

**TITLE 165. CORPORATION COMMISSION
CHAPTER 28. STORAGE TANK ADVISORY COUNCIL
EFFECTIVE JULY 1, 1996**

**Last Amended
The Oklahoma Register
Volume 13
Page 2415**

The format of these rules is not in strict compliance with the Secretary of State's Office of Administrative Rules, but has been compressed to reduce the copying expense and the pages have been numbered for easy rule reference. This version is provided as a convenience for the public.

TABLE OF CONTENTS

Subchapter 1. General Provisions

- 165:28-1-1. Purpose
- 165:28-1-2. Scope
- 165:28-1-3. Definitions
- 165:28-1-4. Description of Council
- 165:28-1-5. Administration
- 165:28-1-6. Meetings
- 165:28-1-7. Public forum procedures

Subchapter 3. Rulemaking

- 165:28-3-1. Rulemaking procedures

SUBCHAPTER 1. GENERAL PROVISIONS

165:28-1-1. Purpose

This Chapter describes the practices of the Council, its organization, meetings and records, and its procedures to review and recommend the adoption of rules.

165:28-1-2. Scope

- (a) **Scope.** The rules in this Chapter are not intended to limit the lawful authority of the Council or the Commission. The Council may address any matter under its jurisdiction and change any procedure for good cause.
- (b) **Severability.** The repeal or invalidity of any particular rule of this Chapter shall not affect the remainder of the rules.

165:28-1-3. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Commission**" means the Oklahoma Corporation Commission.

"**Council**" means the Storage Tank Advisory Council.

"**Recommendation**" means written formal advice given by the Council to the Commission regarding the proposed adoption of new or amended rules or the repeal of existing rules.

165:28-1-4. Description of Council

(a) **Composition.** The nine members of the Council are appointed as follows:

- (1) The Governor appoints three (3) members:
 - (A) Two storage tank owners or operators.
 - (B) A certified UST consultant.
- (2) The President Pro Tempore of the Senate appoints three (3) members:
 - (A) Two storage tank owners or operators
 - (B) A geologist.
- (3) The Speaker of the House of Representatives appoints three (3) members:
 - (A) Two storage tank owners or operators
 - (B) A registered professional engineer.

(b) **Quorum.** Five (5) members constitute a quorum. Provided a quorum is present, action may be taken by a majority vote of those present.

(c) **Authority.** The Council has the following authority:

- (A) Recommend to the Commission rules to implement the Underground Storage Tank Regulation Act, the Aboveground Storage Tank Regulation Act, and the Oklahoma Petroleum Tank Release Indemnity Fund Program.

(B) Write recommendations to the Commission which have been concurred upon by at least a majority of the membership of the Council present at an open meeting wherein the decision to make written recommendations was posted on the agenda.

(C) Provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction.

(1) Pass nonbinding resolutions expressing the sense of the Council.

(2) Recommend to the Commission the need and desirability of conducting public meetings, workshops, and seminars.

(d) **Duties.** The Council shall meet as required for rule development, review and recommendations, and for other matters.

(e) **Officers.** The Council shall elect a chair and a vice-chair from among its members.

(f) **Committees.** The Council may establish committees to assist it for any lawful purpose.

(g) **Compensation.** Members of the Council serve without compensation, but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act.

165:28-1-5. Administration

(a) **Office.** The Council has no office separate from the Commission. The Council receives administrative assistance from the Commission and depends on the Commission to maintain records and compliance with the Open Meeting Act, the Open Records Act, and the Administrative Procedures Act. Communications to the Council may be made through the administrative head of the programs with which the Council works, P.O. Box 52000-2000, Oklahoma City, Oklahoma 73152-2000, as follows:

(1) Fuel Storage Department.

(2) Oklahoma Petroleum Storage Tank Release Indemnity Fund Program.

(b) **Documents.** Copies of all official records of the Council not privileged from disclosure by law shall be available for inspection and copying at the Commission's office during normal business hours. The Commission's open records fee schedule will apply.

165:28-1-6. Meetings

(a) **Schedule.** Beginning in 1997, the Council shall hold a regularly scheduled meeting at least twice each calendar year. Three members may call a special meeting by delivering a written notice to each Council member and giving notice to the Commission. Special and emergency meetings may be called by the Chair. The Commission shall notify each Council member of the date, time and place of each meeting, and of any cancellation or rescheduling.

- (b) **Location.** The Council may meet at any location convenient and open to the public in Oklahoma. Unless otherwise specified by the Council, meetings shall be held at the Commission's offices in Oklahoma City, Oklahoma.
- (c) **Open Meeting Act.** All meetings of the Council shall follow the requirements of the Oklahoma Open Meeting Act.
- (d) **Format.** The meetings shall be conducted by the Chair, Vice-chair or the Council's designee, respectively.
- (e) **Agenda.** Subject to the provisions of subsection (g) of this Section, the proposed agenda of a meeting may be developed with the advice members and modified by the Chair. Time permitting, a copy of the proposed agenda shall be sent to each Council member at least ten (10) days before the regularly scheduled meeting. The final agenda shall be posed by the Commission twenty-four (24) hours prior to the Council's meeting as required by the Open Meeting Act.
- (f) **Comment.** The agenda shall specify when and on what topics public comment will be accepted during a meeting. The Commission shall provide sign-in sheets at each meeting for persons who wish to present written or oral comments during a specified public comment period. The Chair may set reasonable time limits on oral comment and may accept written submittals on behalf of the Council. The Chair reserves the right to rearrange agenda items during the meeting.
- (g) **Planning.** The Council may by majority vote during a meeting continue an agenda item to, or specify a new agenda item for, another meeting or forum.

165:28-1-7. Public forum procedures

- (a) **Purpose.** The Council shall conduct public forums for the discussion of issues relating to the Oklahoma Underground Tank Regulation Act, the Oklahoma Aboveground Tank Regulation Act, and the Oklahoma Petroleum Storage Tank Release Indemnity Program. Issues to be addressed may include an appropriate review process for claims denied by the Indemnity Fund Program, the effects of cleanup levels on property adjacent to a remediated tank site, the responsibility of the Indemnity Fund Program for the adverse impact to property adjacent to remediated tank sites and such other issues the Council deems appropriate or raised by the public.
- (b) **Scheduling.** Such forums shall be scheduled as deemed necessary by the Council.
- (c) **Open Meeting Act.** All forums of the Council shall follow the requirements of the Oklahoma Open Meeting Act.
- (d) **Format.** The forum shall be conducted by the Chair, Vice-chair or the Council's designee, respectively.
- (e) **Agenda.** Subject to the provisions of subsection (g) of this Section, the proposed forum agenda may be developed with the advice of members and modified by the Chair. Non-members may submit suggested agenda items to the Council at least twelve (12) calendar days prior to the forum. Time permitting, a copy of the proposed agenda shall be sent to each Council member at least ten

(10) calendar days in advance of the forum. The agenda of each forum shall include a period for public comment on items not on the agenda.

(f) **Comment.** The Commission shall provide sign-in sheets at each forum for persons who wish to present written or oral comment on an agenda item. The Chair reserves the right to rearrange agenda items during the forum to accommodate public comment. The Chair may set reasonable time limits on oral comment and may accept written submittals on behalf of the Council.

(g) **Planning.** The Council may by majority vote during a meeting continue an agenda item to, or specify a new agenda item for, another meeting or forum.

(h) **Report.** The Council shall issue a report setting forth its findings and conclusions based upon its study of the issues and shall make any recommendations, if any, which it deems appropriate. Copies of the report shall be submitted to the Corporation Commissioners, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Committee on Natural Resources or successor committee, and the Chairman of the House of Representatives Energy, Environment and Natural Resources Committee or successor committee.

SUBCHAPTER 3. RULEMAKING

165:28-3-1. Rulemaking procedures

(a) **Authority.** The Council has the authority to recommend to the Commission rules to implement the Underground Storage Tank Regulation Act, the Oklahoma Aboveground Storage Tank Regulation Act, and the Oklahoma Petroleum Tank Release Indemnity Fund Program. The staff of the aboveground and underground storage tank regulatory program and the Indemnity Fund Program shall not have standing to recommend to the Commission en banc proposed permanent rules or changes to such rules which have not previously been submitted to the Council for action at least fifteen (15) days prior to the hearing for adoption of the rules by the Commission en banc.

(b) **Processes.** For rulemakings initiated by the Council, the Council shall depend on the Commission to follow the applicable rulemaking procedures of the Administrative Procedures Act. Such procedures may include notices, rulemaking hearings, receipt of comments, preparation of rule impact statements, the rulemaking record and other documentation. All actions of the Council with regard to rulemaking shall be deemed actions of the Commission for the purposes of complying with the Administrative Procedures Act.

(c) **Emergency rules.** The Commission may promulgate emergency rules without the advice of the Council when time constraints of the emergency, as determined by the Commission, do not permit timely development of recommendations by the Council.

(d) **Adoption of rules without Council advice.** The Commission may adopt permanent rules without the advice of the Council or not in accord with the advice of the Council. However, if any permanent rules are so adopted, the

Commission shall detail the reason on the rule report submitted to the Governor and the Legislature pursuant to the Administrative Procedures Act.