

1 **SENATE FLOOR VERSION**

2 March 2, 2017

3 **AS AMENDED**

4 SENATE BILL NO. 492

By: Sparks of the Senate

and

Hoskin of the House

6
7
8 **[Oklahoma Clean Air Act - powers and duties of the**
9 **Department of Environmental Quality - tribal**
10 **governments - codification - effective date]**

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

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

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

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

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

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

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

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

11 6. Encourage and conduct studies, seminars, workshops,
12 investigations and research relating to air pollution and its
13 causes, effects, prevention, control and abatement;

14 7. Collect and disseminate information relating to air
15 pollution, its prevention and control;

16 8. Encourage voluntary cooperation by persons, towns, cities,
17 tribal governments and counties, or other affected groups in
18 restoring and preserving a reasonable degree of purity of air within
19 the state;

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

23 10. Provide such technical, scientific or other services,
24 including laboratory and other facilities, as may be required for

1 the purpose of carrying out the provisions of the Oklahoma Clean Air
2 Act, from funds available for such purposes;

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

8 12. Accept and administer grants or other funds or gifts for
9 the purpose of carrying out any of the functions of the Oklahoma
10 Clean Air Act;

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

14 14. Bring appropriate court action to enforce the Oklahoma
15 Clean Air Act and final orders of the Department, and to obtain
16 injunctive or other proper relief in the district court of the
17 county where any alleged violation occurs or where such relief is
18 determined necessary. The Department, in furtherance of its
19 statutory powers, shall have the independent authority to file an
20 action pursuant to the Oklahoma Clean Air Act in district court.
21 Such action shall be brought in the name of the Department of
22 Environmental Quality;

23 15. Take such action as may be necessary to abate the alleged
24 pollution upon receipt of evidence that a source of pollution or a

1 combination of sources of pollution is presenting an immediate,
2 imminent and substantial endangerment to the health of persons;

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

14 17. Require the submission or the production and examination,
15 within a reasonable amount of time, of any information, record,
16 document, test or monitoring results or emission data, including
17 trade secrets necessary to determine compliance with the Oklahoma
18 Clean Air Act or any rule promulgated thereunder, or any permit
19 condition prescribed or order issued pursuant thereto. The
20 Department shall hold and keep as confidential any information
21 declared by the provider to be a trade secret and may only release
22 such information upon authorization by the person providing such
23 information, or as directed by court order. Any documents submitted
24 pursuant to the Oklahoma Clean Air Act and declared to be trade

1 secrets, to be so considered, must be plainly labeled by the
2 provider, and be in a form whereby the confidential information may
3 be easily removed intact without disturbing the continuity of any
4 remaining documents. The remaining document, or documents, as
5 submitted, shall contain a notation indicating, at the place where
6 the particular information was originally located, that confidential
7 information has been removed. Nothing in this section shall
8 preclude an in-camera examination of confidential information by an
9 Administrative Law Judge during the course of a contested hearing;

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

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

15 20. Carry out all other duties, requirements and
16 responsibilities necessary and proper for the implementation of the
17 Oklahoma Clean Air Act and fulfilling the requirements of the
18 Federal Clean Air Act.

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

22 In preparing any response on behalf of the State of Oklahoma to
23 the federal government on any issue pertaining to the federal Clean
24 Air Act, the Oklahoma Clean Air Act, modifications to air emission

1 standards or any air quality issue, pursuant to the statutory
2 authority granted to the Department of Environmental Quality in the
3 Oklahoma Clean Air Act, the Department shall seek and include any
4 response submitted to the Department by any of Oklahoma's federally-
5 recognized tribal governments.

6 SECTION 3. This act shall become effective November 1, 2017.

7 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
8 March 2, 2017 - DO PASS AS AMENDED
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