

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rulemaking related to fees

The Environmental Protection Commission (Commission) hereby rescinds Chapter 30, “Fees,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 455B.133, 455B.133B and 455B.133C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.7 and Executive Order 10 (January 10, 2023).

Purpose and Summary

The Commission hereby rescinds and adopts a new Chapter 30. The new chapter includes updated and streamlined rules for air quality fees.

In more detail, Chapter 30 defines specific air quality fees owed by air contaminant sources. These fees directly support the air quality program, which exists to prevent, abate, and control air pollution in the state of Iowa. The Air Contaminant Source Fund (Iowa Code section 455B.133B) was established to receive emissions and operating permit fees. The Air Quality Fund (Iowa Code section 455B.133C) was established to receive construction permit and asbestos notifications fees.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 27, 2023, as **ARC 7219C**. Public hearings were held on January 29 and 30, 2024, at 1 p.m. via video/conference call. Eight people attended a public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on April 16, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Natural Resources for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual

or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on June 19, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 30 and adopt the following **new** chapter in lieu thereof:

CHAPTER 30 FEES

567—30.1(455B) Purpose. This chapter sets forth requirements to pay fees for specified activities. The department shall not initiate review and processing of an application submittal from a minor source until all required fees have been paid to the department. Fees are nonrefundable, except as provided in 30.1(4).

30.1(1) Definition. For purposes of this chapter, the following definition shall apply:

“Application submittal” means one or more applications required under 567—22.1(455B) and submitted at the same time or required to be submitted under 567—22.4(455B), 567—22.5(455B), 567—Chapter 31 or 567—Chapter 33.

30.1(2) Duty to correct errors. If an owner, an operator, or the department finds an error in a fee assessed or collected under this chapter, the owner or operator shall submit to the department revised forms making the necessary corrections to the fee and shall submit the correct fee. Corrected forms shall be submitted as soon as possible after the error is discovered or upon notification by the department. If the error correction results in a determination by the department that a fee was overpaid or that a duplicate fee was submitted, the department will return the overpaid balance of the fee to the applicant.

30.1(3) Exemption to fee requirements for administrative amendments. A fee shall not be required for any of the following:

- a. Corrections of typographical errors;
- b. Corrections of word processing errors;
- c. Changes in the name, address, or telephone number of any person identified in a permit, or similar minor administrative changes at the source; and
- d. Changes in ownership or operational control of a source where the department determines that no other change in the permit is necessary, provided that a written agreement that contains a specific date for transfer of permit responsibility and coverage, and liability between the current permittee and the new permittee has been submitted to the department.

30.1(4) Refund of application fee minus administrative cost for permit applications at minor sources. The department may refund the application fee minus administrative costs if the owner or operator requests to withdraw the application prior to commencement of the technical review of the application.

567—30.2(455B) Fees associated with new source review applications. Each owner or operator required to provide an application submittal, including air quality modeling as applicable; registration; permit by rule; and template under 567—subrule 22.1(1), 567—22.4(455B), 567—22.5(455B), 567—22.8(455B), 567—22.10(455B), 567—Chapter 31 or 567—Chapter 33, shall pay fees as specified in the fee schedule approved by the commission and posted on the department's website. Fees shall be submitted with forms supplied by the department.

30.2(1) Payment of regulatory applicability determination fee. Each owner or operator requesting a regulatory applicability determination, as specified in 567—paragraph 22.1(3) “a,” shall pay fees as specified in the fee schedule approved by the commission and posted on the department's website. Fees shall be submitted with forms provided by the department.

30.2(2) Reserved.

567—30.3(455B) Fees associated with asbestos demolition or renovation notification.

30.3(1) *Payment of fees established.* The owner or operator of a site subject to the national emission standard for hazardous air pollutants (NESHAP) for asbestos notifications, adopted by reference in 567—paragraph 23.1(3) “a,” shall submit a fee with each required original or each annual notification for each demolition or renovation, including abatement. Fees shall be paid as specified in the fee schedule approved by the commission and posted on the department’s website. Fees shall be submitted with the notification forms provided by the department.

30.3(2) *Fee not required.* A fee shall not be required for the following:

- a. Notifications when the total amount of asbestos to be removed or disturbed is less than 260 linear feet, less than 160 square feet, and less than 35 cubic feet of facility components and is below the reporting thresholds as defined in 40 CFR 61.145 as amended on January 16, 1991;
- b. Notifications of training fires as required in 567—paragraph 23.2(3) “g”;
- c. Controlled burning of demolished buildings as required in 567—paragraph 23.2(3) “j”;
- d. Revised, canceled, and courtesy notifications. A revision to a previously submitted courtesy notification due to applicability of the notification requirements in 567—paragraph 23.1(3) “a” is considered an original notification and is subject to the fee requirements of 30.3(1).

567—30.4(455B) Fees associated with Title V operating permits.

30.4(1) *Payment of Title V application fee.* Each owner or operator required to apply for a Title V permit, or a renewal of a Title V permit, shall pay fees as specified in the fee schedule approved by the commission and posted on the department’s website. Fees shall be submitted with forms supplied by the department.

30.4(2) *Payment of Title V annual emissions fee.*

a. *Fee required.* Any person required to obtain a Title V permit shall pay an annual fee based on the first 4,000 tons of each regulated air pollutant and shall be paid on or before July 1 of each year. The Title V emissions fee shall be based on actual emissions required to be included in the Title V operating permit application and the annual emissions statement for the previous calendar year. The commission shall not set the fee higher than \$70 per ton without adopting the change pursuant to formal rulemaking.

b. *Fee and documentation due dates.* The fee shall be submitted annually by July 1 with forms specified by the department.

c. *Operation in Iowa.* The fee for a portable emissions unit or stationary source that operates both in Iowa and out of state shall be calculated only for emissions from the source while it is operating in Iowa.

d. *Title V exempted stationary sources.* No fee shall be required for emissions until the year in which sources exempted under 567—subrules 24.102(1) and 24.102(2) are required to apply for a Title V permit. Fees shall be paid for the emission year preceding the year in which the application is due and thereafter.

e. *Insignificant activities.* No fee shall be required for insignificant activities as defined in 567—24.103(455B).

567—30.5(455B) Fee stakeholder meetings. Prior to each March commission meeting, the director shall convene fee stakeholder meetings as specified in Iowa Code sections 455B.133B and 455B.133C for the purposes of reviewing a draft budget and providing recommendations to the department regarding establishing or adjusting fees. Any stakeholder may attend the fee stakeholder meetings. The meetings will be open to the public. The date of each meeting shall be posted on the department’s website 14 days prior to the meeting.

567—30.6(455B) Process to establish or adjust fees and notification of fee rates.

30.6(1) *Setting the fees.* The department shall submit the proposed budget and fees for major and minor source construction permit programs, the Title V operating permit program, and the asbestos NESHAP program for the following fiscal year to the commission no later than the March commission meeting of each year, at which time the proposal will be available for public comment until such time

as the commission acts on the proposal or until the May commission meeting, whichever occurs first. The department's calculated estimate for each fee shall not produce total revenues in excess of limits specified in Iowa Code sections 455B.133B and 455B.133C during any fiscal year. If an established fee amount must be adjusted, the commission shall set the fees no later than the May commission meeting of each year.

Adjusted or established fees shall become effective on July 1. A fee not adjusted by the commission shall remain in effect as previously established until the fee is adjusted by the commission.

30.6(2) *Fee types and dollar caps on fee types.* The commission may set fees for the fee types and activities specified in this subrule and shall not set a fee in the fee schedule higher than the levels specified in this subrule without adopting the change pursuant to formal rulemaking:

- a. New source review applications from major sources, which may include:
 - (1) Review of each application for a construction permit: \$115 per hour;
 - (2) Review of each application for a prevention of significant deterioration permit: \$115 per hour;
 - (3) Review of each plantwide applicability limit request, renewal, or reopening: \$115 per hour;
 - (4) Review of each regulatory applicability determination: \$115 per hour; and
 - (5) Air quality modeling review: \$90 per hour.
- b. New source review applications from minor sources, which may include:
 - (1) Each application for a construction permit: \$385;
 - (2) Each application for a registration permit: \$100;
 - (3) Each application for a permit by rule: \$100; and
 - (4) Each application for a permit template: \$100.
- c. Asbestos notifications: \$100.
- d. Review of each initial or renewal Title V operating permit application: \$100 per hour.
- e. Title V annual emissions: \$70 per ton.

30.6(3) *Notification of fee schedule.* Following the initial setting of any fee by the commission, the department shall make available to the public a fee schedule at least 30 days prior to its effective date. If any established fee amount is adjusted, the department shall make available to the public a revised fee schedule at least 30 days prior to its effective date. The fee schedule shall be posted on the department's website.

These rules are intended to implement Iowa Code sections 455B.133, 455B.133B, and 455B.133C.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/15/24.