ENVIRONMENTAL PROTECTION COMMISSION[567]

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapter 30
"Fees"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455B.133(8)"a"(2), 455B.133B, and 455B.133C

State or federal law(s) implemented by the rulemaking: federal Clean Air Act (42 U.S.C. §7401, et seq.) and Iowa Code sections 455B.133, 455B.133B, 455B.133C, and 455B.134

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

June 3, 2025 1 p.m.	Via Zoom us02web.zoom.us/meeting/register/Zxv6RoKoQDyPTUXSyZc7vw

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

The Environmental Protection Commission (Commission) proposes to amend Chapter 30 to increase the fee caps (the maximum amount that can be assessed for specific air quality fees), to add a new Title V annual base fee, and to add a new fee for revisions to asbestos notifications. The increase to the fee caps will provide sustainable funding to cover program expenses, and the new fees will distribute the costs more equitably to those businesses actively using Departmental services. All fees directly support the air quality program, which exists to prevent, abate, and control air pollution in the State of Iowa. Fees received by the Department are deposited in one of two funds. The Air Contaminant 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.

Item 1 amends rule 567—30.3(455B) to add a new asbestos demolition or renovation notification fee for revisions to initial notifications. Paragraph 30.3(2)"d" currently states that the Department does not require fees for revised, canceled, and courtesy notifications. Paragraph 30.3(2)"d" is proposed to be stricken since it is no longer needed.

Item 2 amends rule 567—30.4(455B) to strike a redundant reference to the dollar cap on the fee amount that is also listed in subrule 30.6(2). Additionally, a Title V annual base fee is proposed in new subrule 30.4(3). Only one annual base fee will be assessed for municipalities, universities, and facilities that have requested that a permit be divided into more than one permit for administrative purposes.

Item 3 amends subrule 30.6(2) to increase the fee caps on all fee types based on the recommendations received from industrial stakeholders. Item 3 also adds fee cap amounts for the new fees for revisions to asbestos notifications and the Title V annual base fee.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

The proposed rulemaking will apply to any facility that plans to install or modify a source of air emissions that is required to obtain a construction permit or that holds a federally required Title V operating permit. Common facilities with air emissions include electric utilities, food and grain processors, manufacturing operations, natural gas pipelines, chemical manufacturers, metal foundries, asphalt paving plants, and concrete batch plants. The Department currently has 41 exemptions from the requirement to obtain a construction permit and pay the associated fee. These exemptions range from specific equipment, such as engines less than 400 horsepower, to equipment that emits below established emissions levels, such as less than five tons per year of volatile organic compounds (VOCs). The Department also works with facilities to exit or avoid the federal Title V program and its associated costs by writing permits with necessary emissions or operational limitations. The proposed rulemaking will also apply to asbestos-related demolition or renovation projects subject to the federal asbestos National Emissions Standard for Hazardous Air Pollutants (NESHAP), which commonly include commercial buildings or bridges undergoing renovation or demolition.

- **Classes of persons that will benefit from the proposed rulemaking:**

The proposed rulemaking will benefit Iowa businesses that must comply with state and federal air quality regulations by ensuring timely permit issuance and adequate compliance assistance. Additionally, all Iowa citizens will realize a benefit as sustainable levels of funding for the air quality program will allow for continued prevention, abatement, and control of air pollution in the state, protecting the health and welfare of all Iowans.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

The Department established a fee advisory group consisting of a diverse group of businesses and associations that frequently utilize the Department's services. The group was asked to review the air quality program's budget and determine whether services should be reduced to cut costs or whether fees paid by industry should be raised to retain existing service levels. The small group then shared its proposals with larger groups of stakeholders on multiple occasions. During those meetings, the Department shared budgetary efficiencies and cost reductions achieved to retain static program fees for the last ten years, which included reductions to personnel, ambient monitoring, and contracts with local air quality programs. The air quality program's budget for state fiscal year (SFY) 2016 was $13.6 million with 74.5 full-time equivalent (FTE) positions. The budget for SFY 2024 was $12 million with 61.5 FTE positions. Stakeholders did not recommend further reductions in the program and supported the need for proposed increases in the fee caps that can be assessed.

- **Qualitative description of impact:**

The proposed rulemaking will increase the fee caps that may be assessed to provide funding for the air quality program. Importantly, this proposed rulemaking will not change the current fees approved by the Commission as published in the fee schedule nor will it change the fee setting process specified in rule 567—30.6(455B).

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There is no fiscal impact to the State of Iowa related to the proposed rulemaking.

- **Anticipated effect on state revenues:**

The rulemaking will increase the maximum amount of each fee cap and the types of fees that can be assessed for each air quality program. It does not make any changes to the current air quality fee schedule or the revenue caps on each of the air quality accounts contained in Iowa Code sections 455B.133B and 455B.133C. Changes to the fee schedule are approved by the Commission in accordance with rule 567—30.6(455B).

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Inaction, or not adopting this proposed rulemaking, would cause significant delays in providing permitting and compliance assistance to the regulated community due to additional staff reductions that would be necessary to stay within the available budget. The delays would impact job growth and economic development in the state by causing a slowdown in new business startups and expansions of existing businesses. Stakeholders have expressed support for raising the maximum fee cap amounts in order to maintain the current level of service needed to obtain assistance and to timely comply with state and federal air quality requirements in future years.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Department provided a report in 2014 to the Iowa General Assembly regarding strategic priorities for financial sustainability. The report, developed with stakeholders, recommended $2 million be appropriated to the air quality program. Legislative changes that established the air quality fees in 2015 were codified in Iowa Code sections 455B.133B and 455B.133C and directed the Department to establish fees to fund the air quality program. No additional state funds have been continuously appropriated to the program.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Department has made every effort to stay within the existing fees that were established in January 2016 by reducing staffing, reducing expenses, and streamlining processes. These efforts have resulted in cost reductions of $3,952,000. Additionally, the Department has looked for opportunities for alternate funding to support the program amounting to $3.1 million. In SFY 2016, the entire air quality budget was $13.6 million. In SFY 2024, the budget was $12 million. Approximately 48 percent of the cost savings have come from reducing the Department's staffing by 13 FTE positions over an eight-year period. Approximately 35 percent of the cost savings have come from contract reductions, including programmatic cuts to the local air quality programs and small business assistance providers, a 23 percent reduction in the ambient air monitoring network in SFY 2018, and an additional 16 percent reduction to the ambient air monitoring network in SFY 2023.

Even with the reduction to expenses, revenue declines in the federal Title V operating permit program are happening more rapidly than the Department can reduce costs. The amount of air emissions subject to emissions fees has declined from 140,000 tons in SFY 2016 to 78,000 tons in SFY 2025 (a reduction of over $11 million cumulatively). Air emissions are anticipated to continue to decline based on the ongoing implementation of federal regulations. However, the number of Title V regulated facilities, the number of applicable regulations, and the amount of assistance the Department provides to each facility have not declined. Thus, the Department is proposing to add a Title V annual base fee that will ensure that each facility that holds a Title V operating permit is paying adequate fees to cover the expenses associated with the ongoing activities the Department performs annually for each Title V operating permit holder. These ongoing activities include but are not limited to annual and semiannual report review, annual emissions inventory submission assistance and data review (including user training and mandatory federal reporting), and federally required compliance inspections. Many Title V operating permit programs in other states have adopted or are considering adopting annual base fees to stabilize funding as emissions decline.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

No alternative methods are available and no additional funding is available at the federal level. The fee advisory group, consisting of a diverse group of businesses and associations that frequently utilize Department services, recommended increases in the maximum fee caps that can be assessed in lieu of further reductions in services.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The Department will reduce the impact of increased fees on small sources of air emissions by using state and federal funds to offset approximately 60 percent of the cost of obtaining a permit. Additionally, the minor source construction permitting program has a flat, lower fee compared to the hourly fee of the major source construction permitting program. The proposed maximum fee cap for minor source construction permitting has been reviewed and supported by stakeholders that are smaller sources of air pollution. The minor source construction permitting program also has template permits available at a lower dollar amount for paint booths located primarily at auto body shops; aggregate processing, asphalt, and concrete batch plants; and country grain elevators. The Department also funds services at the Iowa Waste Reduction Center at the University of Northern Iowa for small businesses so that they may understand and fulfill their air quality regulatory obligations.

Text of Proposed Rulemaking

ITEM 1. Amend rule 567—30.3(455B) as follows:

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, each revised, 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"*;~~ 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).~~

ITEM 2. Amend rule 567—30.4(455B) as follows:

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. to *e.* No change.

30.4(3) *Payment of Title V annual base fee.*

a. Fee required. Any person required to obtain a Title V permit shall pay an annual base fee as specified in the fee schedule approved by the commission and posted on the department's website. The fee shall be paid on or before July 1 of each year and shall be submitted with forms or through the electronic submittal method specified by the department.

b. The following sources will be required to pay only one Title V annual base fee on or before July 1 of each year: municipalities, universities, and Title V facilities that have requested that their Title V permit be split into more than one permit for administrative purposes.

ITEM 3. Amend subrule 30.6(2) as follows:

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, including air quality modeling review: ~~$115~~ $165 per hour;

(2) Review of each application for a prevention of significant deterioration permit: ~~$115~~ $165 per hour;

(3) Review of each plantwide applicability limit request, renewal, or reopening: ~~$115~~ $165 per hour; and

(4) Review of each regulatory applicability determination: ~~$115~~ $165 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~~ $1,200;

(2) Each application for a registration permit: ~~$100~~ $500;

(3) Each application for a permit by rule: ~~$100~~ $500; and

(4) Each application for a permit template: ~~$100~~ $500.

c. Asbestos notifications~~: $100.~~, which may include:

(1) Each initial or annual asbestos notification: $175; and

(2) Each revised asbestos notification: $100.

d. Review of each initial or renewal Title V operating permit application: ~~$100~~ $145 per hour.

e. Title V annual emissions: ~~$70~~ $98 per ton.

f. Title V annual base fee: $7,800.