

An Act

ENROLLED SENATE
BILL NO. 676

By: Treat, Fields, Jolley,
David, Loveless, Sykes,
Griffin, and Simpson of the
Senate

and

Echols, Faught, Wood,
Roberts (Sean), Fisher, and
Brumbaugh of the House

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

SUBJECT: Oklahoma Clear Air Act state compliance plan

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

SECTION . 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;

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

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

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

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

6. "Council" means the Air Quality Council;

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

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

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

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

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

12. "Panel" means the Compliance Advisory Panel;

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

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

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

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

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

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

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

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

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

A. A proposed state compliance plan under Section 111 of the federal Clean Air Act shall meet the following requirements in order to be a valid state compliance plan under state law:

1. May make use of components including, but not limited to, administrative rules, commitments of private companies, and grant initiatives that are adequately balanced with the costs that would be imposed on industry and consumers in the state by those components;

2. Consider any impact on municipal or other local regulation efforts in a manner that is consistent with Section 2-5-103 of Title 27A of the Oklahoma Statutes;

3. Include adequate planning for any increased future enforcement and monitoring needs under the plan;

4. Consider and adequately balance its impact on small business and any existing small business assistance program consistent with Section 2-5-115 of Title 27A of the Oklahoma Statutes;

5. Does not violate any other provision of law, including but not limited to the Oklahoma Clean Air Act and the federal Clean Air Act; and

6. Consider the lowest reasonable energy costs for Oklahoma energy consumers while maintaining electric grid reliability and the delivery of reliable energy to consumers.

B. The Department of Environmental Quality shall develop a proposed state compliance plan with input from the Public Utility Division of the Corporation Commission.

C. A proposed state compliance plan under Section 111 of the federal Clean Air Act shall not be officially submitted to the Environmental Protection Agency or other federal agency tasked with administering the federal Clean Air Act, until the following process and requirements have occurred:

1. The Department of Environmental Quality shall submit the proposed state compliance plan to the Office of the Attorney General no later than two (2) months before the date the proposed state compliance plan is to be submitted to the United States Environmental Protection Agency or other federal agency tasked with administering the federal Clean Air Act; and

2. The Office of the Attorney General shall determine whether the proposed state compliance plan meets the requirements of subsection A of this section including but not limited to whether the proposed state compliance plan complies with the Oklahoma Clean Air Act and the federal Clean Air Act. If the Office of the Attorney General determines that the proposed state compliance plan does not meet the requirements of subsection A of this section, it shall notify the Department of Environmental Quality, the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

D. The State of Oklahoma shall not submit a state compliance plan that does not comply with state or federal law.

E. Nothing in this section shall be construed to create a right of action or basis for invalidation of a state compliance plan on behalf of any private individual or entity.

Passed the Senate the 28th day of April, 2015.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2015.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____