TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY
AND ANNUAL OPERATING FEES

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252:100-5-1. Purpose
This Subchapter requires potential sources of air contaminants to register with the Division. It also requires facilities that emit air contaminants to file an emission inventory and pay 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 any regulated air pollutant actually 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 any regulated air pollutant emitted based on limits contained in an 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

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Note: The PBR Emission Inventory Requirements, as promulgated under emergency rulemaking effective September 10, 2013, has been incorporated into the online version of DEQ rules.
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.

"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 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) Gross particulate matter (GPM).

252:100-5-2. Registration of potential sources of air contaminants

(a) Filing. In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Division with information necessary to evaluate the source's potential for causing air pollution.

(b) Necessary information. The following information shall be included for each source:
(1) Total weight of the contaminant released per year.
(2) Period or periods of operation.
(3) Composition of the contaminant.
(4) Temperature of the air or gas stream at the point where released into the atmosphere.
(5) Efficiency of any control device.
(6) Such other information as may be specifically requested by the Director.

252:100-5-2.1. Emission inventory

(a) Requirement to file an emission inventory. The owner or operator of any facility that is a source of regulated air pollutants shall submit a complete annual emission inventory through DEQ’s electronic reporting system or in another manner acceptable by the Division.

(1) General requirements. The inventory shall cover operations during a calendar year and shall be submitted on or before April 1 of the following year. Upon receiving a written demonstration of good cause the Director may grant an extension for submittal beyond the April 1 deadline.

(2) Permit by rule. The owner or operator of a facility registered under a permit by rule as in Subchapter 7, Part 9, shall submit, at a minimum, an annual emission inventory for the 2014 reporting year or the calendar year in which the facility is registered, if the facility is registered after December 31, 2014, and thereafter according to the following schedule:
(A) For a registered facility with actual emissions greater than 5 tons per year of any regulated air pollutant, an annual emission inventory for that facility shall be submitted every National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b).
(B) For a registered facility with actual emissions of 5 tons per year or less of any regulated air pollutant, an annual emission inventory for that facility shall be submitted
every second National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b), beginning with the 2020 NEI reporting year.

(3) Permit exempt facilities and de minimis facilities. The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory.

(4) Special inventories. Upon request by the Director, the owner or operator of a facility that emits or has the potential to emit any regulated air pollutant shall file an emission inventory with the Division. The Director is authorized to request this inventory when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements.

(b) Content. All inventories submitted to the Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination. If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous year's actual by more than 30%, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.

(3) For those emissions not the subject of a permit and when requested by the AQD, a list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) Documentation. All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with OAC 252:100-5-2.1(d) must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.

(d) Method of calculation. The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under OAC 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. Acceptable methods of calculation for determining actual emissions are:

(1) Emission factors utilized in the issuance of a currently applicable Oklahoma Air Quality permit(s) for the facility.

(2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Division.

(3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:
   (A) Tests are performed by persons qualified by training and experience to perform said tests.
(B) Copies of the test results and methods are available for review by the Division.
(4) Continuous emissions monitoring data, when supported by required certification and calibration data.
(5) Current AP-42 factors or other factors acceptable to the Division.
(6) Manufacturer's test data, when approved by the Division as reliable.
(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Division.
(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Division.
(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Division.

(e) **Methods of verification.** Emission inventories determined by the Division to be substantially incomplete or substantially incorrect shall, upon the request of the Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Division.

(f) **Certification.** The emission inventory shall contain certification by a responsible official of the truth, accuracy, and completeness of the document. This certification shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

**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.** Beginning July 1, 2008, annual operating fees invoiced for minor facilities shall be $25.12 per ton of regulated air pollutant (for fee calculation). The invoiced 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.

(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) 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. 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. 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.

252:100-5-2.3. Annual operating fees for area sources of air pollution

(a) Applicability. Area sources as defined in 40 CFR § 63.2 that are not subject to the permitting requirements in OAC 252:100-7 or 252:100-8 but are subject to one or more National Emission Standards for Hazardous Air Pollutants at 40 CFR Part 63, are subject to annual operating fees as provided in this section.

(b) Fee schedule.

(1) Gasoline dispensing facilities. Gasoline dispensing facility area sources that are subject to 40 CFR Part 63, Subpart CCCCCC, National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities, but not subject to the permitting requirements in OAC 252:100-7 or 252:100-8 shall pay an annual operating fee based on average monthly gasoline throughput.

(A) Gasoline stations with throughput of 10,000 gallons or less shall pay an annual operating fee of $250.

(B) Gasoline stations with throughput of more than 10,000 gallons but less than 100,000 gallons shall pay an annual operating fee of $500.

(C) Gasoline stations with throughput of 100,000 gallons or more shall pay an annual operating fee of $750.
(2) **Gasoline distribution bulk terminals, bulk plants, and pipeline facilities.** Area source gasoline distribution bulk terminals, bulk plants, and pipeline facilities that are subject to 40 CFR Part 63, Subpart BBBBBB, National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities, but not subject to the permitting requirements in OAC 252:100-7 or 252:100-8 shall pay an annual operating fee of $500.

(3) **Other existing area sources.** Area sources as defined in 40 CFR § 63.2 that are not subject to the permitting requirements in OAC 252:100-7 or 252:100-8 but are subject to an emission standard, equipment standard, or work practice standard in any federal NESHAP (40 CFR Part 63) shall pay an annual operating fee of $250.

(c) **Payment.** Area sources that are assessed annual operating fees are subject to the provisions of OAC 252:100-5-2.2(c)(1).

(d) **Provisions for fee adjustment.** The invoiced 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.

**252:100-5-3. Confidentiality of proprietary information**
[Refer to 27A O.S. Section 2-5-105.17.]