

# **Regulation IV**

## **Rule 404 – Hearing Board Fees**

*This Rule was first adopted December 16, 2004; revised May 19, 2005.  
The current version was adopted by the Governing Board via Resolution 2014-7 on October 16, 2014.*

### **TABLE OF CONTENTS**

- A. PURPOSE
  
- B. HEARING BOARD FEE SCHEDULE
  - 1. Additional Fees
  - 2. Costs of Hearing Transcripts and Recordings
  - 3. Fee Waivers and Refunds for Specified Appeals
  - 4. Fee Payment
  
- C. EXCESS EMISSION FEE SCHEDULE

## RULE 404 HEARING BOARD FEES

- A. PURPOSE:** This rule establishes the fees which may be assessed by the District to offset costs incurred by the Hearing Board in the performance of its duties pursuant to District Regulation IV and H&SC §40800 *et seq.* The authority to establish this rule is provided for in H&SC §42364.
- B. HEARING BOARD FEE SCHEDULE:** Every applicant or petitioner for variance, or for the extension, revocation or modification of a variance; or for an appeal from a denial or conditional approval of an ATC or PTO; or for an appeal of Hearing Board decision; or for a request for rehearing including any federal, state or local governmental agency or public district, except for the APCO filing on behalf of the District, shall pay to the District a fee based on Table 1 – Hearing Board Fees. The fees shall be calculated in accordance with Rule 400.
1. **Additional Fees:** Additional Hearing Board fees and costs may be assessed by the Hearing Board as a direct result of the action which the applicant or petitioner has brought before the Hearing Board.
  2. **Costs of Hearing Transcripts and Recordings:** Any person requesting a written transcript or recording of the hearing shall pay the cost of such transcript or recording. The parties to Hearing Board proceedings may be directed by the Hearing Board to pay the cost of transcripts necessary for the Hearing Board's determination of the matter, in such proportion as the Hearing Board may order.
  3. **Fee Waivers and Refunds for Specified Appeals**
    - a. Third party appeals or re-hearings that lead to the overturning of a previous decision by the Hearing Board or by the APCO shall be refunded 75% of the filing fee.
    - b. When issuing a permit pursuant to H&SC §42311.2, the Hearing Board may waive all or part of these fees if it determines that circumstances warrant that waiver.
    - c. Any person may allege that payment of the excess emission fee will cause an unreasonable hardship and may be excused from payment of such fees or a portion of such fees by order of the Hearing Board if the Board in its discretion determines after hearing evidence thereon that payment of such fees would cause financial hardship to the petitioner with no corresponding benefit to the public.
  4. **Fee Payment:** Full payment of the hearing fees shall be received by the District prior to the commencement of the hearing.

Table 1 – Hearing Board Fees

Filing Fees & Services	X-Factor Multiplier
Emergency Variance Petition, Initial Hearing	2
Variance Petition (Short or Long Term), Initial Hearing	5
Subsequent Hearing(s)- To modify increments of progress, extend, revoke, or to re-hear actions taken by a single member (emergency variance)	5
Regular Hearing - Petitions to reverse APCO decisions – permit approvals & denials, levying of administrative civil penalties	5
Records of Proceedings	Actual Costs

**C. EXCESS EMISSION FEE SCHEDULE:** In addition to the filing fees assessed under this Rule, each petitioner for a variance shall pay to the Clerk of the Hearing Board, an emissions based fee for the total weight of emissions in excess of that allowed under District Rule or permit which are discharged during the term of the variance.

1. **Estimated:** As part of the variance petition, the applicant shall provide an estimate of emissions to be discharged and shall pay an excess emission fee calculated based on Table 1 below. Payment for the estimated excess emission fees shall accompany the variance hearing filing fees.
2. **Actual:** The petitioner shall estimate the actual emissions discharged during the term of the variance, and shall calculate the true excess emission based fee based on Table 1 below. Within 30 days of the termination of the variance, the petitioner shall pay the difference, or shall be refunded the balance by the District.

Table 1 – Excess Emissions

Air Contaminant	X-Factor Multiplier Per Ton of Contaminant
Organic gases, except methane and those containing sulfur	2
Oxides of nitrogen (expressed as NO <sub>2</sub> )	1
Oxides of sulfur (expressed as SO <sub>2</sub> )	1
Total reduced sulfur compounds (expressed as hydrogen sulfide)	2
Particulate matter	2
Opacity	Use Equation

- i. **Opacity Emissions:** For each source which emits gases of opacity in excess of District Rules, permits, State or federal law may be assessed fees according to the following equation.

$$Fee = (Actual\ Opacity\ \% - Allowed\ Opacity\ \%) * (0.04\ X) * (Operating\ Days) * 100$$

Where:

X is equal to the X-Factor in effect at the time of the emission; and  
 Operating Days is equal to the number of calendar days during which the excess emissions occurred.