

**BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA**

IN THE MATTER OF A PERMANENT  
RULEMAKING OF THE OKLAHOMA  
CORPORATION COMMISSION AMENDING  
**OAC 165:25, UNDERGROUND STORAGE  
TANKS**

**CAUSE NO. RM 202100007**

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**NOTICE OF PROPOSED RULEMAKING**

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**NOTICE IS HEREBY GIVEN** that the Petroleum Storage Tank Division ("PSTD") of the Oklahoma Corporation Commission ("Commission") recommends that the Commission amend the Underground Storage Tank rules that are set forth in the Oklahoma Administrative Code ("OAC") 165:25. The proposed changes to OAC 165:25 are as follows:

OAC 165:25-1-11 is amended to add the Environmental Protection Agency ("EPA") definition of repair from Title 40 Code of Federal Regulations ("C.F.R.") § 280.

OAC 165:25-1-48 is amended to establish an online process for scheduling tightness testing.

OAC 165:25-2-2 is amended to update adopted standards to the current edition, and to add a new standard for sump maintenance and repair recently approved by the EPA.

OAC 165:25-2-36 is amended to clarify slope requirements for underground suction and pressurized piping.

OAC 165:25-2-40 is amended to allow shorter testing times if certified by third parties.

OAC 165:25-2-55.1 is amended to clarify staff's interpretation of a repair to a fuel island, to be consistent with language found in 40 C.F.R. §280 and clarify when installation of an under dispenser containment ("UDC") sump is required.

OAC 165:25-2-131 is amended to clarify backfill requirements and allow excavation to remain open longer when replacing tanks in certain situations.

OAC 165:25-3-6.29 is amended to allow third party certified methods for shorter testing times.

OAC 165:25-3-8 is amended to be consistent with OAC 165:29.

OAC 165:25-18-4 is amended to clarify that PSTD may not conduct the actual testing or monitoring to ensure compliance.

**FILED**  
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OAC 165:25-18-19 is amended to remove unnecessary language already found in 17 O.S. § 311(A), and clarify terminology related to a violation of PSTD rules.

**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), 307, 322, 342, and 347; and Article IX, Section 18 of the Oklahoma Constitution.

**NOTICE IS FURTHER GIVEN** that the PSTD believes it is necessary to amend the current rules. Upon the Commission's adoption of the permanent rules proposed herein, 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 on the Commission's website at <https://oklahoma.gov/occ/rules/proposed-rules.html>, and may be downloaded at no cost to the end user. A copy of the proposed rules may be requested by contacting Daniel P. Boyle at (405) 521-4749, or [Daniel.Boyle@occ.ok.gov](mailto:Daniel.Boyle@occ.ok.gov).

**NOTICE IS FURTHER GIVEN** that the Rule Impact Statement required 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 on the Commission's website at <https://oklahoma.gov/occ/rules/proposed-rules.html>, no later than fifteen (15) days after the date of publication of this Notice of Proposed Rulemaking.

**NOTICE IS FURTHER GIVEN** that the PSTD will have a **technical conference on January 13, 2022, 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 conference and may participate in the dialogue with the rulemaking participants regarding the subject of the proposed rulemaking. In an on-going effort to minimize the spread of COVID-19, the Commission continues to offer the public the option to livestream Commission meetings or attend its meetings via teleconference and/or videoconferencing.

**NOTICE IS FURTHER GIVEN** that the PSTD will have a **second technical conference on February 1, 2022, 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 conference and may participate in the dialogue with the rulemaking participants regarding the subject of the proposed rulemaking. In an on-going effort to minimize the spread of COVID-19, the Commission continues to offer the public the option to livestream Commission meetings or attend its meetings via teleconference and/or videoconferencing.

**NOTICE IS FURTHER GIVEN** that the Commission invites all interested persons to **submit comments regarding the proposed changes to the Rules on or before January 31, 2022.** To file the comments, please send them by email to [okcfilings@occ.ok.gov](mailto:okcfilings@occ.ok.gov), referring to

Cause No. RM 202100007. Comments may be submitted by regular mail to the following address: Court Clerk, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. A file stamped copy of the comments should be sent via email to Daniel P. Boyle at [Daniel.Boyle@occ.ok.gov](mailto:Daniel.Boyle@occ.ok.gov). Filed comments will be made available for public inspection at no cost to the end user from the Commission's imaging system at <https://imaging.occ.ok.gov/imaging/OAP.aspx>.

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

**NOTICE IS FURTHER GIVEN** that the **Commission, in a public hearing, shall consider the adoption of the proposed permanent rules at 9:30 a.m. on February 10, 2022**, in Courtroom 301, Third Floor, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. In an on-going effort to minimize the spread of COVID-19, the Commission continues to offer the public the option to livestream Commission meetings or attend its meetings via teleconference and/or videoconferencing.

**NOTICE IS FURTHER GIVEN** that further information and inquiries regarding this proposed rulemaking should be directed to Daniel P. Boyle, Senior Attorney, by telephone at (405) 521-4749, e-mail at [Daniel.Boyle@occ.ok.gov](mailto:Daniel.Boyle@occ.ok.gov); 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

  
BOB ANTHONY, VICE CHAIRMAN

  
J. TODD HIATT, COMMISSIONER

**CERTIFICATION**

DONE AND PERFORMED by the Commissioners participating in the issuance of this Notice of Proposed Rulemaking, as shown by their signatures above, this 28th day of December, 2021.

BY ORDER OF THE COMMISSION:



  
PEGGY MITCHELL, Commission Secretary