

FILED

JUL 22 2016

BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

IN THE MATTER OF AN EMERGENCY)
RULEMAKING OF THE)
OKLAHOMA CORPORATION COMMISSION) CAUSE NO. RM 2001600007
AMENDING OAC 165:5, RULES OF)
PRACTICE)

RULE IMPACT STATEMENT

This Rule Impact Statement addresses a proposed emergency rule of the Oklahoma Corporation Commission's ("Commission") OAC 165:5 *et seq.*, Rules of Practice. This Rule Impact Statement has been prepared in substantial compliance to 75 O.S. 2013 Section 303 (D).

I. PURPOSE OF RULE PROPOSAL

The single rule change provides for a procedure to administratively approve a variance submitted by a regulated tank owner without the necessity for a court hearing. Administrative approval by Commission staff will alleviate the need for a variance applicant to attend court and present evidence demonstrating the need for a variance from Commission rules.

II. CLASSES OF PERSONS WHO WILL MOST LIKELY BE AFFECTED BY THE PROPOSED EMERGENCY RULE, INCLUDING CLASSES WHICH WILL BEAR THE COST OF THE PROPOSED EMERGENCY RULE, 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 doing business in the state. The proposed emergency rule changes hearing procedures, practices and requirements.

The Commission in its Notice of Proposed Emergency 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 emergency rulemaking provide written comments stating cost impact information to the Commission. All registered storage tank owners were mailed a post card advising of the Notice of Proposed Emergency 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 conference on July 28, 2016, and by the Commission *en banc* at the hearing on September 1, 2016.

III. CLASSES OF PERSONS BENEFITING FROM THE PROPOSED EMERGENCY RULE

The classes benefiting from the amendment include owners and operators of storage tanks seeking a variance from Commission rules.

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

It is anticipated that there will be no direct adverse economic impact upon the affected parties. The amendment/addition/revision will not adversely impact other political subdivisions of the state.

The economic impact of the implementation of this proposed emergency rule will be the continued effectiveness of regulation. In addition, administrative handling of a variance application will allow the applicant the opportunity to focus on other business matters as opposed to attending a hearing. The Commission does not consider the proposed emergency rule having an 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.

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 emergency rule amendment 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. Storage tank owners and operators: The proposed emergency rule will not have an adverse impact on the class of small business storage tank owners and operators who operate storage tank systems in the state.

VI. PROBABLE COSTS AND BENEFITS TO THE AGENCY AND TO ANY OTHER AGENCY TO IMPLEMENT AND ENFORCE THE PROPOSED EMERGENCY RULE, THE SOURCE OF REVENUE TO BE USED FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED EMERGENCY RULE, 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 emergency rule, and that there will be no immediate increase in agency expenses as a result of the amendment.

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 amendment. 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 PROPOSED EMERGENCY RULE

Political subdivisions (as defined in 75 O.S. (Supp. 1998) §250.3) that maintain regulated substance petroleum storage tanks may utilize the provision of the proposed emergency rule.

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

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

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

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

The proposed emergency rule embodies the statutory changes 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 are thus no more stringent than federal requirements and recently promulgated rules of the Environmental Protection Agency.

XI. RISK IF NOT IMPLEMENTED

If the proposed emergency rule is not implemented, a minimal risk of harm to tank owners is possible, as they would be required to attend a hearing, (sometimes from great distances). The proposed emergency rule will alleviate the need for a storage tank owner/operator to attend the hearing and allow them to attend to more meaningful business.

XII. DATE

This Rule Impact Statement was prepared on the 22nd day of July, 2016.

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