

**Iowa Department of Natural Resources  
Environmental Protection Commission**

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**ITEM**

**14**

**DECISION**

**TOPIC**

**Final Rules - Chapters 20, 22, 23, 25, 28 and 33:  
Air Quality Program Rules - Updates, Revisions, and Additions**

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The Department is requesting that the Commission adopt amendments to Chapter 20 "Scope of Title –Definitions-Forms-Rules of Practice," Chapter 22 "Controlling Pollution," Chapter 23 "Emission Standards for Contaminants," Chapter 25 "Measurement of Emissions," Chapter 28 "Ambient Air Quality Standards," and Chapter 33 "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality," of 567 Iowa Administrative Code.

The primary purpose of the proposed rule changes is to update state air quality rules for new federal requirements, including adoption of new National Ambient Air Quality Standards (NAAQS) and adoption of two new federal air toxics standards. The proposed rule changes also include amendments to state air construction permitting requirements and stack testing requirements. Additional amendments to other rules and changes to federal regulations also are being proposed for adoption.

This rulemaking includes the proposed adoption of two new standards under the National Emission Standards for Hazardous Air Pollutant (NESHAP) program. This program requires new and existing facilities in a particular industry sector that construct and operate specific equipment to meet uniform standards for air toxics. The new NESHAP being proposed for adoption are described in the summary for Item 16.

Because of the potential impacts to small businesses and to some previously unregulated facilities, the Department has developed NESHAP implementation strategies in conjunction with the rulemaking. The strategies include cooperative efforts with University of Northern Iowa – Iowa Air Emissions Assistance Program (UNI), Iowa Department of Economic Development (IDED), and the Linn and Polk County local air quality programs to provide outreach, education and compliance assistance to stakeholders. The Department's outreach efforts began in 2008 and are continuing during the rulemaking process. It is hoped that adoption of the NESHAP in conjunction with the Department's outreach efforts will result in reductions in air toxics while minimizing the regulatory burden to small businesses and other affected facilities.

The Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on June 17, 2009, as ARC 7855B. A public hearing was held on July 20, 2009. No oral or written comments were presented at the hearing. One set of written comments was received prior to the close of the public comment period on July 21, 2009. The submitted comments and the Department's response to the comments are summarized in the attached public responsiveness

summary. The Department did not make any changes to the adopted rules from what was published in the Notice.

The specific items included in the proposed final rules are summarized below. More detail is included in the preamble of the attached Adopted & Filed rulemaking.

- Item 1 and Item 19 propose adoption of a revision to the definition of “volatile organic compound” or “VOC.” EPA removed two chemicals from the list of VOC compounds.
- Items 2, 4, 5, 7, 8, 9, 10, 11, 12 and 13 would amend the zip code for the Department’s Air Quality Bureau offices. A new zip code took effect on July 1, 2009.
- Item 3 proposes to add a new construction permit exemption for some non-road diesel fuel engines used to conduct periodic testing and maintenance at natural gas pipelines. The Department has conducted an air quality assessment of these projects and determined that an exemption from construction permitting is appropriate.
- Item 6 proposes to amend the rules for facilities qualifying for the permit by rule for paint booths (PBR) to include new certification requirements regarding the NESHAP for metal fabrication and finishing. Along with the rule change, the Department is proposing to modify the required PBR notification form to include questions that will assist the owner or operator with the NESHAP requirements. These changes will help ensure that owners and operators are aware of the NESHAP requirements and realize that all spray applications must be in compliance with or otherwise exempt from the NESHAP by the applicable compliance dates (see also Item 16).
- Item 8, in addition to updating the Air Quality Bureau zip code as explained above, also proposes to amend the provisions for applying for a Title V Operating Permit. Facility owners and operators submitting electronic Title V applications will no longer be required to also submit hard copy applications to EPA Region VII. The Department has given EPA access to the Department’s database so that EPA may review electronic copies of Title V applications.
- Item 14 proposes to adopt EPA amendments to the New Source Performance Standards (NSPS):
  - EPA amended the NSPS for electric utility steam generating units and industrial-commercial-institutional steam generating units. The amendments add compliance alternatives and eliminate the opacity standard for certain types of units.
  - EPA amended the NSPS General Conditions for alternative work practices for equipment leak detection and repair.
  - EPA amended the NSPS for stationary combustion turbines. The amendments revise the SO<sub>2</sub> limits for combustion turbines that burn biogas (e.g. landfill gas and digester gas) to account for the lower heating value of biogas relative to distillate oil.

- Item 15 proposes to adopt recent EPA amendments to the NESHAP program. EPA amended the NESHAP General Conditions for alternative work practices for equipment leak detection and repair. The new NESHAP being adopted are explained in Item 16.
- Item 16 proposes to adopt two new federal NESHAP for area sources. Area sources, sometimes called minor sources, have potential emissions of less than 10 tons per year of any single air toxic and less than 25 tons per year of any combination of air toxics:
  - Plating and Polishing  
This NESHAP would affect area sources engaged in specific plating and polishing activities that use or emit cadmium, chromium, lead, manganese, and nickel. Owners and operators would have to implement management practices and must comply with equipment standards to reduce air toxics. At this time, the Department estimates that between 50 and 150 facilities may be subject to this NESHAP. Owners and operators would have until July 2010 to comply with the NESHAP.
  - Metal Fabrication and Finishing  
This NESHAP would affect area sources in which the primary activity at the facility falls under one of the designated metal fabrication and finishing categories, and that use or emit cadmium, chromium, lead, manganese, and nickel. Owner and operators would have to implement management practices to reduce air toxics. The Department estimates that approximately 50 facilities may be subject to the NESHAP. Owners and operators of existing facilities would have until July 2011 to comply with the NESHAP requirements.
- Item 17 proposes to amend the Department's current rules regarding stack testing notifications, pre-test meetings, and test protocols. The amendments will provide clarity and allow more flexibility.
- Item 18 proposes to adopt the new NAAQS for ozone and lead. EPA recently strengthened the NAAQS for ozone and lead to more adequately protect public health and welfare.

If the Commission approves the final rules, the Adopted & Filed rulemaking will be published in the Iowa Administrative Code on October 7, 2009, and will become effective on November 11, 2009.

An administrative rule fiscal impact statement is attached.

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 Program Development Section, Air Quality Bureau  
 Memo date: August 24, 2009

## ENVIRONMENTAL PROTECTION COMMISSION [567]

### Adopted & Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” Chapter 28, “Ambient Air Quality Standards,” 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 primary purpose of the amendments is to update state air quality rules by adopting new federal requirements, including adoption of new National Ambient Air Quality Standards (NAAQS) and adoption of two new federal air toxics standards. The amendments also revise construction permitting requirements and stack testing requirements. Additional amendments to other rules and changes to federal regulations also are being adopted.

Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on June 17, 2009, as ARC 7855B. A public hearing was held on July 20, 2009. No oral or written comments were presented at the hearing. One set of written comments was received prior to the close of the public comment period on July 21, 2009. The submitted comments and the Department’s response to the comments are summarized in a public responsiveness summary available from the Department. The Department did not make any changes to the adopted rules from what was published in the Notice.

**Item 1** amends rule 567—20.2(455B), the definition of “volatile organic compounds” or “VOC.” EPA removed two compounds, Propylene Carbonate (CAS# 108-32-7) and Dimethyl

Carbonate (CAS# 616-38-6), from the definition of VOC in a final regulation published on January 21, 2009. EPA has determined that these two compounds are negligibly reactive, which means they contribute little or nothing to tropospheric ozone formation. Facilities will not be required to report Propylene Carbonate and Dimethyl Carbonate as VOC in their air emissions inventory for calendar year 2009.

**Item 2** amends rule 567—20.3(455B) to update the ZIP code for the Department’s Air Quality Bureau offices. The Air Quality Bureau offices remain in the current location. However, a ZIP code change for the current location took effect on July 1, 2009.

**Item 3** amends subrule 22.1(2) by adding paragraph “oo,” which provides for an exemption from construction permitting for certain temporary diesel engines used in periodic testing and maintenance of natural gas pipelines. Several times per year, natural gas pipelines require periodic testing and repair. Because of the lead time for this type of project, the owner or operator of the pipeline often does not have sufficient time to apply for and obtain a construction permit prior to installing the engine and must instead apply to the Department for a variance from the permitting requirements of Chapter 22. The Department has conducted an air quality assessment of these projects and has determined that an exemption from construction permitting is appropriate. The exemption contains conditions to ensure that engine emissions will not exceed the emission limits currently allowed under the small unit exemption specified in paragraph 22.1(2)“w.”

**Item 4** amends the introductory paragraph of subrule 22.1(3) to update the ZIP code for the Department’s Air Quality Bureau offices as explained previously for Item 2.

**Item 5** amends the introductory paragraph of subrule 22.3(8) to update the ZIP code for the Department’s Air Quality Bureau offices as explained previously for Item 2.

**Item 6** amends paragraph 22.8(1)“e,” the provisions for applying for a permit by rule for spray booths (PBR), to include new certification requirements regarding National Emission Standards for Hazardous Air Pollutants (NESHAP) for metal fabrication and finishing at area sources (see Item 16 for an explanation of the NESHAP). The amendment is being adopted because the NESHAP for metal fabrication and finishing does not contain any de minimus usage level for materials used in spray applications. This amendment is similar to an amendment adopted earlier in 2009 regarding the NESHAP for miscellaneous surface coating at area sources. As with the earlier adopted amendment, the Department is modifying the required PBR notification form to include questions that will assist the owner or operator with the NESHAP requirements for metal fabrication and finishing operations. The amendments to the PBR rules and the revisions to the PBR notification form will help ensure that owners and operators are aware of the NESHAP requirements and realize that all spray applications must be in compliance with or otherwise be exempt from the NESHAP by the applicable compliance dates.

**Item 7** amends subrule 22.9(3) to update the ZIP code for the Department’s Air Quality Bureau offices as explained previously for Item 2.

**Item 8** amends the introductory paragraph of subrule 22.105(1), regarding the requirements for submitting a Title V operating permit application, and updates the ZIP code for the Department’s Air Quality Bureau offices as explained previously for Item 2. With the adopted amendment, facility owners and operators submitting electronic Title V applications are no longer required to also submit hard copy applications to EPA Region VII. The Department has given EPA access to the Department’s database so that EPA may review electronic copies of Title V applications.

**Item 9** amends subrule 22.128(4) to update the ZIP code for the Department’s Air

Quality Bureau offices as explained previously for Item 2.

**Item 10** amends the introductory paragraph of subrule 22.203(1) to update the ZIP code for the Department's Air Quality Bureau offices as explained previously for Item 2.

**Item 11** amends the introductory paragraph of rule 567—22.209(455B) to update the ZIP code for the Department's Air Quality Bureau offices as explained previously for Item 2.

**Item 12** amends the introductory paragraph of paragraph 22.300(8)“a” to update the ZIP code for the Department's Air Quality Bureau offices as explained previously for Item 2.

**Item 13** amends the introductory paragraph of subrule 22.300(12) to update the ZIP code for the Department's Air Quality Bureau offices as explained previously for Item 2.

**Item 14** amends the introductory paragraph of subrule 23.1(2), the provisions that adopt by reference the federal New Source Performance Standards (NSPS) contained in 40 CFR Part 60.

On December 22, 2008, EPA amended the NSPS General Conditions (Subpart A) for alternative work practices for equipment leak detection and repair. The alternative work practice is an alternative to the current leak detection and repair work practice, which is not being revised. The final regulations add a requirement to perform monitoring once per year using the current EPA Method 21 leak detection instrument.

On January 28, 2009, EPA amended the NSPS for electric utility steam generating units and the NSPS for industrial, commercial, and institutional steam generating units (Subparts A, D, Da, Db and Dc). These amendments add compliance alternatives for owners and operators; eliminate the opacity standard for facilities with a particulate matter limit of 0.030 pounds per million Btu (lb/MMBtu) or less that voluntarily install and use particulate matter continuous emission monitors to demonstrate compliance with that limit; and correct technical and editorial

errors. The federal amendments are EPA's response to petitions for reconsideration of the NSPS requirements.

On March 20, 2009, EPA amended the NSPS for stationary combustion turbines (Subpart KKKK). These amendments remove requirements for additional sulfur dioxide (SO<sub>2</sub>) emission control on turbines that burn more than 50 percent biogas (such as landfill gas and digester gas) and set a new sulfur dioxide (SO<sub>2</sub>) limit of 0.15 lb/MMbtu for these turbines. In finalizing these amendments, EPA states that its intent was not to require SO<sub>2</sub> control on turbines that burn predominantly biogas, a fuel with relatively low sulfur content. Biogas that is not burned in a combustion turbine is usually flared or emitted directly to the atmosphere.

**Item 15** amends the introductory paragraph of subrule 23.1(4), the emission standards for hazardous air pollutants for source categories, also known as National Emission Standards for Hazardous Air Pollutants or "NESHAP," to adopt recent amendments that EPA made to 40 CFR Part 63. On December 22, 2008, EPA amended the NESHAP General Conditions for alternative work practices for equipment leak detection and repair. The amendments are the same as those described in Item 14. The new NESHAP being adopted are described in Item 16.

**Item 16** amends subrule 23.1(4) by adopting new paragraphs "ew" and "ex." This amendment adopts by reference two new NESHAP for new and existing area sources. Area sources are usually smaller commercial or industrial operations. Specifically, area sources have potential emissions less than 10 tons per year (tpy) of any single hazardous air pollutant (HAP) and less than 25 tpy of any combination of HAP and are classified as minor sources for HAP. Facilities that have potential HAP emissions greater than or equal to these levels are classified as major sources.

Because of the potential impacts to small businesses and previously unregulated

facilities, the Department developed implementation strategies in conjunction with this rule making. The strategies include cooperative efforts with University of Northern Iowa—Iowa Air Emissions Assistance Program (UNI), Iowa Department of Economic Development, and the local air quality programs of Linn and Polk Counties to provide outreach, education and compliance assistance to affected facilities. The Department's outreach efforts began in 2008 and are continuing during the rule-making process. It is hoped that these new rules in conjunction with the Department's outreach efforts will result in reductions in air toxics while minimizing the regulatory burden to small businesses and other affected facilities.

On July 1, 2008, EPA finalized the NESHAP area source standards for plating and polishing operations (Subpart WWWW). The NESHAP affects area sources engaged in specific plating and polishing activities that use or emit cadmium, chromium, lead, manganese, or nickel. The NESHAP requirements impact plating and polishing tanks, dry mechanical polishing operations, and thermal spraying operations. Owners and operators must implement management practices, such as the use of wetting agents or fume suppressants, and also must comply with equipment standards, such as the use of tank covers or control devices and the capture and control of emissions from thermal spraying and dry mechanical blasting. EPA determined that most facilities already are implementing these management and equipment standards. EPA estimates that the average, ongoing costs for each facility for record keeping and reporting will be \$1100 per year for the first three years and \$713 for each year thereafter.

The Department estimates that approximately 50 facilities may be subject to the NESHAP for plating and polishing. The Department in conjunction with UNI is developing compliance tools for affected businesses and is already working directly with several affected facilities. Owners and operators will have until July 2010 to comply with the NESHAP.

On July 23, 2008, EPA finalized the NESHAP for nine metal fabrication and finishing area source categories (Subpart XXXXXX). The NESHAP affects area sources that use or emit cadmium, chromium, lead, manganese, or nickel and the facility is engaged in one of the following: (1) electrical and electronic equipment finishing operations; (2) fabricated metal products; (3) fabricated plate work (boiler shops); (4) fabricated structural metal manufacturing; (5) heating equipment, except electric; (6) industrial machinery and equipment finishing operations; (7) iron and steel forging; (8) primary metal products manufacturing; and (9) valves and pipe fittings. Owners and operators of affected facilities must implement management practices to reduce air toxics from dry abrasive blasting, machining, dry grinding and dry polishing with machines, spray painting, and welding. EPA determined that most facilities already are implementing these management practices, and that the average, ongoing costs for each facility for monitoring, record keeping and reporting will be \$569 per year. Facilities with spray painting operations may have additional equipment and training costs.

The Department estimates that between 50 and 150 facilities may be subject to the NESHAP for metal fabrication and finishing. The Department in conjunction with UNI is developing outreach materials for affected businesses and is already working directly with a number of affected facilities. Owners and operators of existing facilities will have until July 2011 to comply with the NESHAP.

**Item 17** amends paragraph 25.1(7)“a” to better reflect the Department’s current practices regarding stack testing notifications, pretest meetings, and test protocols. The amendments provide clarity and allow more flexibility.

**Item 18** amends rule 567—28.1(455B) to adopt by reference new National Ambient Air Quality Standards (NAAQS). EPA recently strengthened the NAAQS for ozone and for lead to

more adequately protect public health and welfare. EPA issued final rules to revise the NAAQS for ozone on March 27, 2008. EPA issued final rules to revise the NAAQS for lead on November 12, 2008.

**Item 19** amends subrule 33.3(1), the definition for “volatile organic compounds” or “VOC” as described in Item 1.

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are adopted.

These amendments will become effective on November 11, 2009.

**ITEM 1.** Amend rule **567—20.2(455B)**, definition of “Volatile organic compound” or “VOC,” as follows:

*“Volatile organic ~~compound~~ compounds”* or “VOC” means any compound included in the definition of ~~volatile organic compound~~ “volatile organic compounds” found at 40 CFR Section 51.100(s) as amended through ~~January 18, 2007~~ January 21, 2009.

**ITEM 2.** Amend rule 567—20.3(455B) as follows:

**567—20.3(455B) Air quality forms generally.** The following forms are used by the public to apply for various departmental approvals and to report on activities related to the air programs of the department. All forms may be obtained from ~~the central office~~:

~~Administrative Support Station—Environmental Protection Division~~

Iowa Department of Natural Resources—Air Quality Bureau

~~Henry A. Wallace Building~~

~~900 East Grand~~ 7900 Hickman Road, Suite 1

~~Des Moines~~ Windsor Heights, Iowa 50319 50324

Properly completed forms should be submitted in accordance with the instructions to the form. Where not specified in the instructions, forms should be submitted to the program operations division.

**20.3(1) to 20.3(6)** No change.

**ITEM 3.** Adopt the following **new** paragraph **22.1(2)“oo”**:

*oo.* A non-road diesel fueled engine, as defined in 40 CFR 1068.30 and as amended through October 8, 2008, with a brake horsepower rating of less than 1,100 at full load measured at the shaft, used to conduct periodic testing and maintenance on natural gas pipelines. For the purposes of this exemption, the manufacturer’s nameplate rating shall be defined as the brake horsepower output at the shaft at full load.

(1) To qualify for the exemption, the engine must:

1. Be used for periodic testing and maintenance on natural gas pipelines outside the compressor station, which shall not exceed 330 hours in any 12-month consecutive period at a single location; or

2. Be used for periodic testing and maintenance on natural gas pipelines within the compressor station, which shall not exceed 330 hours in any 12-month consecutive period.

2) The owner or operator shall maintain a monthly record of the number of hours the engine operated and a record of the rolling 12-month total of the number of hours the engine operated for each location outside the compressor station and within the compressor station. These records shall be maintained for two years. Records shall be made available to the department upon request.

(3) This exemption shall not apply to the replacement or substitution of engines for backup power generation at a pipeline compressor station.

**ITEM 4.** Amend subrule 22.1(3), introductory paragraph, as follows:

**22.1(3) *Construction permits.*** The owner or operator of a new or modified stationary source shall apply for a construction permit unless a conditional permit is required by Iowa Code chapter 455B or subrule 22.1(4) or requested by the applicant in lieu of a construction permit. Two copies of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, ~~Urbandale~~ Windsor Heights, Iowa ~~50322~~ 50324. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department. The owner or operator of any new or modified industrial anaerobic lagoon or a new or modified anaerobic lagoon for an animal feeding operation other than a small operation as defined in rule 567—65.1(455B) shall apply for a construction permit. Two copies of a construction permit application for an anaerobic lagoon shall be presented or mailed to Department of Natural Resources, Water Quality Bureau, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319.

**ITEM 5.** Amend subrule 22.3(8), introductory paragraph, as follows:

**22.3(8) *Ownership change of permitted equipment.*** The new owner shall notify the department in writing no later than 30 days after the change in ownership of equipment covered by a construction permit pursuant to 567—22.1(455B). The notification to the department shall be mailed to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, ~~Urbandale~~ Windsor Heights, Iowa ~~50322~~ 50324, and shall include the following information:

**ITEM 6.** Amend paragraph **22.8(1)“e”** as follows:

*e.* Notification letter.

(1) Facilities which claim to be permitted by provisions of this rule must submit to the department a written notification letter, on forms provided by the department, certifying that the facility meets the following conditions:

1. All paint booths and associated equipment are in compliance with the provisions of subrule 22.8(1);

2. All paint booths and associated equipment are in compliance with all applicable requirements including, but not limited to, the allowable particulate emission rate for painting and surface coating operations of 0.01 gr/scf of exhaust gas as specified in 567—subrule 23.4(13); and

3. All paint booths and associated equipment currently are or will be in compliance with or otherwise exempt from the national emissions standards for hazardous air pollutants (NESHAP) for paint stripping and miscellaneous surface coating at area sources (40 CFR Part 63, Subpart HHHHHH) and the NESHAP for metal fabricating and finishing at area sources (40 CFR Part 63, Subpart XXXXXX) by the applicable NESHAP compliance dates.

(2) The certification must be signed by one of the following individuals:

1. For corporations, a principal executive officer of at least the level of vice president, or a responsible official as defined at 567 IAC 22.100(455B).

2. For partnerships, a general partner.

3. For sole proprietorships, the proprietor.

4. For municipal, state, county, or other public facilities, the principal executive officer or the ranking elected official.

**ITEM 7.** Amend subrule 22.9(3) as follows:

**22.9(3) *Duty to self-identify.*** The owner or operator or designated representative of a facility meeting the conditions of subrule 22.9(2) shall submit two copies of a completed BART Eligibility Certification Form #542-8125. ~~The BART Eligibility Certification Form #542-8125,~~ which shall include all information necessary for the department to complete eligibility determinations. The information submitted shall include source identification, description of processes, potential emissions, emission unit and emission point characteristics, date construction commenced and date of startup, and other information required by the department. The completed form was required to be submitted to the Air Quality Bureau, Department of Natural Resources, 7900 Hickman Road, Suite 1, ~~Urbandale~~ Windsor Heights, Iowa ~~50322~~ 50324, by September 1, 2005.

**ITEM 8.** 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, ~~Urbandale~~ Windsor Heights, Iowa ~~50322~~ 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. ~~If an application is submitted electronically, the owner or operator shall~~

~~provide one hard copy of the application to U.S. EPA Region VII.~~

**ITEM 9.** Amend subrule 22.128(4) as follows:

**22.128(4) *Submission of copies.*** The original and three copies of all permit applications shall be presented or mailed to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, ~~Urbandale~~ Windsor Heights, Iowa ~~50322~~ 50324.

**ITEM 10.** Amend subrule 22.203(1), introductory paragraph, as follows:

**22.203(1) *Duty to apply.*** Any source which would qualify for a voluntary operating permit and which would not qualify under the provisions of rule 22.300(455B), ~~Operating~~ operating permit by rule for small sources, must apply for either a voluntary operating permit or a Title V operating permit. Any source determined not to be eligible for a voluntary operating permit shall be subject to enforcement action for operation without a Title V operating permit, except as provided for in rule 22.202(455B) and rule 22.300(455B). For each source applying for a voluntary operating permit, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, ~~Urbandale~~ Windsor Heights, Iowa ~~50322~~ 50324, an original and one copy of a timely and complete permit application in accordance with this rule.

**ITEM 11.** Amend rule 567—22.209(455B), introductory paragraph, as follows:

**567—22.209(455B) Change of ownership for facilities with voluntary operating permits.**

The new owner shall notify the department in writing no later than 30 days after the change of ownership of equipment covered by a voluntary operating permit. The notification to the department shall be mailed to Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, ~~Urbandale~~ Windsor Heights, Iowa ~~50322~~ 50324, and shall include the

following information:

**ITEM 12.** Amend paragraph **22.300(8)“a,”** introductory paragraph, as follows:

*a.* Duty to apply. Any person who owns or operates a source otherwise required to obtain a Title V operating permit and which would be eligible for an operating permit by rule for small sources must either register for an operating permit by rule for small sources, apply for a voluntary operating permit, or apply for a Title V operating permit. Any source determined not to be eligible for an operating permit by rule for small sources, and operating without a valid Title V or a valid voluntary operating permit, shall be subject to enforcement action for operation without a Title V operating permit, except as provided for in the application shield provisions contained in rules 22.104(455B) and 22.202(455B). For each source registering for an operating permit by rule for small sources, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, ~~Urbandale~~ Windsor Heights, Iowa ~~50322~~ 50324, one original and one copy of a timely and complete registration form in accordance with this rule.

**ITEM 13.** Amend subrule 22.300(12), introductory paragraph, as follows:

**22.300(12)** *Change of ownership.* The new owner shall notify the department in writing no later than 30 days after the change of ownership of equipment covered by an operating permit by rule for small sources. The notification to the department shall be mailed to Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, ~~Urbandale~~ Windsor Heights, Iowa ~~50322~~ 50324, and shall include the following information:

**ITEM 14.** Amend subrule 23.1(2), introductory paragraph, as follows:

**23.1(2)** *New source performance standards.* The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or

corrected through ~~June 2, 2008~~ March 20, 2009, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

**ITEM 15.** Amend subrule 23.1(4), introductory paragraph, as follows:

**23.1(4)** *Emission standards for hazardous air pollutants for source categories.* The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~July 22, 2008~~ December 22, 2008, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded ( $F_{\text{bio}}$ ) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides,

where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4) “a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below. The provisions of 40 CFR Part 60, Subparts A, B, Da, and HHHH for the Clean Air Mercury Rule (CAMR), are found at subrules 23.1(2) and 23.1(5) and in 567—Chapter 34.

**ITEM 16.** Adopt the following new paragraphs **23.1(4)“ew”** and **“ex”**:

*ew.* Emission standards for hazardous air pollutants for area sources: plating and polishing. This standard applies to plating and polishing activities at new and existing facilities that are area sources for hazardous air pollutant emissions. (Part 63, Subpart WWWWWW)

*ex.* Emission standards for hazardous air pollutants for area sources: metal fabrication and finishing. This standard applies to new and existing facilities in which the primary activity or activities at the facility are metal fabrication and finishing and that are area sources for hazardous air pollutant emissions. (Part 63, Subpart XXXXXX)

**ITEM 17.** Amend paragraph **25.1(7)“a”** as follows:

*a. General.* The owner of new or existing equipment or the owner’s authorized agent shall notify the ~~director~~ department in writing; not less than 30 days before a required test or before a performance evaluation of a continuous emission monitor is performed to determine compliance with applicable requirements of 567—Chapter 23 or a permit condition. ~~For the department to consider test results a valid demonstration of compliance with applicable rules or a permit condition, such notice shall be given.~~ Such notice shall include the time, the place, the name of the person who will conduct the tests and other information as required by the

department. If the owner or operator does not provide timely notice to the department, the department shall not consider the test results or performance evaluation results to be a valid demonstration of compliance with applicable rules or permit conditions. Upon written request, the department may allow a notification period of less than 30 days. Unless specifically waived by the department, At the department's request, a pretest meeting shall be held not later than 15 days prior to conducting before the owner or operator conducts the compliance demonstration. The department may accept a testing protocol in lieu of the pretest meeting. A testing protocol shall be submitted to the department no later than 15 days before the owner or operator conducts the compliance demonstration. A representative of the department shall be permitted to witness the tests. Results of the tests shall be submitted in writing to the director in the form of a comprehensive report within six weeks of the completion of the testing.

**ITEM 18.** Amend rule 567—28.1(455B) as follows:

**567—28.1(455B) Statewide standards.** The state of Iowa ambient air quality standards shall be the National Primary and Secondary Ambient Air Quality Standards as published in 40 Code of Federal Regulations Part 50 (1972) and as amended at 38 Federal Register 22384 (September 14, 1973), 43 Federal Register 46258 (October 5, 1978), 44 Federal Register 8202, 8220 (February 9, 1979), 52 Federal Register 24634-24669 (July 1, 1987), 62 Federal Register 38651-38760, 38855-38896 (July 18, 1997), ~~and~~ 71 Federal Register 61144-61233 (October 17, 2006), 73 Federal Register 16436-16514 (March 27, 2008), and 73 Federal Register 66964-67062 (November 12, 2008), except that the annual PM<sub>10</sub> standard specified in 40 CFR Section 50.6(b) shall continue to be applied for purposes of implementation of new source permitting provisions in 567 IAC Chapters 22 and 33. The department shall implement these rules in a time frame and schedule consistent with implementation schedules in federal laws, regulations and guidance

documents.

This rule is intended to implement Iowa Code section 455B.133.

**ITEM 19.** Amend subrule **33.3(1)**, definition of “Volatile organic compounds” or “VOC,” as follows:

“*Volatile organic compounds*” or “*VOC*” means any compound included in the definition of “volatile organic compounds” found at 40 CFR 51.100(s) as amended through ~~January 18, 2007~~ January 21, 2009.

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Date

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Richard A. Leopold, Director

## Administrative Rule Fiscal Impact Statement

Date: April 27, 2009

**Agency:** Department of Natural Resources

**IAC Citation:** 567 IAC 20.2, 20.3, 22.1(2), 22.1(3), 22.3(8), 22.8(1)"e," 22.9(3), 22.105(1), 22.128(4), 22.203(1), 22.209, 22.300(8)"a," 22.300(12), 23.1(2), 23.1(4), 25.1(7)"a," 28.1 and 33.3(1).

**Agency Contact:** Christine Paulson

**Summary of the Rule:** The rules will update air quality rules for new federal requirements, including adoption of new ambient air standards for lead and ozone, and adoption by reference of two new air toxics standards for metal fabrication and finishing operations and for plating and polishing operations. Additional, minor amendments to federal regulations are also being adopted by reference. The rules also add a new construction permitting exemption for some temporary diesel engines used in periodic testing and maintenance of natural gas pipelines. Additionally, the rules add clarity and flexibility to the procedures for emissions testing. The rules also update references to the Department's Air Quality Bureau office address to reflect a zip code change that will take effect on July 1, 2009.

*Fill in this box if the impact meets these criteria:*

No Fiscal Impact to the State.

Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.

Fiscal Impact cannot be determined.

Brief Explanation:

*Fill in the form below if the impact does not fit the criteria above:*

Fiscal Impact of \$100,000 annually or \$500,000 over 5 years.

\* Fill in the rest of the Fiscal Impact Statement form.

**Assumptions:**

The Air Quality Bureau must establish a new ambient air monitoring network for lead to meet the revised requirements of the ambient air quality standard. Additional equipment will also be needed for laboratory analysis of samples collected from the monitoring network for lead. At least 50% of the monitoring network for lead must be installed and operational by January 1, 2010. The second half of the network must be installed and operating by January 1, 2011. No additional state or federal money is being provided to establish the ambient air monitoring network for lead. Funds to cover the costs of the network will be provided through Title V operating permit fees.

***Describe how estimates were derived:***

Cost estimates were provided by the University Hygienic Laboratory at the University of Iowa and Air Quality Bureau Ambient Monitoring Unit staff. Costs for year 1 (FY 2010) include the installation and operation of up to three monitors for lead and the purchase and installation of equipment needed to conduct laboratory analysis of the monitoring samples. Cost for year 2 (FY 2011) include the installation of up to another three additional monitors for lead and operating costs related to these monitors and the monitors installed in the previous year.

***Estimated Impact to the State by Fiscal Year***

	<u>Year 1 (FY 2010)....</u>	<u>Year 2 (FY 2011)..</u>
<b>Revenue by Each Source:</b>		
GENERAL FUND		
FEDERAL FUNDS		
Other (Title V Operating Permit fees)	\$255,000	\$221,000
<b>TOTAL REVENUE</b>	<hr/>	<hr/>
<b>Expenditures:</b>		
GENERAL FUND		
FEDERAL FUNDS		
Other (Title V Operating Permit fees)	\$255,000	\$221,000
<b>TOTAL EXPENDITURES</b>	<hr/> \$255,000	<hr/> \$221,000
<b>NET IMPACT</b>	\$0	\$0

This rule is required by State law or Federal mandate.

*Please identify the state or federal law:*

Clean Air Act sections 110, 111, 112, and 502(a) as codified in 40 Code of Federal Regulations, Parts 51, 52, 60, 63 and 70.

Funding has been provided for the rule change.

*Please identify the amount provided and the funding source:*

For the implementation of the revised ambient air quality standard for lead, funding will be provided through Title V operating permit fees.

Funding has not been provided for the rule.

*Please explain how the agency will pay for the rule change:*

The agency will not need additional revenue to implement the other changes proposed in this rulemaking.

***Fiscal impact to persons affected by the rule:***

The rule changes will primarily affect regulated parties (industry) with applicable air emissions or emission equipment. This rulemaking will incorporate federal new source performance standards (NSPS) and emission standards for hazardous air pollutants (NESHAP). Owners and operators of affected air emissions sources are subject to the federal requirements regardless of whether the state incorporates these federal requirements into the Iowa Administrative Code. Therefore, the incorporation by reference of the federal standards will not impose any additional costs to the affected sources.

The addition of the construction permit exemption for diesel engines used in pipeline repair and maintenance will be a benefit because the affected owners and operators will no longer need to apply for variances for these projects. The amendments to the emissions testing procedures will also be a benefit to affected parties because the changes add clarity and provide additional flexibility.

The state is responsible for implementing the revisions to the ambient air quality standards for ozone and lead regardless of whether the state incorporates the revised ambient air quality standards into Iowa Administrative Code.

***Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):***

Some county or local governments may be impacted by these rule changes and would be impacted in the same manner as described above for other regulated parties.

\* If additional explanation is needed, please attach extra pages.

Agency Representative preparing estimate: Christine Paulson  
Telephone Number: 515 242-5154

**PUBLIC PARTICIPATION RESPONSIVENESS SUMMARY  
FOR  
567 IOWA ADMINISTRATIVE CODE**

**CHAPTER 20 “SCOPE OF TITLE-DEFINITIONS-RULES OF PRACTICE,”  
CHAPTER 22 “CONTROLLING POLLUTION,”  
CHAPTER 23 EMISSION STANDARDS FOR CONTAMINANTS,  
CHAPTER 25 “MEASUREMENT OF EMISSIONS,” AND  
CHAPTER 33 “SPECIAL REGULATIONS AND CONSTRUCTION PERMIT  
REQUIREMENTS FOR MAJOR STATIONARY SOURCES-  
PREVENTION OF SIGNIFICANT DETERIORATION (PSD) OF AIR QUALITY”**

**Introduction**

The primary purpose of the rule changes is to update state air quality rules for new federal requirements, including adoption of new National Ambient Air Quality Standards (NAAQS) and adoption of two new federal air toxics standards. The rule changes also include amendments to state air construction permitting requirements and stack testing requirements. Additional amendments to other rules and changes to federal regulations also are being adopted.

The Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on June 17, 2009, as ARC 7855B. A public hearing was held on July 20, 2009. No oral or written comments were presented at the hearing. One set of written comments was received prior to the close of the public comment period on July 21, 2009.

**Public Comment**

Received from Leland Searles, Air Quality Program Director, Iowa Environmental Council, Des Moines, Iowa.

The commenter generally noted that the substantive changes in the rulemaking appeared to be positive ones. The commenter provided specific comments on two aspects of the rulemaking.

First, the commenter indicated concerns about EPA’s removal of the chemical propylene carbonate from the list of air toxics because of its negligible contribution to ground level ozone (Item 1 in the Notice of Intended Action). The commenter was concerned about the toxic properties of propylene carbonate, and noted that the Department has the authority to promulgate rules for propylene carbonate if concerns other than the chemical’s roles in ozone production are deemed significant.

Second, the commenter also indicated concerns about the exemption for temporary diesel engines used for cleaning at natural gas pipelines (Item 3 in the Notice). The commenter stated that the current method of granting exemptions is unwieldy. The commenter further stated that if this and similar small unit exemptions come up for Department rulemaking that it is the Council’s view that a longer-term permitting process such as three years be employed that is convenient for operators and useful for assuring compliance and estimating of emissions.

## **Department Response**

### Response to the commenters concerns about the de-listing of propylene carbonate:

EPA's delisting of propylene carbonate was from the list of chemicals that are considered to be volatile organic compounds (VOC), not from the list of regulated hazardous air pollutants (HAP). EPA's process for de-listing VOC and de-listing HAP are separate processes because the pollutants are regulated under different authorities under the Clean Air Act, and include different lists of compounds and chemicals.

The Department's proposed rules do not make any changes to the list of HAP currently regulated under state air quality rules. The Department believes it is appropriate to adopt EPA's action to remove propylene carbonate from the chemicals included in the definition of VOC because propylene carbonate contributes little or nothing to tropospheric ozone formation.

### Response to the commenters concerns about the exemption for temporary diesel engines:

The exemption proposed in the Notice is for a construction permit exemption for temporary diesel engines used in periodic testing and maintenance of natural gas pipelines.

The Department has evaluated these projects and determined that an exemption from construction permitting is appropriate and will not be unwieldy for engine owners and operators or the Department. The exemption includes specific conditions for engine classification, engine use, engine size and engine operation to ensure that emissions do not exceed the levels currently allowed under the small unit exemption. An owner or operator using this exemption must also keep a monthly record of engine use and make these records available to the department upon request.

With the conditions included in the exemption, the Department believes that an exemption for this type of equipment will help ensure that the estimated emissions are not exceeded and will facilitate compliance with applicable requirements.

## **Recommended Actions**

No action recommended.