

SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

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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 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), (B), and (C) of this definition.

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

(i) The facility ~~has~~ has actual emissions of five (5) tons per yeartpy 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). The actual emissions of particulate matter that are greater than 10 μm may exceed 5 tpy as long as the potential to emit does not make the facility a "major stationary source" as defined in OAC 252:100-8-2 for part 70 sources, as defined in OAC 252:100-8-31 for PSD facilities in attainment areas, or as defined in OAC 252:100-8-51 for facilities in nonattainment areas.

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

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

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

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

(B) The facility ~~is~~ is not subject to the federal NSPS (40 CFR Part 60).

(C) The facility ~~is~~ 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 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 less than 40 tpy 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;
- (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; and,
- (G) is not required to have a permit by the federal NSPS (40 CFR Part 60) or the federal NESHAP (40 CFR Parts 61 and 63).

"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 Pollutantair 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~~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~~Section, 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.

(b) **Exception for de minimis facilitiesExceptions.** ~~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) **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 unless required to have a permit by a federal program that is administered by the State. 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.

(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.

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 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)~~(A) General permit authorization - \$400
 - ~~(C)~~(B) 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)~~(C) Amendments of individual permits which do not increase emissions - \$500
 - ~~(E)~~(D) Extension of time and transfer of ownership - no fee
- (3) **Operating permit application fees.**
 - ~~(A)~~ ~~Permit by rule registration~~ — \$100
 - ~~(B)~~(A) General permit authorization - \$150
 - ~~(C)~~(B) Individual permit - \$500
 - ~~(D)~~(C) Modification of individual permit - \$200
 - ~~(E)~~(D) 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 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 increase actual emissions of any one regulated air pollutant by more than 5 tons per year at an existing facility covered by an individual permit.

(b) **Permit categories.** Three~~Two~~ 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)(1)~~ **General permit.** 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. For general permits that provide for application through the filing of a notice of intent, coverage under the general permit is effective upon receipt of the notice of intent. 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)(2)~~ **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.** An applicant for a 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.
- (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 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~~Two types of operating permits are available. See 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~~Section until such time as an application for a Part 70 operating permit shall be required under 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 shall be subject to the Part 70 operating permit requirements contained in Subchapter 8 notwithstanding 252:100-7-18(e)(1) above.

PART 9. PERMITS-BY-RULE [REVOKED]

252:100-7-60. Permit by rule [REVOKED]

~~(a) — **Applicability.** A minor facility may be constructed or operated under this rule and will be exempt from any other permitting requirements in this Chapter if it meets the requirements of 100-7-15(b)(1) and this Part.~~

~~(b) — **General requirements.**~~

~~(1) — To construct or operate a facility under a permit by rule, the owner or operator should submit a letter to the Division requesting registration under the appropriate permit by rule. The letter must contain written certification by the owner or operator that the facility will be constructed or operated in compliance with such permit by rule. A construction or operating permit application fee, as specified in 252:100-7-3, must accompany the letter.~~

~~(2) — In accordance with the requirements of Subchapter 5, an emission inventory shall be submitted to the DEQ every year, except that facilities emitting 5 tons per year or less of each regulated pollutant are required to submit an emission inventory once every 5 years. No other reporting requirements shall apply unless required by NSPS in Subchapter 4 or NESHAP in Subchapter 41.~~

~~(3) — Compliance inspections will be conducted by the DEQ in response to complaints and on a random basis.~~

~~(4) — Any change that would cause a facility to no longer qualify for a permit by rule will require the owner or operator to apply for an individual or, if applicable, general permit.~~

~~(c) — **Registration.** After receiving the appropriate application fee and certification, the DEQ will acknowledge in writing that the facility is registered to construct or operate under the specified permit by rule. No facility may be constructed or operated under a permit by rule until DEQ issues written acknowledgement of the registration.~~

252:100-7-60.1. Cotton gins [REVOKED]

~~See 252:100-23-7.~~

252:100-7-60.2. Grain elevators [REVOKED]

~~See 252:100-24-7.~~