

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D. C. LAW 2-133

"Air Quality Control Regulations Amendment No. 3 of 1978"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 2-319, on first and second readings, July 25, 1978 and September 19, 1978 respectively. Following the signature of the Mayor on October 16, 1978, this legislation was assigned Act No. 2-280, published in the October 27, 1978, edition of the D.C. Register, (Vol. 25, page 3490) and transmitted to Congress on January 18, 1979 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, cites the following legislation as D.C. Law 2-133, effective March 3, 1979.


ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 13, 19, 22, 23, 24, 25, 26, 29, 30, 31

February 1, 2, 5, 6, 7, 8, 9, 13, 14, 15, 16, 20, 21, 22,
23, 26, 27, 28

LAW 2-133

AN ACT

EX-101
DATE MAR 00 1979

2-280

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 16, 1978

To amend the Air Quality Control Regulations of the District of Columbia relating to emissions of particulate matter, visible emissions, sampling, tests and measurements.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Air Quality Control Regulations Amendment No. 3 of 1979".

Sec. 2. The Air Quality Control Regulations (Regulation No. 72-12), enacted July 7, 1972, as amended, is further amended as follows:

(a) Section 8-2:702 is amended by inserting in appropriate alphabetical sequence the following definitions:

"malfunction: Any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions."

"Opacity: The degree to which emissions reduce the transmission of light or obscure the view of an object in the background."

"Ringelmann Smoke Chart: The chart published and described in the United States Bureau of Mines Information Circular 3333."

"Shutdown: The cessation of operation of a stationary or other source for any purpose: EXCEPT. That for oil-fired fuel-burning equipment, shutdown shall be the period starting with the continuous action of turning down and/or pulling out burners for the sole purpose of shutting-down the equipment and ending with the time when all burners have been turned off or pulled out."

"Start-up: The setting in operation of a stationary or other source for any purpose: EXCEPT. That for fuel-burning equipment, start-up shall mean a period from initial fire to the time steam can be delivered in usable form to steam-using equipment."

(b) Section 3-2:708 is amended by:

(1) designating the current section as section 3-2:708(a); and

(2) inserting the following as new subsections (b), (c) and (d), respectively:

"(b) Compliance with or violation of subsection (a) of this section shall be determined by performance tests conducted when the fuel-burning equipment (hereinafter referred to as "equipment") is operating under conditions encountered in normal operation that create the worst emissions in relation to allowable emissions. Tests shall be conducted at the maximum continuous operating capacity of the equipment unless the Mayor of the District of Columbia has reason to believe that the worst emissions in relation to allowable emissions occur under other conditions. For equipment equipped for blowing of soot, the frequency of soot blowing during performance tests must be proportioned to the frequency of soot blowing during the conditions at which the equipment is tested. Equipment operation during periods of hot or cold start-up, shutdown and malfunction shall not constitute normal operating conditions for performance tests. Equipment may not be specially tuned or optimized immediately before performance testing unless the owner or operator of the equipment represents in writing to the Mayor that the equipment will be maintained in such an optimized condition subsequent to performance testing. The above conditions for testing may be modified by the Mayor to

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suit specific sampling conditions or needs based on good practice, judgment and experience: PROVIDED, That no such modification shall have the effect of increasing the stringency of the standard.

"(c) When determining compliance with or violation of subsection (a) of this section by performance tests, test results shall be calculated using the method described in section 50.45(f)(5) of Title 40 of the Code of Federal Regulations, revised as of July 1, 1975.

"(d) No person shall cause, suffer or allow the blowing of soot from any fuel-burning equipment fired by solid fuels except during the hours of 10 A.M. to 4 P.M.: Provided, That the Mayor may allow the blowing of soot during other periods upon a finding that such blowing of soot is desirable for the efficient operation of the fuel-burning equipment or for the safety of personnel or equipment."

(c) Section 3-2:713 is amended to read as follows:

"Section 3-2:713. Visible Emissions.

"(a) Except as otherwise provided in these regulations, no person shall cause, suffer or allow visible emissions to be emitted into the outdoor atmosphere from stationary sources (excluding fuel-

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burning equipment placed in initial operation before January 1, 1977): Provided, That discharges not exceeding 40% opacity (unaveraged) shall be permitted for 2 minutes in any 60 minute period and for an aggregate of 12 minutes in any 24 hour period during start-up, cleaning, soot blowing, adjustment of combustion controls, and/or malfunction of equipment.

"(b) Except as otherwise provided in these regulations, no person shall cause, suffer or allow to be emitted into the outdoor atmosphere, from any fuel-burning equipment placed in initial operation before January 1, 1977, visible emissions whose opacity is in excess of 10% (unaveraged), at any time: EXCEPT, That:

"(i) opacity not in excess of 40% (unaveraged) shall be permitted for 2 minutes in any 60 minute period and for an aggregate of 12 minutes in any 24 hour period other than during start-up of equipment;

"(ii) during start-up of equipment, opacity not in excess of 40% (averaged over 5 minutes) shall be permitted for an aggregate of 5 times per start-up; and

"(iii) in addition to the emissions permitted under paragraph (i) above, during shutdown of equipment, opacity not in excess of 15% (unaveraged) shall be allowed and in addition, opacity not in excess of 30%

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(averaged over 3 minutes) shall be permitted for an aggregate of 3 times per shutdown.

"(c) At all times, including periods of start-up and malfunction, owners and operators of stationary sources and fuel-burning equipment shall, to the extent practicable, maintain and operate stationary sources and fuel-burning equipment, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions. Violation of standards set forth in this section, as a result of unavoidable malfunction, despite the conscientious employment of such control practices, shall constitute an affirmative defense on which the discharger shall bear the burden of proof. Periods of malfunction shall cease to be unavoidable malfunctions if reasonable steps are not taken to eliminate the malfunction within a reasonable time.

"(d) Owners and operators of stationary sources and fuel-burning equipment shall ensure that persons actually participating in the maintenance and operation of such sources and equipment are adequately trained and supervised so as to minimize the production of emissions during such operation.

"(e) where the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this section, this section shall not be applicable. The provisions of this section shall not apply to visible emissions from interior fire places, or from sources set forth in Section 8-2:711(b), or when steam is used to blow oil from a burner as the last phase of shutting down the burner.

"(f) whoever shall violate any provision of this section shall suffer the criminal sanctions prescribed in Section 8-2:726 of these regulations: Provided, That where the violation is shown by the discharger to be the result of simple negligence, no criminal sanction other than a fine not to exceed \$1,000 and not less than \$100 shall be imposed. In the event of any violation of, or failure to comply with, this regulation, each day of such violation or failure, shall constitute a separate offense and the penalties described herein shall be applicable to each separate offense. As used in this section, simple negligence does not include:

"(i) willful and wanton actions leading to violations of the requirements of this section;

"(ii) an extreme want of care and regard or an indifference for the duty to comply with the requirements of this section."

(d) Section 8-2:718 is amended as follows:

(1) subsection (a) is amended to read as follows:

"(a) General.

"(1) The Mayor may conduct or cause to be conducted, or require an owner or operator to conduct, tests of emission of air pollutants from any source. Upon request by the Mayor, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities as may be necessary for proper determination of the emission of air pollutants. The Mayor may take or cause to be taken samples of fuel by any appropriate means in such quantities as he feels are necessary. The Mayor shall not require an owner or operator to conduct tests with unreasonable frequency.

"(2) Notwithstanding any other provision to the contrary in these regulations, the Mayor may require, or approve modifications to testing and measurement procedures and methods, calculation methods

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and performance specifications specified in these regulations, to take into account:

"(A) specific conditions at the site or location;

"(B) latest available techniques;

"(C) good practices;

"(D) equivalency of the modified technique with the specified technique, in terms of results;

"(E) simplicity of the modified technique in terms of adequacy of the results in determining compliance or violation; and

"(F) other relevant factors.

"(3) The Mayor may require the submission of reports on tests and may require that the reports:

"(A) be reasonably comprehensive;

"(B) contain all raw data obtained during the tests, including data on calibration of equipment;

"(C) contain reasonable data on various parameters, both design and operating, of the source and associated equipment;

"(D) contain reasonable data on the quantities and properties of fuel and/or raw materials consumed;

"(E) contain results of the tests in terms that can be compared directly to emission and other appropriate limitations in these regulations."

(2) subsection (b) is amended to read as follows:

"(b) Test for emissions. Tests for particulate matter emissions, nitrogen oxide emissions, and sulfur oxide emissions shall be undertaken in accordance with the appropriate methods in Appendix A to Part 60 of Title 40 of the Code of Federal Regulations, revised as of July 1, 1976."

(3) subsection (c) is amended to read as follows:

"(c) Sulfur. Tests for the sulfur content of fuels shall be undertaken in accordance with the methods specified in Section 60.45(f)(5) of Title 40 of the Code of Federal Regulations, revised as of July 1, 1976."

(4) subsection (d) is amended to read as follows:

"(d)(1) Measurement of visible emissions. Visible emissions may be read by a qualified observer without the aid of any devices, by an observer with the aid of hand-held charts prepared on the principle of the Ringelmann Smoke Chart, or by other reasonable devices.

"(2) An observer may become qualified to take visible emission readings without the aid of any devices by being certified in accordance with appropriate provisions of item 3 Qualifications and Testing of Method 9, Appendix A to Part 60 of Title 40 of the Code of Federal Regulations, revised as of July 1, 1975: EXCEPT, That certification shall be valid for a period of one year. Qualified observers shall take readings in accordance with the appropriate provisions of items 2.1 Position, and 2.3 Observations, of Method 9 referred to above. Readings by the qualified observer shall be taken momentarily at approximate intervals of 15 seconds and shall be recorded to the nearest 5% opacity; each momentary observation recorded shall be deemed to represent the opacity of the emissions during the 15 second interval.

"(3) Continuous monitoring and recording equipment for visible emissions shall meet the performance specifications in the appropriate provisions of Performance Specification 1 in Appendix B to Part 60 of Title 40 of the Code of Federal Regulations, revised as of July 1, 1975, and shall be installed, calibrated, operated and maintained in accordance with the appropriate provisions of items 3.4 Cycling Times, 3.5

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"Monitor Location, 3.7 Zero and Drift, and 3.8 Span, in Appendix P to Part 51 of Title 40 of the Code of Federal Regulations, revised as of July 1, 1975.".

(e) Section 3-2:725 is amended by deleting "\$300" and inserting "\$5,000" in lieu thereof.

Sec. 3. Paragraph (5) of subsection (a) of section 3 of the District of Columbia Air Pollution Control Act (P.L. 90-440, Section 6-812(a)(5), District of Columbia Code, 1973 ed.) is amended by deleting "\$300" and inserting "\$5,000" in lieu thereof.

Sec. 4. This act shall take effect pursuant to the provisions of section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

RECORD OF OFFICIAL COUNCIL ACTION

Docket No: Bill 2-319

First Reading Action: July 25, 1978

☒ VOICE VOTE: Adopted Unanimously (all present)

Secretary to the Council

☐ ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	NY	AB.	COUNCIL MEMBER	AYE	NAY	NY	AB.	COUNCIL MEMBER	AYE	NAY	NY	AB.
TUCKER					MASON					SPALDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLAK									
DIXON					SHACKLETON									
Unanimous Vote A. B. Adams M. P. Miller Voting														

Secretary to the Council

Amended First Reading Action: _____

☐ VOICE VOTE: _____

Secretary to the Council

☐ ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	NY	AB.	COUNCIL MEMBER	AYE	NAY	NY	AB.	COUNCIL MEMBER	AYE	NAY	NY	AB.
TUCKER					MASON					SPALDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLAK									
DIXON					SHACKLETON									
Unanimous Vote A. B. Adams M. P. Miller Voting														

Secretary to the Council

Final Reading or Emergency Action: September 19, 1978

☒ VOICE VOTE: Adopted Unanimously (3abs)

Secretary to the Council

☐ ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	NY	AB.	COUNCIL MEMBER	AYE	NAY	NY	AB.	COUNCIL MEMBER	AYE	NAY	NY	AB.
TUCKER					MASON					SPALDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLAK									
DIXON					SHACKLETON									
Unanimous Vote A. B. Adams M. P. Miller Voting														

