

**AGENCY RULE REPORT
OKLAHOMA CORPORATION COMMISSION
PERMANENT RULEMAKING
OAC 165:26. ABOVEGROUND STORAGE TANKS
CAUSE NO. RM 202100008**

Pursuant to the Oklahoma Administrative Procedures Act requirements in 75 O.S. §§ 303.1(A) and 308(A), the Oklahoma Corporation Commission ("Commission") hereby respectfully submits this Agency Rule Report to the Honorable J. Kevin Stitt, Governor of the State of Oklahoma, the Honorable Greg Treat, President Pro Tempore of the State Senate, the Honorable Charles McCall, Speaker of the House of Representatives, the Honorable Mike Osborn, Chair of the House Rules Committee, and the Honorable Julie Daniels, Co-Chair of the Senate Rules Committee.

1. DATE OF THE PUBLICATION OF NOTICE OF PROPOSED RULEMAKING:

A. The Commission's Notice of Proposed Rulemaking was published in The Journal Record of Oklahoma City, Oklahoma on December 30, 2021.

B. 75 O.S. § 250.4 exempts the Commission from the requirements of 75 O.S. §§ 255, 303(A), and 303(B), respectively, to publish a Notice of Intended Rulemaking in The Oklahoma Register.

2. NAME AND ADDRESS OF THE AGENCY:

Oklahoma Corporation Commission
P.O. Box 52000
Oklahoma City, Oklahoma 73152-2000

3. TITLE AND NUMBER OF THE RULES:

Chapter 26. Aboveground Storage Tanks
Subchapter 1. General Provisions
Part 3. Scope of Rules
165:26-1-21. Overview of applicability [REVOKED]
Part 5. Standards and Codes
165:26-1-31. Codes and standards [AMENDED]
Part 7. Notification and Reporting Requirements
165:26-1-44. Tank closure or change in service [REVOKED]
Subchapter 2. General Requirements for Aboveground Storage Tank Systems
Part 1. Design and Installation
165:26-2-8. Installation testing [AMENDED]
Part 21. Removal and Closure of Aboveground Storage Tank Systems
165:26-2-212.1 Requirements for returning to service [AMENDED]

Subchapter 3 Release Prevention and Detection Requirements

Part 17. Release Investigation

165:26-3-171. Release investigation and confirmation [AMENDED]

Subchapter 4. Inspections, Notices of Violation, Field Citations and Formal Enforcement Actions

Part 7. Penalties

165:26-4-21. Penalties [AMENDED]

Appendix G. Field Citations Table [REVOKED]

Appendix G. Field Citations Table [NEW]

4. STATUTORY AUTHORITY FOR THE RULES:

17 O.S. §§ 306(12), 307, 322, 342, and 347.

5. FEDERAL OR STATE LAW, COURT RULING, OR OTHER AUTHORITY REQUIRING THE RULES:

N/A

6. STATEMENT OF THE GIST OF THE RULES AND BRIEF SUMMARY OF THE CONTENT OF THE ADOPTED RULES:

The adopted rules revoke rules already addressed in statute, update adopted standards to current editions, adopt two new standards, clarify that an air soap test is not required when installing a new aboveground storage tank ("AST") if the interstice vacuum already meets the requirements set by the tank manufacturer, clarify the testing method when an AST is returned to service, and in Appendix G, remove one description used for rules in the violation column.

7. STATEMENT EXPLAINING THE NEED FOR THE ADOPTED RULES:

The evolution of aboveground storage tank regulation and use presents new challenges, including defining and curbing impermissible activities. The adopted rules align the rules with related statutes. Grammatical corrections have been made, and statutory and regulatory citations have been added or updated. The adopted rules provide clarity for testing methods and accomplish more practical and uniform regulation.

8. DATE AND LOCATION OF THE HEARING AT WHICH THE RULES WERE ADOPTED:

On February 10, 2022, the rules were adopted in a public hearing held in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, before the Commission.

9. SUMMARY OF COMMENTS AND EXPLANATION OF CHANGES OR LACK OF ANY CHANGES MADE IN THE ADOPTED RULES AS A RESULT OF TESTIMONY RECEIVED AT THE PUBLIC HEARINGS OR MEETINGS HELD OR SPONSORED BY THE AGENCY FOR THE PURPOSE OF PROVIDING THE PUBLIC AN OPPORTUNITY TO COMMENT ON THE RULES OR OF ANY COMMENTS RECEIVED PRIOR TO ADOPTION OF THE RULES:

Summary of Written Comments:

No written comments were provided

Public Meeting Comments:

The first Technical Conference was held on January 13, 2022, at 1:30 p.m. at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to appear and comment on, and suggest additions and/or revisions to, the proposed rules. Commissioners Murphy and Hiatt attended the Technical Conference. Oral comments were requested; however, none were provided during the Technical Conference.

The second Technical Conference was held on February 1, 2022, at 1:30 p.m. at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to appear and comment on, and suggest additions and/or revisions to, the proposed rules. Commissioner Murphy attended the Technical Conference. Oral comments were requested; however, none were provided during the Technical Conference.

A public hearing took place before the Commission on February 10, 2022, at 9:30 a.m. at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to make oral comments concerning the revised proposed rules. Oral comments were requested; however, none were presented to the Commission prior to adoption. No parties appeared before the Commission to object to the proposed rules.

The Commission considered the draft rules filed on February 4, 2022. After acknowledging that no written or oral comments were submitted for consideration, the Commission voted to approve the February 4, 2022, version of the rules, without further modification.

10. LIST OF PERSONS OR ORGANIZATIONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE ADOPTED RULES AT PUBLIC HEARING HELD BY THE COMMISSION OR THOSE WHO COMMENTED IN WRITING BEFORE OR AFTER SAID HEARINGS:

Appendix "A" is a list of persons or organizations that appeared at the first technical conference, or called into the technical conference held on January 13, 2022, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Appendix "B" is a list of persons or organizations that appeared at the second technical conference, or called into the technical conference held on February 1, 2022, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Appendix "C" is a list of persons or organizations who appeared at the public hearing before the Commission, which took place on February 10, 2022, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

11. RULE IMPACT STATEMENT:

Appendix "D" is a copy of the Rule Impact Statement, filed with the Commission on January 10, 2022.

12. ECONOMIC IMPACT AND ENVIRONMENTAL BENEFIT STATEMENT:

Appendix "E" is a copy of the Economic Impact and Environmental Benefit Statement, filed with the Commission on January 10, 2022.

13. RULES INCORPORATED FROM A BODY OUTSIDE THE STATE:

In OAC 165:26-1-31,

American National Standards Institute (ANSI) Standards: American Society of Mechanical Engineers (ASME):

- ASME B31.3-2020, "Process Piping."
- ASME B31.4 2019, "Pipeline Transportation Systems for Liquids and Slurries."

American Petroleum Institute (API) Standards:

- API Recommended Practice 652, "Linings of Aboveground Petroleum Storage Tank Bottoms," Fifth Edition, 2020.

- API Publication 1628 SET, "A Guide to the Assessment and Remediation of Underground Petroleum Releases." Third Edition, July 1996.
- API Standard 653, "Tank Inspection, Repair, Alteration, and Reconstruction." Fifth Edition, (2014), Addendum 1 (2018), Addendum 2 (2020).

National Fire Protection Association (NFPA) Standards:

- Standard Number 30, 2021, "Flammable and Combustible Liquids Code."
- Standard Number 30A, 2021, "Motor Fuel Dispensing Facilities and Repair Garages."

Underwriter's Laboratory (UL) Standards:

- Standard UL142, 2019, "Steel Aboveground Tanks for Flammable and Combustible Liquids."
- Standard UL842, 2020, "Valves for Flammable Fluids."
- Standard UL971, 2011, "Nonmetallic Underground Piping for Flammable Liquids."

Petroleum Equipment Institute:

- RP 200-19, "Installation of Aboveground Storage Systems" (2019 Edition).
- RP 1000-14, "Marina Fueling Systems" (2014 Edition).
- RP 1700-18, "Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems" (2018 Edition).

14. RECORDED VOTE OF EACH COMMISSIONER REGARDING ADOPTION OF THE RULES:

On February 10, 2022, Commissioners Dana L. Murphy, Bob Anthony, and J. Todd Hiatt, voted 3-0 to adopt the rules on a permanent basis and submit such rules to the Governor and the Legislature for their approval, pursuant to the Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*

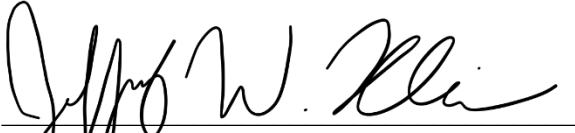
15. PROPOSED EFFECTIVE DATE OF ADOPTED RULES:

The rules adopted by the Commission on February 10, 2022, are attached as **Appendix "F."** The proposed effective date is August 1, 2022.

ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to OAC 165:26, Aboveground Storage Tanks, which were adopted by the Oklahoma Corporation Commission on February 10, 2022, under permanent rulemaking provisions of the Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*

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

A handwritten signature in black ink, appearing to read "Jeff W. Kline", written over a horizontal line.

Jeff W. Kline

Rules Liaison

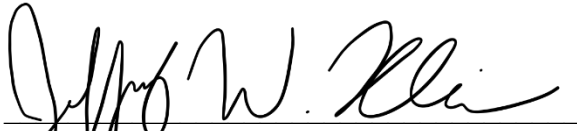
OKLAHOMA CORPORATION COMMISSION

February 17, 2022

Name of Agency: Corporation Commission
Type of Document: Agency Rule Report

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) 521-2308.

A handwritten signature in black ink, appearing to read "Jeff W. Kline", written over a horizontal line.

Jeff W. Kline
Rules Liaison

OKLAHOMA CORPORATION COMMISSION
February 17, 2022

APPENDIX A

APPENDIX B

APPENDIX C

ATTENDANCE SIGN-IN
 OKLAHOMA CORPORATION COMMISSION
 Public Hearing
 February 10, 2022, at 9:30 a.m.

Cause No. RM 202100008, OAC 165:26

<u>NAME & TITLE</u>	<u>ADDRESS & EMAIL</u>	<u>PHONE #</u>	<u>ENTITY / GROUP REPRESENTING</u>
Candace McGinnis, Executive Director	6420 N. Santa Fe, Suite B Oklahoma City, OK 73116 candace@opmca4you.com	(405) 842.6625	OPMCA
Sheila Baber, Technical Manager	sbaber@stantechservices.com	(405) 424-8378	StanTech
Curt Long	clong@cwlaw.com		Summit Utilities Oklahoma, LLC and CenterPoint Energy Resources Corp.
Mike Boyd	mboyd@goaero.org		AERO
			

APPENDIX D

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT
RULEMAKING OF THE OKLAHOMA
CORPORATION COMMISSION AMENDING
OAC 165:26, ABOVEGROUND STORAGE
TANKS

CAUSE NO. RM 202100008

FILED
JAN 10 2022

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

RULE IMPACT STATEMENT

Pursuant to 75 O.S. § 303(D) of the Oklahoma Administrative Procedures Act, the Petroleum Storage Tank Division (“PSTD”) of the Oklahoma Corporation Commission (“Commission”) submits the following Rule Impact Statement for its proposed rules regarding Title 165, Chapter 26 of the Oklahoma Administrative Code (“OAC”).

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

The purpose of the proposed rules is to revoke rules already addressed in statute, update adopted standards to current editions and adopt two new standards, clarify that an air soap test is not required when installing a new aboveground storage tank (“AST”) if the interstice vacuum already meets the requirements set by the tank manufacturer, clarify the testing method when an AST is returned to service, and to revoke and reenact Appendix G to remove one description used for rules in the violation column.

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 most likely to be affected by, and bear the costs of, the proposed rules are owners and operators of aboveground storage tanks doing business within the State.

In the Notice of Proposed Rulemaking, the PSTD requested that business entities submit written comments to the Commission with cost impact information. As of the date of preparation of this Rule Impact Statement, the PSTD has received no cost impact statements from any private or public entity.

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

The persons benefiting from the proposed rules are regulated entities, owners and operators of aboveground storage tanks doing business within the State.

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:

PSTD does not believe there will be any economic impact upon affected classes of persons or 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:

There is no expected extra cost for the Commission or any other agency to implement and enforce the proposed rules. The benefit to the agency of these proposed rules will be regulatory efficiency. The source of revenue to be used for implementation and enforcement of the proposed rules will be the Petroleum Storage Tank Indemnity Fund, which is the current source of revenue for compliance. The PSTD receives no appropriated funds for the administration of the petroleum storage tank program. The proposed rules contain no fee changes. There is no anticipated effect on State revenue.

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:

It is not anticipated that the proposed rules will have an adverse economic effect on small businesses.

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:

The proposed rules do not increase compliance costs, and there are no 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:

It is anticipated that the proposed rules will not have an adverse effect on the public health, safety, and environment.

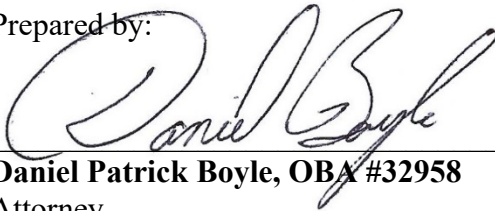
X. Determination of any detrimental effect on the public health, safety and environment if the proposed rules are not implemented:

It is anticipated that there will be no detrimental effect on the public health, safety, and environment if the proposed rules are not implemented.

XI. Date of preparation of Rule Impact Statement:

This Rule Impact Statement was prepared on the 10th day of January 2022.

Prepared by:



Daniel Patrick Boyle, OBA #32958

Attorney

Judicial & Legal Services Division

OKLAHOMA CORPORATION COMMISSION

P.O. Box 52000

Oklahoma City, Oklahoma 73152

Ph: (405) 521-4749; Fax: (405) 521-4150

Email: Daniel.Boyle@occ.ok.gov

Attorney for the Petroleum Storage Tank Division

APPENDIX E

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT
RULEMAKING OF THE OKLAHOMA
CORPORATION COMMISSION AMENDING
**OAC 165:26, ABOVEGROUND STORAGE
TANKS**

CAUSE NO. RM 202100008

ECONOMIC IMPACT AND ENVIRONMENTAL BENEFIT STATEMENT

Pursuant to 27A O.S. § 1-1-206, the Petroleum Storage Tank Division (“PSTD”) of the Oklahoma Corporation Commission (“Commission”) submits the following Economic Impact and Environmental Benefit Statement for its proposed rules regarding Title 165, Chapter 26 of the Oklahoma Administrative Code (“OAC”).

I. Economic Impact of the Proposed Rules:

It is not anticipated that the proposed rules will have an adverse economic impact upon owners and operators of aboveground petroleum storage tanks located in the State. Additionally, it is not anticipated that the proposed rules will have an adverse economic impact on PSTD-licensed storage tank professionals.

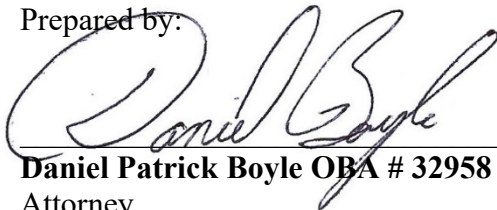
II. Environmental Benefit of the Proposed Rules:

Revising the requirements for aboveground storage tanks will coincide with rules recently proposed for underground storage tanks and provide consistency and uniformity between both chapters. The proposed rules will enhance owner/operator diligence, strengthen release detection, and help protect human health, safety and the environment.

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

This Economic Impact and Environmental Benefit Statement was prepared on January 10, 2022.

Prepared by:



Daniel Patrick Boyle OBA # 32958

Attorney

Judicial & Legal Services Division

OKLAHOMA CORPORATION COMMISSION

P.O. Box 52000

Oklahoma City, Oklahoma 73152

Ph: (405) 521-4749; Fax: (405) 521-4150

Email: Daniel.Boyle@occ.ok.gov

Attorney for Petroleum Storage Tank Division

FILED
JAN 10 2022

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

APPENDIX F

**TITLE 165. CORPORATION COMMISSION
CHAPTER 26. ABOVEGROUND STORAGE TANKS**

SUBCHAPTER 1. GENERAL PROVISIONS

PART 3. SCOPE OF RULES

165:26-1-21. Overview of applicability [REVOKE]

~~This Chapter will apply to owners, operators, their employees and agents of aboveground storage tanks which PSTD is authorized to regulate pursuant to 27A O.S. (Supp. 1999) § 1-3-101 (E) (5) (b) and 17 O.S. §§ 301 et seq., which gives PSTD the responsibility of regulating aboveground storage tanks that contain regulated substances, including but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, or the transport truck attached to it, whether above the ground or below. PSTD references the National Fire Protection Association 30 and 30A, Standard Number 30, 2018, "Flammable and Combustible Liquids Code" and Standard Number 30A, 2018, "Automotive and Marine Service Station Code". New editions of NFPA 30 and NFPA 30A supersede all previous editions.~~

PART 5. STANDARDS AND CODES

165:26-1-31. Codes and standards

(a) Specific references to documents listed below are made throughout the Aboveground Storage Tank Rules. Each of these documents or parts thereof is adopted and incorporated by reference as a standard. In the event these rules are in conflict with any of the standards set forth below, the provisions of these rules shall prevail. New editions of codes and standards supersede all previous editions. These codes and standards will be updated periodically through a formal rulemaking procedure initiated by PSTD to reflect any substantive or relevant changes. A copy is available for inspection at the Offices of the Petroleum Storage Tank Division during regular business hours.

(1) American National Standards Institute (ANSI) Standards: American Society of Mechanical Engineers (ASME):

(A) ASME B31.3 ~~2016~~ 2020, "Process Piping."

(B) ASME B31.4 ~~2016~~ 2019, "Pipeline Transportation Systems for Liquids and Slurries."

(2) American Petroleum Institute (API) Standards:

(A) API ~~RP Recommended Practice~~ 652, "~~Lining Linings~~ of Aboveground Petroleum Storage Tank Bottoms," ~~Second Edition, April, 2014~~ Fifth Edition, 2020.

(B) API Publication 1628 SET, "A Guide to the Assessment and Remediation of Underground Petroleum Releases." Third Edition, July 1996.

(C) API Standard 653, "Tank Inspection, Repair, Alteration, and Reconstruction, ~~2018~~." Fifth Edition, (2014), Addendum 1 (2018), Addendum 2 (2020).

(3) American Society for Testing and Materials (ASTM) Standards: ASTM E1739-95 (2015), "Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites."

(4) National Association of Corrosion Engineers (NACE) Standards: NACE SP0169-2013, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

(5) National Fire Protection Association (NFPA) Standards:

(A) Standard Number 30, ~~2018~~ 2021, "Flammable and Combustible Liquids Code."

(B) Standard Number 30A, ~~2018~~ 2021, "Motor Fuel Dispensing Facilities and Repair Garages."

- (6) Underwriter's Laboratory (UL) Standards:
 - (A) Standard UL142, ~~2006~~ 2019, "Steel Aboveground Tanks for Flammable and Combustible Liquids."
 - (B) Standard UL842, ~~2015~~ 2020, "Valves for Flammable Fluids."
 - (C) Standard UL971, 2011, "Nonmetallic Underground Piping for Flammable Liquids."
- (7) Petroleum Equipment Institute: ~~Publication PEI/RP 200-13, "Recommended Practices for Installation of Aboveground Storage Systems for Motor Vehicle Fueling." (2013 Edition)~~
 - (A) RP 200-19, "Installation of Aboveground Storage Systems" (2019 Edition)
 - (B) RP 1000-14, "Marina Fueling Systems" (2014 Edition)
 - (C) RP 1700-18, "Recommended Practices for the Closure of Underground Storage Tank and Shop-Fabricated Aboveground Storage Tank Systems" (2018 Edition)
- (8) "Spill Prevention, Control and Countermeasure Regulation," 40 CFR 112
- (b) The standards set forth in (a) of this Section are also available from the following sources:
 - (1) American National Standards Institute (ANSI), Thirteenth Floor; 11 West 42nd Street, New York City, New York, 10036; Telephone: (212) 642-4900.
 - (2) American Society of Mechanical Engineers (ASME), Three Park Ave., 23S2, New York, NY 10016-5990; Telephone (800) 843-2763.
 - (3) American Petroleum Institute (API), Publications and Distribution, 1220 "L" Street, N.W., Washington, D.C. 20005-4070; Telephone (202) 682-8000.
 - (4) American Society for Testing and Materials (ASTM), 100 Bar Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; Telephone (610) 832-9585.
 - (5) National Association of Corrosion Engineers (NACE), 1440 South Creek Drive, Houston, Texas 77084; Telephone (281) 492-0535.
 - (6) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02269-9101; Telephone (800) 344-3555.
 - (7) National Groundwater Association (NGWA), 601 Dempsey Road, Westerville, Ohio 43081; Telephone (614) 898-7791.
 - (8) Underwriter's Laboratory (UL), 333 Pfingsten Road, Northbrook, Illinois 60062; Telephone (847) 272-8800, extension 2612.
 - (9) Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma, 74101-2380; Telephone (918) 494-9696.

PART 7. NOTIFICATION AND REPORTING REQUIREMENTS

165:26-1-44. Tank closure or change in service [REVOKE]

~~Owners of aboveground storage tank systems must notify PSTD at least fourteen (14) days prior to the removal of the aboveground storage tanks and/or lines by submitting the PSTD scheduling form and receiving confirmation of the scheduled removal from PSTD. If events require the owner to change the date of removal, the Division should be given forty eight (48) hours notice of the new date. An authorized agent of PSTD may be present to observe the removal operations and to inspect the closed tank system and the surrounding environment. Any company that removes aboveground storage tank systems must have an AST Licensee on the jobsite during removal. All UST's currently being used as AST's must be destroyed upon closure. A certificate of destruction must be included with the AST Closure Report and submitted to PSTD within forty five (45) days of closure.~~

SUBCHAPTER 2. GENERAL REQUIREMENTS FOR ABOVEGROUND STORAGE TANK SYSTEMS

PART 1. DESIGN AND INSTALLATION

165:26-2-8. Installation testing

(a) A tightness test must be completed on tank and lines during construction and before being put into service after the lines have been covered.

(1) All aboveground storage tanks must be tested to manufacturers instructions. Single-wall tanks shall be air tested, soaped, and inspected for bubbling prior to installation. Double-wall tanks with a vacuum on the interstice:

(A) Check vacuum gauge to determine if the vacuum meets all minimum requirements set by the tank manufacturer. An air soap test is not required if the interstice vacuum meets tank manufacturer requirements.

(2) Aboveground product piping shall be subjected to an air test of at least 50 psi. The test must have a duration of not less than 60 minutes. All piping joints must be soaped while the system is under pressure, in order to detect any possible leaks. The interstice area of double-wall piping must be tested according to the manufacturer's instructions.

(3) All suction product piping must be tested while disconnected from the pumps, and dispensing units. The piping must be subjected to an air test of at least 50 psi. The test must have a duration of not less than 60 minutes. All piping joints must be soaped while the system is under pressure, in order to detect any possible leaks. The interstice area of double-wall piping must be tested according to the manufacturer's instructions

(4) All pressurized piping must be tested while connected to tanks, pumps and dispensing units if installed at the time of installation. The piping must be subjected to an air test of at least 50 psi. The test must have a duration of not less than 60 minutes. All piping joints must be soaped while the system is under pressure, in order to detect any possible leaks. The interstice area of double-wall piping must be tested according to the manufacturer's instructions.

(5) All piping should be air tested and monitored continuously during the installation.

(6) All underground pressurized and suction piping must have a precision tightness test performed after all paving over the piping has been completed and before the system is placed in operation. The precision tightness test must be performed by a certified tester, and in accordance with manufacturer's instructions. The product line(s) must be hydrostatic tested by a NWGLDE approved testing device capable of detecting a leak of 0.10 gallons per hour with a test pressure of 50 psi or 1½ times the operating pressure, whichever is greater. The lines must be tested for a minimum of one hour.

(7) Mechanical and electronic leak detector(s) must be tested for function by simulating a leak and operate in accordance with manufacturer's instructions.

(8) If an ATG system with electronic line leak detector(s) is installed it must complete a leak detector test in each of the modes in which it is certified as capable of detecting a leak (e.g. 3gph, 0.2gph, and 0.1gph).

(9) Containment sumps must be tested after all piping and conduit has been installed by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

(A) Requirements developed by the manufacturer (owners and operators may use this option only if the manufacturer has developed requirements);

(B) Code of practice developed by a nationally recognized association or independent testing laboratory, e.g., PEI RP 1200.

PART 21. REMOVAL AND CLOSURE OF ABOVEGROUND STORAGE TANK SYSTEMS

165:26-2-212.1. Requirements for returning to service

- (a) All tanks out of service for more than twelve (12) months are required to be ~~pressure and soap~~ tightness tested and test results submitted to PSTD before returning to service.
- (b) A tightness test must be performed by a certified tester and must be completed on the underground portion of out of service systems if more than twelve (12) months have elapsed since the last tightness test. Any system failure will require either closure or upgrade of the failed portion.
- (c) All systems out of service for more than twelve (12) months are required to meet all the requirements of this Chapter.
- (d) All underground storage tanks being used as aboveground storage tanks that have been out of service for more than twelve (12) months may not be returned to service.

SUBCHAPTER 3. RELEASE PREVENTION AND DETECTION REQUIREMENTS

PART 17. RELEASE INVESTIGATION

165:26-3-171. Release investigation and confirmation

- (a) This Section applies to the investigation of all reportable releases unless PSTD staff specifically waives any part of this Section in writing.
- (b) Owners and/or operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under this Chapter within 7 days of receipt of notice from PSTD, using the following steps or another procedure approved by PSTD:
 - (1) **System test.** Owners and/or operators must conduct tightness tests that determine whether a leak exists in the storage tank system.
 - (A) Owners and/or operators must repair, remove or replace the aboveground storage tank system and begin investigation in accordance with (b)(2) of this Section if the test results for the system, tank, or delivery piping indicate that a leak exists.
 - (B) Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if indicator chemical concentrations detected in soil or water are not the basis for suspecting a release.
 - (C) Owners and/or operators must conduct a site check as described in (b)(2) of this Section if the test results for the system, tank and delivery piping do not indicate that a leak exists but indicator chemical concentrations detected in soil or water are above action levels cited in (c).
 - (2) **Site check.** Owners and/or operators must measure for the presence of a release where regulated substances are most likely to be present at the aboveground storage tank system site. In selecting sample types, sample locations, sample depths, and measurement methods, owners and/or operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of native soil, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release. Sample locations should be approximately 5 feet (5') from the outside of the AST system in native soil or another location approved by PSTD. Analyses for both BTEX constituents and the appropriate TPH must be obtained in all cases. Site check investigations must be performed by a PSTD Licensed Environmental Consultant.

- (A) If the test results for soil and/or groundwater taken outside the excavation zone or the aboveground storage tank system site confirm that a release has occurred, owners and/or operators must begin corrective action in accordance with Chapter 29 of Commission rules.
- (B) If the test results for the native soil and/or groundwater or the aboveground storage tank system site do not indicate that a release has occurred, further investigation is not required.
- (c) Laboratory analysis of levels of chemical constituent concentrations that may be required to confirm a case are:
- (1) Benzene
 - (A) Native Soils - 0.5 mg/kg
 - (B) Groundwater - 0.005 mg/l
 - (2) Toluene
 - (A) Native Soils - 40.0 mg/kg
 - (B) Groundwater - 1.0 mg/l
 - (3) Ethyl Benzene
 - (A) Native Soils - 15.0 mg/kg
 - (B) Groundwater - 0.7 mg/l
 - (4) Xylene
 - (A) Native Soils - 200.0 mg/kg
 - (B) Groundwater - 10.0 mg/l
 - (5) TPH
 - (A) Native Soils - 50.0 mg/kg
 - (B) Groundwater - 2.0 mg/l
 - (C) If BTEX concentrations are below action levels, a TPH concentration of 500 ppm or mg/kg in soil ~~shall~~ may be required to confirm a case at the discretion of PSTD.
- (d) Within twenty (20) days after the reporting of a release, the owner and/or operator must submit a report to PSTD summarizing the steps taken under (a) through (c) of this Section and any resulting information or data. If a release is confirmed through performance of the steps taken under this Section, then the report must be submitted in accordance with a format established by PSTD, after which corrective action may be required under the provisions of Chapter 29 of Commission rules.

SUBCHAPTER 4. INSPECTIONS, NOTICES OF VIOLATION, FIELD CITATIONS AND FORMAL ENFORCEMENT ACTIONS

PART 7. PENALTIES

165:26-4-21. Penalties

- ~~(a) Pursuant to 17 O.S. § 311(A), any person who violates any of the provisions of this Chapter shall be liable for an administrative penalty or fine not to exceed \$10,000.00 for each day that the violation continues.~~
- ~~(b) If the person disagrees with the violation(s) listed in the Formal Enforcement Action, they the person may appear at the hearing at the a Commission hearing. If found in violation of PSTD rules at the time the a Commission order is issued, the person must pay the amount of the fine, as well as an administrative cost of \$250.00.~~

APPENDIX G. FINE CITATIONS TABLE [REVOKED]

APPENDIX G. FINE CITATIONS TABLE [NEW]

*Field Citation Table fine amounts will be used when Field Citations are issued, and may be used as a suggested fine amount in a Formal Enforcement Action, but not to exceed the statutorily set limitations in 17 O.S. § 311(A).

Rule	Violation	Fine Amount
Registration & Permit Requirements		
165:26-1-41	Failure to amend registration within 30 days to reflect changes in tank status	\$500
165:26-1-42	Failure to register tanks within 30 days of bringing the system into service	\$500
165:26-1-42	Operating a tank without a valid permit	\$1,000
165:26-1-47	Failure to amend registration within 30 days to reflect change in ownership	\$500
165:26-1-70	Failure to pay AST permit fees prior to due date	Not > 50% of fee
Notification Requirements		
165:26-1-41	Failure to identify all storage tanks on notification form after third request, including a letter advising tank owner of the penalty	\$1,000
165:26-1-41	Failure to notify PSTD in the required online format and timeframe	\$250
	Second offense	\$500
	Third offense	\$750
165:26-1-42	Failure to notify PSTD prior to AST installation.	\$500
165:26-1-48	Failure to report non-passing tank or line tightness test results.	\$500
165:26-1-57	Failure to provide installation information on notification form after third request, including a letter advising tank owner of the penalty.	\$1,000
165:26-2-210	Failure to notify PSTD prior to AST closure	\$500
165:26-3-77	Failure to report to PSTD within 24 hours of discovering any PSTD regulated substances, conditions or monitoring results that indicate a reportable release may have occurred	\$250
Required Reports		
165:26-1-57	Failure to submit tank closure report within 45 days	\$250

Rule	Violation	Fine Amount
165:26-3-171	Failure to submit required reports pertaining to suspected release investigations and/or corrective action activities in a timely manner	\$250
	Second offense for same case or facility number	\$500
	Third offense for same case or facility number	\$750
General Leak Detection Requirements		
165:26-1-55 165:26-1-58	Failure to maintain records of release or leak detection monitoring	\$250
165:26-1-56	Failure to retain records of maintenance and repair of release or leak detection equipment	\$250
165:26-3-19 165:26-3-20	Failure to provide adequate release or leak detection for storage tank system	\$250
	Second Offense	\$500
	Third Offense	\$1,000
165:26-3-20	Failure to monitor tank(s) for releases as required	\$250
165:26-3-20.1	Failure to use approved release or leak monitoring method for tank	\$250
165:26-3-20.1 165:26-3-20.2	Failure to use approved release or leak monitoring method for piping	\$250
Spill & Overfill Prevention		
165:26-1-59	Failure to maintain spill and overfill records	\$250
165:26-2-5.1	Tank owner/operator accepting delivery into an AST that does not have spill or overfill protection	\$1,000
Operation and Maintenance of Corrosion Protection		
165:26-1-58	Failure to provide a Cathodic Protection Design or Suitability Study	\$1,000
165:26-2-40	Tank owner/operator accepting delivery into an AST that does not have a required corrosion protection system	\$1,000
165:26-2-41	Failure to properly operate and maintain corrosion protection system (first offense)	\$150
	Second Offense	\$500
	Third Offense	\$1,000
165:26-2-42	Failure to properly and/or timely test corrosion protection system	\$250
165:26-2-42	Failure to maintain records of cathodic protection system every 60 days	\$250 (per period)
165:26-2-42	Failure to use a qualified cathodic protection tester to inspect corrosion protection system at least once every three years (first offense)	\$500
	Second Offense	\$1,000

Rule	Violation	Fine Amount
165:26-2-42	Failure to test cathodic protection system within 6 months installation or repair	\$250
Release Investigation & Confirmation		
165:26-3-171	Failure to conduct tightness test(s) to investigate suspected leak(s)	\$250
165:26-3-171	Failure to investigate a spill or a spill resulting from overfill over 25 gallons	\$100
165:26-3-171	Failure to clean up a spill or a spill resulting from overfill over 25 gallons	\$500
Temporary Closure		
165:26-2-212	Failure to provide adequate release detection as required in a temporarily closed storage tank system	\$250
165:26-2-212(2)	Failure to properly vent a temporarily closed storage tank system as required	\$250
165:26-2-212(3)	Failure to secure all storage tank-related equipment for temporary closure.	\$250
Permanent Closure		
165:26-2-213	Failure to use a PSTD licensed AST Licensee	\$500
165:26-2-214	Failure to measure for the presence of a release before a permanent closure	\$500
165:26-2-214(d)	Failure to use a PSTD licensed Environmental Consultant	\$500
Repairs		
165:26-1-56	Failure to maintain repair records for operating life of storage tank	\$250
165:26-2-1.1 165:26-2-191	Failure to use a PSTD licensed AST Licensee to install or repair person to repair	\$500
	Second offense or thereafter by owner (per owner, not per facility)	\$1000
165:26-2-8	Failure to perform tightness test on tank system after installation or repair	\$300
Other		
165:15-7-1	Misrepresentation of octane level per location	\$500
	Second Offense within a year	\$1000
	Third Offense – Closure & Hearing	\$5000
165:26-1-31	Failure to follow standard codes for installation	\$500

Rule	Violation	Fine Amount
Administrative Penalty	Any owner or operator of a storage tank who fails to comply with any order issued by the Commission for corrective or enforcement actions may be subject, after notice and hearing, to a fine in an amount as allowed by law.	