

Express Terms

6 NYCRR Subpart 482-2, "Operating Permit Program Fee"

Subchapter G Subpart 482-2 is amended as follows:

Sections 482-2.1 through 482-2.3 remain unchanged.

Section 482-2.4 is amended as follows:

482-2.4 Annual fee and fee calculation.

(a) Fee. Commencing January 1, [2022]2023, all sources subject to fees under this Subpart must submit an annual fee to the department. This fee consists of an annual base fee of \$2,500.00 in addition to the per ton fee applied to the facility's total annual emissions as described in this Subpart 2.2. The fee per ton is assessed on emissions up to 7,000 tons annually of each regulated air contaminant. As of January 1, [2022]2023, the fee per ton for [2022]2023 is as follows:

- (i) a fee of \$60.00 per ton for facilities having total annual emissions less than 1,000 tons;
- (ii) a fee of \$70.00 per ton for facilities having total annual emissions of 1,000 tons or more but less than 2,000 tons;
- (iii) a fee of \$80.00 per ton for facilities having total annual emissions of 2,000 tons or more but less than 5,000 tons; and
- (iv) a fee of \$90.00 per ton for facilities having total annual emissions of 5,000 tons or more.

(b) Fee calculation. (1) The department pursuant to Section 72-0303 of the Environmental Conservation Law is required to calculate a fee by dividing the current State fiscal year appropriation for the operating permit program by the total tons of emissions of regulated air contaminants from sources subject to the operating permit program

during the preceding calendar year, with consideration given to any surplus or deficit in the operating permit program account of the clean air fund established pursuant to Section 97-oo of the State Finance Law, any loan repayment from the mobile source account of the same clean air fund and the rate of collection of bills issued for the fee.

(2) The amount of each factor used in the fee calculation by the department for the current year is hereby established as follows:

(i) the State fiscal year [2022-23]2023-24 appropriation for the operating permit program is [\$9,447,000] \$9,823,000;

(ii) the total tons of emissions of regulated air contaminants from sources subject to the operating permit program is [43810] 46965 tons;

(iii) As of March 31, [2022]2023 the actual operating permit program account balance was negative [\$37,762,135.09] \$41,447,773.91. An additional estimated [\$110,676] \$37,398 will be required to liquidate obligations made pursuant to appropriations for State fiscal years prior to [2022-23]2023-24. The estimated deficit of [\$37,872,811.09] \$41,485,171.91 will be applied towards the appropriation for State fiscal year [2022-23]2023-24.

(iv) the loan repayment from the mobile source account of the clean air fund is zero since no loan was made;

(v) the collection rate of bills for the prior fiscal year is [92.31]92.43 percent.

(3) The calculation is as follows:

$$[\$10,611,000 - \text{negative } \$37,872,811.09) \div (43,810 \times .9231) = \$1,198.88]$$

$$(\$9,823,000 - \text{negative } \$41,485,171.91) \div (46,965 \times .9243) = \$1,181.95$$

However, as established in paragraph (a) of this Section, the fee assessed for [2022]2023 consists of an annual base fee of \$2,500.00 in addition to the per ton fee as follows:

\$60.00 per ton for facilities having total annual emissions less than 1,000 tons,

\$70.00 per ton for facilities having total annual emissions of 1,000 tons or more but less than 2,000 tons,

\$80.00 per ton for facilities having total annual emissions of 2,000 tons or more but less than 5,000 tons, and

\$90.00 per ton for facilities having total annual emissions of 5,000 tons or more.