

Regulation IV

Rule 406 – Part 70 Federal Operating Permit Fees

This Rule was first adopted November 3, 1982; revised March 17, 2011. The current version was adopted by the Governing Board via Resolution 2014-7 on October 16, 2014.

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RULE 406 PART 70 FEDERAL OPERATING PERMIT FEES

- A. PURPOSE:** The purpose of this Rule is to ensure that the fees assessed for a source with a Part 70 Federal Operating Permit are sufficient to fully offset applicable District programmatic costs, and to ensure that the amount of fees assessed are equal to or in excess of the presumptive minimum amount for a the source as calculated pursuant to 40 CFR Part 70.9. The fees collected pursuant to this Rule shall be in addition to those collected pursuant to applicable requirements of Regulation IV. The authority to establish this rule is provided for in H&SC §41512.5.
- B. CLEAN AIR ACT TITLE V FEES:** In addition to the permit fees, specified in Regulation IV, each major source as defined in Regulation V, shall pay a Clean Air Act Title V fee equal in amount to one and one-half times the permit fee. The permittee shall pay the permit fee and Clean Air Act Title V fee to the District Office in person or by mail postmarked no later than August 30 of that year. If the fees (permit and Clean Air Act Title V) are not paid by August 30, the fee shall be increased by one-half the amount thereof, and the District shall thereupon promptly notify the permittee by mail of the increased fee. If the increased fees are not paid within 60 days after such notice, the permit shall be immediately suspended and the District shall so notify the permittee by mail. Any suspended permit may be reinstated only upon payment in full of all accrued fees and penalties or by filing a new application complete with initial fee. Fees will continue to be required until such time as the ATC and/or PTO cancellation or denial becomes final and all operations involving the stationary source have ceased.
- 1. Submittal of Information:** The owner/operator, or his or her designee, shall provide the APCO sufficient information to determine the supplemental fee. [Reference: 40 CFR Part 70.6(a) (7)]
- C. PRESUMPTIVE MINIMUM FEE:** The permittee or his designee, shall pay annual fees to the District in an amount equal to or in excess of the Presumptive Minimum Fee (PMF) calculated pursuant to this Rule. In the event that the sum of the fees assessed pursuant to the applicable sections of Regulation IV, are less than the PMF, the owner/operator shall be assessed a Supplemental Fee calculated pursuant to this Rule. Beginning in the year 2011 and for each year thereafter until such time that the EPA Administrator establishes a greater value, the value of \$57.50 per ton shall be assessed for each ton of criteria pollutants which also meet the definition of a fee pollutant as defined in this Rule. In the event that the EPA Administrator establishes a greater value, the value established by the Administrator shall be assessed.
- 1. Definitions:** For purposes of this section, the following terms shall have the meaning as listed below.
 - a. Fee-based Emissions:** means the actual rate of emissions in tons per year of any fee pollutant, including fugitive emissions, emitted from the stationary source over the preceding year or any other period determined by the APCO to be representative of normal operation. Fee-based emissions shall be calculated using each emission unit's actual operating hours, production rates, and in-place control equipment; type of material processed, stored, or combusted during the preceding calendar year, or other time period established by the APCO. [Reference: 40 CFR Part 70.9 (b) (2) (iii)]
 - b. Fee Pollutant:** means oxides of nitrogen, volatile organic compounds, any pollutant for which a national ambient air quality standard has been promulgated by the United States Environmental Protection Agency (EPA) (excluding carbon monoxide), and any other pollutant that is subject to a standard or regulation promulgated by EPA under the federal Clean Air Act (CAA) or adopted by the District pursuant to section 112(g) and (j) of the CAA.

2. Calculation of Presumptive Minimum Fee: The Presumptive Minimum Fee shall be calculated using the following equation.

$$PMF = (V \times Ec) + [(X \div C) \times Eg]$$

Where:

PMF = Presumptive Minimum Fee

V = \$57.50 per ton, until such time as the EPA Administrator establishes a greater amount

Ec = Tons of Fee Pollutants that meet the definition of criteria pollutants, emitted during the preceding calendar year

X = The "X – Factor" established by the District Governing Board for the current fiscal year

C = 1650.5 tons (a constant derived based on the "X – Factor" using base year of 2011 to achieve a value of 0.055 per ton of CO2e)

Eg = Tons of Fee Pollutants that meet the definition of greenhouse gases, emitted during the preceding calendar year calculated as CO2e in accordance with Regulation I, Rule 111

D. DETERMINATION OF SUPPLEMENTAL FEE: The supplemental annual fee shall be determined by completing the following steps:

Step 1: Calculation of Minor Source Permit Fees & Clean Air Act Fee

$$TVF = A + B + C$$

Where:

TVF = The sum of all minor source and clean air act fees

A = Sum of the Rule 400 permit fees applicable to the source

B = Sum of the Rule 406 Clean Air Act Fees applicable to the source

C = Sum of the Rule 407 fees applicable to the source except for the State Fees collected pursuant to Rule 407 Section 2.1.

Step 2: Calculation of Supplemental Fee

$$S = PMF - TVF$$

Where:

S = Supplemental Fee

TVF = The sum of all applicable minor source permit fees and clean air act fees

PMF = The Presumptive Minimum Fee

Step 3: Determination of Final Fee

If "S", the resulting value from Step 2, is greater than or equal to zero, then the annual fee for the source is equal to the value of "PMF". If "S", the resulting value from Step 2, is less than zero, then the annual fee for the source is equal to "TVF".