

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Air Resources, Bureau of Quality Assurance
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Adoption of Amendments to 6 NYCRR 482-2 Operating Permit Program Fee Rule for 2023

The Title V/Operating Permit Program fee rule that was published in the *Environmental Notice Bulletin* on July 19, 2023 establishes the annual fee for all facilities subject to the requirements of Title V of the Federal Clean Air Act (Act). Regulated contaminants subject to the tonnage fee are oxides of nitrogen, volatile organic compounds, sulfur dioxide, particulates and hazardous air pollutants.

The 2023 fee consists of an annual base fee of \$2,500 in addition to the per ton fee applied to the facility's total annual emissions. The per ton fee is assessed on emissions up to seven thousand tons of each regulated air contaminant emitted in 2022, as follows:

- \$90 per ton for 5,000 total tons or more of annual emissions,
- \$80 per ton for 2,000 but less than 5,000 total tons of annual emissions,
- \$70 per ton for 1,000 but less than 2,000 total tons of annual emissions and
- \$60 per ton for less than 1,000 total tons of annual emissions

This rulemaking has been undertaken in compliance with the NYS Clean Air Compliance Act of 1993, as amended in 1997, 1999, 2009 & 2015, section 72-0303 of the Environmental Conservation Law. State law exempts this annual rulemaking from the requirements of the State Administrative Procedures Act. This law requires the Department to calculate the fee by dividing the program's Legislative appropriation by the total tons of emissions reported by subject facilities for the prior calendar year. Consideration must be given to the balance in the Operating Permit Program Account and the collection rate of prior year invoices. For 2023, this calculation resulted in a fee per ton of \$1,181.95.

Facilities that are billed Operating Permit Program fees are major stationary sources of air pollutants as defined in section 19-0107.19 of the Environmental Conservation Law. Department regulations (6 NYCRR Subpart 202-2) require the filing of annual emission statements by all facilities subject to the Operating Permit Program. Facilities that filed a complete 2023 emission statement in a timely manner are billed on their actual emissions. Facilities that have failed to submit a complete emission statement by the due date are required by law to pay a fee based on their potential to emit.

All fees collected under this regulation are dedicated for use in the administration of the State's Title V/Operating Permit Program. Funds are deposited into the Operating Permit Program Account in the Clean Air Fund and are subject to audits of the Office of the State Comptroller and the EPA.

For further information, please contact Stephanie Dupree at DEC's Division of Air Resources, 625 Broadway, Albany, NY, 12233-3258, phone (518) 402-8401 or email air.regs@dec.ny.gov.