

1 **SENATE FLOOR VERSION**

2 February 26, 2015

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 676

By: Treat, Fields and Jolley of  
the Senate

and

Echols of the House

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

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

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

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

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

2. "Air contaminants" means the presence in the outdoor  
atmosphere of fumes, aerosol, mist, gas, smoke, vapor, particulate

1 matter or any combination thereof which creates a condition of air  
2 pollution;

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

- 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 seeking to attain  
16 national ambient air quality standards under Section 110 of the  
17 Federal Clean Air Act or existing source performance standards under  
18 Section 111(d) of the Federal Clean Air Act shall meet the following  
19 requirements before being a valid state implementation plan under  
20 state law:

21 1. The state implementation plan shall make use of  
22 environmentally beneficial components including, but not limited to,  
23 administrative rules, commitments of private companies, and grant  
24

1 initiatives that are adequately balanced with the costs those  
2 components would impose on industry and consumers in the state;

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

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

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

14 5. The state implementation plan shall not violate any other  
15 provision of law.

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

24

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

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

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

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

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

1 session following the first December 15 after submission of the  
2 Department of Environmental Quality report concerning the proposed  
3 state implementation plan.

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

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

22 5. Upon approval of the proposed state implementation plan  
23 under paragraph (C) of this section, the Department of Environmental  
24 Quality shall submit such plan to the Environmental Protection

1 Agency or other federal agency tasked with administering the Federal  
2 Clean Air Act. Upon disapproval of the proposed state  
3 implementation plan under paragraph (C) of this section, such plan  
4 shall be invalid under state law.

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON ENERGY  
21 February 26, 2015 - DO PASS AS AMENDED  
22  
23  
24