

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 455B.133 and 455B.133B as amended by 2015 Iowa Acts, Senate File 488, and 2015 Iowa Acts, Senate File 488, section 3 [Iowa Code section 455B.133C], the Environmental Protection Commission (Commission) hereby amends Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 22, “Controlling Pollution,” and Chapter 23, “Emission Standards for Contaminants”; adopts a new Chapter 30, “Fees”; and amends Chapter 31, “Nonattainment Areas,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” Iowa Administrative Code.

The amendments adopt new rules to implement 2015 Iowa Acts, Senate File 488, signed by Governor Branstad on May 15, 2015, and amend existing rules to establish application fees for construction and operation of air pollution emitting equipment and fees for asbestos notifications. It is anticipated that the improvements made parallel to these amendments will result in the following:

- A 25 percent quicker response time to process air quality construction permit applications at large and small industries. The fees for construction permit application processing will help ensure that critical services, such as providing flexible and simple permitting solutions to meet applicants’ needs and finding unique approaches that reduce regulatory burdens, will continue to allow industries to add jobs and grow the economy while at the same time protecting air quality.
- A 15 percent quicker average issuance rate for Title V operating permits. The fees will help ensure that industries can successfully navigate the complexities of the Title V operating permit program, including a guidebook permit that summarizes all of the information that a company needs in order to meet air quality requirements at its facility.

These improvements in the Department of Natural Resources’ (Department’s) services will allow industries to add jobs and grow the economy while at the same time protecting air quality.

Industries that are already permitted and make no changes triggering the requirement for a modification to an existing construction permit will not have to pay a construction permit application fee. The rules and associated fees will apply to industries only when they add new equipment or modify existing equipment that emits regulated air pollutants and to industries required to obtain a Title V operating permit.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 28, 2015, as **ARC 2222C**. The Department received one public comment on the Notice of Intended Action at the public hearings held on November 18, 19, and 24, 2015, and received nine written comments, including a written comment from the oral commenter, prior to the November 30, 2015, deadline for public comments. The responsiveness summary is available from the Department upon request.

As a result of the public comments, the Department made one minor change to the rules that were published under Notice of Intended Action. In Item 12, the word “emissions” in the introductory paragraph of subrule 22.105(2) was deleted and the proposed reference to Chapter 30 was changed to rule 567—30.4(455B). In addition, the references to 2015 Iowa Acts, Senate File 488, in Chapter 30 have been updated to Iowa Code references.

The amendments add a new Chapter 30, which sets forth:

1. The types of application and notification fees and the requirements to pay them;
2. The dollar cap for each fee and the process for establishing fees in the fee schedule;
3. Limitations on how fee revenues may be expended; and
4. Requirements for the Department to meet annually with each fee advisory group.

The existing Title V emissions fee is moved from rule 567—22.106(455B) to new Chapter 30 to consolidate all fee details in one chapter. The Title V emission dollar-per-ton rate currently located in rule 567—22.106(455B) is moved to rule 567—30.4(455B). The Title V emission dollar-per-ton cap is increased to \$70 per ton to reflect the estimated program expenses associated with projected

actual emissions for FY 2017. The amendments clarify the Department's current practice of excluding greenhouse gases from annual Title V air emissions fees by adding "greenhouse gases" to the list of regulated pollutants that are excluded from Title V air emissions fees.

The amendments set a flat fee for new source review applications from minor sources, including registration permits, permit by rule, and permit templates; and for asbestos notifications. In addition, the amendments set billable, hourly review fees during the application review process for new source review applications for major sources and dispersion modeling and for applications for initial and renewal Title V operating permits.

Fees established by the Commission shall become effective on January 15, 2016. The Title V emissions fee will apply to Title V emissions fees due on or after July 1, 2016.

The Department will conduct a study to measure the time and cost of application review and permit issuance for new source review and operating permits. The Department will provide periodic reports regarding the progress of the study and will provide the results of this study to the fee advisory groups (created pursuant to rule 567—30.5(455B)).

Item 1 amends rule 567—20.1(455B,17A) to add a description of new Chapter 30.

Item 2 amends paragraph 22.1(3)"a" to revise the catchwords and to specify that regulatory determinations, including concept reviews, are subject to fees as defined in Chapter 30.

Item 3 amends paragraph 22.1(3)"b" by adding a new subparagraph (10) to establish the requirement to pay application fees for a construction permit.

Item 4 amends rule 567—22.4(455B) to establish the requirement to pay application fees for a prevention of significant deterioration (PSD) permit.

Item 5 amends rule 567—22.5(455B) to establish the requirement to pay application fees for a nonattainment major new source review (NSR) permit.

Item 6 amends subrule 22.8(1) to establish the requirement to pay application fees for a permit by rule for spray booths.

Item 7 amends rule 567—22.10(455B) to establish the requirement to pay application fees for country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment.

Item 8 amends the definition of "Regulated air pollutant or contaminant (for fee calculation)" in rule 567—22.100(455B) to clarify that greenhouse gases are not subject to annual emissions fees under the Title V operating permit program.

Item 9 amends subrule 22.101(1) to establish the requirement to pay application fees for an operating permit.

Item 10 amends rule 567—22.103(455B) to update a cross reference due to the relocation of the existing Title V emissions fee provisions from rule 567—22.106(455B) to new Chapter 30.

Item 11 amends subrule 22.105(1) to add the requirement that the owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit fees as required in Chapter 30.

Item 12 amends subrule 22.105(2) to provide a reference indicating that the fee information for the Title V operating permit program is located in rule 567—30.4(455B).

Item 13 amends rule 567—22.106(455B) to move the existing Title V operating permit emissions fee to new Chapter 30 and to add a reference to Chapter 30.

Item 14 amends subrule 22.108(10) to update the Title V operating permit's general condition language to refer to Chapter 30 for the fees.

Item 15 amends paragraph 23.1(3)"a" to add a notification fee for the asbestos demolition and renovation program.

Item 16 adopts new Chapter 30 pertaining to fees. Rule 567—30.1(455B) defines the purpose of the chapter and describes each rule, provides definitions for terms used in Chapter 30, and adds provisions regarding the duty to correct errors, exemptions to fee requirements for administrative amendments, and refunds of application fees. Rule 567—30.2(455B) details which new source review activities are required to submit an application fee. Rule 567—30.3(455B) explains when asbestos notification fees are required. Rule 567—30.4(455B) contains the Title V application fee requirement and the Title V emissions fee that was formerly in rule 567—22.106(455B). Rule 567—30.5(455B) explains the

fee advisory groups for new source review for major sources, new source review for minor sources, asbestos, and Title V. Rule 567—30.6(455B) explains the process to establish or adjust fees and contains the fee types and the dollar caps on the fee types for which the Commission may set a fee amount. Rule 567—30.7(455B) explains how fee revenues may be used and specifies the calculated estimate of maximum fee revenues.

Item 17 amends rule 567—31.1(455B) to establish the requirement to pay application fees for a nonattainment major new source review (NSR) permit or fees for a request of a plantwide applicability limit.

Item 18 amends rule 567—33.1(455B) to establish the requirement to pay application fees for a prevention of significant deterioration (PSD) permit or fees for a request of a plantwide applicability limit.

Pursuant to Iowa Code section 17A.5(2)“b”(1) and (2) as amended by 2015 Iowa Acts, House File 536, section 27, these amendments became effective on December 16, 2015. The normal effective date shall be waived and the amendments made effective upon filing, as the amendments confer a benefit on economic development for regulated entities by providing the Department the financial means to provide quality environmental services to Iowa businesses, while protecting the citizens of Iowa.

Jobs Impact Statement

After analysis and review, the Commission has determined that the amendments will likely have a positive impact on jobs at Iowa’s large facilities but could have a negative impact on jobs at medium-to small-size facilities (i.e., they are now subject to payment of fees if they make changes triggering a new or modified air quality construction permit). However, it is the Commission’s expectation that the fees authorized by this rule making in conjunction with efficiency activities are expected to result in reductions in the time it takes for industries to receive air quality permits, allowing them to respond quickly to changing economic conditions and facilitate job growth.

The Department is pursuing several efficiencies objectives including, but not limited to, electronic filing, removing redundant provisions in application forms and permits through LEAN events, and exploring best practices in air quality programs in other states, all while ensuring compliance with environmental regulations.

These amendments are intended to implement Iowa Code sections 455B.133 and 455B.133B as amended by 2015 Iowa Acts, Senate File 488, and 2015 Iowa Acts, Senate File 488, section 3 [Iowa Code section 455B.133C].

These amendments became effective on December 16, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **567—20.1(455B,17A)**, second unnumbered paragraph, as follows:

Chapter 21 contains the provisions requiring compliance schedules, allowing for variances, and setting forth the emission reduction program. Chapter 22 contains the standards and procedures for the permitting of emission sources. Chapter 23 contains the air emission standards for contaminants. Chapter 24 provides for the reporting of excess emissions and the equipment maintenance and repair requirements. Chapter 25 contains the testing and sampling requirements for new and existing sources. Chapter 26 identifies air pollution emergency episodes and the preplanned abatement strategies. Chapter 27 sets forth the conditions political subdivisions must meet in order to secure acceptance of a local air pollution control program. Chapter 28 identifies the state ambient air quality standards. Chapter 29 sets forth the qualifications for an observer for reading visible emissions. Chapter 30 sets forth requirements to pay fees for specified activities. Chapter 31 contains the conformity of general federal actions to the Iowa state implementation plan or federal implementation plan and requirements for areas designated nonattainment. Chapter 32 specifies requirements for conducting the animal feeding operations field study. Chapter 33 contains special regulations and construction permit requirements for major stationary sources and includes the requirements for prevention of significant deterioration (PSD). Chapter 34 contains provisions for air quality emissions trading programs.

ITEM 2. Amend paragraph 22.1(3)“a” as follows:

a. ~~New equipment design in concept review~~ Regulatory applicability determinations. If requested in writing, the director will review the design concepts of ~~proposed~~ new equipment and associated control equipment prior to application for a construction permit. The purpose of the review would be to determine the acceptability of the location of the ~~proposed~~ equipment. If the review is requested, the requester shall supply the following information and submit a fee as required in 567—Chapter 30:

- (1) Preliminary plans and specifications of ~~proposed~~ equipment and related control equipment.
- (2) The exact site location and a plot plan of the immediate area, including the distance to and height of nearby buildings and the estimated location and elevation of the emission points.
- (3) The estimated emission rates of any air contaminants which are to be considered.
- (4) The estimated exhaust gas temperature, velocity at the point of discharge, and stack diameter at the point of discharge.
- (5) An estimate of when construction would begin and when construction would be completed.

ITEM 3. Amend paragraph 22.1(3)“b” as follows:

b. Construction permit applications. Each application for a construction permit shall be submitted to the department on the form “Air Construction Permit Application.” Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the direct supervision of a professional engineer licensed in the state of Iowa in conformance with Iowa Code section 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while doing work for that corporation. The application for a permit to construct shall include the following information:

(1) to (6) No change.

(7) Any additional information deemed necessary by the department to determine compliance with or applicability of rules 567—22.4(455B), 567—22.5(455B), 567—31.3(455B) and 567—33.3(455B); and

(8) Application for a case-by-case MACT determination. If the source meets the definition of construction or reconstruction of a major source of hazardous air pollutants, as defined in paragraph 22.1(1)“b,” then the owner or operator shall submit an application for a case-by-case MACT determination, as required in 567—subparagraph 23.1(4)“b”(1), with the construction permit application. In addition to this paragraph, an application for a case-by-case MACT determination shall include the following information:

1. to 7. No change.

8. An identification of any listed source category or categories in which the major source is included;

(9) A signed statement that ensures the applicant’s legal entitlement to install and operate equipment covered by the permit application on the property identified in the permit application. A signed statement shall not be required for rock crushers, portable concrete or asphalt equipment used in conjunction with specific identified construction projects which are intended to be located at a site only for the duration of the specific, identified construction project; and

(10) Application fee.

1. The owner or operator shall submit a fee as required in 567—Chapter 30 to obtain a permit under subrule 22.1(1), rule 567—22.4(455B), rule 567—22.5(455B), rule 567—22.8(455B), rule 567—22.10(455B), 567—Chapter 31 or 567—Chapter 33.

2. For application submittals from a minor source as defined in 567—Chapter 30, the department shall not initiate review and processing of a permit application submittal until all required application fees have been paid to the department.

ITEM 4. Amend rule 567—22.4(455B) as follows:

567—22.4(455B) Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD). As applicable, the owner or operator of a stationary source shall comply with the rules for prevention of significant deterioration (PSD) as set forth in 567—Chapter 33.

An owner or operator required to apply for a construction permit under this rule shall submit all required fees as required in 567—Chapter 30.

ITEM 5. Amend rule 567—22.5(455B) as follows:

567—22.5(455B) Special requirements for nonattainment areas. As applicable, the owner or operator of a stationary source shall comply with the requirements for the nonattainment major NSR program as set forth in rule 567—31.20(455B). An owner or operator required to apply for a construction permit under this rule shall submit all required fees as required in 567—Chapter 30.

ITEM 6. Amend subrule 22.8(1), introductory paragraph, as follows:

22.8(1) Permit by rule for spray booths. Spray booths which comply with the requirements contained in this rule will be deemed to be in compliance with the requirements to obtain an air construction permit and an air operating permit. Spray booths which comply with this rule will be considered to have federally enforceable limits so that their potential emissions are less than the major source limits for regulated air pollutants and hazardous air pollutants as defined in rule 567—22.100(455B). An owner or operator required to apply for a permit by rule under this subrule shall submit fees as required in 567—Chapter 30.

ITEM 7. Amend rule 567—22.10(455B), introductory paragraph, as follows:

567—22.10(455B) Permitting requirements for country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment. The requirements of this rule apply only to country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment, as these terms are defined in subrule 22.10(1). The requirements of this rule do not apply to equipment located at grain processing plants or grain storage elevators, as “grain processing” and “grain storage elevator” are defined in rule 567—20.2(455B). Compliance with the requirements of this rule does not alleviate any affected person’s duty to comply with any applicable state or federal regulations. In particular, the emission standards set forth in 567—Chapter 23, including the regulations for grain elevators contained in 40 CFR Part 60, Subpart DD (as adopted by reference in 567—paragraph 23.1(2) “ooo”), may apply. An owner or operator subject to this rule shall submit fees as required in 567—Chapter 30.

ITEM 8. Amend rule **567—22.100(455B)**, definition of “Regulated air pollutant or contaminant (for fee calculation),” as follows:

“*Regulated air pollutant or contaminant (for fee calculation),*” which is used only for purposes of rule 567—22.106(455B) Chapter 30, means any “regulated air pollutant or contaminant” except the following:

1. Carbon monoxide;
2. Particulate matter, excluding PM10;
3. Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act;
4. Any pollutant that is a regulated pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act;
5. Greenhouse gas, as defined in rule 567—20.2(455B).

ITEM 9. Amend subrule 22.101(1), introductory paragraph, as follows:

22.101(1) Except as provided in rule 567—22.102(455B), any person who owns or operates any of the following sources shall obtain a Title V operating permit and shall submit fees as required in 567—Chapter 30:

ITEM 10. Amend rule 567—22.103(455B), introductory paragraph, as follows:

567—22.103(455B) Insignificant activities. The following are insignificant activities for purposes of the Title V application if not needed to determine the applicability of or to impose any applicable

requirement. Title V permit emissions fees are not required from insignificant activities pursuant to ~~subrule 22.106(7), 567—paragraph 30.4(2) “f.”~~

ITEM 11. Amend subrule 22.105(1), introductory paragraph, as follows:

22.105(1) *Duty to apply.* For each source required to obtain a Title V permit, the owner or operator or designated representative, where applicable, shall present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324 (two copies); and U.S. EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department. An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

ITEM 12. Amend subrule 22.105(2), introductory paragraph, as follows:

22.105(2) *Standard application form and required information.* To apply for a Title V permit, applicants shall complete the standard permit application form available only from the department of ~~natural resources~~ and supply all information required by the filing instructions found on that form. The information submitted must be sufficient to evaluate the source and its application and to determine all applicable requirements and to evaluate the fee amount required by rule ~~567—22.106(455B) 30.4(455B)~~. If a source is not a major source and is applying for a Title V operating permit solely because of a requirement imposed by paragraphs 22.101(1) “c” and “d,” then the information provided in the operating permit application may cover only the emissions units that trigger Title V applicability. The applicant shall submit the information called for by the application form for each emissions unit to be permitted, except for activities which are insignificant according to the provisions of rule ~~567—22.103(455B)~~. The applicant shall provide a list of all insignificant activities and specify the basis for the determination of insignificance for each activity. Nationally standardized forms shall be used for the acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act. The standard application form and any attachments shall require that the following information be provided:

ITEM 13. Amend rule ~~567—22.106(455B)~~ as follows:

~~567—22.106(455B) Title V permit fees Annual Title V emissions inventory.~~

~~**22.106(1) *Fee established Emissions fee.*** Fees shall be paid as set forth in 567—Chapter 30. Any person required to obtain a Title V permit shall pay an annual fee based on the total tons of actual emissions of each regulated air pollutant, beginning November 15, 1994. Beginning July 1, 1996, Title V operating permit fees will be paid on or before July 1 of each year. The 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 department and the commission will review the fee structure on an annual basis and adjust the fee as necessary to cover all reasonable costs required to develop and administer the programs required by the Act. The department shall submit the proposed budget for the following fiscal year to the commission no later than the March meeting. The commission shall set the fee based on the reasonable cost to run the program and the proposed budget no later than the May commission meeting of each year. The commission shall provide an opportunity for public comment prior to setting the fee. The commission shall not set the fee higher than \$56 per ton without adopting the change pursuant to formal rule making.~~

~~**22.106(2) *Fee calculation.*** The fee amount shall be calculated based on the first 4,000 tons of each regulated air pollutant or contaminant emitted each year from each major source.~~

~~22.106(3)~~ **22.106(2)** *Fee Emissions inventory and documentation due dates.*

~~a.~~ The fee shall be submitted annually by July 1. For emissions located in Polk County or Linn County, the fee shall be submitted with three copies of the following forms. For emissions in all remaining counties, the fee shall be submitted with two copies of the following forms:

- ~~1.~~ Form 1.0 “Facility identification”;
- ~~2.~~ Form 5.0 “Title V annual emissions summary/fee”; and
- ~~3.~~ Part 3 “Application certification.”

~~b.~~ For emissions located in Polk County or Linn County, three copies of the following forms shall be submitted annually by March 31 documenting actual emissions for the previous calendar year. For emissions in all other counties, two copies of the following forms shall be submitted annually by March 31, documenting actual emissions for the previous calendar year:

- ~~1.~~ a. Form 1.0, “Facility Identification”;
- ~~2.~~ b. Form 4.0, “Emission Unit—Actual Operations and Emissions” for each emission unit;
- ~~3.~~ c. Form 5.0, “Title V Annual Emissions Summary/Fee”; and
- ~~4.~~ d. Part 3, “Application Certification.”

Alternatively, an owner or operator may submit the required emissions inventory information through the electronic submittal format specified by the department.

If there are any changes to the emission calculation form, the department shall make revised forms available to the public by January 1. If revised forms are not available by January 1, forms from the previous year may be used and the year of emissions documented changed. The department shall calculate the total statewide Title V emissions for the prior calendar year and make this information available to the public no later than April 30 of each year.

~~22.106(4) Phase I acid rain sources.~~ No fee shall be required to be paid for emissions which occur during the years 1993 through 1999 inclusive, with respect to any Phase I acid rain affected unit under Section 404 of the Act.

~~22.106(5) Operation in Iowa.~~ The fee for a portable emissions unit or stationary source which operates both in Iowa and out of state shall be calculated only for emissions from the source while operating in Iowa.

~~22.106(6) Title V exempted stationary sources.~~ No fee shall be required to be paid for emissions until the year in which sources exempted under subrules 22.102(1) and 22.102(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.

~~22.106(7) Insignificant activities.~~ No fee shall be required to be paid for insignificant activities, as defined in rule 567—22.103(455B).

~~22.106(8) 22.106(3) Correction of errors.~~ If an owner or operator, or the department, finds an error in a Title V emissions inventory or Title V fee payment, the owner or operator shall submit to the department revised forms making the necessary corrections to the Title V emissions inventory or Title V fee payment. Forms Corrected forms shall be submitted as soon as possible after the errors are discovered or upon notification by the department.

ITEM 14. Amend subrule 22.108(10) as follows:

22.108(10) Fees. The permit shall include a provision to ensure that the Title V permittee pays fees to the director pursuant to rule ~~567—22.106(455B)~~ 567—30.4(455B).

ITEM 15. Amend paragraph **23.1(3)“a”** as follows:

a. Asbestos. Any of the following involves asbestos emissions: asbestos mills, surfacing of roadways, manufacturing operations, fabricating, insulating, waste disposal, spraying applications and demolition and renovation operations. (Subpart M). Any person subject to notification requirements under this rule shall submit fees as required in 567—Chapter 30.

ITEM 16. Adopt the following **new** 567—Chapter 30:

CHAPTER 30
FEES

567—30.1(455B) Purpose. This chapter sets forth requirements to pay fees for specified activities. Rule 567—30.1(455B) adds definitions for this chapter, a duty to correct errors, and an exemption to fee requirements for administrative amendments. Rule 567—30.2(455B) sets forth the requirements for applicants to submit fees for specified activities associated with new source review in 567—Chapter 22, 567—Chapter 31 and 567—Chapter 33. Rule 567—30.3(455B) contains requirements for the submission of demolition and renovation notification fees for the asbestos emission standard for hazardous air pollutants listed in 567—paragraph 23.1(3)“a.” Rule 567—30.4(455B) sets forth the requirements for applicants to submit fees for specified activities associated with the Title V program found in 567—Chapter 22. Rule 567—30.5(455B) sets forth the requirement to convene fee advisory groups. Rule 567—30.6(455B) details the process by which fee levels shall be established, lists the types of fees and the dollar caps on the fee types that the commission may set, and establishes the mechanism for notification of the fee schedule. Rule 567—30.7(455B) details how fee revenues may be expended and specifies the calculated estimate of maximum fee revenues.

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 subrule 30.1(4).

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

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

“*Major source*” means a “major source” as defined in rule 567—22.100(455B).

“*Minor source*” means any stationary source not included in the definition of “major source” as defined in rule 567—22.100(455B).

“*Regulated air pollutant*” means “regulated air pollutant or contaminant (for fee calculation)” as defined in rule 567—22.100(455B).

30.1(2) Duty to correct errors. If an owner or 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;
- 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, 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. Beginning on January 15, 2016, 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), rule 567—22.4(455B), rule 567—22.5(455B), rule 567—22.8(455B), rule 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 Web site. Fees shall be submitted with forms supplied by the department.

30.2(1) *Payment of regulatory applicability determination fee.* Beginning on January 15, 2016, 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 Web site. 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.* Beginning on January 15, 2016, 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 Web site. 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 subrule 30.3(1).

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

30.4(1) *Payment of Title V application fee.* Beginning on January 15, 2016, 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 Web site. 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, beginning on November 15, 1994. Beginning on July 1, 1996, Title V operating permit fees 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 rule making.

b. Fee and documentation due dates. The fee shall be submitted annually by July 1. The fee shall be submitted with a copy of the following forms:

(1) Form 1.0, “Facility Identification”;

(2) Form 5.0, “Title V Annual Emissions Summary/Fee”; and

(3) Part 3, “Application Certification.”

c. Phase I acid rain sources. No fee shall be required to be paid for emissions which occurred during the years 1993 through 1999, inclusive, with respect to any Phase I acid rain affected unit under 42 U.S.C. 7651c.

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

e. Title V exempted stationary sources. No fee shall be required for emissions until the year in which sources exempted under 567—subrules 22.102(1) and 22.102(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.

f. Insignificant activities. No fee shall be required for insignificant activities as defined in rule 567—22.103(455B).

567—30.5(455B) Fee advisory groups. Prior to each March commission meeting, the director shall convene fee advisory groups for the purposes of reviewing a draft budget and providing recommendations to the department regarding establishing or adjusting fees. Any stakeholder may attend meetings of the advisory groups. The meetings will be open to the public. The date of each meeting shall be posted on the department's Web site 14 days prior to the meeting date.

30.5(1) *New source review for major sources fee advisory group.* The director shall convene annually a fee advisory group to review the draft budget and major source fees required by rule 567—30.2(455B) and listed in rule 567—30.6(455B). Participants in the advisory group may provide recommendations to the department regarding fees necessary to cover all direct and indirect costs to administer the major source permit program.

30.5(2) *New source review for minor sources fee advisory group.* The director shall convene annually a fee advisory group which shall not include major sources as defined in subrule 30.1(1). The fee advisory group will review the draft budget and minor source application fees required in rule 567—30.2(455B) and listed in rule 567—30.6(455B). Participants in the fee advisory group shall include, but may not be limited to, any minor sources and their representatives. The advisory group may provide recommendations to the department regarding fees necessary to cover all direct and indirect costs to administer the minor source permit program.

30.5(3) *Asbestos fee advisory group.* The director shall convene annually an asbestos NESHAP fee advisory group to review the draft budget and asbestos notification fee required by rule 567—30.3(455B) and listed in rule 567—30.6(455B). Participants in the advisory group may provide recommendations to the department regarding fees necessary to cover all direct and indirect costs to administer the asbestos NESHAP program.

30.5(4) *Title V fee advisory group.* The director shall convene annually a fee advisory group to review the draft budget and Title V emissions and application fees required by rule 567—30.4(455B) and listed in rule 567—30.6(455B). Participants in the advisory group may provide recommendations to the department regarding fees necessary to cover all direct and indirect costs to administer the Title V operating permit program.

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

30.6(1) *Setting the fees.* Beginning on January 15, 2016, fees shall be paid as specified in the fee schedule approved by the commission and posted on the department's Web site. Following the setting of the fee schedule effective January 15, 2016, 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.

Fees established prior to January 15, 2016, shall become effective on January 15, 2016. In subsequent years, 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 rule making:

- 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, which may include:
 - 1. Reviewing air quality modeling for construction permit application submittal; prevention of significant deterioration application submittal; and nonattainment new source review project application submittal; and
 - 2. Conducting air quality modeling for construction permit application submittal.
- 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 Web site.

567—30.7(455B) Fee revenue. Each fee program is established to provide revenue for and is limited in use to specific activities.

30.7(1) New source review application fees from major sources. In accordance with Iowa Code section 455B.133C(5), new source review fee revenues may be used to fund the direct and indirect costs related to reviewing and acting on applications for new source review permits, including permit revisions submitted by major sources as defined under new source review programs pursuant to the federal Act, and as provided under 567—Chapter 22, 567—Chapter 31, and 567—Chapter 33, as follows:

- 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; and
- c.* Developing and implementing an expedited new source review permit application process, and additional fees associated with this process.

The calculated estimate of total revenues from new source review application fees from major sources shall not exceed \$1,500,000 during any state fiscal year.

30.7(2) New source review application fees from minor sources. In accordance with Iowa Code section 455B.133C(6), minor new source review fee revenues may be used to fund the direct and indirect costs for reviewing and acting on applications submitted by minor air contaminant sources for construction permits and 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—Chapter 22. The calculated estimate of total revenues from new source review application fees from minor sources shall not exceed \$250,000 during any state fiscal year.

30.7(3) Title V emissions. In accordance with Iowa Code section 455B.133B(5), Title V emissions fee revenues may be used to fund the direct and indirect costs related to:

- 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 Iowa Code section 455B.133A.

g. Costs associated with implementing and administering regulatory activities, including programs, as provided for in division II of Iowa Code chapter 455B, other than costs covered by any of the following: operating permit application fees, new source review application fees, or notification fees, pursuant to Iowa Code section 455B.133B(5) "d"(2).

The calculated estimate of total revenues from emissions fees shall not exceed \$8,250,000 during any state fiscal year.

30.7(4) Title V applications. In accordance with Iowa Code section 455B.133B(6), Title V application fee revenues may be used to fund the direct and indirect costs related to reviewing and acting on applications for operating permits submitted by major sources as defined in rule 567—22.100(455B) and sources subject to rule 567—22.101(455B), as follows:

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.

The calculated estimate of total revenues from Title V application fees shall not exceed \$1,250,000 during any state fiscal year.

30.7(5) Asbestos notification. Pursuant to Iowa Code section 455B.133C(7), asbestos notification fee revenues may be used to fund the direct and indirect costs related to implementing and administering the asbestos national emission standard for hazardous air pollutants program pursuant to 567—Chapter 23. The calculated estimate of total revenues from asbestos notification fees shall not exceed \$450,000 during any state fiscal year.

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

ITEM 17. Amend rule **567—31.1(455B)**, third unnumbered paragraph, as follows:

Requirements for nonattainment areas designated on or after May 18, 1998, are in rules 567—31.3(455B) through 567—31.10(455B). Requirements for nonattainment areas designated before May 18, 1998, are in rule 567—31.20(455B). A list of Iowa's nonattainment area designations is found at 40 CFR 81.316 as amended through August 5, 2013. An owner or operator required to apply for a construction permit under this chapter or requesting a plantwide applicability limit shall submit fees as required in 567—Chapter 30.

ITEM 18. Amend rule 567—33.1(455B) as follows:

567—33.1(455B) Purpose. This chapter implements the major New Source Review (NSR) program contained in Part C of Title I of the federal Clean Air Act as amended on November 15, 1990, and as promulgated under 40 CFR 51.166 and 52.21 as amended through July 20, 2011. This is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under Part C of the Clean Air Act as amended on November 15, 1990. In areas that do not meet the national ambient air quality standards (NAAQS), the nonattainment major program applies. The requirements for the nonattainment major NSR program are set forth in 567—22.5(455B), 567—22.6(455B), 567—31.20(455), and 567—31.3(455B). In areas that meet the NAAQS, the PSD program applies. Collectively, the nonattainment major and PSD programs are referred to as the major NSR program. An owner or operator required to apply for a construction permit under 567—Chapter 33 shall submit fees as required in 567—Chapter 30.

Rule 567—33.2(455B) is reserved.

Rule 567—33.3(455B) sets forth the definitions, standards and permitting requirements that are specific to the PSD program.

Rules 567—33.4(455B) through 567—33.8(455B) are reserved.

Rule 567—33.9(455B) includes the conditions under which a source subject to PSD may obtain a plantwide applicability limitation (PAL) on emissions. An owner or operator requesting a PAL under 567—33.9(455B) shall submit fees as required in 567—Chapter 30.

In addition to the requirements in this chapter, stationary sources may also be subject to the permitting requirements in 567—Chapter 22, including requirements for Title V operating permits.

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