

House File 640 - Introduced

HOUSE FILE 640

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 219)

A BILL FOR

1 An Act relating to air quality, by providing for the
2 establishment, imposition, and collection of fees, the
3 creation or administration of funds and programs, making
4 appropriations, and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

18 (2) (a) The commission may ~~impose~~ establish fees to be
19 imposed and collected by the department, including operating
20 permit application fees and fees upon regulated pollutants
21 emitted from an air contaminant source, in an amount sufficient
22 to cover, on a state fiscal year basis as described in section
23 455B.133B, all reasonable costs, direct and indirect, required
24 to ~~develop~~ implement and administer the operating permit
25 program as described in subparagraph (1) in conformance with
26 the federal Clean Air Act Amendments of 1990, ~~Pub. L. No.~~
27 ~~101-549.~~ Affected units regulated under Tit. IV of the federal
28 Clean Air Act Amendments of 1990, ~~Pub. L. No. 101-549,~~ shall
29 pay ~~operating permit~~ fees in the same manner as other sources
30 subject to operating permit requirements, except as provided in
31 section 408 of ~~the federal~~ that Act.

32 (b) The fees collected by the department pursuant to ~~this~~
33 subsection subparagraph division (a) shall be ~~deposited in~~
34 credited to the appropriate accounts of the air contaminant
35 source fund created pursuant to section 455B.133B, and shall

1 be utilized ~~solely~~ to cover all reasonable costs required to
2 ~~develop~~ implement and administer the programs required by Tit.
3 V of the federal Clean Air Act Amendments of 1990, ~~Pub. L.~~
4 ~~No. 101-549~~, including the operating permit program pursuant
5 to section 502 of ~~the federal~~ that Act and the small business
6 stationary source technical and environmental assistance
7 program pursuant to section 507 of ~~the federal~~ that Act. The
8 amount of the fees credited to and expended from each account
9 of the air contaminant source fund shall be subject to the
10 limitations provided in section 455B.133B.

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

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

17 **455B.133B Air contaminant source fund created — fees and**
18 **appropriations.**

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

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

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

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

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

1 ~~2. Moneys in the fund shall be used solely to defray~~
2 ~~the costs related to the permit, monitoring, and inspection~~
3 ~~program, including the small business stationary source~~
4 ~~technical and environmental compliance assistance program~~
5 ~~required pursuant to the federal Clean Air Act Amendments of~~
6 ~~1990, section 502, Pub. L. No. 101-549, and as provided in~~
7 ~~section 455B.133A.~~

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

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

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

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

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

35 5. a. The air emission fee account shall include all fees

1 established by the commission to be imposed and collected by
2 the department for emission fees for regulated pollutants
3 submitted by major sources as defined in section 502 of the
4 federal Clean Air Act Amendments of 1990, 42 U.S.C. §7661, and
5 as defined in 567 IAC ch. 22.

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

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

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

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

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

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

26 (e) Costs of preparing inventories and tracking emissions.

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

30 (3) The department shall not include in its computations for
31 a calculated estimate, and the commission shall not establish
32 fees, for greenhouse gas emissions as defined in 40 C.F.R.
33 §70.12.

34 c. The department's calculated estimate for the air emission
35 fee account shall not produce total revenues in excess of eight

1 million two hundred fifty thousand dollars during any state
2 fiscal year.

3 d. (1) Moneys in the air emission fee account are
4 appropriated to the department to pay for the reasonable direct
5 and indirect costs specified in paragraph "b", subparagraph
6 (2).

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

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

16 (b) New source review application fees credited to the major
17 source account of the air quality fund as provided in section
18 455B.133C, subsection 5.

19 (c) New source review application fees credited to the minor
20 source account of the air quality fund as provided in section
21 455B.133C, subsection 6.

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

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

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

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

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

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

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

12 d. Moneys in the operating permit application fee account
13 are appropriated to the department to pay for reasonable direct
14 and indirect costs specified in paragraph "b", subparagraph
15 (2).

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

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

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

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

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

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

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

33 2. An air quality fund is created in the office of the
34 treasurer of state under the control of the department. The
35 fund shall be composed of a major source account, a minor

1 source account, and an asbestos account as provided in this
2 section.

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

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

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

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

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

33 5. *a.* The major source account shall include all fees
34 established by the commission to be imposed and collected
35 by the department for accepting applications for new source

1 review permits including permit revisions submitted by major
2 sources as defined in section 502 of the federal Clean Air Act
3 Amendments of 1990, 42 U.S.C. §7661, under new source review
4 programs pursuant to that federal Act, including as provided
5 under 567 IAC ch. 22, 31, and 33.

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

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

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

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

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

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

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

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

35 *d.* Moneys in the major source account are appropriated to

1 the department to pay for reasonable direct and indirect costs
2 of implementing and administering new source review programs as
3 specified in paragraph "b", subparagraph (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 4. EFFECTIVE DATE OF FEES. Notwithstanding section
28 455B.133B, as amended in this Act, or section 455B.133C, as
29 enacted in this Act, the environmental protection commission
30 may establish a designated fee effective on and after January
31 1, 2016. A designated fee is limited to a fee required under
32 this Act to be credited to any of the following funds or
33 accounts:

34 1. For the air contaminant source fund, the operating permit
35 application fee account as provided in section 455B.133B,

1 subsection 6, as enacted in this Act.

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

3 a. The major source account as provided in section
4 455B.133C, subsection 5, as enacted in this Act.

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

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

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

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

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

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill provides for fees established by the environmental
29 protection commission (commission) and imposed and collected by
30 the department of natural resources (DNR) under division II of
31 Code chapter 455B, relating to regulations on air quality and
32 closely associated with the federal Clean Air Act. The bill
33 relates to the current fee imposed upon regulated pollutants
34 (Code section 455B.133(8)), including under the operating
35 permit program. It also provides for the establishment of

1 a new operating permit application fee. Both of these fees
2 are to be credited to newly created accounts within the
3 existing air contaminant source fund created in Code section
4 455B.133B, the air emission fee account and the operating
5 permit application fee account.

6 In addition, the bill provides for three other new fees: for
7 accepting applications for new source review permits submitted
8 by major sources; accepting applications submitted by minor air
9 contaminant sources for construction permits or for providing
10 for registrations, permits by rule, or template permits in
11 lieu of obtaining construction permits under minor source
12 new source review programs; and for accepting notifications
13 involving demolition or renovation projects associated with
14 asbestos. These new fees are to be credited to each of three
15 corresponding accounts established within a new air quality
16 fund, including the major source account, the minor source
17 account, and the asbestos account.

18 The bill provides that if the commission establishes a fee,
19 it must also establish a fee amount based on DNR's calculated
20 estimate of total revenues from the fee predicted to be
21 credited to the corresponding account sufficient to provide for
22 the reasonable direct and indirect costs of implementing and
23 administering regulations associated with that fee during the
24 state fiscal year, but not to exceed a ceiling amount. DNR
25 must recompute its calculated estimate prior to each state
26 fiscal year (July 1 through June 30) and obtain approval
27 from the commission if an established fee amount must be
28 adjusted for the next state fiscal year. In addition, DNR must
29 annually convene stakeholder meetings at which invitees make
30 recommendations regarding the DNR's required annual computation
31 of a fee amount to be credited to each account. Moneys in each
32 account are appropriated to DNR to provide for the reasonable
33 direct and indirect costs of implementing and administering
34 regulations associated with that account.

35 The bill prohibits fees from being imposed for the

1 regulation of an activity that exceeds the requirements of
2 the federal Clean Air Act. It also prohibits the transfer of
3 moneys between accounts within the same fund, requires that the
4 unexpended balance in an account of the fund at the end of each
5 state fiscal year be retained in that account, and requires
6 that any interest and earnings on investments from moneys in an
7 account of the fund shall be credited to that account.

8 The bill allows the commission to establish fees to be
9 credited to the new accounts of the two funds on or after
10 January 1, 2016. It also provides that any current fees in
11 effect immediately prior to the bill's effective date are to
12 remain in effect until adjusted by the commission. Finally,
13 moneys remaining in the air contaminant source fund on the
14 effective date of the bill are to be transferred to the fund's
15 air emission fee account.

16 The bill takes effect upon enactment.