

# Amendments to Louisville Metro Air Pollution Control District Regulations 1.02, *Definitions*, and 1.11, *Control of Open Burning*, State Implementation Plan (SIP) Submittal

April 20, 2023

Prepared by:



**AIR POLLUTION  
CONTROL DISTRICT**





AIR POLLUTION CONTROL DISTRICT  
LOUISVILLE, KENTUCKY

CRAIG GREENBERG  
MAYOR

RACHAEL HAMILTON  
DIRECTOR

April 20, 2023

Mr. Michael Kennedy, Director  
Division for Air Quality  
300 Sower Blvd, 2<sup>nd</sup> Floor  
Frankfort, KY 40601

Dear Mr. Kennedy:

The Louisville Metro Air Pollution Control District (District) requests that the enclosed material be submitted to the U.S. Environmental Protection Agency (EPA) as revisions to the Jefferson County portion of the Kentucky State Implementation Plan (SIP). Electronic versions of all documents enclosed, including this letter, have been uploaded through SPeCS for SIPs.

This package contains two SIP requests. The District requests that the Commonwealth request the following:

1. Regulation 1.02, *Definitions*, version 16– Request approval into the Jefferson County SIP, replacing version 15.
2. Regulation 1.11, *Control of Open Burning*, version 11– Request approval into the Jefferson County SIP, replacing version 10.

Your prompt consideration of this request is appreciated. If you have any questions or comments, please contact me at [Rachael.Hamilton@LouisvilleKy.gov](mailto:Rachael.Hamilton@LouisvilleKy.gov) or (502) 574-5218.

Sincerely,

DocuSigned by:  
*Rachael Hamilton*  
621E587479C44EA...  
Rachael Hamilton  
Director

Enclosures

[WWW.LOUISVILLEKY.GOV](http://WWW.LOUISVILLEKY.GOV)

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## Checklist

### Administrative Materials<sup>1</sup>

- a) *Letter*<sup>2</sup>
- b) *Adoption* 
  - Appendix A – minutes of March 15, 2023 Louisville Metro Air Pollution Control Board
- c) *Legal Authority*  (see Necessity and Function section of regulations)
- d) *Actual Regulation or document, including changes made*
  - Appendices B & C, Regulations,
  - Appendices D & E, Redline/Strikethrough of Regulations
- e) *Commonwealth/Local procedural requirements*
  - Appendix F, Committee Notice (KRS 61.823)
  - Appendix G, Committee Minutes (KRS 77.185, LMAPCD Regulation 1.08)
  - Appendices H & I, Copy of 7-21 day public notices for hearing & continuation (KRS 424.130)
  - Appendix J, Copy of notice extending public comment period
- f) *Copy of 30 day public notice* – Appendix K
- g) *Signed Public Hearing Minutes* – Appendix L
- h) *Comments & Responses* – Appendix M

### Technical Support<sup>3</sup>

- a) *Pollutant Identification*
- b) *Area Identification*
- c) *Quantification of changes*
  - Appendices N & O, Regulatory Impact Assessments
- d) *Anti-backsliding demonstration*  (see Quantification of changes)
- e) *Modeling (if required)*  (n/a)
- f) *Evidence limitations are based on continuous emission reduction technology (if necessary)*   
(n/a)
- g) *Evidence plan contains emission limitations, work practice standards and recordkeeping/reporting requirements (if necessary)*  (n/a)
- h) *Compliance/enforcement strategies* 
  - See Appendices N & O, Regulatory Impact Assessments
- i) *Special economic and technological justifications (if required)*  (n/a)

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<sup>1</sup> 40 CFR Part 51, Appendix V, 2.1

<sup>2</sup> Letter from Commonwealth is technically required. Letter to DAQ may be used to fulfill some administrative requirements.

<sup>3</sup> 40 CFR Part 51, Appendix V, 2.2

## Introduction & Background

### Pollutant/Area Identification

**Pollutant:** N/A  
**Affected Area:** Jefferson County, Kentucky  
**Location:** Louisville MSA

**Area Designation:** Ozone (2015 Standard) –Moderate Nonattainment

### Resulting Emissions Changes:

See Regulatory Impact Assessments, Appendices N & O.



Appendix A  
Minutes of March 15, 2023 Louisville Metro Air Pollution Control  
Board

**Minutes  
Regular Meeting  
of the  
Louisville Metro Air Pollution Control Board**

**March 15, 2023**

A regular meeting of the Louisville Metro Air Pollution Control Board was called to order on March 15, 2023, via video teleconference, at 10:32 a.m., by the Chairman, Carl Hilton. Viewing of the video teleconference was available in the Edison Room of the Louisville Metro Air Pollution Control District, 701 West Ormsby Avenue, Suite 303, Louisville, Kentucky. Also present at the meeting in the Edison Room were Vice Chairman Steve Sullivan, Dr. Geoffrey Cobourn, and Dr. Daniel Garst. Board members attending via teleconference were Dr. Josephine Mei, Marisa Neal, and Kandice Shobe-White. A quorum was present.

The following Louisville Metro Air Pollution Control District staff members present in the Edison Room were Rachael Hamilton, Steven Gravatte, Rachel T. Smith, Michelle King, Billy DeWitt, Matt King, Byron Gary, and Matt Mudd. Also attending via video teleconference were Eva Addison, Cameron Barnett, Jesse Carpenter, Narathip Chitradon, Andrea Cooley, Craig Butler, Aaron DeWitt, Matt Dwyer, Chris Gerstle, Shannon Hosey, Ben Jacobs, Kevin Klesta, Tina Oakes, Bryan Paris, Andy Purdon, Starlet Raj, Shane Stiles, and Karen Thorne. Assistant County Attorney Quang Nguyen and County Attorney staff member Tammy Gartland were also present.

The following guests were present in the Edison Room: Daymond Talley, Metropolitan Sewer District; Wesley Sydnor, Metropolitan Sewer District; Tony Parrott, Metropolitan Sewer District; Rick Caldwell, Citizen; Michael Schuerman, Citizen; Brian Bingham, Metropolitan Sewer District; Robin Burch, Metropolitan Sewer District; Nicole George, Deputy Mayor; Kristin Baker, LG&E-KU; and Philip Imber, LG&E-KU. Other guests attending via video teleconference were Brandan Burfict, LG&E-KU; Cheryl Fisher, Accord Advising; Connor Giffin, Gannett; Corinne Greenberg, Chemours; Emily Thompson, Bakelite; Greg Dutton, Frost, Brown, Todd; James McDonald, AECOM; Jennifer Cave, Stites & Harbison; Jenny Rhodes, Aeterra; Kevin Gibson, Metropolitan Sewer District; Mark [no last name given], Beargrass House; Mary Ann Lee, Frost, Brown, Todd; Michael Moore, Metropolitan Sewer District; Nik Eiche, Olmstead Parks; Stewart McCollam, P.E., All4, Inc.; and Terri Phelps, Citizen.

**Introductions**

Ms. Rachael Hamilton, Director of The District introduced Mr. Quang Nguyen, Assistant County Attorney, who will be serving as the Board's new parliamentarian. Mr. Nguyen joined the Jefferson County Attorney's Office in 2021 to represent the District after 14 years with the Kentucky Public Service Commission.

**Public Recognitions**

Ms. Hamilton recognized Stacy Fritze Dott, who retired on March 1, 2023, following 25 years of service to Louisville Metro, 22 of those years spent in service to the District and the Board. The District will miss her expertise in the Clean Air Act and in District regulations. The District deeply appreciates her contributions to the District's clean air mission. The Board extended its appreciation for her commitment and assistance to the Board.

Ms. Hamilton also recognized Mr. Mike DeBusschere, who frequently attended the Board's meeting and contributed to discussions about the District's work, lost his battle with metastatic prostate

cancer on February 25, 2023. Mr. DeBusschere had a long career as an environmental professional, including nine years of service as the District's Air Pollution Control Officer in the 1980s. The District's current work rests on the foundation that our predecessors set. A donation in Mr. DeBusschere's memory has been made to the Air Quality Trust Fund to recognize his contributions to improve Louisville's air quality.

#### **Approval of Minutes**

The minutes of the public hearing and regular Board meeting held on February 15, 2023, were approved with no corrections.

#### **New Business**

Mr. Byron Gary, Regulatory Coordinator, recommended on behalf of the District that the Board consider and adopt amendments to:

1. Regulation 1.02; *Definitions*, Version 16, Draft 1

Mr. Byron Gary, Regulatory Coordinator, recommended that the Board adopt amended Regulation 1.02 as proposed by the District, with a minor typographical fix.

**Motion:** Board member Dr. Geoffrey Cobourn moved to adopt Regulation 1.02 as recommended by the District.

The motion was seconded and passed unanimously.

2. Regulation 1.11; *Control of Open Burning*, Version 11, Draft 1

Mr. Gary recommended that the Board adopt amended Regulation 1.11 as proposed by the District, with the typographical fix and minor change described to the Board.

**Motion:** Board member Dr. Geoffrey Cobourn moved to adopt Regulation 1.11 as recommended by the District.

The motion was seconded and passed unanimously.

3. Regulation 1.13; *Control of Objectionable Odors in the Ambient Air*, Version 6, Draft 1

Mr. Gary recommended that the Board adopt amended Regulation 1.13 as proposed by the District.

**Motion:** Board member Dr. Geoffrey Cobourn moved to adopt Regulation 1.13 as proposed by the District.

The motion was seconded and passed unanimously.

4. Regulation 1.15; *Version of Federal Regulations Adopted and Incorporated by Reference*, Version 22, Draft 1

Mr. Gary recommended that the Board adopt amended Regulation 1.15 as proposed by the District.

**Motion:** Board member Dr. Geoffrey Cobourn moved to adopt Regulation 1.15 as proposed by the District.

The motion was seconded and passed unanimously.

## Staff Reports

### A. Director

Ms. Rachael Hamilton, Director, announced the installation of a large monitor in the Edison Room to better assist with meetings. On behalf of the District, Ms. Hamilton extended her appreciation to Mr. Andy Purdon, IT Analyst, for his continuing work to add new meeting technology to improve the District's ability to share its work.

Ms. Hamilton reported on the February train derailment in New Palestine, Ohio. Because the train carried hazardous materials, including vinyl chloride, concerns about impacts to drinking water supplies were widespread throughout the Ohio River basin. The District also received a number of calls from elected officials and the public asking about impacts to air quality in Louisville as a result of the derailment. In response, the District issued a statement on social media as follows:

“Based on the distance between our area and the event and the predominant wind directions of the past week, there is no air quality impact expected in the Louisville area. Vinyl Chloride (the primary pollutant of concern) is monitored for at two sites in Louisville and a preliminary review of the raw data shows no vinyl chloride was detected at either site. Out of an abundance of caution, the situation will continue to be monitored.”

In the weeks following the derailment, the District has continued to monitor air toxics with no detections of vinyl chloride. Ms. Hamilton extended her thanks to Mr. Matt Mudd, Communications Specialist, for the social media post and for preparing a new report covering the District's monitoring of select air toxics utilizing an automated gas chromatograph (Auto GC). Ms. Hamilton added the Auto GC is new technology, and the District is among the first nationwide to use it for monitoring air toxics. The data shared in the report is the first full year of quality-assured data from the Auto GC at the Algonquin Parkway air monitoring site, which was collected from July 2020 to June 2021. The report also lays out the District's processes for collecting and verifying the data. As to the data, the District produced a report similar to its regular Board Air Toxics Reports but instead using the long-term average, and, to provide some context, offered a reference to the District's West Louisville Air Toxics Study. The District also provided some comparisons to other air monitoring sites throughout the country in various settings with varied amounts of exposure to sources. The District will provide a deeper look into the report and its data at the April 2023 Board meeting.

Ms. Hamilton reported that on March 14, 2023, there was a release of nitrogen dioxide (NO<sub>2</sub>) in New Albany, Indiana, and that the District received questions as to whether the release

impacted Louisville. She stated that based on data from the Cannons Lane and Durrett Lane air monitoring sites, the release would have been dispersed before it impacted this area.

In response to Chairman Hilton's question as to when ozone season begins, Ms. Hamilton stated that it began on March 1, 2023. To answer Chairman Hilton's additional question of whether it is too early to have seen elevated levels of ozone, Mr. Billy DeWitt, Air Monitoring Program Manager, stated that the District has seen some elevated levels in March, although none were close to the standard. Vice Chairman Sullivan asked if that is tied to some of the warm days in March to which Mr. DeWitt responded affirmatively. Vice Chairman Sullivan also asked about New Albany's air monitoring systems, and Mr. DeWitt explained that Indiana does have three sites that monitor for ozone and particulate matter, and some toxics monitoring. Ms. Hamilton added that the District's air monitoring staff work closely with Indiana Department of Environmental Management (IDEM), especially during ozone season, to issue air quality alerts.

Ms. Hamilton announced that several District staff members will participate with Mayor Greenberg, the Deputy Mayors, and a host of Metro agencies for the first Mayor's Night Out at the Northeast YMCA on Wednesday, March 15. The planned series of town hall-style gatherings provide opportunity for the public to engage with Metro leadership, ask questions, voice concerns, or otherwise discuss issues important to them. The District looks forward to meeting with the public to hear their thoughts and concerns about its work.

Within the last month, U.S. EPA has announced a flurry of funding opportunities for communities, stakeholders, and agencies to reduce pollution, address climate change, and restore environmental justice. These include the Environmental Justice Government-to-Government (EJG2G) program, which provides funding at the state, local, territorial, and tribal level to support government activities that lead to measurable environmental or public health impacts in communities disproportionately burdened by environmental harms, and the Climate Pollution Reduction Grants program, which will provide grants to states, local governments, tribes, and territories to develop and implement plans for reducing greenhouse gas emissions and other harmful air pollution. This funding provides an investment of \$5 billion to support efforts by states, municipalities, air pollution control agencies, and groups to develop and implement strong, local greenhouse gas and pollution reduction strategies. This two-staged grant program provides funding of \$250 million for noncompetitive planning grants, and \$4.6 billion for competitive implementation grants. From an air pollution control agency perspective, these funding opportunities are unprecedented as well as challenging since these opportunities are coming all at once. The District, however, is working with state and other local agencies to leverage as much of this money as possible to achieve the goals and will update the Board on how these opportunities may benefit Louisville.

Vice Chairman Sullivan inquired as to who can apply for these grants. Ms. Hamilton stated that for the Climate Pollution Reduction Grants, states, local communities, municipalities, and air pollution control agencies, can all apply; however, during the implementation phase, there may be a broader group who can compete. The EJG2G Program requires applicants to have a community partner. Ms. Michelle King, Executive Administrator and Director of Program Planning, added that the District is working with a few community-based organizations and reaching out to prospective partners. She invited other organizations to reach out to the District if they have an interest in partnering on a EJG2G grant project.

Vice Chairman Sullivan asked if this includes groups that implement climate control activities. Ms. Hamilton responded that for the Climate Pollution Reduction Grant there are two phases, the first being for states with the intention of developing comprehensive reduction plans,

the second being a competitive opportunity for implementation activities. She added that Louisville is further ahead of its peer cities in climate reduction programs, such as the Climate Adaptation Plan, the Climate Resilience Plan, and the Greenhouse Gas Inventory, and while other cities are just beginning that work, this grant money will allow Metro to update those projects or develop pilot projects that reduce pollution by generating energy that does not use combustible fuels and also allows for a multipollutant approach to pollution reduction. Additionally, these grants create opportunities for the District to partner with other agencies to reduce climate impacts.

Ms. Hamilton announced that Mr. Tony Parrott, Executive Director of the Metropolitan Sewer District (MSD) is present at this meeting to report on MSD's findings in the Technical Memoranda, the ongoing catch basin repair process, and their next steps in implementing the first phase of the Morris Forman Water Quality Treatment Plant Odor Control Master Plan to address odors from Morris Forman and the collection system. In particular, how odors will be managed next summer on a short-term basis and how projects identified in the Phase I Odor Control Master Plan will be implemented. Ms. Hamilton stated that the District continues to support MSD with its complaint data and air pollution expertise and will assist MSD in obtaining funding to implement the necessary infrastructure improvements identified in the Master Plan and to mitigate and reduce sewer-related odors, particularly west of Ninth Street. Ms. Hamilton recognized the District's Compliance Officers, Tina Oakes, Mario Beeler, Steve Oswald, and Patrick DiGangi, who respond, among other things, to odor complaints. Over the past several years, the bulk of their time for several months in the summer has been consumed by responding to complaints about odors from MSD's operations. Ms. Hamilton also recognized prior District enforcement staff member Mr. Byron Barber, and the District's current Compliance and Enforcement Coordinator, Matthew Dwyer, who were instrumental in developing Notices of Violation and corrective actions to address these odors over the past few years. She went on to thank the Air Pollution Control Board for its leadership in approving the Agreed Board Order requiring MSD to develop and implement a county-wide Odor Control Master Plan with priority and focus in Phase I on the Morris Forman service area and the collection system between Ninth Street and the Ohio River where the majority of odor complaints have been received by the District. MSD has also developed an odor event outreach communications plan, a collection system maintenance/service schedule, and a publicly available complaint and response log for all odor complaints as required by the Agreed Board Order.

Mr. Tony Parrott, Executive Director of the Metropolitan Sewer District, gave a presentation to update the Board on steps MSD has been taking to satisfy the District's Amended Agreed Board Order. He added that given the supply chain issues over the past few years, costs for various projects has skyrocketed.

Board member Dr. Geoffrey Cobourn asked what the repair of the catch basins might involve. Mr. Brian Bingham, MSD's Chief of Operations, explained that there are trapped and untrapped catch basins, and MSD is clearing out the catch basins and going from an untrapped to a trapped catch basin. Vice Chairman Sullivan asked if this is part of the high costs of supplies now, and Mr. Bingham responded affirmatively.

Chairman Hilton asked for an update on the 2022 project of replacing and repairing the catch basins in the Park Duvalle area. Mr. Bingham stated that the project has been completed, and he also clarified that the original number of untrapped basins was reported higher. He added that because of federal regulations and the way Park DuValle was constructed, MSD could not replace old combined pipe with new combined pipe. Instead, they had to install storm lines in sewer lines without traps, but at some point those lines tie back into the combined sewer, so they did not have to replace the higher number reported originally. Vice Chairman Sullivan asked if MSD had

evidence yet that this process worked, and Mr. Bingham replied that although MSD is still monitoring it, it does seem to be working. He added that the Park DuValle area is unique in that other odor sources are nearby, such as the Morris Forman Water Treatment Plant and Rubbertown, and even though residents have learned to distinguish the source, full information is not always entered into the Smell MyCity App. Mr. Bingham stated that MSD and the Air Pollution Control District continue to perform due diligence in following up on complaints. Additionally, Mr. Bingham stated that as things break and cause odors, MSD will first inspect to make sure that existing repairs are still working and, if so, investigate what else could be causing the problem. He also shared other maintenance issues that MSD discovered during its process and have since been addressed. Chairman Sullivan requested clarification on how many catch basins needed to be inspected and/or repaired in other West End neighborhoods, and Mr. Bingham placed that number at approximately 400.

In response to Chairman Hilton's question about MSD's regulatory authority, Mr. Parrott confirmed that MSD has its own Board with certain things for which the Board is responsible but established by Metro Ordinance and also items that must be approved by Metro Council.

Board member Dr. Josephine Mei asked if MSD performed any analysis after water intervention was used to minimize odors during previous drought periods and whether MSD had developed a proactive plan for anticipating this need in the future to mitigate odors as a result of minimal rainfall. Mr. Bingham explained that the odors are not consistent in all areas meaning that some odors occur in one area after a certain number of days and then in another area after a different number of days, which makes it difficult to define one plan. MSD is working on a pilot project for the 2023 summer season and will provide more information as that develops.

Vice Chairman Sullivan asked for more detail on MSD's community outreach to which Mr. Parrott responded that the clAIRity Program has been conducting meetings throughout Jefferson County and will welcome special requests for meetings outside its own schedule. MSD will be working more collaboratively with all Metro agencies to effectively communicate with the public. Vice Chairman Sullivan asked for additional clarification as to how MSD communicates with the public when a specific odor incident is occurring. Mr. Bingham stated that the difficulty in communication arises when odors are reported anonymously through the app and there is no one to follow up with. The alternative has been posting the information on the website even though the information is one month in arrears. He added that MSD will take all calls and when someone does call, he or she will get to speak to a live person. MSD also has to account for the fact that the public often wants to communicate in a different way, such as, social media, in-person, or phone calls, and MSD is trying to develop a plan for working with as many people the best that it can.

Ms. Hamilton added that when MSD has a planned or unplanned incident that may cause odors, District Regulation 1.13 requires the incident to be reported to the District. Additionally, Regulation 1.07 requires notice of excess emissions as well, which MSD does adhere to, but the District will work with MSD to assure that this information is shared with the public as it is reported. She suggested that the incident reports by MSD, which describe how these incidents occur, what steps MSD is taking to resolve them, and when the problem might be resolved, would benefit and give the public a sense of control.

#### **B. Air Quality Report**

The air quality monitoring report was submitted for filing. A copy is attached to the original minutes.

Vice Chairman Sullivan asked if there has been any federal response to the PM<sub>2.5</sub> issue. Ms. Hamilton stated that the public comment period on the proposed reconsideration of the PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) continues through March 28, 2023. Ms. Hamilton added that there is a possibility that the comment period could be extended.

**C. Air Toxics Report**

The air toxics report was submitted for filing. A copy is attached to the original minutes.

**D. Enforcement Status Report**

The enforcement status report was submitted for filing. A copy is attached to the original minutes.

**E. Excess Emission Event Report**

The excess emission event report was submitted for filing. A copy is attached to the original minutes.

**F. Complaint Investigation Status Summary**

The complaint investigation status summary was submitted for filing. A copy is attached to the original minutes.

**G. Lawn Care for Cleaner Air Report**

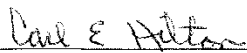
The lawn care for cleaner air report was submitted for filing. A copy is attached to the original minutes.

**Next Meeting**

The next Board meeting is scheduled for Wednesday, April 19, 2023, at 10:00 a.m.

**Adjourn**

The meeting was adjourned at 11:09 a.m.

  
\_\_\_\_\_  
Carl E. Hilton  
Chairman

  
\_\_\_\_\_  
Byron Gary  
Secretary-Treasurer



## Appendix B

### District Regulation 1.02, *Definitions*, version 16

## **REGULATION 1.02 Definitions**

### **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 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. This regulation contains definitions used throughout District regulations.

#### **SECTION 1 Definitions**

The following terms shall have the meaning given to them in this regulation except as otherwise specified in District regulations. All terms not defined in these regulations shall have the meaning given to them in KRS 77.005, the Clean Air Act, or by commonly accepted usage.

- 1.1 "Act" means the Clean Air Act, 42 USC 7401 et seq.
- 1.2 "Acute noncancer effect" means a biochemical change, functional impairment, or pathological lesion that is produced within a short period of time following an exposure and that affects the performance of the whole organism or reduces the organism's ability to respond to additional environmental challenges.
- 1.3 "Administrative permit revision" means a revision to a permit that:
  - 1.3.1 Corrects typographical errors;
  - 1.3.2 Changes the name, address, or phone number of a person identified in the permit;
  - 1.3.3 Increases the frequency of monitoring, recordkeeping, or reporting by the permittee;  
or
  - 1.3.4 Changes the ownership or operational control of a source.
- 1.4 "Affected facility" means a process or process equipment to which a regulation is applicable.
- 1.5 "Air contaminant" or "air pollutant" means smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, or particulate matter, or any combination of these, that is emitted into or otherwise enters the outside air. These terms also include any precursors to the formation of an air contaminant or air pollutant.
- 1.6 "Air pollution control equipment" means equipment that may be required by law or regulation for the control of air pollution but is not vital to production of the normal product of the process or process equipment or to its normal operation.
- 1.7 "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference method or an equivalent method but that has been demonstrated to the satisfaction of the U.S. Environmental Protection Agency (EPA) and the District to produce, in specific cases, results adequate for determining compliance.
- 1.8 "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access. For the purpose of determining the concentration of an air contaminant that is or may be emitted by a stationary source, ambient air also includes the atmosphere, external to buildings, that is beyond the property line of that stationary source, regardless of whether the general public has access.
- 1.9 "Ambient air quality standard" means a numerical expression of the level of an air contaminant required to be achieved and maintained through the application of

appropriate preventive or control measures. An “ambient air quality standard” consists of two parts:

- 1.9.1 A specified concentration for a particular air contaminant and
- 1.9.2 A time-averaging interval over which that concentration is measured.
- 1.10 "Annual mean" means an average determined on the basis of any consecutive 12-month interval.
- 1.11 "Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, amosite, anthophyllite, and actinolite-tremolite.
- 1.12 "Asbestos mill" means any process or process equipment engaged in converting, or in any intermediate step in converting, asbestos ore into commercial asbestos. Outside storage of asbestos materials is not considered a part of the asbestos mill.
- 1.13 "Asbestos material" means asbestos or any material containing asbestos.
- 1.14 "Asbestos tailings" means any solid waste that contains asbestos and is a product of asbestos mining or milling operations.
- 1.15 "Best available control technology" (BACT) means an emission limitation, including a visible emission standard, based on the maximum degree of reduction for each pollutant subject to regulation that would be emitted from any proposed new or modified process or process equipment that the District, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for that new or modified process or process equipment through the application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, innovative fuel combustion techniques, and pollution prevention approaches, for elimination, reduction, or control of that pollutant. In no event shall the application of BACT result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under Part 5, 6, or 7 of District regulations. If the District determines that technological or economic limitations on the application of measurement methodology to a particular process or process equipment would make the imposition of an emissions standard infeasible, a design, equipment, work practice, or operational standard, or combination of those approaches, may be prescribed instead.
- 1.16 "Board" means the Louisville Metro Air Pollution Control Board as provided for in KRS Chapter 77.
- 1.17 “Bypass” means the intentional diversion of air contaminants from air pollution control equipment or process equipment that normally reduces the emission of the air contaminants.
- 1.18 "Cabinet" means the Energy and Environment Cabinet of the Commonwealth of Kentucky as provided for in KRS Chapter 224.
- 1.19 "Commence" means that an owner or operator has obtained all necessary preconstruction approvals or permits and has either:
  - 1.19.1 Begun, or caused to begin, a continuous program of actual on-site construction or modification, to be completed within a reasonable time, or
  - 1.19.2 Entered into a binding agreement or a contractual obligation, that cannot be canceled or modified without substantial loss to the owner or operator, to undertake a continuous program of actual on-site construction or modification, to be completed within a reasonable time.
- 1.20 "Commercial asbestos" means any asbestos that is extracted from asbestos ore.

- 1.21 "Compliance plan and schedule" means a list of remedial measures including an enforceable sequence and timing of actions or operations leading to compliance with a limitation or standard by a specific date.
- 1.22 "Construction" means fabrication, erection, or installation of an affected facility or any portion of an affected facility.
- 1.23 "Demolition" means the wrecking or taking out of any load-supporting structural member of a structure together with any related handling operations.
- 1.24 "District" means the Louisville Metro Air Pollution Control District as provided for in KRS Chapter 77.
- 1.25 "Division" means the Division for Air Quality (DAQ) of the Energy and Environment Cabinet of the Commonwealth of Kentucky as provided for in KRS Chapter 224.
- 1.26 "Emission standard" means a requirement that is contained in a federal, state, or local law or regulation, District permit, or Board Order, or is otherwise legally enforceable that limits the quantity, rate, concentration, or opacity of the emission of an air contaminant on a continuous basis, including any requirement related to the operation or maintenance of a process or process equipment to assure continuous emission reduction, and any design, equipment, work practice, or operational standard.
- 1.27 "Emissions unit" or "facility" means a part or activity of a stationary source that emits or has the potential to emit a regulated air pollutant, any pollutant listed under the Act Section 112(b), or GHGs subject to regulation. This term is not meant to alter or affect the definition of the term "unit" as used in the Acid Rain program.
- 1.28 "Equivalent method" means a method of sampling and analyzing for an air pollutant that has been demonstrated to the satisfaction of the EPA to have a consistent and quantitatively-known relationship to the reference method under specified conditions.
- 1.29 "Excess emissions" means emissions that exceed an applicable emission standard.
- 1.30 "Existing affected facility," except as otherwise specified under applicable regulations, means any affected facility that is in existence or has commenced construction before the effective date of the applicable emission standard and that has not been subsequently modified or reconstructed.
- 1.31 "Federally Enforceable District Origin Operating Permit" (FEDOOP) means a non-Title V operating permit issued by the District that contains a federally enforceable permit condition, limit, or provision.
- 1.32 "Fixed capital cost" means the capital needed to provide all of the depreciable components.
- 1.33 "Fuel" means natural gas, petroleum, coal, wood, and any other form of solid, liquid, or gaseous matter consumed for the purpose of creating useful heat.
- 1.34 "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- 1.35 "Hazardous air pollutant" (HAP) means any air pollutant listed in Regulation 5.14 *Hazardous Air Pollutants and Source Categories* pursuant to the Act section 112(b), 42 USC 7412(b).
- 1.36 "Incineration" means the process of igniting and burning solid, semi-solid, liquid, or gaseous combustible or partially combustible wastes.
- 1.37 "Incinerator" means any furnace used in the process of burning waste for the purpose of reducing the volume of waste by removing combustible matter.
- 1.38 "Insignificant activity" means the following:

- 1.38.1 An affected facility that is not subject to a federally enforceable requirement, other than generally applicable requirements, does not involve the incineration of medical waste, and meets one of the following provisions:
- 1.38.1.1 The affected facility is listed in Appendix A of Regulation 1.02 and the uncontrolled potential emissions of the affected facility do not exceed either 5 tons per year of a regulated air pollutant or 1,000 pounds per year of a hazardous air pollutant,
- 1.38.1.2 The affected facility is determined to be insignificant on a case-by-case basis. For a case-by-case approval, all of the following provisions are met:
- 1.38.1.2.1 The potential emissions of the affected facility do not exceed either 5 tons per year of a regulated air pollutant or 1000 pounds per year of a hazardous air pollutant,
- 1.38.1.2.2 The potential emissions of the affected facility are in conformance with the general prohibition of air pollution of Regulation 1.09, and
- 1.38.1.2.3 Specific approval of the affected facility as an insignificant activity was made pursuant to approval of a Title V permit issuance, renewal, or revision that had undergone the full public participation process, including the notice, comment, and EPA objection provisions, in Regulation 2.07, or
- 1.38.1.3 The affected facility is listed as an insignificant activity in the District's federally approved Title V permit program,
- 1.38.1.4 Other types of activities approved by the District for a specific stationary source on a case-by-case basis may be viewed on the District's List of Title V Operating Permits on its website.
- 1.38.2 For the purpose of this definition, potential emissions mean the emissions before air pollution control devices. An R&D facility that has the same SIC as the manufacturing facility or is considered a support facility at the manufacturing facility shall be considered a part of the stationary source but may be treated as an insignificant activity if the R&D facility meets the qualifications of this definition. The emissions from insignificant activities shall be accounted for in determining major source status, and
- 1.38.3 For the purpose of an initial permit pursuant to this regulation, an affected facility that had been identified as an insignificant activity in a permit application that was, before December 20, 2000, determined by the District to be complete pursuant to section 3.2, and the District had determined that the potential emissions of the affected facility do not exceed either 5 tons per year of a regulated air pollutant or 1,000 pounds per year of a hazardous air pollutant, shall be treated as an insignificant activity. However, the District may require the applicant to submit additional information to demonstrate compliance with these requirements. The determination by the District that the potential emissions of an affected facility do not exceed these levels shall be subject to EPA review and approval.
- 1.39 "Lowest achievable emission rate" (LAER) means, for any affected facility, that rate of emissions based on the more stringent of the following:
- 1.39.1 The most stringent emission limitation that is contained in the implementation plan of any State for that class or category of affected facility, unless the owner or operator of the proposed affected facility demonstrates that this limitation is not achievable, or

- 1.39.2 The most stringent emission limitation that is achieved in practice by that class or category of affected facility taking into consideration the pollutant that must be controlled. In no event shall the application of LAER permit a proposed affected facility to emit any pollutant in excess of the amount allowable under an applicable new source standard in Part 5, 6, or 7 of District regulations or 40 CFR Part 60, 61, or 63.
- 1.40 "Major source", except as specified in another regulation for use in that regulation, means any stationary source, which emits, or has the potential to emit, 100 tons per year or more of any air pollutant subject to regulation under the Act, 10 tons or more of an individual HAP, or 25 tons per year or more of a combination of HAPs.
- 1.41 "Malfunction" means the sudden, unforeseen, and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard, but not including a failure that is caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or equipment breakdown.
- 1.42 "Maximum achievable control technology" (MACT) means the maximum achievable control technology defined in the Act section 112 (d), 42 USC 7412(d).
- 1.43 "Minor permit revision" means a revision to a permit that:
- 1.43.1 Does not violate an applicable requirement;
- 1.43.2 Does not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
- 1.43.3 Does not require or change a case-by-case determination of (1) an emission limitation or other standard, (2) a source-specific determination for temporary sources of ambient impacts, or (3) a visibility or increment analysis;
- 1.43.4 Does not seek to establish or change a permit term or condition for which there is no corresponding applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:
- 1.43.4.1 A federally enforceable emission cap assumed to avoid classification as a modification in a provision of the SIP, and
- 1.43.4.2 An alternate emissions limit approved pursuant to Section 112(i)(5) of the Act.
- 1.43.5 Is not a modification in the regulations promulgated by the District and does not constitute a modification under any provision of the Title I of the Act; and
- 1.43.6 Is not required to be processed as significant permit revisions.
- 1.44 "Minor source" means a stationary source that is not subject to Regulations 2.16 or 2.17.
- 1.45 "Modification", except as specified in another regulation for use in that regulation, means any physical change in, or change in the method of operation of, an affected facility that increases the amount of any air pollutant (to which an emission standard applies) emitted by that affected facility or that results in the emission of any air pollutant (to which an emission standard applies) not previously emitted, except that:
- 1.45.1 Routine maintenance, repair, and replacement shall not be considered a physical change, and
- 1.45.2 A change in the method of operation, unless previously limited by permit conditions, shall not include:

- 1.45.2.1 An increase in the production rate, if the increase does not exceed the operating design capacity of the affected facility or of the air pollution control equipment installed on the affected facility,
- 1.45.2.2 An increase in the hours of operation when the increase does not result in a violation of any applicable emission standards,
- 1.45.2.3 Use of an alternative fuel or raw material if, prior to the date any standard under this regulation becomes applicable to that affected facility, the affected facility is designed to accommodate the alternative use,
- 1.45.2.4 Use of an alternative fuel or raw material by reason of an order, rule, or natural gas curtailment plan approved by the District, or
- 1.45.2.5 A change in ownership of the stationary source.
- 1.46 "New affected facility" means any affected facility the construction, modification, or reconstruction of which is commenced on or after the effective date of an applicable emission standard.
- 1.47 "Nitrogen oxides" means all oxides of nitrogen, except nitrous oxide, as measured by test methods specified by the District.
- 1.48 "Odor" means the property of an air contaminant that can be detected by the sense of smell.
- 1.49 "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
- 1.50 "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outside air without passing through a stack, chimney, vent, or other functionally equivalent opening.
- 1.51 "Organic compound" or "organic material" means a chemical compound of carbon that has the same meaning as "volatile organic compound."
- 1.52 "Outside air" or "open air" means the air outside of buildings and structures.
- 1.53 "Owner or Operator" means any person who owns, leases, operates, controls, or supervises one or more affected facilities.
- 1.54 "Particulate asbestos material" means finely divided particles of asbestos material.
- 1.55 "Particulate matter" means any material, except uncombined water, that exists in a finely divided form as a liquid or a solid.
- 1.56 "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.
- 1.57 "PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.
- 1.58 "Person" means any individual, firm, co-partnership, joint venture, association, corporation, social club, fraternal organization, estate, trust, receiver, syndicate, county, city, municipality, district (for air pollution control or other purpose), or other political subdivision, or any group or combination acting as a unit, and the plural as well as the singular unit.
- 1.59 "Pollution prevention" (P2) means the use of materials, processes, or practices that reduce or eliminate the creation of pollutants or wastes by the process. Pollution

prevention includes practices that reduce the use of hazardous and nonhazardous materials, energy, water, or other resources as well as practices that protect natural resources through conservation or more efficient use.

- 1.60 "Potential hazardous emissions" means an air pollutant, exclusive of pollutants regulated under the Act Section 112(b), 42 USC 7412(b), to which no ambient air quality standard is applicable and that, in the judgment of the District, may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
- 1.61 "Potential to emit" (PTE) means the maximum capacity of a stationary source or an affected facility to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source or affected facility to emit a pollutant, including air pollution control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source or affected facility.
- 1.62 "Preventable upset condition" means the sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard that results entirely or in part from poor maintenance, careless operation, or any other preventable upset condition or equipment breakdown.
- 1.63 "Process" means an action or operation, or a series of actions or operations, from which the emission of an air contaminant may originate. Examples of a "process" include any of the following:
- 1.63.1 The physical change of a material,
  - 1.63.2 The chemical change of a material,
  - 1.63.3 The combustion of a fuel, refuse, or waste material,
  - 1.63.4 The storage of a material,
  - 1.63.5 The handling of a material, and
  - 1.63.6 The use of a material.
- 1.64 "Process equipment" means all equipment, devices, and auxiliary components, including control equipment and stacks, used in a process.
- 1.65 "Reactor" means a vat or vessel that may be jacketed to permit temperature control, designed to contain chemical reactions.
- 1.66 "Reasonably available control technology" (RACT) means devices, systems, process modifications, or other apparatus or techniques, including pollution prevention approaches, that are reasonably available taking into account the necessity of imposing those controls in order to attain and maintain a national ambient air quality standard and the social, environmental, and economic impact of those controls.
- 1.67 "Reconstruction" means the replacement of process equipment for an affected facility to the extent that the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new affected facility.
- 1.68 "Reference Method" means any method of sampling and analyzing for an air pollutant as prescribed in the following EPA regulations: Standards of Performance for New Stationary Sources (40 CFR Part 60), National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61), National Emission Standards for Hazardous Air Pollutants



for Source Categories (40 CFR Part 63), National Primary and Secondary Ambient Air Quality Standards (40 CFR Part 50), and Requirements for Preparation, Adoption, and Submittal of Implementation Plans (40 CFR Part 51).

- 1.69 "Regulated air pollutant" means the following:
  - 1.69.1 Nitrogen oxides,
  - 1.69.2 Volatile organic compounds,
  - 1.69.3 A pollutant for which a national ambient air quality standard has been promulgated,
  - 1.69.4 Any Class I or II substance subject to a standard promulgated under or established by the Act Title VI,
  - 1.69.5 Any pollutant that is subject to a standard promulgated under the Act Section 111,
  - 1.69.6 Any pollutant that is subject to a standard promulgated under the Act Section 112 or other requirements established under Section 112, including Sections 112(g), 112(j), and 112(r), and including the following:
    - 1.69.6.1 Any pollutant subject to requirements under Section 112(j). If EPA fails to promulgate a standard by the date established pursuant to Section 112(e), any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e), and
    - 1.69.6.2 Any pollutant for which the requirements of Section 112(g)(2) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.
- 1.70 "Regulation" means a rule or order adopted by the Board pursuant to KRS Chapter 77 for the control or abatement of air contaminants within its jurisdiction or for the administration of the District.
- 1.71 "Responsible official" means one of the following:
  - 1.71.1 For a corporation: a president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of that person if the representative is responsible for the overall operation of manufacturing, production, or operating facility applying for or subject to a permit and either:
    - 1.71.1.1 The source employs more than 250 persons or has gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or
    - 1.71.1.2 The delegation of authority to the representative is approved by the District;
  - 1.71.2 For a partnership or sole proprietorship, a general partner or the proprietor, respectively;
  - 1.71.3 For a municipal, state, federal, or other public agency, either a principal executive officer or ranking elected official, or designee. For this regulation, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA).
- 1.72 "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.
- 1.73 "Significant permit revision" means a revision to a permit that:
  - 1.73.1 Does not qualify as minor permit revision or as administrative revision;

- 1.73.2 Includes any significant changes to or relaxation of existing monitoring, reporting, or recordkeeping permit terms or conditions;
- 1.73.3 Establishes new requirements; or
- 1.73.4 Causes emissions of any air pollutant to exceed the allowable limit specified in the permit.
- 1.74 "Sludge" means solid or semi-solid material produced by a treatment plant that processes municipal or industrial waste waters.
- 1.75 "Sludge dryer" means a device used to reduce the moisture content of a sludge by heating to temperatures above 65°C directly with combustion gases.
- 1.76 "Stack or chimney" means a flue, conduit, or duct arranged to conduct a gas stream to the outside air.
- 1.77 "Standard conditions" means:
  - 1.77.1 For source measurements, 20°C and a pressure of 760 mm Hg, and
  - 1.77.2 For the purpose of air quality determinations, 25°C and a reference pressure of 760 mm Hg.
- 1.78 "Stationary source" means all of the air pollutant-emitting activities, including all processes and process equipment that are located on one or more contiguous or adjacent properties and are under the control of the same person or persons under common control. A property shall be considered contiguous if separated by only a public thoroughfare, stream, or other right-of-way. If a transmission and fuel delivery right-of-way or a strip of land that serves no other principal purpose than as a transportation or materials handling link connecting two or more otherwise separate stationary sources, then the connected stationary sources shall be considered as separate stationary sources.
- 1.79 "Startup" means the setting in operation of an affected facility for any purpose.
- 1.80 "Trivial activities" means any activity that is considered inconsequential, as determined by the District, and included in Appendix B to this Regulation.
- 1.81 "Twelve month rolling period" or "12-month rolling period" means a period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.
- 1.82 "Upset condition" means the sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard and that results entirely or in part from either a malfunction or a preventable upset condition.
- 1.83 "Uncombined water" means water that is either in a gaseous, liquid, or solid state and that is not bound to a compound by internal molecular forces.
- 1.84 "Volatile organic compound" (VOC) means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.
  - 1.84.1 The exclusions from the definition of Volatile Organic Compounds (VOC) found at 40 CFR §51.100(s)(1) as of July 1, 2022 for compounds which have been determined to have negligible photochemical reactivity are adopted and incorporated by reference.
  - 1.84.2 Copies of the CFR are available for sale from:
    - U.S. Government Printing Office
    - Superintendent of Documents
    - Mail Stop SSOP

Washington, DC 20402-9328

or for free by downloading from the Internet: <http://www.gpo.gov/fdsys/>.

- 1.85 "Welfare," when referring to effects on welfare, includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.
- 1.86 "Year" means a calendar year.

Adopted v1/4-19-72, effective 4-19-72; amended v2/6-13-79, v3/11-16-83, v4/4-20-88, v5/5-15-91, v6/3-17-93, v7/6-16-93, v8/9-25-96, v9/11-19-97, v10/12-19-01, v11/6-21-05, effective 7-1-05; v12/6-15-11; v13/5-15-13, v14/9-21-16, v15/06-19-19; v16/03-15-23.

**Appendix A to Regulation 1.02**  
**Insignificant Activities**

1. Indirect heat exchangers, except furnaces that combust waste oil regardless of size, of the following types:
  - 1.1. Those less than 10 million BTU/hr capacity using distillate oil, propane, butane, LPG, or natural gas as fuel, or
  - 1.2. Those used solely for heating residential buildings not exceeding four dwelling units.
2. Internal combustion engines, whether fixed or mobile, and vehicles used for transport of passengers or freight, except as may be provided for in subsequent regulations;
3. An affected facility that is not subject to a federally enforceable requirement, other than a generally applicable requirement and does not involve the incineration of medical waste. The following facilities are included in this category:
  - 3.1. Presses used exclusively for extruding metals, minerals, or wood,
  - 3.2. Dry cleaners for which there is no emission, performance, or other standard,
  - 3.3. Lint traps used in conjunction with commercial laundry and dry cleaners,
  - 3.4. Brazing, soldering or welding equipment,
  - 3.5. Equipment commonly used in wood-working operations, except for conveying, hogging or burning of sawdust or wood waste,
  - 3.6. Foundry core-making equipment to which no heat is applied and for which there is no emission standard,
  - 3.7. Ovens used exclusively for curing potting materials or castings made with epoxy resins,
  - 3.8. Equipment used for compression or injection molding of plastics,
  - 3.9. Containers, reservoirs, or tanks used exclusively for:
    - 3.9.1. Dipping operations for coating objects with oils, waxes, or greases and where no organic solvents, diluents, or thinners are used, or
    - 3.9.2. Storage of lubricating oils or fuel oils with a vapor pressure of less than 10 mm Hg at conditions of 20 oC and 760 mm of Hg,
  - 3.10. Emergency relief vents, stacks and ventilating systems,
  - 3.11. Laboratory ventilating and exhausting systems which are not used for radioactive air contaminants,
  - 3.12. Process, exhaust or ventilating systems in bakeries or eating establishments preparing food for human consumption,
  - 3.13. Blast cleaning equipment using a suspension of abrasives in water,
  - 3.14. Equipment used exclusively for heat treating, soaking, case hardening or surface conditioning of metal objects such as carbonizing, cyaniding, nitriding, carbonitriding, siliconizing, or diffusion treating when natural gas or LP gas is used as fuel,
  - 3.15. Equipment used for washing or drying products fabricated from metal or glass provided no volatile organic materials are used in the process and no oil or solid fuel is burned,
  - 3.16. Equipment, machines, devices, or contrivances built or installed to be used at a domestic residence for domestic use,
  - 3.17. Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enameling furnaces or vitreous enameling drying ovens,

- 3.18. Crucible or pot furnaces with a brim full capacity of less than 450 cubic inches of any molten metal,
- 3.19. Facilities using only peanut oil, sunflower oil, cottonseed oil or canola oil,
- 3.20. Soil or ground water contamination remediation projects that are entirely passive or entail the total removal of the contaminated substrate for disposal in a certified landfill. Remediation systems that actively vent to the atmosphere by pumps or fans are not exempt,
- 3.21. Dust or particulate collectors that are located indoors vent directly indoors into the workspace, collect no more than one ton of material per year and do not collect materials listed in Regulation 5.11, 5.12 or 5.14,
- 3.22. Cold solvent parts cleaners that are equipped with a functional secondary reservoir into which the solvent drains during use,
- 3.23. Portable diesel or gasoline storage tanks with a maximum capacity of less than 500 gallons. Portability is defined as being in one location less than one year,
- 3.24. Storage vessels for VOCs with a maximum capacity of 250 gallons or less,
- 3.25. Diesel or fuel oil storage tanks that are not used for distribution, sale or resale, and that have less than two times the capacity of the vessel in annual turnover of the fluid contained,
- 3.26. All pressurized VOC storage vessels, and
- 3.27. Research and Development (R&D) facilities.

**Appendix B to Regulation 1.02  
Trivial Activities**

1. Combustion emissions from propulsion of mobile sources, except for vessel emissions from Outer Continental Shelf sources.
2. Air-conditioning units used for human comfort that do not have applicable requirements under title VI of the Act.
3. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process.
4. Non-commercial food preparation.
5. Consumer use of office equipment and products, not including printers or businesses primarily involved in photographic reproduction.
6. Janitorial services and consumer use of janitorial products.
7. Internal combustion engines used for landscaping purposes.
8. Laundry activities, except for dry-cleaning and steam boilers.
9. Bathroom/toilet vent emissions.
10. Emergency (backup) electrical generators at residential locations.
11. Tobacco smoking rooms and areas.
12. Blacksmith forges.
13. Plant maintenance and upkeep activities (e.g., grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots) provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification.<sup>1</sup>
14. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating or de-greasing (solvent metal cleaning) activities, and not otherwise triggering a permit modification.
15. Portable electrical generators that can be moved by hand from one location to another.<sup>2</sup>
16. Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning or machining wood, metal or plastic.
17. Brazing, soldering and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals.<sup>3</sup>
18. Air compressors and pneumatically operated equipment, including hand tools.
19. Batteries and battery charging stations, except at battery manufacturing plants.

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<sup>1</sup> Cleaning and painting activities qualify if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners/operators must still get a permit if otherwise required.

<sup>2</sup> "Moved by hand" means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device.

<sup>3</sup> Brazing, soldering and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals are more appropriate for treatment as insignificant activities based on size or production level thresholds. Brazing, soldering, welding and cutting torches directly related to plant maintenance and upkeep and repair or maintenance shop activities that emit HAP metals are treated as trivial and listed separately in this appendix.

20. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP.<sup>4</sup>
21. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.
22. Equipment used to mix and package, soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.
23. Drop hammers or hydraulic presses for forging or metalworking.
24. Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment.
25. Vents from continuous emissions monitors and other analyzers.
26. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities.
27. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation.
28. Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit VOC or HAP.
29. CO2 lasers, used only on metals and other materials which do not emit HAP in the process.
30. Consumer use of paper trimmers/binders.
31. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam.
32. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants.
33. Laser trimmers using dust collection to prevent fugitive emissions.
34. Bench-scale laboratory equipment used for physical or chemical analysis, but not lab fume hoods or vents.<sup>5</sup>
35. Routine calibration and maintenance of laboratory equipment or other analytical instruments.
36. Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.
37. Hydraulic and hydrostatic testing equipment.
38. Environmental chambers not using hazardous air pollutant (HAP) gasses.
39. Shock chambers.
40. Humidity chambers.
41. Solar simulators.

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<sup>4</sup> Exemptions for storage tanks containing petroleum liquids or other volatile organic liquids should be based on size limits such as storage tank capacity and vapor pressure of liquids stored and are not appropriate for this list.

<sup>5</sup> Many lab fume hoods or vents might qualify for treatment as insignificant (depending on the applicable SIP) or be grouped together for purposes of description.

42. Fugitive emission related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes and any required fugitive dust control plan or its equivalent is submitted.
43. Process water filtration systems and demineralizes.
44. Demineralized water tanks and demineralizer vents.
45. Boiler water treatment operations, not including cooling towers.
46. Oxygen scavenging (de-aeration) of water.
47. Ozone generators.
48. Fire suppression systems.
49. Emergency road flares.
50. Steam vents and safety relief valves.
51. Steam leaks.
52. Steam cleaning operations.
53. Steam sterilizers.



## Appendix C

### District Regulation 1.11, *Control of Open Burning*, version 11

**REGULATION 1.11 Control of Open Burning**

**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 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. This regulation provides for the control of open burning by any person.

**SECTION 1 Definitions**

Terms used in this regulation that are not defined in this regulation shall have the meaning given to them in Regulation 1.02 *Definitions*.

1.1 "Fire pit" means either:

- 1.1.1 A portable device that is commercially manufactured for the purpose of building a recreational fire, such as a chimenea or above-ground fire pit, or
- 1.1.2 A permanent, constructed fire chamber that is completely lined with noncombustible material, such as brick, rock, or concrete, the bottom of which may be soil.

**SECTION 2 Prohibition of Open Burning**

2.1 No person shall cause, allow, or maintain any open fire except the following:

- 2.1.1 A fire substantially for the cooking of food for non-commercial purposes; however, a fire maintained at a size or duration in excess of that appropriate for the cooking of food, or a fire for which the cooking of food is an inconsequential activity, shall be considered a recreational fire subject to the requirements of section 2.1.3. The cooking of food for non-commercial purposes in a device such as a grill, smoker, or cooker shall not be deemed an open fire subject to this regulation,
  - 2.1.2 A fire in a fire pit, provided that:
    - 2.1.2.1 Only untreated firewood is used as fuel, and
    - 2.1.2.2 The fire is no larger than 3 feet long by 3 feet wide by 3 feet high.
  - 2.1.3 A fire determined by the District to be for recreational or ceremonial purposes and approved in writing by the District, provided that:
    - 2.1.3.1 A written request, on a form provided by the District, for approval of a recreational or ceremonial fire from the person in charge of the event is received by the District at least 5 working days before the requested date of the event,
    - 2.1.3.2 Only untreated firewood is used as fuel, and
    - 2.1.3.3 The fire is no larger than 5 feet long by 5 feet wide by 5 feet high,
- 2.1.4 A fire for general agricultural production, i.e., a controlled burn for weed abatement, disease control, or pest prevention or for recognized silvicultural, range, native grassland, or wildlife management practices, provided that open burning is necessary and approved for that purpose by the District, after considering the written recommendation of the Jefferson County Soil and Water Conservation District and the local fire protection district. No such fire may be set when the forecasted average wind speed is greater than 15 miles per hour during the expected period of burning,
- 2.1.5 A fire for controlling a public health hazard, provided that the Louisville Metro Department of Public Health and Wellness has declared open burning to be necessary for this purpose and has submitted a written notice of this determination to the District,

- 2.1.6 A fire set for the prevention of a fire or safety hazard, provided that the local fire protection district or the appropriate regulatory agency having jurisdiction where the hazard exists has declared open burning to be necessary to abate the hazard and has submitted a written notice of this determination to the District,
- 2.1.7 A fire, or a series of fires, set for the purpose of bona fide instruction and training of public and industrial employees in the methods of fighting fires that is approved in writing by the District. A written request, on a form provided by the District, for approval of the fire training exercise from the official in charge, or a designee of the official in charge, shall be received by the District at least 5 working days before the date of the first fire,
- 2.1.8 A fire set for the purpose of debris removal necessitated by natural forces, including, but not limited to, a tornado, very severe windstorm, or flood, having caused community-wide damage, that, if the fire were prohibited, would place a severe burden on other disposal methods and that is declared, in writing, to be necessary by the Louisville Metro Mayor and approved in writing by the District. A written request, on a form provided by the District, for approval of a debris removal fire shall be considered by the District on a case-by-case basis. The visible emissions into the outside air from a fire for this purpose shall not be equal to or greater than 40% opacity, and
- 2.1.9 A special-case fire not otherwise addressed in section 2.1, approved in writing by the District on a case-by-case basis. A written request for approval of a special-case fire from the person in charge of the fire shall, if possible, be received by the District at least 10 working days before the requested date of the fire. The request shall include an explanation of why the fire is necessary.
- 2.2 A fire described in sections 2.1.2 to 2.1.9 is prohibited on any day designated by the District as an Air Quality Alert Day, except that a fire set for controlling a public health hazard pursuant to section 2.1.5 may be set if declared necessary by the Louisville Metro Mayor to abate an imminent danger to human health or safety.
- 2.3 A person responsible for a fire described in section 2.1 shall also comply with all applicable provisions of KRS Chapters 149 *Forestry*, 150 *Fish and Wildlife Resources*, or 227 *Fire Prevention and Protection*, any other state law or regulation, any local ordinance, and any District regulation.
- 2.4 Tires, used oil, heavy oil, gasoline, diesel fuel, kerosene, or similar accelerants shall not be used to start or maintain combustion of any fire described in section 2.1; except that fires for general agricultural production for weed abatement, disease control, or pest prevention or for recognized silvicultural, range, native grassland, or wildlife management practices approved by the District pursuant to paragraph 2.1.4 may use liquid accelerant to start fires, provided their use is approved by the District.
- 2.5 Burn barrels of any sort are prohibited.
- 2.6 The District may require the submittal of information, on a form provided by the District, regarding a fire allowed by sections 2.1.2 to 2.1.9.
- 2.7 The District may impose limitations or prohibitions on a fire allowed by sections 2.1.2 to 2.1.9, including, but not limited to, the following:
- 2.7.1 The composition and amount of material to be burned, and the frequency of approved fires,
- 2.7.2 The time and day for the burning, including an episodic prohibition of burning based upon the forecasted meteorological or air quality conditions of a day for which burning is otherwise approved, and
- 2.7.3 Where practical, the location of the fire.

Adopted v1/4-19-72; effective 4-19-72; amended v2/10-17-72, v3/9-1-76, v4/2-19-86, v5/12-17-86, v6/1-20-88, v7/12-20-89, v8/2-22-90, v 9/1-15-03, v10/1-16-08; v11/03-15-23.

## Appendix D

District Regulation 1.02, *Definitions*, version 16 redline-strikeout

## REGULATION 1.02 Definitions

### 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 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. This regulation contains definitions used throughout District regulations.

#### SECTION 1 Definitions

The following terms shall have the meaning given to them in this regulation except as otherwise specified in the District's regulations. All terms not defined in these regulations shall have the meaning given to them in KRS 77.005, the Clean Air Act, or by commonly accepted usage.

- 1.1 "Act" means the Clean Air Act, 42 USC 7401 et seq.
- 1.2 "Acute noncancer effect" means a biochemical change, functional impairment, or pathological lesion that is produced within a short period of time following an exposure and that affects the performance of the whole organism, or reduces the organism's ability to respond to additional environmental challenges.
- 1.3 "Administrative permit revision" means a revision to a permit that:
  - 1.3.1 Corrects typographical errors;
  - 1.3.2 Changes the name, address, or phone number of a person identified in the permit;
  - 1.3.3 Increases the frequency of monitoring, recordkeeping, or reporting by the permittee; or
  - 1.3.4 Changes the ownership or operational control of a source.
- 1.4 "Affected facility" means a process or process equipment to which a regulation is applicable.
- 1.5 "Air contaminant" or "air pollutant" means smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, or particulate matter, or any combination of these, that is emitted into or otherwise enters the outside air. These terms also include any precursors to the formation of an air contaminant or air pollutant.
- 1.6 "Air pollution control equipment" means equipment that may be required by law or regulation for the control of air pollution but is not vital to production of the normal product of the process or process equipment or to its normal operation.
- 1.7 "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference method or an equivalent method but that has been demonstrated to the satisfaction of the U.S. Environmental Protection Agency (EPA) and the District to produce, in specific cases, results adequate for determining compliance.
- 1.8 "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access. For the purpose of determining the concentration of an air contaminant that is or may be emitted by a stationary source, ambient air also includes the atmosphere, external to buildings, that is beyond the property line of that stationary source, regardless of whether the general public has access.
- 1.9 "Ambient air quality standard" means a numerical expression of the level of an air contaminant required to be achieved and maintained through the application of

appropriate preventive or control measures. An “ambient air quality standard” consists of two parts:

- 1.9.1 A specified concentration for a particular air contaminant and
- 1.9.2 A time-averaging interval over which that concentration is measured.
- 1.10 "Annual mean" means an average determined on the basis of any consecutive 12-month interval.
- 1.11 "Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, amosite, anthophyllite, and actinolite-tremolite.
- 1.12 "Asbestos mill" means any process or process equipment engaged in converting, or in any intermediate step in converting, asbestos ore into commercial asbestos. Outside storage of asbestos materials is not considered a part of the asbestos mill.
- 1.13 "Asbestos material" means asbestos or any material containing asbestos.
- 1.14 "Asbestos tailings" means any solid waste that contains asbestos and is a product of asbestos mining or milling operations.
- 1.15 "Best available control technology" (BACT) means an emission limitation, including a visible emission standard, based on the maximum degree of reduction for each pollutant subject to regulation that would be emitted from any proposed new or modified process or process equipment that the District, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for that new or modified process or process equipment through the application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, innovative fuel combustion techniques, and pollution prevention approaches, for elimination, reduction, or control of that pollutant. In no event shall the application of BACT result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under Part 5, 6, or 7 of District regulations. If the District determines that technological or economic limitations on the application of measurement methodology to a particular process or process equipment would make the imposition of an emissions standard infeasible, a design, equipment, work practice, or operational standard, or combination of those approaches, may be prescribed instead.
- 1.16 "Board" means the Louisville Metro Air Pollution Control Board as provided for in KRS Chapter 77.
- 1.17 “Bypass” means the intentional diversion of air contaminants from air pollution control equipment or process equipment that normally reduces the emission of the air contaminants.
- 1.18 "Cabinet" means the Energy and Environment Cabinet of the Commonwealth of Kentucky as provided for in KRS Chapter 224.
- 1.19 "Commence" means that an owner or operator has obtained all necessary preconstruction approvals or permits and has either:
  - 1.19.1 Begun, or caused to begin, a continuous program of actual on-site construction or modification, to be completed within a reasonable time, or
  - 1.19.2 Entered into a binding agreement or a contractual obligation, that cannot be canceled or modified without substantial loss to the owner or operator, to undertake a continuous program of actual on-site construction or modification, to be completed within a reasonable time.
- 1.20 "Commercial asbestos" means any asbestos that is extracted from asbestos ore.

- 1.21 "Compliance plan and schedule" means a list of remedial measures including an enforceable sequence and timing of actions or operations leading to compliance with a limitation or standard by a specific date.
- 1.22 "Construction" means fabrication, erection, or installation of an affected facility or any portion of an affected facility.
- 1.23 "Demolition" means the wrecking or taking out of any load-supporting structural member of a structure together with any related handling operations.
- 1.24 "District" means the Louisville Metro Air Pollution Control District as provided for in KRS Chapter 77.
- 1.25 "Division" means the Division for Air Quality (DAQ) of the Energy and Environment Cabinet of the Commonwealth of Kentucky as provided for in KRS Chapter 224.
- 1.26 "Emission standard" means a requirement that is contained in a federal, state, or local law or regulation, District permit, or Board Order, or is otherwise legally enforceable that limits the quantity, rate, concentration, or opacity of the emission of an air contaminant on a continuous basis, including any requirement related to the operation or maintenance of a process or process equipment to assure continuous emission reduction, and any design, equipment, work practice, or operational standard.
- 1.27 "Emissions unit" or "facility" means a part or activity of a stationary source that emits or has the potential to emit a regulated air pollutant, any pollutant listed under the Act Section 112(b), or GHGs subject to regulation. This term is not meant to alter or affect the definition of the term "unit" as used in the Acid Rain program.
- 1.28 "Equivalent method" means a method of sampling and analyzing for an air pollutant that has been demonstrated to the satisfaction of the EPA to have a consistent and quantitatively-known relationship to the reference method under specified conditions.
- 1.29 "Excess emissions" means emissions that exceed an applicable emission standard.
- 1.30 "Existing affected facility," except as otherwise specified under applicable regulations, means any affected facility that is in existence or has commenced construction before the effective date of the applicable emission standard and that has not been subsequently modified or reconstructed.
- 1.31 "Federally Enforceable District Origin Operating Permit" (FEDOOP) means a non-Title V operating permit issued by the District that contains a federally enforceable permit condition, limit, or provision.
- 1.32 "Fixed capital cost" means the capital needed to provide all of the depreciable components.
- 1.33 "Fuel" means natural gas, petroleum, coal, wood, and any other form of solid, liquid, or gaseous matter consumed for the purpose of creating useful heat.
- 1.34 "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- 1.35 "Hazardous air pollutant" (HAP) means any air pollutant listed in Regulation 5.14 *Hazardous Air Pollutants and Source Categories* pursuant to the Act section 112(b), 42 USC 7412(b).
- 1.36 "Incineration" means the process of igniting and burning solid, semi-solid, liquid, or gaseous combustible or partially combustible wastes.
- 1.37 "Incinerator" means any furnace used in the process of burning waste for the purpose of reducing the volume of waste by removing combustible matter.
- 1.38 "Insignificant activity" means the following:



- 1.38.1 An affected facility that is not subject to a federally enforceable requirement, other than generally applicable requirements, does not involve the incineration of medical waste, and meets one of the following provisions:
- 1.38.1.1 The affected facility is listed in Appendix A of Regulation 1.02 and the uncontrolled potential emissions of the affected facility do not exceed either 5 tons per year of a regulated air pollutant or 1,000 pounds per year of a hazardous air pollutant,
- 1.38.1.2 The affected facility is determined to be insignificant on a case-by-case basis. For a case-by-case approval, all of the following provisions are met:
- 1.38.1.2.1 The potential emissions of the affected facility do not exceed either 5 tons per year of a regulated air pollutant or 1000 pounds per year of a hazardous air pollutant,
- 1.38.1.2.2 The potential emissions of the affected facility are in conformance with the general prohibition of air pollution of Regulation 1.09, and
- 1.38.1.2.3 Specific approval of the affected facility as an insignificant activity was made pursuant to approval of a Title V permit issuance, renewal, or revision that had undergone the full public participation process, including the notice, comment, and EPA objection provisions, in Regulation 2.07, or
- 1.38.1.3 The affected facility is listed as an insignificant activity in the District's federally approved Title V permit program,
- 1.38.1.4 Other types of activities approved by the District for a specific stationary source on a case-by-case basis may be viewed on the District's List of Title V Operating Permits on its website.
- 1.38.2 For the purpose of this definition, potential emissions mean the emissions before air pollution control devices. An R&D facility that has the same SIC as the manufacturing facility or is considered a support facility at the manufacturing facility shall be considered a part of the stationary source, but may be treated as an insignificant activity if the R&D facility meets the qualifications of this definition. The emissions from insignificant activities shall be accounted for in determining major source status, and
- 1.38.3 For the purpose of an initial permit pursuant to this regulation, an affected facility that had been identified as an insignificant activity in a permit application that was, before December 20, 2000, determined by the District to be complete pursuant to section 3.2, and the District had determined that the potential emissions of the affected facility do not exceed either 5 tons per year of a regulated air pollutant or 1,000 pounds per year of a hazardous air pollutant, shall be treated as an insignificant activity. However, the District may require the applicant to submit additional information to demonstrate compliance with these requirements. The determination by the District that the potential emissions of an affected facility do not exceed these levels shall be subject to EPA review and approval.
- 1.39 "Lowest achievable emission rate" (LAER) means, for any affected facility, that rate of emissions based on the more stringent of the following:
- 1.39.1 The most stringent emission limitation that is contained in the implementation plan of any State for that class or category of affected facility, unless the owner or operator of the proposed affected facility demonstrates that this limitation is not achievable, or

- 1.39.2 The most stringent emission limitation that is achieved in practice by that class or category of affected facility taking into consideration the pollutant that must be controlled. In no event shall the application of LAER permit a proposed affected facility to emit any pollutant in excess of the amount allowable under an applicable new source standard in Part 5, 6, or 7 of District regulations or 40 CFR Part 60, 61, or 63.
- 1.40 "Major source", except as specified in another regulation for use in that regulation, means any stationary source, which emits, or has the potential to emit, 100 tons per year or more of any air pollutant subject to regulation under the Act, 10 tons or more of an individual HAP, or 25 tons per year or more of a combination of HAPs.
- 1.41 "Malfunction" means the sudden, unforeseen, and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard, but not including a failure that is caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or equipment breakdown.
- 1.42 "Maximum achievable control technology" (MACT) means the maximum achievable control technology defined in the Act section 112 (d), 42 USC 7412(d).
- 1.43 "Minor permit revision" means a revision to a permit that:
- 1.43.1 Does not violate an applicable requirement;
- 1.43.2 Does not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
- 1.43.3 Does not require or change a case-by-case determination of (1) an emission limitation or other standard, (2) a source-specific determination for temporary sources of ambient impacts, or (3) a visibility or increment analysis;
- 1.43.4 Does not seek to establish or change a permit term or condition for which there is no corresponding applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:
- 1.43.4.1 A federally enforceable emission cap assumed to avoid classification as a modification in a provision of the SIP, and
- 1.43.4.2 An alternate emissions limit approved pursuant to Section 112(i)(5) of the Act.
- 1.43.5 Is not a modification in the regulations promulgated by the District and does not constitute a modification under any provision of the Title I of the Act; and
- 1.43.6 Is not required to be processed as significant permit revisions.
- 1.44 "Minor source" means a stationary source that is not subject to Regulations 2.16 or 2.17.
- 1.45 "Modification", except as specified in another regulation for use in that regulation, means any physical change in, or change in the method of operation of, an affected facility that increases the amount of any air pollutant (to which an emission standard applies) emitted by that affected facility or that results in the emission of any air pollutant (to which an emission standard applies) not previously emitted, except that:
- 1.45.1 Routine maintenance, repair, and replacement shall not be considered a physical change, and
- 1.45.2 A change in the method of operation, unless previously limited by permit conditions, shall not include:

- 1.45.2.1 An increase in the production rate, if the increase does not exceed the operating design capacity of the affected facility or of the air pollution control equipment installed on the affected facility,
- 1.45.2.2 An increase in the hours of operation when the increase does not result in a violation of any applicable emission standards,
- 1.45.2.3 Use of an alternative fuel or raw material if, prior to the date any standard under this regulation becomes applicable to that affected facility, the affected facility is designed to accommodate the alternative use,
- 1.45.2.4 Use of an alternative fuel or raw material by reason of an order, rule, or natural gas curtailment plan approved by the District, or
- 1.45.2.5 A change in ownership of the stationary source.
- 1.46 "New affected facility" means any affected facility the construction, modification, or reconstruction of which is commenced on or after the effective date of an applicable emission standard.
- 1.47 "Nitrogen oxides" means all oxides of nitrogen, except nitrous oxide, as measured by test methods specified by the District.
- 1.48 "Odor" means the property of an air contaminant that can be detected by the sense of smell.
- 1.49 "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
- 1.50 "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outside air without passing through a stack, chimney, vent, or other functionally equivalent opening.
- 1.51 "Organic compound" or "organic material" means a chemical compound of carbon that has the same meaning as "volatile organic compound."
- 1.52 "Outside air" or "open air" means the air outside of buildings and structures.
- 1.53 "Owner or Operator" means any person who owns, leases, operates, controls, or supervises one or more affected facilities.
- 1.54 "Particulate asbestos material" means finely divided particles of asbestos material.
- 1.55 "Particulate matter" means any material, except uncombined water, that exists in a finely divided form as a liquid or a solid.
- 1.56 "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.
- 1.57 "PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix L and designated in accordance with 40 CFR Part 53, or by an equivalent method designated in accordance with 40 CFR Part 53.
- 1.58 "Person" means any individual, firm, co-partnership, joint venture, association, corporation, social club, fraternal organization, estate, trust, receiver, syndicate, county, city, municipality, district (for air pollution control or other purpose), or other political subdivision, or any group or combination acting as a unit, and the plural as well as the singular unit.
- 1.59 "Pollution prevention" (P2) means the use of materials, processes, or practices that reduce or eliminate the creation of pollutants or wastes by the process. Pollution

- prevention includes practices that reduce the use of hazardous and nonhazardous materials, energy, water, or other resources as well as practices that protect natural resources through conservation or more efficient use.
- 1.60 "Potential hazardous emissions" means an air pollutant, exclusive of pollutants regulated under the Act Section 112(b), 42 USC 7412(b), to which no ambient air quality standard is applicable and that, in the judgment of the District, may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
- 1.61 "Potential to emit" (PTE) means the maximum capacity of a stationary source or an affected facility to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source or affected facility to emit a pollutant, including air pollution control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source or affected facility.
- 1.62 "Preventable upset condition" means the sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard that results entirely or in part from poor maintenance, careless operation, or any other preventable upset condition or equipment breakdown.
- 1.63 "Process" means an action or operation, or a series of actions or operations, from which the emission of an air contaminant may originate. Examples of a "process" include any of the following:
- 1.63.1 The physical change of a material,
  - 1.63.2 The chemical change of a material,
  - 1.63.3 The combustion of a fuel, refuse, or waste material,
  - 1.63.4 The storage of a material,
  - 1.63.5 The handling of a material, and
  - 1.63.6 The use of a material.
- 1.64 "Process equipment" means all equipment, devices, and auxiliary components, including control equipment and stacks, used in a process.
- 1.65 "Reactor" means a vat or vessel that may be jacketed to permit temperature control, designed to contain chemical reactions.
- 1.66 "Reasonably available control technology" (RACT) means devices, systems, process modifications, or other apparatus or techniques, including pollution prevention approaches, that are reasonably available taking into account the necessity of imposing those controls in order to attain and maintain a national ambient air quality standard and the social, environmental, and economic impact of those controls.
- 1.67 "Reconstruction" means the replacement of process equipment for an affected facility to the extent that the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new affected facility.
- 1.68 "Reference Method" means any method of sampling and analyzing for an air pollutant as prescribed in the following EPA regulations: Standards of Performance for New Stationary Sources (40 CFR Part 60), National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61), National Emission Standards for Hazardous Air Pollutants

for Source Categories (40 CFR Part 63), National Primary and Secondary Ambient Air Quality Standards (40 CFR Part 50), and Requirements for Preparation, Adoption, and Submittal of Implementation Plans (40 CFR Part 51).

- 1.69 "Regulated air pollutant" means the following:
- 1.69.1 Nitrogen oxides,
  - 1.69.2 Volatile organic compounds,
  - 1.69.3 A pollutant for which a national ambient air quality standard has been promulgated,
  - 1.69.4 Any Class I or II substance subject to a standard promulgated under or established by the Act Title VI,
  - 1.69.5 Any pollutant that is subject to a standard promulgated under the Act Section 111,
  - 1.69.6 Any pollutant that is subject to a standard promulgated under the Act Section 112 or other requirements established under Section 112, including Sections 112(g), 112(j), and 112(r), and including the following:
    - 1.69.6.1 Any pollutant subject to requirements under Section 112(j). If EPA fails to promulgate a standard by the date established pursuant to Section 112(e), any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e), and
    - 1.69.6.2 Any pollutant for which the requirements of Section 112(g)(2) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.
- 1.70 "Regulation" means a rule or order adopted by the Board pursuant to KRS Chapter 77 for the control or abatement of air contaminants within its jurisdiction or for the administration of the District.
- 1.71 "Responsible official" means one of the following:
- 1.71.1 For a corporation: a president, vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of that person if the representative is responsible for the overall operation of manufacturing, production, or operating facility applying for or subject to a permit and either:
    - 1.71.1.1 The source employs more than 250 persons or has gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or
    - 1.71.1.2 The delegation of authority to the representative is approved by the District;
  - 1.71.2 For a partnership or sole proprietorship, a general partner or the proprietor, respectively;
  - 1.71.3 For a municipal, state, federal, or other public agency, either a principal executive officer or ranking elected official, or designee. For this regulation, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA).
- 1.72 "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.
- 1.73 "Significant permit revision" means a revision to a permit that:
- 1.73.1 Does not qualify as minor permit revision or as administrative revision;

- 1.73.2 Includes any significant changes to or relaxation of existing monitoring, reporting, or recordkeeping permit terms or conditions;
- 1.73.3 Establishes new requirements; or
- 1.73.4 Causes emissions of any air pollutant to exceed the allowable limit specified in the permit.
- 1.74 "Sludge" means solid or semi-solid material produced by a treatment plant that processes municipal or industrial waste waters.
- 1.75 "Sludge dryer" means a device used to reduce the moisture content of a sludge by heating to temperatures above 65°C directly with combustion gases.
- 1.76 "Stack or chimney" means a flue, conduit, or duct arranged to conduct a gas stream to the outside air.
- 1.77 "Standard conditions" means:
  - 1.77.1 For source measurements, 20°C and a pressure of 760 mm Hg, and
  - 1.77.2 For the purpose of air quality determinations, 25°C and a reference pressure of 760 mm Hg.
- 1.78 "Stationary source" means all of the air pollutant-emitting activities, including all processes and process equipment that are located on one or more contiguous or adjacent properties and are under the control of the same person or persons under common control. A property shall be considered contiguous if separated by only a public thoroughfare, stream, or other right-of-way. If a transmission and fuel delivery right-of-way or a strip of land that serves no other principal purpose than as a transportation or materials handling link connecting two or more otherwise separate stationary sources, then the connected stationary sources shall be considered as separate stationary sources.
- 1.79 "Startup" means the setting in operation of an affected facility for any purpose.
- 1.80 "Trivial activities" means any activity that is considered inconsequential, as determined by the District, ~~and included in Appendix B to this Regulation. The District will maintain a list of trivial activities. This list shall be made available to the public upon request.~~
- 1.81 "Twelve month rolling period" or "12-month rolling period" means a period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.
- 1.82 "Upset condition" means the sudden failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that causes, or is likely to cause, emissions that exceed an applicable emission standard and that results entirely or in part from either a malfunction or a preventable upset condition.
- 1.83 "Uncombined water" means water that is either in a gaseous, liquid, or solid state and that is not bound to a compound by internal molecular forces.
- 1.84 "Volatile organic compound" (VOC) means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.
  - 1.84.1 The exclusions from the definition of Volatile Organic Compounds (VOC) found at 40 CFR §51.100(s)(1) as of July 1, ~~2018-2022~~ for compounds which have been determined to have negligible photochemical reactivity are adopted and incorporated by reference.
  - 1.84.2 Copies of the CFR are available for sale from:
    - U.S. Government Printing Office
    - Superintendent of Documents

Mail Stop SSOP  
Washington, DC 20402-9328

- or for free by downloading from the Internet: <http://www.gpo.gov/fdsys/>.
- 1.85 "Welfare," when referring to effects on welfare, includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.
- 1.86 "Year" means a calendar year.

Adopted v1/4-19-72, effective 4-19-72; amended v2/6-13-79, v3/11-16-83, v4/4-20-88, v5/5-15-91, v6/3-17-93, v7/6-16-93, v8/9-25-96, v9/11-19-97, v10/12-19-01, v11/6-21-05, effective 7-1-05; v12/6-15-11; v13/5-15-13, v14/9-21-16, v15/06-19-19; v16/03-15-23.

**Appendix A to Regulation 1.02**  
**Insignificant Activities**

1. Indirect heat exchangers, except furnaces that combust waste oil regardless of size, of the following types:
  - 1.1. Those less than 10 million BTU/hr capacity using distillate oil, propane, butane, LPG, or natural gas as fuel, or
  - 1.2. Those used solely for heating residential buildings not exceeding four dwelling units.
2. Internal combustion engines, whether fixed or mobile, and vehicles used for transport of passengers or freight, except as may be provided for in subsequent regulations;
3. An affected facility that is not subject to a federally enforceable requirement, other than a generally applicable requirement and does not involve the incineration of medical waste. The following facilities are included in this category:
  - 3.1. Presses used exclusively for extruding metals, minerals, or wood,
  - 3.2. Dry cleaners for which there is no emission, performance, or other standard,
  - 3.3. Lint traps used in conjunction with commercial laundry and dry cleaners,
  - 3.4. Brazing, soldering or welding equipment,
  - 3.5. Equipment commonly used in wood-working operations, except for conveying, hogging or burning of sawdust or wood waste,
  - 3.6. Foundry core-making equipment to which no heat is applied and for which there is no emission standard,
  - 3.7. Ovens used exclusively for curing potting materials or castings made with epoxy resins,
  - 3.8. Equipment used for compression or injection molding of plastics,
  - 3.9. Containers, reservoirs, or tanks used exclusively for:
    - 3.9.1. Dipping operations for coating objects with oils, waxes, or greases and where no organic solvents, diluents, or thinners are used, or
    - 3.9.2. Storage of lubricating oils or fuel oils with a vapor pressure of less than 10 mm Hg at conditions of 20 oC and 760 mm of Hg,
  - 3.10. Emergency relief vents, stacks and ventilating systems,
  - 3.11. Laboratory ventilating and exhausting systems which are not used for radioactive air contaminants,
  - 3.12. Process, exhaust or ventilating systems in bakeries or eating establishments preparing food for human consumption,
  - 3.13. Blast cleaning equipment using a suspension of abrasives in water,
  - 3.14. Equipment used exclusively for heat treating, soaking, case hardening or surface conditioning of metal objects such as carbonizing, cyaniding, nitriding, carbonitriding, siliconizing, or diffusion treating when natural gas or LP gas is used as fuel,
  - 3.15. Equipment used for washing or drying products fabricated from metal or glass provided no volatile organic materials are used in the process and no oil or solid fuel is burned,
  - 3.16. Equipment, machines, devices, or contrivances built or installed to be used at a domestic residence for domestic use,
  - 3.17. Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enameling furnaces or vitreous enameling drying ovens,



- 3.18. Crucible or pot furnaces with a brim full capacity of less than 450 cubic inches of any molten metal,
- 3.19. Facilities using only peanut oil, sunflower oil, cottonseed oil or canola oil,
- 3.20. Soil or ground water contamination remediation projects that are entirely passive or entail the total removal of the contaminated substrate for disposal in a certified landfill. Remediation systems that actively vent to the atmosphere by pumps or fans are not exempt,
- 3.21. Dust or particulate collectors that are located ~~in doors, indoors~~ vent directly indoors into the ~~work space~~workspace, collect no more than one ton of material per year and do not collect materials listed in Regulation 5.11, 5.12 or 5.14,
- 3.22. Cold solvent parts cleaners that are equipped with a functional secondary reservoir into which the solvent drains during use,
- 3.23. Portable diesel or gasoline storage tanks with a maximum capacity of less than 500 gallons. Portability is defined as being in one location less than one year,
- 3.24. Storage vessels for VOCs with a maximum capacity of 250 gallons or less,
- 3.25. Diesel or fuel oil storage tanks that are not used for distribution, sale or resale, and that have less than two times the capacity of the vessel in annual turnover of the fluid contained,
- 3.26. All pressurized VOC storage vessels, and
- 3.27. Research and Development (R&D) facilities.

**Appendix B to Regulation 1.02**  
**Trivial Activities**

1. Combustion emissions from propulsion of mobile sources, except for vessel emissions from Outer Continental Shelf sources.
2. Air-conditioning units used for human comfort that do not have applicable requirements under title VI of the Act.
3. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process.
4. Non-commercial food preparation.
5. Consumer use of office equipment and products, not including printers or businesses primarily involved in photographic reproduction.
6. Janitorial services and consumer use of janitorial products.
7. Internal combustion engines used for landscaping purposes.
8. Laundry activities, except for dry-cleaning and steam boilers.
9. Bathroom/toilet vent emissions.
10. Emergency (backup) electrical generators at residential locations.
11. Tobacco smoking rooms and areas.
12. Blacksmith forges.
13. Plant maintenance and upkeep activities (e.g., grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots) provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification.<sup>1</sup>
14. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating or de-greasing (solvent metal cleaning) activities, and not otherwise triggering a permit modification.
15. Portable electrical generators that can be moved by hand from one location to another.<sup>2</sup>
16. Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning or machining wood, metal or plastic.
17. Brazing, soldering and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals.<sup>3</sup>
18. Air compressors and pneumatically operated equipment, including hand tools.
19. Batteries and battery charging stations, except at battery manufacturing plants.

<sup>1</sup> Cleaning and painting activities qualify if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners/operators must still get a permit if otherwise required.

<sup>2</sup> "Moved by hand" means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device.

<sup>3</sup> Brazing, soldering and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals are more appropriate for treatment as insignificant activities based on size or production level thresholds. Brazing, soldering, welding and cutting torches directly related to plant maintenance and upkeep and repair or maintenance shop activities that emit HAP metals are treated as trivial and listed separately in this appendix.

20. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP.<sup>4</sup>
21. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.
22. Equipment used to mix and package, soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.
23. Drop hammers or hydraulic presses for forging or metalworking.
24. Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment.
25. Vents from continuous emissions monitors and other analyzers.
26. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities.
27. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation.
28. Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit VOC or HAP.
29. CO2 lasers, used only on metals and other materials which do not emit HAP in the process.
30. Consumer use of paper trimmers/binders.
31. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam.
32. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants.
33. Laser trimmers using dust collection to prevent fugitive emissions.
34. Bench-scale laboratory equipment used for physical or chemical analysis, but not lab fume hoods or vents.<sup>5</sup>
35. Routine calibration and maintenance of laboratory equipment or other analytical instruments.
36. Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.
37. Hydraulic and hydrostatic testing equipment.
38. Environmental chambers not using hazardous air pollutant (HAP) gasses.
39. Shock chambers.
40. Humidity chambers.
41. Solar simulators.

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<sup>4</sup> Exemptions for storage tanks containing petroleum liquids or other volatile organic liquids should be based on size limits such as storage tank capacity and vapor pressure of liquids stored and are not appropriate for this list.

<sup>5</sup> Many lab fume hoods or vents might qualify for treatment as insignificant (depending on the applicable SIP) or be grouped together for purposes of description.

- 42. Fugitive emission related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes and any required fugitive dust control plan or its equivalent is submitted.
- 43. Process water filtration systems and demineralizes.
- 44. Demineralized water tanks and demineralizer vents.
- 45. Boiler water treatment operations, not including cooling towers.
- 46. Oxygen scavenging (de-aeration) of water.
- 47. Ozone generators.
- 48. Fire suppression systems.
- 49. Emergency road flares.
- 50. Steam vents and safety relief valves.
- 51. Steam leaks.
- 52. Steam cleaning operations.
- 4-53. Steam sterilizers.

## Appendix E

District Regulation 1.11, *Control of Open Burning*, version 11  
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**REGULATION 1.11 Control of Open Burning**

**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 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. This regulation provides for the control of open burning by any person.

**SECTION 1 Definitions**

Terms used in this regulation that are not defined in this regulation shall have the meaning given to them in Regulation 1.02 *Definitions*.

1.1 "Fire pit" means either:

- 1.1.1 A portable device that is commercially manufactured for the purpose of building a recreational fire, such as a chimenea or above-ground fire pit, or
- 1.1.2 A permanent, constructed fire chamber that is completely lined with noncombustible material, such as brick, rock, or concrete, the bottom of which may be soil.

**SECTION 2 Prohibition of Open Burning**

2.1 No person shall cause, allow, or maintain any open fire except the following:

- 2.1.1 A fire substantially for the cooking of food for non-commercial purposes; however, a fire maintained at a size or duration in excess of that appropriate for the cooking of food, or a fire for which the cooking of food is an inconsequential activity, shall be considered a recreational fire subject to the requirements of section 2.1.3. The cooking of food for non-commercial purposes in a device such as a grill, smoker, or cooker shall not be deemed an open fire subject to this regulation,
  - 2.1.2 A fire in a fire pit, provided that:
    - 2.1.2.1 Only untreated firewood is used as fuel, and
    - 2.1.2.2 The fire is no larger than 3 feet long by 3 feet wide by 3 feet high.
  - 2.1.3 A fire determined by the District to be for recreational or ceremonial purposes and approved in writing by the District, provided that:
    - 2.1.3.1 A written request, on a form provided by the District, for approval of a recreational or ceremonial fire from the person in charge of the event is received by the District at least 5 working days before the requested date of the event,
    - 2.1.3.2 Only untreated firewood is used as fuel, and
    - 2.1.3.3 The fire is no larger than 5 feet long by 5 feet wide by 5 feet high,
  - 2.1.4 A fire for general agricultural production, i.e., a controlled burn for weed abatement, disease control, or pest prevention or for recognized silvicultural, range, native grassland, or wildlife management practices, provided that open burning is necessary and approved for that purpose by the District, after considering the written recommendation of the Jefferson County Soil and Water Conservation District and the local fire protection district. No such fire may be set when the forecasted average wind speed is greater than 15 miles per hour during the expected period of burning,
- 2.1.5 A fire for controlling a public health hazard, provided that the Louisville Metro Department of Public Health and Wellness has declared open burning to be necessary for this purpose and has submitted a written notice of this determination to the District,

2.1.6 A fire set for the prevention of a fire or safety hazard, provided that the local fire protection district or the appropriate regulatory agency having jurisdiction where the hazard exists has declared open burning to be necessary to abate the hazard and has submitted a written notice of this determination to the District,

2.1.7 A fire, or a series of fires, set for the purpose of bona fide instruction and training of public and industrial employees in the methods of fighting fires that is approved in writing by the District. A written request, on a form provided by the District, for approval of the fire training exercise from the official in charge, or a designee of the official in charge, shall be received by the District at least 5 working days before the date of the first fire,

~~2.1.8~~ A fire set for the purpose of debris removal necessitated by natural forces, including, but not limited to, a tornado, very severe windstorm, or flood, having caused community-wide damage, that, if the fire were prohibited, would place a severe burden on other disposal methods and that is declared, in writing, to be necessary by the Louisville Metro Mayor and approved in writing by the District. A written request, on a form provided by the District, for approval of a debris removal fire shall be considered by the District on a case-by-case basis. The visible emissions into the outside air from a fire for this purpose shall not be equal to or greater than 40% opacity, and

~~2.1.8~~  
~~2.1.9~~ A special-case fire not otherwise addressed in section 2.1, approved in writing by the District on a case-by-case basis. A written request for approval of a special-case fire from the person in charge of the fire shall, if possible, \_\_\_\_\_

~~1.11v11~~  
~~1-08~~

~~2~~  
~~1-11-2~~

March 15, 2023

- ~~2.1.102.1.9~~ be received by the District at least 10 working days before the requested date of the fire. The request shall include an explanation of why the fire is necessary.
- 2.2 A fire described in sections 2.1.2 to 2.1.9 is prohibited on any day designated by the District as an Air Quality Alert Day, except that a fire set for controlling a public health hazard pursuant to section 2.1.5 may be set if declared necessary by the Louisville Metro Mayor to abate an imminent danger to human health or safety.
- 2.3 A person responsible for a fire described in section 2.1 shall also comply with all applicable provisions of KRS Chapters 149 *Forestry*, 150 *Fish and Wildlife Resources*, or 227 *Fire Prevention and Protection*, any other state law or regulation, any local ordinance, and any District regulation.
- 2.4 Tires, used oil, heavy oil, gasoline, diesel fuel, kerosene, or similar accelerants shall not be used to start or maintain combustion of any fire described in section 2.1; except that fires for general agricultural production for weed abatement, disease control, or pest prevention or for recognized silvicultural, range, native grassland, or wildlife management practices approved by the District pursuant to paragraph 2.1.4 may use liquid accelerant to start fires, provided their use is approved by the District.
- 2.5 Burn barrels of any sort are prohibited.
- 2.6 The District may require the submittal of information, on a form provided by the District, regarding a fire allowed by sections 2.1.2 to 2.1.9.
- 2.7 The District may impose limitations or prohibitions on a fire allowed by sections 2.1.2 to 2.1.9, including, but not limited to, the following:
- 2.7.1 The composition and amount of material to be burned, and the frequency of approved fires,
- 2.7.2 The time and day for the burning, including an episodic prohibition of burning based upon the forecasted meteorological or air quality conditions of a day for which burning is otherwise approved, and
- 2.7.3 Where practical, the location of the fire.

Adopted v1/4-19-72; effective 4-19-72; amended v2/10-17-72, v3/9-1-76, v4/2-19-86, v5/12-17-86, v6/1-20-88, v7/12-20-89, v8/2-22-90, v 9/1-15-03, v10/1-16-08; v11/03-15-23.



# Appendix F

## Notice of Policy Committee Meeting



AIR POLLUTION CONTROL DISTRICT  
LOUISVILLE, KENTUCKY

GREG FISCHER  
MAYOR

RACHAEL A. HAMILTON  
DIRECTOR

**Louisville Metro Air Pollution Control Board  
Notice of Policy Committee Meeting**

The Policy Committee of the Louisville Metro Air Pollution Control Board will meet **via Video Teleconference at 5:00 p.m. on November 10, 2022**, due to the COVID-19 outbreak. The Committee invites the public to attend. *Instructions for attending the meeting via video teleconference follow the agenda.* Members of the public may also attend the video teleconference in the Edison Room of the Edison Center at 701 West Ormsby Avenue, Louisville, Kentucky 40203. Louisville Metro no longer requires masks be worn in all facilities, and it is at the discretion of each individual whether to wear a face covering. Social distancing continues to be encouraged, and room setup will allow for 6 feet of separation between all individuals.

The **Policy** Committee invites the public to attend.

**Policy Committee Meeting Agenda**

**Agenda**

1. Call to Order – Recognition of Quorum
2. Draft amendment to Regulation 1.02, *Definitions*, version 16
3. Draft amendment to Regulation 1.11, *Control of Open Burning*, version 11
4. Draft amendment to Regulation 1.13, *Control of Objectionable Odors in the Ambient Air*, version 7
5. Draft amendment to Regulation 1.15, *Version of Federal Regulations Incorporated by Reference*, version 22.
6. Adjourn

[WWW.LOUISVILLEKY.GOV](http://WWW.LOUISVILLEKY.GOV)

[WWW.LOUISVILLEKY.GOV/APCD](http://WWW.LOUISVILLEKY.GOV/APCD) 701 WEST ORMSBY AVENUE, SUITE 303 LOUISVILLE, KENTUCKY 40203

**Instructions for Attending the  
November 10, 2022  
Meeting of the Policy Committee  
by  
Video-Teleconference or Phone**

The Board invites the public to participate either by attendance in the Edison Room, or via video teleconference by following the directions below. At this time, the Edison Room is currently the primary location of the video teleconference where all Board members can be seen and heard, and the public may attend.

**Attend via Webex online conference service:**

Click this link to join the meeting:

<https://louisvilleky.webex.com/louisvilleky/j.php?MTID=m2e3ee49c659d02fb0fbb9bc3df0efc52>

You can leave the meeting at any time.

**Attend via phone:**

+1-415-655-0001 US Toll

Event number (access code): **2314 229 0356**

Those who do not wish to attend or participate in the meeting or hearing may remotely view and/or listen to the meeting and/or hearing using the link above without turning on their video, or may call 1-415-655-0001 US Toll, and when prompted, enter the following access code: **2314 229 0356**.

## Appendix G

Minutes of the Policy Committee Meeting of the Louisville Metro Air  
Pollution Control Board, November 10, 2022

**Minutes  
Policy Committee Meeting  
of the  
Louisville Metro Air Pollution Control Board**

**November 10, 2022**

A meeting of the Policy Committee of the Louisville Metro Air Pollution Control Board was called to order on Wednesday, November 10, 2022, via video teleconference due to the COVID-19 outbreak, at 5:06 p.m., by the Committee Chairman Steve Sullivan. Viewing of the video teleconference was available in the Edison Room of the Louisville Metro Air Pollution Control District, 701 West Ormsby Avenue, Suite 303, Louisville, Kentucky. Board member Dr. Josephine Mei was also present in the Edison Room. A quorum was present.

The following Louisville Metro Air Pollution Control District staff members were present in the Edison Room: Rachael Hamilton, Michelle King, Byron Gary, David Becker, and Cheri Steiner. Also attending via video teleconference were Tina Oakes, Cameron Barnett, Karen Thorne, Matt Mudd, and Andy Purdon. Assistant County Attorneys Stacy Fritze Dott and Quang Nguyen also attended via video teleconference.

The following guests attended via video teleconference: Greg Dutton, Frost, Brown, Todd; Mary Ann Lee, Frost, Brown, Todd; Susan Clark, Lubrizol; Cindi Gleason, Trees Louisville; Sarah Woolwine, Baptist Health; Dr. Scott Simonton, Marshall University.

**1. Draft Amendments to Regulation 1.02, *Definitions*, Version 16**

Mr. Byron Gary, Regulatory Coordinator, stated that this amendment is being proposed to incorporate the most recent definition of “volatile organic compound” (VOC) in Federal Regulations to add an additional exclusion from the definition, and to add a list of trivial activities, referenced elsewhere in the District’s Regulations.

Chairman Sullivan noted a grammatical error in the Preliminary regulatory Impact Assessment for the draft amendment to Regulation 1.11. Mr. Gary took note, and stated the District recommended releasing the draft amendments, with the noted error corrected, for a 30 – 40- day public comment period.

**2. Draft Amendments to Regulation 1.11, *Control of Open Burning*, Version 11**

Mr. Gary stated that this amendment is being proposed based on community and internal suggestions for improvements and would allow use of certain accelerants to start fires in certain circumstances that otherwise meet the requirements of the rule.

Additionally, Chairman Sullivan asked if permits are required for the use of these accelerants, and Mr. Gary replied affirmatively. Chairman Sullivan inquired about the volume of accelerants used. Mr. Gary stated that industry practice is 2 gallons of gasoline and 5 gallons of diesel per 25 acres, and best practices are reviewed during the permitting process.

Committee member Dr. Josephine Mei asked about permitting open burns during high wind speed occurrences. Mr. Gary replied that the District has the right to limit permits based on meteorological conditions and that burn bans are issued during excess dry conditions and high wind speeds.

3. **Draft Amendments to Regulation 1.13, *Control of Objectionable Odors in the Ambient Air*, Version 6**

Mr. Gary stated that these amendments are being proposed to align the language of Regulation 1.13 with the prohibition in the District's enabling statutes, specifically Kentucky Revised Statutes (KRS) §77.155, and to match the District's current enforcement practice and policy. The language proposed was drafted by the District's legal counsel, the Jefferson County Attorney's Office, to reflect the language in KRS §77.155 and the District's current enforcement of its odor regulation. The current version of the language proposed for amendment was first adopted in 1979, before the Clean Air Act Amendments of 1990, and before a more significant body of law regarding odors was developed. As part of a mediation with Swift Pork Company regarding alleged violations of this Regulation, the District stated its intent to propose these revisions, and Swift, who had no part in drafting these proposed revisions, supported the District's proposed revisions for the Board's consideration. The Board is not bound in any way by the agreement reached during that mediation and may decline to adopt the proposed regulation revisions.

Chairman Sullivan commented that the insertion of the word "substantial" into the regulation seemed subjective. Ms. Rachael Hamilton, Director, replied that the case law has clarified the meaning of "substantial" and that the Jefferson County Attorney advised its insertion to aid in providing notice of the District's enforcement policies.

4. **Draft amendments to Regulation 1.15, *Version of Federal Regulations Adopted and Incorporated by Reference*, Version 22**

Mr. Gary stated that this amendment is being proposed to incorporate the most recent version of Federal Regulations incorporated by reference elsewhere in District Regulations. Scope of the Amendments The amendment to Regulation 1.15 affects the version of Federal Regulations incorporated in District Regulations 5.02 and 7.02, which incorporate US EPA National Emissions Standards for Hazardous Air Pollutant (NESHAP) and New Source Performance Standard (NSPS) rules, respectively. A full list NESHAP and NSPS rules amended by US EPA since the previous update to District Regulation 1.15 is included as an appendix to this Preliminary Regulatory Assessment (PRIA).

The District recommended that the amendments to Regulations 1.02, 1.05, 1.11, and 1.15 be released for a 30- to 40-day public comment period.

**Motion:** Chairman Sullivan moved that the amendments to Regulations 1.02, 1.13, 1.11, and 1.15 be released for a 30- to 40-day public comment period.

Dr. Josephine Mei seconded the motion. The motion passed unanimously.

**Adjourn**

The meeting was adjourned at 5:20 p.m.

---

Steve Sullivan  
Chairman

---

Byron Gary  
Secretary-Treasurer

## Appendix H

January 26, 2023 Notice of February 9, 2023 Hearing & March 15, 2023 Continuation

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County of Brown**

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Account #: LCJ-0000000315  
Total Cost of the Ad \$626.35

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I, of The Courier-Journal, a newspaper published and printed in the State of Kentucky, County of Jefferson, and having general circulation in the County of Jefferson, who being duly sworn, depose that the advertisement of which the annexed is a true copy and has been published in the said issue(s) dated once in each issue as follows:

01/26/2023

*Monica Little*  
Subscribed and sworn to before me this 26th day of January, 2023

*Shelly Hora*  
Notary Public

8-25-23  
Commission expires

SHELLY HORA  
Notary Public  
State of Wisconsin

**RECEIVED**

JAN 30 2023

**APCD  
ADMINISTRATION**

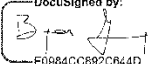


DocuSign Envelope ID: 4A41CA41-D6D8-40B1-AE97-45B7C98D2415

Ad Number: 0005571644 01/26/2023

Notice of Public Hearing  
 The Louisville Metro Air Pollution Control District announces a public hearing on amendments to Regulations 1.02, Definitions; 1.11, Control of Open Burning; 1.13, Control of Objectionable Odors in the Ambient Air; and 1.15, Version of Federal Regulations Incorporated by Reference. Oral statements will be accepted at a public hearing held via video teleconference from 6:00 to 7:30 p.m., February 9, 2023 and to be continued at 10:00 a.m. March 15, 2023. Oral statements will also be accepted at those times in the Edison Room of the Edison Center at 701 West Ormsby Avenue, Louisville, Kentucky 40203. Instructions on attending the teleconference will be posted at <https://louisvilleky.gov/APCD/Docket> before the hearings and emailed to subscribers of APCD Public Notices (<https://louisvilleky.gov/government/air-pollution-control-district/subscribe-stay-informed-apcd>).

A paper copy of the proposal may be obtained from the District by contacting us at (502)574-6000. Please specify that you are calling about amendments to Regulations 1.02, 1.11, 1.13, and 1.15; provide your name and mailing address and allow time for processing and delivery via USPS. An electronic copy of the proposal may be downloaded from the District's website at <https://louisvilleky.gov/APCD/Docket>.

DocuSigned by:  
  
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3/14/2023

## Appendix I

March 1, 2023 Notice of March 15, 2023 Continuation of Hearing

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County of Brown**

**LEGAL NOTICE  
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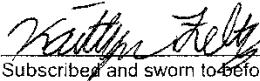
Account #: LCJ-0000000315  
Total Cost of the Ad \$587.26

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# of Affidavits 1

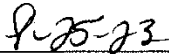
I, of The Courier-Journal, a newspaper published and printed in the State of Kentucky, County of Jefferson, and having general circulation in the County of Jefferson, who being duly sworn, depose that the advertisement of which the annexed is a true copy and has been published in the said issue(s) dated once in each issue as follows:

03/01/2023



Subscribed and sworn to before me this 1th day of March, 2023

  
Notary Public



Commission expires

SHELLY HORA  
Notary Public  
State of Wisconsin

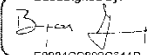
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Ad Number: 0005611034 03/01/2023

Notice of Public Hearing

The Louisville Metro Air Pollution Control District announces a continuation of a public hearing on amendments to Regulations 1.02, Definitions; 1.11 Control of Open Burning; 1.13, Control of Objectionable Odors in the Ambient Air; and 1.15, Version of Federal Regulations Incorporated by Reference. Oral statements will be accepted at the continued public hearing held via video teleconference at 10:00 a.m. March 15, 2023. Oral statements will also be accepted at those times in the Edison Room of the Edison Center at 701 West Ormsby Avenue, Louisville, Kentucky 40203. Instructions on attending the teleconference will be posted at <https://louisvilleky.gov/APCD/Docket> before the hearings and emailed to subscribers of APCD Public Notices (<https://louisvilleky.gov/government/air-pollution-control-district/subscribe-stay-informed-apcd>). A paper copy of the proposal may be obtained from the District by contacting us at (502)574-6000. Please specify that you are calling about amendments to Regulations 1.02, 1.11, 1.13, and 1.15; provide your name and mailing address, and allow time for processing and delivery via USPS. An electronic copy of the proposal may be downloaded from the District's website at <https://louisvilleky.gov/APCD/Docket>.

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ADMINISTRATION

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4/17/2023

Appendix J  
December 11, 2022 Notice Extending Comment Period

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# courier journal

PART OF THE USA TODAY NETWORK

A GANNETT COMPANY

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**APCD  
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**Advertiser:**

Monica Little  
LOU METRO AIR POLLUTION  
701 W ORMSBY AVE STE 303

LOUISVILLE KY 402033143

## AFFIDAVIT OF PUBLICATION

State of Wisconsin  
County of Brown

LEGAL NOTICE  
ATTACHED

RE: Order # 0005519161

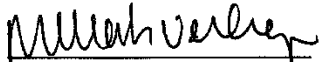
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Total Cost of the Ad: \$991.68

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I, of The Courier-Journal, a newspaper published and printed in the State of Kentucky, County of Jefferson, and having general circulation in the County of Jefferson, who being duly sworn, depose and saith that the advertisement of which the annexed is a true copy and has been published in the said issue(s) dated once in each issue as follows:

12/11/2022



Subscribed and sworn to before me this 11th day of December, 2022

  
\_\_\_\_\_  
Notary Public

8-25-23

Commission expires

SHELLY HORA  
Notary Public  
State of Wisconsin

DocuSign Envelope ID: A4019C1F-6FB6-46FD-82C2-932F81213F9D

Ad Number: 0005519161

12/11/2022

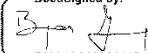
**Notice of Public Comment Period and Hearing**

The Louisville Metro Air Pollution Control District is extending the public comment period opened November 16, 2022, on amendments to Regulations 1.02, Definitions; 1.11 Control of Open Burning; 1.13, Control of Objectionable Odors in the Ambient Air; and 1.15, Version of Federal Regulations Incorporated by Reference; previously scheduled to close on December 16, 2022. You can now comment in writing online at <https://louisvilleky.wufoo.com/forms/comment-on-apcd-proposed-action>, or by mail to the Board Secretary-Treasurer, Byron Gary, Louisville Metro Air Pollution Control District, 701 W. Ormsby Ave., Suite 303, Louisville, Ky 40203, until 5:00 p.m., February 16, 2023. If adopted by the Board, the amendments to Regulations 1.02 and 1.11 will be submitted to US EPA for inclusion in the Kentucky State Implementation Plan.

The District is also cancelling and rescheduling the public hearing previously scheduled for December 21, 2022. Oral statements will now be accepted at a public hearing held via video teleconference at 6:00 p.m., February 9, and continued at 10:00 a.m. March 15, 2023. Oral statements will also be accepted at those times in the Edison Room of the Edison Center at 701 West Ormsby Avenue, Louisville, Kentucky 40203. Instructions on attending the teleconferences will be posted at <https://louisvilleky.gov/APCD/Docket> before the hearings and emailed to subscribers of APCD Public Notices (<https://louisvilleky.gov/government/air-pollution-control-district/subscribe-stay-informed-apcd>).

A paper copy of the proposal may be obtained from the District by contacting us at (502)574-6000. Please specify that you are calling about amendments to Regulations 1.02, 1.11, 1.13, and 1.15; provide your name and mailing address, and allow time for processing and delivery via USPS. An electronic copy of the proposal may be downloaded from the District's website at <https://louisvilleky.gov/APCD/Docket>.

**RECEIVED**  
 DEC 21 2022  
 APCD  
 ADMINISTRATION

DocuSigned by:  
  
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1/19/2023

## Appendix K

### November 16, 2022 Notice of Comment Period and Hearing



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# courier Journal

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701 WORMSBY AVE STE 303  
  
LOUISVILLE KY 402033143

## AFFIDAVIT OF PUBLICATION

State of Wisconsin  
County of Brown

LEGAL NOTICE  
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RE: Order # 0005486060

Account #: 1CJ-0000000315  
Total Cost of the Ad: \$621.00

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# of Affidavits: 1

I, of The Courier-Journal, a newspaper published and printed in the State of Kentucky, County of Jefferson, and having general circulation in the County of Jefferson, who being duly sworn, depose and saith that the advertisement of which the annexed is a true copy and has been published in the said issue(s) dated once in each issue as follows:

11/16/2022

*D. Roberts*

Subscribed and sworn to before me this 17th day of January, 2023

*Kathleen Allen*

Notary Public

*1-7-25*

Commission expires



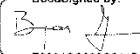
DocuSign Envelope ID: A4019C1F-6FB6-46FD-82C2-932F81213F9D

Ad Number: 0005486060 11/16/2022

**Notice of Public Comment Period and Hearing**

The Louisville Metro Air Pollution Control Board opens a public comment period November 16, 2022, on amendments to Regulations 1.02, Definitions; 1.11 Control of Open Burning; 1.13, Control of Objectionable Odors in the Ambient Air; and 1.15, Version of Federal Regulations Incorporated by Reference, proposed on November 10, 2022. If adopted by the Board, the amendments to Regulations 1.02, and 1.11 will be submitted to US EPA for inclusion in the Kentucky State Implementation Plan. You can comment in writing online at <https://louisvilleky.wufoo.com/forms/comment-on-apcd-proposed-action>, or by mail to the Board Secretary-Treasurer, Byron Gary, Louisville Metro Air Pollution Control District, 701 W. Ormsby Ave., Suite 303, Louisville, KY 40203, until 5:00 p.m., December 16, 2022. Oral statements will be accepted at a public hearing held via teleconference (due to the COVID-19 outbreak) at 10:00 a.m., December 21, 2022. Instructions on attending the teleconference will be posted at <https://louisvilleky.gov/APCD/Docket> before the meeting and emailed to subscribers of APCD Public Notices (<https://louisvilleky.gov/government/air-pollution-control-district/subscribe-stay-informed-apcd>).

A paper copy of the proposal may be obtained from the District by contacting us at (502)574-6000. Please specify that you are calling about amendments to Regulations 1.02, Definitions; 1.11 Control of Open Burning; 1.13, Control of Objectionable Odors in the Ambient Air; and 1.15, Version of Federal Regulations Incorporated by Reference; provide your name and mailing address, and allow time for processing and delivery via USPS. An electronic copy of the proposal may be downloaded from the District's website at <https://louisvilleky.gov/APCD/Docket>.

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1/19/2023

Appendix L  
Public Hearing Minutes for Hearing Held February 9, 2023 and  
Continued March 15, 2023

**Minutes  
Public Hearing Meeting  
of the  
Louisville Metro Air Pollution Control Board**

The Louisville Metro Air Pollution Control Board held a public hearing on February 9, 2023, called to order by Board Chairman Carl Hilton at 6:00 p.m.; and continued the hearing on March 15, 2023, called to order by Board Chairman Carl Hilton at 10:00 a.m.

The hearing and continuation were held via video teleconference. Viewing of the video teleconferences were available in the Edison Room of the Louisville Metro Air Pollution Control District, 701 West Ormsby Avenue, Suite 303, Louisville, Kentucky.

Also present at the February 9, 2023 public hearing was Vice Chairman Steve Sullivan. Board member Kandice Shobe-White attended via video teleconference.

Also present at the March 15, 2023 public hearing were Vice Chairman Steve Sullivan, Dr. Geoffrey Cobourn, and Dr. Daniel Garst. Dr Josephine Mei, Marisa Neal, and Kandice Shobe-White attended via video teleconference.

**General Statement, Rules, and Purpose**

Both the hearing and its continuation began with the Chairman's opening announcements, rules, and purpose of the public hearing, which was to review the following matters:

**1. Regulation 1.02; *Definitions, Version 16, Draft 1***

Mr. Byron Gary, Regulatory Coordinator, asked the Board to consider and adopt an amendment to Regulation 1.02; *Definitions, Version 16, Draft 1*, which would incorporate the most recent definition of "volatile organic compound" (VOC) from the Code of Federal Regulations, and to add a list of trivial activities, referenced elsewhere in the District's Regulations.

**2. Regulation 1.11; *Control of Open Burning, Version 11, Draft 1***

Mr. Gary asked the Board to consider and adopt an amendment to Regulation 1.11; *Control of Open Burning, Version 11, Draft 1*, which is being proposed based on community and internal suggestions for improvements. The amendments would allow use of certain accelerants to start fires in certain circumstances that otherwise meet the requirements of the rule.

**3. Regulation 1.13; *Control of Objectionable Odors in the Ambient Air, Version 6, Draft 1***

Mr. Gary asked the Board to consider and adopt an amendment to Regulation 1.13; *Control of Objectionable Odors in the Ambient Air, Version 6, Draft 1*, which is being proposed to align the language of Regulation 1.13 with the prohibition in the District's enabling statutes, specifically Kentucky Revised Statutes (KRS) §77.155, and to match the District's current enforcement practice and policy. The language proposed was drafted by the District's legal counsel, the Jefferson County Attorney's Office, to reflect the language in KRS §77.155 and the District's current enforcement of its odor regulation. As part of a mediation with Swift Pork Company regarding alleged violations of this Regulation, the District stated its intent to propose these revisions, and Swift, who had no part in drafting these proposed revisions, supports the District's proposed revisions for the Board's consideration. The Board is not bound in any way by the agreement reached during that mediation and may decline to adopt the proposed regulation revisions.

**4. Regulation 1.15; *Version of Federal Regulations Adopted and Incorporated by Reference, Version 22, Draft 1***

Mr. Gary asked the Board to consider and adopt an amendment to Regulation 1.15; *Version of Federal Regulations Adopted and Incorporated by Reference, Version 22, Draft 1*, which would incorporate the most recent version of federal regulations incorporated by reference elsewhere in District Regulations.

At the March 15 continuation, as part of the District's Recommendation, Ms. Rachael Hamilton, Director, added that, in addition to the formal comments made during the public comment period, the District had also seen concerns regarding the stringency of the proposed amendments to Regulation 1.13 raised on social media. Those concerns were responded to on social media, and the District referred the Board to the Preliminary Response to Comment Document, where similar concerns were raised and addressed.

Vice Chairman Sullivan asked if the comments were addressed in general or specific to the comments on social media.

Mr. Gary stated that similar comments had already been addressed in writing in the preliminary Response to Comments document which was made available to the Board and the public prior to this public hearing.

**Statements**

No public statements were made at the February 9, 2023 hearing or the March 15, 2023 continuation.

**Board Questions at the March 15, 2023 Public Hearing**

Board member Dr. Geoffrey Cobourn regarding Regulation 1.13 commented that the document refers to "injury or annoyance to persons or the public" but now says "to a considerable number." He asked if it was necessary in legal terms to have the exact wording of the statute in the regulation. Mr. Gary responded that the Jefferson County Attorney's Office made the recommendation to make it more enforceable and that the closer it matches the enabling statute, the more enforceable the regulation is. He added that if there was a challenge to the regulation during an enforcement action, the District believes this makes it more enforceable because it matches the enabling statute. Ms. Hamilton added that the word "substantial" was added to recognize the contribution of Kentucky common law regarding nuisances. The case law helps identify what a court may be looking for in enforcement of that particular regulation. Assistant District Attorney Quang Nyugen reiterated that the goal is to most closely match the enabling statute because all of the authority flows to the District from those statutes. He added that in terms of the word "substantial," that results from the court cases on what Kentucky deems to be a public nuisance.

Dr. Cobourn commented that the words "considerable number of persons" seems a little imprecise as to the threshold for the regulation. Ms. Hamilton responded that the term "considerable" is not exclusive and means to the District "more than one." With respect to that whole phrase, it is the public, so that has a more expansive meaning to it. She added that this does not intend to address the situation where a neighbor may be annoyed with another neighbor. It is intended to be a public nuisance standard, so any considerable number of persons or the public is the appropriate language.

Chairman Hilton stated that he was not aware that a person could get a special permit to burn in Jefferson County, and Mr. Gary responded that there are different burn permits available in Jefferson

County and that this regulation applies to agricultural burn permits which allow for clearing the fields for recognized reasons. He added that there are also burn permits for bonfires and other recreational burns, and fire safety training. Chairman Hilton asked if the District receives a lot of open burning complaints, such as burning leaves, since it is repeatedly on the Complaint Investigation Status Summary each month. Mr. Gary stated that the recreational burn permit prohibits the burning of yard waste. Ms. Hamilton added that the District does see an uptick of bonfires in the Fall.

Vice Chairman Sullivan asked if the definition of an agriculture burn is driven by zoning, and Mr. Gary responded that it doesn't deal with zoning, but it is for recognized purposes related to agriculture.

**Adjourn**

The meeting was adjourned at 10:32 a.m.



Carl E. Hilton  
Chairman



Byron Gary  
Secretary-Treasurer

## Appendix M Comments & Responses



AIR POLLUTION CONTROL DISTRICT  
LOUISVILLE, KENTUCKY

CRAIG GREENBERG  
MAYOR

RACHAEL A. HAMILTON  
DIRECTOR

**Regulation 1.02, Definitions, version 16**  
**Regulation 1.11, Control of Open Burning, version 11**  
**Regulation 1.13, Control of Objectionable Odors in the Ambient Air, version 7**  
**Regulation 1.15, Version of Federal Regulations Incorporated by Reference, version 22.**  
**Response to Comments**

**Comment:** The District received six requests to extend the comment period after the initial notice opened the comment period from November 16 to December 16, 2022.

**Response:** The District extended the public comment period from December 16, 2022 to February 16, 2023. In addition, the District rescheduled the hearing originally scheduled for December 21, 2022, to 6:00 p.m., February 9, and continued at 10:00 a.m. March 15, 2023.

**Comment:** *Regulation 1.11 Control of Open Burning, Section 2.1.4 – Please provide an explanation concerning the addition of “controlled burn” to “fire for general agricultural production” as being excluded from the prohibition of open burning. Additionally, please consider defining the term “controlled burn” as it relates to section 2.1.4.*

- Lynorae Benjamin  
Chief  
Air Planning and Implementation Branch  
US EPA, Region 4

**Response:** The addition of “controlled burn” was meant as further explanation of a “fire for general agricultural production” rather than a separate type of allowed fire. In order to further clarify, in its final recommendation to the Board the District proposed changing the phrase “fire for general agricultural production or controlled burn for weed abatement...” to instead state “fire for general agricultural production, i.e., a controlled burn for weed abatement...” The District does not believe a separate definition of controlled burn is necessary, as the addition is merely meant to explain that fires for general agricultural production must be controlled burns.

**Comment:** *The GLI EEC supports the proposed amendments to Regulation 1.13. The proposed amendment more closely aligns with the District’s current enforcement policy for odors in the ambient air. In addition, the GLI EEC proposes the District adopt and incorporate the Kentucky Division for Air Quality (KYDAQ) Regulation 401 KAR 53:010 quantitative odor standard into Regulation 1.13:*



*“A mixture of one (1) volume of ambient air and seven (7) volumes of odorless air shall have no detectable odor at any time.”*

*Adoption of KYDAQ’s numerical standard into Regulation 1.13 will provide quantitative compliance requirements for regulated entities, clarify the definition of “Objectionable odor” in Section 1.1 of Regulation 1.13, and promote consistency of odor standards across the Commonwealth of Kentucky.*

- Jennifer J. Cave  
Chair  
GLI Energy and Environment Committee

**Response:** The District appreciates GLI’s support for the proposed amendments.

Regarding a numerical standard, the District does not believe that such a standard is necessary for Louisville. The District believes that a standard that recognizes that an undiluted smell can cause “substantial injury, detriment, nuisance, or annoyance” is more appropriate in a more urbanized area such as Louisville and that the amendments provide sufficient notice of what is considered a violation of the Regulation. It should be noted that while not providing a numerical limit, the regulation already allows for the use of “[a]n instrument, device, or technique” in section 2.2. The District believes that its current Odor Investigation Procedure (see <https://louisvilleky.gov/air-pollution-control-district/document/air-pollution-control-district-odor-investigation-sops>) gives further certainty to how the District will determine the existence and cause of an odor.

**Comment:** *The District states in its Preliminary Regulatory Impact Assessment that: “These amendments are being proposed to align the language of Regulation 1.13 with the prohibition in the District’s enabling statutes, specifically Kentucky Revised Statutes (KRS) §77.155, and to match the District’s current enforcement practice and policy.” The District reiterated at the January 19th public meeting that its intent in this rulemaking is to make this regulation consistent with KRS § 77.155. However, KRC believes that this proposed regulation fails to align with the full intent and scope of the statute and may make enforcement more difficult.*

- Ashley Wilmes, Esq.  
Executive Director  
Kentucky Resources Council

**Response:** The District respectfully believes that the amended regulation does align with the full intent and scope of the statute, and will not make enforcement more difficult. See the responses below for more explanation.

**Comment:** *KRS 77.155 prohibits the discharge of air contaminants or other material that cause “injury, detriment, nuisance, or annoyance.” The District’s proposed regulation 1.13 prohibits the discharge of air contaminants or other material that creates an objectionable odor and which causes causes [sic] “substantial injury, detriment, nuisance, or annoyance.”*

*The addition of the word “substantial” in the proposed regulation is not consistent with KRS § 77.155 and creates unnecessary ambiguity. It may also be interpreted to create a higher bar for enforcement under the regulation. At the public meeting, the District stated that the term “substantial” is based in common law and referenced the phrase “I know it when I see it” (as stated by the late Supreme Court Justice Potter Stewart when asked to describe his test for obscenity in 1964). Why include a term that requires an additional element of subjectivity and is not included in KRS § 77.155?*

- Ashley Wilmes, Esq.  
Executive Director  
Kentucky Resources Council

**Response:** Many jurisdictions similarly prohibit odors that cause “unreasonable” injury, detriment, nuisance or annoyance. *See, e.g., Knox County (Tennessee) Air Quality Management Regulation 21.0, available at <https://www.knoxcounty.org/airquality/pdfs/regulations/regulation21.pdf>.* The District believes that additional description of the threshold for an “injury, detriment, nuisance, or annoyance” strengthens its ability to enforce the regulation in court and that rather than creating an additional burden, the description gives reasonable notice of the standard to be used by the District in determining a violation. The additional description is based on Kentucky law which describes a public nuisance as causing substantial injury, detriment, nuisance, or annoyance. *See Commonwealth v. South Covington & C. St. Ry. Co.*, 205 S.W. 582, 583 (Ky. 1918); *see also Roberie v. VonBokern*, 2006 WL 2454647 (Ky. 2006), (citing The Restatement Second, Torts § 821B: “A public nuisance is an *unreasonable* interference with a right common to the general public” (emphasis added)).

**Comment:** *The District’s proposed regulation also requires the District to investigate and document the violation, including at “a minimum: observations on the odor’s nature, intensity, duration, and location,” and “evidence that the odor causes substantial injury, detriment, nuisance, or annoyance to any considerable number of persons, or to the public.” Again, these are requirements that go beyond what is required by statute and leads to other questions about responding to and controlling such objectionable odors. Will the District commit to having staff available off-hours to respond? Could the wording of the regulation be changed such that other agencies can be trained to respond and make determinations?*

- Ashley Wilmes, Esq.  
Executive Director  
Kentucky Resources Council

**Response:** The District believes information regarding the odor’s nature, intensity, duration, and location is relevant in an odor investigation and serves as one of the bases of the District’s proof of the violation in enforcing the regulation in court. This section, in addition to the District’s Odor Investigation Procedure (*available at <https://louisvilleky.gov/air-pollution-control-district/document/air-pollution-control-district-odor-investigation-sops>*), makes the Regulation enforceable by requiring certain evidence

and corroboration of allegations. The District allocates resources, including after hours, as able based on need and complaints. The District believes that KRS Chapter 77 does not provide for the delegation of Regulation 1.13 to other agencies to investigate or enforce violations of this regulation. If an odor is causing physical impacts, the District urges the public to call 911. In the event of “an accidental and other infrequent discharges that cause or contribute to objectionable odors”, owners and operators are required by Regulation 1.13 Section 3 to report that discharge to the District within an hour and comply with all applicable notification and reporting requirements pursuant to Regulation 1.07 *Emissions During Startups, Shutdowns, Malfunctions, and Emergencies*.

**Comment:** *At the public meeting, citizens expressed concern about the addition of “any considerable number of persons” in the proposed regulation. The District responded by pointing to the same language in KRS § 77.155 and citing consistency. However, KRS § 77.155 reaches more emissions/conduct than the proposed regulation, prohibiting the discharge of air contaminants or other material “which endanger the comfort, repose, health, or safety of any such persons or the public. . . .” The additional of “any considerable number of persons” in the proposed regulation therefore actually weakens the regulation in comparison to the statute. If the word “substantial” and phrase “considerable number of” persons are added to Regulation 1.13, then it should also be amended to mirror KRS § 77.155 by including the language “or which endanger the comfort, repose, health, or safety of any such persons or the public.”*

- Ashley Wilmes, Esq.  
Executive Director  
Kentucky Resources Council

**Response:** The District believes that the phrase “injury, detriment, nuisance, or annoyance” in Regulation 1.13 is sufficiently broad to cover the iterations of other types of nuisance and annoyance expressed in the statute, including, odors that may generally endanger the comfort and repose of the public. Regulation 1.09, *Prohibition of Air Pollution*, which includes the language “or which endanger the comfort, repose, health, or safety of any such persons or the public,” also applies to odors. See Regulation 1.02 section 1.5, which provides the definition for “air contaminant” or “air pollutant.” These regulations are not mutually exclusive, and both may be cited.

**Comment:** *Furthermore, KRS § 77.155 is not limited to “quantities of air contaminants or other material that creates an objectionable odor,” but includes “air contaminants or other material which cause injury, detriment, nuisance, or annoyance . . .” or “which endanger the comfort, repose, health, or safety of any such persons or the public” or “which cause or have a natural tendency to cause injury or damage to business or property.” If the intent of this rulemaking is to make the regulation consistent with the statute, then why isn’t the regulation being broadened to include air contaminants that either from odor or other attributes of the air contaminant or material, or from the quantity or duration of the material, have those adverse effects? The regulation is more limiting, and should be expanded to meet the scope and intent of KRS § 77.155.*

- Ashley Wilmes, Esq.  
Executive Director  
Kentucky Resources Council

**Response:** See previous response.

**Comment:** *Finally, as the Louisville Air Pollution Control District is aware, the regulation of odors remains a difficult issue, with a wide gulf historically between what the agencies consider "actionable" and the stench suffered by communities. KRC is concerned that there is not enough clarity in this regulation about how odors are measured, over what timeframe, and what triggers regulatory action. KRC hopes the District will consider these broader issues in this or a future rulemaking.*

- Ashley Wilmes, Esq.  
Executive Director  
Kentucky Resources Council

**Response:** The District appreciates the concerns expressed. However, the District believes that the odor investigation procedures previously cited above and these amendments give more certainty as to what constitutes a violation, and make the regulation more, rather than less, enforceable.

Appendix N  
District Regulation 1.02, *Definitions*, version 16 Regulatory Impact  
Assessment

**Louisville Metro Air Pollution Control District  
Regulatory Impact Assessment**

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**Regulation 1.02, Version 16**  
*Definitions*

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**March 15, 2023**

**Purpose of the Action**

This amendment incorporates the most recent definition of “volatile organic compound” (VOC) in Federal Regulations to add an additional exclusion from the definition, and adds a list of trivial activities, referenced elsewhere in the District’s Regulations.

**Scope of the Amendments**

EPA periodically exempts compounds from the definition of VOCs after finding them to be minimally reactive – in other words, when a compound is found to be a minimal contributor to the formation of ozone. The definition does not affect other potential regulations of the compounds, such as those that may be regulated as hazardous air pollutants (HAPs) or for their potential to contribute to climate change. This adds to the list of excluded compounds cis-1,1,1,4,4,4-hexafluorobut-2-ene (HFO-1336mzz-Z).

The changes also add to Regulation 1.02 a list of trivial activities. Previously, the District published this same list on its website, rather than including it in the Regulation. Because it is referenced elsewhere in regulations the District intends to submit to US EPA, via that Kentucky Division for Air Quality (DAQ), for inclusion in the Jefferson County portion of the Kentucky State Implementation Plan, US EPA has expressed that the list itself must also be included in a SIP.

**Estimated Costs and Savings**

*Estimated number of affected facilities*

The regulations here potentially affect any permitted or regulated source. The District currently permits 33 facilities through the Title V permitting program. Occasionally a potentially major facility may accept limits specifically to avoid applicability of a standard and instead receive a Federally Enforceable District-Origin Operating Permit (FEDOOP), of which the District currently has just over 60. The regulations also apply to non-major, or minor and regulated facilities, of which there are several hundred in Louisville Metro.

*Description of the range of affected facilities*

This proposal affects the full range of facilities in Louisville Metro.

*Estimated capital and operating costs and savings associated with compliance with the proposed action for affected facilities*

None. The definition of VOC is already federally enforceable, and the list of trivial activities is the same as that already published on the District's website.

**Feasibility of All Alternatives**

*Approach for reducing emissions*

The definition of VOCs has been amended because certain compounds have minimal effect on ozone, and therefore do not need to be regulated for that purpose. The trivial activities have been added as an appendix have been deemed to have minimal emissions impacting air quality, and thus are elsewhere excluded from certain regulations. Neither of these updates is anticipated to have an impact on emissions, as both are already enforceable by other means.

*Estimated level of emission reductions*

No emissions reductions are anticipated from this incorporation of already-applicable federal standard, or trivial activities already published to the District's website.

*Available pollution prevention measures*

No pollution prevention measures are directly relevant to this rulemaking.

*Reason that this alternative was chosen*

This rulemaking is required to incorporate the latest federal definition of VOC and to add the list of trivial activities the District already publishes to its website.

**Comparison with Any Minimum or Uniform Standards**

This rulemaking represents an incorporation of Federal Standards.

**Report on Public Outreach Efforts**

An initial 30-day formal public comment period, from November 16, 2022 to December 16, 2022, was extended at the request of several commenters to run through February 16, 2023. Notice was published in the Courier-Journal and sent to all members of the Louisville Metro Air Pollution Control Board, all persons who have requested to be notified of proposed changes to any District regulations; EPA Region 4; and the Kentucky Division for Air Quality. During this

period, comments were accepted by email to the Board Secretary-Treasurer Byron Gary at 701 West Ormsby Avenue, Suite 303, Louisville, Kentucky 40203 or by email at [AirRegs@LouisvilleKy.gov](mailto:AirRegs@LouisvilleKy.gov).

The District originally intended to host a public hearing on December 21, 2022. This public hearing was rescheduled due to the extended comment period, and held on February 9, 2023 at 6:00 p.m., and continued March 15, 2023 at 10:00 a.m. In addition, a public meeting with and informal opportunity for questions and answers was held on January 19, 2023 at 6:00 p.m. The public hearing and meeting were held via video teleconference, and could be accessed online or by telephone. Instructions for attending via video teleconference were posted at <https://louisvilleky.gov/government/air-pollution-control-district/air-pollution-control-board-meetings-and-public-hearings>, and emailed to all persons who have requested to be notified of District actions prior to the hearing. Members of the public were also able attend the video teleconference hearing in the Edison Room of the Edison Center at 701 West Ormsby Avenue, Louisville, Kentucky 40203.



## Appendix O

District Regulation 1.11, *Control of Open Burning*, version 11

Regulatory Impact Assessment

**Louisville Metro Air Pollution Control District  
Regulatory Impact Assessment**

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**Regulation 1.11 Version 11  
*Control of Open Burning***

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**March 15, 2023**

**Purpose of the Action**

These amendments were made based on community and internal suggestions for improvements.

**Scope of the Amendments**

The amendments allow use of certain accelerants to start fires in certain circumstances that otherwise meet the requirements of the rule.

**Estimated Costs and Savings**

*Estimated number of affected facilities*

The changes do not affect "facilities" per se, so much as individual open fires allowed under the rule. The primary purpose for elimination of the ban on accelerants was the request of prescribed fire practitioners.

Thirty-two fires for general agricultural production for weed abatement, disease control, or pest prevention or for recognized silvicultural, range, native grassland, or wildlife management practices were approved by the District in the past five years.

*Description of the range of affected facilities*

The changes do not affect "facilities" per se, so much as individual open fires allowed under the rule.

Fires for general agricultural production for weed abatement, disease control, or pest prevention or for recognized silvicultural, range, native grassland, or wildlife management practices are affected by this proposal.

Other fires must fit into one of the exceptions of section 2.1 of the regulation, such as being for non-commercial cooking (i.e., backyard barbecues), for recreational purposes (i.e., a backyard

firepit under 3 feet by 3 feet, or up to 5 feet by 5 feet if permitted by the District), or for fire training purposes.

*Estimated capital and operating costs and savings associated with compliance with the proposed action for affected facilities*

There are no expected capital or operating costs associated with compliance. The changes allowing accelerants come from the suggestion of prescribed fire practitioners, first at the [January 19, 2022 Regular Meeting](#) of the Air Pollution Control Board, and during subsequent meetings with the practitioners, and is based on typical practices for such fires.

**Feasibility of All Alternatives**

*Approach for reducing emissions*

The general approach for reducing emissions from open fires is prohibiting them, as in Section 2 of the Regulation.

*Estimated level of emission reductions*

No significant amount of emissions reductions or increases are anticipated in the rule amendments.

The changes which allow for use of accelerants in starting prescribed fires comes from the comments submitted by prescribed fire practitioners, first at the [January 19, 2022 Regular Meeting](#) of the Air Pollution Control Board, and during subsequent meetings with the practitioners, and is based on typical practices for such fires. Allowed accelerants are petroleum products such as gasoline or kerosene. The typical amount used to start prescribed fires is two gallons of gasoline and 5 gallons of diesel fuel per 25 acres of controlled burning.

*Available pollution prevention measures*

Generally, the only method for preventing pollution from open fires is by prohibiting them or limiting the type of materials which may be burned. The regulation does both.

*Reason that this alternative was chosen*

The changes that allow for use of accelerants in starting prescribed fires comes from the comments submitted by prescribed fire practitioners, first at the [January 19, 2022 Regular Meeting](#) of the Air Pollution Control Board, and during subsequent meetings with the practitioners, and is based on typical practices for such fires.

**Comparison with Any Minimum or Uniform Standards**

There are no known minimum or uniform standards. The District did evaluate the equivalent regulation enforced by the Kentucky Division for Air Quality,<sup>1</sup> which has no limitation on the use of accelerants for open burning.

#### **Report on Public Outreach Efforts**

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<sup>1</sup> 401 KAR 63:005, *Open Burning*, available at <https://apps.legislature.ky.gov/law/kar/titles/401/063/005/>