

By Senator Bronson

312-966-00

1 A bill to be entitled
 2 An act relating to pollution control; amending
 3 s. 403.0872, F.S.; repealing obsolete
 4 provisions relating to operation permits for
 5 major sources of air pollution; providing an
 6 effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsection (11) of section 403.0872,
 11 Florida Statutes, is amended to read:

12 403.0872 Operation permits for major sources of air
 13 pollution; annual operation license fee.--Provided that
 14 program approval pursuant to 42 U.S.C. s. 7661a has been
 15 received from the United States Environmental Protection
 16 Agency, beginning January 2, 1995, each major source of air
 17 pollution, including electrical power plants certified under
 18 s. 403.511, must obtain from the department an operation
 19 permit for a major source of air pollution under this section,
 20 which is the only department operation permit for a major
 21 source of air pollution required for such source. Operation
 22 permits for major sources of air pollution, except general
 23 permits issued pursuant to s. 403.814, must be issued in
 24 accordance with the following procedures and in accordance
 25 with chapter 120; however, to the extent that chapter 120 is
 26 inconsistent with the provisions of this section, the
 27 procedures contained in this section prevail:

28 (11) ~~Commencing in 1993,~~ Each major source of air
 29 pollution permitted to operate in this state must pay between
 30 January 15 and March 1 of each year, upon written notice from
 31 the department, an annual operation license fee in an amount

1 determined by department rule. The annual operation license
2 fee shall be terminated immediately in the event the United
3 States Environmental Protection Agency imposes annual fees
4 solely to implement and administer the major source
5 air-operation permit program in Florida under 40 C.F.R. s.
6 70.10(d).

7 (a) The annual fee must be assessed based upon the
8 source's previous year's emissions and must be calculated by
9 multiplying the applicable annual operation license fee factor
10 times the tons of each regulated air pollutant (except carbon
11 monoxide) allowed to be emitted per hour by specific condition
12 of the source's most recent construction or operation permit,
13 times the annual hours of operation allowed by permit
14 condition; provided, however, that:

15 1. ~~For 1993 and 1994, the license fee factor is \$10.~~
16 ~~For 1995, the license fee factor is \$25. In succeeding years,~~
17 The license fee factor is \$25 or another amount determined by
18 department rule which ensures that the revenue provided by
19 each year's operation license fees is sufficient to cover all
20 reasonable direct and indirect costs of the major stationary
21 source air-operation permit program established by this
22 section. The license fee factor may be increased beyond \$25
23 only if the secretary of the department affirmatively finds
24 that a shortage of revenue for support of the major stationary
25 source air-operation permit program will occur in the absence
26 of a fee factor adjustment. The annual license fee factor may
27 never exceed \$35. The department shall retain a nationally
28 recognized accounting firm to conduct a study to determine the
29 reasonable revenue requirements necessary to support the
30 development and administration of the major source
31 air-operation permit program as prescribed in paragraph (b).

1 The results of that determination must be considered in
2 assessing whether a \$25-per-ton fee factor is sufficient to
3 adequately fund the major source air-operation permit program.
4 ~~The results of the study must be presented to the Governor,~~
5 ~~the President of the Senate, the Speaker of the House of~~
6 ~~Representatives, and the Public Service Commission, including~~
7 ~~the Public Counsel's Office, by no later than October 31,~~
8 ~~1994.~~

9 2. For any source that operates for fewer hours during
10 the calendar year than allowed under its permit, the annual
11 fee calculation must be based upon actual hours of operation
12 rather than allowable hours if the owner or operator of the
13 source documents the source's actual hours of operation for
14 the calendar year. For any source that has an emissions limit
15 that is dependent upon the type of fuel burned, the annual fee
16 calculation must be based on the emissions limit applicable
17 during actual hours of operation.

18 3. For any source whose allowable emission limitation
19 is specified by permit per units of material input or heat
20 input or product output, the applicable input or production
21 amount may be used to calculate the allowable emissions if the
22 owner or operator of the source documents the actual input or
23 production amount. If the input or production amount is not
24 documented, the maximum allowable input or production amount
25 specified in the permit must be used to calculate the
26 allowable emissions.

27 4. For any new source that does not receive its first
28 operation permit until after the beginning of a calendar year,
29 the annual fee for the year must be reduced pro rata to
30 reflect the period during which the source was not allowed to
31 operate.

1 5. For any source that emits less of any regulated air
2 pollutant than allowed by permit condition, the annual fee
3 calculation for such pollutant must be based upon actual
4 emissions rather than allowable emissions if the owner or
5 operator documents the source's actual emissions by means of
6 data from a department-approved certified continuous emissions
7 monitor or from an emissions monitoring method which has been
8 approved by the United States Environmental Protection Agency
9 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,
10 or from a method approved by the department for purposes of
11 this section.

12 6. The amount of each regulated air pollutant in
13 excess of 4,000 tons per year allowed to be emitted by any
14 source, or group of sources belonging to the same Major Group
15 as described in the Standard Industrial Classification Manual,
16 1987, may not be included in the calculation of the fee. Any
17 source, or group of sources, which does not emit any regulated
18 air pollutant in excess of 4,000 tons per year, is allowed a
19 one-time credit not to exceed 25 percent of the first annual
20 licensing fee for the prorated portion of existing
21 air-operation permit application fees remaining upon
22 commencement of the annual licensing fees.

23 7. If the department has not received the fee by
24 February 15 of the calendar year, the permittee must be sent a
25 written warning of the consequences for failing to pay the fee
26 by March 1. If the fee is not postmarked by March 1 of the
27 calendar year, ~~commencing with calendar year 1997,~~the
28 department shall impose, in addition to the fee, a penalty of
29 50 percent of the amount of the fee, plus interest on such
30 amount computed in accordance with s. 220.807. The department
31 may not impose such penalty or interest on any amount

1 underpaid, provided that the permittee has timely remitted
2 payment of at least 90 percent of the amount determined to be
3 due and remits full payment within 60 days after receipt of
4 notice of the amount underpaid. The department may waive the
5 collection of underpayment and shall not be required to refund
6 overpayment of the fee, if the amount due is less than 1
7 percent of the fee, up to \$50. The department may revoke any
8 major air pollution source operation permit if it finds that
9 the permit holder has failed to timely pay any required annual
10 operation license fee, penalty, or interest.

11 ~~8. During the years 1993 through 1999, inclusive, no~~
12 ~~fee shall be required to be paid under this section with~~
13 ~~respect to emissions from any unit which is an affected unit~~
14 ~~under 42 U.S.C. s. 7651c.~~

15 8.9. Notwithstanding the computational provisions of
16 this subsection, the annual operation license fee for any
17 source subject to this section shall not be less than \$250,
18 except that the annual operation license fee for sources
19 permitted solely through general permits issued under s.
20 403.814 shall not exceed \$50 per year.

21 ~~9.10.~~ Notwithstanding the provisions of s.
22 403.087(6)(a)4.a., authorizing air pollution construction
23 permit fees, the department may not require such fees for
24 changes or additions to a major source of air pollution
25 permitted pursuant to this section, unless the activity
26 triggers permitting requirements under Title I, Part C or Part
27 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.
28 Costs to issue and administer such permits shall be considered
29 direct and indirect costs of the major stationary source
30 air-operation permit program under s. 403.0873. The department
31 shall, however, require fees pursuant to the provisions of s.

1 403.087(6)(a)4.a. for the construction of a new major source
2 of air pollution that will be subject to the permitting
3 requirements of this section once constructed and for
4 activities triggering permitting requirements under Title I,
5 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.
6 7470-7514a.

7 (b) Annual operation license fees collected by the
8 department must be sufficient to cover all reasonable direct
9 and indirect costs required to develop and administer the
10 major stationary source air-operation permit program, which
11 shall consist of the following elements to the extent that
12 they are reasonably related to the regulation of major
13 stationary air pollution sources, in accordance with United
14 States Environmental Protection Agency regulations and
15 guidelines:

16 1. Reviewing and acting upon any application for such
17 a permit.

18 2. Implementing and enforcing the terms and conditions
19 of any such permit, excluding court costs or other costs
20 associated with any enforcement action.

21 3. Emissions and ambient monitoring.

22 4. Preparing generally applicable regulations or
23 guidance.

24 5. Modeling, analyses, and demonstrations.

25 6. Preparing inventories and tracking emissions.

26 7. Implementing the Small Business Stationary Source
27 Technical and Environmental Compliance Assistance Program.

28 8. The study conducted under subparagraph (a)1. and
29 any audits conducted under paragraph (c).

30 ~~(c) An audit of the major stationary source~~
31 ~~air-operation permit program must be conducted 2 years after~~

