STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 676 By: Treat of the Senate

and

Echols of the House

COMMITTEE SUBSTITUTE

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; providing for codification; and declaring an emergency.

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;

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 implementation plan" means any document that must 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 implementation 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 implementation plan seeking to attain national ambient air quality standards under Section 110 of the Federal Clean Air Act or existing source performance standards under Section 111(d) of the Federal Clean Air Act shall meet the following requirements before being a valid state implementation plan under state law:

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

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

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

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

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

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

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

1. The Department of Environmental Quality must submit an official report concerning the proposed state implementation plan to the Office of the Attorney General by December 15 for validation of such plan during the following calendar year. Such report shall 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 the date described therein, the Department of Environmental Quality may submit the corresponding proposed state implementation plan to the Environmental Protection Agency or other federal agency tasked with administering the Federal Clean Air Act.

4. If the Office of the Attorney General submits a report concluding that the proposed state implementation plan does not comply with the requirements of subsection A of this section, the Department of Environmental Quality must submit the report described in paragraph 1 of subsection B of this section to 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 submission shall be completed within five (5) business days of the submission of the report of the Office of the Attorney General. The Legislature may then approve or disapprove of the proposed state implementation plan according to paragraph (C) of this section.

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

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

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

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

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