

CHAPTER 62-213 OPERATION PERMITS FOR MAJOR SOURCES OF AIR POLLUTION
(Effective 3/11/10)

62-213.205 Annual Emissions Fee.

Each Title V source permitted to operate in this state must pay between January 15 and March 1 of each year, upon written notice as provided in the Title V permit, an annual emissions fee in an amount determined as set forth in subsection 62-213.205(1), F.A.C.

- (1) Emissions Fee Calculation and Payment. Each Title V source must calculate the annual fee, based upon the source's previous year's emissions, by multiplying the applicable annual emissions fee factor times the tons of each regulated air pollutant (except carbon monoxide) allowed to be emitted per hour by specific condition of the source's most recent certification, construction permit or operation permit, times the annual hours of operation allowed by specific condition; provided, however, that:
- (a) For emissions occurring prior to calendar year 2008, the emissions fee factor is \$25. For emissions occurring in calendar year 2008 and thereafter, the emissions fee factor is \$30. The emissions fee factor may be increased beyond \$25 only if the Secretary of the Department affirmatively finds that a shortage of revenue for support of the Title V source operation permit program will occur in the absence of a fee factor adjustment. The annual emissions fee factor may never exceed \$35 without legislative approval.
 - (b) For any Title V source that operates for fewer hours during the calendar year than allowed under its permit, the annual fee calculation may, at a responsible official's option, be based upon actual hours of operation, rather than allowable hours, if the owner or operator documents in a formal log or record the actual hours of operation for the calendar year. For any Title V source that has an emission limit that is dependent upon the type of fuel burned, the annual fee calculation shall be based on the emissions limit applicable during actual hours of operation.
 - (c) For any Title V source whose allowable emission limitation is specified per units of material input or heat input or product output, the applicable input or production amount may be used to calculate the allowable emissions if the owner or operator documents in a formal log or record the actual input or production amount. If the input or production amount is not documented, the maximum allowable input or production amount specified in the permit must be used to calculate the allowable emissions.
 - (d) For any new Title V source that does not receive its first operation permit or begin operation under an air construction permit until after the beginning of a calendar year, or for any Title V source that achieves a non-Title V status (i.e., by Federally Enforceable State Operation Permit or permit surrender), the annual fee for the year shall be reduced pro rata to reflect the period during which the source was not allowed to operate as a Title V source.
 - (e) For any Title V source that emits less of any regulated air pollutant than allowed by specific condition, the annual fee calculation for such pollutant may, at a responsible official's option, be based upon emissions determined as follows:
 1. The Department will accept, for fee purposes, emissions determined by means of data from a certified continuous emissions monitor which, for other than an acid rain source, or CAIR source, meets the certification and quality assurance requirements of Appendices B and F of 40 CFR Part 60, or for an acid rain source or CAIR source meets the certification and quality assurance requirements of 40 CFR Part 75, which are adopted and incorporated by reference in Rule 62-204.800, F.A.C. Stack gas volumetric flow rates will be determined using, if available at the source, calibrated flowmeters with recorders that record data on a continuous basis. In the absence of a flowmeter, flow rates will be determined by the average flow rate for the three most recent stack tests that were conducted at 90% to 100% of the maximum allowable operating rate for the unit. If three such stack tests have not been conducted, the average of the latest two tests conducted at the 90% to 100% level will be used. If two or more such tests have not been conducted, the results of the latest test conducted at the 90% to 100% level shall be used. For purposes of this determination, a stack test shall consist of all test runs required under subsection 62-297.310(1), F.A.C. Flow rates as determined in this paragraph shall be used with continuous emission monitors to determine the mass emissions for fee purposes.
 2. The Department will accept, for fee purposes, emissions documented by means of an inventory balance for volatile organic compounds (VOC's), provided no credit is given for VOC's which are incinerated as a means of control or presumed to be bound into a finished product. The owner or operator shall annually document through purchase receipts, records and sales receipts the beginning (January 1) and ending (December 31) VOC inventories, the amount of VOC's purchased during the year, and the amount of VOC's disposed of in the liquid phase during the year. The beginning of the

year inventory, plus the amount purchased during the year, minus the amount disposed of in the liquid phase during the year, minus the ending VOC inventory will provide the amount of VOCs subject to the fee.

3. The Department will approve alternate fee calculation methods if a responsible official demonstrates that such method is able to quantify emissions by a scientifically accurate and verifiable procedure. The use of AP-42 factors or individual stack tests, standing alone, are not normally considered scientifically accurate and verifiable procedures for determining annual emissions for fee purposes. All proposals shall be certified by a professional engineer registered in the State of Florida and shall be field-tested at the specific facility, unless a proposing responsible official demonstrates that field-testing is not practicable.
- (f) The amount of each regulated air pollutant in excess of 4,000 tons per year allowed to be emitted, in total, by any Title V source will not be included in the calculation of the fee. Any Title V source which does not emit any regulated air pollutant in excess of 4,000 tons per year is allowed a one-time credit not to exceed 25 percent of its first annual emissions fee for the prorated portion of the existing air operation permit application fees remaining upon commencement of its annual emissions fees.
 - (g) If the Department has not received the fee by February 15 of the year following the calendar year for which the fee is calculated, the Department will send the primary responsible official of the Title V source a written warning of the consequences for failing to pay the fee by March 1. If the fee is not postmarked by March 1 of the year due, the Department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee unpaid plus interest on such amount computed in accordance with Section 220.807, Florida Statutes. If the Department determines that a submitted fee was inaccurately calculated, the Department shall either refund to the permittee any amount overpaid or notify the permittee of any amount underpaid. The Department shall not impose a penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The Department shall waive the collection of underpayment and shall not refund overpayment of the fee, if the amount is less than one percent of the fee due, up to \$50.00. The Department shall make every effort to provide a timely assessment of the adequacy of the submitted fee. Failure to pay timely any required annual emissions fee, penalty, or interest constitutes grounds for permit revocation pursuant to Rule 62-4.100, F.A.C.
 - (h) Notwithstanding any other provisions of this rule, the annual emissions fee for any Title V source, other than a Title V source authorized to operate under a Title V air general permit, shall not be less than \$250. Furthermore, the annual emissions fee for a Title V source authorized to operate under a Title V air general permit shall be \$50.
 - (i) Any documentation of actual hours of operation, actual material or heat input, actual production amount, or actual emissions used to calculate the annual emissions fee shall be retained by the owner for a minimum of five years and shall be made available to the Department upon request.
 - (j) A completed DEP Form 62-213.900(1), "Major Air Pollution Source Annual Emissions Fee Form," must be submitted by a responsible official with the annual emissions fee.
 - (k) For an Acid Rain Part processed separately from a Title V permit, the Title V permit together with the Acid Rain Part shall be the most recent operation permit for Title V fee purposes. An Acid Rain Part processed separately from a Title V permit is not a separate permit and shall not be used as the most recent operation permit for Title V fee purposes.
- (2) Adequacy of Emissions Fees. Annual emissions fees collected by the Department must be sufficient to cover all reasonable direct and indirect costs required to develop and administer the Title V source operation permit program, which shall consist of the following elements to the extent that they are reasonably related to the regulation of Title V sources:
 - (a) Reviewing and acting upon any application for such a permit.
 - (b) Implementing and enforcing the terms and conditions of any such permit, excluding court costs or other costs associated with any enforcement action.
 - (c) Emissions monitoring and ambient monitoring only to the extent site-specific ambient monitoring is necessary for the issuance of any Title V permit, as documented in the permit.
 - (d) Preparing generally applicable regulations or guidance.

- (e) Modeling, analyses, and demonstrations.
 - (f) Preparing inventories and tracking emissions.
 - (g) Implementing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.
 - (h) Conducting any audits required under subsection 62-213.205(3), F.A.C.
- (3) Audits. An audit of the Title V source operation permit program and an audit of each local program which accepts funds from the Department as reimbursement in the implementation of the Title V source operation permit program shall be conducted two years after the EPA has given full approval to the program to ascertain whether the annual emissions fees collected by the Department are used solely to support any reasonable direct and indirect costs as listed in subsection 62-213.205(2), F.A.C., above. A program audit must be performed biennially after the first audit.
- (4) Permit Fees Waived. No permit application processing fee, renewal fee, modification fee or amendment fee is required for an operation permit for a Title V source.

Rulemaking Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.0872 FS. History—New 12-21-92, Amended 11-25-93, Formerly 17-213.200, Amended 11-23-94, 1-1-96, 3-13-96, 6-25-96, 2-11-99, 1-3-01, 4-16-01, 6-2-02, 1-9-08, 3-16-08, 3-11-10.