

## **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 cease to be effective when the Administrator of the U.S. EPA designates the 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 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 area designation, the attainment year is 2005. 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 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 the baseline emissions shall be the amount of emissions allowed under the applicable implementation plan.
- (3) **BASIN** means the applicable air basin within the jurisdiction of the District as defined in 1302(g) – Definitions in which a major stationary source is located.
- (4) **EXTENSION YEAR** means an extension of the deadline for compliance with the federal one-hour ozone standard for the applicable attainment date for a period of one year as defined in Section 181(a)(5) of the CAA. The USEPA may grant, pursuant to Section 181(a)(5) of the CAA and upon the District's request, up to two, one-year,

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extensions to the attainment date provided the District has complied with all requirements and commitments pertaining to the area in the applicable implementation plan and no more than one exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the extension year.

- (5) FEE ASSESSMENT YEAR means the year for which CAA fees are being calculated and assessed under the provisions of this rule.
- (6) 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.
- (7) NITROGEN OXIDES (NO<sub>x</sub>) means any compound that is an oxide of nitrogen.
- (8) VOLITILE ORGANIC COMPOUND (VOC) means any volatile compound of carbon excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and exempt compounds as defined in Rule 102 – Definitions.

(c) Requirements

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

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

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

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 Mitigation 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> Mitigation 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 adjustment factor, beginning with the 1989 change in the index up to and including the change in year prior to the

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year for which the fees are due, 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 mitigation fees shall be billed and 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 mitigation fees, by the specified due date, shall be subject to the late payment surcharge and permit revocation provisions of Rule 301(e)(10).

(d) Exemptions

No major stationary source shall be required to pay fees required by this rule for emissions that occur during any Extension Year granted by the U.S. EPA Administrator according to Section 181(a)(5) of the CAA.