

1 ENGROSSED SENATE  
2 BILL NO. 676

By: Treat, Fields and Jolley of  
the Senate

3 and

4 Echols of the House  
5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 ~~17~~ 18. "Trade secret" means information, including but not  
22 limited to a formula, pattern, compilation, program, device, method,  
23 technique or process, that:

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- 1 a. derives independent economic value, actual or  
2 potential, from not being generally known to, and not  
3 being readily ascertainable by proper means by, other  
4 persons who can obtain economic value from its  
5 disclosure or use, and  
6 b. is the subject of efforts that are reasonable under  
7 the circumstances to maintain its secrecy.

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

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

15 A. A proposed state implementation plan under Section 111 of  
16 the Federal Clean Air Act shall meet the following requirements  
17 before being a valid state implementation plan under state law:

18 1. The state implementation plan may make use of components  
19 including, but not limited to, administrative rules, commitments of  
20 private companies, and grant initiatives that are adequately  
21 balanced with the costs those components would impose on industry  
22 and consumers in the state;

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

4           3. The state implementation plan shall include adequate  
5 planning for any increased future enforcement and monitoring needs  
6 under the plan;

7           4. The state implementation plan shall consider and adequately  
8 balance its impact on small business and any existing Department of  
9 Environmental Quality programs for small business consistently with  
10 Section 2-5-115 of Title 27A of the Oklahoma Statutes; and

11          5. The state implementation plan shall not violate any other  
12 provision of law.

13          B. Before any proposed state implementation plan under Section  
14 111 of the Federal Clean Air Act may be officially submitted to the  
15 Environmental Protection Agency or other federal agency tasked with  
16 administering the Federal Clean Air Act, the proposed state  
17 implementation plan must be submitted consistently with the  
18 following requirements:

19           1. The Department of Environmental Quality must submit an  
20 official report concerning the proposed state implementation plan to  
21 the Office of the Attorney General by December 15 for validation of  
22 such plan during the following calendar year. Such report shall  
23 include the following:

- 1           a.    A description of the basis for the proposed state  
2                    implementation plan, including a description of the  
3                    federal pollution standards prompting the creation of  
4                    the plan;
- 5           b.    A description of the components of the proposed state  
6                    implementation plan intended to achieve  
7                    environmentally beneficial results; and
- 8           c.    An explanation of how the proposed state  
9                    implementation plan meets the requirements of  
10                  subsection A of this section with supporting reasons.

11           2.    If the Office of the Attorney General determines that the  
12 proposed state implementation does not satisfy requirements in  
13 subsection A of this section, the Office of the Attorney General may  
14 issue a written report stating clearly its reasons for this  
15 determination and submit such report to the Department of  
16 Environmental Quality, the Governor of Oklahoma, and both the  
17 Speaker of the Oklahoma House of Representatives and President Pro  
18 Tem of the State Senate for distribution to the Legislature.  Such  
19 report must be submitted by the first day of the regular legislative  
20 session following the first December 15 after submission of the  
21 Department of Environmental Quality report concerning the proposed  
22 state implementation plan.

23           3.    If the Office of the Attorney General does not submit the  
24 report described in paragraph 2 of subsection B of this section by

1 the date described therein, the Governor may submit the  
2 corresponding proposed state implementation plan to the  
3 Environmental Protection Agency or other federal agency tasked with  
4 administering the Federal Clean Air Act.

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

17 5. Upon approval of the proposed state implementation plan  
18 under paragraph (C) of this section, the Governor shall submit such  
19 plan to the Environmental Protection Agency or other federal agency  
20 tasked with administering the Federal Clean Air Act. Upon  
21 disapproval of the proposed state implementation plan under  
22 paragraph (C) of this section, such plan shall be invalid under  
23 state law.

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

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

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

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1 Passed the Senate the 10th day of March, 2015.

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Presiding Officer of the Senate

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5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2015.

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Presiding Officer of the House  
of Representatives

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