

# OAC 252:100, Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

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# Proposed Rule Changes

## For Minor Source Facilities only

- New base fee: \$36.50 per ton regulated air pollutant
- End date for old base fee: \$25.12 per ton until 6/30/24
- CPI adjustment language added
- First CPI adjustment to be applied in 2025

### (b) Fee schedule.

(1) **Minor facilities.** ~~Beginning July 1, 2008~~Until June 30, 2024, annual operating fees invoiced for minor facilities shall be \$25.12 per ton of regulated air pollutant (for fee calculation). Starting July 1, 2024, the annual operating fees invoiced for minor facilities shall be \$36.50 per ton of regulated air pollutant (for fee calculation) and shall be adjusted each year thereafter based on the CPI pursuant to (b)(3)(A) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

(2) **Part 70 Sources.** Beginning July 1, 2008, annual operating fees invoiced for Part 70 sources shall be \$32.30 per ton of regulated air pollutant (for fee calculation) and shall be adjusted each year pursuant to (b)(3)(B) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

### (3) Use of Consumer Price Index (CPI) to adjust annual operating fees.

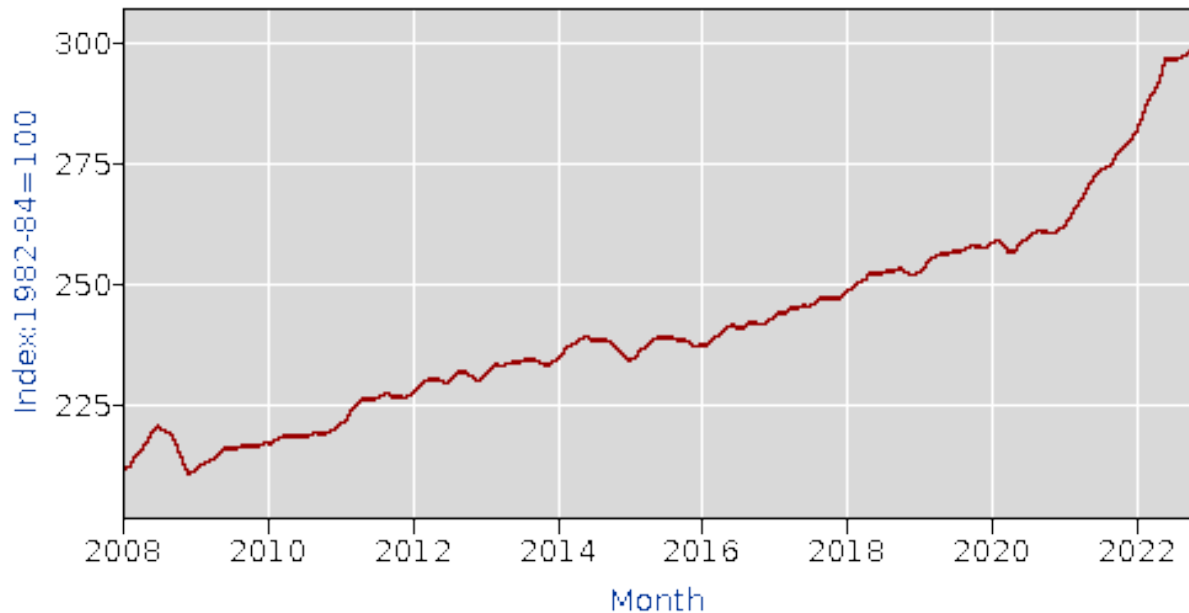
(A) **Minor facilities.** Annual operating fees for minor facilities shall be adjusted automatically each year by the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such a year differs from the CPI for the calendar year 2024.

(B) **Part 70 Sources.** Annual operating fees for 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.

(C) **Consumer Price Index.** 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.

# SC5 Context & Trends

CPI 2008-Present

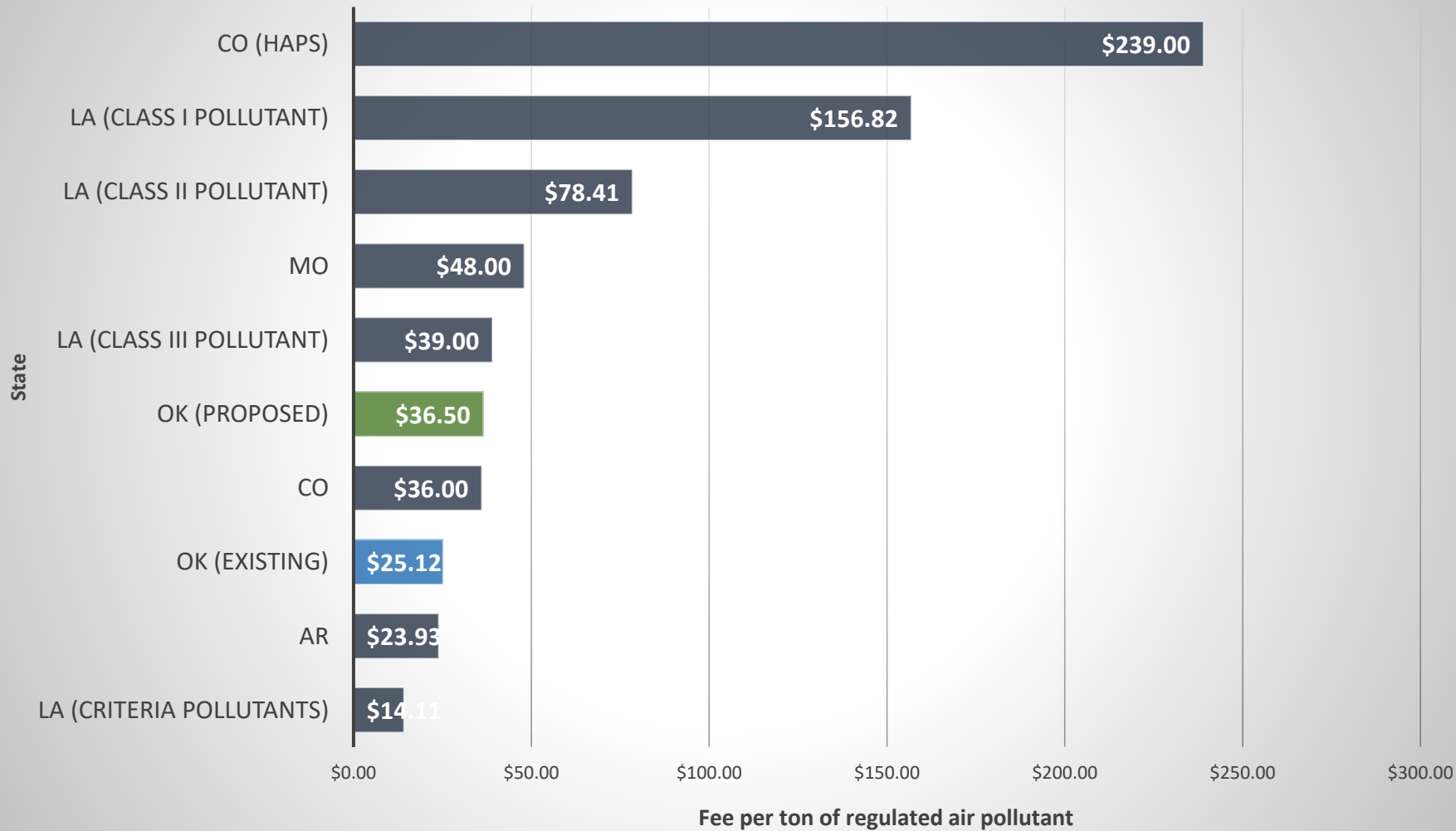


<https://data.bls.gov/pdq/SurveyOutputServlet>  
<https://data.bls.gov/cgi-bin/surveymost?bls>

- 2008: last fee adjustment for minor sources increased 46.7%
  - Current proposed fee rises 45.3%
- \$25.12 fee in place for 15 years
  - Rising number of minor facilities
  - Increased workload with more facilities
  - Inflation costs

# Fee Comparison

Neighboring State Minor Source Fee Rates



➤ With the increased fee, OK shows comparative lower fee

➤ CO proposing fee adjustment

➤ States without minor source fees excluded

# Fee Utilization

- \$36.50 fee would generate ~\$1.5m in additional revenue for AQD in 2024 (greatest single-year revenue gain)
- \$1.5m revenue is the *minimum* needed for AQD to fill 14 positions
  - \$1.5m only includes employment costs (i.e., salary & benefits); doesn't include travel, overhead, etc.

*Lost:*

➤ 6 Engineers +

➤ 4 EPS +

➤ 1 Attorney +

*New:*

➤ 2 EPS+

➤ 1 EPM

**= 14 FTEs**

## What's at stake

Essential duties reliant on this revenue:

- Permit review and issuance
- Emissions and ambient air quality monitoring
- Preparation of rules and guidance
- Modeling, monitoring, analyses, and demonstrations
- Emission inventories and tracking
- Inspections and enforcement

# Staff requests the AQAC recommend the proposed Subchapter 5 revisions to the EQB

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# Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program [New]

➤ Brooks Kirlin, P.E.

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Air Quality Advisory Council Meeting – January 11, 2023



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"The Legislature hereby finds that the reduction of emissions from upstream and midstream oil and gas production, exploration, completions, gatherings, storage, processing, and transmission activities serves the interests of the citizens of Oklahoma and such emission reduction activities with **new and innovative technologies** should be encouraged and incentivized."

- *68 O.S. § 55007*

# "Oklahoma Emission Reduction Technology Incentive Act"

- Included as Sections 1-7 of HB 3568
  - Codified as 68 O.S. §§ 55006 through 55012
  - 2022 Legislative Session, Effective July 1, 2022
- Oklahoma Emission Reduction Technology Rebate Program
  - Rebate up to 25% of expenditures for "Emission Reduction Projects"
    - Claims reviewed and approved by DEQ and
    - Claims paid by the Oklahoma Tax Commission
    - Oklahoma Emission Reduction Technology Incentive Revolving Fund

# Proposed Subchapter 49

- § 55011 specifically authorizes DEQ to promulgate implementation rules
- New Subchapter 49, with the following Sections:
  - 252:100-49-1. Purpose and applicability
  - 252:100-49-3. Definitions
  - 252:100-49-5. Program criteria and qualification determination
  - 252:100-49-7. Sunset provision

# Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- 252:100-49-3. Definitions
- 252:100-49-5. Program criteria and qualification determination
- 252:100-49-7. Sunset provision

# Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- **252:100-49-3. Definitions**
- 252:100-49-5. Program criteria and qualification determination
- 252:100-49-7. Sunset provision

# "Emission Reduction Project" Defined

- ▶ Existing and new technology projects that reduce emissions of regulated pollutants from stationary sources; and
- ▶ Existing and new technology projects that reduce emissions from the following activities:
  - ▶ upstream and midstream oil & gas exploration,
  - ▶ production
  - ▶ completions,
  - ▶ gathering,
  - ▶ storage,
  - ▶ processing,
  - ▶ transmission
- ▶ through the following:
  - ▶ the replacement, repair, or retrofit of stationary compressor engines,
  - ▶ the installation of systems and/or equipment to reduce or eliminate the loss of gas, venting of gas, flaring of gas, or burning of gas using other combustion control devices, or
  - ▶ the installation of emissions monitoring equipment or devices.

*68 O.S. § 55008*

# Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- **252:100-49-3. Definitions**
- 252:100-49-5. Program criteria and qualification determination
- 252:100-49-7. Sunset provision

# Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- 252:100-49-3. Definitions
- **252:100-49-5. Program criteria and qualification determination**
- 252:100-49-7. Sunset provision



## 252:100-49-5. Program criteria and qualification determination

- 100-49-5(a) – Applying for rebate eligibility
  - Timing: within 6 months of end of Fiscal Year (i.e., by December 31st)
  - Submit project documentation to DEQ
    - Project description
    - Estimated emission reductions
    - Itemization of expenses, with documentation
    - Statement that the project implementation is complete

## 252:100-49-5. Program criteria and qualification determination

- Subsection 100-49-5(a) – Applying for rebate eligibility

- Paragraphs (5)-(9) – Certifications

- Project not per enforcement action

- All Oklahoma tax returns and documents filed with OTC [68 O.S. § 55009 (C)(2)]

- General liability insurance and workers' compensation policy [68 O.S. § 55009 (C)(3)]

- **Professional Engineer**

- Responsible official

## 252:100-49-5. Program criteria and qualification determination

➤ 100-49-5(a) – Applying for rebate eligibility

"(3) Project documentation shall include:

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(C) a statement that the project has been designed, installed, and operated as described in the claim and in accordance with good engineering practices and the requirements of this Chapter, and that implementation of the project is complete; and ..."

## 252:100-49-5. Program criteria and qualification determination

- 100-49-5(a)(4) uses language of 68 O.S. § 55009 (A) – rebate is for:
  - Documented expenditures
  - Made in this state
  - Directly attributable to the implementation of the qualified Emission Reduction Project

## 252:100-49-5. Program criteria and qualification determination

### ➤ Subsection 100-49-5(a) – Applying for rebate eligibility

#### ➤ Paragraphs (5)-(8) – Certifications

- Project not per enforcement action
- All Oklahoma tax returns and documents filed with OTC [68 O.S. § 55009 (C)(2)]
- General liability insurance and workers' compensation policy [68 O.S. § 55009 (C)(3)]
- Responsible official

(5) The applicant shall certify that the project is not required to address an enforcement action or undertaken as a supplemental environmental project to offset an enforcement penalty.

(6) The applicant shall provide a certification from OTC that it has filed all Oklahoma tax returns and tax documents which are required by the laws of this state.

(7) The applicant shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars (\$1,000,000.00) and a workers' compensation policy pursuant to the laws of this state which shall include coverage of employer's liability.

(8) The rebate claim shall include certification, signed by a responsible official, attesting to the truth, accuracy, and completeness of the claim. This certification shall contain the following language: "I certify that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

## 252:100-49-5. Program criteria and qualification determination

- Subsection 100-49-5(a) – Applying for rebate eligibility
  - Paragraph (9) – Rebate claim application/review fee
- Subsection 100-49-5(b) – DEQ review of rebate claim
  - DEQ review the rebate claim information
    - will approve or disapprove each rebate claim, and
    - notify OTC & inform the claimant
- Subsection 100-49-5(c) – Effect on OTC authority

# Proposed Subchapter 49

- 252:100-49-1. Purpose and applicability
- 252:100-49-3. Definitions
- 252:100-49-5. Program criteria and qualification determination
- **252:100-49-7. Sunset provision**

# Next Steps

## ➤ Normal Rulemaking Process/Timing

➤ Next regularly scheduled EQB meeting scheduled for February 17, 2023

➤ Legislative and Governor's Review

➤ Anticipated rule effective date ~ September 15, 2023



Staff requests AQAC recommend the proposed new Subchapter 49 (as reflected in today's folder version) to the EQB for adoption as permanent rules at its next regular meeting (February 17, 2023)

## Questions?

Oklahoma Emission Reduction Technology Rebate Program

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*AQD Rules & Planning Section*



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