

TAW

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT  
RULEMAKING OF THE  
OKLAHOMA CORPORATION  
COMMISSION AMENDING  
OAC 165: 27, INDEMNITY FUND

CAUSE NO. RM 201700013

**FILED**  
DEC 19 2017

NOTICE OF PROPOSED RULEMAKING

COURT CLERK'S OFFICE - OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

**NOTICE IS HEREBY GIVEN** that the Petroleum Storage Tank Division ("PSTD") of the Oklahoma Corporation Commission ("Commission") recommends that the Commission amend the Indemnity Fund rules that are set forth in the Oklahoma Administrative Code ("OAC") 165:27. The proposed rules include changes to definitions including a definition for an operator of a storage tank, a definition to identify the owner of a storage tank, defining owners who are uncooperative and/or unwilling to follow Commission requirements, a definition for use of property for issues related to the Indemnity Fund, clarifying required documentation for claim reimbursement and establishing enforcement for failure to submit within the required timeframe, expanding the qualifications for claim reimbursement including submitting within the required timeframe, adding an application to the Indemnity Fund for a suspicion of release, establishing a required format for submission of Indemnity Fund applications, adding online claim reimbursement submittal, expanding reimbursable expenses to include use of third party property for corrective action on a case by case basis, adding the online procedure for submission of release case purchase orders, reports and other required documentation within an established timeframe, adding a procedure for recovery of corrective action expenditures through an administrative application, notice and hearing, and certain grammatical changes.

The proposed amended rules for OAC 165:27 are as follows:

OAC 165:27-1-2 is amended to define the operator of a storage tank, identify ownership of tank, define owners who are uncooperative and/or unwilling to follow Commission requirements, and add a definition for use of property for issues related to the Indemnity Fund.

OAC 165:27-3-1 is amended to clarify required documentation for claim reimbursement and establish enforcement for failure to submit within the required timeframe.

OAC 165:27-5-1 is amended to expand the qualifications for reimbursement to include submitting within a required timeframe and format.

OAC 165:27-5-2 is amended to update the application to the Indemnity Fund including the addition of an application for a suspicion of release and establish the required format be used for submission of all Indemnity Fund applications.

OAC 165:27-5-3 is amended to update Indemnity Fund applications to an online procedure.

OAC 165:27-7-1 is amended to add reimbursement for use of third party property for corrective actions on a case by case basis.

OAC 165:27-7-2 is amended to add online format for submission of required release case documentation and that it be submitted within the required timeframe.

OAC 165:27-7-3 is added to establish a procedure for recovery of corrective action expenditures from Indemnity Fund, Leaking Underground Storage Tank ("LUST") Trust Fund, or LUST Trust Revolving Fund through an administrative application with notice and hearing.

OAC 165:27-7-6 is amended to make grammatical corrections for clarification.

OAC 165:27-7-7 is amended to exclude reimbursement from the Indemnity Fund for third party damages.

OAC 165:27-7-9 is amended to make a grammatical correction.

OAC 165:27-7-11 is amended to establish submission of required reports within a required timeframe before reimbursement can be made.

**NOTICE IS FURTHER GIVEN** that the Commission has jurisdiction to initiate this permanent rulemaking pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*, 17 O.S. § 306(12), 52 O.S. §§ 325, 347 and Article IX, Section 18 of the Oklahoma Constitution.

**NOTICE IS FURTHER GIVEN** that it is necessary to adopt permanent rules regarding the Indemnity Fund. Upon adoption of the permanent rules proposed herein, by the Commission, the proposed rules shall be submitted to the Governor and the Oklahoma Legislature for approval as permanent rules.

**NOTICE IS FURTHER GIVEN** that the proposed rules will be made available for public inspection at the Commission's Oklahoma City Court Clerk's Office, First Floor, Jim Thorpe

Office Building, 2101 North Lincoln Boulevard, Oklahoma City, OK 73105. A copy of the proposed rules may be requested by phone at (405) 521-2352, email at [courtclerk@occeemail.com](mailto:courtclerk@occeemail.com), or by visit to the Commission's Oklahoma City Court Clerk's Office. The proposed rules are also accessible on the Commission's website at <http://www.occeweb.com> and may be downloaded at no cost to the end user.

**NOTICE IS FURTHER GIVEN** that the Rule Impact Statement pursuant to 75 O.S. § 303(D) and the Economic Impact –Environmental Benefit Statement pursuant to 27A O.S. § 1-1-206 will be timely prepared and made available for public inspection in the Commission's Court Clerk's Office, First Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73105, no later than fifteen (15) days after the date of publication of this Notice of Proposed Rulemaking.

**NOTICE IS FURTHER GIVEN** that the Petroleum Storage Tank Division will have **technical conferences on January 11, 2018 at 10:00 a.m.** in Courtroom 105 and **January 25, 2018 at 1:30 p.m.** in Courtroom 301, Third Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. All parties interested in the proposed rules are urged and welcome to attend. One or more of the Commissioners may be present at the technical conferences and may participate in the dialogue with the rulemaking participants regarding the issues of the proposed rulemaking.

**NOTICE IS FURTHER GIVEN** that the Commission invites all interested persons to **submit comments regarding the proposed changes to the Rules on or before February 1, 2018.** Those persons interested in submitting comments should file one (1) copy of their comments, referring to Cause No. RM 201700013, with the Commission's Court Clerk's Office. The comments will be made available for public inspection by telephone, email, or in-person request during regular business hours of the Court Clerk's Office, 8:00 a.m. to 4:30 p.m.

Pursuant to 75 O.S. §§ 303 and 504, business entities are requested, if the proposed rules adversely affect such entities, to provide to the Commission in writing, a description of the probable quantitative (costs) and qualitative impact of the proposed rule, economic or otherwise, and use quantifiable data to the extent possible, taking into account both short-term and long-term consequences.

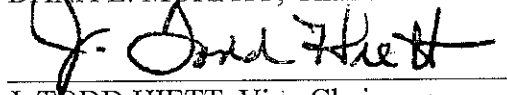
**NOTICE IS FURTHER GIVEN** that at **9:30 a.m., February 15, 2018 in Courtroom 301** of the Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City,

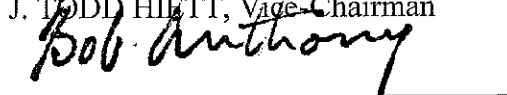
Oklahoma, the Commission shall meet, hold a public hearing on, and consider adoption of the proposed permanent rule(s).

**NOTICE IS FURTHER GIVEN** that further information and inquiries regarding this proposed rulemaking should be directed to Travis N. Weedn, Senior Attorney, by telephone (405) 521-4137, e-mail T.Weedn@occcemail.com, facsimile (405) 521-4150, or at Room 400, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105, or Post Office Box 52000, Oklahoma City, Oklahoma 73152-2000.

CORPORATION COMMISSION OF OKLAHOMA

  
DANA L. MURPHY, Chairman

  
J. TODD HIATT, Vice-Chairman

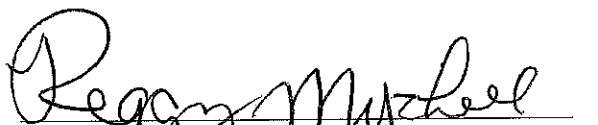
  
BOB ANTHONY, Commissioner

**CERTIFICATION**

DONE and PERFORMED this 19th day of December, 2017 BY ORDER OF

THE COMMISSION:

[Seal]

  
PEGGY MITCHELL, Commission Secretary