

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

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

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.

(b) Fee schedule.

(1) **Minor facilities.** Annual operating fees invoiced for minor facilities shall be no more than \$25.12 per ton of regulated air pollutant (for fee calculation) and thereafter shall be adjusted each year pursuant to (b)(3) of this section.

~~(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):~~

(2) **Part 70 Sources.** Annual operating fees invoiced for Part 70 sources shall be no more than \$32.30 per ton of regulated air pollutant (for fee calculation) and thereafter shall be adjusted each year pursuant to (b)(3) of this section.

~~(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.~~

(3) **Use of Consumer Price Index (CPI) to adjust annual operating fees.** Annual operating fees for minor facilities and Part 70 sources shall be adjusted automatically each year by the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such year differs from the CPI for the calendar year 2007. The CPI for any calendar year is the average of the CPI 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.