

EL DORADO COUNTY AIR QUALITY MANAGEMENT DISTRICT

RULE 611 - CLEAN AIR ACT NONATTAINMENT FEES

(Adopted January 23, 2024)

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RULE 611 - CLEAN AIR ACT NONATTAINMENT FEES

611.1 GENERAL

A. **PURPOSE:** To establish fees pursuant to Section 185 of the Federal Clean Air Act (CAA) (42 U.S.C. §7511d)

B. **APPLICABILITY:**

1. The provisions of this rule shall apply to 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.
2. This rule shall cease to be applicable on the effective date of the United States Environmental Protection Agency (EPA) final action redesignating the nonattainment area to attainment for that standard or terminating the anti-backsliding requirement associated with the Section 185 penalty for a revoked standard. The penalty fees will cease in the same calendar year as the redesignation or termination.

C. **SEVERABILITY:**

Each provision of this rule shall be deemed severable. In the event that any provision of this rule is determined to be invalid, the remainder of this rule shall continue in full force and effect.

D. **EXEMPTIONS**

1. No facility otherwise subject to this rule shall be required to remit a mandatory penalty pursuant to Section 185 of the Clean Air Act penalty fees (42 U.S.C. §7511d) under this rule for any calendar year in which the facility emits verified Actual Emissions equal to or less than 80 percent of its Baseline Emissions.
2. No facility otherwise subject to this rule shall be required to remit a CAA Section 185 penalty for more than one federal standard for any specific calendar year. A facility's applicable CAA Section 185 penalty for any calendar year shall be the largest of all such applicable penalties.
3. No source will be required to remit CAA penalty fees for an ozone standard until the EPA has determined the SFNA has failed to attain the respective ozone standard.

611.2 DEFINITIONS

A. **ACTUAL EMISSIONS:** Actual calendar year total facility emissions emitted to the atmosphere of each Nitrogen Oxides (NO_x) and Volatile Organic Compounds (VOC) reported to the District through a verified emission inventory. Fugitive emissions from a facility shall not be included in the calculation unless the facility belongs to one of the twenty-seven major source categories listed under the definition of "major stationary source" in 40 CFR 51.165(a)(1)(iv)(C).

B. **ATTAINMENT DATE:** The EPA-approved date by which the SFNA must attain a federal air quality standard for ozone. Where no such EPA approval exists, the date of the area's

maximum statutory attainment date for that standard.

- C. **ATTAINMENT YEAR:** The year that contains the attainment date.
- D. **BASELINE EMISSIONS:** Baseline emissions are calculated for each pollutant—VOC or NO_x—for which the source is classified as a major stationary source. Baseline emissions are calculated separately for each applicable ozone standard.
1. For major stationary sources that began operation prior to the attainment year, the baseline emissions are the lowest of:
 - a. the actual emissions during the attainment year, or
 - b. the emissions allowed under the facility’s permit during the attainment year, or
 - c. the emissions allowed under any applicable rules or regulations for the facility during the attainment year.
 2. For a major stationary source that begins operation during the attainment year, the baseline emissions shall be the lower of:
 - a. the emissions allowed under permit during the operational period as a major source, extrapolated over the entire attainment year, or
 - b. the actual emissions from the period the source operated as a major stationary source, extrapolated over the entire attainment year.
 3. For a major source that begins operation after the attainment year, the baseline emissions shall be the lower of:
 - a. the emissions allowed under permit or any applicable rules for the facility during the first year of operation or the operational period as a major stationary source, extrapolated over the entire first year as a major stationary source, or
 - b. the actual emissions from the first year of operation or the operational period as a major stationary source extrapolated over the year.
- E. **EXTENSION YEAR:** An EPA-approved attainment year deferral requested under Section 181(a)(5) of the Clean Air Act. EPA may grant, upon the District’s request, up to two one-year extensions to the attainment date provided the District has a) complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and b) no more than one exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the requested extension year.
- F. **FEE ASSESSMENT YEAR:** The year for which Clean Air Act Fees are being calculated and assessed.
- G. **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 523.2Z 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.
- H. **SACRAMENTO FEDERAL NONATTAINMENT AREA FOR OZONE (SFNA):** The Sacramento Metro, CA nonattainment area defined in 40 CFR Section 81.305 for an ozone standard, as amended.

611.3 STANDARDS

- A. **COLLECTION OF FEES:** Except as provided in Section 611.3, 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 601, Stationary Source Fees. Notification of the fee due and payable and the date the fee is due will be made by mail. Late fee and permit suspension shall be assessed in accordance with Rule 601, Stationary Source Fees.

- B. **FEE DETERMINATION:** The fee was established by the CAA section 185(b)(2) in 1990 to be \$5,000 per ton of VOC and NO_x that exceed 80% of the baseline emissions for each calendar year following the attainment. The fee shall be adjusted annually pursuant to Section 611.3C.

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

Where: Fee = Clean Air Act Fee
 E_A = Actual emissions for applicable fee assessment year
 E_B = Baseline emissions
 CPI = Percent change in the Consumer Price Index as determined by Section 611.4C

- C. **FEE ADJUSTMENT:** The CAA penalty fee shall be adjusted annually by the change in the Consumer Price Index pursuant to Federal CAA Sections 185(b)(3) and 502(b)(3)(B)(v)(I).