

## **Appendix B**

**Louisiana RS 30:2066 : Fees, Severe and Extreme Ozone Nonattainment Areas**

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**RS 30:2066**

§2066. Fees; severe and extreme ozone nonattainment areas

A. The following terms shall have the following meanings for the purposes of this Section:

(1) "Annual adjustment" shall mean an annual increase by the percentage by which the Consumer Price Index, as published by the United States Department of Labor for all urban consumers or its successor publication, for the year immediately prior to the year in which the fee is being imposed exceeds the Consumer Price Index for the calendar year 1989.

(2) "Baseline amount" shall mean the amount computed, in accordance with such guidance as the administrator of the United States Environmental Protection Agency may provide, as the lower amount within the year of either the actual volatile organic compound (VOC) or Nitrogen Oxides (NOx) emissions or the VOC or NOx emissions allowed under the permit applicable to the source, or if no permit has been issued for that year, the amount of VOC or NOx emissions allowed under the implementation plan. Such guidance by the administrator may include the calculation of the baseline amount based upon average actuals or average allowables.

B. In accordance with the provisions of Article VII, Section 2.1 of the Constitution of Louisiana, the Department of Environmental Quality is authorized to adopt, promulgate, implement, and collect a fee, in addition to any other fee, to be paid by major stationary sources of VOC and NOx emissions located in severe or extreme ozone nonattainment areas that have failed to attain the one-hour national primary ambient air quality standard for ozone by the year 2005. The fee shall be no more than five thousand dollars or an amount determined by the department to be consistent with applicable federal requirements, whichever is less, plus annual adjustment, per ton of VOC and NOx emitted in excess of eighty percent of the baseline amount by the source during the calendar year. The fee shall be paid for each calendar year beginning after 2005 for which a fee is to be collected pursuant to this Section, until the area is classified as an attainment area for the one-hour national primary ambient air quality standard for ozone or such fee is no longer required by Section 185 of the Clean Air Act Amendments of 1990 (42 U.S.C. 7511d). To the extent consistent with applicable federal requirements, when imposing the fee authorized by this Section, the department may use such baseline or baselines as the department deems necessary and appropriate.

C. The fee authorized in this Section shall not apply to the following:

(1) Emissions emitted during any year that is treated as an "Extension Year" under Section 181 (a)(5) of the Clean Air Act Amendments of 1990 (42 U.S.C. 7511(a)(5)).

(2) Areas with a total population under two hundred thousand that failed to attain the standard by the year 2005, if the area can demonstrate, consistent with guidance by the Administrator of the United States Environmental Protection Agency, that attainment in the area is prevented because of ozone or ozone precursors transported from other areas and if the area has met all requirements and implemented all applicable measures under the Clean Air Act Amendments of 1990.

D. Notwithstanding any provision in this Section to the contrary, to the extent that the United States Congress, the United States Environmental Protection Agency, or a court with appropriate jurisdiction takes action that eliminates, reduces, or otherwise modifies the fee required by Section 185 of the Clean Air Act Amendments of 1990 (42 U.S.C. 7511d) or the manner in which such fee is implemented or collected, the department shall take such actions as appropriate to immediately adopt, promulgate, and implement such regulations as necessary to ensure that a minimum of such fee is collected pursuant to this Section but not greater than five thousand dollars per ton as required by Section 185 of the Clean Air Act Amendments of 1990 (42 U.S.C. 7511d) or any new federal statute or binding federal requirement on the same subject. To the extent applicable judicial decisions or federal laws, regulations, policies, guidance, or directives provide flexibility or alternatives with respect to the imposition of the fee required by Section 185 of the Clean Air Act Amendments of 1990 (42 U.S.C. 7511d), the department may adopt, promulgate, and implement such regulations and take such other actions as consistent therewith, including modifying the manner in which the fee authorized by this

Section is implemented and collected, otherwise ameliorating the impact of such fee or imposing alternative requirements in lieu of, or in addition to, such fee.

Acts 2003, No. 441, §1; Acts 2008, No. 588, §1, eff. June 30, 2008.