

1 ENGROSSED HOUSE AMENDMENTS
TO
2 ENGROSSED SENATE BILL NO. 676

By: Treat, Fields and Jolley of
the Senate

3
4 and

Echols of the House
5

6
7 An Act relating to the Oklahoma Clean Air Act;
8 amending 27A O.S. 2011, Section 2-5-104, which
9 relates to the Oklahoma Clean Air Act; defining term;
10 requiring additional procedures necessary to obtain
11 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;
providing for codification; and declaring an
emergency.

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13 NOTE: Emergency failed

14 AUTHORS: Add the following House Coauthors: Faught, Wood, Roberts
(Sean) and Fisher

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16 AUTHORS: Add the following Senate Coauthors: David and Loveless

17 AMENDMENT NO. 1. Page 3, lines 8 and 14, after the word "State" and
18 before "plan" delete "implementation" and insert
"compliance"

19 AMENDMENT NO. 2. Page 4, line 12 through Page 8, line 11, delete
20 all of Section 2 and insert a new Section 2 to
read

21 "SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-5-119 of Title 27A, unless
23 there is created a duplication in numbering, reads as follows:
24

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

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

9 2. Consider any impact on municipal or other local regulation
10 efforts in a manner that is consistent with Section 2-5-103 of Title
11 27A of the Oklahoma Statutes;

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

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

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

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

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

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

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

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

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

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

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

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9 _____
10 Presiding Officer of the House of
Representatives

11 Passed the Senate the ____ day of _____, 2015.

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Presiding Officer of the Senate

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1 ENGROSSED SENATE
2 BILL NO. 676

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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:

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

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

3. If the Office of the Attorney General does not submit the 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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