

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

252:100-5-1.1. 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 252:100-5-2.1(d).

"Allowable emissions" means:

(A) The total amount of regulated air pollutant emitted based on limits contained in a federally enforceable permit or potential to emit, or

(B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

"Date of billing" means the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

"Emission inventory" means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

"Error" means, with regard to fees, a fee overpayment made as a result of a mistake on the part of the DEQ in invoicing or the part of the owner or operator in calculating emissions. It does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

"Grandfathered source" means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

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

"Part 70 source" means any source subject to the

permitting requirements of Part 5 of Subchapter 8 of this Chapter as provided in 252:100-8-3(a) and 252:100-8-3(b).

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

"Regulated 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 and 252:100-42;
- (E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

"Regulated pollutant (for fee calculation)", which is used only for purposes of this Subchapter, means any "regulated air pollutant" except the following:

- (A) Carbon monoxide.
- (B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.
- (C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.
- (D) Total suspended particulates (TSP).

"Group I regulated air pollutant" is for fee purposes only and includes all regulated air pollutants except:

- (A) VOC as defined in OAC 252:100-1-3, 252:100-37-2, or 252:100-39-2;
- (B) Any pollutant regulated as a hazardous air pollutant (HAP) under section 112 of the Federal Clean Air Act;
- (C) Any pollutant regulated as a toxic air contaminant (TAC) under OAC 252:100-42;
- (D) Carbon monoxide;
- (E) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act;

(F) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Federal Clean Air Act; and

(G) Total suspended particulates (TSP).

"Group II regulated air pollutant" is for fee purposes only and includes:

(A) VOC as defined in OAC 252:100-1-3, 252:100-37-2, or 252:100-39-2;

(B) Any pollutant regulated as a HAP under section 112 of the Federal Clean Air Act; and

(C) Any pollutant regulated as a TAC under OAC 252:100-42.

252:100-5-2.2. Annual operating fees

(a) Applicability.

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

(3) In the event that a particular substance exhibits the characteristics of more than one type of regulated air pollutant, only one classification shall be assigned to that substance for fee calculation purposes. If a substance can be classified as both a Group I and a Group II regulated air pollutant, it shall be classified as a Group II regulated air pollutant.

(b) Fee schedule.

(1) Minor facilities.

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

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

(C) Beginning January 1, 2006, annual operating fees shall be as follows.

(i) Annual operating fees for Group I regulated air pollutant shall be \$22.28 per ton of emissions.

(ii) Annual operating fees for Group II regulated

air pollutant shall be no more than \$40.00 per ton of emissions.

(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) Beginning January 1, 2006, annual operating fees shall be as follows.

(i) Annual operating fees for Group I regulated air pollutant shall be \$23.36 per ton of emissions plus any adjustment necessitated by the appropriate Consumer Price Index.

(ii) Annual operating fees for Group II regulated air pollutant shall be no more than \$40.00 per ton of emissions.

~~(D)~~(E) 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.