

**SUBCHAPTER 5. REGISTRATION,
EMISSION INVENTORY AND ANNUAL OPERATING FEES**

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted prior to March 1 of the following year, unless ~~a 30-day extension has been granted by the Division~~ the Division has granted a 30-day extension. An additional 30-day extension may be granted for good cause shown.

(2) **Permit by rule.** ~~Facilities~~ The owner or operator of a facility registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated air pollutant are ~~is~~ is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) **Permit exempt facilities and de minimis facilities.** ~~De minimis facilities as defined in 252:100-7-1.1~~ The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory.

(4) **Special inventories.** Upon request by the Director, the owner or operator of a facility that emits or has the potential to emit any regulated air pollutant shall file an emission inventory with the Division. The Director is authorized to request this inventory when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements.

(b) **Content.** All inventories submitted to the Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

(3) If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference.

(4) For those emissions not the subject of a permit and when requested by the AQD, a list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with OAC 252:100-5-2.1(d), below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.

(d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under OAC 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. Acceptable methods of calculation for determining actual emissions are:

(1) Emission factors utilized in the issuance of a ~~relevant~~ currently applicable Oklahoma Air Quality permit(s) for the facility.

(2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the ~~Air Quality~~ Division.

(3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:

(A) Tests are performed by persons qualified by training and experience to perform said tests.

(B) Copies of the tests results and methods are available for review by the ~~Air Quality~~ Division.

(4) Continuous emissions monitoring data, when supported by required certification and calibration data.

(5) Current AP-42 factors or other factors acceptable to the Division.

(6) Manufacturer's test data, when approved by the Division as reliable.

(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Division.

(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Division.

(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Division.

(e) **Methods of verification.** Emission inventories determined by the Division to be substantially incomplete or substantially incorrect shall, upon the request of the Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Division.

(f) **Certification.** The emission inventory shall contain certification by a responsible official of the truth, accuracy, and completeness of the document. This certification shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

(g) **Transfer of ownership or change of name.** The owner or operator of any facility that is required to submit an emission inventory shall notify the Division in writing no later than 10 days following any transfer of ownership or facility name change.

252:100-5-2.2. Annual operating fees

(a) **Applicability.**

(1) ~~This Section~~ OAC 252:100-5-2.2 applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or

has not at any time been submitted for the facility. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by OAC 252:100-5-2.2(b) (2) will be used solely for Part 70 program costs.

(2) ~~This Section OAC 252:100-5-2.2 does not apply to de minimis facilities or to permit exempt facilities .~~

(b) **Fee schedule.**

(1) **Minor facilities.**

~~(A) Until January 1, 1998, the owner or operator of a facility subject to this Section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:~~

- ~~(i) 10 - 24.99 tpy - \$100/year~~
- ~~(ii) 25 - 49.99 tpy - \$250/year~~
- ~~(iii) 50 - 74.99 tpy - \$500/year~~
- ~~(iv) 75 - 99.99 tpy - \$750/year~~

~~(B) In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).~~

~~(C)(A) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).~~

~~(D)(B) Beginning January 1, 2003, annual operating fees shall be no more than \$22.28 per ton of regulated pollutant (for fee calculation).~~

(2) **Part 70 Sources.**

(A) From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).

(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).

(C) Beginning January 1, 2003, the annual operating fee for Part 70 sources shall be no more than \$22.28 per ton of regulated pollutant (for fee calculation).

(D) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar

year 1994. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the twelve-month period ending on August 31 of each calendar year.

(c) **Payment.**

(1) Fees are due and payable on the invoice due date(s). Fees shall be considered delinquent 30 days after the invoice due date(s). Within five (5) years but not before a grace period of 120 days from the invoice due date, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*, to an owner or operator of a facility who has failed to pay or has underpaid such fees.

(2) If an owner or operator has failed to submit the required annual emission inventory, the DEQ may issue an administrative order to recover fees that would have been invoiced had the emission inventory been submitted when due. The DEQ may issue such order within five (5) years from the date of billing and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*

(3) When a fee overpayment has been made as a result of an error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ.

(d) **Basis for annual operating fees.**

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions.

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

PART 1. GENERAL PROVISIONS

252:100-7-1.1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Actual emissions" means the total amount of regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).

"Best Available Control Technology" or **"BACT"** means the best control technology that is currently available as determined by the ~~Division~~ Director on a ~~case-by-case~~ case-by-case basis, taking into account energy, environmental, and economic impacts and other costs.

"Commence" means, as applied to the construction or modification of a minor facility to which neither a NSPS or NESHAP applies, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

"De minimis facility" means a facility that meets the requirements contained in paragraphs (A) and (B) of this definition.

(A) ~~Is~~ All the air pollutant emitting activities at the facility are on the de minimis list contained in Appendix H or the facility meets all of the following de minimis criteria:

(i) ~~Has~~ The facility has actual emissions of ~~five (5) tons per year~~ 5 tpy or less of each regulated air pollutant, except ~~Total Suspended Particulates (TSP)~~. that fraction of particulate matter that exhibits an aerodynamic particulate diameter of more than 10 micrometers (μm)

(ii) ~~Is~~ The facility is not a "major source" as defined in OAC 252:100-8-2.

(iii) ~~Is~~ The facility is not a "major stationary source" as defined in OAC 252:100-8-31 for facilities in attainment areas.

(iv) ~~Is~~ The facility is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas.

(v) ~~Is~~ The facility is not operated in conjunction with another facility or source that is subject to air quality permitting.

(vi) The facility has not opted to obtain or retain an Air Quality Division permit.

(B) ~~Is~~ The facility is not subject to the federal NSPS (40 CFR Part 60) or the federal NESHAP (40 CFR Parts 61 and 63).

~~(C) Is not subject to the NESHAP (40 CFR Parts 61 and 63).~~

"Facility" means all of the pollutant-emitting activities that meet all the following conditions:

(A) Are under common control.

(B) Are located on one or more contiguous or adjacent properties.

(C) Have the same two-digit primary SIC Code (as described in the Standard Industrial Classification Manual, 1987).

"Hazardous Air Pollutant" or **"HAP"** means any hazardous air pollutant regulated under Section 112 of the federal Clean Air Act, 42 U.S.C. Section 7412, and subject to NESHAP.

"Minor facility" means a facility which is not a Part 70 source.

"National Emission Standards for Hazardous Air Pollutants" or **"NESHAP"** means those standards as published by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412.

"New portable source" means a portable source that has never operated within the State of Oklahoma. This includes sources that are initially constructed and existing facilities that are relocating into Oklahoma from another state.

"New Source Performance Standards" or **"NSPS"** means those standards found in 40 CFR Part 60.

"Permit exempt facility" means a facility that:

(A) has actual emissions in every calendar year that are 40 tpy or less of each regulated air pollutant;

(B) is not a de minimis facility as defined in OAC 252:100-7-1.1;

(C) is not a "major source" as defined in OAC 252:100-8-2 for Part 70 sources;

(D) is not a "major stationary source" as defined in OAC 252:100-8-31 for PSD facilities in attainment areas;

(E) is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas;

(F) is not operated in conjunction with another facility or source that is subject to air quality permitting;

(G) is not subject to an emission standard, equipment standard, or work practice standard in the federal NSPS (40 CFR Part 60) or the federal NESHAP (40 CFR Parts 61 and 63); and

(H) is not subject to the requirements of OAC 252:100-39-47.

"Portable source" means a source with design and intended use to allow disassembly or relocation.

"Relocate" means to move a source from one geographical location to another. The term does not include minimal moves within the facility boundaries.

"Regulated Air Pollutant air pollutant" means:

(A) Any Volatile Organic Compound (VOC), as that term is defined in OAC 252:100-1-3, 252:100-37-2, or 252:100-39-2.

(B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.

(C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.

(D) Any Toxic Air Contaminant as defined and regulated under OAC 252:100-41-2.

(E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

252:100-7-2. Requirement for permits for minor facilities

(a) **Permit required.** ~~Except as provided in this section~~ OAC 252:100-7-2, no person may commence construction or modification of any minor facility, may operate any new minor facility, or may relocate any minor portable source without obtaining a permit from the DEQ. For additional application and permitting procedures, ~~see the Uniform Permitting Rules, OAC 252:2-15~~ OAC 252:4, Subchapter 7 Environmental Permit Process.

~~(b) **Exception for de minimis facilities.** De minimis facilities are exempted from the permitting requirements of OAC 252:100-7. De minimis facilities remain subject only to the following air quality control rules:~~

(b) **Exceptions**

(1) **De minimis facilities.** De minimis facilities are exempted from the permitting requirements of OAC 252:100-7. De minimis facilities remain subject only to the following air quality control rules:

- ~~(1)~~ (A) OAC 252:100-13 Open Burning
- ~~(2)~~ (B) OAC 252:100-25 Visible Emissions and Particulates
- ~~(3)~~ (C) OAC 252:100-29 Control of Fugitive Dust
- ~~(4)~~ (D) OAC 252:100-41 Control of Emission of Hazardous and Toxic Air Contaminants.

(2) **Permit exempt facilities.** Permit exempt facilities are exempted from the permitting requirements of OAC 252:100-7, the requirement to submit an annual emission inventory as required by OAC 252:100-5-2.1, and the requirement to pay annual operating fees as required by OAC 252:100-5-2.2(b). Permit exempt facilities remain subject to all other applicable State and federal air quality control rules and standards.

(c) **Permit application.**

(1) All applications shall be signed by the applicant.

(2) The signature on an application for a permit shall constitute an implied agreement that the applicant shall be responsible for assuring construction or operation, as applicable, in accordance with the application and OAC 252:100.

(3) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit such supplementary facts or corrected information within 30 days unless the applicant's request for more time has been approved by the DEQ. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of the draft permit.

(d) **Applicability determination.** Upon written request along with the required fee and any relevant information needed, the DEQ will make a determination of whether a permit is required.

(e) **Change in permit status.** The owner or operator of a permitted facility may at any time notify the DEQ that the facility:

(1) Is de minimis, requesting termination of the permit, or

(2) Qualifies for either a permit by rule or a general permit, submitting the appropriate application for such permit, or

(3) Is permit exempt, requesting termination of the permit.

(f) **Transfer of permit.** The transfer of ownership of a stationary source or a facility shall subject the new owner or operator to existing permit conditions and/or compliance schedules. A new permit is not required. The transferor shall notify the AQD in writing no later than 10 days following the change in ownership.

(g) **Emission calculation methods.**

(1) Except as allowed by OAC 252:100-7-2(g)(2) of this subsection, the methods in OAC 252:100-5-2.1(d) shall be used when calculating regulated air pollutant emission rates for purposes of determining if an Air Quality Division permit is required or what type of permit is required.

(2) In lieu of calculating regulated air pollutant emission rates to determine if emissions from a facility meet the emission limits in the definition of permit exempt facility, the owner or operator of an oil and gas exploration and production facility or a natural gas compressor facility may assume the facility is permit exempt without calculation if the equipment and throughput at the facility meet the following criteria.

(A) NO_x and CO emissions. NO_x and CO emissions from the facility may each be considered to meet permit exempt facility emission restrictions if the facility's total maximum rated horsepower for all reciprocating internal combustion engines in compressor service equals 240 or less.

(B) VOC emissions. VOC emissions from the facility may be considered to meet permit exempt facility emission restrictions if:

(i) the facility-wide actual annual average natural gas throughput is less than 0.650 MMCFD (650,000 standard cubic feet per day), and the actual annual average hydrocarbon liquid throughput is less than 250 barrels per day, and

(ii) the total glycol dehydration actual annual average natural gas flow rate is less than 1000 MCFD (1 million cubic feet per day).

PART 2. PERMIT APPLICATION FEES

252:100-7-3. Permit application fees

(a) **Minor facility permit application fees.** A permit application or a request for an applicability determination received after the effective date of ~~this subsection~~ OAC 252:100-7-3(a) will be assessed a one-time fee that must accompany the application or request. Applications received without appropriate fees are incomplete. Fees must be paid by check or money order made payable to the Oklahoma Air Quality Division in accordance with the following fee schedule:

(1) **Applicability determination.** \$250, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.

(2) **Construction permit application fees.**

(A) Permit by rule registration - \$250

(B) General permit authorization or NOI (Notice of Intent) - \$400

(C) Individual permit (initial construction or for added emissions) -

(i) Emissions of each regulated air pollutant less than 40 tons per year - \$1000

(ii) Emissions of any regulated air pollutant 40 to 99.99 tons per year - \$1500

(D) Amendments of individual permits which do not increase emissions - \$500

(E) Extension of time and transfer of ownership - no fee

(3) **Operating permit application fees.**

(A) Permit by rule registration - \$100

(B) General permit authorization - \$150

(C) Individual permit - \$500

(D) Modification of individual permit - \$200

(E) Relocation - \$100

PART 3. CONSTRUCTION PERMITS

252:100-7-15. Construction permit

(a) **Construction permit required.** No person shall cause or allow the construction or installation of any new minor facility other than a de minimis facility or a permit exempt facility as defined in OAC 252:100-7-1.1 without first obtaining a DEQ-issued air quality construction permit. A construction permit

is also required for any modification that would cause an existing facility to no longer qualify for de minimis status, permit exempt facility status, or its current permit category. In addition, a construction permit is required to add a piece of equipment or a process that is subject to NSPS or NESHAP or to add or physically modify a piece of equipment or a process that results in an increase in actual emissions of any one regulated air pollutant by more than 5 ~~tons per year tpy~~ at an existing facility covered by an individual permit.

(b) **Permit categories.** Three types of construction permits are available: permit by rule, general permit, and individual permit. A permit by rule may be adopted or a general permit may be issued for an industry if there are a sufficient number of facilities that have the same or substantially similar operations, emissions, and activities that are subject to the same standards, limitations, and operating and monitoring requirements.

(1) **Permit by rule.** An owner or operator of a minor facility may apply for registration under a permit by rule if the following criteria are met:

(A) The facility has actual emissions less than 40 tons per year of each regulated air pollutant, except HAPs.

(B) The facility does not emit or have the potential to emit 10 tons per year or more of any single HAP or 25 tons per year or more of any combination of HAPs.

(C) The DEQ has established a permit by rule for the industry in Part 9 of this Subchapter.

(D) The facility certifies that it will comply with the applicable permit by rule.

(E) The facility is not operated in conjunction with another facility or source that is subject to air quality permitting.

(2) **General permit.** Minor facilities may qualify for authorization under a general permit if the following criteria are met:

(A) The facility has actual emissions less than 100 tons per year of each regulated air pollutant, except for HAPs.

(B) The facility does not emit or have the potential to emit 10 tons per year or more of any single HAP or 25 tons per year or more of any combination of HAPs.

(C) The DEQ has issued a general permit for the industry.

(3) **Individual permit.** Minor facilities requiring permits under this Subchapter which do not qualify for permit by rule or a general permit shall obtain individual permits. An owner or operator may apply for an individual permit even if the facility qualifies for a permit by rule or a general permit.

(c) **Content of construction permit application.**

(1) **Individual permit.** An applicant for an individual construction permit shall provide data and information required by this Chapter on an application form available from the DEQ. Such data and information should include but not be limited to site information, process description, emission data, and when required, BACT determination, modeling and sampling point data.

(2) **General permit.** An applicant for ~~coverage authorization~~ under a general permit shall provide data and information required by that permit on a form available from the DEQ. For general permits that provide for application through the filing of a notice of intent (NOI), ~~coverage~~authorization under the general permit is effective upon receipt of the NOI.

(d) **Permit contents.** The construction permit:

(1) Shall require the permittee to comply with all applicable air pollution rules.

(2) Shall prohibit the exceedance of ambient air quality standards contained in OAC 252:100-3.

(3) May establish permit conditions and limitations as necessary to assure compliance with all rules.

(e) **Failure to comply with a construction permit.** A violation by the owner or operator of the limitations or conditions contained in the construction permit shall subject the owner or operator to any or all enforcement penalties, including permit revocation, available under the Oklahoma Clean Air Act and Air Pollution Control Rules. No operating permit will be issued until the violation has been resolved to the satisfaction of the DEQ.

(f) **Cancellation of authority to construct or modify.** A duly issued permit to construct or modify will terminate and become null and void (unless extended as provided below) if the construction is not commenced within 18 months of the permit

issuance date, or if work is suspended for more than 18 months after it has commenced.

(g) **Extension of authorization to construct or modify.**

(1) Prior to the permit expiration date, a permittee may apply for extension of the permit by written request of the DEQ stating the reasons for the delay/suspension and providing justification for the extension. The DEQ may grant:

(A) one extension of 18 months or less or

(B) one extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site.

(2) If construction has not commenced within three (3) years of the effective date of the original permit, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

PART 4. OPERATING PERMITS

252:100-7-18. Operating permit

(a) **Permit required.**

(1) No person shall cause or authorize the operation of a new or modified minor facility for more than a 60-day period without applying for a DEQ permit to operate.

(2) No owner or operator shall cause or authorize the operation of a minor facility if the DEQ denies or revokes a permit to operate.

(b) **Permit Categories.** Three types of operating permits are available. See OAC 252:100-7-15(b) for a complete description of the permit categories.

(c) **Permit application requirements.**

(1) **Application content.** Application will be made on a form provided by the DEQ. An application shall contain:

(A) The proposed operation start-up date, or phased dates when applicable.

(B) Revisions to the installation/construction, if any, that differed from the construction design and plan given in the permit application material, data and specifications.

(2) Before a permit to operate a new or modified minor facility is granted, the applicant, if required by the DEQ, shall conduct emission tests in accordance with methods approved by the DEQ with the tests being made at the expense of the applicant. The DEQ shall be given advance notice of the tests, may monitor performance tests conducted by the applicant, and may also conduct emissions tests. The results of any required test must be provided to the DEQ along with supporting information as required.

(d) **Operating permit conditions.**

(1) Emission limitations established and made a part of the construction permit are incorporated into and become enforceable limitations of the subsequently issued operating permit.

(2) Permit limitations in adjustment of, or in addition to, the facility's construction permit limitations may be made a condition of the facility's operating permit issuance.

(e) **Applicability.**

(1) Applications for modifications to existing Part 70 sources may be submitted and processed, and operating permits may be issued under ~~this section~~ OAC 252:100-7-18 until such time as an application for a Part 70 operating permit shall be required under OAC 252:100-8-4(b)(4). Applications for a Part 70 operating permit or a modification to a Part 70 operating permit submitted after that time shall be processed in strict accordance with Part 70 requirements in Subchapter 8. In the event the final permit, as issued, contains limitations such that the facility no longer meets the definition for "Part 70 source," the permit shall, upon expiration of all time limitations for judicial review, be deemed to be a minor facility operating permit.

(2) Applications for construction and operating permits for New Major Stationary Sources classified as Tier III under ~~252:2-15-42~~ OAC 252:4-7-34 shall be subject to the Part 70 operating permit requirements contained in Subchapter 8 notwithstanding OAC 252:100-7-18(e)(1) above.