HB2406 FULLPCS1 George Faught-KB
2/22/2016 11:20:00 am

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2406 _____
Of the printed Bill

Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: George Faught

Adopted: _____

_____
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2406 By: Faught

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; amending 27A O.S. 2011, Section 2-5-113, which relates to Oklahoma Clean Air Act permit fees; clarifying statutory language; requiring emergency engines to be classified, permitted and regulated as minor source facilities; prohibiting fees and permitting of emergency engines to be based on the potential to emit; requiring certain facilities to remain classified, permitted and regulated in a certain manner; and providing an effective date.

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

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-5-113, is amended to read as follows:

Section 2-5-113. A. Upon the effective date of rules promulgated pursuant to the Oklahoma Clean Air Act establishing a schedule of permit fees, the owner or operator of any source required to have a permit shall be subject to pay to the Department <u>of Environmental Quality</u> or, upon delegation, the appropriate city-county authority:

1. A fee sufficient to cover the reasonable cost of reviewing and acting upon any application for a construction or operating permit for any new source or for the modification of any existing source;

2. An annual operating permit fee sufficient to cover the reasonable costs, both direct and indirect, of implementing and enforcing the permit program authorized by the Oklahoma Clean Air Act and the Federal Clean Air Act, including, but not to be limited to:

a. the costs of reviewing and acting upon any permit renewal,

b. emissions and ambient monitoring, for those costs incurred under the permitting program,

c. preparing generally applicable rules or guidance,

d. modeling, monitoring, analyses and demonstrations,

e. preparing inventories and tracking emissions, and

f. inspections and enforcement.

B. The annual operating fee may be imposed in graduated yearly increases as necessary to cover the above costs, but for any major source, affected source, or any source, including an area source, subject to standards or regulations under Section 111 or 112 of the Federal Clean Air Act, any source required to have a permit under parts C or D of Title I of the Federal Clean Air Act, or any other source as may be required to have a permit pursuant to the Federal

Clean Air Act, the fee, beginning January 1, 1993, shall be Ten Dollars ($10.00) per ton of regulated air contaminant, due and payable upon receipt of invoice. Thereafter, following rulemaking, the annual operating fee shall be Twenty-five Dollars ($25.00) per ton or such amount, either higher or lower, as is determined to adequately reflect the demonstrated reasonable costs of the operating permit program. Fees may be based upon the amount of regulated air contaminant allowed by permit to be emitted, or upon actual emissions properly determined, or both; provided, however, that the rate per ton shall be the same whether applied to actual or to allowable emissions. The applicant shall annually have the option to elect either actual or allowable emissions as the basis for calculating the operating fee. For other sources subject to permitting requirements, fees may be assessed consistent with the criteria in subsection A of this section. No fee, however, shall be required for the emission of carbon monoxide and no assessment shall be made for emissions in excess of four thousand (4,000) tons per contaminant per year per source, or any group or stationary sources located within a contiguous area and under common control.

C. The fees authorized in this section shall be set forth by rule and shall preclude collection of any additional permitting fees by any other state or local governmental authority for emission of the same air contaminants. Provided further, in the event that a particular substance may exhibit the characteristics of more than

one type of regulated air contaminant, and to prevent a double fee from being assessed, the Department may assign only one single classification to that particular substance for fee assessment purposes. For those sources subject to the fee specified in subsection B of this section, the rule shall further provide for the annual operating fee to be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For the purposes of this subsection:

1. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor as of the close of the twelve-month period ending on August 31 of each calendar year; and

2. The revision of the Consumer Price Index which is the most consistent with the Consumer Price Index for calendar year 1989 shall be used.

D. Any fee not received by the Department within the prescribed time period allotted for payment, unless a lesser amount shall be provided for by rule, shall be subject to a one and one-half percent (1 1/2%) per month penalty.

E. There is hereby created within the Department of Environmental Quality Revolving Fund, a subaccount which shall consist of all permit fees collected by the Department pursuant to

Title V of the Federal Clean Air Act as authorized by the Oklahoma Clean Air Act. All monies accruing to the credit of such subaccount shall be budgeted and expended by the Department for the sole purpose of implementing the permit program as set forth in Title V of the Federal Clean Air Act and the Oklahoma Clean Air Act.

F. The Department shall classify, permit and regulate all emergency engines as minor source facilities, as such facilities are defined by the Department. All fees and all permitting requirements set forth by rule by the Department for emergency engines shall be based on the actual emissions of the emergency engine and shall not be based on the potential to emit. Any facility with an emergency engine which was permitted and operated as a de minimus facility prior to July 1, 2015, shall continue to be classified, permitted and regulated as a de minimus facility until the facility is no longer in operation or a new facility is constructed that replaces the current facility.

SECTION 2. This act shall become effective November 1, 2016.

55-2-9045 KB 02/11/16