

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 1291

By: Sparks of the Senate

and

Inman of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to the Oklahoma Clean Air Act;  
11 amending 27A O.S. 2011, Section 2-5-105, which  
12 relates to powers and duties of the Department of  
13 Environmental Quality; adding tribal governments to  
14 certain duties of the Department; requiring inclusion  
15 of certain tribal government responses in any  
16 response issued by the state relating to air quality;  
17 limiting the creation or implication of certain  
18 right; providing for codification; and providing an  
19 effective date.

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

21 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-5-105, is  
22 amended to read as follows:

23 Section 2-5-105. The Department of Environmental Quality is  
24 hereby designated the administrative agency for the Oklahoma Clean  
Air Act for the state. The Department is empowered to:

1. Establish, in accordance with its provisions, those programs  
specified elsewhere in the Oklahoma Clean Air Act;

1           2. Establish, in accordance with the Oklahoma Clean Air Act, a  
2 permitting program for the state which will contain the flexible  
3 source operation provisions required by Section 502(b)(10) of the  
4 Federal Clean Air Act Amendments of 1990;

5           3. Prepare and develop a general plan for proper air quality  
6 management in the state in accordance with the Oklahoma Clean Air  
7 Act;

8           4. Enforce rules of the Board and orders of the Department and  
9 the Council;

10          5. Advise, consult and cooperate with other agencies of the  
11 state, towns, cities and counties, industries, other states, tribal  
12 governments and the federal government, and with affected groups in  
13 the prevention and control of new and existing air contamination  
14 sources within the state;

15          6. Encourage and conduct studies, seminars, workshops,  
16 investigations and research relating to air pollution and its  
17 causes, effects, prevention, control and abatement;

18          7. Collect and disseminate information relating to air  
19 pollution, its prevention and control;

20          8. Encourage voluntary cooperation by persons, towns, cities  
21 and counties, tribal governments or other affected groups in  
22 restoring and preserving a reasonable degree of purity of air within  
23 the state;

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1           9. Represent the State of Oklahoma in any and all matters  
2 pertaining to plans, procedures or negotiations for the interstate  
3 compacts in relation to the control of air pollution;

4           10. Provide such technical, scientific or other services,  
5 including laboratory and other facilities, as may be required for  
6 the purpose of carrying out the provisions of the Oklahoma Clean Air  
7 Act, from funds available for such purposes;

8           11. Employ and compensate, within funds available therefor,  
9 such consultants and technical assistants and such other employees  
10 on a full- or part-time basis as may be necessary to carry out the  
11 provisions of the Oklahoma Clean Air Act and prescribe their powers  
12 and duties;

13           12. Accept and administer grants or other funds or gifts for  
14 the purpose of carrying out any of the functions of the Oklahoma  
15 Clean Air Act;

16           13. Budget and receive duly appropriated monies and all other  
17 monies available for expenditures to carry out the provisions and  
18 purposes of the Oklahoma Clean Air Act;

19           14. Bring appropriate court action to enforce the Oklahoma  
20 Clean Air Act and final orders of the Department, and to obtain  
21 injunctive or other proper relief in the district court of the  
22 county where any alleged violation occurs or where such relief is  
23 determined necessary. The Department, in furtherance of its  
24 statutory powers, shall have the independent authority to file an

1 action pursuant to the Oklahoma Clean Air Act in district court.  
2 Such action shall be brought in the name of the Department of  
3 Environmental Quality;

4 15. Take such action as may be necessary to abate the alleged  
5 pollution upon receipt of evidence that a source of pollution or a  
6 combination of sources of pollution is presenting an immediate,  
7 imminent and substantial endangerment to the health of persons;

8 16. Periodically enter and inspect at reasonable times or  
9 during regular business hours, any source, facility or premises  
10 permitted or regulated by the Department, for the purpose of  
11 obtaining samples or determining compliance with the Oklahoma Clean  
12 Air Act or any rule promulgated thereunder or permit condition  
13 prescribed pursuant thereto, or to examine any records kept or  
14 required to be kept pursuant to the Oklahoma Clean Air Act. Such  
15 inspections shall be conducted with reasonable promptness and shall  
16 be confined to those areas, sources, facilities or premises  
17 reasonably expected to emit, control, or contribute to the emission  
18 of any air contaminant;

19 17. Require the submission or the production and examination,  
20 within a reasonable amount of time, of any information, record,  
21 document, test or monitoring results or emission data, including  
22 trade secrets necessary to determine compliance with the Oklahoma  
23 Clean Air Act or any rule promulgated thereunder, or any permit  
24 condition prescribed or order issued pursuant thereto. The

1 Department shall hold and keep as confidential any information  
2 declared by the provider to be a trade secret and may only release  
3 such information upon authorization by the person providing such  
4 information, or as directed by court order. Any documents submitted  
5 pursuant to the Oklahoma Clean Air Act and declared to be trade  
6 secrets, to be so considered, must be plainly labeled by the  
7 provider, and be in a form whereby the confidential information may  
8 be easily removed intact without disturbing the continuity of any  
9 remaining documents. The remaining document, or documents, as  
10 submitted, shall contain a notation indicating, at the place where  
11 the particular information was originally located, that confidential  
12 information has been removed. Nothing in this section shall  
13 preclude an in-camera examination of confidential information by an  
14 Administrative Law Judge during the course of a contested hearing;

15 18. Maintain and update at least annually an inventory of air  
16 emissions from stationary sources;

17 19. Accept any authority delegated from the federal government  
18 necessary to carry out any portion of the Oklahoma Clean Air Act;  
19 and

20 20. Carry out all other duties, requirements and  
21 responsibilities necessary and proper for the implementation of the  
22 Oklahoma Clean Air Act and fulfilling the requirements of the  
23 Federal Clean Air Act.

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1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2-5-105.1 of Title 27A, unless  
3 there is created a duplication in numbering, reads as follows:

4 In preparing any response on behalf of the State of Oklahoma to  
5 the federal government on any issue pertaining to the federal Clean  
6 Air Act, the Oklahoma Clean Air Act, modifications to air emission  
7 standards or any air quality issue, pursuant to the statutory  
8 authority granted to the Department of Environmental Quality in the  
9 Oklahoma Clean Air Act, the Department shall seek and include any  
10 response submitted to the Department by any of Oklahoma's federally  
11 recognized tribal governments. Nothing in this section shall create  
12 or imply any right of action against the state by any entity.

13 SECTION 3. This act shall become effective November 1, 2016.

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