

## **PROPOSED RULE 317      CLEAN AIR ACT NON-ATTAINMENT FEES**

### **(a) Purpose**

The purpose of this rule is to satisfy mandatory requirements as specified in Sections 182(d), 182(e), 182(f) and 185 of the 1990 amendments to the federal Clean Air Act (CAA).

### **(b) Applicability**

This rule applies to major stationary sources of VOC and NO<sub>x</sub> as defined in this rule. The fees required pursuant to this rule shall be in addition to any permit fees and any other fees required under other Rules and Regulations. This rule shall become effective when the Administrator of the U.S. EPA or the Executive Officer, makes a finding that a Basin as defined in Rule 1302(g) – Definitions is not in attainment with the federal one-hour standard for ozone. This rule shall cease to be effective when the Administrator of the U.S. EPA designates a Basin as defined in Rule 1302(g) - Definitions to be in attainment of the federal one-hour standard for ozone.

### **(c) Definitions**

- (1) **ATTAINMENT YEAR** is the calendar year that the Basin is mandated to reach attainment of the federal one-hour ozone standard pursuant to the 1990 amendments to the CAA. Under the Severe 17 area designation, the attainment year is 2007. Under the Extreme area designation, the attainment year is 2010.
- (2) **BASELINE EMISSIONS** for a major stationary source, are calculated for each air contaminant, VOC and NO<sub>x</sub> separately, as follows:
  - (A) If operations began prior to the attainment year, then the baseline emissions shall be the lower of either the actual emissions, including fugitive and unpermitted emissions or the amount of emissions allowed under permit, during the attainment year.
  - (B) If operations began during the attainment year, then the baseline emissions shall be the lower of the amount of emissions allowed under permit (the RECLAIM allocation for calendar year 2010 as initially issued and later shaved and not the amount of holdings for RECLAIM sources) or actual emissions, including fugitive and unpermitted emissions, from the operational period extrapolated over the attainment year.
  - (C) If operations begin after the attainment year, then the baseline emissions shall be the amount of emissions allowed under the applicable implementation plan

**Proposed Rule 317 (Cont.)**

(permitted annual emission levels), including fugitive and unpermitted emissions.

- (3) BASIN means the applicable air basins within the jurisdiction of the District as defined in 1302(g) – Definitions, in which a major stationary source is located.
- (4) FEE ASSESSMENT YEAR means the year for which CAA fees are being calculated and assessed under the provisions of this rule.
- (5) MAJOR STATIONARY SOURCE shall for the purposes of this rule have the same meaning as in Sections 181(b)(4)(B) and 182(d) of the CAA, if applicable, or a Major Polluting Facility as defined in Rule 1302(s) – Definition of Terms. As required by Section 182(f) of the CAA, major stationary sources of NO<sub>x</sub> are also subject to this rule in addition to major stationary sources of VOC's.
- (6) NITROGEN OXIDES (NO<sub>x</sub>) means any compound that is an oxide of nitrogen.
- (7) VOLATILE ORGANIC COMPOUND (VOC) is as defined in Rule 102 – Definitions.

(d) Requirements

- (1) For each of the air contaminants, VOC and NO<sub>x</sub>, a major stationary source shall be assessed an annual Clean Air Act (CAA) fee payable to the District for excess emissions of these air contaminants in accordance with Section 185 (b) of the CAA as follows:

$$\text{Annual VOC CAA Fee} = \$5,000 \times \text{CPIF} \times [ A - ( 0.8 \times B ) ], \text{ and}$$

$$\text{Annual NO}_x \text{ CAA Fee} = \$5,000 \times \text{CPIF} \times [ D - ( 0.8 \times E ) ]$$

Where:

A = The total amount of VOC emissions actually emitted during the applicable fee assessment year, in tons per year. If A is less than or equal to 80% of B; then there shall be no Annual VOC CAA Fee assessed for the subject year.

B = The VOC baseline emissions as defined in this rule in tons per year.

D = The total amount of NO<sub>x</sub> emissions actually emitted during the applicable fee assessment year, in tons per year. If D is less than or equal to 80% of E; then there shall be no Annual NO<sub>x</sub> CAA Fee assessed for the subject year.

E = The NO<sub>x</sub> baseline emissions as defined in this rule in tons per year.

CPIF = The annual Consumer Price Index (CPI) adjustment factor which is equivalent to the cumulative increase in the CPI beginning with the 1989 change in the index up to and including the change in year prior to the year for which the fees are due. For any calendar year the CPI is the average of

## Proposed Rule 317 (Cont.)

the CPI for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year or the revision of the CPI which is most consistent with the CPI for calendar year 1989 in accordance with Section 502(b)(3)(B)(v) and 185(b)(3) of the federal Clean Air Act.

- (2) Beginning with the second year after the attainment year and thereafter until the Administrator of the U.S. EPA designates the Basin to be in attainment of the federal one-hour standard for ozone, both the VOC and NO<sub>x</sub> annual CAA fees shall be remitted in accordance with the annual emissions fee billing requirements as established in Rule 301(e)(10). A major stationary source that does not pay any or all of the required CAA fees, by the specified due date, shall be subject to the late payment surcharge and permit revocation provisions of Rule 301(e)(10) and is also in violation of this rule and subject to the civil and criminal penalties as provided for in Health and Safety Code 42400 et seq.