

**FILED**  
OCT 04 2016

**BEFORE THE CORPORATION COMMISSION OF OKLAHOMA**

COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

IN THE MATTER OF A PERMANENT )  
RULEMAKING OF THE OKLAHOMA )  
CORPORATION COMMISSION ) CAUSE NO. RM 201600012  
AMENDING OAC 165:26, )  
ABOVEGROUND STORAGE TANKS )

**RULE IMPACT STATEMENT**

This Rule Impact Statement addresses proposed rule amendments to the Oklahoma Corporation Commission's ("Commission") to amend OAC 165:26 *et seq.*, Aboveground Storage Tank 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: adopts National Fire Protection Association ("NFPA") Standard Numbers 30 and 30A; defines modifications and new rules; updates selected code references; requires notification to the Petroleum Storage Tank Division ("PSTD") when switching types of fuels in storage tanks; requires retention of release detection records for three (3) years; provides for shutdown of operations if requirements are not met; revokes operator training in its entirety; dates spill and overfill to tanks installed after July 1, 2007 and sets a deadline for automatic stop on fill valves; sets a deadline for vent piping requirements and expands vent piping requirements; sets forth criteria for installation testing; requires an anti-siphon valve on aboveground storage tanks; expands use of manual shut off valves; deletes obsolete language; requires sumps on new dispenser installations; specifies particular sampling document; requires monthly inventory to be kept every thirty (30) days; expands reporting requirements of a release; requires certain equipment for marinas.

**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 aboveground storage tanks doing business within the state. 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 incur an increase in the level of costs as a result of compliance with the proposed rulemaking provide written comments stating cost impact information to the Commission. All registered aboveground storage tank owners

were mailed a post card advising of the Notice of Proposed Rulemaking. However, 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 October 25, 2016, and November 22, 2016, by the Commission *en banc* at the hearing on January 24, 2017.

### **III. CLASSES OF PERSONS BENEFITING FROM THE PROPOSED RULES**

The classes benefiting from the amendments include owners and operators of aboveground storage tanks 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 no adverse economic impact upon the affected parties. The amendments will not adversely impact other political subdivisions of the state.

The Commission does not consider the proposed rules ultimately having any material adverse effect on small business; and 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 classes potentially impacted are:

1. Aboveground storage tank owners and operators: The proposed rules will have a no impact on the class of small business aboveground storage tank owners and operators who operate aboveground storage tank systems in the state. It is estimated that of the total group of owners and operators of aboveground storage tanks that might be impacted by these rule amendments, 40% will be classified as small businesses with fifty (50) or fewer full or part-time employees. This estimate is based on statistics informally compiled by Commission Staff of the Petroleum Storage Tank Division.

**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 anticipated 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 aboveground petroleum storage tanks 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**

Due to the federal mandate, 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 changes of the Petroleum Storage Tank Division to protect human health, safety and the environment and in the proposed form, does so without burden or slight 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, a risk of harm (both financial and physical harm) may be present.

**XII. DATE**

This Rule Impact Statement was prepared on the 26<sup>th</sup> day of September, 2016.

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