

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

Before the Air Quality Advisory Council on December 6, 2022
Before the Environmental Quality Board on February 17, 2023

RULE IMPACT STATEMENT

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-2.2 Annual operating fees [AMENDED]

DESCRIPTION: The Department of Environmental Quality (Department or DEQ) is proposing to amend OAC 252:100, Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, to update the annual operating fee schedule language relating to minor facilities. Part 70 (major) sources are subject to adjusted annual operating fees based on the Consumer Price Index (CPI). The gist of this rule proposal and the underlying reason for the rulemaking is to include the use of the CPI in the adjustment of annual operating fees for minor facilities.

CLASSES OF PERSONS AFFECTED: The classes of persons affected are the owners and operators of minor facilities that are sources of air pollution, 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.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The classes of persons who will bear costs are the owners and operators of minor facilities that are sources of air pollution subject to annual operating fees.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: The Department has not received any information on cost impacts as of this date.

CLASSES OF PERSONS BENEFITTED: The citizens of Oklahoma and the owners and operators of the minor facilities subject to these regulations will benefit from an adequately funded air pollution control program that is in place to protect public health and welfare. The owners and operators will benefit from consistency within state rules.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: Annual operating fees will increase for owners and operators of minor source facilities.

PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The Department anticipates no economic impact on political subdivisions.

POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS: For owners and operators of small businesses that are minor sources of air pollution, annual operating fees will be increasing.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: The proposed rule would adjust the minor source annual operating fee

from a fixed rate (currently \$25.12 per ton of regulated air pollutant) to an annually adjusted rate based on the Consumer Price Index (CPI). This fee adjustment is needed to offset budgetary shortfalls, cover ongoing staff deficits, and aid in the retention of full-time employees.

PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE: The Department anticipates there will be no significant increased costs associated with the implementation and enforcement of these proposed amendments. The Department will benefit from the proposal financially as it would allow the air pollution control program to be adequately funded thereby protecting air quality in the State of Oklahoma.

PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE: There are none. No other agencies will be implementing or enforcing these regulations.

SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE: Fees and federal grants will continue to be used to implement and enforce these regulations.

PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED: The Department estimates that the proposed rule would generate \$1,566,767 in additional revenue for 2024, when the changes would go into effect. This is the greatest single-year revenue gain that would result from this rule change. Since emissions and collected fees are trending down, this generated revenue is needed to offset budgetary shortfalls, cover ongoing staff deficits, and aid in the retention of full-time employees.

COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE: None is required. The Department will be responsible for all aspects of implementation and enforcement of these regulations.

EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS: The Department has identified underfunded portions of the air pollution control program and estimated current and future costs associated with those functions. Use of the CPI to annually adjust the fee beginning July 1, 2024, will provide minor sources reasonable lead-time to budget for the fee increases. Regardless of the fee increase, the proposed rule change would not have an impact on the cost of compliance with program requirements.

DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE: The Department has determined that there are no less costly or nonregulatory or less intrusive methods of achieving the purpose of the proposed rule.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT: The proposed changes will have a positive effect on public health, safety, and the environment by funding the existing air pollution control program; adequately funded programs can better serve and protect the State of Oklahoma.

IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK: The Department has identified underfunded portions of the air pollution control program and estimated current and future costs associated with those functions. The proposed changes will minimize the future costs that would result from underfunded programs. The proposed changes will have a positive effect on public health, safety, and the environment by adequately funding the existing air pollution control program that was established to protect public health and welfare.

DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED: If the proposed changes are not implemented, the lack of funding would likely cause a reduction in services intended to protect the public health and environment from the effects of air pollution.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): The owners and operators of businesses subject to these fees will benefit from a better funded air pollution control program that was established to protect the public health and environment. The impact on business entities that are minor facilities will be an increased annual operating fee based on the proposed CPI adjustment.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: November 1, 2022
MODIFIED ON: