

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 306

By: Easley of the Senate

and

Leist of the House

AS INTRODUCED

An Act relating to environment and natural resources; amending 27A O.S. 2001, Section 2-5-111, which relates to the Oklahoma Clean Air Act; removing requirement for certain enforcement hearing before Air Quality Council; providing for hearing before Administrative Law Judge; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-5-111, is amended to read as follows:

Section 2-5-111. A. The Department shall have the authority, pursuant to rules of the Board, to implement a field citation program establishing appropriate violations for which field citations assessing administrative penalties may be issued. No citation shall assess a penalty in excess of One Thousand Dollars (\$1,000.00) per day, or part of a day, per violation, nor exceed a combined limit of Five Thousand Dollars (\$5,000.00) per day. Provided further, no field citation shall be valid unless reviewed for legal sufficiency within ten (10) days of issuance.

1. Any person to whom a field citation is issued may elect to pay the penalty assessment or to request an enforcement hearing. The assessment shall become final and payable unless the request for hearing is made in writing within fifteen (15) days of the citation. Upon such request, the enforcement hearing shall be promptly set before the Department unless the respondent requests that the enforcement hearing be set before the Council. In such case, the

Department shall promptly schedule the enforcement hearing before ~~the Council~~ an Administrative Law Judge of the Department and notify the respondent.

2. Payment of a penalty required by a field citation shall not be construed as an admission of liability or guilt and shall preclude further assessment of administrative penalties for the same violation. It shall not, however, be a defense to further enforcement by the Department for a subsequent violation or to an assessment of the statutory maximum penalty for criminal violations pursuant to other authority in the Oklahoma Clean Air Act.

3. In determining the amount of any penalty to be assessed pursuant to this section, the person issuing a field citation shall take into account the seriousness of the violation, any good faith efforts to comply with applicable requirements and other factors determined by rule to be relevant.

B. Qualifications of persons authorized to issue field citations shall be set by the Department, but shall include as a minimum:

1. Completion of a special course of study developed by the Department specifically for the training of persons for this purpose;

2. A minimum of three (3) years' experience in the air quality service enforcement program;

3. A job classification commensurate with the duties and responsibilities of the individual; and

4. Approval by the Executive Director.

SECTION 2. This act shall become effective July 1, 2003.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

49-1-192

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