

RULE 305.1 Excess Emissions Fees - Adopted 06/01/93; Amended 01/06/00; 03/13/08.

I. Applicability

Requirements of this Rule shall apply to any person petitioning the Hearing Board for a variance from any Rule establishing specific emission rate limits, including Rule 401 (Visible Emissions).

II. Fees

A. Excess Emission Fee

Each petitioner for a variance from these Rules and Regulations shall pay to the Clerk of the Hearing Board, upon filing, the filing fee required by Rule 305, and any excess emission fee(s) based on the difference between emissions allowed by these Rules and Regulations and the maximum emissions allowed by the variance. The excess emission fee(s) shall be determined in accordance with this Section and schedules set forth in Section VI. A.

B. Excess Visible Emission Fee

Each petitioner for a variance from a Rule limiting the opacity of emissions shall pay to the Clerk of the Hearing Board, upon filing, the filing fee required by Rule 305, any excess emission fee(s) required by Subsection II.A., and an emission fee based on the difference between the percent opacity allowed by the Rule and the maximum percent opacity of emissions allowed by the variance. The fee shall be determined in accordance with the schedule set forth in Subsection VI.B.

C. Multiple Fees

In the event more than one Rule limiting discharge of the same contaminant is exceeded, the excess emission fee or excess visible emission fee shall be the fee for the exceedance resulting in payment of the greatest amount. For purposes of this Subsection, opacity rules and particulate mass emission rules shall not be considered to limit discharge of the same contaminant.

D. Minimum Fees

When a variance is granted from a rule or rules which limit discharge of air contaminants such that an excess emission fee or excess visible emission fee is due, a fee of at least \$150 shall apply.

III. Applicability

Provisions of Section II shall apply only to those rules or permit conditions that specify quantitative emission limits.

IV. Fee Determination

A. Excess emission fees shall be calculated by the petitioner based upon requested number of days of operation under the variance multiplied by the excess emission per day allowed by the variance, as prescribed in Section II. Calculations and proposed fees shall be set forth in the petition.

- B. The Hearing Board may adjust the excess emission fee(s) required by Section II of this Rule based on evidence regarding emissions presented at the Hearing. Failure to pay any additional excess emission fee(s) determined to be due by the Hearing Board, within ten days of the effective date of the variance, shall invalidate the variance.

V. **Emission Fee Refunds**

In the event the petition is withdrawn prior to the Hearing or the variance is not granted, the petitioner shall be entitled to a full refund of excess emission fees paid. That portion of emission fees paid pursuant to Section II beyond that required based on actual emissions, may be refunded provided the petitioner requests such a refund in writing within 30 days of the petitioner's final compliance date as granted by the Hearing Board.

VI. **Emission Fee Schedules**

- A. Schedule of Excess Emission Fees

<u>Air Contaminant</u>	<u>Dollars per Ton of Excess Emissions</u>
Volatile Organic Compounds	\$450
Oxides of Nitrogen (as NO ₂)	\$450
Sulfur Compounds (as SO ₂)	\$150
Particulate Matter	\$300

- B. Schedule of Excess Visible Emission Fees

For each source with excess visible emissions the fee shall be calculated as follows:

$$\text{Fee (\$)} = \frac{(\text{Opacity* allowed by variance} - \text{opacity allowed by rules})}{\text{x number of days allowed in variance}} \times 3.75$$

* Where opacity equals the maximum opacity of emissions in percent. If emissions are measured in Ringelmann number, such reading shall be converted to equivalent opacity.