ARTICLE 74:37 – AIR POLLUTION CONTROL PROGRAM FEES

NOTICE OF PUBLIC HEARING TO REVISE RULES

A public hearing will be held in the Matthew Training Center, Joe Foss Building, Pierre, South Dakota, on October 18, 2017, at 2:00 p.m., central time, to consider the proposed amendments to Administrative Rules of South Dakota Chapter 74:37:01 – Air Emission Fees.

The effect of the proposed amendments is to increase the air fees assessed to businesses that are applicable to the Title V air quality permitting program. The reason for adopting the proposed amendments is to ensure the South Dakota Department of Environment and Natural Resources (DENR) maintains sufficient resources to implement the Title V air quality permitting program to maintain its approval status from EPA.

The federal Clean Air Act of 1990 required the development of a national permit program for major sources of air pollution. This permit program is called the Title V air quality permit program. To pay for implementing this permit program, Congress required in the Clean Air Act that air pollution sources subject to the permitting program must pay a fee to cover the reasonable direct and indirect costs associated with administering the program.

Under the Clean Air Act, all states could develop a permit program and a fee structure to pay for implementing that program. The state's permit program and fee structure had to be approved by the U.S. Environmental Protection Agency (EPA). If a state decided not to develop a permit program and fee structure, the EPA would develop and implement its own permit program for that state and charge the maximum fee allowed under the Clean Air Act. Currently, EPA is charging $50.16 per ton of regulated pollutants emitted into the air from each source permitted.

To decrease the cost of the permit program and to provide better customer service to businesses and industry in South Dakota, the DENR established a Title V air quality permit program and a fee structure in 1994. DENR revised the fee structure in 2010. South Dakota's current fee is $7.50 per ton of regulated pollutants emitted into the air from permitted sources.

The costs to implement the program have increased, and the existing fee structure is no longer sufficient to cover the cost of the program. As a result, the EPA requires the fee structure to be revised to be in compliance with the federal Clean Air Act provision requiring the fee to cover the entire cost of the program. The following is a summary of the proposed changes.

1. Annual administrative fees for sources emitting less than 50 tons per year of pollutants will increase from $125 to $135. For sources emitting more than 50 tons of pollutants but less than 100 tons of pollutants per year, the annual fee will increase from $600 to $650. For sources emitting 100 tons or more of pollutants per year, the fee will increase from $1,250 to $1,350.
2. The fee for the actual amount of pollutants emitted from each permitted air pollution source will increase from $7.50 per ton to $8.10 per ton.

3. The annual minimum fee paid by any permitted source for items number 1 and 2 above will increase from $250 to $270.
4. The application fee for a construction permit for a source required to obtain a Title V air quality operating permit, a new Title V air quality operating permit, a modification to a construction or Title V air quality operating permit, and the renewal of a Title V air quality operating permit will increase from $125 to $135.
5. The annual fee for rock crushers subject to the Title V air quality operating permit program will increase from $400 to $435. Rock crushers are not subject to the emissions fee in item 1 and 2 above.
6. The annual fee for asphalt plants subject to the Title V air quality operating permit program will increase from $300 to $325. Asphalt plants are not subject to the emissions fee in item 1 and 2 above.
7. The annual fee for the Big Stone coal-fired power plant will increase from $220,000 to $238,000. The Big Stone coal-fired power plant will not be subject to emissions fees in item 1 and 2 above. and
8. An annual fee increase based on the Consumer Price Index as allowed under SDCL 34A-1-58 but only if the fee reserve in the previous fiscal year is less than or equal to $50,000. The annual fee increase is proposed to start in state fiscal year 2020.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments may do so by appearing in person at the hearing or by submitting written comments to the South Dakota Department of Environment and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-2182. Electronic comments and those comments submitted by mail must reach the Department by the close of business on October 30, 2017, to be considered.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Department of Environment and Natural Resources at least 48 hours before the public hearing to make any necessary arrangements. The telephone number for making arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge by calling Kyrik Rombough at (605) 773-3151 or from the following website: http://denr.sd.gov/des/aq/aafees.aspx.

Steven M. Pirner
Secretary

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