STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2652 By: Denney

COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; amending 27A O.S. 2011, Section 2-16-106, which relates to the Oklahoma Refinery Revitalization Act; replacing certain review board with the Secretary of Energy and Environment; and providing an effective date.

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

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-16-106, is amended to read as follows:

Section 2-16-106. A. Upon the written request of a prospective applicant for authorization of a refinery facility in the State of Oklahoma, the Department of Environmental Quality shall act as the lead state agency for the purpose of coordinating all applicable state and federal authorizations and environmental reviews of the refining facility. To the maximum extent practicable under applicable state and federal law, the Executive Director of the Department of Environmental Quality shall coordinate the state and federal authorization and review process with any federal, state,

tribal, and local agencies responsible for conducting separate permitting and environmental reviews of the refining facility.

B. 1. The Executive Director, in coordination with the state agencies and, as appropriate, with federal, tribal and local agencies that are willing to coordinate their separate permitting and environmental reviews with the state permitting and reviews process, shall establish a schedule with prompt and binding intermediate and ultimate deadlines for the review of, and state authorization decisions relating to, refinery facility siting and operation applications.

2. Prior to establishing the schedule, the Executive Director shall provide an expeditious preapplication process that allows applicants to confer with the agencies involved and to have each agency communicate to the prospective applicant within sixty (60) days:

a. the likelihood of approval for a potential refinery facility, and

b. key issues of concern for the agencies and the local community.

3. The Executive Director shall consider the preapplication findings under paragraph 2 of this subsection when setting the schedule and shall ensure that once an application has been submitted with the necessary information, as determined by the Executive Director, a draft permit shall be completed within six (6)

months or, where circumstances require otherwise, as soon as thereafter practicable. An applicant may request that the permitting process be stopped at anytime by agreement with the Executive Director and Administrator.

4. If a state administrative agency does not complete a refinery application authorization process in accordance with the schedule established by the Executive Director pursuant to this subsection, the applicant may pursue remedies set forth in subsection F of this section.

C. 1. The RPCA shall address the coordination of all applicable state and federal actions necessary for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if applicable, and shall identify the entity responsible for preparing any environmental impact statement or any other form of environmental review that is required.

2. If the United States Environmental Protection Agency determines an environmental impact statement is required, the Department of Environmental Quality shall work with the Agency to prepare a single environmental impact statement, which shall consolidate the environmental reviews of all state and federal agencies considering any aspect of the refinery facility covered by the environmental impact statement.

D. Each state agency considering an aspect of the siting or operation of a refinery facility in the State of Oklahoma shall

cooperate with the Department of Environmental Quality and comply with the deadlines established by the Department in the preparation of an environmental impact statement or such other form of environmental review that is required.

E. The Department of Environmental Quality shall, with the cooperation of state and federal administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Department, by a state administrative agency or officer acting under delegated federal authority, or by a federal administrative agency with respect to the siting or operation of a refinery facility in the state. The record shall be the exclusive record for any state administrative proceeding that is an appeal or review of any refinery facility siting or operation decision made or action taken.

F. If a state agency has denied state authorization required for a refinery facility in the state, or has failed to act by a deadline established by the Director pursuant to subsection B of this section, the applicant may file an appeal with ~~a review panel comprised of the Oklahoma Secretary of the Environment or a designee,~~ the Secretary of Energy ~~or a designee, and the Secretary of Transportation or a designee~~ <u>and Environment or the successor cabinet secretary having authority over the Department of Environmental Quality</u>. Based on the record maintained pursuant to subsection E of this section, and in consultation with the affected

state agency, the ~~review panel~~ Secretary may then either order the immediate issuance of the necessary state authorization with appropriate conditions, or deny the appeal. The ~~review panel~~ Secretary shall issue a decision within sixty (60) days after the filing of the appeal. In making a decision under this subsection, the ~~review panel~~ Secretary shall adhere to applicable requirements of state and federal law, including each of the laws referred to in subsection E of Section 5 of this act. Any judicial appeal of the decision of the review panel shall be to an Oklahoma court of competent jurisdiction as allowed under the Constitution of the State of Oklahoma.

SECTION 2. This act shall become effective November 1, 2014.

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