

8-7-906. Petroleum environmental assurance fee.

(a) There is established a petroleum environmental assurance fee to be paid, except as provided in subsection (c) of this section, on each gallon of motor fuel or distillate special fuel purchased in or imported into this state.

(b) The fee shall be paid by the first distributor or supplier receiving fuel from a terminal in this state, or, if the fuel will never be stored in a terminal in this state, then by the distributor or supplier who first imports fuel into this state by tank truck.

(c) Exchanges of fuels on a gallon-for-gallon basis within a terminal or fuels exported from this state are exempt from the fee.

(d) Proof of payment shall be provided to the owner or operator.

(e) The fee shall be remitted to the Director of the Department of Finance and Administration at the time, in the manner, and on forms prescribed by the director and may be collected and remitted at the same time and in the same manner as the motor fuels tax and special motor fuels tax under § 26-55-101 et seq. and the Special Motor Fuels Tax Law, § 26-56-101 et seq.

(f)(1) For so long as no bonds for the benefit of the Petroleum Storage Tank Trust Fund are issued and outstanding, the fees collected under this subchapter shall be deposited into the fund.

(2) The applicable fund balances shall be required to be maintained in perpetuity.

(g)(1) The maximum rate for the fee shall be at a rate of three-tenths of one cent (0.3¢) for each gallon of fuel.

(2)(A) For so long as no bonds for the benefit of the fund are outstanding, the fee shall be collected at the maximum rate. However, when the balance of the fund, as adjusted to reflect the obligations and liabilities of the fund, reaches fifteen million dollars (\$15,000,000), the rate shall drop at the beginning of the next calendar quarter to such rate as the Arkansas Pollution Control and Ecology Commission determines is necessary to maintain a fifteen million dollar (\$15,000,000) adjusted balance.

(B) The rate shall be increased at the beginning of the next calendar quarter when the fund balance, as adjusted to reflect the obligations and liabilities of the fund, drops to twelve million dollars (\$12,000,000) or less and remains at the higher amount, not to exceed three-tenths of one cent (0.3¢), until the adjusted fund balance reaches fifteen million dollars (\$15,000,000).

(3) The commission shall review the fund balance, as adjusted to reflect the obligations and liabilities of the fund, at least quarterly and report the rate of collection for the fee for the upcoming quarter to the director.

(4) During any period when bonds for the benefit of the fund are outstanding, the fee shall be collected at a rate of three-tenths of one cent (0.3¢) for each gallon irrespective of the balance of the fund.

(h)(1) During any period when bonds are outstanding for the benefit of the fund, the fee shall be deposited in the Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund as provided in the Petroleum Storage Tank Trust Fund Bond Financing Act, § 15-5-1201 et seq.

(2) All other fees or moneys collected under this subchapter shall continue to be deposited into the fund.

(i) All fees shall be subject to collection and enforcement of collection under the Arkansas Tax Procedure Act, § 26-18-101 et seq.

History. Acts 1989, No. 173, § 4; 1989 (3rd Ex. Sess.), No. 65, §§ 5, 6; 1993, No. 951, § 5; 1995, No. 1054, § 3; 1997, No. 641, § 4; 2005, No. 670, § 1.

Amendments. The 1993 amendment, in (a), moved the phrase "except as provided in subsection (c) of this section" from the beginning of the sentence and added it following "paid"; redesignated (h) as (f); moved the second sentence of former (g) to the end of (f); redesignated former (f) as (g)(2) and rewrote the first sentence of (g)(2); redesignated the first sentence of former (g) as (g)(3); redesignated former (i) as (h); and made stylistic changes.

The 1995 amendment rewrote (f); divided former (g)(2) into (g)(2)(A) and (B); added "For so long as no bonds for the benefit of the fund are outstanding" to present (g)(2)(A); made minor stylistic changes in (g)(2)(B); added (g)(4); and inserted present (h) and redesignated former (h) as (i).

The 1997 amendment inserted "as adjusted to reflect the obligations and liabilities of the fund" in (g)(2)(A), (B), and (g)(3); and inserted "adjusted" preceding "balance" in (g)(2)(A) and "fund balance" in (g)(2)(B).

The 2005 amendment substituted "three-tenths of one cent (0.3¢)" for "two-tenths of one cent (0.2¢)" in (g)(1), (g)(2)(B) and (g)(4).

RESEARCH REFERENCES

UALR L.J. Wright, In Storage Tank Funds We Trust: An Analysis of Their Role in Protecting the Environment and Small Business, 13 UALR L.J. 417.