BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT RULEMAKING OF THE OKLAHOMA CORPORATION COMMISSION AMENDING OAC 165:26, ABOVEGROUND STORAGE TANKS

CAUSE NO. RM 201900007

RULE IMPACT STATEMENT

Pursuant to 75 O.S. § 303(D) of the Oklahoma Administrative Procedures Act, the Petroleum Storage Tank Division ("PSTD") of the Oklahoma Corporation Commission ("Commission") submits the following Rule Impact Statement for its proposed rules regarding Title 165, Chapter 26 of the Oklahoma Administrative Code ("OAC").

I. Brief description of the purpose of the proposed rules:

The purpose of the proposed rules is to make certain definitions consistent with those in other chapters; to add language to clarify certain definitions; to add definitions for electronic signature, maintenance, mobile or temporary tank at construction site, and OWRB; to strike definitions defined in statute or not otherwise used in the rules; to exclude aboveground boiler tanks used for storing heating oil for consumptive use on the premises; to add terminology consistent with OAC 165:5; and to update PSTD's electronic notification and release detection forms submission procedures.

The purpose of the proposed rules is also to update PSTD's electronic notification for tank installation and registration procedures; to add a form for certifying tank and piping installation for unregistered tanks; to clarify requirements when any tank and/or line fails tightness testing; to update electronic notification procedures for tightness testing; to clarify terminology within the license penalties rule; to move existing language in the rule to a new subsection; to adopt NFPA 30 standards for distance between tanks; to strike unnecessary language regarding a fire-protected tank; to clarify spill and overfill prevention requirements for aboveground tanks installed before and after 2007; to incorporate industry standards for the size and type of collision barrier allowed; and to clarify requirements for fuel dispenser repair and replacement.

The purpose of the proposed rules is also to add the requirements for displaying fuel contents on dispensers; to update the Commission's website and release reporting email address; to clarify that the violation of a statute may result in a Notice of Violation being issued; to clarify which violations can be immediately turned over to the Commission's Judicial and Legislative Services Division for Formal Enforcement Action; to clarify a storage tank system can be shut down pending correction of a violation or a hearing is held; to clarify that if an owner disagrees with the fine, the Field Citation instructs the owner on how they may appear at a hearing; to clarify terminology related to a violation of PSTD rules; to clarify terminology related to a tank system shutdown; and to add language consistent with OAC 165:5.
Further, the purpose of the proposed rules is to clarify terminology related to a violation of PSTD rules; to incorporate an industry standard recommended practice for dispenser nozzles at marinas; to revoke and reenact Appendix G to correct rule citations, to clarify some of the descriptions used for rules in the violation column, and to move existing violations to the applicable section in the table; to revoke Appendix H; to strike unnecessary and redundant language; and to correct grammatical errors.

II. Description of the classes of persons who most likely will be affected by the proposed rules, including classes that will bear the costs of the proposed rules, and any information on cost impacts received by the agency from any private or public entities:

The persons most likely to be affected by the proposed rules are owners and operators of aboveground storage tanks doing business within the State. The classes affected will bear the cost, if any, of these proposed rules. The proposed rules change operating procedures, practices and requirements.

The PSTD in its Notice of Proposed Rulemaking has requested that business entities that are expected to incur a cost increase 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 and Commission licensed aboveground storage tank licensees were advised of the Notice of Proposed Rulemaking through GovDelivery subscription. As of the date of preparation of this Rule Impact Statement, the PSTD 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.

III. Classes of persons who will benefit from the proposed rules:

The persons benefiting from the proposed rules are regulated entities, owners and operators of aboveground storage tanks doing business within the State.

IV. Description of the probable economic impact of the proposed rules upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

PSTD does not believe there will be any economic impact upon affected classes of persons or political subdivisions. The proposed rules do not propose any fee changes.

V. Probable costs and benefits to the agency and to any other agency of the implementation and enforcement of 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 projected net loss or gain in such revenues if it can be projected by the agency:

There is no expected extra cost for the Commission or any other agency to implement and enforce the proposed rules. The benefit to the agency of these proposed rules will be regulatory
efficiency. The source of revenue to be used for implementation and enforcement of the proposed rules will be the Petroleum Storage Tank Indemnity Fund, which is the current source of revenue for compliance. The PSTD receives no appropriated funds for the administration of the petroleum storage tank program. The proposed rules contain no fee changes. There is no anticipated effect on state revenue.

VI. **Determination of whether implementation of the proposed rules will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules:**

It is not anticipated that implementation and enforcement of the proposed rules will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

VII. **Determination of whether implementation of the proposed rules may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:**

PSTD has considered the possible and potential economic impact of the proposed rules, and it is not anticipated that the proposed rules will have an adverse economic effect on small businesses.

VIII. **Explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rules:**

The proposed rules do not increase compliance costs, and there are no nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rules.

IX. **Determination of the effect of the proposed rules on the public health, safety and environment and, if the proposed rules are designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rules will reduce the risk:**

It is anticipated that the proposed rules will not have an adverse effect on the public health, safety, and environment.

X. **Determination of any detrimental effect on the public health, safety and environment if the proposed rules are not implemented:**

It is anticipated that there will be no detrimental effect on the public health, safety, and environment if the proposed rules are not implemented.
XI. Date of preparation of Rule Impact Statement:

This Rule Impact Statement was prepared on the 4th day of October, 2019.

Prepared by:

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