information submitted to the District shall contain certification by a responsible official. This certification 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."

- 3.6 Fugitive emissions from a source shall be included in the permit application and the permit in the same manner as stack emissions.
- 3.7 The issuance of a FEDOOP does not invalidate the applicability of the requirements of Regulation 2.03 except those that are redundant and clearly addressed in Regulation 2.17, in which case the requirements of Regulation 2.17 shall take precedence.

SECTION 4 Permit Applications

- 4.1 Applications for permits issued pursuant to this regulation shall be made on forms prepared by the District or forms that have prior approval by the District.
- 4.2 The applicant shall supplement or correct an application within the time period as specified in writing by the District. Any specified time period shall be a minimum of 30 calendar days.
- 4.3 An applicant who fails to submit relevant facts or who has submitted incorrect information in a permit application shall, upon discovery of the occurrence, promptly submit the supplementary facts or corrected information. The applicant shall provide additional information as necessary to address requirements that become applicable to the source after the date the application was submitted.
- 4.4 The District may deny a permit application for a FEDOOP or FEDOOP revision if the applicant operates a facility within the source that is not in compliance with all applicable requirements and has not submitted an approvable compliance plan and schedule.

SECTION 5 Permit Requirements

- 5.1 The permit shall include specific conditions that limit the source's potential to emit to a level below the major source threshold levels in Regulation 2.16.
- 5.2 The permit shall include testing, monitoring, recordkeeping, and reporting requirements sufficient to assure compliance with the terms and conditions of the permit.
- 5.3 The terms and conditions of the permit must be permanent, quantifiable, and otherwise enforceable as a practical matter.

SECTION 6 Permit Issuance, Renewals, Revisions, and Revocations

- 6.1 The District shall provide EPA with notice of proposed issuance, renewal, or revision of a FEDOOP or, pursuant to section 8.5, administrative incorporation of a construction permit, at the time of public notice. If requested for review by EPA, a permit, permit renewal, or permit revision may be issued only if EPA has received a copy of the proposed permit and has not objected to issuance of the permit before the end of the public comment period. Upon issuance, renewal, or revision of a FEDOOP, the District shall, if requested by EPA, provide EPA with a copy of the final permit.
- 6.2 If a source submits an administratively complete application for permit issuance or renewal, then the source's failure to have a permit is not a violation until the District takes final action on the permit application. During this time, the source may continue to operate under its existing permit subject to the terms and conditions of that permit. This protection shall cease to apply if, subsequent to a request for additional information, the applicant fails to submit this information within the time period specified in writing by the District.
- 6.3 The following actions require a permit revision:
 - 6.3.1 Relaxations in an existing permit term or condition, including, but not limited to, emission limits or testing, monitoring, recordkeeping, or reporting requirements,
 - 6.3.2 Changes that establish new requirements, or

- 6.3.3 Changes that would cause emissions of any air pollutant to exceed the allowable limit specified in the permit.
- 6.4 A permit shall be revised if:
 - 6.4.1 The District determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emission standards or other terms or conditions of the permit, or
 - 6.4.2 Additional requirements become applicable to the source.
- 6.5 The District may revoke a permit for cause. Upon finding that cause exists for the revocation of a permit, the District shall notify the permittee in writing specifying the reason for this action. The permittee may, within 30 days of the receipt of the notice, respond with written comments concerning the proposed action. The permittee may also request a hearing by the Board pursuant to Regulation 1.08. If the District thereafter makes a final determination to revoke the permit, the District shall provide written notice to the permittee stating the reason for the decision and the effective date of the revocation. Upon revocation, the permittee shall cease all operations and activities affected by the revocation. A permit revocation order with a future effective date may be issued conditionally with the stipulation that the order will not become effective if the permittee satisfies the compliance conditions specified in the order.
- 6.6 After issuance of a FEDOOP, the District shall void any applicable operating permits previously held by the source.

SECTION 7 Reporting and Recordkeeping Requirements

- 7.1 Sources for which a FEDOOP is issued shall retain all records required by the District or an applicable requirement, including all required monitoring data and supporting information, for a period of five years from the date of the monitoring, sampling, measurement, report, or application.
- 7.2 Sources for which a FEDOOP is issued shall submit an annual compliance certification by April 15.

SECTION 8 Public Participation in Federally Enforceable District Origin Operating Permit Actions

- 8.1 The District shall provide public notice of proposed issuance, renewal, or revision of a FEDOOP in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky. Publication shall include paid advertisement, legal notice, or other appropriate format as determined by the District. In the alternative, public notice may be made by the District by publishing a periodic listing made available to the public, provided that the District has first published a public notice in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky, specifying all of the following:
 - 8.1.1 The District's intent to provide public notice through a periodic listing published by the District,
 - 8.1.2 A list of locations where the periodic listing may be inspected by the public, and
 - 8.1.3 The method by which a person may directly receive a copy of the periodic listing.
- 8.2 The public shall be given the opportunity to comment on the non-proprietary information submitted by the owner or operator of the source to the District and on the District's intent to approve the issuance, renewal, or revision of a FEDOOP.
- 8.3 The District shall provide a 30-day period for submittal of public comment. Further, the District shall provide an opportunity for a public hearing for unresolved, germane, non-

- frivolous issues.
- 8.4 Public comments submitted in writing and received by the District within 30 days after the public notice shall be considered by the District in its decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The District shall consider the applicant's response in making its final decision.
 - 8.5 Notwithstanding the requirements of sections 8.1 to 8.3, the District may revise a FEDOOP through the administrative incorporation of a construction permit, including the terms and conditions thereof, issued pursuant to Regulation 2, providing that all of the following conditions are met:
 - 8.5.1 Public notice of the request by the applicant, or the decision by the District, to modify the FEDOOP is made by the District. The public notice may be made upon receipt by the District of an application for a construction permit. The public notice may be made by publishing a periodic listing made available to the public, provided that the District has first published a public notice in the newspaper having the largest bona fide paid circulation in Jefferson County, Kentucky, specifying all of the conditions contained in sections 8.1.1 to 8.1.3. The public notice shall include all of the following:
 - 8.5.1.1 A summary description of the modification,
 - 8.5.1.2 A statement that the construction permit, and the terms and conditions thereof, will be incorporated into the FEDOOP, and
 - 8.5.1.3 A summary of the effect on any current terms and conditions of the FEDOOP,
 - 8.5.2 The public has a 30-day opportunity for public comment, and further, an opportunity for a public hearing, and
 - 8.5.3 There are no unresolved, germane, non-frivolous public comments.

SECTION 9 Public Notification and Public Hearing Costs

The cost of public notifications prescribed under this regulation for a source shall be borne by the applicant.

Adopted v1/12-21-94; effective 12-21-94; amended v2/6-21-95.

	Date Submitted	Date Approved	Federal Register
Original Reg:	11/10/98	02/15/00	65 FR 7437