

FILED
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**TITLE 165. CORPORATION COMMISSION
CHAPTER 20. GAS & HAZARDOUS LIQUID PIPELINE SAFETY**

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 17. Obligations Under the Oklahoma Underground Facilities Damage Prevention Act Subject to Commission Enforcement [NEW]

165:20-17-1. Scope [NEW]

165:20-17-2. Definitions [NEW]

165:20-17-3. Statutory citation [NEW]

165:20-17-4. Compliance with the Act required [NEW]

165:20-17-5. Emergencies [NEW]

AUTHORITY:

The Commission's statutory authority is found in Title 17 O.S. § 6.1; Title 17 O.S. § 152; Title 52 O.S. § 5; Title 52 O.S. § 47.3; Article IX, Sections 18 and 18a of the Oklahoma Constitution and OAC 165:5-1-7.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

n/a

COMMENT PERIOD:

January 22, 2015 to February 27, 2015

PUBLIC HEARING:

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ADOPTION:

March 10, 2015

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 12, 2015

APPROVED BY GOVERNOR'S DECLARATION:

Approved by Governor's declaration on June 8, 2015

FINAL ADOPTION:

June 8, 2015

EFFECTIVE:

August 27, 2015

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The adopted rules are a direct result of House Bill 2533 (2014) which was partially codified at Title 63 O.S. § 142.13. Non-codified language in the bill required the Corporation Commission to conduct a Notice of Inquiry ("NOI") to investigate particular areas of pipeline safety. Following the NOI and after public comment was received, it was determined that the adopted rules in this cause would be required to address the areas of the Oklahoma Underground Facilities Damage

ACCEPTED 6/16/15

Office of Administrative Rules

Oklahoma Secretary of State

Docket # 15 - 445 OAR/cert C.C.

Prevention Act, Title 63 O.S. § 142.1 *et seq.*, that the Legislature had charged the Commission with enforcing.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 27, 2015:

SUBCHAPTER 17. OBLIGATIONS UNDER THE OKLAHOMA UNDERGROUND FACILITIES DAMAGE PREVENTION ACT SUBJECT TO COMMISSION ENFORCEMENT

165:20-17-1. Scope

(a) This Subchapter applies to Commission enforcement pursuant to 63 O.S. § 142.13 of the Oklahoma Underground Facilities Damage Prevention Act, 63 O.S. §§ 142.1 et seq., with respect to those facilities described by the currently effective definition of "pipeline" in 49 C.F.R. § 192.3 and "pipeline" and "pipeline system" in 49 C.F.R. § 195.2. This Subchapter does not apply to any other underground facility, except to the extent it may qualify as a "pipeline" or "pipeline system" under the referenced regulations.

(b) This Subchapter shall not be construed as limiting the Commission's authority to grant an exception, for good cause shown, to any rule contained in this Subchapter unless otherwise precluded by law.

(c) Nothing in this Subchapter shall be construed to modify or limit any private right of action arising under the Oklahoma Underground Facilities Damage Prevention Act and enforceable in the district courts of this State.

165:20-17-2. Definitions

In addition to terms defined in 63 O.S. § 142.2, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Underground Facilities Damage Prevention Act, 63 O.S. §§ 142.1 et seq.

"Pipeline" means "pipeline" as defined in 49 C.F.R. § 192.3 and 49 C.F.R. § 195.2.

"Pipeline system" means "pipeline system" as defined in 49 C.F.R. § 195.2.

165:20-17-3. Statutory citation

Citations to the Act, 49 C.F.R. § 192.3 and 49 C.F.R. § 195.2 in this Subchapter refer to the most recent codifications of the Act and such sections of the Code of Federal Regulations.

165:20-17-4. Compliance with the Act required

(a) Compliance with the provisions of the Act applicable to a pipeline or pipeline system is required.

(b) The Commission may enforce any violation of the Act against any person to the extent:

(1) the violation occurs with respect to a pipeline or pipeline system; and

(2) the person against whom enforcement action is taken is subject to the provisions of the Act, including without limitation operators and excavators.

165:20-17-5. Emergencies

An excavator shall immediately call the local 911 emergency telephone number and report any incident that results in an unintentional and uncontrolled release of flammable, toxic or corrosive gas or liquid from a pipeline or pipeline system. In this context, intentional acts refer to operator maintenance or repairs and not vandalism or other similar acts.