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Submission Date: 05/08/2020 12:18:01 pm

Agency Name: Corporation Commission, Oklahoma - OCC
Mailing Address 1: 2101 N. Lincoln Blvd
Mailing Address 2: Jim Thorpe Bldg
City: Oklahoma City
State: OK
Zip: 73105

Type of Filing: Administrative Rules

Rule Type: Emergency

Adoption Date: 05/07/2020

Title Number: 165

Chapter Number: 10

Sub Chapters: 3

Public Comment: Comments were made and discussions held regarding the proposed emergency rules. All comments were addressed and taken into account in the proposed emergency rules.

Rule Impact: The proposed emergency rules have a direct impact on the public health, safety and welfare. The proposed emergency rules will allow the Commission to more effectively regulate crude oil storage tank sites throughout Oklahoma.

Reason for Rule: A dramatic drop in the price of crude oil has occurred as a result of the COVID-19 worldwide pandemic, and also as a result of crude oil production increases from other countries. Due to the historically low price of crude oil, crude oil storage demand in Oklahoma has rapidly and dramatically increased over the past several weeks. The Commission does not currently have sufficient rules in place to regulate such an increase in crude oil storage demand. Without the adoption of the proposed emergency rules pertaining to crude oil storage tanks, the Commission will be unable to adequately regulate the surge of new crude oil storage tank sites throughout Oklahoma. Further, the emergency rules are necessary to protect the public.
health, safety and welfare, and to avoid serious prejudice to the public interest.

**Statutory Authority to promulgate the rules:** Oklahoma Corporation Commission; 17 O.S. Sec. 52, 27A O.S. Sec. 1-3-101, 52 O.S. Sec. 86.2, 52 O.S. Sec. 139, 52 O.S. Sec. 271, et seq., and OAC 165:5-1-7.

**Reason for emergency:** A dramatic drop in the price of crude oil has occurred as a result of the COVID-19 worldwide pandemic, and also as a result of crude oil production increases from other countries. Due to the historically low price of crude oil, crude oil storage demand in Oklahoma has rapidly and dramatically increased over the past several weeks. The Commission does not currently have sufficient rules in place to regulate such an increase in crude oil storage demand. Without the adoption of the proposed emergency rules pertaining to crude oil storage tanks, the Commission will be unable to adequately regulate the surge of new crude oil storage tank sites throughout Oklahoma. Further, the emergency rules are necessary to protect the public health, safety and welfare, and to avoid serious prejudice to the public interest.

**Fee Increase?** No
RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. Drilling, Developing, and Producing
Part 5. Operations
165:10-3-29. Oil Crude oil storage tanks associated with oil and/or gas wells assigned API numbers, commercial disposal wells, noncommercial disposal wells, commercial recycling facilities, underground injection wells, and reclaimers [AMENDED]
165:10-3-29.1. Other crude oil storage tanks [NEW]

AUTHORITY:

COMMENT PERIOD:
April 28, 2020, through May 7, 2020

PUBLIC HEARING:
May 7, 2020

ADOPTION:
May 7, 2020

EFFECTIVE:
Immediately upon Governor’s approval

EXPIRATION:
Effective through September 14, 2021, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATION BY REFERENCE:
n/a

FINDING OF EMERGENCY:
A dramatic drop in the price of crude oil has occurred as a result of the COVID-19 worldwide pandemic, and also as a result of crude oil production increases from other countries. Due to the historically low price of crude oil, crude oil storage demand in Oklahoma has rapidly and dramatically increased over the past several weeks. The Commission does not currently have sufficient rules in place to regulate such an increase in crude oil storage demand. Without the adoption of the proposed emergency rules pertaining to crude oil storage tanks, the Commission will be unable to adequately regulate the surge of new crude oil storage tank sites throughout Oklahoma. Further, the emergency rules are necessary to protect the public health, safety and welfare, and to avoid serious prejudice to the public interest.

GIST/ANALYSIS:
Proposed emergency rule 165:10-3-29 addresses crude oil storage tanks associated with oil and/or gas wells assigned API numbers, commercial disposal wells, noncommercial disposal wells, commercial recycling facilities, underground injection wells, and reclaimers. Proposed emergency rule 165:10-3-29.1 establishes permitting, surety, site limitation, operation and maintenance, closure, etc., requirements for crude oil storage tanks which are located at sites not
otherwise excluded from application of such rule. Proposed emergency rule 165:10-3-29.1 requires new Form 1014TOS (application for permit for storage of crude oil in tanks).

CONTACT PERSON:
Susan Dennehy Conrad, Deputy General Counsel, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, PO Box 52000, Oklahoma City, OK 73105, telephone (405) 521-3939, Susan.Conrad@occ.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 3. DRILLING, DEVELOPING, AND PRODUCING

PART 5. OPERATIONS

165:10-3-29. Oil Crude oil storage tanks associated with oil and/or gas wells assigned API numbers, commercial disposal wells, noncommercial disposal wells, commercial recycling facilities, underground injection wells, and reclaimers
Oil Crude oil storage tanks associated with oil and/or gas wells assigned API numbers, commercial disposal wells, noncommercial disposal wells, commercial recycling facilities, underground injection wells, and reclaimers shall be constructed so as to prevent leakage. Dikes or retaining walls, where necessary, shall be constructed, based on tank capacity and throughput, so as to prevent crude oil or deleterious substances from causing pollution and to ensure public safety.

165:10-3-29.1. Other crude oil storage tanks
(a) Scope. This Section shall apply to crude oil storage tanks utilized on or after April 1, 2020. This Section shall not apply to crude oil storage tanks located at commercial disposal wells, noncommercial disposal wells, commercial recycling facilities, underground injection wells, reclaiming facilities, midstream facilities, refineries, sites previously permitted by the Commission or other governmental entities, or crude oil storage tanks associated with oil and/or gas wells assigned API numbers, whether such tanks are located on an oil and gas lease or offsite. Crude oil storage must occur in above-ground tanks designed to store crude oil.
(b) Permit required. No person shall store crude oil in a tank without applying for and obtaining a Form 1014TOS permit issued by the Conservation Division. Permits shall be renewed on an annual basis. A copy of the Form 1014TOS application for permit shall be served by the applicant, within five days of the date the application for permit is submitted to the Commission, on each surface owner and surface lessee of record on each tract of land adjacent and contiguous to the site. For use of a crude oil storage tank(s) without a permit, or operation of a crude oil storage tank(s) in violation of Commission rules, a person may be fined up to $5,000.00 per day per violation.
(c) Surety requirements. A person is prohibited from storing crude oil in tanks at a site pursuant to this Section without submitting surety to the Commission in the amount of $100,000.00 per site. The amount shall be subject to change for good cause as determined by the Conservation Division or the Commission. Surety shall be posted with the Commission before a permit is issued, pursuant to (b) of this Section. The surety shall be a surety bond, certificate of deposit, irrevocable letter of
credit, cashier's check, or other type of surety approved by the permit. Any type of surety that expires shall be renewed thirty days prior to the expiration date.

(d) Site limitation. No crude oil storage tanks shall be placed on any site that is located within a 100-year flood plain or as is otherwise prohibited by law.

(e) Operation and maintenance requirements.

(1) Fencing. The site shall be completely enclosed by a fence at least four feet in height. No livestock will be allowed inside the fence.

(2) Sign. A sign shall be posted at the entrance to the site bearing the name of the person operating the site, a twenty-four hour emergency telephone number, legal description, permit number, and contain language prohibiting trespassing and access by unauthorized personnel. The legal description shall specify the location of the site to the nearest quarter quarter quarter section and must include the section, township, range and county. The foregoing requirements are in addition to signage requirements otherwise specified by law.

(3) Removal of fire hazards. Any material that might constitute a fire hazard shall be removed a safe distance from crude oil storage tanks.

(4) Removal of surface trash. All surface trash, debris and junk associated with operations shall be removed from the site.

(5) Roads. All roads to the site shall be kept in a passable condition and shall be made accessible at all times to representatives and field inspectors of the Commission.

(6) Prevention of pollution. All crude oil storage tanks shall be constructed, used, operated, and maintained at all times so as to prevent pollution. Dikes or retaining walls, where necessary, shall be constructed, based on tank capacity, so as to prevent crude oil or deleterious substances from causing pollution and to ensure public safety. In the event of a nonpermitted discharge from a crude oil storage tank, sufficient measures shall be taken to stop or control the loss of materials and reporting procedures in 165:10-7-5(c) shall be followed. Any materials lost due to such discharge shall be cleaned up as directed by a representative of the Conservation Division.

(f) Closure requirements.

(1) Notification. The Manager of the Pollution Abatement Department shall be notified in writing whenever a site becomes inactive, is abandoned, or operation of the site ceases for any reason. A site may be considered to be inactive by the Commission if:

(A) The site has been shut down by the Commission because of a violation which results in the filing of an application to vacate the permit.

(B) The authority to operate the site has been terminated by failure to comply with (g) of this Section.

(2) Time limit. With the exception of approved, existing crude oil storage facilities, removal of crude oil storage tanks from a site shall be commenced within 60 days and completed within one year of cessation of storage, pursuant to (1) of this subsection. In cases where extenuating circumstances arise, one extension of six months may be administratively approved in writing by the Manager of the Pollution Abatement Department. A progress report shall be submitted to the Manager of Pollution Abatement every three months (during January, April, July, and October) after cessation of operations until removal of the tanks is completed.

(g) Additional requirements. The requirements set forth in this Section are minimum requirements. Additional requirements may be imposed by the Conservation Division if the site has certain limitations or other conditions of risk exist. Sites containing crude oil storage tanks must comply with applicable requirements of other governmental entities, including, but not limited to, the Environmental Protection Agency and the Oklahoma Department of Environmental
Quality. In order to be eligible to obtain a Form 1014TOS permit under this Section, an applicant must also demonstrate that a copy of the Form 1014TOS permit application has been provided to the Chief Engineer at the Oklahoma Department of Environmental Quality.

(h) **Application to existing crude oil storage tank sites.** Persons who stored crude oil in tanks at sites on or after April 1, 2020, must either comply with subsections (b), (c), (d), (e), (f) and (g) of this Section or remove such crude oil storage tanks from the site within sixty (60) days of the effective date of this Section.
BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF AN EMERGENCY RULEMAKING OF THE OKLAHOMA CORPORATION COMMISSION AMENDING OAC 165:10, OIL & GAS CONSERVATION

CAUSE NO. RM 202000004

AFFIDAVIT

I, Brad Ice, of lawful age and having been first duly sworn, upon my oath, hereby state as follows:

1. That I am the Field Operations Manager of the Oil & Gas Conservation Division, Oklahoma Corporation Commission;

2. That a dramatic drop in the price of crude oil has occurred as a result of the COVID-19 worldwide pandemic, and also as a result of crude oil production increases from other countries;

3. That due to the historically low price of crude oil, crude oil storage demand in Oklahoma has rapidly and dramatically increased over the past several weeks;

4. That the Oklahoma Corporation Commission does not currently have sufficient rules in place to regulate such an increase in crude oil storage demand;

5. That without the adoption of the proposed emergency rules pertaining to crude oil storage tanks, the Oklahoma Corporation Commission will be unable to adequately regulate the surge of new crude oil storage tank sites throughout Oklahoma;

6. That the lack of proper regulation of such crude oil storage tank sites presents a serious threat to the health and safety of Oklahoma’s citizens and the environment, and will seriously prejudice the public interest;

7. That the adoption of the proposed emergency rules will allow the Oklahoma Corporation Commission to identify responsible persons regarding such crude oil storage tank sites, and will provide the Commission with funds to, among other things, assist in the remediation of pollution that may occur at such crude oil storage tank sites;

8. That the proposed emergency rules have been thoughtfully debated and crafted to address the ongoing crude oil storage issue in Oklahoma, and the proposed emergency rules should be approved by Governor Stitt as soon as possible.
FURTHER AFFIANT SAYETH NOT.

Executed this 7 day of May, 2020.

Brad Ice

VERIFICATION

STATE OF OKLAHOMA     )
   ) SS:
COUNTY OF KINGFISHER  )

As Field Operations Manager of the Oil & Gas Conservation Division, Oklahoma Corporation Commission, I hereby certify that the information contained in the above and foregoing Affidavit is true and correct to the best of my knowledge and belief.

Brad Ice

Subscribed and sworn to before me this 7 day of May, 2020.

Notary Public Signature
BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF AN EMERGENCY RULEMAKING OF THE OKLAHOMA CORPORATION COMMISSION AMENDING OAC 165:10, OIL & GAS CONSERVATION

CAUSE NO. RM 20200004

RULE IMPACT STATEMENT

Pursuant to 75 O.S. § 253(B) of the Oklahoma Administrative Procedures Act, the Oil & Gas Conservation Division ("OGCD") of the Oklahoma Corporation Commission ("Commission") submits the following Rule Impact Statement for its proposed emergency rules regarding Title 165, Chapter 10 of the Oklahoma Administrative Code ("OAC").

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

The primary purpose of the proposed rules is to respond to the dramatic changes in crude oil storage occurring throughout Oklahoma due to severely depressed oil prices resulting from the outbreak of COVID-19 in the United States. Due to record low crude prices, demand for oil storage capacity is rapidly increasing in Oklahoma. The OGCD does not have adequate rules to regulate the dramatic increase in crude oil storage, which is why the proposed rules are necessary. The proposed rules will allow the OGCD to more effectively regulate crude oil storage throughout Oklahoma. Crude oil storage tanks not located on producing leases will now require an approved permit and surety. Without the proposed rules, the OGCD would have no way of tracking new crude oil storage facilities not located on producing leases. The proposed rules are necessary to protect the health and safety of Oklahoma’s citizens and the environment during these extraordinary times.

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 who will most likely be affected by, and bear the costs of, the proposed rules are persons who want to store crude oil in tanks that are not located on producing leases. Such persons must apply for and obtain a permit from the OGCD, and must post surety before a permit is issued. To date, no information regarding any cost impacts has been received from any private or public entity.

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

The proposed rules will assist the OGCD in tracking new crude oil storage tank sites, identifying persons responsible for such sites, and provide information about the quantities of crude oil being stored at each site. Oklahoma's citizens will benefit from the protection of health, safety and the environment associated with the proposed rules, and the availability of surety to,
among other things, remEDIATE releases at crude oil storage tank sites, if responsible persons fail to
remEDIATE the sites.

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:

Although the proposed rules could have an economic impact on entities regulated by the
Commission, it is anticipated that the benefits obtained from the proposed rules allowing the
OGCD to more effectively regulate crude oil storage throughout Oklahoma, and protecting the
health and safety of Oklahoma’s citizens and the environment, will outweigh any expenses
associated with such proposed rules. It is not anticipated that the proposed rules will have an
adverse economic impact upon 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:

The Commission, as well as the Environmental Protection Agency and the Oklahoma
Department of Environmental Quality, will benefit from the proposed rules through increased
protections and procedures for ensuring the health and safety of Oklahoma’s citizens and the
environment resulting from the impacts of the COVID-19 pandemic. It is not anticipated that the
proposed rules will result in increased costs to the Commission, as such proposed rules will be
implemented and enforced by the Commission through its existing resources and personnel. The
proposed rules contain no fee changes, and no effect on state revenue is anticipated.

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:

Although the proposed rules could have an economic impact on small business, it is
anticipated that the benefits obtained from the proposed rules allowing the OGCD to more
effectively regulate crude oil storage throughout Oklahoma, and protecting the health and safety
of Oklahoma’s citizens and the environment during these extraordinary times, will outweigh
expenses associated with such proposed rules.
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:

There are no known less costly, 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:

The proposed rules will allow the OGCD to more effectively regulate crude oil storage throughout Oklahoma. Crude oil storage tanks not located on producing leases will now require an approved permit and surety. Without the proposed rules, the OGCD would have no way of tracking new crude oil storage tanks not located on producing leases. If a release should occur at any such storage tank site, the proposed rules will assist in identifying responsible persons, and the surety will assist in the remediation of the site, if the responsible persons fail to remediate the site. The proposed rules are necessary to protect the health and safety of Oklahoma’s citizens and the environment.

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

The public would be denied the positive impact the proposed rules will have on public health, safety, and the environment if the proposed rules are not implemented.

XI. Date of preparation of Rule Impact Statement:

This Rule Impact Statement was prepared on the 28th day of April, 2020.

Prepared by:

[Signed]

Susan Dennehy Conrad, OBA #12249
Deputy General Counsel
Judicial & Legislative Services Division
OKLAHOMA CORPORATION COMMISSION
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Attorney for the Oil & Gas Conservation Division
BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF AN EMERGENCY
RULEMAKING OF THE OKLAHOMA
CORPORATION COMMISSION AMENDING
OAC 165:10, OIL & GAS CONSERVATION

CAUSE NO. RM 202000004

ECONOMIC IMPACT AND ENVIRONMENTAL BENEFIT STATEMENT

Pursuant to 27A O.S. § 1-206, the Oil & Gas Conservation Division ("OGCD") of the Oklahoma Corporation Commission ("Commission") submits the following Economic Impact and Environmental Benefit Statement for its proposed emergency rules regarding Title 165, Chapter 10 of the Oklahoma Administrative Code ("OAC").

I. Economic Impact of the Proposed Rules:

Although the proposed rules could have an economic impact on entities regulated by the Commission, it is anticipated that the benefits obtained from the proposed rules allowing the OGCD to more effectively regulate crude oil storage throughout Oklahoma, and protecting the health and safety of Oklahoma’s citizens and the environment, will outweigh any expenses associated with such proposed rules. It is not anticipated that the proposed rules will have an adverse economic impact upon political subdivisions. The proposed rules do not propose any fee changes.

II. Environmental Benefit of the Proposed Rules:

The proposed rules will allow the OGCD to more effectively regulate crude oil storage throughout Oklahoma. Crude oil storage tanks not located on producing leases will now require an approved permit and surety. Without the proposed rules, the OGCD would have no way of tracking new crude oil storage tanks not located on producing leases. If a release should occur at any such storage site, the proposed rules will assist in identifying responsible persons, and the surety will assist in the remediation of the site, if the responsible persons fail to remediate the site. The proposed rules are necessary to protect the health and safety of Oklahoma’s citizens and the environment.

III. Date of Preparation of Economic Impact and Environmental Benefit Statement:

This Economic Impact and Environmental Benefit Statement was prepared on April 28, 2020.
Prepared by:

Susan Dennehy Conrad, OBA #12249
Deputy General Counsel
Judicial & Legislative Services Division
OKLAHOMA CORPORATION COMMISSION
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Attorney for the Oil & Gas Conservation Division
ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to Chapter 10, Oil & Gas Conservation, which were adopted by the Oklahoma Corporation Commission on May 7, 2020, under emergency rulemaking provisions of the Administrative Procedures Act, 75 O.S., §§ 250 et seq.

I, the undersigned do hereby attest that such rules were adopted in substantial compliance with the Administrative Procedures Act.

Travis N. Weedn
Rules Liaison and Attestation Officer
Oklahoma Corporation Commission
May 8, 2020
NAME OF AGENCY: Corporation Commission
TYPE OF DOCUMENT: Adoption of Emergency Rules

LIAISON VERIFICATION:

I verify that I have reviewed the attached document and that it substantially conforms to filing and format requirements of the Administrative Procedures Act and the rules of the Secretary of State. Additional information may be obtained by contacting me at (405) 521-4137.

[Signature]

Travis N. Weedn
Rules Liaison
Oklahoma Corporation Commission
May 8, 2020