

**RULE 7.15 - CLEAN AIR ACT NONATTAINMENT FEES** (Adopted 12/06/10, Public Hearing on 04/04/2022)

**A. GENERAL**

1. **Purpose**: To establish fees pursuant to the Federal Clean Air Act Sections 182(d) (3) and 185(a) through 185(d).
2. **Applicability**: Any major stationary source of volatile organic compounds or nitrogen oxides located within portions of the District listed in CFR 81.305 as severe or extreme nonattainment for ozone national ambient air quality standards.
3. **Severability**: 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.
4. **Cessation of Fee**: The Clean Air Act Fees for any ozone standard will cease on the effective date of the United States Environmental Protection Agency final action redesignating the nonattainment area to attainment for that standard, or terminating the antibacksliding requirement associated with the Section 185 penalty for a revoked standard.

**B. DEFINITIONS**

1. **Attainment Year**: The year that the nonattainment area is approved by EPA to reach attainment of the federal one-hour or eight-hour air quality standards for ozone. Where no such EPA approval exists, the year of the area's maximum statutory attainment date for that standard.
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.
  - a. For major stationary sources that began operation prior to the attainment year, the baseline emissions shall be the lower of the actual emissions during the attainment year or the lower of the amount of emissions allowed under permit

or by regulation.

- b. For a major stationary source that begins operation during the attainment year, the baseline emissions shall be the lower of:
    - 1) The amount of emissions allowed under permit, or
    - 2) The actual emissions from the operational period extrapolated over the attainment year.
  - c. For a major source that begins operation after the attainment year, the baseline emissions shall be the lower of:
    - 1) The amount of emissions allowed under permit, or
    - 2) The actual emissions from the first year of operation extrapolated over the year.
- 3. **Fee Assessment Year**: The year for which Clean Air Act Fees are being calculated and assessed.
  - 4. **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 10.1 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.

**C. ADMINISTRATIVE REQUIREMENTS**

- 1. **Collection of Fees**: Except as provided in Section A(4), beginning in the year after the effective date of a final determination published in the *Federal Register* that the area has not attained the standard by the attainment date, the Air Pollution Control Officer shall assess the Clean Air Act Fees for emissions in the previous calendar year. Clean Air Act Fees shall be billed and remitted in conjunction with the permit renewal fee established by RULE 7.6 ANNUAL RENEWAL FEES. Notification will be made by

mail of the fee due and payable and the date the fee is due. Late fees and permit suspension shall be assessed in accordance with RULE 7.13 LATE PAYMENT.

2. **Fee determination:** The fee was established by the CAA in 1990 to be \$5,000 per ton of volatile organic compounds and nitrogen oxide emissions during the calendar year that exceed 80% of the baseline emissions. The fee shall be adjusted annually pursuant to Section C.3.

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

Where:

Fee	=	Clean Air Act Fee
EA	=	Actual emissions for applicable fee assessment year
EB	=	Baseline emissions
CPI	=	Percent change in the Consumer Price Index as determined by Section C.3

3. **Fee Adjustment:** The fee shall be adjusted annually by the change in the Consumer Price Index pursuant to Federal Clean Air Act Sections 185(b)(3) and 502(b)(3)(B)(v).