

# **Regulation IV**

## **Rule 406 – Federal Clean Air Act Permit Fees**

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## RULE 406

### FEDERAL CLEAN AIR ACT PERMIT FEES

- A. **PURPOSE:** The purpose of this Rule is to establish a fee structure for Title V Operating Permits issued pursuant to the District's federally approved Part 70 permit program. The Rule is intended to achieve full cost recovery of 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 given 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 PERMIT FEES:** In addition to the annual minor source permit fees specified in Regulation IV, the Permittee of each "major source" as defined by Regulation V, shall pay a Clean Air Act Permit Fee on an annual basis equal in an amount to one and one-half times the annual minor source permit fee(s) for the permitted equipment.
1. **Exemptions:** Permits issued for the following device types and categories shall be exempt from the requirements of Sections B and E of this Rule.
- a. **Air Curtain Incinerators:** When operated as a stationary or portable source and not:
- i. Permitted to emit pollutants in amounts greater than major source thresholds as defined by Regulation V;
  - ii. Co-located with equipment or other devices which are permitted to emit pollutants in amounts greater than the Title V significance thresholds; or
  - iii. Co-located with equipment or other devices which are operated pursuant to a synthetic minor operating permit.
- C. **FEE PAYMENT, LATE FEES AND PENALTIES:** The requirements of Rule 400 (I) shall apply to all fees required pursuant to this Rule.
- D. **SUBMITTAL OF INFORMATION:** The owner/operator, or their designee, shall provide the APCO sufficient information to determine the supplemental fee. [Reference: 40 CFR Part 70.6(a) (7)]
- E. **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

F. **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”.