

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 1291

By: Sparks of the Senate

and

Inman of the House

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10                                   COMMITTEE SUBSTITUTE

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

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

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

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

- 1        1. Establish, in accordance with its provisions, those programs  
2 specified elsewhere in the Oklahoma Clean Air Act;
- 3        2. Establish, in accordance with the Oklahoma Clean Air Act, a  
4 permitting program for the state which will contain the flexible  
5 source operation provisions required by Section 502(b)(10) of the  
6 Federal Clean Air Act Amendments of 1990;
- 7        3. Prepare and develop a general plan for proper air quality  
8 management in the state in accordance with the Oklahoma Clean Air  
9 Act;
- 10       4. Enforce rules of the Board and orders of the Department and  
11 the Council;
- 12       5. Advise, consult and cooperate with other agencies of the  
13 state, towns, cities and counties, industries, other states, tribal  
14 governments and the federal government, and with affected groups in  
15 the prevention and control of new and existing air contamination  
16 sources within the state;
- 17       6. Encourage and conduct studies, seminars, workshops,  
18 investigations and research relating to air pollution and its  
19 causes, effects, prevention, control and abatement;
- 20       7. Collect and disseminate information relating to air  
21 pollution, its prevention and control;
- 22       8. Encourage voluntary cooperation by persons, towns, cities  
23 and counties, tribal governments or other affected groups in  
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1 restoring and preserving a reasonable degree of purity of air within  
2 the state;

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

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

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

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

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

21 14. Bring appropriate court action to enforce the Oklahoma  
22 Clean Air Act and final orders of the Department, and to obtain  
23 injunctive or other proper relief in the district court of the  
24 county where any alleged violation occurs or where such relief is

1 determined necessary. The Department, in furtherance of its  
2 statutory powers, shall have the independent authority to file an  
3 action pursuant to the Oklahoma Clean Air Act in district court.  
4 Such action shall be brought in the name of the Department of  
5 Environmental Quality;

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

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

21 17. Require the submission or the production and examination,  
22 within a reasonable amount of time, of any information, record,  
23 document, test or monitoring results or emission data, including  
24 trade secrets necessary to determine compliance with the Oklahoma

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

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

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

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

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

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

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

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17 COMMITTEE REPORT BY: COMMITTEE ON ENVIRONMENTAL LAW, dated  
18 04/07/2016 - DO PASS, As Amended.

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