

FILED

JAN 04 2018

BEFORE THE CORPORATION COMMISSION OF THE STATE 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 201700013
AMENDING OAC 165:27, INDEMNITY FUND)

RULE IMPACT STATEMENT

This Rule Impact Statement addresses proposed amendments to the Oklahoma Corporation Commission's ("Commission") proposed rules to amend OAC 165:27 *et seq.*, Indemnity Fund 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, and additions include: providing definitional changes and inclusions to create consistency with the same definitions in Chapters 15, 25, 26, and clarifying the operator of a storage tank system, identifying ownership of a storage tank system, defining owners who are uncooperative and/or unwilling to follow Commission requirements, and adding a definition for the use of property for issues related to Indemnity Fund; clarifying requirements for claim reimbursement and establishing enforcement for failure to submit within the required timeframe; adding Suspicion of Release applications and establishing the required format be used for submission of Indemnity Fund applications, and further establishing online procedure with regard to applications; adding reimbursement for use of property for corrective action on a case by case basis; updating the rules to the current online procedure; establishing PSTD's long-standing procedure for cost recovery expenditures in the Indemnity Fund rules; excluding reimbursement for third-party damages; providing grammatical corrections; and establishing submission of required reports within the required timeframe for reimbursement.

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 persons eligible for the Indemnity Fund. 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 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 storage tank owners were mailed a postcard 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 January 11, 2018, and January 25, 2018, and by the Commission *en banc* at the public hearing on February 15, 2018.

III. CLASSES OF PERSONS BENEFITING FROM THE PROPOSED RULE

The classes benefiting from the amendments include eligible persons who may seek reimbursement from the Indemnity Fund for petroleum storage tank releases of regulated substances.

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 proposed rules will not adversely impact other political subdivisions of the state.

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.* There should be no adverse impact on small businesses in the State of Oklahoma.

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.

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 are eligible persons for the Indemnity Fund 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 Indemnity Fund enhances protection of human health, safety and the environment. The proposed rules clarify and add definitions, update the current online procedure thus aiding the orderly process of Indemnity Fund cases, add reimbursement for use of property for corrective actions on a case by case basis, establish long-standing procedure for cost recovery expenditures, exclude reimbursement for third party damages, and establish required reports within the required timeframe for reimbursement.

X. CONFORMANCE WITH FEDERAL STANDARDS

These rules conform to the Energy Policy Act of 2005 and its provisions on diversion of state funds, and are no more stringent than federal requirements.

XI. RISK IF NOT IMPLEMENTED

If the proposed rules are not implemented, the Indemnity Fund would operate less efficiently.

XII. DATE

This Rule Impact Statement was prepared on the 4th day of January, 2018.

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