

AN ACT

ENTITLED, An Act to transfer the collection of various fees from the Department of Revenue to the Department of Environment and Natural Resources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 1-50-11 be amended to read:

1-50-11. The obligation to pay the fee imposed by § 1-50-8 shall be upon the owner or operator of any facility required to make notification and shall accrue upon the appropriate SARA reporting deadline each year. The fee is due and payable within thirty days and shall be remitted to the Department of Environment and Natural Resources along with the forms that may be prescribed by the secretary of environment and natural resources in rules promulgated pursuant to chapter 1-26. A late reporting fee of ten percent of the amount due under this section or of fifteen dollars, whichever amount is greater, shall be assessed for any fee or portion of a fee not timely paid in accordance with this section.

Any facility that knowingly fails to submit the appropriate forms, or that knowingly submits fraudulent forms, shall be reported to the appropriate local emergency planning committee and county commission, and shall be referred to the United States Environmental Protection Agency for appropriate enforcement under section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 as amended to January 1, 1992.

Section 2. That § 34A-1-58.1 be amended to read:

34A-1-58.1. Ethanol production plants are exempt from the fees established in § 34A-1-58 and, in lieu thereof, are subject to the fees established by this section. Concurrent with the submittal of a permit application pursuant to this chapter, the applicant for an air quality permit for an ethanol production plant shall submit to the department an application fee of one thousand dollars. In addition, the owner or operator of an ethanol production plant shall submit to the department an

annual fee for the duration of the air quality permit. The annual fee shall consist of an administrative fee of one thousand dollars and an emissions fee in the amount of forty dollars per ton of total suspended particulate matter, sulfur dioxide, nitrogen oxide, volatile organic compounds, and hazardous air pollutants emitted to the air by the ethanol production plant during the previous calendar year. The department shall give written notice of the amount of the fee to be assessed and the basis for the assessment under this section to the owner or operator of the ethanol production plant by June first of each calendar year. The annual fee shall accrue on July first of the year after the permit is issued and annually thereafter. The annual fee is due and payable by July thirty-first and shall be remitted to the Department of Environment and Natural Resources along with the forms prescribed by the secretary in rules promulgated pursuant to chapter 1-26. The fees shall be administered and used by the department in the same manner as prescribed for other fees established in this chapter.

Section 3. That § 34A-1-60 be amended to read:

34A-1-60. The obligation to pay the annual fee imposed by § 34A-1-58 is upon the owner or operator of a regulated air contaminant source and shall accrue on July first for all facilities. The fee is due and payable by July thirty-first and shall be remitted to the Department of Environment and Natural Resources along with the forms prescribed by the secretary in rules promulgated pursuant to chapter 1-26.

Section 4. That § 34A-2-122 be amended to read:

34A-2-122. The obligation to pay the annual fee imposed by §§ 34A-2-117 to 34A-2-120, inclusive, is on the owner or operator of a surface water discharge or pretreatment system and accrues on July first, for all nonpublicly-owned facilities. The fee is due and payable by July thirty-first and shall be remitted to the Department of Environment and Natural Resources along with the forms prescribed by the secretary in rules promulgated pursuant to chapter 1-26.

The obligation to pay the annual fee imposed by §§ 34A-2-117 to 34A-2-120, inclusive, is on the owner or operator of a surface water discharge or pretreatment system and accrues on January first for all publicly-owned facilities. The fee is due and payable by January thirty-first and shall be remitted to the Department of Environment and Natural Resources along with the forms prescribed by the secretary in rules promulgated pursuant to chapter 1-26.

The obligation to pay the application fee imposed by §§ 34A-2-117 to 34A-2-120, inclusive, is on the owner or operator of a facility requesting either coverage under a general permit or water quality certification under section 401 of the Federal Water Pollution Control Act as amended to January 1, 2011. The application fee for such water quality certification does not apply to treatment works already required to submit a fee under other provisions of §§ 34A-2-117 to 34A-2-120, inclusive. The fee is due and payable and shall be remitted to the Department of Environment and Natural Resources along with the application forms prescribed by the secretary in rules promulgated pursuant to chapter 1-26.

Section 5. That § 34A-2-125 be amended to read:

34A-2-125. In addition to any other tax or fee levied by law, and notwithstanding the provisions of § 34A-2-117, there is hereby imposed an annual fee on all concentrated animal feeding operations that are required to operate under a general or individual water pollution control permit issued under chapter 34A-2 or required to obtain approval of plans and specifications submitted after July 1, 1997, pursuant to § 34A-2-27. The fee is two hundred fifty dollars for operations with two thousand or more animal units, one hundred seventy-five dollars for operations with one thousand to one thousand nine hundred ninety-nine animal units, and one hundred dollars for operations with less than one thousand animal units. The obligation to pay the fee is on the person filing the application for the water pollution control permit or the person required to obtain plans and specifications approval and accrues on July first of each year. By August first of each year, the Department of

Environment and Natural Resources shall submit a billing to each person obligated to pay the fee. The fee is due and payable by September thirtieth and shall be remitted to the Department of Environment and Natural Resources.

There is hereby established in the environment and natural resources fee fund established in § 1-40-30 the concentrated animal feeding operation administrative subfund. The subfund consists of moneys from public and private sources including legislative appropriations, federal grants, gifts, and fees received pursuant to this section. The subfund shall be maintained separately and be administered by the Department of Environment and Natural Resources in order to defray the expenses associated with administering the concentrated animal feeding operation program. Expenditures from the subfund shall be appropriated through the normal budget process. Unexpended funds and interest shall remain in the subfund until appropriated by the Legislature.

Section 6. That § 34A-3A-23 be amended to read:

34A-3A-23. The obligation to pay the fee imposed by § 34A-3A-20 shall be upon the owner and operator of a public drinking water system and shall accrue on July first. The fee is due and payable by July thirty-first and shall be remitted to the Department of Environment and Natural Resources along with the forms prescribed by the secretary in rules promulgated pursuant to chapter 1-26.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1018

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1018
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State