

# Small Business Regulatory Fairness Board

## Small Business Impact Statement

**Date:** 5/29/2020

**Rule Number:** 10 CSR 10-6.110, Reporting Emission Data, Emission Fees, and Process Data

**Name of Agency Preparing Statement:** Missouri Department of Natural Resources

**Name of Person Preparing Statement:** Stacy Allen

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**Name of Person Approving Statement:** Darcy Bybee, director, Air Pollution Control Program

**Please describe the methods your agency considered or used to reduce the impact on small businesses** *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

The purpose of the proposed rule amendment is to increase the emission fee for permitted sources from \$48 per ton to \$53 per ton for emission year 2021 and \$55 per ton for emission year 2022 and after. Affected sources include both small and large businesses as both types have air permits. The fee increase would result in an additional annual cost of \$5 per ton of emissions beginning with emission year 2021 (payable by June 1, 2022), and an additional cost of \$7 per ton for emission years 2022 and after. This fee change is projected to extend the solvency of the Air Pollution Control Program (Air Program) for approximately two years.

The Air Program considered the impact on small businesses during the fee stakeholder process. Initial discussions with stakeholders covered increases as large as \$32 per ton over current emission rates, or the addition of a flat fee added to each facilities emission report. These flat fees were discussed with minimums of \$100 per facility, effectively adding at least \$100 to many small business annual emission report and fee payments. Since many small businesses pay for only one or two tons annually, their fee payment would increase from \$48 or \$96 per year, up to \$148 or \$196 if the fee per ton remained unchanged.

Though the flat fee amounts were discussed, it was determined at this time to proceed with the smaller fee per ton increase of only \$5 and \$7 per ton to limit the initial impact on small businesses. The Air Program is committed to working with businesses large and small on long term fund solvency issues. Future discussions may return to the idea of a flat fee, which could significantly impact small businesses. Outreach to affected businesses and alternative methods of fee increases will be considered.

**Please explain how your agency has involved small businesses in the development of the proposed rule.**

The Air Program developed the rulemaking with input from stakeholders. The Air Program engaged stakeholders at four public meetings held on March 2, April 6, May 5, and May 28 averaging nearly 50 in attendance at each meeting. The Air Program solicited participation by posting the meeting information on the Air Program Advisory Forum webpage and sending email notifications to approximately 4,500 contacts prior to each meeting. The Air Program hosted the first meeting in-person and provided an option to participate online. Each subsequent meeting was entirely online due to the COVID-19 physical distancing requirements. Connection via telephone was offered for all meetings. The Department offered to suspend, or significantly curtail, the stakeholder process for this rulemaking considering the impacts of COVID-19 on Missouri businesses, but the stakeholder group preferred to continue work and provide input on a rule amendment. Several small businesses were in attendance at the meetings, including representatives from quarries, concrete batch plants, cotton gins, and crematories, among others.

Small businesses will have the opportunity to comment on the proposed rulemaking at least 30 days prior to the public hearing, scheduled for September 24, 2020, and up to 7 days after the public hearing. Any comments received prior to the close of the public comment period will be considered and addressed prior to the filing of the final Order of Rulemaking.

**Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.**

No additional costs are expected to the agency as a result of this proposed rule amendment. The electronic systems to collect emission reports are in place, and a simple change to the value of the emission fee is the only change necessary.

The estimated net increase in emission fees to be collected as a result of the proposed rule amendment is listed by emission year in the table below. This is the difference in emission fees resulting from the increase from \$48 per ton to

\$53 or \$55 per ton. The table below is the cost for both large and small businesses. The emission fees are based on a projection of total emissions for permitted facilities. The net emission fee increase will continue, equal to the 2023 emission year, for all future years as the rule has no sunset.

	2021 Emission Year (proposed \$53/ton)	2022 Emission Year (proposed \$55/ton)	2023 Emission Year (proposed \$55/ton)
<b>Fees at \$48/ton</b>	\$ 6,438,480	\$ 6,438,480	\$ 6,227,136
<b>Fees at \$53/ton</b>	\$ 7,109,155		
<b>Fees at \$55/ton</b>		\$ 7,377,425	\$ 7,135,260
<b>Net Fee Increase</b>	\$ 670,675	\$ 938,945	\$ 908,124

The emissions fees that will be collected in the Air Program Fund will be used to pay program administration and staffing levels required to maintain delegation from the U.S. Environmental Protection Agency as the authority to implement air regulations in state and protect the health and welfare of Missouri's citizens, in particular children and the elderly. The projected Department revenue impacts are detailed in the fiscal notes accompanying the proposed rulemaking.

**Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.**

Any small business that notifies and accepts a permit-by-rule, or is required to obtain a construction permit or operating permit will be affected by this rulemaking. The largest categories of permitted small businesses in the state are limestone crushing, ready-mixed concrete, and asphalt paving operations. Other commonly impacted small businesses are crematories, landfills, agricultural feed mills, and small printing and manufacturers

**Please list direct and indirect costs (in dollars amounts) associated with compliance.**

These industry sectors make up nearly 40% of the small businesses with an air permit in the State of Missouri. Small businesses within these industry sectors reported an average of 5 tons of chargeable emissions.

At the new emission fee of \$53 per ton rather than the existing \$48 fee per ton would result in an average additional annual direct cost of approximately \$25 for the typical permitted small business in Missouri. The increase to \$55 per ton will add an average cost of an additional \$10 annually in direct cost. The Department does not anticipate any indirect costs for small businesses.

**Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.**

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**Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?**

Yes ☐

No ☒

**If yes, please explain the reason for imposing a more stringent standard.**

*For further guidance in the completion of this statement, please see [§536.300, RSMo](#).*