

CHAPTER 100

REGULATION OF AIR QUALITY — FEES, FUNDS, AND APPROPRIATIONS

S.F. 488

AN ACT relating to air quality, by providing for the establishment, imposition, and collection of fees, the creation or administration of funds and programs, making appropriations, and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.133, subsection 8, paragraph a, Code 2015, is amended to read as follows:

a. (1) Adopt rules consistent with the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549, including those amendments effective on January 1, 1991, regulations promulgated by the United States environmental protection agency pursuant to that Act, the provisions of this chapter, and rules adopted by the commission pursuant to this chapter, which require the owner or operator of an air contaminant source to obtain an operating permit prior to operation of the source. The rules shall specify the information required to be submitted with the application for a an operating permit and the conditions under which a permit may be granted, modified, suspended, terminated, revoked, reissued, or denied. For sources subject to the provisions of Tit. IV of the federal Clean Air Act Amendments of 1990, operating permit conditions shall include emission allowances for sulfur dioxide emissions.

(2) (a) The commission may ~~impose~~ establish fees to be imposed and collected by the department, including operating permit application fees and fees upon regulated pollutants emitted from an air contaminant source, in an amount sufficient to cover, on a state fiscal year basis as described in section 455B.133B, all reasonable costs, direct and indirect, required to ~~develop~~ implement and administer the operating permit program as described in subparagraph (1) in conformance with the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549. Affected units regulated under Tit. IV of the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549, shall pay operating permit fees in the same manner as other sources subject to operating permit requirements, except as provided in section 408 of the federal that Act.

(b) The fees collected by the department pursuant to this subsection subparagraph division (a) shall be ~~deposited in~~ credited to the appropriate accounts of the air contaminant source fund created pursuant to section 455B.133B, and shall be utilized solely to cover all reasonable costs required to ~~develop~~ implement and administer the programs required by Tit. V of the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549, including the operating permit program pursuant to section 502 of the federal that Act and the small business stationary source technical and environmental assistance program pursuant to section 507 of the federal that Act. The amount of the fees credited to and expended from each account of the air contaminant source fund shall be subject to the limitations provided in section 455B.133B.

(c) Fees established pursuant to this subparagraph (2) shall not be imposed for the regulation of an activity that exceeds the requirements of the federal Clean Air Act Amendments of 1990.

Sec. 2. Section 455B.133B, Code 2015, is amended to read as follows:

455B.133B Air contaminant source fund created — fees and appropriations.

1. As used in this section, unless the context otherwise requires:

a. “Federal Clean Air Act Amendments of 1990” means Pub. L. No. 101-549, including those amendments effective on January 1, 1991, regulations promulgated by the United States environmental protection agency pursuant to that Act, the provisions of this chapter, and rules adopted by the commission pursuant to this chapter.

b. “State fiscal year” means the fiscal year described in section 3.12.

2. An air contaminant source fund is created in the office of the treasurer of state under the control of the department. The fund shall be composed of an air emission fee account and an operating permit application fee account as provided in this section.

1. Moneys received from the fees assessed pursuant to section 455B.133, subsection 8, shall be deposited in the fund.

2. Moneys in the fund shall be used solely to defray the costs related to the permit, monitoring, and inspection program, including the small business stationary source technical and environmental compliance assistance program required pursuant to the federal Clean Air Act Amendments of 1990, section 502, Pub. L. No. 101-549, and as provided in section 455B.133A.

3. In establishing fees to be imposed and collected by the department pursuant to section 455B.133, subsection 8, the commission shall use the calculated estimate described in this section. The fees collected pursuant to section 455B.133, subsection 8, shall be credited to the fund. The fund may include any other moneys appropriated by the general assembly or otherwise available to and obtained or accepted by the department for deposit in the fund.

4. a. The commission shall establish each fee amount based on the department's calculated estimate of total revenues from all fees predicted to be credited to each account in the fund, but not to exceed a ceiling amount for each account as provided in this section. However, this subsection does not require that an account have a zero ending balance at the close of a state fiscal year.

b. Each state fiscal year the department shall recompute its calculated estimate and obtain approval from the commission if an established fee amount must be adjusted.

c. (1) The department shall annually convene a Title V fees stakeholder meeting. The department shall provide a report on the fees and budgets to the stakeholders. The department shall consider any recommendations of the stakeholders when computing its calculated estimate for the following state fiscal year.

(2) A person invited to attend a stakeholder meeting is not entitled to receive a per diem as specified in section 7E.6 and shall be not reimbursed for expenses incurred while attending the meeting.

5. a. The air emission fee account shall include all fees established by the commission to be imposed and collected by the department for emission fees for regulated pollutants submitted by major sources as defined in section 502 of the federal Clean Air Act Amendments of 1990, 42 U.S.C. §7661, and as defined in 567 IAC ch. 22.

b. (1) The department's calculated estimate for the air emission fee account shall be computed to produce total revenues sufficient to pay for reasonable direct and indirect costs of implementing and administering the operating permit program as provided in section 455B.133, subsection 8, on a state fiscal year basis.

(2) The reasonable direct and indirect costs described in subparagraph (1) shall be limited to all of the following:

(a) General administrative costs of administering the operating permit program, including the supporting and tracking of operating permit applications, compliance certification, and related data entry.

(b) Costs of implementing and enforcing the terms of an operating permit, not including any court costs or other costs associated with an enforcement action, including adequate resources to determine which sources are subject to the program.

(c) Costs of emissions and ambient site-specific monitors.

(d) Costs of Title V source-specific modeling, analyses, or demonstrations.

(e) Costs of preparing inventories and tracking emissions.

(f) Costs of providing direct support to sources under the small business stationary source technical and environmental compliance assistance program as provided in section 455B.133A.

(3) The department shall not include in its computations for a calculated estimate, and the commission shall not establish fees, for greenhouse gas emissions as defined in 40 C.F.R. §70.12.

c. The department's calculated estimate for the air emission fee account shall not produce total revenues in excess of eight million two hundred fifty thousand dollars during any state fiscal year.

d. (1) Moneys in the air emission fee account are appropriated to the department to pay for the reasonable direct and indirect costs specified in paragraph "b", subparagraph (2).

(2) Notwithstanding subparagraph (1), moneys in the air emission fee account are appropriated to the department to pay for costs associated with implementing and administering regulatory activities, including programs, provided for in division II of this chapter, other than costs covered by any of the following:

(a) Operating permit application fees credited to the operating permit application fee account as provided in subsection 6.

(b) New source review application fees credited to the major source account of the air quality fund as provided in section 455B.133C, subsection 5.

(c) New source review application fees credited to the minor source account of the air quality fund as provided in section 455B.133C, subsection 6.

(d) Notification fees credited to the asbestos account of the air quality fund as provided in section 455B.133C, subsection 7.

6. a. The operating permit application fee account shall include all fees established by the commission to be imposed and collected by the department for accepting applications for operating permits submitted by major sources as defined in section 502 of the federal Clean Air Act Amendments of 1990, 42 U.S.C. §7661, and as defined in 567 IAC ch. 22.

b. (1) The department's calculated estimate for the operating permit application fee account shall be computed to produce total revenues sufficient to provide for the reasonable direct and indirect costs of implementing and administering operating permit programs described in paragraph "a".

(2) The reasonable direct and indirect costs described in subparagraph (1) shall be limited to all of the following:

(a) Costs of reviewing and acting on any application for an operating permit or operating permit revision.

(b) General administrative costs of administering the operating permit program, including the supporting and tracking of operating permit applications and related data entry.

c. The department's calculated estimate for the operating permit application fee account shall not produce total revenues in excess of one million two hundred fifty thousand dollars during any state fiscal year.

d. Moneys in the operating permit application fee account are appropriated to the department to pay for reasonable direct and indirect costs specified in paragraph "b", subparagraph (2).

7. a. The commission or department shall not transfer moneys credited from one account to another account of the fund.

b. Notwithstanding section 8.33, any unexpended balance in the an account of the fund at the end of each state fiscal year shall be retained in the fund that account.

c. Notwithstanding section 12C.7, any interest and earnings on investments from money moneys in the fund an account of the fund shall be credited to the fund that account.

Sec. 3. NEW SECTION. 455B.133C Air quality fund — fees and appropriations.

1. As used in this section, unless the context otherwise requires:

a. "Federal Clean Air Act Amendments of 1990" means the same as defined in section 455B.133B.

b. "State fiscal year" means the fiscal year described in section 3.12.

2. An air quality fund is created in the office of the treasurer of state under the control of the department. The fund shall be composed of a major source account, a minor source account, and an asbestos account as provided in this section.

3. The commission may establish fees to be imposed and collected by the department upon air contaminant sources required by 567 IAC ch. 22, 31, or 33, to obtain a permit, registration, template, or permit by rule, or to provide notification under 567 IAC 23.1(3). In establishing the fees, the commission shall use the calculated estimate described in this section. The fees collected shall be credited to the fund. The fund may include any other moneys appropriated by the general assembly or otherwise available to and obtained or accepted by the department for deposit in the fund.

4. a. The commission shall establish each fee amount based on the department's calculated estimate of total revenues from all fees predicted to be credited to each account in the fund, but not to exceed a ceiling amount for each account as provided in this section. However,

this subsection does not require that an account have a zero ending balance at the close of a state fiscal year.

b. Each state fiscal year the department shall recompute its calculated estimate and obtain approval from the commission if an established fee amount must be adjusted.

c. (1) The department shall annually convene air quality fees stakeholder meetings. The department shall provide a report on the fees and budgets to the stakeholders regarding each account described in this section. The department shall consider any recommendations of the stakeholders when computing its calculated estimate for the following state fiscal year.

(2) A person invited to attend a stakeholder meeting is not entitled to receive a per diem as specified in section 7E.6 and shall be not reimbursed for expenses incurred while attending the meeting.

5. a. The major source account shall include all fees established by the commission to be imposed and collected by the department for accepting applications for new source review permits including permit revisions submitted by major sources as defined in section 502 of the federal Clean Air Act Amendments of 1990, 42 U.S.C. §7661, under new source review programs pursuant to that federal Act, including as provided under 567 IAC ch. 22, 31, and 33.

b. (1) The department's calculated estimate for the major source account shall be computed to produce total revenues sufficient to pay for reasonable direct and indirect costs of implementing and administering new source review programs described in paragraph "a" on a state fiscal year basis.

(2) The reasonable direct and indirect costs described in subparagraph (1) shall be limited to all of the following:

(a) Reviewing and acting on any application for a new source review permit, including the determination of all applicable requirements and dispersion modeling as part of the processing of a permit or permit revision, or an applicability determination.

(b) General administrative costs of administering new source review programs including supporting and tracking of any application for a new source review permit and related data entry.

(c) (i) Developing and implementing an expedited new source review permit application process.

(ii) Additional fees associated with subparagraph subdivision (i).

c. (1) The department's calculated estimate for the major source account shall not produce total revenues in excess of one million five hundred thousand dollars during any state fiscal year.

(2) Notwithstanding subparagraph (1), the department's calculated estimate for the major source account shall not include the additional fees described in paragraph "b", subparagraph (2), subparagraph division (c), subparagraph subdivision (ii).

d. Moneys in the major source account are appropriated to the department to pay for reasonable direct and indirect costs of implementing and administering new source review programs as specified in paragraph "b", subparagraph (2).

6. a. The minor source account shall include all fees established by the commission to be imposed and collected by the department for accepting applications submitted by minor air contaminant sources for construction permits or for providing for registrations, permits by rule, or template permits in lieu of obtaining construction permits, under minor source new source review programs pursuant to the federal Clean Air Act Amendments of 1990, including as provided under 567 IAC ch. 22.

b. (1) The department's calculated estimate for the minor source account shall be computed to produce total revenues sufficient to pay for reasonable direct and indirect costs of implementing and administering minor source new source review programs as described in paragraph "a" on a state fiscal year basis.

(2) The reasonable direct and indirect costs described in subparagraph (1) shall include costs associated with a new, modified, or existing minor air contaminant source, and related control equipment.

c. The department's calculated estimate for the minor source account shall not produce total revenues in excess of two hundred fifty thousand dollars during any state fiscal year.

d. Moneys in the minor source account are appropriated to the department to pay for reasonable direct and indirect costs of implementing and administering minor source new source review programs as specified in paragraph "b".

7. a. The asbestos account shall include all fees established by the commission to be imposed and collected by the department for accepting notifications involving demolition or renovation projects under the asbestos national emission standard for hazardous air pollutants program pursuant to 567 IAC ch. 23.

b. The department's calculated estimate for the asbestos account shall be computed to produce total revenues sufficient to pay for reasonable direct and indirect costs of implementing and administering the asbestos national emission standard for hazardous air pollutants program as provided in paragraph "a" on a state fiscal year basis.

c. The department's calculated estimate for the asbestos account shall not produce total revenues in excess of four hundred fifty thousand dollars during any state fiscal year.

d. Moneys in the asbestos account are appropriated to the department to pay for reasonable direct and indirect costs of implementing and administering the asbestos national emission standard for hazardous air pollutants program as specified in paragraph "b".

8. Fees established pursuant to this section shall not be imposed for the regulation of an activity that exceeds the requirements of the federal Clean Air Act Amendments of 1990.

9. a. The commission or department shall not transfer moneys credited from one account to another account of the fund.

b. Notwithstanding section 8.33, any unexpended balance in an account of the fund at the end of each state fiscal year shall be retained in that account.

c. Notwithstanding section 12C.7, any interest and earnings on investments from moneys in an account of the fund shall be credited to that account.

Sec. 4. EFFECTIVE DATE OF FEES. Notwithstanding section 455B.133B, as amended in this Act, or section 455B.133C, as enacted in this Act, the environmental protection commission may establish a designated fee effective on and after January 1, 2016. A designated fee is limited to a fee required under this Act to be credited to any of the following funds or accounts:

1. For the air contaminant source fund, the operating permit application fee account as provided in section 455B.133B, subsection 6, as enacted in this Act.

2. For the air quality fund, any of the following:

a. The major source account as provided in section 455B.133C, subsection 5, as enacted in this Act.

b. The minor source account as provided in section 455B.133C, subsection 6, as enacted in this Act.

c. The asbestos account as provided in section 455B.133C, subsection 7, as enacted in this Act.

Sec. 5. CONTINUING EFFECTIVENESS OF EXISTING FEES. Any fee established by the environmental protection commission pursuant to section 455B.133, subsection 8, which is in effect immediately prior to the effective date of this Act shall remain in effect and shall be subject to the provisions of this Act. The fee amount for such a fee in effect immediately prior to the effective date of this Act shall remain in effect until such fee amount is adjusted by the commission as provided in this Act.

Sec. 6. TRANSFER OF MONEYS. Any moneys remaining in the air contaminant source fund, as created in section 455B.133B, on the effective date of this Act, shall be transferred to the air emission fee account established within the air contaminant source fund as provided in this Act.

Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.