

RULE 307 CLEAN AIR ACT PENALTY FEES

Adopted 09-26-02

[\(Amended 3-23-23\)](#)**INDEX****100 GENERAL**

- 101 PURPOSE
- 102 APPLICABILITY
- 103 SEVERABILITY
- 110 EXEMPTIONS – [EXTENSION YEAR](#)
- [111 EXEMPTION – CESSATION OF FEES](#)
- [112 EXEMPTION – NONATTAINMENT STATUS](#)

200 DEFINITIONS

- 201 [ATTAINMENT DATE](#)
- ~~202~~⁴ ATTAINMENT YEAR
- ~~203~~² BASELINE EMISSIONS
- ~~204~~³ EXTENSION YEAR
- ~~205~~⁴ FEE ASSESSMENT YEAR
- 205 MAJOR STATIONARY SOURCE
- ~~206~~⁵ MAJOR STATIONARY SOURCE
- [207 SACRAMENTO FEDERAL NONATTAINMENT AREA FOR OZONE \(SFNA\)](#)

300 STANDARDS (NOT INCLUDED)**400 ADMINISTRATIVE REQUIREMENTS**

- 401 COLLECTION OF [PENALTY FEES](#)
- 402 [PENALTY FEE DETERMINATION](#)
- 403 [PENALTY FEE ADJUSTMENT](#)

500 MONITORING AND RECORDS (NOT INCLUDED)

This Page Intentionally Left Blank

100 GENERAL

- 101 **PURPOSE:** To establish fees pursuant to the ~~Federal~~-Clean Air Act Sections 182(d) and 185(a) through 185(d). ~~Clean Air Act fees will be assessed if the Sacramento Federal Nonattainment Area fails to demonstrate attainment of the federal one-hour air quality standard for ozone by the attainment year.~~
- 102 **APPLICABILITY:** This rule applies to Aany major stationary source of volatile organic compounds or nitrogen oxides ~~shall pay a penalty fee determined by Section 402 of this rule beginning with the year after the attainment year and each year thereafter until attainment has been achieved.~~ Clean Air Act penalty fees will be assessed if the SFNA for ozone fails to demonstrate attainment of any federal air quality standard for ozone by the respective attainment year and only for an ozone standard for ~~where~~ which the SFNA is listed as Severe or Extreme in 40 CFR Section 81.305.
- 103 **SEVERABILITY:** If any section, subsection, sentence, clause, phrase, or portion of this rule is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion is deemed to be a separate, distinct, and independent provision, and such holding does not affect the validity of the remaining portions of this rule. ~~If a court of competent jurisdiction issues an order that any provision of this rule is invalid, it is the intent of the Board of Directors of the District that other provisions of this rule remain in full force and effect to the extent allowed by law.~~
- 110 **EXEMPTIONS – EXTENSION YEAR:** No source ~~shall~~will be required to remit Clean Air Act ~~penalty~~ Fees for an ozone standard during any ~~year that is considered an~~ extension year for that standard.
- 111 **EXEMPTION – CESSATION OF FEES:** No source will be required to remit Clean Air Act penalty fees for an ozone standard if the SFNA has been redesignated by United States Environmental Protection (EPA) to attainment for that standard or if EPA has terminated the anti-backsliding requirement associated with Clean Air Act Section 185 for that standard. The penalty fees will cease in the same calendar year as the redesignation or termination.
- 112 **EXEMPTION – NONATTAINMENT STATUS:** No source will be required to remit Clean Air Act penalty fees for an ozone standard until the EPA has determined the SFNA has failed to attain the respective ozone standard.

200 DEFINITIONS

- 201 **ATTAINMENT DATE:** The EPA-approved date by which the SFNA must attain a federal air quality standard for ozone. Where no such EPA approval exists, the date of the area's maximum statutory attainment date for that standard.
- 202~~4~~ **ATTAINMENT YEAR:** The year that contains the attainment date. ~~the Sacramento Federal Nonattainment Area is mandated to reach attainment of the federal one-hour air quality standard for ozone.~~
- 203~~2~~ **BASELINE EMISSIONS:** Baseline emissions are calculated for each pollutant — volatile organic compounds or nitrogen oxides — for which the source is classified as a major stationary source. Baseline emissions are calculated separately for each applicable ozone standard.
- 203~~2.1.4~~ For major stationary sources that began operation prior to the attainment year, the baseline emissions shall be the ~~lower~~lowest of:
- the actual emissions during the attainment year, or
 - the ~~amount of~~ emissions allowed under the facility's permit during the attainment year, or
 - the emissions allowed under any applicable rules or regulations for the facility during the attainment year.

~~2032.1.2~~ For a major stationary source that begins operation during the attainment year or that becomes a major stationary source during the attainment year, the baseline emissions ~~shall be~~ are the lower of:

- a.) the ~~amount of~~ emissions allowed under permit during the operational period as a major source, extrapolated over the entire attainment year, or
- b.) the actual emissions from the ~~operational~~ period the source operated as a major stationary source, extrapolated over the entire attainment year.

~~2032.32~~ For a major stationary source that begins operation after the attainment year or that becomes a major stationary source after the attainment year, the baseline emissions ~~shall be~~ are the lower of: ~~amount allowed under the applicable implementation plan.~~

- a. the emissions allowed under permit or any applicable rules for the facility during the first year of operation or the operational period as a major stationary source, extrapolated over the entire first year as a major stationary source, or
- b. the actual emissions from the first year of operation or the operational period as a major stationary source extrapolated over the year.

~~2043~~ **EXTENSION YEAR:** An EPA-approved attainment year deferral requested under Section 181(a)(5) of the Clean Air Act. ~~The Environmental Protection Agency EPA may grant, pursuant to Section 181(a)(5) of the Clean Air Act and upon the District's request, up to two one-year extensions to the attainment date provided the District has a) complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and b) 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 requested extension year.~~

~~2054~~ **PENALTY FEE ASSESSMENT YEAR:** The year for which Clean Air Act penalty Fees are being calculated and assessed.

~~2065~~ **MAJOR STATIONARY SOURCE:** For the purposes of this rule, "major stationary source" has the same meaning as in Section 181(b)(4)(B) of the Clean Air Act, if applicable, or as in Rule ~~21402~~ — FEDERAL NEW SOURCE REVIEW. As required by Section 182(f) of the Clean Air Act, major stationary sources of nitrogen oxides are subject to this rule in addition to major stationary sources of volatile organic compounds.

~~207~~ **SACRAMENTO FEDERAL NONATTAINMENT AREA FOR OZONE (SFNA):** The Sacramento Metro, CA nonattainment area defined in 40 CFR Section 81.305 for an ozone standard, as amended.

300 STANDARDS (NOT INCLUDED)

400 ADMINISTRATIVE REQUIREMENTS

401 **COLLECTION OF PENALTY FEES:** Except as provided in Sections 110 through 112, if the SFNA fails to meet an attainment year deadline each major stationary source must pay an annual Clean Air Act penalty fee for each calendar year following the attainment year beginning in 2007 or the second year after the attainment year, whichever is later, the Air Pollution Control Officer shall assess the Clean Air Act fees for emissions in the previous calendar year. ~~Clean Air Act Penalty fees shall will~~ be billed and remitted in conjunction with the permit renewal fee established by Rule 301 — PERMIT FEES - STATIONARY SOURCE. Notification will be made by mail of the penalty fee due and payable and the date it the fee is due. If the penalty fee is not paid within 60 days of the notice, the permit will be suspended, and notification will be made by mail. A suspended permit may be reinstated by payment of the penalty fee and any other applicable fees.

402 **PENALTY FEE DETERMINATION:** The Clean Air Act penalty fee established in 1990 by Clean Air Act Section 185(b)(2) shall be is \$5,000, ~~adjusted pursuant to Section 403~~, per ton of volatile organic compound and nitrogen oxide emissions ~~during the calendar year that~~

exceed 80% of the baseline emissions [for each calendar year following the attainment year. The \\$5,000 penalty fee multiplier will automatically be adjusted if revised under Clean Air Act Section 185\(b\)\(2\). The penalty fee will also be adjusted annually pursuant to Section 403.](#)

$$Fee = 5000 * [E_A - (0.8 * E_B)] * (1 + CPI)$$

Where: *Fee* = Clean Air Act [penalty F](#)ee
E_A = actual emissions for the applicable [penalty](#) fee assessment year
E_B = baseline emissions
CPI = percent change in the Consumer Price Index [since 1990](#) as determined by Section 403

403 **PENALTY FEE ADJUSTMENT:** The [Clean Air Act penalty](#) fee ~~shall~~ will be adjusted annually by the change in the Consumer Price Index, [beginning in the year after 1990](#), pursuant to ~~Federal~~ Clean Air Act Sections 185(b)(3) and 502(b)(3)(B)(v).

500 MONITORING AND RECORDS (NOT INCLUDED)