

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 676

By: Treat of the Senate

and

Echols of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to the Oklahoma Clean Air Act;  
11 amending 27 A O.S. 2011, Section 2-5-104, which  
12 relates to the Oklahoma Clean Air Act; defining term;  
13 requiring additional procedures necessary to obtain  
14 state authority governing certain federal clean air  
15 standards; stating requirements and procedures;  
16 requiring review by Attorney General and legislature  
17 by certain time period; stating construction;  
18 providing for codification; and declaring an  
19 emergency.

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

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-5-104, is  
amended to read as follows:

Section 2-5-104. As used in the Oklahoma Clean Air Act:

1. "Accidental release" means an unanticipated emission of a  
regulated substance or other extremely hazardous substance into the  
ambient air from a stationary source;

1           2. "Air contaminants" means the presence in the outdoor  
2 atmosphere of fumes, aerosol, mist, gas, smoke, vapor, particulate  
3 matter or any combination thereof which creates a condition of air  
4 pollution;

5           3. "Air pollution" means the presence in the outdoor atmosphere  
6 of one or more air contaminants in sufficient quantities and of such  
7 characteristics and duration as tend to be or may be injurious to  
8 human, plant or animal life or to property, or which interfere with  
9 the comfortable enjoyment of life and property, excluding, however,  
10 all conditions pertaining to employer-employee relations;

11           4. "Ambient air" means the surrounding outdoor air;

12           5. "Chair" means the Chair of the Air Quality Council;

13           6. "Council" means the Air Quality Council;

14           7. "Director" means the Director of Air Quality Division;

15           8. "Emission" means the release or discharge of any air  
16 contaminant or potential air contaminant into the ambient air;

17           9. "Federal Clean Air Act" means the Federal Clean Air Act, 42  
18 U.S.C. 7401, et seq., as amended, including the Federal Clean Air  
19 Act Amendments of 1990;

20           10. "Hazardous air pollutant" means any air pollutant listed  
21 and regulated pursuant to subsection (b) of Section 112 of the  
22 Federal Clean Air Act;

23           11. "Hearing officer" means a person appointed to preside at  
24 public hearings held pursuant to this article;

1 12. "Panel" means the Compliance Advisory Panel;

2 13. "Person" means any individual, partnership, copartnership,  
3 firm, company, corporation, association, joint stock company, trust,  
4 estate, municipality or any other legal entity, or their  
5 representative, agent or assign;

6 14. "Regulated substance" means any substance, including  
7 extremely hazardous substances, listed and regulated pursuant to  
8 Section 112(r) (3) of the Federal Clean Air Act;

9 15. "Small Business Stationary Source" means a stationary  
10 source as defined in Section 507 (c) of the Federal Clean Air Act;

11 16. "State implementation plan" means any document that must be  
12 submitted to the United States Environmental Protection Agency or  
13 other federal agency tasked with administering the Federal Clean Air  
14 Act where such document is designed to plan for attaining national  
15 ambient air quality standards or other federal pollution standards,  
16 including revisions to an existing state implementation plan;

17 17. "Toxic air contaminant" means any substance determined to  
18 be highly toxic, moderately toxic, or of low toxicity pursuant to  
19 criteria set forth by rule. The term shall not be construed to  
20 include pollutants for which a primary and secondary ambient air  
21 quality standard has been promulgated under the Federal Clean Air  
22 Act to the extent of the criteria for which they are listed; and

1       ~~17~~ 18. "Trade secret" means information, including but not  
2 limited to a formula, pattern, compilation, program, device, method,  
3 technique or process, that:

4           a. derives independent economic value, actual or  
5                 potential, from not being generally known to, and not  
6                 being readily ascertainable by proper means by, other  
7                 persons who can obtain economic value from its  
8                 disclosure or use, and

9           b. is the subject of efforts that are reasonable under  
10                the circumstances to maintain its secrecy.

11 The term "trade secret" shall not be construed to include data  
12 concerning the amount, emission rate or identification of any air  
13 contaminant emitted by any source, nor shall it include the contents  
14 of any proposed or final permit.

15       SECTION 2.       NEW LAW       A new section of law to be codified  
16 in the Oklahoma Statutes as Section 2-5-119 of Title 27A, unless  
17 there is created a duplication in numbering, reads as follows:

18       A. A proposed state implementation plan seeking to attain  
19 national ambient air quality standards under Section 110 of the  
20 Federal Clean Air Act or existing source performance standards under  
21 Section 111(d) of the Federal Clean Air Act shall meet the following  
22 requirements before being a valid state implementation plan under  
23 state law:  
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1       1. The state implementation plan shall make use of  
2 environmentally beneficial components including, but not limited to,  
3 administrative rules, commitments of private companies, and grant  
4 initiatives that are adequately balanced with the costs those  
5 components would impose on industry and consumers in the state;

6       2. The state implementation plan shall consider any impact on  
7 municipal or other local regulation efforts consistently with  
8 Section 2-5-103 of Title 27A of the Oklahoma Statutes;

9       3. The state implementation plan shall include adequate  
10 planning for any increased future enforcement and monitoring needs  
11 under the plan;

12       4. The state implementation plan shall consider and adequately  
13 balance its environmental benefits with impact on small business and  
14 any existing Department of Environmental Quality programs for small  
15 business consistently with Section 2-5-115 of Title 27A of the  
16 Oklahoma Statutes; and

17       5. The state implementation plan shall not violate any other  
18 provision of law.

19       B. Before any proposed state implementation plan seeking to  
20 attain national ambient air quality standards under Section 110 of  
21 the Federal Clean Air Act or existing source performance standards  
22 under Section 111(d) of the Federal Clean Air Act may be officially  
23 submitted to the Environmental Protection Agency or other federal  
24 agency tasked with administering the Federal Clean Air Act, the

1 proposed state implementation plan must be submitted consistently  
2 with the following requirements:

3 1. The Department of Environmental Quality must submit an  
4 official report concerning the proposed state implementation plan to  
5 the Office of the Attorney General by December 15 for validation of  
6 such plan during the following calendar year. Such report shall  
7 include the following:

8 a. A description of the basis for the proposed state  
9 implementation plan, including a description of the  
10 federal pollution standards prompting the creation of  
11 the plan;

12 b. A description of the components of the proposed state  
13 implementation plan intended to achieve  
14 environmentally beneficial results; and

15 c. An explanation of how the proposed state  
16 implementation plan meets the requirements of  
17 subsection A of this section with supporting reasons.

18 2. If the Office of the Attorney General determines that the  
19 proposed state implementation does not satisfy requirements in  
20 subsection A of this section, the Office of the Attorney General may  
21 issue a written report stating clearly its reasons for this  
22 determination and submit such report to the Department of  
23 Environmental Quality, the Governor of Oklahoma, and both the  
24 Speaker of the Oklahoma House of Representatives and President Pro

1 Tem of the State Senate for distribution to the Legislature. Such  
2 report must be submitted by the first day of the regular legislative  
3 session following the first December 15 after submission of the  
4 Department of Environmental Quality report concerning the proposed  
5 state implementation plan.

6 3. If the Office of the Attorney General does not submit the  
7 report described in paragraph 2 of subsection B of this section by  
8 the date described therein, the Department of Environmental Quality  
9 may submit the corresponding proposed state implementation plan to  
10 the Environmental Protection Agency or other federal agency tasked  
11 with administering the Federal Clean Air Act.

12 4. If the Office of the Attorney General submits a report  
13 concluding that the proposed state implementation plan does not  
14 comply with the requirements of subsection A of this section, the  
15 Department of Environmental Quality must submit the report described  
16 in paragraph 1 of subsection B of this section to the Governor of  
17 Oklahoma and both the Speaker of the Oklahoma House of  
18 Representatives and President Pro Tem of the State Senate for  
19 distribution to the Legislature. Such submission shall be completed  
20 within five (5) business days of the submission of the report of the  
21 Office of the Attorney General. The Legislature may then approve or  
22 disapprove of the proposed state implementation plan according to  
23 paragraph (C) of this section.

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1           5. Upon approval of the proposed state implementation plan  
2 under paragraph (C) of this section, the Department of Environmental  
3 Quality shall submit such plan to the Environmental Protection  
4 Agency or other federal agency tasked with administering the Federal  
5 Clean Air Act. Upon disapproval of the proposed state  
6 implementation plan under paragraph (C) of this section, such plan  
7 shall be invalid under state law.

8           C. The Legislature may approve or disapprove a proposed state  
9 implementation plan per paragraph 4 of subsection B of this section,  
10 according to Section 11 of Article VI of the Oklahoma Constitution.  
11 If the Legislature does not approve the proposed state  
12 implementation by the end of the regular legislative session during  
13 which the report of the Office of the Attorney General was  
14 submitted, the proposed state implementation plan shall be  
15 considered disapproved.

16           D. Nothing in this section shall be construed to create a right  
17 of action or basis for invalidation of a state implementation plan  
18 on behalf of any private individual or entity.

19           SECTION 3. It being immediately necessary for the preservation  
20 of the public peace, health and safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

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