

RULE 3172 FEDERALLY MANDATED OZONE NONATTAINMENT FEE – 2008 8-HOUR STANDARD (Adopted [rule adoption date])**1.0 Purpose**

The purpose of this rule is to satisfy the requirements specified in Section 185 and Section 182(f) of the 1990 amendments to the Federal Clean Air Act (CAA) for the 2008 8-hour Ozone National Ambient Air Quality Standard (NAAQS).

2.0 Applicability

2.1 This rule shall become applicable if and when the U.S. Environmental Protection Agency (EPA) has made the finding that the San Joaquin Valley Air Basin (SJVAB) has failed to attain the 2008 8-hour Ozone NAAQS by the Attainment Date.

2.2 No source shall be required to remit Federally Mandated Ozone Nonattainment Fees under this rule during any calendar year that is considered an Extension Year for the 2008 8-hour Ozone NAAQS.

2.3 This rule applies to any Major Source of oxides of nitrogen (NO_x) and/or volatile organic compounds (VOC). The fees required pursuant to this section shall be in addition to permit fees and other fees required under other Rules and Regulations.

2.4 The fees established by this rule shall cease to be applicable when the EPA takes a final action to redesignate the SJVAB as an attainment area for the 2008 8-hour Ozone NAAQS.

3.0 Definitions

3.1 Actual Emissions: as defined in Rule 2201 (New and Modified Stationary Source Review Rule).

3.2 Air Pollution Control Officer (APCO): as defined in Rule 1020 (Definitions).

3.3 Attainment Date: the EPA-approved date that the San Joaquin Valley Air Basin must attain the 2008 8-hour Ozone NAAQS. This date is inclusive of any extension years granted by the EPA.

3.4 Attainment Year: the calendar year that contains the Attainment Date.

3.5 Baseline Emissions: The actual annual emissions during the Baseline Period, or the annual emissions allowed by the facility's permit during the Baseline Period, whichever is lower, in tons per year.

- 3.6 Baseline Period: the Attainment Year or, in the case where a Major Source was not in operation during the Attainment Year, the calendar year when the source first began operation as a Major Source.
 - 3.7 Extension Year: the year that the EPA may grant, pursuant to Section 181(a)(5) of the Clean Air Act and upon the state's request, to extend the Attainment Date.
 - 3.8 Fee Assessment Year: the calendar year in which emissions occurred for which Federally Mandated Ozone Nonattainment Fees are assessed under Section 5.0 of this rule.
 - 3.9 Fee Collection Year: the calendar year in which Federally Mandated Ozone Nonattainment Fees are being invoiced, generally the calendar year following the Fee Assessment Year.
 - 3.10 Major Source: as defined in Rule 2201 (New and Modified Stationary Source Review Rule).
 - 3.11 NOx: any nitrogen oxide compound.
 - 3.12 VOC: any Volatile Organic Compound, as defined in Rule 1020 (Definitions).
- 4.0 Exemptions
- 4.1 Any source with potential NOx and/or VOC emissions less than the Major Source thresholds specified in Rule 2201 (New and Modified Stationary Source Review Rule) is not subject to this rule.
- 5.0 Fee Requirements
- 5.1 Beginning the second year after the Attainment Year, the APCO shall assess annual Federally Mandated Ozone Nonattainment Fees for emissions in the previous calendar year (the Fee Assessment Year). The fees shall be determined, pursuant to Section 5.2, using Baseline Emissions and Fee Assessment Year emissions.
 - 5.1.1 The Federally Mandated Ozone Nonattainment Fees shall be invoiced on May 1 of the Fee Collection Year.
 - 5.1.2 Each agency or person shall remit the assessed Federally Mandated Ozone Nonattainment Fees to the District on or before June 30 of the Fee Collection Year.

5.1.3 If all Federally Mandated Ozone Nonattainment Fees due have not been paid by June 30 of the Fee Collection Year, the fee shall be increased in accordance with the schedule provided in Rule 3010 Section 11.0 (Late Fees). Nonpayment of the increased fees by July 30 may result in suspension of the facility’s Permit(s) to Operate.

5.2 Each Major Source of NO_x or VOC will be assessed an annual fee payable to the District. The fee shall be the sum of the NO_x Fee and the VOC Fee, which shall be calculated as follows, in accordance with Section 185 (b) of the Federal Clean Air Act.

$$\text{NO}_x \text{ Fee (in \$)} = [A - (0.8 \times B)] \times C$$

$$\text{VOC Fee (in \$)} = [D - (0.8 \times E)] \times C$$

Where:

A = The total amount of NO_x emissions actually emitted from permitted emissions units at a major NO_x source during the applicable Fee Assessment Year, in tons per year.

B = The NO_x Baseline Emissions.

C = The fee rate of \$5,000 per ton of pollutant, in 1990 dollars, adjusted by the U.S. City Average Consumer Price Index for all-urban consumers, in accordance with Section 502(b)(3)(B)(v) of the Federal Clean Air Act.

D = The total amount of VOC emissions actually emitted from permitted emissions units at a major VOC source during the applicable Fee Assessment Year, in tons per year.

E = The VOC Baseline Emissions.

5.3 In the equation for NO_x Fee in Section 5.2, if A is less than or equal to 80% of B, the fee assessment for NO_x shall be set to zero.

5.4 In the equation for VOC Fee in Section 5.2, if D is less than or equal to 80% of E, the fee assessment for VOC shall be set to zero.

6.0 Emissions Reporting

6.1 All Major Sources subject to this rule must provide Baseline Emissions information within 60 days of the District’s request, or by the due date of the initial annual emissions statement required under Section 6.2, whichever is earlier. This information must include all necessary Baseline Emissions data for VOC and NO_x from each permitted emissions unit.

6.2 All Major Sources subject to this rule must provide annual emission statements that report actual emissions of VOC and NOx for the prior calendar year from each permitted emissions unit. Such statements shall be submitted in accordance with the format established by the District before March 31 of each year.

7.0 Annual Reporting

On or before November 1 of each year, the APCO shall prepare an Annual Fee Report.

7.1 The report shall document:

7.1.1 A listing of all facilities subject to this Rule.

7.1.2 The total Section 185 fees collected under the direct implementation of the federal ozone nonattainment fee, codified in Section 185 of the Federal Clean Air Act. The fees shall be calculated using the fee calculations in Section 5.0 of this rule.

7.2 The report shall be made available to the public and mailed to the federal EPA no later than November 1 of each billing year.