

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

NOTICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

IN THE MATTER OF A PERMANENT)
RULEMAKING OF THE OKLAHOMA)
CORPORATION COMMISSION AMENDING) **CAUSE NO. RM 201800003**
OAC 165:15, FUEL INSPECTION)

RULE IMPACT STATEMENT

This Rule Impact Statement addresses proposed amendments to the Oklahoma Corporation Commission's ("Commission") proposed rules to amend OAC 165:15 *et seq.*, Fuel Inspection rules for Petroleum Storage Tanks. This Rule Impact Statement has been prepared in substantial compliance to 75 O.S. 2013, Section 303(D).

I. PURPOSE OF RULE PROPOSALS

The proposed changes, amendments, additions and revocations include: add inspections to the fuel inspection rules; strike a statute citation; define formal enforcement action; strike the definition for a device no longer allowed; define important building; correct applicable rule chapters and add statutes to the rule; clarify samples of Petroleum Storage Tank Division ("PSTD") regulated substances may be obtained for testing; clarify testing methods; strike a temporary release detection method no longer allowed; clarify that manual tank gauging can only be used on tanks 1,000 gallons or less; update the rule numbering to reflect changes; strike motor fuel from the description of kerosene; clarify that enforcement may occur if a violation is not corrected; clarify procedures for notification and correspondence; clarify the procedure when a follow-up inspection indicates a violation has not been corrected; clarify the procedure for issuing a Field Citation; correct grammatical errors; and update terminology.

II. CLASSES OF PERSONS WHO WILL MOST LIKELY BE AFFECTED BY THE PROPOSED RULES, INCLUDING CLASSES WHICH WILL BEAR THE COST OF THE PROPOSED RULES, AND INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES

The classes of those affected include owners and operators of storage tanks and regulated entities. The classes affected will bear the cost, if any, of these proposed rules. The proposed rules change operating procedures, practices and requirements.

The Commission, in its Notice of Proposed Rulemaking, has requested that business entities that are expected to see a cost increase as a result of compliance with the proposed rulemaking provide written comments stating cost impact information to the Commission. All registered storage tank owners were advised of the Notice of Proposed Rulemaking through GovDelivery subscription. As of the date of preparation of this Rule Impact Statement, the Commission has received no cost impact statements from any private or public entity. If any such comments are received by the Commission, they will be considered by Staff at the technical conferences on November 7, 2018, and December 5, 2018, and by the Commission *en banc* at the public hearing on January 15, 2019.

III. CLASSES OF PERSONS BENEFITING FROM THE PROPOSED RULE

The classes benefiting from the amendments include members of the public purchasing PSTD regulated substances, regulated entities and owners and operators of storage tank systems doing business within the state.

IV. PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS, INCLUDING ALL FEE CHANGES WITH JUSTIFICATION

It is anticipated that there will be minimal adverse economic impact upon the affected parties. The proposed rules will not adversely impact other political subdivisions of the state. As such, the rulemaking will comply with the requirements of the Oklahoma Small Business Regulatory Flexibility Act of 2002, 75 O.S. 2002 Supp., Section 501 *et seq.*

V. IMPACT ON SMALL BUSINESS

Pursuant to 75 O.S. 2002 Supp., Section 303 (D)(2)(g), the Commission has reviewed the possible and potential economic impact of the proposed rule amendments according to the requirements of the Oklahoma Small Business Regulatory Flexibility Act of 2002, 75 O.S. 2002 Supp, Section 501 *et seq.* The small business operators registered with the Commission likely will experience some savings in the cost of doing business through the continued effectiveness and efficiency of rule implementation.

VI. PROBABLE COSTS AND BENEFITS TO THE AGENCY AND TO ANY OTHER AGENCY TO IMPLEMENT AND ENFORCE THE PROPOSED RULES, THE SOURCE OF REVENUE TO BE USED FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULES, AND ANY ANTICIPATED EFFECT ON STATE REVENUES, INCLUDING A NET LOSS OR GAIN IN SUCH REVENUES IF IT CAN BE PROJECTED BY THE AGENCY

The Commission anticipates that its current staff is adequate in both number and training to implement the proposed rules, and that there will be no immediate increase in agency expenses as a result of the amendments.

Federal, state or local agencies or jurisdictions that by law enforce their own regulatory authority over petroleum storage tanks concurrently with the Commission, including but not limited to municipalities, the Environmental Protection Agency, rural fire districts or the Fire Marshal, will not in any way enforce or implement the proposed amendments. Accordingly, there will be no cost to them.

VII. ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISIONS OR COOPERATION OF ANY POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE THE RULES

Political subdivisions (as defined in 75 O.S. 1998 Supp., Section 250.3) that maintain regulated substance storage tanks to sell PSTD regulated substances to the public will have to comply with the proposed rules.

No cooperation of any political subdivision is required to enforce or implement the proposed rules.

VIII. MEASURES THE AGENCY HAS TAKEN TO MINIMIZE COMPLIANCE AND LESS COSTLY OR LESS INTRUSIVE METHODS FOR ACHIEVING THE PURPOSES OF THE PROPOSED RULES

There are no less costly or less intrusive methods for achieving the purpose of the proposed rules.

IX. EFFECT OF THE PROPOSED RULES ON THE PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT AND, IF THE PROPOSED RULES ARE DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT, AN EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULES WILL REDUCE THE RISK

The proposed rules embody the statutory charge of the Petroleum Storage Tank Division to protect human health, safety, the environment and the state economy, and in the proposed form, does so without burden to those regulated.

X. CONFORMANCE WITH FEDERAL STANDARDS

These proposed rules conform to U.S. Department of Commerce standards set forth in the National Institute of Standards and Technology, and to the extent regulated, rules of the Environmental Protection Agency, and are thus no more stringent than federal requirements.

XI. RISK IF NOT IMPLEMENTED

If the proposed rules are not implemented, there is a risk of confusion regarding statutory authority among the regulated entities and the public. The proposed rules further provide clarification of types of leak detection allowed and provide clarification of the enforcement process.

XII. DATE

This Rule Impact Statement was prepared on the 29th day of October, 2018.

Prepared By:
Travis N. Weedn
Senior Attorney
Oklahoma Corporation Commission
P.O. Box 52000
Oklahoma City, OK 73152-2000
Ph.: 405/521-4137
Fax: 405/521-4150
Email: t.weedn@occcemail.com